



Compensation to Ex-Wives for Domestic Violence in Indonesia

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Abstract

This paper examines divorce lawsuits caused by domestic violence committed by husbands against wives, focusing on the rights of women as victims. In such cases, wives can file for divorce and demand compensation for the physical and psychological harm they have suffered. The study employs a qualitative approach with an analytical descriptive method, using the library method to gather and analyze both primary and secondary literature, including legal documents, laws, scientific articles, and case reports. The research aims to identify patterns, challenges, and solutions related to legal protection for victims of domestic violence in divorce proceedings. The findings reveal that while there are legal provisions for compensation, significant challenges remain, such as social stigma, economic dependence, and limited access to legal resources, which complicate women's ability to claim their rights. Additionally, societal attitudes and gaps in law enforcement further hinder the realization of justice for victims. The study concludes that public awareness campaigns and stronger advocacy are essential to empowering women and ensuring their rights are protected throughout the divorce process. It also emphasizes the need for stricter law enforcement to hold perpetrators accountable and provide justice for victims. This research contributes to improving legal and social frameworks for the protection of women facing domestic violence.

Keywords: Domestic Violence, Divorce Lawsuit, Legal Protection

Abstrak

Penelitian ini membahas gugatan perceraian yang disebabkan oleh kekerasan dalam rumah tangga yang dilakukan oleh suami terhadap istri, dengan fokus pada hak-hak perempuan sebagai korban. Dalam kasus tersebut, istri dapat mengajukan gugatan cerai dan menuntut ganti rugi atas kerugian fisik dan psikis yang dideritanya. Penelitian ini menggunakan pendekatan kualitatif dengan metode deskriptif analitis, dengan menggunakan metode kepustakaan untuk mengumpulkan dan menganalisis literatur primer dan sekunder, termasuk dokumen hukum, undang-undang, artikel ilmiah, dan laporan kasus. Penelitian ini bertujuan untuk mengidentifikasi pola, tantangan, dan solusi terkait perlindungan hukum bagi korban KDRT dalam proses perceraian. Temuan penelitian mengungkapkan bahwa meskipun ada ketentuan hukum untuk kompensasi, masih ada tantangan yang



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signifikan, seperti stigma sosial, ketergantungan ekonomi, dan akses terbatas ke sumber daya hukum, yang mempersulit kemampuan perempuan untuk mengklaim hak-hak mereka. Selain itu, sikap masyarakat dan kesenjangan dalam penegakan hukum juga semakin menghambat terwujudnya keadilan bagi para korban. Penelitian ini menyimpulkan bahwa kampanye kesadaran publik dan advokasi yang lebih kuat sangat penting untuk memberdayakan perempuan dan memastikan hak-hak mereka dilindungi selama proses perceraian. Penelitian ini juga menekankan perlunya penegakan hukum yang lebih tegas untuk meminta pertanggungjawaban pelaku dan memberikan keadilan bagi para korban. Penelitian ini berkontribusi dalam meningkatkan kerangka hukum dan sosial untuk melindungi perempuan yang menghadapi kekerasan dalam rumah tangga.

Kata Kunci: Kekerasan Dalam Rumah Tangga, Gugatan Perceraian, Perlindungan Hukum

Introduction

The concept of family in Islam has a very important position and is neatly regulated by religious teachings. Families in Islam are referred to as “cells of society” that play a central role in maintaining social and moral stability. The family is responsible for educating its members, instilling religious values, and creating a harmonious and loving environment.¹ In this case, relationships between family members including husband and wife, parents and children, and relatives, are governed by the principles of justice, mutual respect and responsibility. Islamic teachings emphasize the importance of cooperation and communication within the family to achieve well-being and happiness, as well as strengthening social ties within the wider community.² Thus, the family in Islam serves not only as the smallest unit but also as the foundation for building a better society.³

In Islam, the family is seen as the basic unit of society consisting of a husband, wife and children. Husbands and wives act as complementary partners, with duties and responsibilities described in the Quran and Hadith.⁴ Husbands are expected to be leaders and providers, as well as protect and nurture their families, while wives have an important role in managing the household and educating children, as well as supporting their husbands in various aspects of life.⁵ Both need to have a loving and respectful relationship, and communicate well to resolve conflicts wisely. The family also serves as a place to instill religious and moral values in children, so that they can grow into responsible and moral

¹ Miftahul Jannah, “Konsep Keluarga Idaman dan Islami,” *Gender Equality: International Journal of Child and Gender Studies* 4, no. 2 (September 12, 2018): 87–102, <https://doi.org/10.22373/equality.v4i2.4538>.

² Edo Alvizar Dayusman, Alimudin Alimudin, and Taufik Hidayat, “Kemanusiaan Dan Kesejahteraan Sosial Dalam Pemikiran Islam Kontemporer,” *TAJDID: Jurnal Pemikiran Keislaman Dan Kemanusiaan* 7, no. 1 (July 27, 2023): 118–134, <https://doi.org/10.52266/tajdid.v7i1.1759>.

³ Ahmad Fauzan and Hadi Amroni, “The Concept of Sakinah Family in The Contemporary Muslim Generation,” *Al-'Adalah* 17, no. 1 (November 30, 2020): 51–70, <https://doi.org/10.24042/adalah.v17i1.6458>.

⁴ Sifa Mulya Nurani, “Relasi Hak Dan Kewajiban Suami Istri Dalam Perspektif Hukum Islam (Studi Analitis Relevansi Hak Dan Kewajiban Suami Istri Berdasarkan Tafsir Ahkam Dan Hadits Ahkam),” *Al-Syakhsiyah: Journal of Law & Family Studies* 3, no. 1 (July 30, 2021): 98–116, <https://doi.org/10.21154/syakhsiyah.v3i1.2719>.

⁵ Ahmad Shofiyuloh Cholili and Ita Rahmania Kusumawati, “Implementasi Hak Dan Kewajiban Suami Dalam Mewujudkan Keluarga Harmonis Perspektif Masyarakat Desa Babadan Kecamatan Pace Kabupaten Nganjuk,” *Cessie: Jurnal Ilmiah Hukum* 3, no. 1 (May 31, 2024): 23–35, <https://doi.org/10.55904/cessie.v3i1.1063>.

individuals. Thus, the family in Islam is not just a social unit, but also a strong foundation for the wider society.

Practically speaking, in Indonesian society there is a clear separation of roles between husband and wife. The husband is responsible for providing for, protecting and leading the family, while the wife takes care of the household and children.⁶ However, this does not have to create inequality as long as the division of tasks is done with fairness, compassion and mutual understanding. Good communication and cooperation between partners is important to ensure both parties feel valued. By supporting each other, families can create a harmonious atmosphere where each member feels safe, and form a healthy environment for children's development.

