

## **Domestic Violence Under Law Number 23 of 2004 as a Consideration for Judges in Deciding on Divorce**

### **(Study of the Decision of the Sukoharjo Religious Court Number 223/Pdt.G/2023/PA.Skh)**

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**Abstract:** Domestic Violence (DV) is one of the major factors that can undermine family harmony and lead to divorce. Law Number 23 of 2004 concerning the Elimination of Domestic Violence provides clear regulations regarding various forms of domestic violence, including psychological violence as stipulated in Article 5(b). This study employed an empirical juridical or socio-legal approach using qualitative descriptive analysis. Data were collected through interviews, observations, documentation, and library research. Data validity was ensured through cross-checking, member checking, cross-verification, and triangulation techniques. The findings indicate that domestic violence has not been expressly recognized as an independent ground for divorce in Religious Courts because it is not explicitly regulated in the Marriage Law or the Compilation of Islamic Law. In Decision Number 223/Pdt.G/2023/PA.Skh., the judges granted the divorce based on continuous disputes and marital disharmony under the applicable marriage law provisions, while implicitly considering the substance of psychological domestic violence under Article 5(b) of Law Number 23 of 2004 in assessing the breakdown of the marital relationship. The study recommends strengthening judicial sensitivity in identifying elements of domestic violence, improving evidentiary mechanisms for victims, enhancing inter-

### **Keywords:**

Domestic Violence (DV), Psychological Violence, Grounds for Divorce, Religious Court, Empirical Juridical

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institutional coordination, and promoting legal reform to explicitly recognize domestic violence as a ground for divorce in order to achieve substantive justice for victims.

**Abstrak:** Kekerasan Dalam Rumah Tangga (DV) merupakan salah satu faktor utama yang dapat merusak keharmonisan rumah tangga dan berujung pada perceraian. Undang-Undang Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan Dalam Rumah Tangga memberikan pengaturan yang jelas mengenai bentuk-bentuk kekerasan dalam rumah tangga, termasuk kekerasan psikis sebagaimana diatur dalam Pasal 5 huruf b. Penelitian ini menggunakan metode yuridis empiris atau penelitian sosial-hukum dengan pendekatan deskriptif kualitatif. Pengumpulan data dilakukan melalui wawancara, observasi, dokumentasi, dan studi kepustakaan. Validitas data diuji melalui teknik *cross-checking*, *member checking*, *cross-verification*, dan triangulasi. Hasil penelitian menunjukkan bahwa dalam praktik peradilan agama, DV belum diakui secara tegas sebagai alasan mandiri perceraian karena belum diatur secara eksplisit dalam Undang-Undang Perkawinan maupun Kompilasi Hukum Islam. Dalam Putusan Nomor 223/Pdt.G/2023/PA.Skh., hakim mengabulkan gugatan perceraian dengan dasar perselisihan dan pertengkaran yang terus-menerus sesuai ketentuan hukum perkawinan yang berlaku, namun secara substansial mempertimbangkan unsur kekerasan psikis sebagaimana diatur dalam Pasal 5 huruf b Undang-Undang Nomor 23 Tahun 2004 dalam menilai keretakan hubungan perkawinan para pihak. Oleh karena itu, diperlukan peningkatan kepekaan hakim dalam mengidentifikasi unsur-unsur DV, penguatan mekanisme pembuktian bagi korban, koordinasi antarlembaga, serta pembaruan regulasi agar DV diakui secara eksplisit sebagai alasan perceraian guna mewujudkan keadilan substantif bagi korban.

**Kata kunci:**  
Kekerasan Dalam Rumah Tangga (KDRT), Kekerasan Psikologis, Alasan Perceraian, Pengadilan Agama, Yuridis Empiris

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## INTRODUCTION

The essence of marriage is to create a harmonious, peaceful, and loving household life, as reflected in Law Number 1 of 1974 in conjunction with Law Number 16 of 2019 concerning Marriage. This law affirms that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the One Almighty God. However, in reality, not all households are able to maintain this goal. One of the biggest factors destroying household harmony is domestic violence (DV).

Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PDV Law) provides clear definitions and limitations for various forms of domestic violence, including psychological violence as regulated in Article 5 letter b. Psychological violence is defined as actions that cause fear, loss of self-confidence, loss of ability to act, feelings of helplessness, or other severe psychological suffering in the victim<sup>1</sup>. In practice, psychological violence is often the main reason put forward by wives in divorce proceedings, because the psychological impact it causes greatly affects the peace, mental health and safety of the victim's life.<sup>2</sup>

The increasing number of divorce cases in Religious Courts in recent years indicates that Domestic Violence (DV), particularly psychological violence, is increasingly being cited as a legal basis for divorce<sup>3</sup>. Data from the

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<sup>1</sup> Apriliani Dewi Susana and Idris Rifandi, "Tinjauan Yuridis Terhadap Tindak Pidana Kekerasan Dalam Rumah Tangga: Studi Kasus Putusan No. 666 K/Pid. Sus/2018," *El-Mujtama: Jurnal Pengabdian Masyarakat* 1, no. 2 (2021): 242–59.

<sup>2</sup> Sahal Mahfud, Baehaqi Baehaqi, and Salman AlFarisi, "Analisis Yuridis Intervensi Orang Tua Sebagai Faktor Penyebab Perceraian (Studi Putusan Pengadilan Agama Demak Nomor: 551/Pdt. G/2023/Pa. Dmk)," *Jurnal Tana Mana* 6, no. 2 (2025): 11–15.

<sup>3</sup> 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 (2022): 997–1021.

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Directorate General of Religious Courts at the Supreme Court of the Republic of Indonesia and various studies confirm the increasing trend of divorce cases due to domestic violence, with psychological violence being one of the main reasons cited, particularly by wives.<sup>4</sup> This increasing number indicates the urgency of further examining how judges assess and consider psychological violence in deciding cases, as proving psychological violence is far more complex than proving physical violence, which has objective signs.

The Sukoharjo Regency Religious Court Decision No. 223/Pdt.G/2023/PA.Skh. is a concrete example of a divorce case that used Article 5(b) of the Domestic Violence Law as the basis for the judge's considerations. This case demonstrates how power relations within a household and psychological dynamics are crucial aspects in the judge's legal reasoning. A more in-depth analysis of this decision is warranted, particularly to understand whether the judge's considerations align with the concept of protecting victims of Domestic Violence (DV) as mandated by the Law on the Elimination of Domestic Violence (UU PDV) and related laws and regulations.

Several previous studies have addressed Domestic Violence (DV) as a reason for divorce, but most have focused on physical violence or the sociological aspects of DV<sup>5</sup>. Few studies have specifically analyzed psychological violence based on Article 5 letter b of the Law on the Elimination of Domestic Violence (UU PDV) as a legal consideration in divorce decisions in Religious Courts. Therefore, this study is strategically positioned to fill this

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<sup>4</sup> Hasanudin Hasanudin et al., "Phenomena of Domestic Violence against Women and Divorce in 2020-2022 in Indonesia: An Islamic Perspective," *Al-Manahij: Jurnal Kajian Hukum Islam*, 2023, 137-52.

<sup>5</sup> Huda S Abdel Wahhab et al., "Social Environment and Its Effects on Domestic Violence," *Revista de Gestao Social e Ambiental* 17, no. 7 (2023): 1-14.

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gap in research, while also providing theoretical and practical contributions regarding the implementation of the Law on the Elimination of Domestic Violence (UU PDV) in the context of religious courts.

