

Physical Neglect and Mental Violence Towards Children by Parents: An Analysis of Criminal Law

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Article	Abstract
<p>How to cite: Dewi Magfirotul Akbar, 'Physical Neglect and Mental Violence Towards Children by Parents: An Analysis of Criminal Law' (2022) Vol. 3 No. 3 Rechtenstudent Journal Sharia Faculty of KH Achmad Siddiq Jember State Islamic University.</p> <p>DOI: 10.35719/rch.v3i3.189</p> <p>Article History Submitted: 13/07/2022 Reviewed: 01/09/2022 Revised: 20/12/2022 Accepted: 21/12/2022</p> <p>ISSN: 2723-0406 (printed) E-ISSN: 2775-5304 (online)</p>	<p>Physical neglect and mental violence are types of violence against children whose provisions are regulated in several articles in the Criminal Code and Law No. 35 of 2014 concerning Child Protection. In the articles that regulate acts of physical neglect and mental violence, it is necessary to explain specifically regarding the types of acts of violence concerned so that efforts to protect victims can be carried out optimally. However, there are several articles in the Criminal Code and in the Child Protection Law that experience blurred norms due to limited explanations regarding the types of acts of violence. This study aims to find out how the systematic protection and views of positive law and Islamic criminal law regarding acts of physical neglect and mental violence against children committed by both biological parents. The method used is to use a type of normative juridical research through statutory and conceptual approaches. The conclusions of this study are: 1) Acts of physical neglect in the Criminal Code are regulated in articles 305, 306 and 307 and in Law No. 35 of 2014 are regulated in article 76B. The prohibition on acts of mental violence is regulated in Article 1 paragraph (15a). Meanwhile, according to Islamic criminal law, the act of violence is punishable by ta'zir because it is not regulated by the text. 2) Protection for victims of physical neglect has been regulated in article 71 of the Law on Child Protection and for victims of mental violence has been explained in article 69 of the Law on Child Protection. Meanwhile, according to Islamic criminal law, the nature of child protection is to fulfill all children's rights and provide treatment and protection from all things that can harm children, including life, property and so on.</p> <p>Keywords: <i>Physical Neglect, Mental, Criminal Law.</i></p> <p>Abstrak <i>Physical neglect dan kekerasan mental adalah salah satu dari beberapa jenis kekerasan kepada anak yang ketentuannya diatur dalam beberapa pasal di KUHP dan UU No.35 Tahun 2014 Tentang Perlindungan Anak. Dalam pasal-pasal yang mengatur tindak pengabaian fisik dan kekerasan mental perlu dijelaskan secara spesifik terkait jenis-jenis tindak kekerasan yang bersangkutan agar dalam memberikan upaya perlindungan terhadap korban dapat dilakukan secara optimal. Akan tetapi terdapat beberapa pasal dalam KUHP maupun dalam UU Perlindungan Anak mengalami keaburan norma karena terbatasnya penjelasan terkait jenis-jenis tindak kekerasan. Penelitian ini bertujuan untuk mengetahui bagaimana sistematika perlindungan dan pandangan hukum positif dan hukum pidana Islam mengenai tindakan <i>physical neglect</i> dan kekerasan mental terhadap anak yang dilakukan oleh kedua orang tua kandung. Metode yang digunakan ialah dengan menggunakan jenis penelitian yuridis normatif dengan melalui pendekatan perundang-undangan dan konseptual. Adapun kesimpulan penelitian ini ialah: 1)Tindakan pengabaian fisik (<i>physical neglect</i>) dalam KUHP diatur dalam pasal 305, 306 dan 307 dan dalam UU No.35 Tahun 2014 diatur dalam pasal 76B. Adapun larangan dalam tindak kekerasan mental diatur dalam pasal 1 ayat (15a). Sedangkan menurut hukum pidana Islam</i></p>

tindakan kekerasan tersebut dijatuhi hukuman ta'zir karena tidak diatur oleh nash. 2) Perlindungan terhadap korban *physical neglect* telah diatur dalam pasal 71 UU Perlindungan Anak dan untuk korban kekerasan mental telah dijelaskan dalam pasal 69 UU Perlindungan Anak. Adapun menurut hukum pidana Islam hakikat dari perlindungan anak adalah memenuhi segala hak-hak anak dan memberikan penanganan dan perlindungan dari segala hal yang dapat membahayakan anak baik itu meliputi jiwa, harta dan sebagainya.

