



Gender-Sensitive Policing: An Evaluation of National Legal Frameworks and Criminal Law Regarding Women in Conflict with the Law

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Abstract

Research Objective: To examine and analyze the gender sensitivity of the Police in handling cases of women facing the law from the perspectives of national law and Islamic law. The legal research method used is normative research. The analytical techniques include descriptive-analytical, systematic and grammatical interpretation. Research Findings: The study shows that gender-based approaches have not been fully implemented in handling cases of women facing the law, whereas the court has guidelines for adjudicating such cases as regulated in Supreme Court Regulation No. 3 of 2017. This is in line with the mandate of Law No. 7 of 1984 concerning the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women. From an Islamic law perspective, based on Quran Surah Al-Hujurat verse 13, which emphasizes the equality of human dignity and rejects superiority based on race, ethnicity, or gender, as well as Fiqh (Islamic jurisprudence), which contradicts the principle of Dar' al-Mafasid (Preventing Harm). Conclusion, Guidelines for women facing legal cases in the Police can be established based on national law and Islamic law. Suggestion: The Police should formulate regulations on guidelines for women facing the law.

Keywords: Police; Gender; Islamic Law; Discrimination; Women.

Introduction

Gender-based violence is one of the human rights violations that is still rampant in various parts of the world, including Indonesia. This phenomenon includes various forms of violence, such as domestic violence (KDRT), sexual violence. Although awareness of gender equality is increasing, cases of violence against women and other vulnerable groups remain high. Ironically,

many victims are reluctant to report because of distrust of the legal system, social stigma, and fear of retaliation from the perpetrators. Data from the National Commission on Violence against Women (Komnas Perempuan) shows that violence against women continues to increase from year to year. The 2023 Annual Report (CATAHU) recorded 457,895 cases of violence against women, with details of 3,838 cases of domestic violence, 1,799 cases of sexual harassment (Catahu Komnas Perempuan 2023 Catat Kekerasan Di Ranah Negara Meningkat 80 Persen | Narasi TV, n.d.).

Domestic violence is the most common but least reported form of gender violence. According to the 2021 National Women's Life Experience Survey (SPHPN) by BPS and UNFPA, 1 in 4 Indonesian women have experienced physical or sexual violence by their partners. However, only 10-15% of victims dare to report it to the authorities. The causes include: cultural pressure that considers domestic violence a family disgrace, economic dependence on the perpetrator, making victims afraid of losing their livelihood, minimal legal protection due to the complicated process and the risk of victims being criminalized (for example in cases of self-defense). Sexual harassment occurs in various areas, from the work environment, campuses, to public transportation (Schoolmedia, n.d.). The Lentera Sintas Indonesia Survey (2022) found that 93% of women on public transportation had experienced sexual harassment, but only 5% reported it. Low reporting is caused by: Victim-blaming (victims are blamed for being "seductive"), unclear complaint mechanisms, especially in the workplace and educational institutions. Layered trauma due to lack of psychological and legal assistance. Although Law 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS) was passed in 2022, its implementation is still slow due to lack of socialization and budget for victim services (Nugraha & Subaidi, 2022).

In addition to the high rate of violence, the main problem is the low level of reporting. The LBH APIK Jakarta survey (2023) found that only 20% of victims of domestic violence and sexual harassment reported to the police. This raises questions about the extent to which the police have performed in receiving reports of violence experienced by women and whether it is based on non-discrimination (Purwanti & Zalianti, 2018). In this study, it is important to analyze in depth the evaluation of nationally applicable laws and regulations, as well as to add differences with previous studies. Therefore, a study of Islamic law on women in conflict with the law is used. To show that this study has novelty, there are several previous studies, including those conducted by Eka Wahyuningsih (2025) (Wahyuningsih et al., 2025). This study only explains efforts to protect women and provide a sense of security in fulfilling their rights. The government plays a very active role in legal protection for women and children and can be responsible for victims. The obstacles faced by the government are that people still do not want to report if there is violence against women and children. Furthermore, research conducted by Joni Hendri (2025) (Hendri, 2023). This study uses empirical research and the results of the study are that the judges at the Pasir Pengaraian District Court are considered to have implemented the Guidelines for Trying Women in Conflict with the Law PERMA No. 3 of 2017 well. This study has not shown any problems. Research by Ahmad Faisal Akbar (2023) (Akbar, 2023). This study explains the importance of prioritizing the rights of divorced women, one example is that judges can use their rights ex officio in determining the obligations of ex-husbands to ex-wives in providing mut'ah,

