

THE DYNAMICS OF VIOLENCE AGAINST CHILDREN IN THE FAMILY ENVIRONMENT: AN ANALYSIS ACCORDING TO THE PRINCIPLES OF ISLAMIC LAW AND THE PERSPECTIVE OF LAW NO. 35 OF 2014 ON THE AMENDMENT TO LAW NO. 23 OF 2002 ON CHILD PROTECTION

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ABSTRACT

Violence against children in the family, a serious phenomenon that requires widespread attention, is analyzed from the perspective of Islamic Law and Law No. 35 of 2014 in Indonesia. By highlighting aspects of violence, whether physical, psychological, or sexual, the study emphasizes the long-term impact on child development and the urgency of strong protection. Islamic law offers an ethical foundation, highlighting children's rights, parental obligations, and proportional punishment. Restorative approaches, recognition, and remorse are also emphasized. Law No. 35 of 2014 provides a comprehensive national legal framework, including definitions of violence, children's rights, criminal sanctions, and prevention efforts, although implementation challenges need to be addressed. Through a descriptive-analytical method, the study results show a balanced framework of Islamic Law and national legislation, but improved implementation involves strengthening law enforcement agencies, training social workers, and community education.

Keywords: child abuse, islamic law, law no. 35 of 2014, child protection, legal implementation, children's rights, restorative, community participation.

INTRODUCTION

Violence against children within the family environment is a serious phenomenon that requires in-depth attention from various sectors, including law and religion, especially in an effort to safeguard children's rights and ensure their protection. Efforts to combat violence against children require strict regulations and effective law enforcement mechanisms. Laws and legal regulations must be drafted and consistently applied to provide appropriate sanctions to perpetrators of violence and provide protection to victims, especially vulnerable children. Consistent and firm law enforcement is key to preventing and overcoming cases of violence against children in the family environment (Rosidah, 2013). According to Widayati (2018), religious perspectives also have an

important role in addressing the issue of violence against children. Many religious teachings emphasize human values, compassion, and justice, which should create a safe and supportive environment for children's development. An understanding of religious teachings can be the foundation for building public awareness about the existence of violence against children and shaping norms that support child protection (Ardianto, 2013). This provides a rich perspective on the treatment of children, and places the obligation of parents to protect and educate children as the primary responsibility (Afifi et al., 2015).

It involves physical, psychological and sexual acts committed by individuals or parties within the family environment against children who should be a safe and loving place (Postmus & Merritt, 2010; Stalker & McArthur, 2012; Dagan et al., 2016). Physically, violence against children can take the form of punches, kicks, or other acts of physical violence that cause injury or even threaten the health and safety of children. This kind of physical abuse not only has a direct impact on the child's physical health but can also cause prolonged psychological trauma. The psychological aspect of child abuse involves actions or behaviors that can damage a child's mental and emotional health. This can include verbal abuse, humiliation, intimidation, or treatment that makes the child feel worthless. The psychological impact of this type of abuse can be long-lasting and can affect a child's emotional and social development. In addition, child sexual abuse involves sexual exploitation by individuals or parties within the family environment. This includes sexual harassment, coercion, or other exploitation that harms children physically and psychologically. Child abuse within the family environment creates an environment that children should not have to experience.

Child abuse has serious long-term impacts on children's physical, emotional and psychological development (Ferguson, 2004; Sugijokanto, 2014). Child victims of family violence may experience prolonged trauma, affecting their mental health and well-being into adulthood. Therefore, proper handling and strong protection are crucial in an effort to protect the nation's next generation. The impact is not only temporary, but can be lasting and affect various aspects of a child's life into adulthood. Physically, children who experience family violence may experience wounds and injuries that require medical treatment. In addition, their physical health may also be affected, which can affect normal growth and development. The emotional aspect of children can also be disrupted by violence, with feelings of fear, anxiety and depression. This emotional trauma can create vulnerability to mental health problems in adulthood, such as anxiety disorders, depression or post-traumatic stress disorder (PTSD). On a psychological level, violence can affect a child's mindset and behavior. They may develop unhealthy defense mechanisms, have difficulty in building healthy interpersonal relationships, or have difficulty in coping with conflict. This effort needs to involve collaboration across sectors, including legal, education, health and community (Sedlak et al., 2006; Al Adawiah, 2015).

