



Legal Protection for Victims of Domestic Violence

Rospita Adelina Siregar^{1*}, Endah Labati Silapurna², Wilnan Fatahillah³, Oktaviana Hardayanti Adismana⁴, Wahab Aznul Hidayat⁵

¹Universitas Kristen Indonesia

²Universitas Lambung Mangkurat

³Sekolah Tinggi Agama Islam Minhajurroosyidin

⁴UNISKA Banjarmasin

⁵Universitas Muhammadiyah Sorong

Article Info

Article history:

Received 15 June, 2024

Revised 18 July, 2024

Accepted 24 July, 2024

Keywords:

Legal Protection,
Victims,
Domestic Violence

ABSTRACT

Domestic violence is any action that causes suffering or misery in the form of domestic violence, whether physical, sexual, psychological, or neglect of someone, especially women, within the household, victims of domestic violence are those who have a social position or status. the weak, which makes someone a victim, especially women and children. The method used in this research is a normative juridical legal research approach which then results in the conclusion that perpetrators of domestic violence will receive legal consequences in accordance with their motives for violence as explained in the Law on the Elimination of Domestic Violence, while the victims receive protection. their rights include protection from family, law enforcement agencies, social institutions, medical needs, confidentiality, legal assistance and assistance as well as spiritual guidance services

*Corresponding Author:

Rospita Adelina Siregar
Universitas Kristen Indonesia
Email: rospita.siregar@uki.ac.id

INTRODUCTION

Domestic Violence is an act committed against someone, especially a woman, which causes physical, sexual, psychological suffering and misery, or domestic neglect. These actions include threats, coercion, or unlawful restrictions on freedom, which occur in the context of family life.

According to Law Number 23 of 2004, domestic violence is defined as any action that causes suffering or misery in the form of domestic violence, whether physical, sexual, psychological, or neglect of someone, especially women, within the household.

It is hoped that the enactment of Law No. 23 of 2004 concerning the Elimination of Acts of Violence in the Family will be able to provide prevention and action against those who consistently commit acts of domestic violence and will become a legal umbrella for all family members themselves. Acts of domestic violence (KDRT) are human rights violations and are crimes against human dignity and a form of discrimination that must be eliminated. Humans have the right to life which forces every human being to respect it and which requires every human being to defend it. No one has the authority to end his life or leave his body and soul unprotected. Whoever does that is doing something that is contrary to humanity.

"Domestic violence is often called hidden crime, because the perpetrator and victim try to keep the act or violence a secret from public view." Perpetrators of violence usually have a greater power status, both in terms

of economic, physical power, and social status in the family, "in its development, some victims of domestic violence find it difficult to file or complain about violence committed by their own husbands to law enforcement officials, because "Domestic violence itself is often seen as a private or household matter,"

Domestic violence can occur due to the low ability of family members to adapt to each other, so that family members who have power and strength tend to use domination and exploitation against weaker family members. Domestic violence can also arise as a result of environmental interventions outside the family which influence the attitudes of family members, especially parents or heads of families, and is reflected in exploitative treatment of family members.

Domestic violence also originates from conflict within the household itself between husband and wife or between parents and children which triggers the violence itself. Problems in the household are actually a normal thing in a family, what is different is how to deal with and resolve these problems. If the problem is resolved well, each family member will learn a valuable lesson from the problem. However, if conflicts are resolved unhealthy, conflicts will become more frequent and will lead to domestic violence.

The intimate relationship between the perpetrator and the victim means that domestic violence is still seen as part of private law so that cases are more often resolved peacefully or resolved internally by the family. Ironically, domestic violence cases are often covered up by the victims themselves due to various causes, including cultural factors, religion, knowledge and a legal system that is not optimal. Based on this introduction, this research will discuss legal protection for victims of domestic violence.

RESEARCH METHODS

In this research, the author uses a normative juridical legal research approach, namely research that focuses on examining the application of rules or norms in positive law, namely statutory regulations, legal theories related to the problems to be discussed. According to Johnny Ibrahim, there are 7 (seven) approaches in normative legal research, namely: "Statutory approach), conceptual approach, analytical approach, comparative approach, historical approach. approach), philosophical approach, and case approach".