iddah and hadhanah maintenance even though the wife does not request it. In addition, the research method used is normative and is limited to divorce cases only.

The difference between this study and previous studies is that previous studies still generally explain women's rights, while this study focuses on examining the treatment of women in the eyes of the law, then previous studies focus on using legal sources that apply nationally, while this study uses Islamic law as an object of study regarding the treatment of women before the law. So this study has something new. The purpose of this study is to evaluate the national legal framework and Islamic law for women in conflict with the law, with a focus on the study of the Police.

Methods

This study aims to examine and evaluate the national legal framework and Islamic law on women in conflict with the law, with a focus on the Police. The focus of this study includes evaluating the Police in handling women's cases as reporters, victims, witnesses, and suspects. This study uses normative juridical (Gurusi et al., 2024) which combines legislative, comparative, and conceptual approaches. The legal approach is used to describe how cases of women in conflict with the law are handled by the Police according to the framework of positive law and Islamic law. The comparative approach analyzes the comparison of the reality of women in conflict with the law between positive law and Islamic law, while the conceptual approach focuses on exploring the ideal concept of guidelines for women in conflict with the law in the Police. This study uses primary legal materials (Criminal Code, Perma Number 3 of 2017 concerning Guidelines for Adjudicating Cases of Women in Conflict with the Law, Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims), as well as the concept of women in conflict with the law from an Islamic perspective, such as the Al-Quran and the principles of Dar' al-Mafasid fiqh, secondary legal materials (literature, journals, books), and tertiary legal materials (dictionaries and legal encyclopedias to explain the principles of non-discrimination in Islam). Data analysis involves qualitative analysis with analytical descriptive methods. Systematic and grammatical interpretation.

Results and Discussion

Women in conflict with the law often face complex and multidimensional challenges, both socially, culturally, and in the legal system itself. In many societies, women are still viewed through the lens of gender stereotypes that can impact their legal process. For example, victims of sexual violence are often confronted with questions that are cornered, such as the way they dress or the background of their behavior, rather than focusing on the perpetrator of the crime (Nurisman, 2022). This not only exacerbates trauma but also creates injustice in the judicial process. In addition, the lack of understanding of gender perspectives by law enforcement

officers can lead to discrimination, both directly and indirectly. Women from marginalized groups, such as migrant workers or indigenous peoples, are even more vulnerable to injustice due to minimal access to quality legal aid.

On the other hand, criminal law is often insensitive to the special needs of women, such as in cases of criminalization that do not consider the conditions of victims of domestic violence who are defending themselves. Some legal systems also still criminalize women on the basis of morality, such as rules that limit freedom of expression or dress (Risal, 2022). In addition, in family law, women are often disadvantaged, for example in the distribution of inheritance or child custody, which are still dominated by patriarchal interpretations. Although there have been efforts to introduce more inclusive regulations, such as the Law on the Elimination of Domestic Violence (UU PKDRT) in Indonesia, their implementation is still often hampered by a gender-biased legal culture.

