

2014- DOMESTIC VIOLENCE AND ABUSE AGAINST WOMEN: A COMPARATIVE STUDY ON RIGHTS AND PROTECTION ACCORDING TO BRUNEIAN AND MALAYSIAN LAW

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ABSTRACT

The United Nations (UN) has established regulations for the protection of human rights through international treaties signed by state parties from across the world through the Universal Declaration of Human Rights (UDHR). This has resulted in the establishment of the Declaration of the Elimination of Violence Against Women (DEVAW) by the United Nations, which aims to protect women from discrimination and domination of power by male perpetrators. Domestic violence is a violation of human rights. Since the outbreak of COVID-19, data and reports from several countries indicated the rising number of domestic violence cases against women and girls. This development calls for urgent legal response and community intervention. This paper aims to compare the rights and protection of women against domestic violence under the Bruneian and the Malaysian laws. The paper is a doctrinal study appraising the existing legislations, literature, journal articles, and reports related to current concerns on domestic violence. In the Brunei context, the term domestic violence, in its Islamic term known as ‘dharar syarie, is defined under the Islamic Family Law Chapter 217 and under the Married Women Act Chapter 190. Despite the fact that Brunei has no specific legislation on domestic violence, conducts that are usually associated with domestic violence, such as causing hurt, assault, endangering life or personal safety, or using criminal forces, are offenses that can be sanctioned under the Penal Code (Chapter 22). While, in Malaysian context, domestic violence is regulated under the Domestic Violence Act 1994 (Act No. 5121), which offers battered women protection from the abuser in the form of protective orders and provides compensation and counseling to be made available to them. This paper will examine the current legal framework for women’s protection and their socio-legal rights against domestic violence from the two jurisdictions under this study. Despite the availability of laws, the facts reveal that the level of awareness of domestic violence in Brunei and Malaysia needs to be intensified. The paper concludes with the note that strengthening legal enforcement may protect women effectively. It is also recommended that the participation of non-governmental organizations (NGOs) and communities are significant to raise awareness of domestic violence and provide social support and assistance to the victims.

Keywords: Right and Protection of Women, Domestic Violence, Bruneian Law, Malaysian Law.

INTRODUCTION

Domestic violence is a re-occurring issue that affects millions of peoples around the world, which happens in Brunei and Malaysia. Domestic violence is defined as an intentional and continuous abuse of anyone in the home in a way that causes pain, distress, or injury. This violence within the family unit is not a new phenomenon as it has existed since the beginning of society. Physical, sexual, emotional, and financial abuse are all potential forms of domestic violence that may occur. It has been reported that globally, 6 out of 10 women experience physical and/or sexual abuse in their lives. According to the World Health Organization

(WHO), 1 in every 3 women worldwide suffers from physical or sexual abuse, most often at the hands of an intimate partner. It is, therefore, the most pervasive and least reported human rights abuse. Domestic violence is more common in cultures where women are seen as inferior to men and their voices are suppressed. A continuous practice of this culture will increase the risk of domestic violence against women. (Mahapatro, Gupta RN, Gupta V, 2012). Moreover, this violence is considered as a private family matter, these crimes are often undetected or left unreported.

For the past five years, from 2017 until 2021, there was an increase in the number of domestic violence cases in Brunei. About 159 cases were recorded in 2019, then followed with 169 cases of domestic violence in 2020. There was a decrease in the number of cases in 2021 with 109 cases. This is mainly due to unreported cases, considering it as a private family affair and lack of community awareness. (A statistic presented by the Women and Children Abuse Investigation Unit).

Malaysia has had over 4,000 cases of domestic violence in the last five years, with victims and perpetrators ranging in age and from various walks of life. (Women's Aid Organization, 2012). During the midst of Covid-19, about 5,260 cases of domestic violence were recorded in 2020, and then followed by year 2021 with about 7,468 cases and in 2022 with 6,540 cases. The prevalence of domestic violence is a dangerous development with women victims at the receiving end. Due to the unpleasant nature of the experience, domestic violence has a harmful effect on the victims and their contribution to the national economic development. (Hassan, Kamal Halili & Lee, Yee Zing, 2015).

