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EXPLORING STRATEGIES FOR DEALING WITH DOMESTIC VIOLENCE FROM ISLAMIC LEGAL PERSPECTIVE

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ABSTRACT

Domestic violence is one of the most common types of human violence prevalent since ancient times. Violence has increased in contemporary societies, its causes have varied, its forms and colours have varied, and its effects on our Islamic societies have begun to appear tangible. Domestic violence has become one of the most important contemporary family problems. Especially, with the increasing forms and types of increasing violence and the consequent adverse effects on the family and community stability. The Shariah has dealt with this violence that may cause the dissolution of the family and the disintegration of its foundations, so Islamic Shariah law has put in place the provisions and regulations that guarantee the protection, stability and survival of the family.

Problem Statement: With the development of life and the emergence of various developments and contemporary issues, the issue of domestic violence between members of the same family has emerged on the social scene, which negatively affects the security and stability of society, which requires contemporary researchers and jurists to search for solutions to such problems that are exacerbated from time to time.

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Importance of Research: The importance of research appears as the family is the origin of the human community and on which the renaissance and progress of human nations are based, so Islam has been concerned with preserving it by developing strategies for interaction between members of the whole family.

Research Objectives: The study aims to achieve the following goals:

- 1) Explain the seriousness of domestic violence
- 2) Means of eliminating domestic violence
- 3) Strategies for dealing with domestic violence

Research Questions

What is meant by domestic violence?

What is the danger of domestic violence?

What are the strategies for dealing with domestic violence?

Keywords: strategies, domestic violence, community, family, Islamic legal perspective

THE REALITY OF DOMESTIC VIOLENCE AND ITS CAUSES

The Reality of Domestic Violence:

Definition of violence in language:

According to "Lisanul Arab" by Ibn Manzur, which is the most widespread of the dictionaries: "Violence is violating an order and a lack of compassion with it and it is against compassion. It is the joinder of distress and hardship and all the kindness of goodness in the violence of evil like العَيْفُ والْعَعَنَيْفُ الْمِعْتَنِفُ الْمِعْتَنِفُ الْمِعْتَنِفُ الْمِعْتَنِفُ الْمِعْتَنِفُ اللهِ Violence of evil like العَيْفُ والْعَعَنَيْفُ المِعْتَنِفُ المُعْتَنِفُ According to Al-Oamus Al-Muhith: The definition of violence came close to the same meaning (Al-Fairuz Abadi 1/1085). From this, it is understood that violence is the use of excessive force with lack of compassion and softness in dealing, which is unacceptable and is not approved by the Shariah or the mind. This is what the Prophet confirmed in the authentic hadith on the authority of Ibn Shihab on the authority of Urwa bin Al-Zubayr that Aisha, may God be pleased with her, "(the wife of the Prophet) said: A group of Jews entered upon the Prophet (28) and said, "As-Samu-Alaikum." (i.e. death be upon you). I understood it and said, "Wa-Alaikum As-Samu wal-la'n. (death and the curse of Allah be Upon you)." Allah's Messenger (#) said "Be calm, O 'Aisha! Allah loves that on, should be kind and lenient in all matters." I said, "O Allah's Messenger (*)! Haven't you heard what they (the Jews) have said?" Allah's Messenger (*) said "I have (already) said (to them) "And upon you!" (Bukhari: 5565, Muslim: 1706).

Definition of violence idiomatically:

Psychologists define family violence as a form of abusive behaviour issued by one or both partners in a marital or family relationship. These behaviours often take the side of violence and cruelty in dealing and are in some form of violence and ruggedness, whether it is physical violence such as Hitting, kicking, biting and slapping. Throwing things and others, or psychological threats such as sexual assault or emotional abuse, domination, tyranny, intimidation, or stalking. Or hidden negative abuse such as neglect or economic deprivation,

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and family violence may accompany pathological conditions such as alcoholism and mental illness (Abbas Abu Shama: 24).

One researcher defines domestic violence as: causing harm to a significant degree or failure to prevent it or threatening it by a member of the family against oneself or others, so that it includes physical or psychological harm or emotional, sexual, neglect, or any form of coercive behaviour to control a family member or verbal abuse or threat of any of these actions by one of the family members towards another individual (Abdel Nasser Al-Swaiti: 290).