Based on these conditions, this study needs to be conducted to determine how judges interpret and apply the provisions of Article 5 letter b of the Law on the Elimination of Domestic Violence (UU PDV) in legal considerations, how evidence of psychological violence is brought and assessed by judges, and to what extent these considerations influence divorce decisions in case Number 223/Pdt.G/2023/PA.Skh. This study is expected to provide scientific contributions to the development of legal science, especially family law and law on protection against Domestic Violence (DV), as well as become evaluation material in improving substantive justice for justice seekers.

## **METHODS**

This study employed an empirical juridical approach (socio-legal research), which examines the implementation of legal norms in practice, particularly how Law Number 23 of 2004 concerning the Elimination of Domestic Violence and the Compilation of Islamic Law are applied by judges in deciding divorce cases involving domestic violence<sup>6</sup>. This approach emphasizes *law in action* by integrating legal norms with empirical conditions found in society.

The research utilized both primary and secondary data. Primary data were obtained through semi-structured interviews with judges, court clerks, and

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<sup>6</sup> Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (2020): 20–33.

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litigating parties, as well as direct observation of proceedings at the Sukoharjo Religious Court. Secondary data consisted of statutory regulations, court decisions, and relevant scholarly literature. To ensure data validity, triangulation techniques were employed through cross-checking interview results, member checking, and verification against official documents.

Data were analyzed using a qualitative descriptive method. Following Miles and Huberman (1994), the analysis involved three stages: data reduction, data display, and conclusion drawing or verification<sup>7</sup>. The collected legal and empirical data were interpreted and systematically linked to identify judicial considerations in applying Article 5 letter b of Law Number 23 of 2004 as a basis for adjudicating divorce cases involving psychological domestic violence.

## RESULTS AND DISCUSSION

### 1. Domestic Violence Theory

Domestic Violence (DV) according to Law Number 23 of 2004 concerning the Elimination of Domestic Violence is any act within the family that causes physical, psychological, sexual suffering or neglect, including threats and coercion<sup>8</sup>. In this context, psychological violence as regulated in Article 5 letter b has a very important position because it includes non-physical actions such as insults, threats and treatment that causes deep emotional stress<sup>9</sup>. Psychological violence is often hidden and difficult to recognize, but its impact

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<sup>7</sup> Matthew B Miles, "Qualitative Data Analysis: An Expanded Sourcebook," *Thousand Oaks*, 1994.

<sup>8</sup> Susana and Rifandi, "Tinjauan Yuridis Terhadap Tindak Pidana Kekerasan Dalam Rumah Tangga: Studi Kasus Putusan No. 666 K/Pid. Sus/2018."

<sup>9</sup> Moch Yusuf Bachtiar and Suwarno Abadi, "Prinsip Perlindungan Hukum Terhadap Korban Kekerasan Dalam Rumah Tangga Berdasarkan Undang-Undang Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga," *Law and Humanity* 2, no. 3 (2024): 314-40.

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on the victim's mental health is very serious, thus confirming that Domestic Violence (DV) is not limited to physical violence, but also encompasses complex psychological dimensions and undermines the victim's overall well-being.

Conceptually, psychological violence is a form of non-physical violence that affects the victim's mental and emotional state through behavioral patterns such as manipulation, humiliation, social control, and systematic, repetitive pressure. The impact can include fear, loss of self-confidence, helplessness, and even serious psychological disorders such as depression, anxiety, and Post Traumatic Stress Disorder (PTSD). Coercive control theory explains that psychological violence is a domination strategy carried out by the perpetrator to control the victim psychologically and socially through various forms of structured pressure<sup>10</sup>. In addition, psychological violence is often not realized by the victim or the surrounding environment because it does not leave physical marks, but it actually has a more complex long-term impact than physical violence.