Kata Kunci: Tindak Pidana, Pembunuhan, Membela Diri.

Introduction

The presence of a child certainly has an important role for the family, society and the country, because the child acts as the nation's bud and becomes the next generation to continue the tasks needed for survival in the future.¹ To protect and fulfill children's rights, all groups have a role in it, especially for parents or their families. Because the family has an important role as an institution that has responsibility for the growth and development of children.²

Law Number 35 of 2014 Concerning Child Protection, hereinafter shortened to Law No. 35 of 2014 concerning Child Protection, article 26 has explained the obligations and responsibilities of parents, which include: nurturing, educating and protecting children as well as providing character education and instilling ethical values. In addition, in the Attahrim verse 6, it has been explained regarding the obligations of parents towards children which reads:

غُلَاطٌ شِدَادٌ لَا يَعْصُونَ يَا أَيُّهَا الَّذِينَ آمَنُوا قُوا أَنْفُسَكُمْ وَأَهْلِيكُمْ نَارًا وَقُودُهَا النَّاسُ وَالْحِجَارَةُ عَلَيْهَا مَلَائِكَةٌ
اللَّهُ مَا أَمَرَهُمْ وَيَفْعَلُونَ مَا يُؤْمَرُونَ

"Hi believers, protect yourselves and your families from the fire of hell whose fuel is a group of people and stones; the guardians are angels who are harsh, harsh and do not disobey God against what He commands them to do and always do what is commanded."³

Often parents apply parenting styles that consciously or not, they always position themselves as a figure who is always authoritarian in making rules without giving children space to speak up to express their opinions and not even hesitate to give punishments that contain elements of violence when children make mistakes. In addition, under certain circumstances, parents often neglect their duties and are negligent in fulfilling children's rights which they should receive.⁴

In protecting children from acts of violence, especially acts of physical neglect and mental violence, of course it is one of the legal actions that bring legal consequences. Therefore, it is necessary to have a legal guarantee and legal certainty in providing efforts to

¹ Didi Sukardi, "Perlindungan Hukum Anak Korban Penelantaran Orang Tua Berbasis Hukum Positif Dan Islam" *Jurnal Kajian Hukum Islam* Vol.1 No.2 Des (2016), 185.

² Maisaroh, "Kekerasan Orang Tua Dalam Mendidik Anak Perspektif Hukum Pidana Islam" *Inright: Jurnal Agama dan Hak Azazi Manusia* Vol 2 No. 2 May (2013), 262.

³ Ministry of Religion Republic Indonesia *Al-Quran Translation* (Bandung: CV Darus Sunnah, 2015)

⁴ Thathit Manon Andini, Tutik Sulistyowati, Aini Alifatin, "Identifikasi Kejadian Kekerasan Pada Anak di Kota Malang" *Jurnal Perempuan dan Anak* Vol.2 No.1 February (2019), 14.

protect children. ⁵However, in providing legal protection efforts, there are articles that experience blurred norms due to limited explanations regarding the types of actions that fall into the category of physical neglect and mental violence. Even though Purnomo Sucipto explained that a statutory regulation must include several things, one of which is the clarity of the formulation. ⁶

The article that is experiencing a blurring of norms is that in article 305 of the Criminal Code, hereinafter abbreviated as the Criminal Code, does not provide a detailed explanation regarding the types of actions that fall into the category of physical neglect and the absence of a formula that regulates acts of violence. mental violence against children and in Law No. 35 of 2014 concerning Child Protection only regulates the prohibition of mental violence without mentioning the characteristics of what actions are included in the category of acts of mental violence.

Problem Issues

The issues raised as the subject matter are as follows:

1. What are the views of positive law and Islamic criminal law regarding acts of physical neglect and mental abuse of children by their own biological parents?
2. What are the legal protection measures for victims of physical neglect and mental violence against children committed by both biological parents?

Research Methods

The type of research used is normative juridical⁷ and the approach of this research uses a *conceptual approach* and *statutory approach*. The sources of legal material from this study consist of primary legal materials, namely: the Criminal Code, Law No. 23 of 2002, Law No. 35 of 2014. And types of secondary legal materials, namely: books, legal principles, journals or doctrines. In addition to using tertiary legal materials consisting of general dictionaries, legal encyclopedias or legal dictionaries.⁸

The approach used in solving the problems in this study is to use a statutory approach (statute approach), conceptual approach (conceptual approach), and comparative approach (comparative approach).⁹ In the technique of collecting legal materials using an inventory procedure and classified systematically based on each problem formulation. And the technique used in collecting legal materials is through *library research*.¹⁰ For analysis of legal material using descriptive analysis techniques which then evaluates the legal conditions and provides a response to answer and conclude the problems that have been formulated.¹¹

⁵ Didi Sukardi, 187.