Therefore, it is important to continue to push for more gender-just legal reforms, including gender sensitivity training for law enforcement officers, the provision of special legal aid services for women, and public education to eliminate the stigma against women in conflict with the law. In addition, the role of women's organizations and non-governmental organizations is crucial in assisting victims and advocating for policy changes (Lewoleba & Fahrozi, 2020). Thus, it is expected that women can obtain equal justice without discrimination when dealing with the legal system (Dike et al., 2023). The national legal framework in Indonesia has experienced significant developments in efforts to protect women's rights, although there are still challenges in its implementation. Constitutionally, Article 28H of the 1945 Constitution guarantees the rights of every citizen, including women, to obtain justice and legal protection. In addition, Indonesia has ratified various international conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) through Law No. 7 of 1984, which requires the state to eliminate gender discrimination in all fields, including law.

Within the criminal law framework, the Criminal Code (KUHP) and the Criminal Procedure Code (KUHAP) are the basis for handling cases involving women, although some articles are still considered gender biased. However, there are a number of specific laws that are more progressive, such as:

- Law No. 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT) - Protects women from physical, psychological, sexual, and economic violence in the domestic sphere.
- Law No. 12 of 2006 concerning Citizenship, Ensures equal citizenship rights between men and women.
- Law No. 21 of 2007 concerning the Eradication of the Crime of Human Trafficking, Provides special protection for women and children from exploitation.

In the field of civil law, the Compilation of Islamic Law (KHI) and Law No. 1 of 1974 concerning Marriage regulate women's rights in marriage, divorce, and inheritance, although there are still inequalities, such as the division of inheritance that is not yet fully equal. Meanwhile, Law No. 35 of 2014 concerning Child Protection also strengthens the rights of mothers in child care. Although the national legal framework is improving, the main challenges lie in weak law enforcement, a patriarchal culture that influences legal interpretation, and women's lack of access to legal aid. Therefore, greater efforts are needed to increase legal

awareness, strengthen victim protection mechanisms, and ensure that the law does not only exist on paper, but is also implemented fairly and equally.

Women who come into conflict with the law in the Police experience obstacles, one of which is the lack of guidelines for women who come into conflict with the law, even though if referring to several regulations such as Law Number 31 of 2014 concerning amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims (abbreviated as the PSK Law). The law regulates witnesses, victims (Nordås & Cohen, 2021). However, this regulation regulates gender in general. Without seeing any differences. While a person who is a suspect or defendant. Their rights are regulated in the Criminal Code. However, even though it has been regulated in the PSK Law, the Criminal Code does not rule out the possibility of gender-based discrimination. This is different from the Supreme Court which regulates women who are in conflict with the law as based on Supreme Court Regulation Number 3 of 2017 concerning Guidelines for Adjudicating Cases of Women in Conflict with the Law, the background to the issuance of the regulation is because it cannot be separated from the various systemic problems faced by women in the judicial process in Indonesia. This regulation was born as a response to the still rampant discrimination and violence against women in the legal system, where women often experience re-victimization or repeated trauma when dealing with the law, either as victims, witnesses, or perpetrators. The practice of gender stereotypes and victim-blaming, especially in cases of sexual violence or domestic violence, is also a serious problem that drives the need for this special guideline. In addition, many women who come into conflict with the law are actually victims of situations, such as poverty, exploitation, or social pressure, so they require a more sensitive approach (Chen et al., 2020).

Another background is the gap in legal protection even though Indonesia has the Law on the Elimination of Domestic Violence and the Law on the Protection of Witnesses/Victims, because its implementation is still weak without clear technical guidelines. Indonesia's commitment to international conventions such as CEDAW and the constitutional mandate in Article 28H of the 1945 Constitution which guarantees legal justice are also the basis for the issuance of this PERMA. In addition, several controversial decisions that ignore the gender perspective, such as the criminalization of rape victims or disproportionate sentences for women who commit minor crimes, further emphasize the need for these guidelines. Encouragement from various institutions such as the National Commission on Violence Against Women and NGOs who have been vocal in voicing gender-perspective judicial reforms also influenced the issuance of this PERMA, as well as being a follow-up step after PERMA No. 3/2016 concerning Gender-Perspective Mediation. Thus, PERMA Number 3 of 2017 is here to ensure equal access to justice for women, prevent stigmatization, and encourage a more restorative approach in the Indonesian justice system. If the Perma is adopted by the Police, it is important for the Police to issue internal regulations regarding guidelines for women in conflict with the law, so that investigators have the same view as judges when dealing with women in a case.

