

GENDER INEQUALITY PARADIGM AS THE CAUSE OF DOMESTIC VIOLENCE FROM THE PERSPECTIVE OF RELIGIOUS AND CUSTOMARY LAW

¹Arum Ayu Lestari ²Lestariningsih ³Ahmad Saifudin

Universitas Nahdlatul Ulama Blitar

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***Correspondence Address:**

Email: ¹dosenarum@gmail.com

²lestariningsih@unublitar.ac.id

³saif.achmad123coretandinding@gmail.com

Abstract: Women cannot be separated from the perspectives and negative stigmas that lead to them. The imbalance of roles that must be carried out by a woman does not make women have an advantageous position. The existence of hereditary stigma that positions women in vulnerable groups, causes many women to experience violence, both domestic violence and sexual violence. The purpose of this study is to provide broad insight that patriarchal culture is not justified. This study uses a qualitative method with an approach to the triangle of violence theory initiated by Johan Galtung, namely, and direct violence, structural violence, cultural violence. From the various stages, this study resulted that from any side, whether religion, custom or legal theory, none justify domestic violence. They all recognize gender equality.

INTRODUCTION

By nature, men are considered stronger than women, we can interpret that men can provide protection to women, while women can provide their gentleness to men and also to their children. However, what is happening now is that gender inequality and these differences do not bring men and women closer together, but instead the opposite. Women are often victims, be it victims of domestic violence, sexual harassment, and many more, which in essence discriminate against women, even though now is the era of women's emancipation, which means that women should no longer be colonized, are free from their rights and cannot be limited by anything and in any circumstances. (Luhulima, 2014). Women and men have the right to get the same rights. There are already many rules that regulate gender equality, and not only that, the state, government, and also the law have protected their citizens in getting their rights. A woman is not only given the freedom to use her rights, but also gets protection from the law, protection to always be maintained so that there are no arbitrary actions against women. In addition, it is not allowed to treat women incorrectly, namely with a rude or indecent attitude,

because in any case there must be mutual respect and respect between one another without seeing any differences. (Efendy, 2014).

The paradigm of thinking that has been passed down from generation to generation that places women in a disadvantageous position. Stigmas and labels from society that burden women, such as when a married couple has been married for more than 2 (two) years but has not been blessed with children. Society will think that the woman is infertile. When a child makes a mistake, the first mistake will be placed on the woman who is considered unable to educate the child. In fact, some of the examples that the author has mentioned have a male role in them. This division of roles is widely not understood by the general public. Even when women work late at night, they will be considered women who are not right. When the woman experiences sexual violence, it will be normalized. Therefore, gender equality is the right of every person to get their rights (Krisnalita, 2018).

Marriage is the biggest decision in a person's life, which in a marriage relationship must be realized with mutual respect and appreciation for each other (Mochamad Nadif, 2022). The purpose of marriage is to get happiness and to be able to channel love and affection so that there must be balance and equality in the family, in this case husband and wife. In Islamic teachings, one of the things that must be considered when getting married is kafaah. Kafaah is defined as women having an equal position with men (Hudafi and Hamsah, 2020). This position is often ignored, that women also have rights that must be respected and honored by men, the stigma of society in Indonesia has led to injustice and social inequality due to patriarchal culture (Ahmad and Raihanah, 2021). Patriarchy causes the existence of women to be sidelined, negative stigmas against women are what cause injustice and social inequality (Abraham Nurcahyo, 2016). The restrictions that have been implemented by patriarchal culture have led to the emergence of discriminatory attitudes, social abuse and absolute control of husbands over their wives so that various negative impacts arise, one of which is domestic violence. The occurrence of coercion, threats, denial of rights and other activities can harm the victim physically or mentally, especially in this case the victim of domestic violence. Violence is an attack in various forms that attacks both psychologically, physically, sexually and economically and this can cause the victim to experience prolonged trauma (Chairah.D, 2019).

Gender-based violence is a problem that is not simple and can be easily recognized. (Harnoko, B.R, 2010) In order to understand and find the source of violence as a social phenomenon, a study must be carried out from various aspects, including gender studies, because as a social construction, gender studies are a very important perspective to discuss in

trying to understand the phenomenon of violence more fully, in this case including examining the targets of violence, perpetrators of violence and the complexity of social construction that allows violence to occur.