In the perspective of Islamic Law, violence against children contradicts the

principles of sharia that emphasize compassion, justice, and the protection of human rights (Rozak, 2013). Islamic law provides a strong ethical foundation regarding the treatment of children, placing the obligation to protect and educate them as one of the primary responsibilities of parents. An understanding of children's rights, the concept of protection, and balanced and proportional punishment are the main focus in dealing with child abuse according to Islamic Law. In addition, Islamic Law emphasizes the importance of applying balanced and proportional punishment in cases of child abuse. The penalties imposed must take into account the balance between justice and mercy, and consider the rights of children as weak and vulnerable individuals. Thus, Islamic Law provides a comprehensive ethical and legal framework to engage society in protecting children from violence.

Law No. 35/2014 on the Amendment to Law No. 23/2002 on Child Protection is an important legal umbrella at the national level that covers child protection efforts. However, the implementation and effectiveness of this law in responding to cases of violence against children requires in-depth analysis. The definition of violence, emphasis on children's rights, criminal sanctions, victim protection, prevention, and community participation are important aspects that need to be evaluated to understand the extent to which this law can protect children from violence within the family sphere. It can be understood to what extent Law No. 35/2014 is able to answer the challenges of violence against children in the family environment and provide a solid foundation for child protection.

Exploring the relationship between Islamic Law and Law No. 35/2014 is important to create synergy in child protection efforts. Consistency between sharia values and positive law is the basis for ensuring that the protection of children from violence is not only a legal provision, but also an implementation based on moral and ethical values. This study will focus on the perspective of Islamic Law and Law No. 35 of 2014 on the Amendment to Law No. 23 of 2002 on Child Protection. In the perspective of Islamic Law, child protection is part of social and moral ethics. Sharia principles that emphasize compassion, justice, and human rights are pillars in responding to the issue of violence against children (Andhini & Arifin, 2019). Islamic law places child protection as a moral and religious obligation, teaching the responsibility of parents and society in protecting children's rights. This reflects the Indonesian government's commitment to child protection. By identifying the extent to which the implementation of the law on child protection can reflect the moral principles instilled in Islamic Law. By doing so, it can be understood in depth how the two can come together to create a safe and supportive environment for the development of children in Indonesia.

An in-depth understanding of sharia values indicates the importance of compassion, justice and human rights in child protection. Within the framework of understanding sharia values, compassion, justice and recognition of human rights are integrated within the perspective of Islamic law. Thus the purpose of this study is to analyze the concept of violence against children in Islamic Law and assess the relevance of Law No. 35 of 2014 in protecting children from violence in the family context. It also

provides recommendations to improve the protection of children from violence.

METHODS

This study uses a descriptive-analytical method by collecting data from Islamic legal sources, Law No. 35 of 2014, and related literature. The data will be analyzed to identify the concept of violence against children in Islamic Law and evaluate the effectiveness of Law No. 35 of 2014. A descriptive approach is used to provide a detailed description of the concept of violence against children in Islamic law, while analysis is used to evaluate the effectiveness of Law No. 35 of 2014 regarding child protection. In Islamic law, data is collected from sources such as the Quran, hadith, and Islamic legal literature that provide views and norms related to child protection and the handling of violence against them. This data was then analyzed to identify the basic concepts of child protection in the Islamic legal framework, including norms that prohibit violence against children. Next, data from Law No. 35/2014 was collected to evaluate how the law reflects the concept of child protection, especially in the face of violence. The analysis focused on the appropriateness of the law in addressing issues of violence against children, as well as the effectiveness of the law enforcement mechanisms contained therein. By combining descriptive and analytical approaches, this study will provide an in-depth understanding of the concept of violence against children in the perspective of Islamic law and the extent to which Law No. 35 of 2014 can provide effective protection to children.

