

Sadomasochism Behavior in the Family According to Law Number 23 of 2004 Concerning the Elimination of Domestic Violence (PKDRT)

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ABSTRACT

This study aims to provide a comprehensive understanding of Domestic Violence (DV), particularly related to sadomasochistic behavior, through the perspectives of positive law and Islamic law. The study examines Law Number 23 of 2004 on the Elimination of Domestic Violence (PKDRT), covering its concepts, scope, and implementation in protecting victims, as well as analyzing the resolution of DV cases involving individuals with sadomasochistic tendencies according to Islamic law and its relevance to PKDRT. The research employs a qualitative approach using library research, relying on secondary data from primary legal sources, secondary legal literature, and non-legal sources, including psychology, sociology, and health literature related to violence and sexual deviations. Data collection was conducted through literature review, followed by data processing in stages of editing, organizing, and analyzing. Data analysis was carried out descriptively and analytically using a deductive method, from general concepts of sexual deviation to specific DV cases arising from sadomasochism. The findings indicate that from the perspective of fikih munakahat, sadomasochistic behavior causing violence to one party is not permissible; conflict resolution should prioritize persuasive and non-violent approaches, while punishments for perpetrators are clearly regulated, including flogging, imprisonment, diyat, qisas, and penalties for defamation, aiming to protect victims and prevent repeated violence. From the perspective of Law No. 23/2004, the government plays a strategic role in prevention and handling of DV through policy-making, education, socialization, gender-sensitive training, provision of specialized services, professional staff, and protection for victims and their companions.

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1. INTRODUCTION

Marriage is a sunnatullah that is universal and applies to all creatures of His creation, both humans, animals, and plants (Urohma, 2023). Marriage is a way established by Allah SWT as a way for His creatures to reproduce and preserve life (A'thoillah et al., 2025).

In the Qur'an it is explained that Allah has created for humans a life partner of their own kind so that they can obtain peace, as well as grow love and affection between them. The relationship between a man and a woman will be valid if they are bound in a contract called marriage or marriage, as stipulated in Islamic sharia (Hertinjung et al., 2022). Therefore, Islam as a religion that *Rahmatan Lil-'Alamin* has arranged and provided solutions so that the distribution of desires between men and women takes place in a beautiful, clean, holy, halal, and worshipful way, namely through the marriage bond (Sihabudin, 2023).

Al-Ghazali explained that lust cannot be completely controlled by reason or religion. This lust can only be managed and directed, not rejected or eliminated, namely by channeling it through a valid marriage, which is based on love and affection so as to bring peace to both (Sujarwo et al., 2024). In *Ihya' Ulumuddin*, Imam al-Ghazali mentioned the five benefits of marriage, namely: obtaining offspring, channeling the urge to orgasm, comforting the heart and releasing longing, arranging household affairs, and doing *São Paulo*—that is, carrying out one's duties as husband or wife and fighting against lust. In marriage, the biological relationship between husband and wife is also part of worship if it is intended to be grateful for God's favor, maintain the continuity of human offspring, and foster affection that can be enjoyed fairly by both parties. This relationship is one of the main factors of domestic happiness, the success of which depends largely on the character and personality of each partner (Saimima & Kelderak, 2023).

Internal conflict is a conflict that occurs in a person, which is rooted in feelings of happiness, sadness, happiness, or disappointment. Examples are conflicts between trust and doubt about something, dilemmas in choosing between two beliefs (for example, religion), or confusion between practicing religious observance and following secularism. Meanwhile, external conflicts are conflicts that arise due to external influences from outside the individual, whether from the family, society, or educational or school environment. When associated with the fulfillment of sexual needs and conflict theories, it can be concluded that internal and external conflicts in the family can be experienced by a husband or wife when one of the parties feels that their biological needs are not met. This condition can cause inner (internal) conflicts that ultimately lead to external conflicts in the domestic relationship between husband and wife. This type of conflict is often the seed of the emergence of disputes (*Syiqaaq*) in marriage. In fact, if not resolved wisely, it can be one of the triggering factors for domestic violence (Amin et al., 2023).