⁶ Secretariat of the Cabinet of the Republic of Indonesia, public relations team, 25 feb 2015 "What do you need to know to make laws and regulations?" accessed on 13 may 2022 at <https://setkab.go.id/>

⁷ Muhaimin, *Legal Research Methods* (Mataram NTB: Mataram University Press 2020), 45.

⁸ Muhaimin, 59.

⁹ Moh. Ali and Moh. Abd. Rauf, "Problem Yuridis Penyelesaian Perkara HAM Berat dalam Sistem Pidana Indonesia dan Pidana Islam" *Al-Qanun: Jurnal Pemikiran dan Pembaharuan Hukum Islam* Vol. 24 No. 2 December (2021), 477.

¹⁰ Muhaimin, 59.

¹¹ Bachtiar, *Metode Penelitian Hukum* (Banten: Unpam Press, 2018), 170.

Result and Discussion

Positive Legal Perspective on Acts of Physical Neglect and Mental Violence Against Children by Biological Parents

In the Criminal Code the act of physical neglect is formulated in CHAPTER XV concerning Leaving a Person Who Needs Help, namely in article 305, article 306 and article 307.

Article 305 of the Criminal Code:

"Anyone who places a child who is not yet seven years old to be found or leaves the child with the intention of escaping from him, shall be punished by a maximum imprisonment of five years and six months"

Article 306 of the Criminal Code:

"(1) If one of the acts under articles 304 and 305 results in serious injury, the offender shall be punished by a maximum imprisonment of seven years and six months.

(2) If it results in death, the maximum imprisonment is nine years."

Article 307 of the Criminal Code:

"If the person committing the crime under Article 305 is the father or mother of the child, then the sentence specified in Articles 305 and 306 can be increased by one third."

In article 305 of the Criminal Code, the diction "placing children" has the intention of disposing of children who are not yet seven years old with the aim of releasing responsibility for the obligation to care for and fulfill children's rights and this article applies to everyone without any restrictions on who the perpetrators are. And in Article 306 of the Criminal Code what is meant by serious injury or serious injury is:

- a. Wounds or diseases that cannot heal optimally and can cause danger that can lead to death.
- b. Not proficient in doing a job in a very long period of time.
- c. Losing one of the five senses
- d. *Verminking* or defects that result in imperfect limbs because one of the limbs is broken.
- e. Experiencing paralysis, and so on

In addition to the things that have been mentioned, jurisprudence also explains all types of injuries in everyday life which are called serious types of injuries.¹² If examined further, these articles do not explain in detail what actions are included in acts of physical neglect and also do not explain protection for victims¹³. In fact, according to Purnomo Sucipto, a statutory regulation must cover several things, including:

1. Clarity of purpose.
2. Conformity between statutory hierarchies.
3. Clarity of formulation.
4. Openness.¹⁴

¹² Febrianti LS, Berlian M and Grace YB, " Penegakan Hukum Pidana Terhadap Penelantaran Anak Yang Dilakukan Oleh Orang Tua " *Lex Crimen* Vol. X No. 2 March (2021), 228.

¹³ Recky Angellino CR, " Analisis Terhadap Penelantaran Anak Dalam Perspektif Hukum Pidana", *Lex Crimen* Vol. Viii No. 2 Feb (2018), 155.

¹⁴ Secretariat of the Cabinet of the Republic of Indonesia, public relations team, 25 feb 2015 "What do you need to know to make laws and regulations?" accessed on 13 may 2022 at <https://setkab.go.id/>

Clarity of formulation and legal certainty in a law becomes very important in order to prevent the occurrence of an irregularity which has negative consequences in the implementation of protection, especially for children.¹⁵

Particularly in Article 305 of the Criminal Code which only mentions the act of placing a child which leads to the act of throwing away the child, while the types of acts of physical neglect according to *the Children Bureau of the US Department of Health and Human Service* have been divided into several, which include:

1. Neglect in the educational aspect, such as: making concessions and giving permission to children when they repeatedly skip school, not trying to fulfill and ignoring everything that is needed in providing education for children, especially for children who have special needs.
2. Ignoring emotional aspects, such as: deliberately and allowing children to live within the scope of domestic violence, lack of affection given to children and lack of emotional support for children from those closest to them.
3. Lack of supervision to look after children, such as: there is no protection for children from things that endanger them and leave children who are still unable to care for themselves.
4. Ignoring medical needs, such as: not meeting the child's necessary medical needs.
5. Ignoring the physical: not fulfilling all the child's needs such as aspects of cleanliness, clothing, and food, or abandonment for any reason.¹⁶

Apart from being regulated in the Criminal Code, acts of violence against children are specifically regulated in Law No. 35 of 2014 concerning Child Protection. Regarding the prohibition on physical neglect, it has been explained in Article 76B which reads:

"Everyone is prohibited from placing, allowing, involving, ordering to involve children in situations of abuse and neglect".

And the criminal threat of this action has been explained in Article 77B which reads:

"Everyone who violates the provisions referred to in Article 76B, shall be punished with imprisonment for a maximum of 5 (five) years and/or a fine of up to Rp. 100,000,000.00 (one hundred million rupiahs)".

Furthermore, related to acts of mental violence as described in Article 1 paragraph (15a) of Law No. 35 of 2014 concerning Child Protection, this is a form of violence against children. The prohibition to carry out all kinds of acts of violence against children is contained in Article 76C which reads:

"Everyone is prohibited from placing, allowing, doing, ordering to do, or participating in violence against children".

The criminal threat in this action has been regulated in article 80 which reads:

"(1) everyone who violates the provisions referred to in Article 76C, shall be punished with imprisonment for a maximum of 3 years and 6 months and/or a fine of up to Rp. 72,000,000.00 (seventy-two million rupiahs).

¹⁵ Liza Agnesta Krisna, *Hukum Perlindungan Anak Panduan Memahami Anak Yang Berkonflik Dengan Hukum* (Yogyakarta: Deepublish, 2018), 93.

¹⁶ Children Bureau of the US Department of Health and Human Services, "Acts of Omission Overview of Child Neglect", *Bulletin For Professionals*, July 2018

(2) In the event that the child referred to in paragraph (1) is seriously injured, then the offender shall be punished with imprisonment for a maximum of 5 years and/or a fine of up to Rp. 100,000,000.00 (one hundred million rupiah).

(3) In the event that the child referred to in paragraph (2) dies, the offender shall be punished with imprisonment for a maximum of 15 years and/or a fine of up to Rp. 3,000,000,000.00 (three billion rupiahs).

(4) The sentence shall be added by one third of the provisions referred to in paragraph (1), paragraph (2) and paragraph (3) if the parents who carried out the abuse were the ones."

article only explains the prohibition on committing mental violence without explaining the characteristics of the action. whereas according to Azevedo and Viviane there are several types of acts of mental violence, namely:

- a. Indifference, such as: lack of interaction between parents and children.
- b. Insulting, such as: ridiculing children and attacking the dignity and self-esteem of children.
- c. Isolating children, such as: deliberately keeping children away from their social life.
- d. Rejection, such as: discriminating against children.
- e. Terror, such as: placing a child in a frightening situation so that an unstable situation arises.¹⁷

On this matter, it can be seen that there are several articles in both the Criminal Code and Law No. 35 of 2014 concerning Child Protection experiencing blurred norms due to the lack of legal certainty and unclear formulation in each article which regulates physical neglect and mental violence against children. In fact, in providing legal protection efforts, legal certainty is needed so that in providing handling and providing protection for these cases it has concrete legal force. As Fence M. Wantu has stated, legal actions without the value of legal certainty will experience a loss of meaning because they can no longer be used as a reference for everyone to behave. Thus, legal certainty becomes the central point in enforcing clear, permanent and consistent laws.¹⁸

Views of Islamic Criminal Law Against Acts of Physical Neglect and Mental Violence Against Children Perpetrated by Both Biological Parents

Apart from being regulated in positive law, acts of violence against children, especially physical neglect and mental violence are also prohibited in Islamic law¹⁹. The act of violence is a type of action whose provisions are not regulated by the text, therefore the type of punishment is ta'zir. According to Abu Zahrah ta'zir is a punishment that is not regulated by syara' which is applied to someone who has committed a crime.²⁰

The purpose of carrying out ta'zir punishment is to stop the perpetrator from committing a crime or Allah's law that has been violated. In addition, the imposition of ta'zir punishment applies to anyone who has committed a crime on condition that he has common

¹⁷ Lu'luil Maknum, "Kekerasan Terhadap Anak Yang Dilakukan Oleh Orang Tua (*child abuse*)" Muallimuna: Journal of Madrasah Ibtidaiyah, Vol.3 No.1, October (2017), 69.