The Secretary-General of the United Nations, observed in an in-depth study on all forms of violence against women in 2006, that about 89 countries have specific laws on domestic violence and that more countries had established national action plans on domestic violence against women and girls. It is interesting to note that Malaysia was the first Asian country to have domestic violence laws in place and recognized it as a problem of public interest. Through the enactment of the Domestic Violence Act 1994 (Act No. 521) which was passed by the Malaysian Parliament in the early 1994, the new legislation aims to curb incidence of domestic violence. The Act's primary focus is to help married women who are victims of domestic violence by offering them legal protection from their abusers in the form of protective orders and provides the victims with compensation and counseling services.

Contrary to the above development in Malaysia in putting in place a specific law on domestic violence, about 102 countries today, Brunei Darussalam inclusive, do not have specific laws on domestic violence. In fact, about 53 countries considered rape in marriage as not constituting an offence. Brunei Darussalam, like many countries in the world, is yet to pass or enact a specific law on domestic violence. However, this is not to suggest that women who experienced cases of violence are left without any legal remedy or intervention. Legal actions could still be taken against the abuser because the extant civil and penal code provides some protection to the victims of violence who can rely on these legislations that are related to the subject matter of domestic violence. Thus, sanctions are provided for the abusers under the Penal Code Chapter 22, Married Women Act Chapter 190, and the Islamic Family Law Act Chapter 217.

Furthermore, it is instructive to note that countries in the ASEAN region have acceded to or ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Both Brunei and Malaysia have ratified the United Nations' Convention on The Elimination of All Forms of Discrimination Against Women (CEDAW). There are 8 out of 10 countries in the ASEAN region that have enacted special laws and provisions on domestic violence except Myanmar and Brunei Darussalam. (Lawyers Collective Women's Rights Initiative, 2009).

This article aims to compare the rights and protection of women against domestic violence under the Bruneian and the Malaysian laws. This will involve an examination of the similarities and differences regarding the protection of victims of domestic violence under Bruneian and Malaysian laws. The definition and concept of domestic violence under the Brunei and the Malaysian legal system will be explored while a critical examination of the legal rights and protection provided for the victims of domestic violence under the two jurisdictions will also be examined. The study concludes by emphasizing the need for effective legal measures and strict legal enforcement of the law to protect women against domestic violence.

METHODOLOGY

The research methodology to be used in this paper is a qualitative research method. This will involve the analysis and interpretation of various Bruneian and Malaysian statutes, policies and international legal instruments and text about domestic violence. In that way, the study will be largely library-based. This methodology is chosen because this research involves the examination of the provisions of the domestic laws on domestic violence as treated under the relevant provisions. Brunei laws include the Brunei Penal Code Chapter 22, Married Women Act Chapter 190 and the Islamic Family Law Act Chapter 217. While, in Malaysia, among the domestic violence laws includes the Federal Constitution, the Penal Code Chapter 547, and the Domestic Violence Act of 1994. The study will also place reliance on the primary and secondary source of information and data. The collection of primary sources and data include the legislations such as Statues, Acts and Order. Secondary sources of information and data include books and journals, online journals, news reports and websites. The data collection is done from several institutions in the country such as University of Islam Sultan Sharif Ali (UNISSA), University of Brunei Darussalam (UBD) and other libraries in the country and other related government sectors and agencies.