Children in Islamic families are considered a trust from God, and parents have the responsibility to educate them in the teachings of Islam and provide protection and love. Children also have the right to education, protection and love from their parents. Families in Islam are responsible for educating children in Islamic morals and ethics. This includes learning about ethics, morals, as well as values such as honesty, justice and compassion. The family is considered the first environment where children acquire a strong religious and moral education.⁷

One of the main objectives of the family in Islam is to create harmony and love among family members. The family in Islam is built through marriage, which is a process to form a unit in which there is meaning in the form of a sacred agreement (*mitsaqan ghalidha*) between husband and wife to jointly build a unit to achieve happiness in accordance with religious provisions.⁸ A good relationship between husband and wife is considered the key to creating a healthy environment for the development of children. Islam encourages understanding, tolerance and good communication within the family as ways to achieve this goal.⁹

The family in Islam has a very important role in shaping individuals and societies that are devoted to religion and good behavior. This concept encourages responsibility, compassion and morality in family relationships, with the aim of achieving deep spiritual and moral well-being for each family member. Therefore, all conflicts in the family should be

⁶ Firdaus Firdaus et al., "Menjelajahi Penerapan Konsep Maslahah Mursala Dalam Hukum Keluarga Islam: Studi Kasus Istri Mencari Nafkah Dan Suami Bertanggung Jawab Atas Pekerjaan Rumah Tangga," *Jurnal Darussalam: Jurnal Pendidikan, Komunikasi Dan Pemikiran Hukum Islam* 15, no. 1 (November 1, 2023): 185–203, <https://doi.org/10.30739/darussalam.v15i1.2545>.

⁷ Lis Yulianti Syafrida Siregar, "Metode Mendidik Anak Tanpa Kekerasan Dalam Perspektif Islam," *Jurnal Kajian Gender Dan Anak* 5, no. 1 (May 31, 2021): 65–80, <https://doi.org/10.24952/gender.v5i1.3734>.

⁸ Okti Nur Hidayah, Muhammad Fuad Zain, and Anis Ma'rifah, "Reconstruction of Islamic Family Law: Analyzing Marital Issues Through Multimedia," *Interdisciplinary Journal of Social Science and Education (IJSSE)*, March 19, 2024, 1–10, <https://doi.org/10.53639/ijssse.v2i1.14>.

⁹ M. Mahmudulhassan and Muhammad Abuzar, "Harmony in the Family: Indicators of Marriage Success in Cultural and Religious Foundations in Bangladesh," *Demak Universal Journal of Islam and Sharia* 2, no. 03 (May 15, 2024): 221–230, <https://doi.org/10.61455/deujis.v2i03.136>.

minimized, because it has a multifiler effect. Especially conflicts with the end of a domestic violence.¹⁰

Domestic violence is a serious issue of global concern, affecting countless individuals and families worldwide. It represents a severe form of abuse and unfair treatment within what should be a safe and loving environment—the household. This violence can manifest in physical, emotional, or sexual forms, significantly impacting the physical and mental well-being of the victim. The repercussions extend beyond the individual, affecting children and other family members who may witness the abuse. In addition to inflicting long-term trauma, domestic violence can lead to various physical health problems and mental disorders, including anxiety and depression.¹¹

When comparing Indonesia's approach to domestic violence with that of other countries, notable differences emerge in how compensation and protection rights for wives are handled. For instance, many Western countries have established comprehensive legal frameworks that not only criminalize domestic violence but also provide robust support systems for victims, including financial compensation and access to counseling services. In countries like Canada and Sweden, laws often mandate that victims receive immediate support, such as temporary housing and legal aid, as well as long-term financial assistance to ensure their safety and well-being.

In contrast, while Indonesia has made strides in addressing domestic violence through legislation, gaps remain in the enforcement of these laws and the provision of adequate support for victims. The cultural stigma surrounding domestic violence often discourages women from seeking help, leaving them vulnerable and without recourse. Therefore, it is crucial to raise awareness, strengthen legal measures, and develop support systems that empower victims to seek justice and rebuild their lives. Education and prevention initiatives should be implemented to create a safer environment for all family members, ensuring that the rights of women are upheld and that they receive the protection they deserve.¹²

In this case, women are most often the victims in domestic violence cases. Today, the placement of women in a lower role in a family is still often the cause of increased cases of domestic violence experienced by women. According to William P. College, as quoted by Kersti Yllo, it is emphasized that the oppression of women in the household is caused by a subordinate view supported by socio-political dynamics rooted in a hierarchical, submissive level that justifies violence as a control mechanism. In fact, in Islamic teachings, the role of women, especially wives, in the family is considered an integral part of forming a harmonious, loving, and peaceful family (sakinah, mawaddah, and rahmah). To ensure that women's role in the family can be realized, Islam guarantees women's rights and gives them

¹⁰ Adiyono Adiyono, Syamsun, and Ahmad Muhtadi Anshor, "Islamic Character Education in the Era of Industry 5.0: Navigating Challenges and Embracing Opportunities," *Al-Hayat: Journal of Islamic Education* 8, no. 1 (February 1, 2024): 287-304, <https://doi.org/10.35723/ajie.v8i1.493>.

¹¹ Iwan Hertanto et al., "Police and Law Enforcement of Domestic Violence Crimes Based on Human Rights in Indonesia," *Khazanah Hukum* 6, no. 2 (August 6, 2024): 134-144, <https://doi.org/10.15575/kh.v6i2.34357>.

¹² Yayan Agus Siswanto, Fajar Rachmad Dwi Miarsa, and Sudjiono, "Upaya Preventif Sebagai Bentuk Perlindungan Hukum Dari Kejadian Kekerasan Seksual Pada Anak," *Jurnal Kolaboratif Sains* 7, no. 5 (May 11, 2024): 1651-1667, <https://doi.org/10.56338/jks.v7i5.5313>.

a respected position.¹³ This is something that has never existed in religions before Islam. In this context, it can be said that Islamic teachings have taken the lead in this regard earlier than Western civilization.