From a legal perspective, psychological violence is recognized as a violation of human rights and an unlawful act that can be subject to criminal and civil sanctions<sup>11</sup>. The Domestic Violence Law provides a strong legal basis for victims to seek protection through criminal channels, with the threat of imprisonment and fines for perpetrators, as well as through civil channels such

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<sup>10</sup> Kristy Kassing and Anthony Collins, “‘Slowly, over Time, You Completely Lose Yourself’: Conceptualizing Coercive Control Trauma in Intimate Partner Relationships,” *Journal of Interpersonal Violence* 41, no. 3–4 (2026): 662–84.

<sup>11</sup> Ni Nyoman Muryatini, “Legal Protection for Women Victims of Psychological Domestic Violence Based on Enactment Number 23 of 2004,” *Jurnal Hukum Prasada* 10, no. 1 (2023): 28–35.

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as divorce suits<sup>12</sup>. In divorce cases, psychological violence is seen as a form of failure to achieve the goal of a harmonious and loving marriage, so it can be a legitimate reason to end the marriage in accordance with applicable legal provisions. This demonstrates that the law not only protects victims repressively but also provides preventive and corrective measures to maintain the integrity and quality of family relationships.

However, proving psychological violence in court is difficult because it is not visible and hard to show directly. Therefore, evidence such as expert opinions from psychologists, psychiatric evaluations, communication records, and witness testimony is needed. Handling these cases also requires law enforcement officers to have a good understanding of psychological violence and strong social support for victims. Recognizing psychological violence as part of domestic violence is not only important in law, but also requires effective implementation through a multidisciplinary approach to ensure proper protection, recovery, and justice for victims.

## **2. Theory of Judge Protection**

The theory of legal protection states that the state must ensure citizens feel safe, protected, and that their rights are fulfilled through fair and effective laws. Legal protection is not only about having rules, but also about how those rules are applied in real life to prevent injustice and rights violations. The principles of legality and legal certainty are key, meaning laws must be clear, consistent, and accessible to everyone to build public trust. In Indonesia, the

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<sup>12</sup> Husin Wattimena and Muis Pikhulan, "Legal Policies for Eradicating Criminal Acts of Domestic Violence," *Istinbath: Jurnal Hukum* 21, no. 01 (2024): 40–68.

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constitution guarantees recognition, protection, and legal certainty, emphasizing that the law should protect human rights and prevent abuse of power<sup>13</sup>.

Legal protection is conceptually divided into two main types: preventive and repressive<sup>14</sup>. Preventive protection aims to stop violations before they happen through clear rules, supervision, public awareness, and access to complaint mechanisms, so people can avoid or challenge harmful actions. Meanwhile, repressive protection works after a violation occurs, through dispute resolution, sanctions for offenders, and efforts to restore victims' rights<sup>15</sup>. Together, these forms show that law functions both to prevent harm and to ensure accountability and justice for those affected.

In the context of domestic violence (DV), the theory of legal protection is reflected in Law Number 23 of 2004 on the Elimination of Domestic Violence<sup>16</sup>. This law not only defines different forms of violence, but also provides protection for victims, including assistance, temporary protection, medical and psychological care, and access to legal processes. This approach covers prevention, law enforcement, and recovery, showing that the state is responsible not only for punishing offenders but also for supporting the victim's healing and well-being<sup>17</sup>. This confirms that domestic violence (DV) is no longer

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<sup>13</sup> Muhlis Safi'i, "The Legality of Providing Legal Aid to Perpetrators of the Crime of Murder in the Perspective of the Theory of Dignified Justice," *The Indonesian Journal of International Clinical Legal Education* 3, no. 4 (2021): 585–604.

<sup>14</sup> Anastasia E Semyonovych, "Legal Protection and Legal Defense: Approaches to the Study of Concepts," in *SHS Web of Conferences*, vol. 134 (EDP Sciences, 2022), 122.

<sup>15</sup> Erry Fitrya Primadhany, Imam Wahyudi, and Cahyati Cahyati, "Legal Aspects Of Consumer Protection In Illegal Sale Of Telecommunication Devices In Indonesia," *Syiah Kuala Law Journal* 4, no. 3 (2020): 369–84.

