

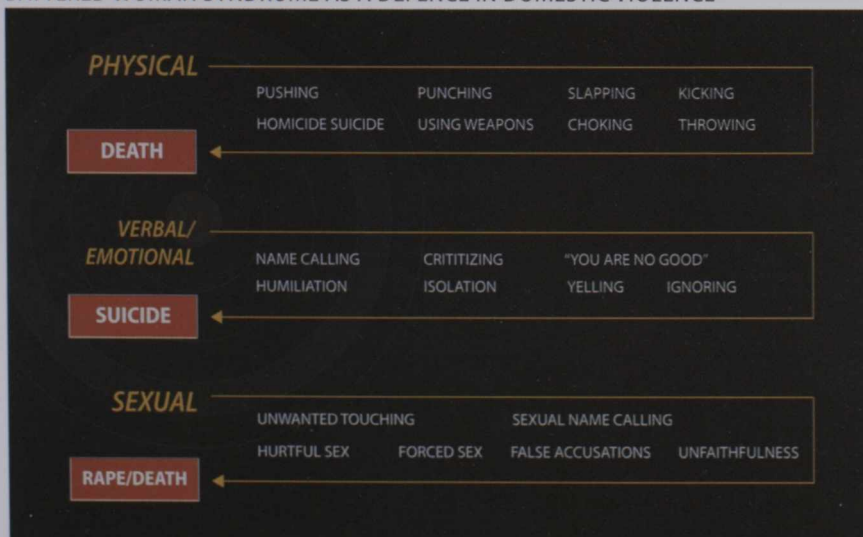
Many cases of domestic violence are often hidden behind divorce proceedings. This is indicated by data Komnas Perempuan collected from the Syariah courts, which recorded 203,507 certificates of divorce issued in 2012. The causes of divorce included incidents of domestic violence that were not prosecuted before criminal courts. For example, while polygamy is punished under the Indonesian Penal Code, it is not prosecuted by the Syariah courts if the husband is a Muslim. The cancellation of the husband's second and succeeding marriages is also rejected by a judge as it is not considered contrary to Syariah laws. Absent efforts to reconcile the parallel legal systems, Muslim women who are victims of domestic violence remain at a disadvantage.

Since the Indonesian government ratified CEDAW on 24 July 1984, Parliament passed Act No. 23/2004 on the Elimination of Domestic Violence (PKDRT), which has been the cornerstone of law reforms on women's human rights in the country. The law contains critical provisions for the protection of women including recognition of physical as well as non-physical violence, such as psychological and economic threats. Marital rape is also acknowledged as a crime. PKDRT has provided an impetus for other important initiatives to reform the legal system and better enforce state obligations under CEDAW.

Komnas Perempuan, the Supreme Court, the Attorney General's Office, the police, the Ministry of Women's Empowerment and Child Protection and the Association of Indonesian Advocates entered into a Joint Agreement on Access to Justice for Women Victims of Violence in November 2011. Under this agreement, the Supreme Court organised a training in 2013 to improve the gender sensitivity of judges and increase their understanding of violence against women. The initial training was for 40 teaching hours, but there are on-going discussions for the Supreme Court to adopt it as a regular program.

Since 2012, Komnas Perempuan has been developing the concept of a Special Court as an alternative to the conflicting jurisdictions of civil and criminal courts and the Syariah courts in the country. In July 2013, Komnas Perempuan held a dialogue with the Chief Justice of the Supreme Court and submitted a proposal for the creation of such an alternative court. The Chief Justice received a proposal that one judge be appointed in criminal and divorce proceedings filed by one complainant, such as in a case of domestic violence. Currently, the proposal is being studied prior to adoption.

BATTERED WOMAN SYNDROME AS A DEFENCE IN DOMESTIC VIOLENCE⁴²



42. Presentation of Adoracion Cruz Avisado, former Judge and Director of Transformative Justice Institute, Philippines 4 September 2013