Moreover, based on the discussion, it can also be concluded that there is over-regulation in handling domestic violence cases, which has impacted the implementation and effectiveness of victim protection in Indonesia. These impacts include legal uncertainty, systemic chaos, resource fragmentation, and lack of coordination. A comprehensive evaluation of existing laws is crucial, merging them into one cohesive regulation to ensure consistency and clarity. Additionally, a technological approach should be integrated to facilitate reporting and ease victims' access to support services.¹⁴

Furthermore, law enforcement in domestic violence crimes in Indonesia must be based on human rights principles. Domestic violence is a unique crime where the perpetrator and victim share a close relationship within the household.¹⁵ As a nation founded on the rule of law, Indonesia must uphold human rights, as reflected in Pancasila, which embodies the spirit of resolving criminal acts with values that complement and qualify each precept. Pancasila emphasizes a harmonious life that is divine, humane, united, populist, and just, underscoring the need to uphold human rights in domestic violence law enforcement by the police. In order to improve the handling of domestic violence, two key suggestions include fostering an equal perception among law enforcement officials to consistently uphold human rights and developing a resolution model that emphasizes fairness while promoting family re-harmonization to preserve family integrity.¹⁶ This analysis highlights the critical need for alignment between Islamic principles, human rights, and legal reforms in Indonesia, ensuring that the laws and their enforcement protect vulnerable individuals while promoting family unity and societal harmony.¹⁷

In Islamic teachings, the role of women, especially wives, is considered fundamental in building a harmonious, loving and peaceful family (sakinah, mawaddah and rahmah). Islam not only recognizes but also guarantees the rights of women and grants them a dignified and respectable position in the family structure. This protection ensures that women's contributions are valued and safeguarded. In fact, this emphasis on women's rights in Islam predates similar developments in Western civilization, which highlights the progressive nature of Islamic teachings in ensuring justice and equality for women.

¹³ Hertanto et al., "Police and Law Enforcement of Domestic Violence Crimes Based on Human Rights in Indonesia." 134-144

¹⁴ Nizla Rohaya et al., "Unraveling the Legal Labyrinth: An In-Depth Review of Domestic Violence Regulation in Indonesia," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 24, no. 1 (June 24, 2024): 77-90, <https://doi.org/10.19109/nurani.v24i1.20011>.

¹⁵ Sukendar Sukendar et al., "Women's Access To Justice: Mediation For The Victims of Domestic Violence In Central Java, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (March 31, 2023): 602-28, <https://doi.org/10.22373/sjhk.v7i1.9471>.

¹⁶ Siti Musawwamah, "Divorcing Husbands as a Solution to Protect Women's Dignity: A Case Study of Domestic Violence at Madura Religious Court," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (December 31, 2022): 997-1021, <https://doi.org/10.22373/sjhk.v6i2.14929>.

¹⁷ Durotun Nafisah et al., "Comparative Analysis of Islamic Family Law and Normative Law: Examining the Causes of Divorce in Purwokerto, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (May 21, 2024): 847-871, <https://doi.org/10.22373/sjhk.v8i2.16825>.

The purpose of this article is to analyze the legal protection and compensation rights for ex-wives who are victims of domestic violence in the context of Islamic teachings and Indonesian law. By examining the patterns, challenges and solutions related to legal protection in divorce cases, this article aims to highlight the gaps in the legal system that prevent women from obtaining justice. It also argues for the importance of legal reform and public awareness to strengthen women's rights and ensure that victims of domestic violence receive fair treatment during the divorce process.

This research employs a qualitative approach, characterized by an analytically descriptive design.¹⁸ Qualitative research is particularly effective for exploring complex social phenomena, such as domestic violence, as it allows for an in-depth understanding of the experiences and perspectives of victims. The study primarily utilizes the library method as the main channel for data collection, which involves an extensive literature review. The research process commenced with a systematic search to gather relevant sources of information. This process involved identifying and selecting both primary and secondary sources, including legal texts, academic journals, books, and case reports.¹⁹ The author focused on literature that specifically addresses domestic violence, legal protections available to victims, and the sociocultural factors influencing these dynamics. Emphasis was placed on obtaining reputable and current sources to ensure the reliability and validity of the information gathered.

Once the sources were collected, a critical analysis was conducted to evaluate the credibility of each source. This involved examining the author's qualifications, the methodology employed in the original studies, and the consistency of the findings with established legal and theoretical frameworks. The author also looked for empirical evidence supporting claims regarding the impact of domestic violence on victims and the effectiveness of legal interventions. After the analysis of the literature, the author identified significant patterns and trends regarding domestic violence, focusing on several key areas: the psychological and physical effects on victims, societal attitudes toward domestic violence, and the efficacy of the legal system in safeguarding victims' rights. Additionally, the study explored barriers that victims face when seeking legal recourse, such as social stigma, economic dependency, and lack of access to resources.

The discussion of the findings was further enriched by linking the data with relevant legal theories and frameworks, such as Maqasid al-Shariah, which underscores the protection of human dignity and rights within Islamic teachings. By contextualizing the findings within these theoretical frameworks, the research aims to provide a comprehensive understanding of the complexities surrounding domestic violence and the existing legal protections. Ultimately, this study aspires to offer practical recommendations for enhancing the legal protection system for victims of domestic violence. It outlines specific steps that should be taken by the government, legal institutions, and civil society to create a supportive

¹⁸ Virginia Braun and Victoria Clarke, "Reporting Guidelines for Qualitative Research: A Values-Based Approach," *Qualitative Research in Psychology* 0, no. 0 (n.d.): 1–40, <https://doi.org/10.1080/14780887.2024.2382244>.

¹⁹ Weng Marc Lim, "What Is Qualitative Research? An Overview and Guidelines," *Australasian Marketing Journal*, July 25, 2024, 14413582241264619, <https://doi.org/10.1177/14413582241264619>.

environment for victims. By adopting this thorough approach, the research aims to contribute significantly to the academic discourse on domestic violence, improve legal frameworks, and raise public awareness about the urgent need for effective prevention strategies.

The Concept of Relationship in a Domestic Framework

Relationship and partnership are two concepts that are often used in various contexts, especially in business and personal contexts. However, they can also be used to refer to patterns of domestic relationships. By their nature, relationships do not always have a formal structure or written contract. Relationships can be informal, spontaneous, or can grow over time. They can include personal, family, friendship, professional, or other relationships. Then there is a more specialized form of a relationship pattern, namely Partnership.

Partnership is a more specific term and refers to a relationship established with a specific purpose, such as a business collaboration or joint project, even a "contract in marriage". Partnerships often involve formal agreements that govern the responsibilities, rights and obligations of each party. The author argues that this pattern of relationship best describes a relationship within a household, which is often built on a foundation of love. In this case, the husband and wife act as mutually supportive partners, with clear but flexible roles and responsibilities.²⁰ Both need to communicate openly to address challenges and conflicts that may arise. With mutual agreements in place, both can create a harmonious and respectful environment, where joint decisions are made for the welfare of the family. This partnership includes not only material aspects, but also emotional and spiritual ones, so that both can grow and develop together in living life. Therefore, domestic partnership reflects a mutually beneficial collaboration and is the foundation for family happiness and stability.

