

LAW ENFORCEMENT IN PROTECTION OF RIGHTS FOR VICTIMS OF DOMESTIC VIOLENCE IN MEDAN

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Abstract

The topic of this study is how law enforcement in Medan can provide victims of domestic violence with legal protection. The exploration technique utilized in this paper is to utilize a standardizing juridical methodology, specifically research that spotlight on library research. The objects of normative juridical research include domestic violence laws and regulations as well as legal principles, legal systematics, legal theories, and legal principles. Law Number 23 of 2004 Concerning the Elimination of Domestic Violence provides legal protection for victims of domestic violence, according to the findings of this study. However, further implementation of these provisions in the form of policies and actions is required. It is anticipated that this law will restore the rights of domestic violence victims and provide them with legal protection. In addition, every victim can be protected from acts of violence or threats of violence, torture, or treatment that violates human dignity with the help of the aforementioned law in Medan, it is hoped that domestic violence cases can be resolved, especially those that occur in women so that no victims are deprived of their rights or even their lives. Because basically every victim of violence gets strict legal protection.

Keywords: law enforcement; victim; Domestic violence

I. INTRODUCTION

Marriage is a bond that creates a family as a social component. Marriage is an inner and outer bond between a man and a woman as husband and wife with the goal of forming a happy and eternal family (household) based on God Almighty, as outlined in Article 1 of the Republic of Indonesia Law Number 1 of 1974 regarding marriage. Every married couple certainly wants a happy, peaceful, peaceful, and prosperous life. To realize the family's unity and harmony, it is very necessary to have self-control and good quality behaviour from each family member.

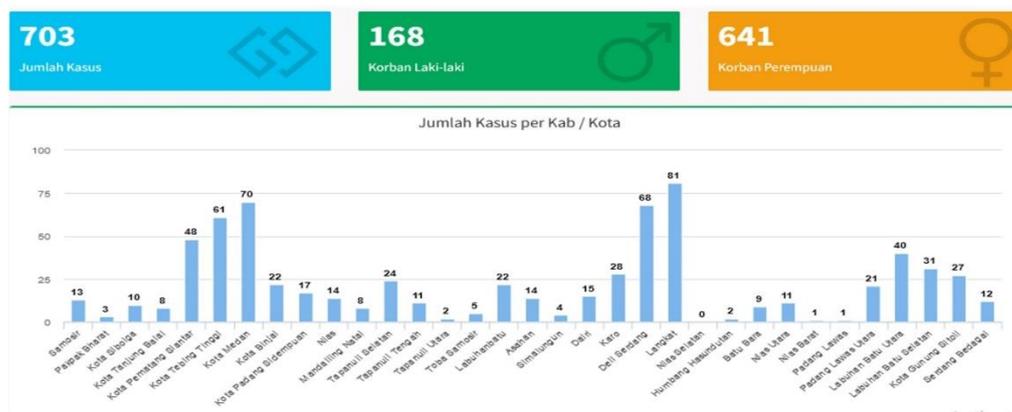
Because marriage is a legal act, it has legal ramifications in the form of rights and responsibilities for both husband-and-wife parties or other parties. According, to Article 33 of the Marriage Law of the Republic of Indonesia, which was enacted in 1974, a husband and wife are required to love, respect, be loyal, and offer each other both physical and spiritual support.

Marriage relationship is certainly not free from problems. Various kinds of causes and factors are used as reasons so that domestic violence can occur. However, what attracted public attention was the violence that befell women (wives). especially in cases where domestic violence takes place. This violent act is frequently referred to as a "hidden crime." It is called so on the grounds that both the culprit and the casualty attempt to stay quiet about the demonstration from general visibility. Due to the violence that takes place in the home, it is sometimes referred to as domestic violence (domestic violence). (Soeroso, 2010: 1)

The issue of domestic violence in today's society is one that has not diminished. The reason is that currently the news about cases of domestic violence is a case that is quite a trending topic

in the universe. But basically, many victims in cases of Domestic Violence (KDRT) don't report this case to legitimate channels since this is viewed as a shame in the family. In contrast, violence is a violation of the law, and the perpetrators can, of course, face criminal penalties under the provisions of Law Number 23 of 2004. Domestic violence will be eradicated.

Cases of domestic violence are occasionally rising in Medan. The Office of Women's Empowerment and Child Protection made this clear. From cases that emerged in the North Sumatra Province in 2022, the following data can be seen.