RESULTS AND DISCUSSION

Concept of Violence Against Children in Islamic Law

In the context of Islamic Law, the protection of children is governed by sharia principles that emphasize the welfare and rights of children (Pakarti, 2023). Analysis of the concept of violence against children in Islamic Law can be done through several key aspects:

1. Rights and Duties of Parents

Rights of the Child: Islamic law grants specific rights to children, such as the right to life, education, and protection from violence.

Parental Obligations: Parents have an obligation to protect, educate, and provide love to their children. Violence against children goes against these principles.

2. Punishment for Child Abuse

Punishment in Islam: The analysis covers the Islamic view on punishment of child abusers. The principles of justice, proportionality, and the goal of rehabilitation are key considerations.

3. The Concept of Adalahan (Protection)

Child Protection in Islam: The concept of adlalah (protection) is highly emphasized in Islamic Law. Society and the state have the responsibility to protect children from all forms of violence.

4. Role of Society and the State

Community Participation: The community in Islamic Law is expected to be actively

involved in protecting children from violence.

Role of the State: The state has the responsibility to enforce the law and provide protection to children, including legal action against abusers.

5. Concept of Restorative Justice

Restorative Approach: In Islamic Law, the restorative approach can be part of handling cases of violence against children, where reconciliation and repair of relationships can be prioritized.

6. Compatibility with Islamic Principles

Harmony of Punishment: Punishment of abusers should be in line with the Islamic principles of justice and compassion.

7. Implementation in Daily Life

Implementation of Principles: The analysis covers the extent to which the principles of child protection in Islamic Law are implemented in people's daily lives.

The analysis of the concept of child abuse in Islamic Law shows that child protection is considered a fundamental value in the view of sharia. By incorporating the principles of justice, compassion, and shared responsibility, Islamic Law provides a solid framework for preventing and responding to child abuse in the context of family and society. Effective implementation and a deep understanding of these values are essential to ensure the well-being of children in accordance with Islamic teachings.

In the context of Islamic Law, the punishment of child abusers is based on sharia principles that emphasize justice, compassion, and the protection of human rights. The following are some aspects that need to be considered regarding the punishment of child abusers in Islamic law:

1. **Proportional Punishment:** The punishment given should be balanced and proportionate to the level of violence committed. This principle prevents abuse of power and ensures fairness to all parties involved. The principle of proportionality of punishment reflects the principle of justice in Islam. Punishment should be proportionate to the level of offense committed, in accordance with the teachings of Islamic law which emphasize balance and justice.
2. **Restorative Justice:** Punishment may follow a restorative approach, where the aim is to restore balance and reconciliation between offender and victim. This procedure includes efforts to repair relationships damaged by violence. Restorative approaches are in line with the concept of maqasid al-shariah, which emphasizes the objectives of sharia including the maintenance of justice and social welfare. Restoration of damaged relationships reflects the values of compassion and reconciliation in Islam.
3. **Granting the Right to Compensation:** In addition to criminal penalties, perpetrators of child abuse may be required to provide victims with the right to compensation as a form of legal responsibility. This includes compensating for material and non-material losses suffered by the victim. The principle of providing compensation is an implementation of the principle of qisas (retribution) in Islam. The provision of compensation aims to restore justice and uphold the rights of victims as stipulated in Islamic teachings.
4. **Education and Rehabilitation:** Punishment can include aspects of education and

rehabilitation. This approach aims to guide the offender towards behavioral change and avoid the recurrence of violent acts in the future. Education and rehabilitation reflect an attitude of compassion and concern for the offender's recovery. Islamic law places emphasis on correcting behavior and providing opportunities for change and repentance.

5. Confession and Remorse: Confession and remorse from the offender can influence sentencing. Tawadhu' attitude and willingness to repent are taken into consideration in deciding the punishment.
6. Protection of Victims' Rights: Punishment must provide protection for the rights of victims, including children. This includes their right to live free from violence and receive justice. The protection of the rights of victims, especially children, is an implementation of the principles of justice and compassion in Islam. Islam pays great attention to human rights, including the rights of children as victims.
7. Sharia Considerations: Punishment must be in accordance with the principles of sharia and Islamic norms. Sharia sets out the limits and provisions governing the implementation of punishment, avoiding human rights violations and ensuring the implementation of punishment in line with the principles of sharia.
8. Deterrence Against Repeated Violence: Punishment is not only a response to the act that has been committed, but also an effort to prevent violence from recurring. This involves preventive and educational measures to prevent future violence from occurring. The preventive approach adopted reflects the concept of *maslahah mursalah* (public interest) in Islam. Preventing the recurrence of violence contributes to the maintenance of societal well-being.