<sup>16</sup> Iwan Hertanto et al., "Police and Law Enforcement of Domestic Violence Crimes Based on Human Rights in Indonesia," *Khazanah Hukum* 6, no. 2 (2024): 134–44.

<sup>17</sup> Alisyia Nur Asya, "Perlindungan Hukum Dan Dukungan Bagi Korban Kekerasan Dalam Rumah Tangga Dalam Perspektif Viktimologi," *AKADEMIK: Jurnal Mahasiswa Humanis* 5, no. 1 (2025): 392–402.

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considered a private matter, but rather a human rights violation that requires firm and systematic state intervention.

Legal protection against psychological violence faces challenges because it is not visible and is difficult to prove, so it requires a legal system that is more sensitive to victims and flexible in assessing evidence. In court, this theory helps judges deliver fair decisions by considering non-physical evidence, the victim's mental condition, and power dynamics within the household. The role of law enforcement, police, prosecutors, judges, and lawyers is essential, not only as authorities but also in maintaining public trust. Therefore, legal protection is not just a legal concept, but also an ethical foundation to ensure the law can protect victims, support their recovery, and prevent future violence, especially in domestic violence cases.

### **3. Theory of Judge's Legal Considerations**

The theory of judicial consideration focuses on how judges reason when deciding cases. It goes beyond simply applying written laws, as judges must also interpret rules, evaluate evidence, and balance the main goals of law: justice, usefulness, and legal certainty<sup>18</sup>. In this framework, judges are required not only to be implementers of the law, but also to be active actors who are able to make legal discoveries (*rechtsvinding*) by adapting legal norms to the social realities that develop in society. This process also involves the use of various legal sources, such as jurisprudence, doctrine, and unwritten law, so that the resulting legal reasoning is comprehensive, rational, and responsive to social dynamics.

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<sup>18</sup> Mutia Evi Kristhy et al., "The Role of Judges in Realizing the Three Basic Legal Values Reviewed from Gustav Radbruch's View," *Journal of Political And Legal Sovereignty* 1, no. 3 (2023): 88–92.

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In cases of psychological violence, judicial reasoning becomes more complex because there is no clear physical evidence. Therefore, judges must carefully build the facts by examining different types of evidence, such as witness testimony, communication records, digital evidence, and psychological reports of the victim<sup>19</sup>. The use of psychiatric examinations (*Visum et Repertum*) is important to prove the victim's mental suffering or psychological condition. Judges must then relate these findings to the elements of psychological violence as regulated in Article 5(b) of the Domestic Violence Law. This requires careful, objective, and balanced reasoning to ensure a fair decision.

In addition, judges must consider the victim's psychological condition as part of their legal analysis. Psychological violence can cause trauma, depression, and emotional distress that are difficult to measure. Therefore, judges need to be sensitive to power imbalances within the household and understand the victim's psychological situation when making their decision<sup>20</sup>. This approach is important to ensure that judicial reasoning is not merely formal, but truly reflects the protection of victims as required by the Domestic Violence Law. Therefore, psychological aspects must be considered as a key element, so that decisions are based not only on legal facts but also on the victim's humanitarian condition.

The impact of psychological violence on the stability of a household is an important factor in judicial considerations, especially in divorce cases. A marriage marked by ongoing mental distress may no longer meet the legal purpose of marriage, which is to create a harmonious and prosperous family as stated in the law. Therefore, if psychological violence is proven and causes

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<sup>19</sup> Hasbuddin Khalid, Sufirman Rahman, and Hardianto Djanggih, "Legal Reasoning Judge's Decision in Civil Cases," *Journal of Law and Sustainable Development* 12, no. 1 (2024): e2544–e2544.

<sup>20</sup> Khalid, Rahman, and Djanggih.