Source : Dinas PPPA Provsu, 23 Agustus 2022

Figure 1: Cases of Domestic Violence (KDRT) of North Sumatra Province in 2022

From the preceding data, it can be seen that 641 of the 703 cases involved female victims. This is due to the perception that the husband holds the position of captain of the household, which is the highest position in the household. The husband is thought to be stronger than women, and the victim is typically the wife or the child, so the wife must basically obey her husband. The perpetrator's role in the occurrence of domestic violence is that he or she typically has the presumption that he is the most powerful member of the family, allowing the perpetrator to act arbitrarily and consciously against the victim. As in the case that the author studied, there has been domestic violence in the city of Medan which has recently shocked the people of the city of Medan. Where a husband with the initials IS (34) slashed his wife, NSS (28) to death lying covered in blood on the edge of Jalan Mandala By Pass, Bantan Village, Medan Tembung District. Because the wife asked for a divorce and was sent home to her parents. Previously there was a quarrel between the two couples until the wife decided to go with the child by using a trishaw. While on the way the husband followed his wife until finally the husband slaughtered his wife while in the rickshaw causing the wife to die and the child suffered injuries to the hands and head. Legal protection is very important in protecting the victims of domestic violence rather there is no loss of life like this incident. a form of protection provided by the state with rules maintained by the state or authorities with the aim of achieving order for life together and all interests related to it.

"Any act against a person, especially a woman that results in physical, sexual, or psychological misery or suffering and or neglect of the household, including threats to commit acts, coercion,

or unlawful deprivation of liberty within the scope of the household," is defined as domestic violence in Article 1 number 1. Based on the description above, the author is interested in discussing law enforcement in protection of rights for victims of domestic violence in Medan. Thus, with this paper, the enforcement of the Law on the Elimination of Domestic Violence will raise awareness for wives who are victims of violence to report acts of domestic violence to the authorities.

II. LITERATURE REVIEW

2.1 Legal Protection Theory

Legal protection is doing something to keep the community safe from arbitrary actions by authorities that don't follow the rule of law, to keep peace and order so that people can live their lives in dignity. Satjipto Raharjo argues that legal protection is given to the community so that they can exercise all of their legal rights and that it protects human rights that are violated by others. In addition, Philipus M. Hadjon stated that legal protection is the recognition of human rights possessed by legal subjects based on the authority's legal provisions and the protection of dignity and worth. In the meantime, CST Kansil stated that legal protection is a set of legal measures that law enforcement officers must take to protect people's mental and physical safety from interference and threats from any source.

2.2 Domestic Violence (KDRT)

An assault is an attack or invasion of an individual's physical and mental well-being. There are ten chapters and 56 articles in Law No. 23 of 2004 Concerning the Elimination of Domestic Violence (KDRT). It is anticipated that the KDRT Law will provide members of the household, particularly women, with legal protection against all forms of violence. Any act against a person, particularly a woman, that results in physical, sexual, or psychological misery or suffering, as well as neglect of the household, including threats to commit acts, coercion, or voluntary deprivation of liberty, is considered domestic violence (KDRT) under the PKDRT Law. against the law within the household (paragraph 1 of article 1). This law's definition of a household (RT) includes:

- a. The husband and wife, as well as their children (including adopted children and stepchildren);
- b. The in-laws, son-in-laws, brothers-in-law, and besans who live in the RT and have family relations with the people listed in letter a due to blood relations, marriage, breastfeeding, care, and guardianship; and/or
- c. Domestic workers or domestic workers are individuals who work to support the family and remain in the home.

The preamble of the KDRT Law states that all forms of violence, particularly domestic violence, are crimes against humanity, violations of human rights, and forms of discrimination that must be eradicated. In order to avoid or be free from violence or threats of violence, torture, or treatment that degrades the degree and dignity of humanity, domestic violence victims the majority of whom are women need to receive protection from the state and society. In point of

fact, the legal system in Indonesia has not provided protection for victims of domestic violence in many instances.

2.3 Violence against women

The following are a few of the factors that contribute to violence against women:

- a. The community's patriarchal culture is influencing the situation. In the RT, there is a type of violent relationship that places women below men in the dominance structure. Often, this violence is used to win arguments, show discontent, or show dominance. It seems as though men can do anything to women, even commit domestic violence, from such a relationship. Gender inequality arises in this instance because of inequality between men and women.
- b. The teachings of religion are misunderstood. Misunderstandings frequently portray women (wives) as parties subject to the control of men (husbands), leading husbands to believe that they can do anything to their wives. For instance, beating a wife is thought to be a natural method of teaching her.
- c. Children are conditioned to mimic behaviour because they are exposed to domestic violence. Children look up to their parents as role models. When it comes to finding solutions to problems, children often follow in their parents' footsteps. Children who are familiar with violence believe that violence is a natural way to solve problems. This will continue until the children reach adulthood.
- d. A person's life stress. For example, the crush of the economy (poverty), loss of work (unemployment), and so forth.