FINDINGS

COMPARING THE LAW ON DOMESTIC VIOLENCE IN BRUNEI AND MALAYSIA

Definition Of Domestic Violence

Domestic violence means violence that happens in a household where there are family members living together under one roof. In Article 1 of the 1993 United Nations Declaration on the Elimination of Violence Against Women, violence against women is defined as '*Any act of gender-based violence that results in or has the opportunity to cause physical, sexual, or psychological misery or suffering, including the threat of certain actions, coercion, or*

arbitrary deprivation of independence, whether it happens in public (in society) or in private life. (World Health Organization (WHO), 2020). In raising awareness and giving support against any form of violence against women, Brunei and Malaysia ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) concerning the prevalence of domestic violence in both countries. Domestic violence is considered a violation of human rights. Hence, in Brunei and Malaysia, the victims are given the right to protection from domestic violence. Brunei has no specific legislation that deals with domestic violence against women. However, the term of domestic violence, or in its Islamic term, 'Dharar Syarie', is defined under the Islamic Family Law, Chapter 217, and under the Married Women Act, Chapter 190. Besides, a legal action can be taken under the Penal Code, Chapter 22, Chapter XVI, on the offenses affecting the human body, such as causing hurt, using criminal force, and assault. Whereas in Malaysia, domestic violence cases are governed by the Federal Constitution, Penal Code Chapter 547, and the Domestic Violence Act of 1994.

Essentially, Brunei and Malaysia have a common approach to defining domestic violence. However, Malaysia has expanded the meaning of domestic violence through several amendments, as more than half of the sections were amended and new provisions were included. This includes broadening the meaning of domestic violence by including psychological abuse and financial abuse in the Domestic Violence Act of 1994.

In the Brunei context, domestic violence refers to the following act:

- (a) willfully or knowingly causing, or attempting to cause, a family member in fear of hurt;
- (b) causing hurt to a family member by such act which is known or ought to have been known would result in hurt;
- (c) compelling the family member by force or threat to engage in any conduct or act from which he has a right to abstain;
- (d) wrongfully confining or restraining a family member against his will;
- (e) continual harassment with intent to cause distress, annoyance or humiliation, or knowing that it is likely to cause distress, annoyance or humiliation, to a family member; or
- (f) causing destruction, damage or loss to property of a family member or causing financial loss to a family member; "enforcement officer" means a police officer or any person appointed in writing by the Director of Community Development.

While in the Malaysian context, domestic violence is defined as follows:

- (a) willfully or knowingly placing, or attempting to place, the victim in fear of physical injury;
- (b) causing physical injury to the victim by such act which is known or ought to have been known would result in physical injury;
- (c) compelling the victim by force or threat to engage in any conduct or act, sexual or otherwise, from which the victim has a right to abstain;
- (d) confining or detaining the victim against the victim's will;
- (e) causing mischief or destruction or damage to property with intent to cause or knowing that it is likely to cause distress or annoyance to the victim;
- (ea) dishonestly misappropriating the victim's property which causes the victim to suffer distress due to financial loss
- (eb) threatening the victim with intent to cause the victim to fear for his safety or the safety of his property, to fear for the safety of a third person, or to suffer distress;

- (ec) communicating with the victim, or communicating about the victim to a third person, with intent to insult the modesty of the victim through any means, electronic or otherwise;”
- (f) causing psychological abuse which includes emotional injury to the victim;
- (g) causing the victim to suffer delusions by using any intoxicating substance or any other substance without the victim’s consent or if the consent is given, the consent was unlawfully obtained; or
- (h) in the case where the victim is a child, causing the victim to suffer delusions by using any intoxicating substance or any other substance, by a person, whether by himself or through a third party, against— (i) his or her spouse; (ii) his or her former spouse; (iii) a child; (iv) an incapacitated adult; or (v) any other member of the family.

There are several definitions given to cover the wide ambit of the meaning of domestic violence in the Malaysian context. The Act encompasses all types of violence that occur within a family institution.

Both Brunei and Malaysia’s laws on domestic violence provide the scope of domestic violence under the Islamic Family Law Act, Chapter 217; the Married Women Act, Chapter 190 for Brunei; and the Domestic Violence Act 1994 for Malaysia. These Acts mainly cover physical injury, such as threatening to injure, causing physical injury, engaging in sexual conduct forcefully, confining or detaining the victim, and causing damage to property.

