

PREVENTION OF DOMESTIC VIOLENT IN HOUSEHOLDS: PREVENTIVE AND INSTITUTIONAL APPROACHES

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Abstract

Domestic violence is a criminal offense as regulated in the Law of Domestic Violence Elimination. Domestic violence still occurs in various regions, including South Sulawesi, Wajo Regency. This situation is concerned by the government and the local community. The issue of domestic violence not only causes polemics for perpetrators and victims but also for the community. These problems can also be a source of violations of social norms and other legal norms. For this reason, the available legal highlight requires preventive measures from both the central and regional governments and all elements of society. Dissemination of the Domestic Violence Act discusses criminal acts in domestic violence in terms of forms of domestic violence, criminal sanctions for perpetrators, victims' rights and domestic violence handling by local governments through particular institutions or units for protection and handling of victims of domestic violence. With the socialization of this law, it is expected to be able to prevent and minimize the occurrence of cases of domestic violence and to provide changes in the life values of the local village community.

Keywords: crime, domestic violence, victim, prevention.

INTRODUCTION

The nature of marriage in Law No. 1 Year 1974 concerning Marriage (hereinafter referred to as the Marriage Law), namely the establishment of a strong bond between husband and wife both physically and mentally to jointly create a happy family. It is undeniable that in a household there will be differences of opinion, quarrels because basically the personalities between husband and wife are different, both family backgrounds, ethnicity, culture and other things. This, in turn, led to acts of domestic violence (KDRT). In Indonesia, the issue of domestic violence is not new, we often find it on news both in print and electronic media about the occurrence of domestic violence (Dince Kodai: 2018). Data from the National Human Rights Commission since 2018-2019 (especially the National Commission for Women) shows that there has been an increase in cases of violence against women

and children, which is 406,178 cases, up around 14% compared to the previous year, which was 348,446 with the main cause being dominated by acts of violence in the household. The data shows that there are 30 provinces in Indonesia where violence against women occurs. In South Sulawesi province, according to data presented by the Office of Women's Empowerment and Child Protection of South Sulawesi Province, during 2019 there were 1,798 cases of violence against women and children recorded and the majority of perpetrators turned out to be people who had family ties or were close to the victims and even their own families. Domestic violence cases in Wajo Regency presented in the Makassar Tribunnews during the 2016-2017 period continued to increase. Based on data presented by the Head of the Wajo Police Department (Service Unit for Women and Children/PPA), Bripka Risnawati. The causes of domestic violence include infidelity and economic factors. Violence also occurs not only by husbands but also by wives.

Women and children are family members who are most often victims of domestic violence (Eliaz Zadrach: 2018). The concept of a patriarchal culture and misinterpreting religious provisions which considers men as the head of the family who are considered to have the right to determine policies and steps to be taken by family members. In the end, family members cannot freely develop themselves and their potential. Domestic violence events are often ignored because they are considered taboo to the public (Soeroso: 2010). During the Covid-19 pandemic, domestic violence acts often occurred, based on WHO data in all countries where the Covid-19 pandemic has occurred, there have been a number of cases of domestic violence experienced by its citizens. In Indonesia, the results of an online survey by the National Population and Family Planning Agency (BKKBN) of more than 20,000 families, 95% of the families reported stress due to the pandemic and social restrictions. This happened in April-May 2020. Komnas Perempuan data during the outbreak until April 17, there were 204 complaints of violence against women via electronic mail and divided into 268 complaints via telephone and 62 via letters (media Indonesia: 2020).

For this reason, the Hasanuddin University Faculty of Law service team held legal outreach activities regarding the Law on the Elimination of Domestic Violence in the community of Lapaukke Village, Wajo Regency. To provide a broad and clear understanding of the issue of domestic violence crime and how to overcome and prevent what can be done by the local village government as the policy making authority in the partner's location.