III. RESEARCH METHODS

This paper employs a normative juridical approach to its research, specifically library-focused research. The objects of normative juridical research include domestic violence laws and regulations, legal principles, legal rules, legal systems, and legal theories. In this case, Bambang Sunggono is of the opinion that this scientific research is carried out in a systematic and controlled manner based on a logical thought which of course uses legal logic in examining the problem.

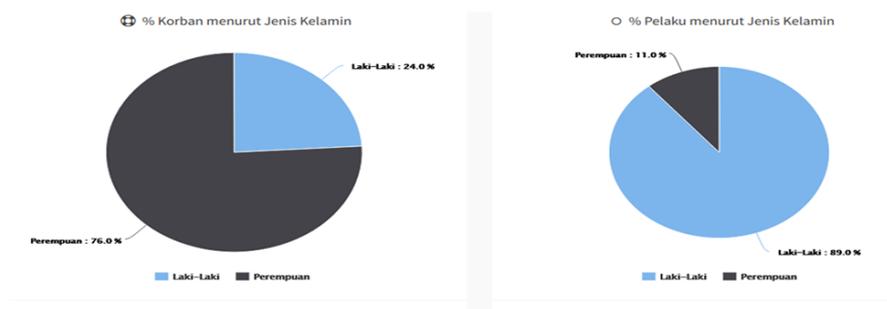
IV. DISCUSSION

4.1 Domestic Violence Regulation

If a person's quality and self-control aren't in control, it can break the harmony in the home, which can lead to domestic violence that makes people in the home, like the wife, feel unsafe or treated unfairly a path that could lead to divorce. This discord in the household frequently leads to prolonged arguments and acts of domestic violence, with the wife and children always being the targets. The State and society are obligated, in accordance with Pancasila's philosophy and the 1945 Constitution, to carry out efforts to protect victims and take action against perpetrators of domestic violence. These efforts include efforts to prevent, protect victims, and take action against perpetrators. The state considers all forms of violence, including domestic violence, to be crimes against humanity and a violation of human rights.

Domestic violence committed by a husband against his wife is a crime. "Everyone has the right to protection of his personal, family, honour, dignity, and property under his control and have the right to a sense of security and protection from the threat of fear to do or not do something which is a human right," according to Article 28 G paragraph (1) of the 1945 Constitution, the government has determined legal remedies.

"Everyone has the right to get special facilities and treatment to obtain the same opportunities and benefits in order to achieve equality and justice," reads Article 28 H paragraph 2 of the 1945 Constitution. But basically, the goal of marriage sometimes doesn't get accomplished because the husband and wife fight a lot. If that fight isn't controlled, it will lead to domestic violence, which usually hurts women (wives). This is evident from the data that is held by the Centre for the Protection of Women and Children (P3A) in the city of Medan regarding cases of violence against women that took place in 2022. Among the cases of violence against women, violence against wives is at the top. At the very least, as of August 2022, WUA had received reports of 703 cases, with 641 cases of violence against wives. WUA has always been concerned about cases of violence against wives because these were adult women who became housewives.



Source : Dinas PPPA Provsu, 23 Agustus 2022

Figure 2: Gender breakdown of the proportion of women and children who have been the victims of violence in North Sumatra in 2022

The data above indicate that approximately 76.0% of wives in the city of Medan are victims of domestic violence where the husband is responsible for 89.0 % of the perpetrators. This proves that there is a need for special guidance for women so that they can protect themselves when they are treated in the form of violence, either verbally or physically. The reason is that domestic violence is considered a disgrace if the women take legal action. Although basically every woman has the right to legal protection. This is because domestic violence does not only have an impact on psychology or mentality, as in the case that occurred in the city of Medan which the author described in the introduction caused the victim to lose his life. Based on reports that often occur, the forms of violence experienced by wives are physical violence, such as beatings, torture, psychological violence, such as humiliation, threats and neglect of the household. Human rights violations, crimes against human dignity, and other forms of discrimination must be eradicated from all forms of violence, particularly domestic violence.