Nevertheless, Malaysia has made improvements to her Domestic Violence Act of 1994 by including psychological and financial abuse. The definition, however, does not provide a broader meaning for psychological or emotional abuse, verbal abuse, and financial abuse as acts of domestic violence, when in fact these types of abuse have been identified as common forms of abuse by a partner in a domestic relationship.

Furthermore, domestic violence is commonly interpreted narrowly, with the husband being the most common perpetrator of abuse and the wife experiencing domestic violence more than the husband. (Hanafi and Rohani, 2015). However, the term domestic violence both in Brunei and Malaysia is not exclusively applicable to women alone; it is extended to other categories of people in the household. For instance, husbands, former husbands, children, or any other family members of the family are under one roof. This is a very important improvement in the legal provisions for curbing the incidence of domestic violence.

In the context of Intimate Partner Violence (IPV) victims, legal protection is provided to spouses and former spouses in Brunei and Malaysia. Hence, spouses and former spouses may seek legal protection as provided under both countries’ domestic violence laws. It is important to take note that both countries used the term domestic violence rather than intimate partner violence.

Furthermore, Brunei and Malaysia are among the countries that do not provide protection against domestic violence involving similar gender intimate partners under their respective domestic violence laws. This can be referred to as Brunei legislation, the Islamic Family Law Act Chapter 217, and the Married Women Act Chapter 190, while in Malaysia, the Domestic Violence Act 1994. The scope of protection is only provided to legally married couples instead of unmarried cohabitants. This is mainly because both Brunei and Malaysia adopted Islam as the state religion, and it will amount to the court giving effect and protection to acts

or conducts that are unlawful under the Islamic law. This may not be accepted as it undermines Islamic rulings on cohabitation by unmarried people.

Rights of Legal Protection for Victims of Domestic Violence

Domestic violence victims are legally protected in Brunei and Malaysia. They are provided protection in terms of criminal and civil remedies. In the Brunei context, the Islamic Family Law Act, Chapter 217, and the Married Women Act, Chapter 190, provide extensive protection for the victims of domestic violence, such as protection orders, expedited orders, the award of compensation to the victims of abuse, and the grant of power of arrest to the police officers. In the Malaysian context, protection is provided in terms of a protection order, an interim order, or an emergency protection order, and it grants power of arrest to the police officers. These can be sought under the Domestic Violence Act of 1994.

In this study, it was discovered that there were some similarities and differences between the domestic violence laws of Brunei and Malaysia in terms of victims' rights to protection from domestic violence. They are as follows:

Protection Order

In Brunei and Malaysia, legal protection is provided to the victims of domestic violence to prevent further abuse. The perpetrator can be restrained from committing certain acts for a specific period through the protection order.

In a circumstance where it is evident that “*dharar shar'ie*” in Brunei or domestic violence in Malaysia has been committed or is likely to be committed by any person against a family member, the court has the right to issue a protection order against the spouse or former spouse. In Brunei and Malaysia, the protection order can be made either by the family members concerned or an enforcement officer in case of domestic abuse against a spouse or former spouse. The court may issue more than one order if it thinks it is fit and necessary for the protection of the victims. Below are similar protection orders provided to victims of domestic violence in Brunei and Malaysia. The rights of protection given are as follows:

- a. Right of exclusive occupation of a shared residence or restricting the perpetrators of abuse from a specific part of the shared residence.
- b. Restraining the perpetrator of abuse from entering the place of employment, school or other institution or from making personal contact with the protected person.
- c. Requiring the perpetrator of abuse to permit the victim to enter the shared residence, or to enter the residence of the perpetrator of abuse, accompanied by an enforcement officer for the purpose of collecting the victim's personal belongings.
- d. Prohibiting any form of communication by the perpetrator with the victim.
- e. Requiring the perpetrator of abuse to allow the victim to maintain the use of a vehicle which was previously ordinarily used by the victim.
- f. Requiring the parties concerned, the victims and perpetrator of abuse to attend counseling or refer to a conciliatory body.
- g. Requiring the perpetrator to pay compensation to the victim in respect of any injuries, destruction, damage, or loss as it considers just and reasonable.