Criteria for defining domestic violence differ widely from country to country and era to era. Domestic violence is not limited to apparent physical abuse, but rather to include other matters such as endangering or coercion to crime, kidnapping, illegal imprisonment, infiltration, stalking and harassment.

THE CAUSES OF DOMESTIC VIOLENCE PREVALENCE FACTORS

The phenomenon of family violence is not a product of contemporary life, but its roots extend from the succession of God Almighty to mankind on the face of the earth, then the causes of domestic violence began to form generation after generation, until it worsened at the present time. The causes varied and the forms of domestic violence varied. Psychological stress and frustration, generated by the nature of modern daily life, are among the primary and basic sources of the problem of domestic violence.

Factors affecting family violence:

The factors affecting family violence are many and varied according to the social and geographical environments in which a person lives, as they differ from one place to another and among these factors (Abu Shama, ibid: 33).

First: Socialization:

Violence is a learned behaviour that an individual acquires during the stages of socialization. Often, individuals are victims of violence in their childhood, which affects their behaviour later

Second: cultural values and social norms:

Cultural values and social norms play a large and important role in the emergence of domestic violence and the justification of its causes, as the values of honour and social status are determined by certain standards that sometimes use violence as a duty and inevitable.

Third: social customs:

Social habits affect the emergence and development of domestic violence within the family, which results in dangerous effects that may lead to the disintegration of the family and the dissolution of its foundations, so some individuals adhere to social capabilities and the forms of reverence accompanying them, which give the strong rights and arbitrary privileges more than the weak in the family, and this sometimes applies between brothers and sisters.

Causes and motives of domestic violence:

First: the causes of domestic violence: We can explain the most important causes of domestic violence as follows: First: The distance from the guidance of the Noble Qur'an and the noble Prophet's Sunnah, the morals of the noble Prophet's biography, the merits of the Prophet and his morals with the good people of his household, with the weakness of the

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religious and educational commitment of many Muslims in the contemporary time and the collapse of education and the lack of its origins in some families. The Prophet (peace be upon him) taught us to keep ties of kinship and asked the husband to be gentle to his household when he said, "the best among you is those who are best to their women and daughters" (al-Baihaqi: 8720). 'Aisha said that the Prophet was in the service of his family" (Bukhari: 6039). This means that the Prophet used to assist his wives in running house errands and chores in order to teach the Muslim ummah the art of dealing with one's family members.

Second: Moral deviations: such as consuming intoxicants and drugs. Consuming such forbidden things fuels family disputes and leads to domestic violence. Hence the wisdom behind the prohibition of these harmful things, which was mentioned in the Almighty's saying, which means: "Believers! Intoxicants, games of chance, idolatrous sacrifices at altars, and divining arrowsare all abominations, the handiwork of Satan. So, turn wholly away from it that you may attain to true success. By intoxicants and games of chance Satan only desires to create enmity and hatred between you, and to turn you away from the remembrance of Allah and from Prayer. Will you, then, desist?" (al-Maaidah: 90-91)

Third: the corrupt environment that depicts violence as a natural thing. The environment in which violence prevails (family-community) impresses on the individual's mind, which makes him vulnerable to violence in his old age.

Fourth: Some misconceptions resulting from poor parenting that believe that the use of violence makes a woman the husband more obedient and submissive, or perceive the association of violence with masculinity and magnanimity. Whereas, the results can be explained by parents' lack of full awareness of the forms of family violence, as what is presented in the media about what family protection is doing and the role of protecting children from abuse focuses on physical abuse while neglecting other forms of family violence that are psychological violence and neglect that the child needs. From his parents on the one hand, and physical violence is socially acceptable to parents and children alike, as corporal punishment is permitted in some cases for the sake of reasonable discipline in our Arab and Islamic societies (Al-Sweiti: 303).

Fifth: Some mental illnesses that make the husband lose his mind.

Sixth: Unemployment, poverty, high prices, and nervousness for many husbands ...

Seventh: Being influenced by watching violent films.