The research specification in this research is analytical descriptive research. Descriptive means that in this research the author intends to describe and explain in detail, systematically and comprehensively everything related to legal aspects that need to be considered in relation to the problems to be studied.

RESULTS AND DISCUSSION

Forms of Domestic Violence

In general, domestic violence is more often perpetrated by men who feel they are earning a living and view their wives and children as weak creatures, coupled with a wife who is only a housewife who does not get income from anywhere other than her husband. , this is the dilemma that makes a wife very afraid of her husband and sometimes she is willing to be treated as she pleases by her husband, of course the wife does not dare to do anything, such as fight back and does not dare to report it to the authorities. We need to realize that children are assets that must be protected, therefore children's rights from birth must be fulfilled according to applicable law. Protecting children is not only the obligation of their biological parents, but is our obligation as humans.

Law no. 23 of 2004 concerning the Elimination of Domestic Violence has prohibited various acts of domestic violence (KDRT). Domestic violence (KDRT) can be defined as acts of violence committed by a caregiver, parent or partner. Domestic violence can be shown in various forms, including: physical violence, use of physical force; sexual violence, any forced sexual activity; emotional violence, actions that include threats, criticism and putting down that occur continuously; and control over obtaining money and using it.

Law No. 23 of 2004 concerning the Elimination of Domestic Violence in Article 1 point 1 states that domestic violence is any act against a person, which results in physical, sexual, psychological misery or suffering, and/or domestic neglect, including threats to commit unlawful acts, coercion or deprivation of liberty within the household sphere. Article 2 paragraph 1 states that the scope of households in this Law includes: 1) Husband, wife and children (including adopted children and stepchildren); 2) People who have family relations with the person referred to in letter a due to blood, marriage, breastfeeding, care and guardianship, who live in the household (in-laws, in-laws, in-laws and in-laws); and/or 3) People who work to help the household and live in the household (domestic workers/PRT).

Forms of domestic violence (domestic violence) are as follows:

Sexual Violence, Sexual violence in the context of domestic violence, according to Article 8 of the Domestic Violence Law, refers to acts of forced sexual intercourse carried out against someone who lives within the household. It also includes forced sexual relations between one member of a household and another person, whether for commercial or other specified purposes.

Physical Violence, According to Article 6 of the Domestic Violence Law, physical violence can be described as an action that causes pain, falls ill, or causes serious injury to someone.

Psychological Violence, According to Article 7 of the Domestic Violence Law, psychological violence can be defined as actions that produce fear, loss of self-confidence, loss of ability to act, feelings of

helplessness, and/or severe psychological suffering in a person.

Domestic Abuse, Article 9 of the Domestic Violence Law stipulates that household neglect can be described as an action where a person does not fulfill the obligation to provide life, care or maintenance to people within the scope of their household, even though legally or by agreement they have this responsibility.

Apart from that, neglect also includes someone's actions that limit or prohibit that person from working properly, both inside and outside the home, so that the victim becomes economically dependent and under that person's control.

Legal Protection for Victims of Domestic Violence

Enforcement of criminal sanctions is part of law enforcement which needs to be implemented firmly so that cases of domestic violence can be reduced and even eliminated as is the aim of the implementation of Law No. 23 of 2004 concerning the Elimination of Domestic Violence." Law enforcement needs to continue to strive so that by overcoming obstacles that become obstacles, domestic violence cases can be resolved and able to provide justice for victims who have suffered and been harmed by the actions of perpetrators of violence.

A perpetrator of physical domestic violence based on "the provisions of Article 44 paragraph (1) can be punished with imprisonment for a maximum of 5 (five) years or a fine of a maximum of Rp. 15,000,000 (fifteen million rupiah), if this physical violence results in the victim falling ill or being seriously injured then Article 44 paragraph (2) stipulates that the perpetrator can be punished with imprisonment for a maximum of 10 (ten) years or a fine of up to a lot of Rp. 30,000,000,- (thirty million rupiah).