RESEARCH METHODS

The author uses a method The type of research used by researchers is qualitative with data collection techniques in the form of literature studies, namely collecting secondary data from books, journal articles, magazines, newspapers, and online articles using credible sources. while Cresswell (2018) states that qualitative research methods are a research process and understanding based on methodologies that investigate a social phenomenon and human problems. In this research, researchers create a complex picture, examine words, detailed reports from the views of respondents, and conduct studies in experienced situations. As explained above, this research uses a qualitative method with a literature approach that will create a description or description of the unequal position of men and women in the household. This research uses the approach of the triangle theory of violence initiated by Johan Galtung, namely, and direct violence, structural violence cultural violence. In addition, the concept of patriarchy and the concept of gender hierarchy/hegemonic masculinity in the feminist approach are also used to explain how patriarchal culture and hegemonic masculinity affect society, structures, and can result in violence in the form of discrimination and physical violence.

RESULTS AND DISCUSSION

1. Society's View of Patriarchal Culture

A culture that places men in a position as the only ones with authority in society is called patriarchy. Culture also occurs at a broader level such as in politics, education, economics, social and law. Patriarchal culture is the root of male domination of women and in the end, women are only considered as a group of servants and everything done by women is less appreciated or not taken into account. At the individual level, patriarchy is the cause of various injustices and violence experienced by women. Patriarchal culture has existed since long ago. For example, boys are given toy cars and girls are bought dolls. We also often hear the advice "men should not cry" because they will be considered weak and whiny. While women must be gentle because they will become mothers who care for children. According to Kamla Bhasin, what society is facing now is a system, namely a system of male domination and superiority, a system of control over women, where women are controlled. This system states that men are

superior to women, that women must be controlled by men and that women are part of men's property (Kamla Bashin, 1996: 4).

Here are some cases of patriarchal culture that often occur in Indonesia:

a. Domestic Violence (KDRT)

Patriarchal culture makes men stronger and more powerful than women, so that wives have limitations in determining choices or desires, and tend to obey all their husbands' wishes, even bad desires. This often happens in society, if the wife does not obey her husband's wishes, the husband will commit violence. Often women who are victims of violence are blamed for the violence committed by men. For example, a wife who is a victim of domestic violence is blamed by her husband on the assumption that the domestic violence committed by the victim's husband is the result of her wrong treatment of her husband. The stigma of victims related to the treatment of their husbands has positioned the victim as being as bad as the perpetrator of the crime himself (Kania, 2015).

b. Sexual Harassment Cases

Patriarchal culture positions men as brave people and tend to do anything to women freely. This is the reason for the high rate of sexual harassment in Indonesia. When men are closely associated with masculinity and ego while femininity itself is ignored and considered a weakness, this culture is also included in the mindset. Society seems to allow men to whistle and laugh at women on the street. Their behavior seems normal and natural, because as men they must dare to face women. Men are considered seducers and women's bodies are objects that are indeed worthy of being the cause of violence itself.

3. Early Marriage Rates Patriarchal culture and social construction that are formed in society have an impact on early marriage, for example women become breadwinners and only work in the family sector. This means that their freedom is very limited by the status of their wives, for example they do not have the opportunity to continue their higher education or develop their talents and abilities. Most of them are housewives who are often unproductive. Their duties are to cook, take care of children, and clean the house. The 1945 Constitution also includes equality in the law for men and women, namely in Article 27 paragraph 1 which states "all citizens have equal standing before the law and government without exception." Article 2 explains "Every citizen has the right to work and a decent living for humans". The article above states that we must be aware of and implement all applicable regulations, including respecting and honoring fellow human beings and gender. After independence, the negative reaction of certain groups towards women who work began to change. The negative response now leads to honor, although there is still a