Eighth: Some of the man's husband's relatives ... or the woman's husband seek to spoil the spouses. Our Master, the Messenger of God, stressed that those who tried to set fire to the fire to spoil the spouses. Imam Abu Dawud narrated on the authority of Abu Hurairah: The Messenger of God said: "Whoever betrays the wife of a man or a possessor, he is not among us." (Abu Dawud: 5170)

Ninth: The woman's provocation of her husband and the attempt to belittle him and despise him and criticize his actions in front of others, which leads him to revenge and violence.

The motives of domestic violence: The motives for domestic violence can be summarized in the following matters:

1) Intrinsic motives: These are the impulses that stem from the person's self and himself, and that lead him towards family violence.

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2) Economic motives: In the family environment, the father does not intend to obtain economic benefits from his use of violence against his family. Rather, this is a discharge of disappointment and poverty, whose effects are violently reflected by the father towards the family.

3) Social motives: the customs and traditions that a society has become accustomed to and which require from a man - according to the requirements of these traditions - a measure of manhood in leading his family through violence and power, and that is that they are the measure that shows the extent of his manhood, otherwise he is fallen from the number of men. This type of motivation is directly proportional to the culture carried by the society, especially the family culture. The more the society has a high degree of culture and awareness, the more the role of these motives diminishes until it is absent in high societies, and on the contrary in societies with limited culture, as the degree differs. The effect of these motives according to the degree of degeneration of the cultures of societies (Abu Shama: 34).

Manifestations of violence

First: Physical violence: It is the most severe and most prominent manifestation of violence, and ranges from the simplest forms to the most dangerous and severe: (hitting, pulling hair, slapping, pushing, gripping violently, hand twisting, throwing the ground, punching, biting, suffocation, burning, trampling, ... etc.)

Second: Educational violence: In its simplest form, it means depriving the girl from education, forcing her to leave school, threatening her to stop her education, forcing her to pursue a particular specialty.

Third: Psychological Violence: It is any act that is psychologically harmful to her and her emotions without having physical effects (insulting, neglecting, monitoring, lack of self-esteem, belittling, calling out obscene words, embarrassment, treatment as a servant, blaming, accusing bad, mistrusting, intimidation Guilt about children).

Fourth: Sexual violence: It is the resort of the "other" to solicitation by force and threats, either to achieve sexual intercourse with the girl, or to use the sexual field to harm her (sexual harassment, cursing with obscene words, Abandonment by the husband, forced sex, forced sexual acts that a woman does not like.

Fifth: Social violence: It is the most common type practiced against women in Arab society, and it is its simplest mean ...attempting to impose a social blockade on the girl and tightening the noose on her opportunities for communication and interaction with the external social world, and it is also an attempt to limit her involvement in society and her exercise of her roles, such as restricting movement, interfering in private affairs, limiting women's roles, not allowing visits to friends and family, not allowing them to take decisions, not being heard in front of others, not supporting their goals. Etc. (Helmi Sari: 46).

STRATEGIES OF ISLAMIC LAW IN DEALING WITH DOMESTIC VIOLENCE

Shariah texts defined the means of discipline in the event of a wife's disobedience and deviation from her husband's obedience. The texts of the Holy Quran and the Prophet's tradition came to define these means and set the Shariah controls that the husband must

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adhere to when disciplining his wife so that it does not exceed the legitimate limits of discipline, or that discipline turns into violence towards the wife. The shariah has set an ideal hierarchy to discipline the wife whose disobedience is feared ... starting with sermon, passing away in the bed, and ending with an unabashed beating. This gradient must be followed, and whoever transgresses it has lost injustice. How many people leave the matter with sermon first, then if you do not find this method, try to leave the bed, then if you do not find this method then the beating is not severe. So, these people bypass the first two methods, and use no means with their husbands except for severe and harmful beating, which is exacted from the owner and punished for it! Allah says in the Quran, which means: "As for women of whom you fear rebellion, admonish them, and remain apart from them in beds, and beat them. Then if they obey you, do not seek ways to harm them. Allah is Exalted, Great". (al-Nisaa': 34)

First: Shariah disciplinary methods, and their effect on renouncing domestic violence:

Between the Quran and means of discipline in the event of a wife's disobedience, and placing them in three ranks, through the strategies of dealing between the husband and his wife starting from preaching, then desertion, and ending with beating at the end of the day, and accordingly we show these three ranks defined by the texts of Islamic law.