¹⁸ Mario Julyano and Aditya Yuli S, "Pemahaman Terhadap Asas Kepastian Hukum Melalui Konstruksi Penalaran Positivisme Hukum" Jurnal Crepido, Vol.01 No.01, July (2019), 14-15.

¹⁹ Idrus al-Kaf, "Dimensi Tasawuf Pendidikan Islam Dan Pencegahan Kekerasan Terhadap Anak Dalam Keluarga" Jurnal Ilmu Agama . No.2 (2018), 252-253.

²⁰ M. Nurul Irfan and Masyrofah, Hukum Pidana Islam (Jakarta; Amzah March 2013), 136.

sense. Because anyone who has committed evil or disturbed other parties must be given a ta'zir sanction with the aim of not repeating his actions.²¹

The application of ta'zir certainly has several objectives, namely as follows:

1. Prevention (preventive) is aimed at anyone who has not committed a crime (jarimah).
2. Making perpetrators deterrent (repressive), intended so that perpetrators do not repeat crimes.
3. Curative (islah), ta'zir must be able to improve the convict's behavior in the future.
4. Education (educational) is expected to be able to change lifestyles in a better direction.²²

The syara' does not specify the type of punishment for each ta'zir finger, but only mentions several punishments from the heaviest to the lightest. There are several types of punishment in ta'zir, namely:

1. Ta'zir sanctions related to the body, including: death penalty and caning.
2. Ta'zir sanctions are related to a person's independence, including: imprisonment and exile.
3. The imposition of sanctions related to assets, including: destroying, changing and possessing them.
4. And several other types of ta'zir sanctions, including: advice, ostracism, publicly announcing mistakes and so on.²³

Child protection is an effort that is carried out with the aim of fostering conditions that are able to carry out their rights and obligations for normal growth and development, both from the physical, mental and social aspects. ²⁴In providing protection for children can be divided into two parts, namely:

- a. Juridical in nature, which include: protection in the field of public and civil law.
- b. Non-juridical in nature, including: protection in the health, education and social sectors.

In addition, Praywana formulates about child protection, there are two formulations namely:

- a. All efforts desired by everyone or the government with the aim of providing a sense of security, meeting their needs, be it the physical, social or mental needs of children in accordance with their interests and human rights.
- b. All efforts are made consciously by everyone, family, community, government and private agencies to maintain their security, fulfillment of their rights, both spiritual and physical well-being of children aged 0-21 years and have never been married in accordance with their basic rights and interests.²⁵

To provide protection for children, it must be carried out with several activities that refer to 4 main principles, which consist of:

- a. Uphold the principle of non-discrimination
- b. Seeking the best interests of the child
- c. Provide rights and survival and development

²¹ M. Nurul Irfan and Masyrofah, 144.

²² M. Nurul Irfan and Masyrofah, 142.

²³ M. Nurul Irfan and Masyrofah, 147-160.

²⁴ Liza Agnesta Krisna, *Hukum Perlindungan Anak Panduan Memahami Anak Yang Berkonflik Dengan Hukum* (Yogyakarta: Deepublish, 2018), 92.

²⁵ Liza Agnesta Krisna, 93.

d. Give respect to children.²⁶

Regarding protection for children who are victims of *physical neglect* in article 71 of Law No. 35 of 2014 concerning Child Protection, it is explained that the steps taken are to carry out supervision, prevention, treatment, providing counseling, carrying out social rehabilitation and social assistance. And according to Susianah Affandy (Head of the Social, Health and Family Welfare Division) child protection efforts should be carried out by the government which involves a government structure that has the task of providing services and protecting children ²⁷.

The efforts to protect child victims of mental violence have been explained in Article 69 of Law No. 35 of 2014 concerning Child Protection that the steps that can be taken include:

- a. Disseminating and disseminating regulations governing providing child protection from acts of violence
- b. Always monitor, report and sanction.