Islam represents a harmonious family with the concept of *sakinah*, *mawaddah*, and *rahmah* as the main goal in the formation of a household. The concept of *sakinah* in marriage refers to the pleasure, peace and tranquility in the husband-wife relationship, where both live together in harmony and support each other.²¹ *Mawaddah* refers to genuine affection and love between the couple, creating a strong emotional bond. *Mawaddah* is also defined as the absence of ill-will in marriage by continuing to foster love.²² Meanwhile, *rahmah* describes genuine affection and concern for each other and other family members. Quraish Syihab states that "*sakinah* does not just come, but there are conditions for its presence.²³ It must be fought for, and first and foremost, is to prepare the heart. *Sakinah*/calmness, as well as *mawaddah* and mercy, originate in the heart, then radiate outward in the form of activity.

²⁰ Handro Kurnia Sitorus et al., "Budaya Patriarki Di Indonesia Dalam Perspektif Hukum Keluarga Islam," *Tabayyun : Journal Of Islamic Studies* 2, no. 02 (June 30, 2024), <https://journal.tabayyanu.com/index.php/tabyyun/article/view/70>.

²¹ Muhamad Bisri, Siti Wuryan, and Enny Puji Lestari, "Interpersonal Communication: The Concept of Husbands in Building Harmony in Muslim Couples from the Perspective of Islamic Law," *RADEN INTAN: Proceedings on Family and Humanity* 1, no. 1 (January 4, 2024): 46–55.

²² Muhammad Juni Beddu, Ahmad Mas'ari, and Novi Yanti, "Implementasi Pengelolaan Penghidupan Keluarga *Sakinah*," *Madania: Jurnal Ilmu-Ilmu Keislaman* 14, no. 2 (November 1, 2024): 131–140, <https://doi.org/10.24014/jiik.v14i2.30676>.

²³ Suryadi Suryadi, "Konsep Keluarga *Sakinah* Dalam Perspektif Fiqh Munakahat," *Abdurrauf Law and Sharia* 1, no. 1 (May 30, 2024): 79–102, <https://doi.org/10.70742/arlash.v1i1.21>.

Indeed, the Qur'an emphasizes that the purpose of marriage is to achieve sakinah. However, that does not mean that every marriage automatically produces sakinah, *mawaddah* and mercy.²⁴ Therefore, to achieve a family that is Sakinah, *mawaddah*, and Rahmah requires proactive behavior from each family member, one of which is by continuing to build and foster love.

Speaking of love, Erich Fromm, a renowned psychoanalyst and social philosopher, developed a concept of love that differs from the traditional romantic view. According to Fromm, love is a complex phenomenon that involves psychological, social, and philosophical aspects. Love is not just a feeling or emotion, but rather an action. Love as a form of active concern for another person, involving care, responsibility, honesty, sacrifice, and commitment.²⁵ Love is not just about how we feel, but how we act towards the person we love. Love is the result of healthy personal development. This includes the ability to love oneself well, which then enables one to love others.²⁶ In this case, love is the result of personal growth and development.²⁷

There are simply two types of love: healthy love and unhealthy love (*narcissistic love*). Healthy love is love that is full of affection, respect, and awareness of the partner's needs and happiness. On the other hand, unhealthy love is selfish love, where individuals love others to fulfill their own needs without regard for the needs of the partner. True love involves the element of freedom. The person who loves gives their partner the freedom to be themselves, and vice versa. This is an important concept in healthy relationships, where individuals do not try to control or dominate each other.²⁸

Another concept was explained by Mahatma Gandhi regarding love. Ghandi equated love with the term ahimsa. Gandhi emphasized that Ahimsa, which means non-violence, not only has a negative meaning as a rejection of violence, but also has a positive connotation as a principle and spirit of life. In his interpretation, Ahimsa highlights a total rejection of any form of aggression or action that can hurt others. In a positive context, Ahimsa is understood as an expression of love, because only through love can one act in accordance with one's inner values spontaneously.²⁹

Domestic Violence: An Overview of Indonesia's Marriage Laws

Violence within the household, also known as domestic violence, is a form of violence that stems from gender differences and occurs in a private space. This violence often occurs in personal relationships, where the perpetrator is someone who is familiar and close to the victim, such as husband to wife, father to child, uncle to nephew, or grandfather to

²⁴ Kholid Hidayatullah, "Mazhab Ulama Dalam Memahami Maqashid Syariah," *Ulul Albab: Jurnal Studi dan Penelitian Hukum Islam* 1, no. 1 (December 12, 2017): 1-19, <https://doi.org/10.30659/jua.v1i1.1971>.

²⁵ Diana Indah Anggraini, "Cinta Keluarga Perspektif Al-Qur'an" (undergraduate, Kediri, IAIN Kediri, 2024).

²⁶ Ayu Rahmawati Ayu, "Urgensi Makna Cinta Perspektif Erich Fromm Sebagai Konsep Dasar Sikap Empati Konselor," *Aflah Consilia: Jurnal Bimbingan dan Konseling* 2, no. 2 (September 12, 2024): 1-11.

²⁷ Wasty P. Gea et al., "Memaknai Cinta Dalam Bingkai Erich Fromm Sebagai Refleksi Pada Fenomena Gray Divorce," *RISOMA : Jurnal Riset Sosial Humaniora Dan Pendidikan* 2, no. 2 (February 29, 2024): 09-20, <https://doi.org/10.62383/risoma.v2i2.58>.

²⁸ Siti Rahmah, "Akhlik Dalam Keluarga," *Alhadharah: Jurnal Ilmu Dakwah* 20, no. 2 (December 30, 2021): 27-42, <https://doi.org/10.18592/alhadharah.v20i2.5609>.

²⁹ Anggraini, "Cinta Keluarga Perspektif Al-Qur'an."

grandchild. In addition, this violence can arise in romantic relationships or be experienced by individuals who work in the household and live with the family. According to Article 1 paragraph 1 of Law No. 23/2004, domestic violence is any act against a person, especially women, which results in physical, sexual, psychological, and/or domestic neglect, including threats to commit acts, coercion, or unlawful deprivation of liberty within the scope of the household.³⁰

Acts of violence in a domestic setting, often referred to as domestic violence, often lack adequate legal attention and coverage. Domestic violence generally occurs between family members living in the same house and can take both physical and verbal forms, such as threats of violence. Domestic violence can happen to anyone regardless of social strata, status, education level, or ethnic background.