A gender-sensitive policing approach is a crucial issue in the modern justice system, especially in the context of protecting the rights of women in conflict with the law. In Indonesia, although national legal frameworks such as Law Number 8 of 1981 concerning the Criminal

Procedure Code and Law Number 23 of 2004 concerning the Elimination of Domestic Violence have provided a legal basis for the protection of women, their implementation still faces challenges. From an Islamic legal perspective, the principle of gender equality is also emphasized in the Qur'an, one of which is in Surah Al-Hujurat verse 13: "O mankind, indeed We created you from male and female and made you into nations and tribes that you may know one another. Indeed, the most noble among you in the sight of Allah is the most pious."* This verse emphasizes that there is no superiority based on gender, but rather justice and piety are the measures.

The application of the principle of Dar' al-Mafasid (avoiding harm) in Islamic law is also relevant in the context of handling cases of women in conflict with the law. This principle emphasizes the importance of preventing greater negative impacts, including stigmatization and discrimination against women in the legal process. For example, in cases of sexual violence, a repressive approach without understanding gender can actually cause multiple traumas for victims. Therefore, the police need to adopt procedures that take into account the psychological and social aspects of women, in accordance with the spirit of Dar' al-Mafasid which prioritizes the welfare. Evaluation of the national legal framework shows that although there have been efforts to integrate gender perspectives, such as through Permendagri No. 67 of 2011 concerning Guidelines for Gender Responsive Development, there are still gaps in its implementation. For example, many women victims of violence are reluctant to report because of a lack of trust in the police or fear of stigmatization. This is where the principle of Surah Al-Hujurat verse 13 needs to be operationalized, where the police must ensure that every individual, regardless of gender, is treated fairly and humanely.

In Islamic law, the concept of *is* (justice) also demands protection for vulnerable groups, including women. The practice of Sulh (peace) and Restorative Justice can be an alternative to resolve certain cases without having to go through a complicated legal process. This approach is in line with the principle of Dar' al-Mafasid which aims to minimize negative impacts. For example, in cases of domestic violence, mediation involving the family and religious leaders can be a more humane solution than direct criminalization. However, this must be done without neglecting the protection of victims. In conclusion, building a gender-sensitive police force requires synergy between the national legal framework and the principles of Islamic law. Surah Al-Hujurat verse 13 reminds us that equality and justice are universal values that must be realized in law enforcement. Meanwhile, the principle of Dar' al-Mafasid provides an ethical basis for minimizing damage in the legal process. By integrating these two approaches, the police can be more effective in protecting the rights of women in conflict with the law, while creating a more inclusive and just justice system.

Conclusion

This study shows that a gender-sensitive policing approach requires integration between the national legal framework and the principles of Islamic law, especially the value of equality in QS. Al-Hujurat verse 13 and the principle of Dar' al-Mafasid. Surah Al-Hujurat emphasizes that human dignity is not determined by gender, but by piety, so the police must avoid discrimination

and ensure justice for women who are in conflict with the law. Meanwhile, the principle of Dar' al-Mafasid emphasizes the importance of preventing greater damage, such as stigmatization or multiple traumas against women in the legal process. An evaluation of Indonesian national law shows that although there is legal protection for women, its implementation still needs to be strengthened with a more humane approach and based on restorative justice. By combining Islamic principles and national policies, the police can create a more inclusive system, protect women's rights, and minimize the negative impacts of the legal process. The synergy between positive law and Islamic values is key to realizing gender-just law enforcement.

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