The first strategy: preaching and advice: It is the soft and good speech, which the husband addresses the mind and heart of his wife, trying to stop her from the transcendence with which she deals with him, and the preaching differs according to the type of disobedience, and according to the subject in which he wants to discipline her, and his approach also differs according to his knowledge of her nature. And what is meant is to remind them of what God has enjoined upon them of good companionship and the beauty of the husband's tenure, and there is no doubt that the sermon opens the door to understanding and resolves many psychological problems that the woman may have fallen under her influence, provided that the preacher may differ according to the situation of the wives. The punishment in the world and the gloating of the enemies. Among them is what is useful for them to prevent some desires, such as good clothes and jewellery, and when a man is prudent, he can hit the target that affects his wife's heart (Abu Al-Anin: 199).

The jurists have mentioned the importance of the preacher's method in reforming the wife and returning her to a quiet marital life, thus achieving stability and safety within the Muslim family, said the Hanafi jurist Al-Kasani: "First, he exhorts her to be kind and gentle, by telling her: "Be one of the good, charming women who protect the unseen, and do not be from such-and-such. Perhaps you will accept the exhortation and leave the resurrection" (ak-Kasani: 650).

Imam al-Qurtubi says in his interpretation: "It is for a man to remind his wife of what God has enjoined upon her of good companionship and the grace of companionship for the husband and recognition of the degree to which he is entitled to" (Al-Qurtubi 5/171).

Al-Razi mentioned in his interpretation: "Al-Shafi'i, may God be pleased with him, said: As for preaching, he says to her: Fear God, for I have a right on you, and return from what you are on, and know that my obedience is imposed on you and the like, and do not strike it in this case because it is permissible for it to be sufficient for that." (Al-Fakhr Al-Razi: 5/194).

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The second strategy: Abandonment and desertion is the paradox of another human being, either by body, tongue, or heart.(Al-Manawi: 738).

According to Lisanul Arab: "Al-hajra against al-wasl" (hajaroho, yahjuruju, hijran, hijranan). Yahtajirani and yatahajarani, the noun is al-Hijratu. Al-hajra against al-wasl means, with regard to the blasphemy and affection among the Muslims, or negligence of the rights of the companions and the companions, it is said that I forsake something if I leave it and neglect it (Ibn Manzur 5/250).

Abandonment is the second strategy of disciplining the wife, as the Quran verse states on that. Allah Almighty said: "As for women of whom you fear rebellion, admonish them, and remain apart from them in beds, and beat them. Then if they obey you, do not seek ways to harm them. Allah is Exalted, Great". (al-Nisaa': 34). It came in Bada'a Al-Sanai'a: "He fears her by deserting her first, withdrawing from her, leaving intercourse and having sex. If he has sex with her, he does not leave her intercourse or intercourse with her, because that is a common right between them, so that he will have to do that harm, so he does not discipline her in a way that harms himself and nullifies his right" (Al-Kasani: 2/650).

Ibn Qudamah said in Al-Mughni: "If she shows disobedience, and she disobeys him and abstains from his bed, or goes out of his house without his permission, then he may forsake her in the bed, because God Almighty says: (And abandon them in their beds) Ibn Abbas said: Do not sleep with her in your bed". As for abandonment in speech, it is not permissible for more than three days when Abu Hurairah narrated that the Prophet pbuh said: "It is not permissible for a Muslim to forsake his brother for more than three days" (Ibn Qudamah: 8/163), for desertion is a remedy for the wife's disobedience, and it is a discipline based on the husband's abandonment of the marital bed for a period of time as he can: 199).