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serious suffering or disrupts household stability, judges have a strong legal basis to grant a divorce. Overall, judicial reasoning in such cases involves a comprehensive assessment of facts, interpretation of legal norms, and application of legal protection principles. These elements together determine the quality of the decision in achieving substantive justice.

#### 4. Islamic Family Law Theory.

Islamic family law views marriage as a *mīthāqan ghalīẓan*, namely a strong and sacred bond that aims to create a household life full of peace (*sakinah*), love (*mawaddah*), and affection (*rahmah*)<sup>21</sup>. This principle is emphasized in the Al-Qur'an Surah Ar-Rūm verse 21 which reads:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً  
وَرَحْمَةً ۗ إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ

Meaning: "Among His signs is that He created for you mates from yourselves, that you may find rest in them. He has placed between you love and compassion...." (QS. Ar-Rūm: 21).

This verse demonstrates that marriage in Islam is not merely biological, but also a spiritual and social institution that demands emotional balance, mutual respect, and moral responsibility between husband and wife. The success of a marriage in Islam depends on the couple's ability to practice the values of

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<sup>21</sup> Samsul Arifin, "Konsep Keluarga Harmonis Dalam Konteks Hukum Islam," *Al-Adillah: Jurnal Hukum Islam* 3, no. 1 (2023): 13–25.

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*sakinah* (peace), *mawaddah* (love), and *rahmah* (compassion) in daily life<sup>22</sup>. Marriage is not only about fulfilling formal rights and obligations, but also about maintaining emotional balance and harmony. Therefore, behaviors such as verbal or emotional abuse contradict the true purpose of marriage in Islam. This shows that psychological well-being is a key part of marital harmony, not just physical conditions.

From a *fiqh* perspective, all forms of domestic violence are prohibited based on the principle “*lā ḍarar wa lā ḍirār*” (no harm and no mutual harm). This principle emphasizes that any action causing suffering whether physical or psychological is not allowed, as it goes against the purpose of marriage<sup>23</sup>. Scholars view psychological abuse, such as insults, threats, or degrading treatment, as a violation of justice and human dignity in Islam. Therefore, this principle serves as both an ethical guideline and a legal foundation for protecting spouses’ rights. In Indonesia, the Compilation of Islamic Law (KHI) strengthens this approach by allowing judges to assess household conditions comprehensively, including psychological aspects and the level of conflict.

In the event of a dispute leading to *shiqāq* or *dhirār*, judges can consider the impact of psychological violence on the continuity of the household as a basis for deciding on a divorce. Psychological violence that causes fear, loss of security, and damage to self-esteem clearly contradicts the values of *sakinah*, *mawaddah* (love), and *rahmah* (mercy) and falls under the category of harmful acts (*dhirār*). Therefore, the Islamic family law perspective provides a strong

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<sup>22</sup> Ifham Choli, Etika Nailur Rahma, and Neneng Munajah, “Marriage and Its Lesson From an Islamic Perspective,” *Al-Risalah: Jurnal Studi Agama Dan Pemikiran Islam* 15, no. 2 (2024): 532–44.

<sup>23</sup> Wardah Nuronyah et al., “Assessing Indonesia and Malaysia’s Legal Responsiveness to Domestic Violence Victims within Islamic Law Framework.,” *Al-Manahij: Jurnal Kajian Hukum Islam* 19, no. 2 (2025): 247.

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normative basis for judges to recognize psychological violence as a legitimate reason for divorce if it is proven to damage the basic purpose of marriage and the rights of the spouses.

### **5. Analysis of the Forms and Characteristics of Domestic Violence in Article 5 Letter B.**

Domestic Violence (DV) is a serious issue that is not only related to personal relationships within the family but is also influenced by several social, economic, and cultural factors, including the strong patriarchal culture that places men in a dominant position<sup>24</sup>. Although regulated by Law Number 23 of 2004 concerning the Elimination of Domestic Violence, cases of DV remain high and often go unreported because they are considered private matters. Domestic Violence (DV) encompasses not only physical violence but also psychological, sexual, and neglect, which have a broad impact on the physical, mental, and social well-being of victims, particularly women and children.