The importance of carrying out punishment with discretion, fairness and attention to Islamic values is key in ensuring that the legal system provides optimal protection to child victims of violence (Sarhini, 2006).

Law No. 35 Year 2014 on Child Protection

Law No. 35 of 2014 is an amendment to Law No. 23 of 2002 that regulates Child Protection in Indonesia. The following is an analysis and evaluation of the provisions relating to violence against children:

1. This law provides a fairly comprehensive definition of violence against children, covering various forms of physical, psychological, sexual and exploitation violence. A clear and comprehensive definition provides a strong foundation for identifying and addressing various forms of violence against children.
2. The law affirms children's right to be protected from all forms of violence, and places obligations on the government, community, and family to engage in child protection. Strengthening the rights and obligations to involve all parties demonstrates a commitment to creating a safe and supportive environment for children.
3. The law provides provisions for law enforcement against perpetrators of child abuse, including criminal sanctions for those who commit acts of violence. The existence of criminal sanctions provides the necessary deterrence and demonstrates the seriousness of the law in dealing with perpetrators of child abuse.
4. The law provides provisions for the protection of child victims, including juvenile justice processes and rehabilitation services for victims. Giving special attention to the protection of child victims shows the sensitivity of the law to the special needs of

children in the justice and recovery process.

5. There are provisions that emphasize the importance of preventing child abuse through educational approaches, campaigns, and cross-sectoral cooperation. The prevention efforts emphasized in this law reflect a holistic approach in addressing the issue of child abuse.
6. The law recognizes the important role of communities in child protection and encourages active participation in engaging in child protection. Encouraging community involvement is an effective strategy in creating a safe environment for children.

The Law thus provides a comprehensive and balanced framework to protect children from violence, emphasizing on preventive, protective and law enforcement aspects. However, implementation and monitoring challenges may be issues that need to be addressed, as well as the expansion to the local level and deepening of policies that support the implementation of the law.

Based on this description, it is necessary to improve implementation. Strengthening law enforcement agencies, training social workers, and the active role of the community in implementing the law. In addition, it is necessary to increase public education and counseling on child rights and protection to encourage awareness and active participation. Thus, Law No. 35/2014 provides a strong legal basis to protect children from violence. However, implementation challenges and continuous efforts to improve its effectiveness remain necessary to achieve a safe and supportive environment for children in Indonesia.

Despite the existence of a legal basis both in the perspective of Islamic Law and national legislation, policy implementation and law enforcement are still faced with a number of challenges. Lack of public understanding of children's rights, resistance to cultural change, and uncertainty in law enforcement can hinder efforts to protect children from violence.

CONCLUSION

Violence against children in the family is a serious issue that requires comprehensive attention and handling from a legal and religious perspective. In the context of Islamic Law and Law No. 35/2014, an in-depth understanding of the concept of child protection, the definition of violence, and the implementation of the law is crucial. Thus, this research is directed at making a positive contribution to improving the understanding and protection of children who are vulnerable to violence in the family environment.

From the results of the analysis and discussion, it is revealed that Islamic Law carries a substantial concept of child protection, emphasizing the rights and responsibilities of parents, proportional punishment, the concept of isan (protection), the active role of society and the state, and the application of a restorative approach. The application of these principles in everyday life is considered crucial to ensure the welfare of children in accordance with Islamic teachings.

Along with this, Law No. 35/2014 provides a comprehensive and balanced legal foundation, presenting a strict definition of violence against children, emphasis on

children's rights, criminal sanctions, protection for victims, prevention efforts, and community participation. However, implementation and monitoring challenges remain an issue that requires in-depth attention.