Most of the time, women are the victims of domestic violence. Because of this, they need to be protected by the state or society to avoid violence or threats of violence, torture, or treatment that lowers a person's dignity and status. Based on this, legal reforms in favour of vulnerable or subordinated groups, especially women, are urgently needed. The number of instances of violence, particularly domestic violence by husbands against wives. This was one of the factors that went into passing Law No. regarding the Prevention of Domestic Violence Act of 2004. This regulation, as well as managing matters connecting with the counteraction and security and recuperation of survivors of aggressive behaviour at home, likewise explicitly directs brutality that happens in the family with components of a wrongdoing that is unique in relation to the crook demonstration of mistreatment as controlled in the Lawbreaker Code.

Law No. 23 of 2004 Article 5 states "Everyone is prohibited from committing domestic violence against people within the scope of his household, by:

- a. Physical abuse;
- b. Violence against the mind;
- c. Sexual violence; or
- d. Domestic neglect

Based on Article 6 of Regulation section 23 of 2004 the law states "Physical violence as referred to in Article 5 letter a is an act that causes pain, falls ill, or is seriously injured." The criminal provisions of No. 23 of 2004 From Article 44 to Article 53, Chapter VIII regulates Act. The lawbreaker arrangements for savagery committed by a spouse against his better half whose type of viciousness is actual brutality are controlled in Article 44 Section (1) to Passage (4) Law No. 44, Article 44 According to Section 23 of 2004:

- 1) Article 5 letter a stipulates that anyone who engages in domestic violence will be subject to a maximum penalty of five years in prison or a fine of Rp one million fifteen million Indonesian rupiahs
- 2) The offender shall be punished with a maximum sentence of ten years in prison or a fine of thirty million pesos if the offense described in paragraph (1) causes the victim to become seriously ill or injured thirty million rupiah
- 3) If the act described in paragraph (2) causes the victim's death, the offender will be subject to a maximum sentence of 15 years in prison or a fine of Rp.45,000,000.00; (forty-five million rupiahs)
- 4) If the act described in paragraph (1) is committed by a husband against his wife or vice versa and does not result in illness or prevent him from carrying out his official job, livelihood, or day-to-day activities, the husband is subject to a maximum sentence of four months in prison or a fine of five million rupiahs

Based on article 50 of Law no. 23 of 2004 stipulates "Judges may impose additional sanctions in the form of the following in addition to the ones discussed in this chapter: a. Determination of perpetrators participating in a counselling program under the supervision of specific institutions; b. Restrictions on the perpetrator's movement, both aimed at keeping the

perpetrator away from the victim within a certain distance and time; and c. Limitations on the perpetrator's rights. Article 51 specifies that "The lawbreaker demonstration of actual viciousness as alluded to in Article 44 section (4) is a grumbling offense."

4.2 Law Enforcement Efforts for Victims of Domestic Violence in Medan

In fact, strict legal guidelines have been established to provide victims of violence with legal protection. Types of aggressive behaviour at home have changing degrees of brutality, this should be visible from the different effects of viciousness on casualties, with the goal that various assents ought to be applied. Due to the perpetrator's economic and social dependence on the victim, the prison sentence outlined in the Criminal Code frequently presents a dilemma for the victim, which ultimately leads victims to refrain from reporting the violent crime they have witnessed. Age, education, socioeconomic status, religion, and ethnicity are just a few of the many characteristics that can distinguish violent victims. The meaning of victims according to Law No. 23 of 2004 concerning the Elimination of Domestic Violence are people who experience violence and/or threats of violence within the household. According to Arif Gosita, victims are those who suffer physically and spiritually as a result of the actions of others who seek to fulfil their own or other people's interests in a manner that is in direct opposition to the interests and human rights of the victims. Victims of domestic violence are currently not protected by the Criminal Code or the Criminal Procedure Code (KDRT). The two regulations are still very general, so they don't take into account the problems victims have getting legal help because of their gender, especially the context of patriarchal and feudal culture, as well as differences in class and social status that lead to inequality in social relationships particularly in domestic relationships are completely ignored by the Criminal Procedure Code and the Criminal Code. These regulations assume that everyone has the same rights and abilities to get justice.