The rights and protections provided under both Bruneian and Malaysian domestic law are similar. However, the Malaysian Domestic Violence Act 1994 provides a detailed explanation. For example, in relation to the "right of exclusive occupation of a shared residence," the Domestic Violence Act of 1994 defines shared residence as whether it is entirely owned or leased by the perpetrator or made or jointly owned or leased by the parties. Moreover, there is insufficient explanation under the Islamic Family Law Act Chapter 217 and the Married Women Act Chapter 190 regarding the duration protection order to take effect. Under the Domestic Violence Act 1994, a protection order is applicable to safeguard the victim for a period of 12 months throughout the judicial proceedings.

In the event the perpetrator contravenes the protection or expedited protection order or Section 60B (5) in Brunei context, the offender is liable to a fine not exceeding \$2,000, imprisonment for a term not exceeding 6 months, or both, and in the case of a second offense, a fine not exceeding \$50000, imprisonment for a term not exceeding one year, or both.

Whereas, in the Malaysian case, in the event the perpetrator contravenes the protection or interim protection order or emergency order, the offender is liable to a fine not exceeding RM2,000.00 or imprisonment not exceeding 6 months or both; and for any subsequent violation, to a fine not exceeding RM5,000.00 and imprisonment not less than 72 hours and not more than 2 years. Furthermore, under Section 3E (1) of the Domestic Violence Act 1994, the punishment will be increased if the abuser engages in violence (fine not to exceed RM4,000 or one (1) year in prison or both).

Interim Order

Aside from the protection order, Malaysia recently modified the Domestic Violence Act 1994 to enhance the interim protection order to stop further abuse. It is issued by the Magistrate Court in Malaysia. An interim protection order is valid throughout the police investigation before the perpetrator is charged in court. The interim protection order can be obtained to prohibit the perpetrator from abusing the victim and to allow police to intervene to prevent further abuse. Once the investigation is completed, the interim protection order will cease to have effect.

Expedited Order and Emergency Order

In Brunei, the court may also make an expedited order when there is an urgency, such as the danger of domestic violence being committed against the applicant of the protection order. In other words, an expedited order is an urgent personal protection order made without going through a trial. The court may make an expedited order notwithstanding that the summons has not been served on the respondent or has not been served on the respondent within a reasonable time before the hearing of the application or the summons requires the respondent to appear at some time or place.

While, in the Malaysian context, they have an emergency protection order (EPO). This order allows social welfare officers to grant victims immediate protection from the abuser. It is instructive to note that a police report is not necessary for this order. An emergency protection order can be issued immediately, within two hours of application. The emergency protection order is valid for seven days and may include instructions prohibiting the offender

from using domestic violence against the victim, instigating others to commit domestic violence against the victim, and/or entering the victim's shelter or residence. The victim will be granted exclusive possession of her or his home, while the perpetrator (if they remain) will be obliged to leave for a "cooling period" of at least seven days. Moreover, an emergency protection order can be applied anytime, regardless of whether the victim has applied for an interim protection order or protection order or whether an interim protection order or protection order is still pending.

Other Forms of Remedies

Compensation

Under the amended legislation, the Islamic Family Law Act (Amended) 2010 and the Married Women Act (Amended) 2010, it provides for compensation to the victims of domestic violence. In the Brunei context, this is in a circumstance where a victim of domestic violence suffers any physical injury, destruction, or damage to property, loss of property, or financial loss because of the domestic violence. Hence, the court may award such compensation in respect of such injury, destruction, damage, or loss as it considers just and reasonable.

It is similar under Malaysian law, the Domestic Violence Act 1994; it also provides that the victim of domestic violence can claim compensation for personal injuries, damage to property, or financial loss because of the domestic violence.