Recommendations for improved implementation include strengthening law enforcement agencies, training social workers, and raising public awareness. Education and outreach among the community was also identified as an important key to achieving child protection effectiveness. Therefore, while Islamic Law provides an unwavering moral footing and values, Law No. 35 of 2014 provides an overarching legal basis. The synergy between the two, along with concrete efforts in implementation, are central to shaping a safe, just and supportive environment for children. Only through collaboration and joint commitment from all elements of society, law and religion can we provide adequate protection to children from all forms of violence and steer them towards a bright future.

REFERENCES

- Afifi, T. O., H. L. MacMillan, T. Taillieu, K. Cheung, S. Turner, L. Tonmyr, & W. Hovdestad. (2015). Relationship between Child Abuse Exposure and Reported Contact with Child Protection Organizations: Results from the Canadian Community Health Survey. *Child Abuse & Neglect*, 46, 198-206.
- Al Adawiah, R. (2015). Upaya Pencegahan Kekerasan Terhadap Anak. *Jurnal Keamanan Nasional*, 1(2), 279-296.
- Andhini, A. S. D., & R. Arifin. (2019). Analisis Perlindungan Hukum Terhadap Tindak Kekerasan Pada Anak di Indonesia. *Jurnal Ilmu Hukum*, 3(1), 41-52.
- Ardianto, S. Y. (2013). Perlindungan Hukum Terhadap Anak Sebagai Korban dari Tindak Pidana Perdagangan Orang di Kota Pekanbaru. *Jurnal Ilmu Hukum*, 4(1), 1-31.
- Dagan, S. W., Ben-Porat, A., & Itzhaky, H. (2016). Child Protection Workers Dealing with Child Abuse: The Contribution of Personal, Social and Organizational Resources to Secondary Traumatization. *Child Abuse & Neglect*, 51, 203-211.
- Ferguson, H. (2004). *Protecting Children in Time: Child Abuse, Child Protection and the Consequences of Modernity*. Springer.
- Pakarti, M. H. A. (2023). Perlindungan Hak Anak dalam Perceraian Menurut Hukum Keluarga Islam. *Mawaddah: Jurnal Hukum Keluarga Islam*, 1(1), 1-13.
- Postmus, J. L., & D. H. Merritt. (2010). When Child Abuse Overlaps with Domestic Violence: The Factors that Influence Child Protection Workers' Beliefs. *Children and Youth Services Review*, 32(3), 309-317.
- Rosidah, N. F. (2023). Upaya Pemerintah dalam Penegakkan Hak Asasi Manusia pada Pelanggaran yang Dilakukan oleh Anak. *Jurnal Hukum dan HAM Wara Sains*, 2(09), 786-797.
- Rozak, P. (2013). Kekerasan Terhadap Anak dalam Rumah Tangga Perspektif Hukum Islam. *Sawwa: Jurnal Studi Gender*, 9(1), 45-70.
- Sarbini, S., B. Anzward, & R. Roziqin. (2019). Model Pembinaan Masyarakat dalam Sistem Penegakkan Hukum oleh Kepolisian Republik Indonesia (Polri) Guna Mencegah Terjadinya Tindakan Kriminalitas Di Kota Balikpapan. *Journal de Facto*, 6(1), 1-21.
- Sedlak, A. J., D. Schultz, S. J. Wells, P. Lyons, H. J. Doueck, & F. Gragg. (2006). Child Protection and Justice Systems Processing of Serious Child Abuse and Neglect Cases. *Child Abuse & Neglect*, 30(6), 657-677.
- Stalker, K., & K. McArthur. (2012). Child Abuse, Child Protection and Disabled Children: A Review of Recent Research. *Child Abuse Review*, 21(1), 24-40.
- Sugijokanto, S. (2014). *Cegah Kekerasan Pada Anak*. Elex Media Komputindo.
- Undang-Undang No. 35 Tahun 2014 Tentang Perlindungan Anak.

Widayati, R. (2018). Kekerasan Terhadap Anak dalam Perspektif Hukum Islam. *Al-Mizan: Jurnal Hukum dan Ekonomi Islam*, 2(2), 23-41.