And according to Kompol Sumartilah, S. Sos that efforts that can be made in providing protection for children who are victims of mental violence can be done in two ways, namely:

- a. *Non-penal* effort, is one of the steps that can be taken by carrying out methods in the form of *Preemptive* and *Preventive* by involving the agencies and departments concerned.
- b. *Penal* efforts are efforts that can be handled by law enforcement with the aim of providing protection for victims.²⁸

Apart from being regulated in positive law, the protection of children is also regulated in Islamic law. Islamic legal literature states that there is a term that is close to the meaning of child protection, namely the term *hadhanah*. As for what is meant by *hadhanah* etymologically (language) is educating a child and caring for it. Meanwhile, according to the term, it has the meaning of caring for children, being unable to carry out activities, meeting needs independently and meeting their needs for the welfare of their lives. Apart from that, there is also the term *kafalah*, some scholars are of the opinion that *hadhanah* and *kafalah* have something in common. *Kafalah* according to language is guaranteeing and having responsibility for something. ²⁹

Meanwhile, al-Mawardi makes a distinction between the two terms because *hadhanah* and *kafalah* are two of the several phases of a child that both parents must pay attention to. These phases consist of: *radha'* (breastfeeding), *hadhanah* (care and nurturing), *kafalah* (care and protection), *kifayah* (sufficient needs). However, in its development, some Islamic law experts stated that there is a new term that has the same meaning as the notion of child protection, namely the term *al-territory* (guardianship). Wahbah al-Zuhaili divides it into two things, namely:

²⁶ Febrianti LS, Berlian M and Grace YB, "Penegakan Hukum Pidana Terhadap Penelantaran Anak Yang Dilakukan Oleh Orang Tua", *Lex Crimen* Vol. XNo. 2 March (2021), 224-226.

²⁷ Indonesiana.id, Susianah Affandy, 27 April 2019, "Protection of Abandoned Children" accessed on 26 April 2022 at <https://www.indonesiana.id/>

²⁸ Lambok Tambunan, "Impelementasi Perlindungan Hukum Terhadap Anak Sebagai Korban Kekerasan Psikis Dalam Rumah Tangga " *Jurnal Ilmu Hukum* (2014), 11-15.

²⁹ Hani Sholihah, " Perlindungan Anak Dalam Perspektif Hukum Islam", *Al-Afkar, Journal for Islamic Studies*, vol.1 no.1, January (2018), 40.

- a. *Territory of 'ala al-nafs*, is an action in dealing with all matters relating to someone who does not have the ability to run it. Such as: keeping, nurturing, giving lessons, health and so on.
- b. *Territory 'ala al-mal* means handling all matters that are closely related to the assets of other people who do not have the ability to run them, namely in the form of managing assets and developing them.³⁰

In addition, Al-Hafnawi argued that *al-territory* (trusteeship) consists of two types:

- a. *Al-nafs* (guardianship over self) is carrying out matters related to the needs of young children who have deficiencies (physical or mental) in the form of maintenance (*hadhanah*), education, teaching and so on.
- b. *Al-mal* (trust of assets) includes trusteeship of a person related to a person who does not have the ability to manage his assets due to being young or incompetent.

From the explanation above, it can be seen that the nature of child protection is to fulfill all children's rights and provide treatment for all things that can harm children, including life, property, and so on.³¹

Conclusion

Acts of *physical neglect* in the Criminal Code are regulated in Article 305, Article 306, and Article 307. These articles have limitations in providing explanations regarding what actions fall into the category of physical neglect and also do not explain efforts to protect victims. In addition, the Criminal Code does not yet provide a formula that regulates acts of mental violence against children. Furthermore, Law No. 35 of 2014 concerning Child Protection only regulates the prohibition against committing acts of mental violence without explaining the characteristics of any actions that fall into the category of mental violence. Meanwhile, according to Islamic criminal law for acts of violence, the provisions are not regulated by texts, therefore the type of punishment is *ta'zir*, the type of punishment determined by the judge or ruler.

Protection for victims of physical neglect, according to Susianah Affandy, is carried out by the government which involves a government structure that has the task of providing services and protection of children for victims of *physical neglect* and for victims of mental violence in providing protection efforts according to Article 69 of the Child Protection Law by disseminating and disseminating a relevant regulation. However, the non-involvement of an expert in efforts to provide protection for victims of mental violence results in suboptimal handling, even though the involvement of experts plays a very important role in aiding and counseling to improve emotions, thoughts, and behavior in dealing with painful emotional problems. Meanwhile, according to Islamic criminal law, the nature of child protection is to fulfill all children's rights and provide treatment for all things that can harm children, including life, property, and so on.

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³⁰ Hani Solihah, 39.

³¹ Hani Solihah, 42.

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