According to Arif Gosita, victims have the following rights, which are outlined in Article 10 of the Law on the Elimination of Domestic Violence. These victims are entitled to protection, health services, special treatment, and assistance from social workers:

- a. Acquire restitution for his suffering.
- b. Refuse restitution for the perpetrator's benefit (does not want restitution because it does not require it);
- c. Acquire restitution or compensation for the victim's heirs in the event that the victim passes away as a result of the action.
- d. Receive treatment and rehabilitation;
- e. Regained his right arm;
- f. Receive protection from the threat posed by the perpetrator when reporting and serving as a witness;
- g. Seek legal counsel; and
- h. Utilize available legal options

It is hoped that victims of domestic violence will receive protection from the state and/or society as a result of this article's inclusion of their rights, preventing a prolonged traumatic experience. The preamble to the Law on the Elimination of Domestic Violence states that in order for victims of domestic violence, the majority of whom are women, to avoid and be free from violence or threats of violence, torture, or treatment that degrades the degree and dignity of humanity, they must receive protection from the state and/or society. The Law on the Elimination of Domestic Violence not only regulates the rights of victims, but it also regulates how the police, in conjunction with health professionals, social workers, companion volunteers, and/or spiritual mentors, protect victims of violence. Regarding the procedure for reporting incidents of domestic violence, victims can either directly report the violence to the police at the victim's location or at the scene of the incident, or they can authorize family members or other individuals to report the violence. Within one time twenty-four hours of learning or receiving the report of domestic violence, the police are required to provide the victim with temporary protection immediately after the crime is reported to the authorities. Legal protection must be granted within seven days of the victim's receipt or handling, and the police must submit a request to the court for a letter stipulating a protection order. Unless there is a good reason, the chairman of the court must issue a letter of determination with an order to protect the victim and other family members within seven (seven) days of receiving the application. A warrant of protection application can be made by:

- a. the person who was hurt or their family;
- b. the victim's friend;
- c. the police
- d. sidekick volunteer, or
- e. a spiritual mentor.

Protection applications can also be made in writing or verbally. The chairman of the District Court can issue a protection order within a maximum of one year and can extend it with a court order. As a result, the norm has been met regarding the protection of domestic violence victims; however, policies and actions are required to further implement these provisions.

Article 12 of the Law on the Elimination of Domestic Violence outlines the government's efforts to prevent domestic violence, which are as follows:

- a. develop strategies for the prevention of domestic violence;
- b. arrange education, communication, and information regarding domestic violence;
- c. organizes socialization and domestic violence advocacy; and
- d. establishes accreditation and standards for gender-sensitive services, organize gender-sensitive education and training, and address domestic violence issues.

It is anticipated that public awareness of married life, which is *sakinah mawaddah warahmah* and does not discriminate against parties considered subordinate, will increase as a result of efforts to prevent domestic violence.

However, in the event of domestic violence, the government and local governments can, in accordance with their respective responsibilities, offer victims services by attempting to:

- a. the establishment of a dedicated service area at the police station;
- b. the provision of medical equipment, social workers, health care providers, and spiritual guides;
- c. developing systems and mechanisms for parties to cooperate in service programs that are easily accessible to victims; and
- d. safeguard companions, witnesses, victims' families, and friends.

In addition, the criminal penalties for domestic violence perpetrators are regulated by the Law on the Elimination of Domestic Violence. These penalties include imprisonment, fines, and additional penalties such as:

- a. restrictions on the perpetrator's movement, both of which are intended to keep the perpetrator from the victim for a predetermined amount of time and distance and to restrict the perpetrator's rights;
- b. the perpetrators' decision to participate in counselling programs overseen by particular institutions.

The Law on the Elimination of Domestic Violence, on the other hand, establishes a different system of punishments for those who commit domestic violence. Those who do so could be imprisoned or fined. Since there are alternatives to imprisonment, perpetrators of domestic violence can choose to pay a fine instead of being imprisoned, it will therefore be unfair to the victims of domestic violence. As part of the Law on the Elimination of Domestic Violence, efforts to prevent and eradicate domestic violence must also be pursued jointly by the government, the community, and the victims of violence themselves. This is due to the fact that domestic violence of any kind physical, psychological, or sexual criminal offense, necessitating close cooperation from all parties.

V. CONCLUSION

According to the aforementioned research, it is possible to draw the conclusion that Law Number 23 of 2004 Concerning the Elimination of Domestic Violence provides legal protection for victims of domestic violence in a normative manner; however, these provisions require further implementation in the form of policies and actions. It is anticipated that this law will restore the rights of domestic violence victims and provide them with legal protection. In addition, every victim can be protected from acts of violence or threats of violence, torture, or treatment that diminishes their humanity. As a result, it is hoped that domestic violence cases in Medan can be resolved, particularly those involving women, so that victims do not lose their rights or even their lives. Because strict legal protection is available to virtually every violent victim.

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