For instance, in *Chin Yoke Yin v Tan Theam Huat* [2015] 11 MLJ 577, aside from the protection orders, to ensure the interests of victims of domestic violence are safeguarded financially, the Domestic Violence Act 1994 allow the court to make a compensation order to compensate the victims for injury or loss sustained as a result of domestic violence. The process is made by way of a civil application as provided in section 2 of the Act, which states that "in respect of civil proceedings for compensation under section 10, the court is competent to hear such claims in tort. In this case, the wife (petitioner) had applied for dissolution of marriage, in addition to compensation under section 10 of the Domestic Violence Act 1994. The court held that in addition to dissolving the marriage, the respondent (husband) was also ordered to pay compensation to his wife amounting to RM4,000.00 for the injuries caused. In granting the compensation, the court had relied on the evidence given by two doctors and a medical report. This case shows that such evidence is crucial for the court to allow the application for compensation.

However, this case may be inconvenient for Muslim parties, who must go to a civil court to seek compensation and a Shariah court to obtain a divorce. In most cases, a person can only seek compensation in civil litigation if the defendant is found guilty and damages are proven.

Counseling and Rehabilitation programs

Aside from hearing a claim of compensation under Section 10 of the Domestic Violence Act 1994, a new provision has been inserted in the 2017 Amendments to replace counseling where the court may also make an order for rehabilitation only with the consent of the victim. This program is not mandatory, as it is at the discretion of the judge with the consent of the

victim to undergo a rehabilitation program. The rehabilitation program is subject to the program provided by the Ministry responsible for welfare services for the purposes of family and community development. Aside from that, the court may make an order to refer the parties to a conciliatory body or refer to rehabilitative therapy, psychotherapy, or such other reconciliatory counseling as it deems appropriate. The conciliatory body here refers to bodies providing counseling services set up by the Department of Social Welfare, where the parties are Muslims also includes those set up under the Islamic Religious Affairs Department concerned.

The purpose of the rehabilitation program is to allow the parties to repent and remorse to preserve the sanity of their marriage aside from encouraging settlement and reconciliation between the parties.

Furthermore, an alternative is provided for the victims of domestic violence where there are non-governmental organizations (NGOs) that provide critical crisis services as may be required by the victims of domestic violence, such as shelter and counseling. This kind of services, for example counseling, is for victims who are not ready to leave their abusive abode and counseling and shelter for victims who are ready or able to leave their abusive situation and simply want to find out their options or speak to someone. This can be sought from the Women's Aid Organization (WAO), which offers critical information, advice, consultation, shelter, and crisis support through its WAO Hotline Services.

Although there is no provision under the Islamic Family Law Act (Chapter 217) and Married Women Act (Chapter 190) on rehabilitation programs, in the Brunei context, the Ministry of Culture Youth and Sport (MCYS) through Department of Community Development (JAPEM) is the lead agency for protecting women from all forms of abuse, neglect and other welfare issues concerning women in Brunei. There is a close coordination between JAPEM and other relevant agencies as part of an ongoing intervention to tackle issues of violence against women. The JAPEM provides Client Training Centres and Programs. Among services that they offer are Counseling services for women and their spouses of abuse and families under JAPEM. Then, the female victims of domestic violence and rape are placed in a protective custody at a government-sponsored shelter known as '*Kompleks Rumah Kebajikan (KRK)*'. It is a rehabilitation and care Centre for the victim while waiting for their cases to be scheduled in court. The care Centre provides services such as accommodation, meals, clothing, necessities, medical care, counselling, education, and other relevant programs that can facilitate rehabilitation and support the women throughout her stay. In addition, Brunei has been operating a 24-hour hotline for violence against women under the JAPEM. The establishment of the 141 Welfare Helpline provides an avenue for reporting, lodging complaints, airing grievances, and receiving counseling over the telephone.