The third strategy: not severe beating. The third strategy in disciplining the wife is not severe beating, and it is the last method of discipline, and he does not resort to it except in the case of necessity and with those who are not suitable for her except that. If it does not work, then the Shariah allows, as a matter of permission, to resort to this method, given that it is not desirable in the Shariah, it is limited in the case of necessity and is restricted by many restrictions and in certain circumstances. Al-Qurtubi says: "The eighth - God Almighty said: (And strike them) God has commanded that women begin with preaching first and then desert. He breaks a bone and does not disgrace an injury, such as a poke or the like, for what is meant is nothing more than goodness "(Al-Qurtubi 5/273).

SHARIAH DISCIPLINARY CONTROLS AND THEIR ROLE IN ELIMINATING DOMESTIC VIOLENCE

Shariah did not leave the issue of discipline without controls, but rather set controls and restrictions that the husband must abide by. When it is commanded to sermon, he specified the rules of the sermon as it is by soft speech and a calm manner with which hearts tend and return to the truth. Then it made it the rank of desertion and set restrictions and controls for it. One of the glorious principles of Islamic law is that it is not permissible for a Muslim to forsake his brother over three years old. As for the beating stage, the sunnah of the beloved prophet set the rules for beating that it should not be severe and avoid the location of the face

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and other things. The Sunnah of the Prophet pbuh clarified the controls and restrictions in the case of a husband disciplining his wife. The Prophet pbuh explained the sermon, the order of desertion, and the order of beating respectively, so he said in the hadith when a man asked him: What is our wife's right upon him? He said: "To feed it if you graft it, and clothe it if it is covered, and do not hit the face, do not ugly, and do not abandon it except at home" (Abu Dawud: 2142). This hadith shows the quality of exhortation, desertion, and beating. As for the sermon, it should be away from insulting and ugly speech (and do not shame). As for desertion in the bed, it should take place in the home, not outside it ... (and you should not abandon it except at home). As for the beating, it should be a simple and not excruciating beating, preserving the dignity of the woman in all cases. Ibn Hajar: "If it is necessary, then the discipline should be lightly hitting" (Ibn Hajar: 11/215).

In his interpretation of this verse, Imam al-Qurtubi mentioned: "Allah Almighty says: (and strike them) God has commanded women to start preaching first, then desertion. (Al-Qurtubi: 5/173).

The purpose of beating is not to harm the wife, such as breaking her teeth or deforming her face, but what is meant by beating is to fix the condition of the woman, and the beating is not severe, and likewise, it is not permissible to hit the face and sensitive areas of the body. What is meant by beating here is beating is not severe, and some scholars have likened it to beating with a toothpick or a small reed and a handkerchief wrapped and the like, according to Ataa' who said: "I said to Ibn Abbas, what is bad?" He said with the miswak and the like. And about this was narrated on the authority of Ibn Omar, may God be pleased with him.

Through the aforementioned hadiths and sayings of the jurists, we find that the most important restriction and controls of discipline is for the husband to take into account the Quranic arrangement in the ranks of discipline, so he does not start hitting directly and leaves preaching and forsaking. The husband has to abide by this arrangement, so he begins first with exhortation and advice. If the wife obeys him and returns to obedience, then he does not go beyond that. Otherwise, he may move to the stage of abandonment and be deserted in the beds with the continuation of speech and talk to the wife. If the wifereturns to obedience, the husband stops desertion, otherwise he may move to the stage of beating, but on condition that it not be severe beating as shown by the hadiths of the Prophet, and mentioned by the Shariah jurists, so beating is restricted to no harm or violence, because severe beating is not permissible for what was previously mentioned in the hadiths of the Prophet, and also because the Islamic law stipulates that a guarantee is required in case of damage due to beating.

The provisions of the Islamic law did not stop this matter without setting him an officer to control him and restrictions that limit harm to the wife, so it gave the wife the right to request divorce from the husband if he continued to harm her, but also made her the right to request a divorce if the husband by abandoning him exceeded the period of giving. Sheikh Dardiri al-Maliki mentioned in his book *al-Sharh al-Saghir*: "(or) his oath (I do not go to bed with her) does not hit him for the time of giving, (and divorced) for the sake of harming that (with diligence) from the ruler (without a deadline). Isolation or staying with her, (as) he strives and is called (if he abandons intercourse) this if he is present, but (and if) he is (absent) and

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he writes to him: Either he attends or divorces, and if he does not attend and he does not divorce the ruler unless she is satisfied Thus, as Asbagh said, and the meaning of ijtihad without delay: to call him immediately if the ruler knows of him stubbornness and harm, or to blame him if he asks him to leave what he is as much as he sees"(Al-Dardiri 5/455). Divorce is requested from the husband, and she may refer the matter to a judge.