Although it can happen to anyone, most victims of domestic violence are women. According to data from the Ministry of Women's Empowerment and Child Protection, from January-August 2024 there were 14,795 cases of domestic violence against women and 3,640 cases against men. Other data obtained from Komnas Perempuan records during 2023 there were 279,503 cases of violence against women from 401,975 cases of domestic violence reported to BADILAG (Religious Courts Agency), and 3,303 gender-based cases against women reported to Komnas Perempuan from a total of 4,374 cases. These figures show that gender issues are the biggest cause of domestic violence cases.³¹

According to Harkristuti Harkrisnowo, violence against women is based on gender identity just because they are women. According to the UN declaration, the declaration on the elimination of violence against women is any act based on gender differences that results or may result in physical, sexual or psychological harm or suffering of women including threats of action, coercion or arbitrary deprivation of liberty whether it occurs in public or in private / family life.³²

Based on feminist theory, four tense situations that often occur can be identified as follows: First, in gender hierarchies, men often have control over resources and symbols of power, while women are often perceived as inferior or secondary. Second, violence in couple relationships is often taken for granted and widely accepted. Third, women's experiences are often ignored or dismissed as unimportant because male dominance pervades all aspects of life. Fourth, feminist perspectives are often only geared towards defending women's rights, without taking into account other relevant issues. This is an overview of the feminist view of wife abuse.

Seen from the framework of conflict theory, violent behavior is a form of open social conflict, both latent and visible where there is conflict between individuals or groups in society. In positive terms, overt social conflict can result in social change because it allows

³⁰ Filiasari Kusuma, Santrawan T. Paparang, and Kristiawanto Kristiawanto, "Domestic Violence Against Wives Against Husbands: Challenges and Implementation of Law," *ARMADA : Jurnal Penelitian Multidisiplin* 2, no. 7 (July 14, 2024): 468-77, <https://doi.org/10.55681/armada.v2i7.1398>.

³¹ "Catatan Tahunan," Komnas Perempuan | Komisi Nasional Anti Kekerasan Terhadap Perempuan, accessed November 14, 2024, <https://komnasperempuan.go.id/catatan-tahunan>.

³² "Resolution Adopted by the General Assembly [On the Report of the Third Committee]," *Refugee Survey Quarterly* 23, no. 2 (July 1, 2004): 143-58, <https://doi.org/10.1093/rsq/23.2.143>.

dialogue and negotiation between the parties involved. This process can test existing values and norms and when a solution is found, it can strengthen unity in society.³³ Conflict is therefore important in creating social dynamics, as it encourages individuals and groups to adapt and find solutions to existing problems. Moreover, conflict can also be a way to express discontent, which if managed well, can bring about justice and positive change. By understanding and handling conflict constructively, society can create a more inclusive and harmonious environment, where every voice is heard and valued.

In the context of conflict theory, violent behavior is one of the manifestations of open social conflict. Such conflicts can be latent (hidden) or manifest (open), where there is opposition between individuals or groups within a certain social structure and interaction. The importance of overt social conflict lies in its ability to produce positive social change. Thus, conflict is considered a crucial element in creating social dynamics.

Apart from the feminist theories above, the Culture of Violence Theory can also be used as a reference in looking at the phenomenon of violence in the domestic sphere. It states that some sub-cultures build norms that allow greater use of physical violence than the dominant culture. This kind of violence, referring to acts of violence in the context of patriarchal domination, tends to occur more often in "violent societies" than in peaceful societies. A concrete example that illustrates this is the inequality in family relations that supports patriarchal domination. In this context, violence is used as a tool to maintain and strengthen this dominance. As such, this situation provides a relevant illustration in the application of conflict theory, particularly in understanding the dynamics of violence and domination in social contexts.

This kind of violence is more common in violent societies than in peaceful ones. Unequal relations that support patriarchal dominance in the family where violence is used to maintain control, provide an example to understand this theory. In this case, patriarchy places men as dominant and women in an inferior position, creating injustice.³⁴ Domestic violence is often considered a way to maintain power, creating a cycle of violence that is difficult to end. The impact of this situation is not only felt by the victim physically and psychologically, but also damages social relationships within the family and community.³⁵ In societies with patriarchal norms, violence is often considered normal or justified, which reinforces a culture of impunity. To address this issue, it is important to implement a holistic approach, including education on gender equality, raising public awareness, and strict law enforcement against perpetrators of violence. With these measures, we can change the structure of unequal relations and create a more just and peaceful society.

Domestic violence occurs due to various factors that are different in each family. However, in general, the factors that cause domestic violence, especially in Indonesia, have almost the same pattern. From a variety of recent research literature, it is concluded that in

³³ Arif Unwanullah, "Tranformasi Pendidikan Untuk Mengatasi Konflik Masyarakat Dalam Perspektif Multikultural," *Jurnal Pembangunan Pendidikan: Fondasi Dan Aplikasi* 1, no. 1 (2012), <https://doi.org/10.21831/jppfa.v1i1.1050>.

³⁴ Mutiya Sopariyah and Arin Khairunnisa, "Budaya Partiarki Dan Ketidak Adilan Gender Di Kehidupan Masyarakat," *SENTRI: Jurnal Riset Ilmiah* 3, no. 7 (July 5, 2024): 3227–32.

³⁵ Ivo Noviana, "Kekerasan Seksual terhadap Anak: Dampak dan Penanganannya," *Sosio Informa* 1, no. 1 (2015): 13–38.

general Domestic Violence occurs due to two main factors, namely, Economic, and Socio-Cultural:

First, the economic factor. Economic problems are a significant factor that triggers domestic violence. The wife's dependence on her husband in fulfilling the needs of the family triggers domestic violence. Meeting the needs of the family is indeed an obligation for the husband as the head of the family. However, many husbands forget their obligations. The family's poor economic situation does not trigger him to be more active in earning a living instead of playing online gambling, playing games, or just staying at home. However, when wives ask for their rights, husbands often resort to violence against their wives.

Economic problems are a significant factor that triggers domestic violence. The wife's dependence on her husband to fulfill the family's needs is often a trigger for tension. Although meeting the needs of the family is the husband's obligation as the head of the family, many husbands neglect this responsibility. Instead of earning a living diligently, they may engage in negative behaviors such as online gambling or gaming. When wives demand their rights, husbands often respond with violence, both physical and emotional, creating a cycle of violence that is difficult to break.³⁶

This situation not only affects the relationship between husband and wife, but also impacts the mental and emotional health of both. Wives who feel pressured and neglected often feel helpless, while irresponsible husbands increasingly feel entitled to control by violent means. To address these issues, it is important to raise awareness of gender equality and provide education on financial management. Support from family and community is also crucial for victims of domestic violence to gain access to the necessary resources to get out of dangerous situations. With a holistic approach, we can create a safer and more supportive environment for all.³⁷

Second, sociocultural factors. In the socio-cultural realm, there are many things that often trigger domestic violence. The patriarchal culture that is still prevalent in our society is fundamental in cases of domestic violence committed by husbands against their wives. Power relations in patriarchal issues become complex where husbands become arbitrary in the household. Many husbands easily commit infidelity, but when this is discovered by the wife, it is the wife who gets violence, but it can also happen the other way around, namely the wife commits domestic violence against her husband because of a third person.