tendency to judge women from a weak perspective. Women's participation in the business world began to increase, and these things were also discussed in the development of Indonesia. Facts prove that the number of women who work is increasing. The reasons vary, such as economic needs, maybe because they want to pursue a career because the development of Indonesia requires male and female workers. For people in rural areas, both husbands and wives must work to support their families by farming, pounding rice, trading in the market and so on. So that men do not consider women weak, lowly, looked down on and are not arbitrary towards women, and with equality in gender women can defend themselves because they are able to do what men do. Women can also find work and earn their own money so that there is no injustice to women. Men will not treat women carelessly, and women can be on guard when one day men are different. With equality, women can also do what men do. In this modern era, women must be able to be what they want, they do not have to get permission from their husbands, women must be able to maintain their self-esteem, so that they are not treated arbitrarily and get equality and maintain everything related to their self-esteem. All to avoid gender injustice towards women. It should be with the equality between men and women that is very developed and ideal so that men do not treat women as they please. Women are given permission to do whatever men do. If that is realized, then there will be no injustice and patriarchy towards women.

2. Patriarchy as the Root of Domestic Violence Against Women

A patriarchal culture that places women below men will give rise to the idea that only men have the right to lead and women are the ones being led. This can lead to arbitrary actions against women because men feel they can control women. The patriarchal system benefits men in various aspects of life, including their treatment of women. A society that applies the values of this patriarchal system will have an attitude of allowing any decision made by men, including the treatment of women, even though it is a negative form of treatment (Sonza and Nurliana, 2020:123). These negative behaviors include violence against women. This form of violence can be physical or sexual. The root of all cases of violence against women in the household is none other than the deep-rooted patriarchal system. The main perpetrators of domestic violence against women are men, namely husbands. The culture and position of women's subordination are the beginning of the emergence of opportunities for acts of violence against women (wives). Male dominance is always maintained because of personal interests, thus limiting women's access to other fields, which have been fertile ground for men such as politics, economics, social and so on, all of this is done because men are in a position where they can do anything to women

(Kurnia, 2016:133). As a result of this patriarchy, men will be considered more important than women. A husband is considered to have the highest position among all family members and has the right to manage the household including his wife and children. This can create a sense of power in a husband that can trigger arbitrary actions against his wife and even his children.

Inequality between husband and wife can also trigger domestic violence. Competition occurs between husband and wife to fulfill each other's needs, both in terms of economy, education, and socializing. Patriarchal culture also creates the view that a husband should not be lower than his wife. So when a husband feels that he is lower than his wife, it will cause acts of violence against his wife which are carried out in order to fulfill the husband's ego. Another thing that can cause domestic violence is the wife's economic dependence on her husband. Culture has given the view that a wife must depend on her husband. The view that exists in society regulates that a wife is responsible for taking care of the household and the husband is obliged to work. Things like this make the wife have to depend on her husband. Finally, when the husband commits violence against his wife, the wife feels helpless because her life has depended on her husband. It is indeed an obligation for a husband to provide for his wife, but that does not mean that the wife must depend on her husband. Of the several factors, the main root cause of violence against women in the household is the patriarchal system that applies in society. Violence against women in the household is an act that violates human rights and is a crime against humanity.

3. Islamic Perspective on Gender Equality

One of the missions of Islam is the liberation of humanity from various forms of anarchy and injustice. Islam strongly emphasizes justice in all aspects of life. This is emphasized in the Qur'an, that believers are commanded to fight to liberate the weak and oppressed groups in society. In relation to the Islamic perspective on gender equality, the Qur'an emphasizes that (1) male and female servants are both servants, (2) male and female servants are both caliphs, (3) male and female accept the primordial covenant, and (4) male and female have the potential to achieve. In the capacity of humans as servants, there is no difference between men and women, because each will receive an award from God according to the level of their devotion. Both have the potential and opportunity to become perfect servants. The special privileges given to men, such as husbands being superior to wives, men being protectors of women, men receiving more inheritance and men being allowed to practice polygamy, do not necessarily result in men becoming the main servants.