Criminal sanctions for perpetrators of physical violence will be increased in Article 44 paragraph (3) if it results in the death of the victim with a maximum imprisonment of 15 (fifteen) years or a maximum fine of Rp. 45,000,000,- (forty-five million rupiah). Sanctions for perpetrators of physical violence can be reduced as regulated in Article 44 paragraph (4) if the physical violence committed by the husband against his wife does not cause illness or obstacles to carrying out work or livelihood or daily activities with a sanction of up to 4 (four) imprisonment.) month or a maximum fine of Rp. 5,000,000,- (five million rupiah).

For perpetrators of psychological violence, based on the provisions of Article 45 paragraph (1), every person who commits acts of psychological violence within the household as referred to in Article 5 letter b shall be punished with imprisonment for a maximum of 3 (three) years or a fine of a maximum of IDR. 9,000,000,- (Nine million rupiah) and in Article 45 paragraph (2) states that in the event that the act as intended in paragraph (1) is carried out by the husband against the wife or vice versa which does not cause disease or obstacles to carrying out work or livelihood or daily activities, shall be punished with imprisonment for a maximum of 4 (four) months or a fine of a maximum of IDR 3,000,000.00 (three million rupiah)." With the enactment of Law Number 23 of 2004, it is hoped that there will be awareness among victims to report to the authorities or legal officers if an act of domestic violence occurs.

According to Law No. 23 of 2004 concerning the Elimination of Domestic Violence, which states that the rights of victims are protected, as regulated in Article 10, victims of domestic violence have the right to: 1) Protection from the family, police, court, prosecutor's office, social institutions, advocates, or other parties, either temporarily or based on the determination of a protection order from the court; 2) Medical needs in accordance with health services with; 3) Special handling related to victim confidentiality; 4) Assistance by legal aid and social workers at every level of the examination process in accordance with the provisions of Peruvian regulations; And 5) Spiritual guidance services.

CONCLUSION

The conclusion in this research is as explained in Law Number 23 of 2004, that Domestic Violence is any action that causes suffering or misery in the form of domestic violence, whether physical, sexual, psychological, or neglect of someone, especially women, within the scope of household. Perpetrators of domestic violence will receive legal consequences in accordance with the motive for their violence as explained in the Law on the Elimination of Domestic Violence, while victims will receive protection for their rights, including protection from family, law enforcement agencies, social institutions, medical needs, confidentiality, assistance and legal assistance and spiritual guidance services.

SUGGESTION

For law enforcers, if domestic violence occurs and goes through trial, it must be carried out in accordance with existing regulations and in accordance with applicable laws

REFERENCES

- Annisa, Pengertian KDRT, Bentuk dan Hukumnya, Sumatera Utara : UMSU, 2023/<https://fahum.umsu.ac.id/pengertian-kdrt-bentuk-dan-hukumannya/>
Undang-undang Nomor 23 Tahun 2004 tentang Penghapusan Tindakan Kekerasan Dalam Rumah Tangga
Djoko Prakoso, Kedudukan Justisiabel Di Dalam KUHAP, Jakarta: Ghalia Indonesia, 2006, 14.
Moerti Hadiati Soeroso, Kekerasan dalam Rumah Tangga dalam Perspektif Yuridis-Viktimologis, Jakarta: Sinar

- Grafika, 2006.
- Damara Wibowo, Perlindungan Hukum Terhadap Korban Kekerasan Dalam Rumah Tangga Menurut Hak Asasi Manusia Selama Proses Penyidikan, Jurnal USM Law Review Vol. 4 No.2 Tahun 2021.
- Nopiana Mozin and Maisara Sunge, "Pemberian Edukasi Dan Bantuan Hukum Terhadap Anak Korban Kekerasan," Jurnal Ius Constituendum 6, no. 1 (2021). <http://dx.doi.org/10.26623/jic.v6i1.2485>
- Andrew Lionel Laurika, 2016, Perlindungan Hukum Terhadap Korban Tindak Pidana Kekerasan Dalam Rumah Tangga.