Not only that, in the legal world today there is also a new term known as marital rape, which is a situation where a husband who forces with unreasonable violence on his wife to have sexual intercourse when she is not in good condition.³⁸ Maggi Humm

³⁶ Karenina Aulery Putri Wardhani, "Perlindungan Hukum Terhadap Perempuan Korban Kekerasan Dalam Rumah Tangga (KDRT) Pada Tingkat Penyidikan Berdasarkan Undang-Undang No. 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga (UUPKDRT)," *Jurnal Riset Ilmu Hukum*, July 5, 2021, 21–31, <https://doi.org/10.29313/jrih.v1i1.70>.

³⁷ Muhammad Yunus, "Marital rape (perkosaan dalam perkawinan) ditinjau dari perspektif hukum islam dan hukum positif Indonesia (studi putusan Pengadilan Negeri Bangil No. 912/Pid/B/2011/PN.Bgl)" (Thesis, Jakarta, UIN Syarif Hidayatullah Jakarta, 2018).

³⁸ Pitrotussaadah Pitrotussaadah and Eva Fadhilah, "State, Islam, and Gender : Dynamics of Marital Rape Law in Indonesia," *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 10, no. 1 (June 7, 2023): 19–33, <https://doi.org/10.32505/qadha.v10i1.4805>.

emphasized her opinion on the power relations used by husbands to control women's sexuality and their reproductive roles, for example in social relationship rituals, men are the needy party while women are objects who must accept what men want without considering the wife's condition, when the husband wants and this cannot happen otherwise.³⁹

In addition to these factors, power relations also often occur in small things such as wives who cannot fulfill all of their husband's requests, often leading to violence. There are so many socio-cultural factors that lead to violence. Like the status of sambung parents, on August 22, 2024, a sambung mother in Pontianak killed her sambung child on the basis of jealousy because the husband was considered unfair to his biological child. These things are actually problems that should be resolved in a better way.

Being an issue that is still unresolved not only in Indonesia but in various parts of the world, in this case the UN since 1993 has actually made efforts through various policies. In 1993 the UN began to condemn all forms of violence against women through the declaration on the elimination of violence against women by inviting countries to condemn violence against women and not to use custom, tradition, or religious considerations to avoid their obligations regarding the elimination of violence against women. The UN calls on states to by all appropriate means and without delay, pursue policies to eliminate violence against women. Other UN policies include the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). In this case, the Indonesian government also took a stand by passing the Law on the Elimination of Domestic Violence (PKDRT Law) No. 23 of 2004.⁴⁰

As a state of law, all forms of actions of the Indonesian people will be regulated by law. Including actions related to domestic violence, although they are private, the state has the right and authority to regulate them. In the Indonesian legal system, domestic violence is categorized as a complaint crime. This means that the consequences of this categorization allow perpetrators of domestic violence to be punished in accordance with the provisions of the Law, other consequences because this is a complaint offense, the government and legal apparatus are passive, meaning that legal action can be taken if there is a complaint from the community. Based on the applicable law in Indonesia, perpetrators of domestic violence can be punished with the crime of persecution in articles 351 to 356 of the Criminal Code and article 44 of Law No.3 of 2004.

Apart from the punishment for the perpetrator, what is more important than the occurrence of domestic violence is the protection for the victim and other rights that the victim must receive. In Law No.3 of 2004, legal protection for wives who are victims of domestic violence includes: 1) Temporary protection 2) Determination of protection orders by the court 3) Provision of a Special Service Room (RPK) at the police station 4) Provision of a safe house or alternative residence 5) Provision of legal consultation by an advocate for victims at the level of investigation, prosecution, and examination at the court session.

³⁹ Kurnia Muhajarah, "Kekerasan Terhadap Perempuan Dalam Rumah Tangga: Perspektif Sosio-Budaya, Hukum, Dan Agama," *Sawwa: Jurnal Studi Gender* 11, no. 2 (June 12, 2017): 127, <https://doi.org/10.21580/sa.v11i2.1452>.

⁴⁰ Ahmad Tsalis Fakhrul Fauzy and Septiana Dwiputri Maharani, "Sexual Politics and Marital Rape in Indonesia," *Politik Indonesia: Indonesian Political Science Review* 6, no. 3 (December 20, 2021): 386-99, <https://doi.org/10.15294/ipsr.v6i3.33283>.

The meaning of temporary protection detailed in article 16 is the right to protection of victims that will be provided by the police within 1x24 hours after receiving a report with a maximum duration of protection of 7 days where the police will request a protection order from the court. In providing protection to victims the police will cooperate with social workers, health workers, spiritual advisors, advocates, and volunteer assistants. It is implied in articles 21 to 25 of Law No.3 of 2004 that victims of domestic violence are entitled to assistance by volunteers, to health rights services such as examining the victim's condition by medical personnel to conduct a post mortem, victims are also entitled to counseling services to create a sense of security for the trauma experienced, as well as the right to spiritual assistance as an effort to strengthen the victim's faith, as well as other details of rights such as taking the victim home (a safe place) and other coordination during the protection period.

Not all domestic violence cases end in divorce, some cases are still successful with peace. But in general, divorce is the most common solution chosen by victims of domestic violence. Referring to Law No. 1 of 1974, divorce can occur if there is domestic violence that endangers one of the parties. Similar to the Jurisprudence of the Supreme Court Number 105 K / Sip / 1968 relating to the acceptance of On Heelbare Tweespalt, it can be accepted as a reason for divorce, namely if there is continuous dispute or quarrel between husband and wife and it is impossible to be reconciled.⁴¹

Women's Rights After Divorce (*Iddah* and *Mut'ah*)

Divorce is a trend that should be viewed with a fair attitude, given that the decision can also have a deep emotional impact. Conflicts and arguments in domestic relationships are inevitable due to the physical, biological and psychological differences between men and women. Although these changes bring unique and diverse characteristics, the phenomenon of women filing for divorce signifies an important issue that must be wisely understood. Divorce has inevitable negative impacts, especially when women have to take steps to protect themselves from domestic violence. However, it is unfortunate when divorce occurs due to misunderstandings or an unsuccessful marriage adaptation process, emphasizing the need for a careful and thoughtful approach in interpreting each case.⁴²

It is a fact that divorce proceedings, particularly in the context of contested divorce, do not always proceed with the justice they should for women. While many lawsuits are successful, the reality is that they often create inequality and additional hardship for the women involved. Court decisions granting divorce do not always have a positive impact on women, and can even be a source of suffering. They may have to face losing their right to maintenance, being separated from their children due to custody issues, and facing the negative stigma in society attached to the title of widow.