But, in the event that she is not harmed and the wife feels that her husband has raised her up, being superior to her or turning away from her, then there is no sin on them for them to reconcile over what their souls please in terms of division or alimony, so she may forfeit her right or part of her right from alimony, clothing, overnight stay, or other such things. Her rights on him. Allah Almighty says in the Quran, which means: "Ifa woman fears either illtreatment or aversion from her husband it is not wrong for the husband and wife to bring about reconciliation among themselves (by compromising on their rights), for settlement is better. Man's soul is always prone to selfishness, but if you do good and are God-fearing, then surely Allah is aware of the things you do" (al-Nisaa: 128). Al-Qurtubi says: "Our scholars said: In this regard, all types of reconciliation are permissible in this calamity, by giving the husband to be patient, or to giving to the husband to influence, or to influence and adhere to infallibility, or reconciliation falls on patience and affection without giving All this is permissible, and it may be permissible for one of them to reconcile with her girlfriend for her day with something to give her, as did the wives of the Prophet pbuh (5/405). This ruling in the event that the wife is afraid of her husband leaving her and she wants to stay with him, then she may reconcile with him over part of the rights that she possesses. This happened during the time of the Prophet pbuh on the authority of Ibn Abbas who said: "Saudah was afraid that the Prophet pbuh, would divorce her. She said: Do not divorce me and hold me, and make my day for Aisha, so he did." So, it is permissible" (Abu Dawud 3040).

This is as we mentioned if the wife fears that the husband will leave her, but if the husband wants to harm the wife through desertion, as we have previously explained. Here, it is permissible for the wife to demand her right to return the husband to marital confinement. Otherwise, she may file for divorce.

Conclusion and Recommendations:

The study reached some results and recommendations, including:

- Domestic violence is the most common type of human violence prevalent since ancient times, and the rate of violence has increased in contemporary societies and its causes have varied, its forms and colours have varied, and its effects on our Islamic societies have begun to appear tangible.
- The phenomenon of family violence is not a product of contemporary life, but its roots extend from the succession of Allah Almighty to mankind on the face of the earth, then the causes of domestic violence began to form generation after generation, until it worsened at the present time. The causes and the forms of domestic violence are varied. Psychological stress and frustration, generated by the nature of modern daily life, are among the primary and basic sources of the problem of domestic violence.

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- The Islamic law has dealt with this violence that may cause the dissolution of the family and the disintegration of its foundations, so Islamic Shariah law has put in place the provisions and regulations that guarantee the protection, stability and survival of the family.
- Islamic law has decided the strategies of methods of discipline between the spouses, and the Holy Quran and Sunnah came to be skilled in their explanation. They are three methods that revolve between preaching, desertion and beating unabashedly. This is to eliminate domestic violence. The jurists have set conditions and restrictions on this discipline so that it does not turn from discipline to revenge and harm the wife.
- The husband must not exceed his discretionary limits stipulated in beating, and he must bear in mind that the first and last purpose is reform and not just punishment, and for this it is necessary for the husband to overpower that the beating will lead to a satisfactory result, but if he thinks the opposite is more likely, then it is not permissible for him to do that at that time.
- As for discipline by desertion, it should be limited to desertion in the bed and does not go beyond that to quarrel and not to speak, because it is not permissible for a Muslim to abandon his brother over three years old, just as the husband must not be intransigent in desertion and not lead him to harm that would affect the marital relationship between the couple.
- If the husband persists in desertion and it results in harm to the wife, then Islamic law permits the wife to ask for divorce because of this harm.
- The study recommends holding courses to rehabilitate and prepare those who are about to get married in order to familiarize them with the rights and duties of both the husband and the wife, and these training courses are compulsory that everyone who approaches marriage must attend, and they are under the supervision of the competent government agencies.

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