METHOD

Socialization of Law No. 23 Year 2004 concerning the Elimination of Domestic Violence is carried out by compiling guidebooks and information boards related to domestic violence crimes. Thus, it is hoped that through this guidebook and information board it can provide information, understanding and knowledge related to the crime of domestic violence, forms of domestic violence, victims' rights, criminal sanctions and government obligations in preventing and overcoming domestic violence for village communities and village government officials. With the hope that this socialization will become an effort to reduce the number of domestic violence that occurs and efforts to prevent it. The form of the implementation of this activity is:

1. The preparation of the guidebook material is carried out based on the material exposure from the resource persons. The resource persons consist of 2 people, namely one lecturer at the Faculty of Law, Hasanuddin University and another person who is an advocate from the neat Legal Aid Institute (LBH) South Sulawesi Region.
2. The materials are entered into the guidebook by the resource person in accordance with the theme of the activity, including basic understanding and knowledge of the legal basis for criminal acts of domestic violence, forms of protection for victims of domestic violence including the rights of victims of domestic violence, reporting procedures and participation government authority (involvement) including village officials in efforts to provide protection and prevention of domestic violence.

The targets of the socialization activities are the community and government officials from Lapaukke village, Pammana District, Wajo Regency. With a population of ± 1946 people and among them ± 495 people as the Head of the Family. So that for the productive age and household in the village it is appropriate to be the location for the socialization of the PKDRT Law.

DISCUSSION

Household and Protection for Victims of Domestic Violence

The dominance of men as the head of the family also has an impact on married life. This is the reason why the husband, as the head of the family, is sometimes the party who feels entitled to have any attitude towards his family members. The dependence of women on men overshadows married

life. That way sometimes the husband can act arbitrarily towards other family members (Eliaz Zadrach: 2018). At the time of reporting, it was discovered that the action was an action that had been done repeatedly, but only then was reported for the first time. Fear and there is still a stigma that acts of domestic violence are a family disgrace, often causing victims not to report these acts of domestic violence to the police. So that many acts of domestic violence are not disclosed or reported to the authorities by the families who experience it (Rini Rimawati: 2017).

The scope of both victims and perpetrators of domestic violence in this law are members of the family of the household concerned, namely:

1. Husband, wife and children;
2. People who have family relations with the person as referred to in letter a due to blood relations, marriage, breastfeeding, care and guardianship, who live in the household; and/or
3. People who work to help the household and live in the household (provided that the person is in the household for a certain period of time).

This law aims to provide protection for the rights of women and children from all forms of domestic violence which constitute a violation of human rights. In essence, human rights violations are part of a form of discrimination. Women, both inside and outside the household, are always confronted with their rights being marginalized before the rights of men. Women are still considered as figures who depend on their lives on both men and the head of the household. This action greatly intervenes women in their efforts to improve education and innovate so that they can work to earn a source of income. Therefore, protection for them and their children needs legal certainty as the constitution mandates (Eliaz Zadrach: 2018). The regulation of the rights of victims is explained clearly in Article 7 of the PKDRT Law as protection for victims, among others:

1. The right to protection from the family, police, prosecutors, courts, advocates, social institutions, or other parties either temporarily or based on the stipulation of a protection order from the court;
2. Entitled to health services in accordance with medical needs;
3. The right to special treatment related to the confidentiality of the victim;
4. Entitled to assistance by social workers and legal assistance at every level of the examination process in accordance with the provisions of laws and regulations; and
5. Entitled to spiritual guidance services.