Criminal Remedies

Even though Brunei has no specific legislation on domestic violence, conducts that are usually associated with domestic violence, such as causing hurt, assault, endangering life, or personal safety, or using criminal forces, are offenses that fall under the Penal Code (Chapter 22). The Penal Code is basically designed to deal with general forms of crime. Some of the offenses are seizable and non-seizable. In a circumstance where the perpetrator is voluntarily causing hurt, he or she shall be punished with imprisonment for a term that may extend to 3

years and with a fine. Then, in the case of causing hurt by weapons or dangerous means, the perpetrator shall be punished with imprisonment for a term that may extend to 7 years and with whipping. However, where the crime is voluntarily causing grievous hurt, he or she shall be punished with imprisonment for a term which may extend to 10 years and with whipping. Then, if the result of the crime is causing a serious injury with a weapon or dangerous means, the punishment is 15 years imprisonment and with whipping.

While in Malaysian cases, the Domestic Violence Act 1994 shall be read together with the provisions of the Penal Code for further criminal proceeding. Hence, the Penal Code is another legal framework applicable and will be implemented against the offender in addition to the Domestic Violence Act. Prior to the Amendment of Domestic Violence Act 1994, most of the cases fell under non-seizable offenses viz non serious offences. Now, all offences involving domestic violence shall be deemed to be sizeable offences. Hence, this will make it easier for the police to commence an investigation without obtaining an order to investigate from the Public Prosecutor. (Daleleer and Najibah, 2021). Since Domestic Violence is investigated under the Penal Code, the abuser can be sanctioned in any provision under the Penal Code, Chapter 547 under section 323, 324, 325, 326, 352, 427, 506, 507 and 506/323. For instance, in a circumstance where the perpetrator is voluntarily causing hurt, he or she shall be punished with imprisonment for a term which may extend to 1 year or with fine which may extend to RM2,000 or both. Then, in the case of causing hurt by weapons or means, the perpetrator shall be punished with imprisonment for a term which may extend to 10 years or with fine or with whipping or with any two of such punishments.

An examination of both Bruneian and Malaysian respective laws on domestic violence indicates that Malaysia has increased the punishment, such as in the new sections, i.e., sections 326A and 352A, where the punishment has been increased for a term of twice as long as the maximum term.

CONCLUSION

Domestic violence is a serious crime. Most of the cases of domestic violence in Brunei and Malaysia are mainly perpetrated by the husbands or ex-husbands of the victims. Hence, the law plays a significant role in addressing domestic violence through strict legal enforcement. Anyone who commits the violence shall be held liable and punished for the crime that he has committed, regardless of the injuries inflicted, whether minor or serious. Previously, there were no specific laws dealing with domestic violence and no provisions that could protect a woman as a victim in a household where domestic violence occurred. However, it was only recognized after the few amendments made under the Islamic Family Law Act (Amended) 2010 and the Married Women Act (Amended) 2010. While Malaysia has introduced a specific law on domestic violence, several amendments have been implemented, including new provisions on domestic violence.

Despite having a common definition of domestic violence under both countries' provisions, Malaysia has broadened the meaning of domestic violence to include psychological abuse as a form of domestic violence. The Domestic Violence Act of 1994 can be considered non-static in nature. The Malaysian provisions operate in accordance with the changing lives of people, cultures, and legal systems. Although both countries have a common protection

order, the Malaysian provision is more detailed, particularly the procedural law. Hence, vital steps need to be taken in the Brunei case by exposing the existing laws to society, speeding up the trial process, providing legal assistance in the *Shar'iah* Court so that more serious penalties will be imposed on the accused, and reviewing related laws to fill in the people's needs. For instance, under Bruneian and Malaysian provisions, police officers are given the power to detain without warrant the perpetrator as a preventive action if he or she is believed to have committed or is likely to commit an act of domestic violence until a protection order, expedited order, or interim order is obtained. The protection order is not only applied by an enforcement officer; any family member, including the victim, has the right to do so under the law. This means the new amendment to Bruneian and Malaysian provisions serves as a tool for women or any family members to further protect themselves from domestic violence. This measure is good for the victims, as it empowers them to get away from the violence and get protected. Domestic violence legislation alone will not eliminate violence. Therefore, a simultaneous effort is needed to promote women's equality in all aspects. To ensure the effective implementation of laws relating to domestic violence, there should be a well-coordinated response from all agencies that target the root causes of domestic violence and raise awareness.

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