Based on (Law No. 23 of 2004 concerning the Elimination of Domestic Violence, 2004), sexual violence is a form of domestic violence, which is defined as the coercion of sexual relations against people within the scope of the household. The main potential that can trigger the occurrence of sexual violence is dissatisfaction or unfulfilled sexual needs, both on the part of the husband and wife. Based on the evidence, the opinions of the *Ahlul Fiqh*, and the provisions of the law, it is clear that doing good to his wife is a teaching that is strongly emphasized by the Prophet (peace be upon him). In fact, the perfection of a person's faith is measured by his morals, and the best of the believers is the best in morals towards his wife. Therefore, Islam prohibits all forms of violence or ill-treatment, whether committed by the husband against his wife or vice versa. Regarding the fulfillment of sexual needs and satisfaction, there are some couples who commit deviant behaviors such as sadism and sexual masochism. This behavior is different from a normal husband and wife relationship, because in sadism sexual satisfaction is obtained through suffering, pain, or punishment that is physical or psychological to the partner. The factors that cause the appearance of this behavior include wrong educational patterns, traumatic experiences in the past, and personalities that tend to be psychopathic.

Islam emphasizes the importance of doing good and noble behavior towards one's partner, especially husband to wife, as a reflection of the perfection of faith. All forms of violence or ill-treatment

in the household are prohibited by Islamic teachings and laws and regulations (Yantika et al., 2024). However, in the practice of fulfilling sexual needs, there are still deviant behaviors such as sadism and masochism, which are contrary to Islamic teachings because they associate satisfaction with suffering or violence. These behaviors are generally caused by wrong education, traumatic experiences, and unhealthy personalities (Solikhah & Margaret, 2024).

Sexual deviation is divided into two types: first, behaviors with normal biological patterns but are antisocial, such as *Free Sex*, sadism, masochism, and rape; second, behavior with abnormal sexual patterns in the selection of objects, such as homosexuality or *bestialitas* (Srajesh, 2021). In some cases, the disorder is also related to *paraphilia*, which is a psychosexual disorder in which a person obtains gratification through unnatural sexual activity. Thus, sexual deviation and *paraphilia* both reflect the existence of psychosexual disorders that deviate from human nature and Islamic values (Septiasari & Dumpratiwi, 2022).

Forms of sexual deviation that have the potential to cause sexual violence in marital relationships are sadism and masochism, or known as sadomasochism. Sexual desire is a natural potential given by Allah SWT to humans, but it must be controlled and channeled in the right way so that it becomes halal and has worship value (Badawi & Nasution, 2021). The relationship between husband and wife in marriage is actually a form of worship based on affection and sincerity, not a place for one-sided lust satisfaction or actions that hurt the spouse (Mustaqim, 2022). Therefore, the study of law, both Islamic law and positive law, has an important role in maintaining human dignity, protecting the rights of every individual, and ensuring that relationships in the household run in a fair and humane manner. This is also the basis for protection for women so that they do not become victims of injustice and domestic violence.

The purpose of this study is to provide a comprehensive understanding of domestic violence, especially related to sadomasochism behavior, through a study from the perspective of positive law and Islamic law. This research aims to explain in depth the review of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT), both in terms of concept, scope, and application in protecting victims of violence. In addition, this research is also intended to find out and analyze how to resolve cases of domestic violence committed by people with sadomasochism according to Islamic law, as well as how it is relevant to the provisions regulated in Law No. 23 of 2004. Thus, this research is expected to contribute to law enforcement efforts and protection of victims of domestic violence in a fair manner and in accordance with human values and Islamic teachings.

2. METHODS

This study uses a qualitative approach with the type of library research. This approach was chosen because the research was carried out through searching, reading, and analyzing literature that is relevant to the topic, namely sadomasochistic behavior in marital relationships as a form of domestic violence. The study was conducted based on literature sources such as books, journal articles, theses, and other scientific papers that discuss related issues, both directly and indirectly.

The data sources used in this study are secondary and are divided into three categories. First, primary legal materials, namely legal sources that have authority and are binding, in the form of (Law No. 23 of 2004 concerning the Elimination of Domestic Violence, 2004). Second, secondary legal materials, which function to explain and support primary legal materials, in the form of books, journals, articles, and previous research relevant to the topic of domestic violence, sadomasochism behavior, and reviews of Islamic law. Third, non-legal materials, include literature from the fields of psychology, sociology, and health that discuss sexual disorders, sexual violence, and other sexual deviations relevant to the object of research.