The issue is further complicated by the fact that divorce decisions, especially in cases of contested divorce, are often not entirely dependent on the wishes of the divorce initiator. The authority of the judge plays a very decisive role in determining the final outcome of the

⁴¹ Yuni Priskila Ginting et al., "Pembuktian Terbalik Dalam Pemeriksaan Tindak Pidana Korupsi," *Jurnal Pengabdian West Science* 2, no. 10 (October 31, 2023): 973–94, <https://doi.org/10.5881/jpws.v2i10.657>.

⁴² Muhazir Muhazir, Azwir Azwir, and Zubir Zubir, "Legal Institutions in Resolving Divorce Cases in Aceh," *Al-Istinbath: Jurnal Hukum Islam* 9, no. 1 (2024): 211–230.

divorce proceedings. The influence of the judge in assessing and considering the factors involved in the case can carry repercussions far into the future. Therefore, the circumstances of the divorce and its consequences often depend on the evaluation and judgment made by the judge during the stages of the proceedings. An in-depth understanding of the role of judges in divorce proceedings is important for designing a system that is more equitable and supportive of women's rights in dealing with changes in their marital status.⁴³

After a husband and wife undergo a legal divorce process at the Religious Court, both still have rights and responsibilities that must be carried out, especially in terms of the husband's obligations towards his wife. This includes the obligation to pay maintenance such as *iddah* and *mut'ah*, especially if there are provisions set out in the court's ruling. Husbands are expected to comply with any burdens listed in the judgment. However, often the understanding of the payment of *iddah* and *mut'ah* maintenance is only seen as an aspect of legal formalities that must be fulfilled as a consequence of divorce, without considering the interests of the ex-wife more deeply. This becomes even more unfortunate when the husband has given his divorce and then abandons his responsibilities without clarity, leaving behind the burden of obligations that have been determined by the Religious Court.

Iddah maintenance is an important rationale in the case of a contested divorce, because after the verdict, the ex-wife will enter the *iddah* period. The concept of *iddah* maintenance described in the Qur'an is the same rationale in divorce cases. *Iddah* maintenance is income that must be provided by the husband to the former wife to meet basic needs during the waiting period until the end of the *iddah* period. Furthermore, *Nafkah Mut'ah* is a form of assistance in the form of clothing or property given by the husband to the former wife as comfort and to reduce the suffering experienced by the wife due to divorce. The aim is to reduce the sadness and suffering that the ex-wife may experience. However, some opinions argue that if it is the wife who files for a contested divorce, then *nafkah mut'ah* is considered unnecessary, because there is no misery experienced by the wife.

In cases of contested divorce, it is often the case that the party filing for divorce does not ask the accused party to provide *iddah* or *mut'ah* maintenance, provide financial support to the children, or make a division of joint property. However, legally, the obligation to pay *nafkah mut'ah* and *iddah* after divorce is not only limited to cases of divorce, but also applies in cases of contested divorce, as long as there is no evidence that the spouse acted against duty or was disobedient. This is in accordance with the guidelines set out in Supreme Court regulation No. 3/2017, which provides direction in the handling of cases involving women in the legal system. Regarding the provision of *iddah* and *mut'ah* maintenance, it is sometimes difficult to reconcile the wishes of the wife and the ability of the husband. If there is difficulty in reconciling the interests of both parties, the judge will take over the search for common ground.

In determining the amount of maintenance that the ex-husband must provide to his wife and children after divorce, the panel of judges considered several factors. Firstly, they looked at the husband's propriety and financial capability, which was assessed based on his

⁴³ I. Rosyidah, *Ketika Perempuan Bersikap Tren Cerai Gugat Masyarakat Muslim* (Jakarta: Gama Media, 2016).

monthly income. Secondly, the age of the marriage is also considered, as this can affect the wife's level of dependency on the husband. Third, whether or not the wife is *nusyuz* is also an important factor. Fourthly, adjustments are made based on the husband's economic needs and capabilities, which may vary according to the conditions of the region of residence. Finally, whether the husband has committed unfair treatment or violence against the wife is also an important consideration. All of these factors form the basis for the panel of judges to make a decision on the amount of maintenance to be awarded after divorce.

Compensation for Domestic Violence

As a basis for recognizing the theory of compensation, it is first necessary to separate the concepts of الزواجر (criminal compensation) and الجوارب (civil compensation). Criminal Compensation: can be divided into material and immaterial losses. Immateral losses usually occur due to damage to property as a result of a criminal event, such as damage to a vehicle due to an accident, can be requested in accordance with the cost of repairing the vehicle. Immateral losses in criminal cases can be exemplified by compensation for medical treatment due to injuries in traffic accidents; Civil Damages: in civil cases, plural damages occur in the event of default. While immaterial losses usually occur in the event of PMH (Wrongful Acts of Law).

In Islamic law, the terms "الضرر المادي" (*ad-dharar al-ma'navi*) and "الضرر المعنوي" (*ad-dharar al-mâddî*) refer to two types of loss (material & immaterial) that can arise as a result of an event or action. Both have different meanings and implications. The mafhum *الضرر المعنوي* encompasses the idea that compensation can be considered as an attempt to restore moral justice and reconcile the psychological harm suffered by an individual or group.

Whereas the mafhum of *ad-dharar al-maddi* denotes loss associated with material or property. It involves property damage, loss of goods, or financial impact that can be measured in material terms. In Islamic law, the concept of compensation for *ad-dharar al-maddi* reflects the idea that a person who causes material damage may be obligated to compensate for that loss in material or financial terms. This mafhum emphasizes considerations of justice in a material context, and the resolution of disputes or violations often involves the payment of damages or the reimbursement of material losses.

In economics, material loss usually occurs as a result of default, which is calculated based on the contract or agreement. Immateral losses, on the other hand, cannot be compensated for in an economic context, unless they relate to unlawful acts that harm an individual's honor. For example, if the act causes a decline in an individual's self-worth or reputation, this may impact their economic value.⁴⁴ In these situations, aggrieved individuals are entitled to make a claim for immaterial damages to compensate for losses that cannot be measured financially but have greatly affected their lives. Therefore, it is important to understand when and how immaterial losses can be taken into account in economic law so that individual rights are protected and justice is served.