Likewise, to become a caliph, the Qur'an does not refer to a particular gender or group. Men and women have the same function as caliphs, who will fight for their caliphate duties on earth as they must be responsible as servants of Allah. In the Qur'an, there is not a single verse that shows the superiority of a person because of gender or because of their ethnic descent. Islam places the position of men and women on an equal footing. Islam came to change the patriarchal culture and traditions of the Arab nation in a revolutionary way. Even the Prophet Muhammad was known as a "feminist" who greatly respected and loved women. The Prophet tried to overhaul the culture that marginalized women by ordering men to be kind, fair and wise to women. Women during the time of the Prophet were described as women who were active, polite and had good morals. In fact, in the Qur'an, the perfect figure of a Muslim woman is symbolized as a person who has independence in various areas of life. During the time of the Prophet SAW, a series of women's names were found who had brilliant reputations and achievements as achieved by men. In the guarantee of the Qur'an, women freely enter all sectors of life in society, including politics, economics, and various other public sectors. In Islam, it is explained that men and women have equal potential to achieve the highest stratification before God. In the holy book of the Qur'an, it is clearly explained that nobility is determined by the level of piety to Allah, not because of differences in gender or ethnicity. God also gives the same appreciation between the positive work of men and the positive work of women, with the same price.

4. Islamic Legal Views on Patriarchal Culture in Households

a. Male Superiority

According to Imam al-Qurthubi, a husband is obliged to conduct daily relations with his wife in the best way and vice versa. So building good communication in the household towards a *sakinah* and *mawadah* family in addition to the wife's obligations is also the husband's obligation. Both parties (husband and wife) must do something for each other in the best way (Imam al-Qurthubi, 1994:177). Although the Qur'an requires the husband to earn a living, it does not make him the head of the household. Such an image relies on the traditional patriarchal definition of father-as-husband and husband-as-father when talking about husband or father (Asma Barlas, 2003:322).

b. Beating (Dharaba) and Disobedience (Nusyuz)

The idea that beating is a right that exists for men is certainly contradictory to the ideals of the Qur'an about husband-wife relations which should be compact and mutually supportive. This also contradicts the rules of the Qur'an where men and women are allowed to dissolve a failed

marriage, so that it will ignore the idea that women have a duty and obligation to submit to violence. Then what if we relate it to the fact that Islamic law itself allows a husband to beat his wife who is (nusyuz) or disobedient? In the context of nusyuz, there are several hadiths of the prophet that people understand as the obligation of women to serve their husband's sexual desires in any condition. If his wife refuses, then it is considered nusyuz. In Islam, if a wife disobeys her husband, then the first thing to do is to advise her gently. If this does not work, then by leaving her alone without intercourse. If this also does not work, then the husband may hit her, but this beating is done in a light way, where the beating does not leave a scar on the woman. The Qur'an uses the principle of similarity and similarity of human characteristics to define the relationship between husband and wife. The Qur'an also views husband and wife as equals, both of whom not only have the same characteristics, but are equally required to love their partners. Both are also burdened with the same standards of ethical behavior, even in conditions full of trials.

Thus, human rights in Islam can be summarized as follows: women and men are created in a state of freedom and egalitarianism in the glory and excellence given by God. Therefore, there is no discrimination against women solely on the basis of gender when carrying out social life, economic life and family life on the principle of equality and justice. As social beings, women have the right to live freely and obtain the same security rights as men. Even further, Islam prohibits various forms of torture, violence and enforcing women that are not in accordance with their honor. However, every woman basically has the same rights in front of Islamic law.

CONCLUSIONS AND RECOMMENDATION

Patriarchy has become a system that is deeply rooted in the lives of Indonesian society. One of the consequences of this system is gender inequality. In fact, patriarchy can indirectly cause violence against women in the household. The view of women who are considered inferior to men and are considered weak creatures causes various injustices that women experience. Male power triggers arbitrary actions against women, this is the beginning of violence against women, especially in the household. The Qur'an also explains that all humans, men and women, have the same status and what distinguishes them is their piety. Thus, the assumption that the status of women is below that of men is not true according to the Qur'an. Islam is a religion that honors women. Of course, Islam strictly prohibits acts of violence against women. The Qur'an also explains that men (husbands) are leaders and protectors of women (wives). Therefore, a husband should not commit violence against his wife if there is no justified

reason. And the idea that beating is a right that exists for men is certainly contradictory to the ideals of the Qur'an about the relationship between husband and wife which should be compact and mutually supportive. And then author suggestion efforts are needed to raise public awareness about gender equality so that there is no inequality of roles, namely by involving men in household reproductive activities and balancing roles in the household.

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