Data collection is carried out through literature review, by reading, reviewing, interpreting, and recording important information from various literature sources. The information obtained is then grouped according to research needs to facilitate analysis. The collected data is processed through several stages. The first stage is editing, which is re-examining data to ensure completeness, clarity,

suitability, and relevance to the focus of the research. The second stage is organizing, which is compiling data systematically according to the research framework so that it can be easily analyzed. The last stage is analyzing, which is analyzing data that has been compiled by referring to relevant theories, postulates, and concepts, so that conclusions can be drawn that answer the formulation of the problem.

Data analysis was carried out in a descriptive-analytical manner, by describing phenomena found in the literature factually and objectively, then analyzed in depth to obtain a complete understanding. The thinking method used is deductive, which is to start the analysis of general matters related to sexual deviance and then directed to specific matters, namely domestic violence motivated by sadomasochistic behavior in the perspective of Islamic law and (Law No. 23 of 2004 concerning the Elimination of Domestic Violence, 2004). The results of this method are expected to provide a clear and comprehensive picture of the problem being researched and its relevance to the protection of the law and human values in the household.

3. FINDINGS AND DISCUSSION

Domestic Violence Settlement for Sadomasochism Sufferers in the Perspective of Munakahat Fiqh

Sadomasochism behavior in the household, which involves the giving and receiving of sexual pain or shame, can be categorized as a form of domestic violence (KDRT) if one of the parties does not give consent or experiences suffering. In the Islamic perspective, violence in marital relationships, including those of a sexual nature, is not justified, even if it is done to satisfy sexual desire. Islam emphasizes that the resolution of domestic problems must be done through a persuasive and non-violent approach first (Junaid, 2024). Violence can only be considered as a last resort in a consensual context, not as a method of resolving domestic conflicts.

Islamic law regulates the forms of crime that occur in the household, including against women, with clear punishment provisions based on the type of jarimah (crime) committed. According to the perspective of munakahat jurisprudence, various forms of domestic crime have clear punishment provisions, depending on the type of act committed. One form of crime is the accusation of adultery against a good woman without valid evidence. In this case, Islamic law stipulates the punishment of caning 80 times, as explained in the Qur'an. An-Nuur: 4-5: *"And those who accuse good women (of adultery) and they do not bring four witnesses are beaten 80 times."* This provision aims to protect women's honor and prevent baseless accusations. In addition, obscene acts, such as attempts to commit adultery that have not yet been realized, are also categorized as crimes. Perpetrators of obscene acts are sanctioned in the form of imprisonment for three years, accompanied by binding and expulsion. This punishment is applied as a preventive measure to prevent sexual violence and protect the victim from potential further harm. Physical violence against the limbs is also included in the category of crimes regulated in fiqh munakahat. In this case, the punishment in the form of diyat (ransom) is imposed according to the level of injury suffered by the victim. For example, an eye injury is subject to 1/2 diyat, an injury to the fingers or toes of 10 camels, and injuries to the bone or breaking bones are rewarded with 15 camels. This provision affirms the principle of justice in responding to physical losses suffered by the victim. The most serious crime, namely murder, is regulated through the law of qishas, which is the appropriate retribution against the perpetrator. This is affirmed in QS. Al-Baqarah: 178: *"It is obligatory on you to qishos with regard to those who are killed"*. The application of qishas emphasizes the principle of justice and protection of the right to life of every individual in society.

In addition to physical violence, insult to individuals is also a form of psychological violence that causes mental distress. In Islamic law, if the insult cannot be proven to be true, the perpetrator can be sentenced to imprisonment for four years. This provision serves to maintain the honor of the individual and provide a deterrent effect for perpetrators who harm others psychologically. Thus, fiqh munakahat provides a comprehensive legal framework for resolving various forms of domestic crime, both physical and psychological, with the main goal of protecting victims, upholding justice, and preventing further violence.