The presence of Law Number 23 Year 2004 is a form of government and legislative effort in implementing the constitutional mandate to guarantee the rights of every citizen to get protection and live a safe and secure life free from threats. The legal politics of this law is as national legislation in an effort to prevent and eliminate domestic violence that has occurred so far, to provide legal protection for witnesses as well as victims of domestic violence including in court proceedings (Nadir: 2010). Violence in Article 89 of the Criminal Code stipulates that committing violence means illegally using non-small physical strength or force, for example, hitting with the hand or with all kinds of weapons, kicking, etc. which are equivalent to committing violence according to this article is making a person fainted, or helpless. Based on these provisions, the violence referred to if it is associated with acts of domestic violence includes physical violence. With the existence of the PKDRT Law specifically on domestic violence crimes, the forms of violence that are categorized as criminal acts of domestic violence are wider and not only physical violence. More broadly, Kristi Poerwandari details the forms of violence against women as follows: physical violence, such as hitting, slapping, choking and so on. Psychological violence, such as screaming, swearing, threatening, harassing and so on. Sexual violence, such as taking actions that lead to sexual advances, such as touching, kissing, forcing sexual intercourse without the consent of the victim, etc. as well as sexual relations that are carried out unnaturally. Violence has a financial dimension, such as taking the victim's money, detaining or not fulfilling financial needs and so on. Spiritual violence, such as degrading the beliefs and beliefs of victims, forces victims to practice certain religious rituals. Meanwhile, based on the results of research by looking at various cases that occurred in Indonesia, the forms of violence that occurred within the household sphere can be grouped as follows (Made Warka: 2015):

- First Physical Violence: a. Murder: 1. husband against wife or vice versa; 2. father to child or vice versa; 3. mother to child or vice versa (including mother's infanticide); 4. younger siblings to older siblings, children, brother-in-law or vice versa; 5. family members to servants; 6. mixed forms other than those mentioned above. b. Persecution: 1. husband against wife and vice versa; 2. father to son and vice versa; 3. mother to child or vice versa (including child abuse by mother); 4. younger siblings to older siblings, children, brother-in-

- law or vice versa; 5. family members to servants; 6. mixed forms other than those mentioned above. c. Rape: 1. father against daughter; biological father or stepfather and biological or stepchildren; 2. husband towards younger sibling or brother-in-law; 3. brother to younger brother; 4. husbands or male family members of domestic servants; 6. mixed forms other than those mentioned above.
- Second, Non-Physical/Psychic/Emotional Violence, such as: insults; comments intended to demean and injure the wife's self-esteem; prohibits wives from socializing; threats in the form of returning the wife to the parents; will divorce; separating the wife from their children and others.
 - Third, sexual violence which includes: isolation of a wife from her inner needs; forcing sexual intercourse in a pattern the wife does not want or approve of; forced sexual intercourse when the wife does not want, the wife is sick or menstruating; forcing a wife to become a prostitute or something.
 - Fourth, economic violence which includes: a. does not provide for the wife; b. takes advantage of the wife's dependence economically to control the wife's life; c. let the wife work so that her income is controlled by the husband, for example forcing the wife to become a woman who is called. The forms of domestic violence act according to the Law on the Elimination of Domestic Violence are listed in Article 6, Article 7, Article 8, and Article 9.

Regarding the handling of cases of domestic violence, there are still differences from the judicial process and the judges' decisions. In the decision of the Religious Court, it is easier for judges to pronounce divorce decisions on both parties, while women (victims) who are suing for a living, are sometimes granted but the issue of execution of decisions is difficult so that women and their children (victims) still do not get their rights. In the concept of legal protection for crime victims, there are several legal principles that require attention. This is because in the context of criminal law, actually the principles of law must color both material criminal law, formal criminal law, and criminal law enforcement. The principles referred to as follows (Arif Gosita: 1993):

1. Principle of benefit, meaning that the protection of victims is not only aimed at achieving benefits (both material and spiritual) for crime victims, but also for the benefit of society at large, particularly in efforts to reduce the number of crimes and create public order.
2. The principle of justice, meaning that the application of the principle of justice in an effort to protect crime victims is not absolute because this is also limited by the sense of justice that must also be given to the perpetrators of crime.
3. The principle of balance, that the purpose of law in addition to providing certainty and protection of human interests, is also to restore the balance of the disturbed community order to its original state (*restitutio in integrum*), the principle of balance has an important place in efforts to restore the rights of victims.
4. The principle of legal certainty, meaning that this principle can provide a strong legal basis for law enforcement officials when carrying out their duties in an effort to provide legal protection to victims of crime.