⁴⁴ Iza Hanifuddin, "Ganti Rugi Perspektif Fiqh Ekonomi," *Muslim Heritage* 5, no. 1 (June 25, 2020): 1-26, <https://doi.org/10.21154/muslimheritage.v5i1.1959>.

In the field of family law, material damages can be exemplified by child maintenance or spousal maintenance that is owed (*madhiyah*), which can be requested through the court with a nominal amount that can be calculated. As for immaterial losses, we can look at and depart from the revised Article 117 of the Law of the State of Syria which states the following: "*If a man divorces his wife, and it appears to the qadhi that the husband acted arbitrarily in divorcing her without reasonable cause, and that the wife will suffer pain and suffering as a result of this, then the qadhi may decide on compensation for the wife to be paid by the husband, in an amount that does not exceed three years' maintenance for wives in similar circumstances, which exceeds the iddah maintenance. The qadhi should also stipulate that this compensation be paid outright or on a monthly basis, according to the husband's circumstances.*"

The judge is allowed to decide that if a man divorces his wife without reasonable cause and in an arbitrary manner, and that this action will cause suffering to the wife, then the husband may be required to pay compensation to the wife. The amount of this compensation should not exceed three years' maintenance for a similarly situated wife, which would be more than the iddah maintenance. The Qadhi is also required to determine whether this compensation is to be paid immediately or periodically according to the husband's financial situation.

The 1975 revision of the law on the rights of wives after divorce included two important aspects. First, it is no longer required that the wife must be in poor financial condition to obtain these rights. Secondly, it changed the compensation from the equivalent of one year's maintenance to three years' maintenance. The legal basis for this change is the implementation of the just political principle of *shar'iyyah*, which aims to prevent the oppression of wives that can result in poverty and misery due to unfair treatment from the husband. It is possible that the basis of this ruling refers to the concept of *mut'ah*, which some fuqaha make obligatory, while others consider it a sunnah. The Qur'an encourages this and considers it to be a good action, so the determination is left to the qadhi in accordance with the legal customs prevailing in each region.

Based on the above narratives, the immaterial losses experienced by a divorced wife due to domestic violence can be understood as profound "pain and suffering." This psychological trauma highlights the necessity for the former husband to be held accountable, requiring him to provide compensation that reflects the severity of the harm inflicted. In this regard, the compensation should include both *nafkah iddah* and *mut'ah*, with a proposed duration of three full years post-divorce, as adjudicated by the Religious Court.

Nafkah iddah is the financial support mandated by law for the wife during the waiting period following divorce, which typically lasts for three months. This support is critical in ensuring that the ex-wife can cover essential living expenses, including food, shelter, and healthcare, as she transitions to her new life. This financial stability is crucial as it allows her to focus on recovery and planning for her future without the immediate burden of economic uncertainty.

Conversely, *mut'ah* serves as a form of compensation that acknowledges the emotional and psychological toll of the marriage's dissolution, especially in cases involving domestic violence. This compensation recognizes the suffering endured by the ex-wife, providing her with validation and support as she navigates the challenges of rebuilding her

life. While three years of support may seem significant, its sufficiency is a complex issue that should be evaluated based on individual circumstances. Factors to consider include the severity of the domestic violence, the long-term psychological impact on the ex-wife, her ability to regain independence, and the presence of any children who may require additional resources and support.

Compensation for ex-wives who have experienced domestic violence may be addressed through a combination of nafkah iddah and mut'ah. Nafkah iddah provides essential financial support for the three-month waiting period after divorce, ensuring the ex-wife's basic needs are met. Mut'ah, on the other hand, recognizes the psychological and emotional toll of domestic violence, offering compensation that acknowledges the suffering endured. This form of compensation is critical in validating the ex-wife's experiences and providing her with the necessary resources to rebuild her life after divorce.

The challenges associated with providing compensation to ex-wives in instances of domestic violence are multifaceted. One significant challenge is the difficulty in quantifying psychological trauma and emotional distress. Unlike material losses, which can be measured in financial terms, the impacts of domestic violence often manifest in ways that are less tangible and harder to assess. Additionally, societal stigma and fear of further victimization may discourage victims from seeking legal recourse. There may also be legal hurdles, such as proving the extent of abuse or the arbitrary nature of the divorce, which can complicate the process of obtaining compensation. Lastly, the financial capacity of the husband to pay compensation can also pose a challenge, as not all victims may receive the full support they are entitled to.

To address these challenges, it is essential to develop remedies and legal frameworks that support victims of domestic violence effectively. This may include creating guidelines for judges to assess psychological harm and emotional distress in compensation cases, ensuring that victims feel safe and supported when seeking justice. Additionally, increasing public awareness about the rights of victims and the availability of legal protections can empower more individuals to pursue compensation without fear. Providing training for legal professionals on handling domestic violence cases sensitively and effectively can also enhance the support offered to victims during legal proceedings.

Ultimately, the decision regarding the appropriateness and amount of compensation should be left to the Religious Court judge, who is tasked with assessing these multifaceted issues. The judge can draw upon existing legal frameworks, including relevant legislation and guidelines set forth in the Supreme Court Circular Letter (SEMA) and Supreme Court Regulation (PERMA). By tailoring decisions to the specific contexts of each case, the court can better ensure that justice is served and that the legal protections afforded to victims of domestic violence are upheld.

Conclusion

A widow who is divorced by her ex-husband, based on the legal fact of previous domestic violence, can apply for compensation through the religious court. The calculation of this compensation refers to the rights of women after divorce, taking into account the

court's determination of mut'ah and iddah multiplied by three full years after the breakdown of the marriage. In domestic violence divorces, a wife has the right to file for divorce and seek damages from her husband through the court. These damages generally include iddah and mut'ah maintenance, which are regulated by Islamic law and reinforced in Indonesian legislation.

Compensation awarded to ex-wives in domestic violence cases can include three years of iddah and mut'ah maintenance, according to the financial situation of the ex-husband and based on a court decision. The judge has the authority to determine the amount of compensation by considering various factors, such as the husband's financial condition, the length of the marriage, and whether the wife has been proven to be nusyuz (disobedient). Other considerations also include whether the husband has committed violence or unfair acts during the marriage.

Legal protection for victims of domestic violence is regulated in Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law), which gives victims the right to temporary protection, legal consultation, health services, and physical protection from further threats. The state, through the justice system, has an important role in ensuring that victims of domestic violence receive justice and have their rights fulfilled. Apart from the advantages and disadvantages in the preparation of this scientific work, the author suggests that future research related to this paper can further deepen the provisions of proof of domestic violence in religious courts, so as to provide a clearer and more comprehensive understanding of this issue.

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