In the domestic context, if the behavior of sadomasochism causes violence against the wife, the wife can use it as a basis for filing a divorce lawsuit at the Religious Court. This is in accordance with Islamic principles that uphold women's rights to be protected from hurtful treatment and to ensure physical and psychological safety in the household (Rahman, 2010). Thus, the settlement of domestic violence due to sadomasochistic behavior is not only criminal law or sanctions, but also prioritizes victim protection, rehabilitation efforts for perpetrators, and the enforcement of the principles of equality and security in the household according to the perspective of *fiqh munakahat*.

Settlement of Domestic Violence for Persons with Satomasochism Based on Law No. 23 of 2004 concerning Domestic Violence

In dealing with cases of domestic violence, including sexual violence arising from sadomasochistic behavior, the role of the government is very important as a mediator and solution provider for victims, especially the wife. The government, both at the central and regional levels, has an obligation to carry out preventive efforts and provide services to victims of domestic violence. This is stated in Article 11, Chapter V, Law Number 23 of 2004 concerning the Elimination of Domestic Violence, which affirms that the government is responsible for efforts to prevent domestic violence.

The government's prevention efforts, as stipulated in Article 12, include several strategic activities. The government formulates policies related to the elimination of domestic violence, organizes communication, information, and education about domestic violence, and conducts socialization and advocacy. In addition, the government also provides gender-sensitive education and training, establishes gender-sensitive service standards, and accredits these services. The implementation of these activities is under the coordination of relevant ministries, which can collaborate with other agencies to strengthen the effectiveness of prevention programs.

In addition to preventive efforts, the settlement of domestic violence cases is also carried out through the provision of services for victims. Article 13 regulates several forms of services that can be provided by the government and local governments, including the provision of special service spaces at police stations, the provision of apparatus, health workers, social workers, and spiritual counsellors. The government can also develop a system and mechanism for cooperation in service programs that are easily accessible to victims, while providing protection for victims' companions, witnesses, family, and friends.

Furthermore, the implementation of this service can be carried out through cooperation between the government, local governments, communities, and other social institutions, as explained in Article 14 of Law No. 23 of 2004. With this collaboration, the resolution of domestic violence cases is not only administrative, but also social and preventive, providing comprehensive support for victims and reducing the possibility of further violence.

Thus, Law No. 23 of 2004 provides a clear legal basis for the government in preventing, overcoming, and providing protection for victims of domestic violence, including those who experience violence due to the practice of sadomasochism in the household.

4. CONCLUSION

Based on the results of the research, the settlement of Domestic Violence (KDRT) that occurs due to sadomasochistic behavior can be carried out through two perspectives, namely the perspective of *munakahat* jurisprudence and the positive legal perspective of Indonesia, especially Law No. 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT). From the perspective of *munakahat* jurisprudence, sadomasochistic behavior that causes violence against one party is categorized as an unjustified act in Islam. Violence, including sexual violence, must be avoided, and the resolution of domestic conflicts should be carried out through a persuasive and non-violent approach first. Islam regulates various forms of domestic crime, both physical and psychological, with clear sanctions according to the severity of the act. These punishments include whipping, imprisonment, *diyat*, *qishas*, and criminal punishment for the perpetrators of insults, which aim to protect the victim, uphold justice,

and prevent repeated violence. In addition, wives who experience sexual violence can file for divorce as a form of protection for their rights and safety.

From the perspective of Law No. 23 of 2004, the government has an important role in the prevention and handling of domestic violence, including those arising from sadomasochistic behavior. Preventive efforts include gender-sensitive policymaking, education, socialization, advocacy, and training. Meanwhile, the provision of services to victims is carried out through the provision of special service spaces, professionals, cooperation systems, and protection for victims and their companions. The government can work with the community and social institutions to strengthen the effectiveness of domestic violence handling programs. This approach is holistic, combining legal, social, and psychological aspects to provide maximum protection for victims.

Thus, the settlement of domestic violence due to sadomasochistic behavior must be comprehensive, prioritizing the principles of justice, victim protection, rehabilitation for perpetrators, and prevention of recurrent violence. The combination of the fiqh munakahat approach and the PKDRT Law provides a strong foundation, both religiously and legally positive, to effectively overcome and prevent domestic violence.

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