The enactment of the PKDRT Law is a responsive step towards the number of cases of domestic violence, legal politics that the government is trying to achieve in enacting Law Number 23 of 2004 (Nadir: 2010) as contained in Article 3 states that the elimination of domestic violence is carried out based on the principle respect for human rights; gender justice and equality; non-discrimination; and victim protection. The juridical basis for the formation of this law is the recognition and protection of human rights in Article 28 of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the UUD), and its amendments. Article 28G paragraph (1) of the Constitution stipulates that "Every person has the right to protect himself, family, honor, dignity and property under his control, and has the right to a sense of security and protection from the threat of fear to do or not do something which constitutes rights". Article 28H paragraph (2) of the Constitution stipulates that "Everyone has the right to receive special facilities and treatment to obtain equal opportunities and benefits in order to achieve equality and justice".

Based on the results of research on victims of domestic violence in the period 2011-2014, domestic violence that is often perpetrated is a form of physical violence, psychological violence and violence in the form of household neglect. The cause of domestic violence is dominated by family economic problems, due to jealousy, childcare problems and misunderstandings. In addition, the factors causing domestic violence are caused by the wife who does not take care of the household properly, prepares the needs of her husband properly and does not carry out her roles and obligations

as a wife (Sutiawati: 2016). It can be concluded that the domestic violence crime occurs because the husband or wife do not understand their role and position in carrying out domestic life.

In particular, domestic violence crime has received special treatment as regulated in the PKDRT Law. Both formal law and material law have been optimally regulated, this ensures that the PKDRT Law places great importance on protecting the rights of victims of domestic violence. Provisions related to criminal sanctions for acts of domestic violence are differentiated according to the categories of forms of domestic violence, among others in Articles 44, 45, 46, 47, 48, 49 and Article 50 of the PKDRT Law. Criminal sanctions for acts of domestic violence take the form of physical violence ranging from the threat of imprisonment for 4 months to 15 years, a fine of Rp. 3,000,000 (three million rupiah) to Rp. 45,000,000, - (forty-five million rupiah). For forms of psychological violence, they are threatened with imprisonment of 4 months to 3 years and a fine of Rp. 3,000,000, - (three million rupiah) to Rp. 9,000,000, - (nine million rupiah). Then the criminal sanction of violence related to sexual relations in Article 46 and Article 47 of the PKDRT Law carries a maximum imprisonment of 12 months with a fine of Rp. 36,000,000, - (thirty-six million rupiah) and a criminal offense in which the victim of domestic violence related to forced sexual relations is a person who lives in the household, with a criminal penalty ranging from 4 years to a maximum of 15 years with a minimum fine of Rp. 12,000,000, - (twelve million rupiah) and a maximum of Rp. 300,000,000,- (three hundred million rupiah) and if the act related to domestic violence in sexual intercourse results in mental, psychological disturbances, the death of the fetus in the womb or results in malfunctioning of the reproductive organs, the minimum punishment is 5 years to a maximum of 20 years or a minimum fine of Rp. 25,000,000,- (twenty-five million rupiah) up to a maximum of Rp. 500,000,000,- (five hundred million rupiah).

Domestic violence acts related to household neglect or often translated as neglect of obligations (for the needs of life). Where this category of domestic violence dominates various cases of household division. For example, a husband or wife who then goes to another area or region to work for a certain period of time. At that time, there was never any news and the obligation to support the children. The PKDRT Law then categorizes it as a form of domestic violence and carries a sentence of 3 years imprisonment or a maximum fine of Rp. 15. 000,000,- (fifteen million rupiah). In addition, there are additional criminal sanctions that can be imposed by judges in the form of restrictions on the movement of the perpetrator, both aimed at keeping the perpetrator away from the victim within a certain distance and time and limiting certain rights of the perpetrator and additional punishment in the form of determining the perpetrator to participate in a counseling program under the supervision of a certain institution.