Legally, Article 5 letter b of Law Number 23 of 2004 prohibits psychological violence, namely acts that cause fear, loss of self-confidence, helplessness, and mental suffering. Psychological violence can take the form of threats, insults, control, restrictions on activities, and even social isolation, which is classified as severe and mild psychological violence<sup>25</sup>. However, proving psychological violence is challenging due to its intangible nature, requiring supporting evidence such as expert testimony from a psychologist or a psychiatric medical examination. Furthermore, many victims are reluctant to

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<sup>24</sup> Wahhab et al., "Social Environment and Its Effects on Domestic Violence."

<sup>25</sup> Jørn Jacobsen, "What Is Psychological Violence (in Cases of Domestic Violence)?," *Católica Law Review* 8, no. 3 (2024): 79–101.

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report the incident due to psychological factors, economic dependence, shame, and concerns about social stigma.

Domestic violence (DV), especially psychological violence, is often called a hidden crime because it is hard to detect and usually occurs in private<sup>26</sup>. Although the state provides legal protection, legal aid, and recovery services, handling these cases still faces many challenges. Therefore, the state, law enforcement, and society need to work together to raise awareness, protect victims, and encourage reporting so families can be safer and more just.

Psychological domestic violence is frequently categorized as a hidden crime because it occurs within the private sphere of the household and generally leaves no visible physical evidence<sup>27</sup>. Consequently, proving psychological violence in judicial proceedings requires supporting evidence, such as psychological assessments, expert testimony, communication records, or psychiatric examinations. These evidentiary challenges may hinder victims from obtaining legal recognition of their experiences and underscore the importance of adopting a more victim-sensitive approach in handling cases involving psychological domestic violence.

## **6. Analysis of the Judge's Legal Considerations in Applying Article 5 Letter B.**

Based on an analysis of the Sukoharjo Religious Court Decision Number 223/Pdt.G/2023/PA.Skh, it was found that the household relationship between

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<sup>26</sup> Jasmina Igrački and Marina Brašovan Delić, "Protection of Victims of Psychological Abuse as Type of Domestic Violence in Criminal Procedure," *Journal of Eastern European Criminal Law* 9, no. 2 (2022): 74–92.

<sup>27</sup> Louis Bailey et al., "The Networking of Abuse: Intimate Partner Violence and the Use of Social Technologies," *Criminal Justice and Behavior* 51, no. 2 (2024): 266–85.

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the plaintiff and defendant was not harmonious due to the defendant's abusive behavior and dishonesty. The trial revealed that these actions caused mental stress, fear, and suffering for the plaintiff. Although the judge did not explicitly refer to Article 5 letter b of Law Number 23 of 2004, the substance of the legal considerations indicated that psychological violence was a major factor in the breakdown of the household.

In his deliberations, the judge focused on the divorce provisions as stipulated in Law Number 1 of 1974, Government Regulation Number 9 of 1975, and the Compilation of Islamic Law, particularly regarding the condition of a household that is no longer harmonious and has no hope of being preserved. The psychological violence perpetrated by the defendant was understood as part of the cause of the ongoing disputes and quarrels, thus fulfilling the grounds for divorce under applicable law. Thus, although not explicitly stated, the norm of Article 5, letter b of the Law on the Elimination of Domestic Violence (UU PDV) was implicitly used as the basis for assessing the plaintiff's psychological condition.

Overall, the judge's legal reasoning indicates that psychological violence plays a significant role in determining the divorce decision. The defendant's behavior, which caused mental distress, was deemed to have damaged the harmony of the household and eliminated the possibility of reconciling the marriage. Therefore, psychological violence was a substantial factor in granting the divorce petition, reflecting the implicit application of the norm in Article 5, letter b of the Law on the Elimination of Domestic Violence (UU PDV) in religious court practice.