In fact, law as a system will not be able to enforce the existing positive legal rules by itself, but requires other legal sub-systems to realize the objectives of the law. Likewise, the objectives of the PKDRT Law cannot be realized if law enforcement officials and the legal culture of society are not in line and in tune with the legal structure in running the legal system. The consistency of judges in deciding a domestic violence case will be good jurisprudence for the formation of laws and provide a deterrent effect for other perpetrators and society. Conversely, if the law enforcement apparatus as the last door where victims seek justice for the actions of perpetrators who in fact violate human rights do not impose criminal sanctions in accordance with what is stipulated in the PKDRT Law and justice for victims, of course this is a setback in steps to prevent domestic violence. Law enforcement of this law is very important to prevent recurring incidents of domestic violence occurring in the family environment and throughout society. The potential for other crimes from the existence of domestic violence also has the potential to cause other criminal acts, of course this is very concerning.

The Role of Government in Prevention and Prevention of Domestic Violence

Through the PKDRT Law, the government is the main element to overcome and prevent acts of domestic violence. In Chapter. V article 11, the competence of the government is determined as the party that has the responsibility for efforts to prevent domestic violence. in the framework of this responsibility the government can do:

1. Formulating policies on the elimination of domestic violence;
2. Organizing communication, information and education about domestic violence;
3. Organizing advocacy and outreach on domestic violence;
4. Organizing gender sensitive education and training and domestic violence issues as well as establishing standards and accreditation of gender sensitive services.

Related to the implementation of government duties and responsibilities carried out by the relevant ministries, including the ministry of women's empowerment and child protection (KemenPPPA) and in each provincial, regency/city government, a special unit related to the protection and management of victims of domestic violence is also established, namely the Integrated Service Center

for Women and Children. (P2TPA). As in West Java province, this government agency (P2TPA) is tasked with providing services that are fast, precise, and integrated in efforts to empower women and protect children. Therefore, this institution developed a vision: optimizing the quality of human resources (HR) through the protection and empowerment of women and children from violence in accordance with the principles of human rights based on faith and piety. With the main task of providing empowerment and protection for women and children in West Java, this institution makes various efforts to help the government fight violence that occurs in West Java. Various efforts were made to reduce the number of violence against women and children (KDRT) in West Java. This effort was carried out by the P2TP2A institution in collaboration with the government through the Women Empowerment Service for Child Protection and Family Planning (DP3AKB), West Java Province. One of the efforts made was to conduct socialization or communication of Law of the Republic of Indonesia No. 23 Year 2004 regarding the Elimination of Domestic Violence (Rini Rimawati: 2017).

CONCLUSION

Violence in household is a violation of basic human rights because everyone, regardless of gender, has the same right to receive equal treatment in the eyes of the law, the right to a decent life and various life systems and a sense of security from everything. threats or intimidation. Therefore, if domestic violence is carried out, the criminal sanction must be carried out by the judge in his decision as stipulated in the PDKRT Law. This is a commitment for law enforcers to provide fair laws for victims and perpetrators. Without legal certainty and consistency of law enforcement officials in handling domestic violence cases with existing legal principles. It is impossible to minimize or even eliminate the treatment of domestic violence.

The high commitment of the government and law enforcement officials will realize the goals of the PDKRT Law. Without the persistence of the government to continue to socialize the PDKRT Law and to speak out to the whole community it would not be possible to reduce the number of victims of domestic violence. Pre-marriage counseling needs to continue and is mandatory for prospective partners who want to get married in an effort to educate and provide understanding to the prospective husband and wife about the position, role, rights and obligations of each. Also provides advice regarding the picture of married life. The involvement of elements of society is needed to support various policies of the central and regional governments in the framework of preventing and overcoming domestic violence. Provision and activation of special units for women empowerment and child protection services in every government at the village/district and sub-district levels. So that the development of skills and abilities of women and children continues to be improved so that they can keep themselves busy with activities that are useful and produce usefulness for themselves and their families.

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