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**7. Analysis of the Implications of the Implementation of Article 5 letter b for victims and Religious Courts.**

Based on the analysis, Article 5 letter b of Law Number 23 of 2004 provides an important legal basis for protecting victims of domestic violence, specifically acts that cause fear, loss of self-confidence, and mental anguish. In practice, although judges do not always explicitly mention this article, the substance of psychological violence is still reflected in legal considerations, such as abusive behavior, shouting, and mental distress experienced by victims. This indicates that psychological violence has been recognized as a form of violation that can provide grounds for victims to obtain legal protection and end unhealthy domestic relationships.

The implementation of Article 5 letter b has important implications for victims, including providing legal recognition of psychological suffering, providing a basis for obtaining protection, and paving the way for victims to escape emotionally harmful situations. Furthermore, this provision also serves a preventative function by providing a deterrent effect on perpetrators and emphasizing that non-physical violence cannot be tolerated. However, in practice, not all victims dare to report due to psychological factors, economic dependence, and social stigma, resulting in many cases of psychological violence remaining unreported. For Religious Courts, the application of Article 5(b) is not used directly as a legal basis for divorce, but rather is constructed around recognized grounds such as persistent disputes or cruelty. Judges tend to focus on fulfilling the elements of divorce as stipulated in the Marriage Law and the Compilation of Islamic Law, while psychological violence is a supporting consideration in assessing marital breakdown. Furthermore, the main obstacles in applying this article lie in the difficult evidentiary aspect and limited authority,

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as Domestic Violence (DV) falls within the criminal realm. Therefore, the effectiveness of the application of Article 5(b) depends heavily on the judge's ability to provide evidence and interpret the link between the facts of psychological violence and the grounds for divorce, thereby ensuring justice and protection for victims.

Empirical findings from the Sukoharjo Religious Court demonstrate that Article 5 letter b of Law Number 23 of 2004 has not yet functioned as an autonomous legal ground for divorce in religious court practice. Instead, judges tend to incorporate facts relating to psychological violence into legally recognized grounds, particularly continuous disputes and marital disharmony. This judicial approach reflects an effort to provide protection for victims within the existing framework of marriage law, although normative limitations remain. Accordingly, harmonization between the Domestic Violence Law and family law regulations is necessary to strengthen substantive justice and improve legal certainty for victims of psychological domestic violence.

## **CONCLUSION**

Based on the research and discussion of this thesis on "Domestic Violence Based on Article 5 letter b of Law Number 23 of 2004 as a Consideration in Judges' Divorce Decisions (Study of the Decision of the Religious Court of Sukoharjo Regency Number 223/Pdt.G/2023/PA.Skh.)", it can be concluded that:

1. Psychological domestic violence as regulated in Article 5 letter b of Law Number 23 of 2004 constitutes a form of domestic violence that causes fear, loss of self-confidence, helplessness, and psychological suffering. Despite its significant impact on victims, psychological violence remains

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difficult to prove because it generally occurs within the private sphere and lacks visible physical evidence.

2. In Sukoharjo Religious Court Decision Number 223/Pdt.G/2023/PA.Skh., judges did not explicitly apply Article 5 letter b of Law Number 23 of 2004 as an independent legal basis for divorce. Instead, psychological violence was substantively considered through legally recognized grounds, namely continuous disputes, marital disharmony, and the impossibility of reconciliation, as regulated in the Marriage Law and the Compilation of Islamic Law.
3. The implementation of Article 5 letter b has important implications for victim protection and religious court practice. Although psychological violence has not yet been expressly recognized as an autonomous ground for divorce, its implicit consideration in judicial reasoning demonstrates an effort to provide substantive justice for victims. Strengthening evidentiary mechanisms and harmonizing domestic violence regulations with family law are therefore necessary to improve legal certainty and victim protection.

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