

Effectiveness Of Act Number 23 Of 2004 Regarding Elimination Of Violence In Household (PKDRT) Against Psychological Violence In Semarang

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Abstract. Every family dreams to build family harmony, happy and loved each other, but in fact many families are feeling uncomfortable, depressed and sad because of violence in the family, whether the violence is physical, psychological, sexual, or neglect.

Purpose of the effectiveness of the implementation of Act Number 23 of 2004 on the Elimination of Domestic Violence against psychological violence in the city of Semarang, namely: to determine the effectiveness of the implementation of Act Number 23, 2004. The method used Soerjono Soekanto said that the effectiveness of the implementation of the law in a society is determined by several factors, namely (1) the rule of law, (2) law enforcement officials, (3) legal facilities, (4) community and (5) culture. The approach I use in this study is a sociological juridical legal approach, ie an approach by examining the secondary data first, followed by conducting research in the field of primary data. The results showed that effect implementation of Act Number 23 of 2004 in reducing psychological violence in the city, namely (1) the perceived inadequate (2) and ineffective. This is evident from the level of psychological domestic violence volatile and without a significant decrease. Suggestions authors hope that the government and relevant institutions more concerned about PKDRT and routinely provide information, education and prevention of domestic violence.

Keywords: Effectiveness; Psychological Violence; Domestic.

1. Introduction

In the domestic, ideally in the life of every person crave harmonious family, where family is a small group consisting of father, mother and children.³ In fact in a family is not always in line with original expectations. Conflicts sometimes arise between husband and wife, disagreements, debates often arise even teasing was common place thus triggering a fight that led to the violence.

Data from the Legal Resources Center for Gender Justice and Human Rights (LRC-KJHAM) in Semarang recorded number of cases of domestic violence (domestic violence) in 2015 there were 155 cases, in 2016 there were 177 cases and in 2017 there were 118 cases. While data PPT SERUNI in Semarang showed cases of domestic violence (domestic violence) in 2015 there were 188 cases, in 2016 there were 199 cases, in 2017 there were 305 cases and in 2018 there were 307.

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³ Lubis Salam, 2010, *Menuju Keluarga Sakinah Mawaddah Dan Warahmah, Terbit Terang*, Surabaya, Pg. 7

Women as victims often found women given by nature a weak creature, it must be protected both dignity and status.⁴

Act Number 23 of 2004 on the Elimination of Domestic Violence (PKDRT) which includes among other things on the prevention, protection of victims and prosecution of perpetrators of domestic violence, while maintaining the integrity for the sake of family harmony.

This study will look at the psychological domestic violence under Article 7 of Act Number 23 of 2004 on the Elimination of Domestic Violence (PKDRT), namely:⁵

Psychological violence as referred to in Article 5 letter b is an act that resulted in fear, loss of confidence, loss of ability to act, a sense of helplessness, and / or psychic suffering on someone.

Handling of psychological violence are in fact very difficult because of evidence that psychological violence is very difficult and takes more time than the physical violence, sexual abuse or neglect of household.

The phenomenon is a dilemma considering Indonesia is a country of human rights that respects every society, as set in the Constitution of the Republic of Indonesia Year 1945, as previously described, especially when looking at cases of psychological violence in which enforcement of the law against such cases is increasingly vague and unclear.

After fifteen years in force, this Act on the one hand reaped much praise for being able to overcome some of the problem of domestic violence more easily, but on the other hand were not a little criticism. This is because there are still many domestic violence occurs, so that raises the question of effective implementation of Act Number 23 of 2004 on the Elimination of Domestic Violence in the city of Semarang.

Based on the facts, the authors propose the formulation of the problem as follows: "How Effectiveness of the Implementation of Act Number 23 of 2004 on the Elimination of Domestic Violence Against Psychic Violence in Semarang?"

Research methods

The methods to be used in conducting research in order to prepare this paper is as follows: The approach used in the research journal of this law is the law juridical sociological approach or legal research in sociology, namely an approach by examining the secondary data first and then proceed to conduct research in the field of primary data.⁶

Specifications research used in this research is descriptive analysis that describes the state of the object under study and a number of factors that affect the acquired data to be collected, compiled, described and analyzed. Descriptive research is research that aims to paint a picture of something in certain areas and at certain times.⁷

⁴G. Widiartana, 2010, *Kekerasan Dalam Rumah Tangga (Perspektif Perbandingan Hukum)*, Atma Jaya Yogyakarta, Pg. 5-7

⁵Act on the Elimination of Domestic Violence, Reader Student, Yogyakarta, 2011, Pg. 6

⁶Kartini, Kartono, 2010, *Pengantar Metodologi Research*, Alumni, Bandung, 1976, Pg. 7

⁷Roni Hanitjo Soemitro, 1982, *Metodologi Penelitian Hukum dan Jurimetri*, Ghalia Indonesia, Jakarta, Pg. 35

To obtain an accurate and objective data, so in this study conducted two (2) ways of collecting data, primary data and secondary data. These data can be obtained through:⁸ a) Primary data; Primary data was obtained by conducting field research by conducting interviews, namely how to obtain information by asking questions directly to the informant or the preset samples. b) Secondary Data. Secondary data were obtained through library research, which studied literature essay jurists and legislation associated with the object and problems studied This secondary data in the form of: Primary legal materials, namely legislation relating to domestic violence, namely: the 1945 Constitution, the Criminal Code, Criminal Procedure Code and Law 23 of PKDRT. Secondary law, namely books, papers, and articles from the internet relating to Law 23 of PKDRT. Tertiary legal materials, namely legal dictionary, encyclopedia and dictionary.

Data collection technique are Interview and Study Documentation. The interview is the process of obtaining information for research by way of question and answer face to face between the interviewer with the informant that has to do with research. As for the informant in this research is the PPT SERUNI KJHAM LRC Semarang and Semarang related to the implementation of the Law on the Elimination of Domestic Violence in the city of Semarang. This documentary study conducted by researchers by collecting the data written through the archives (criminal case file), including the books about the opinions, theories or law books related to the theme of this research.

The collected data is analyzed to obtain clarity on the issues to be discussed. All data have been collected in the edit, in though, and arranged systematically for further presented in descriptive form which is then summed. In the data analysis, the authors used a qualitative method means that all the data was analyzed intact so it looks the picture of systematic and factual.

2. Results and Discussion

Data of domestic violence in 2017, the number of reported cases rose by 74% from 2016, which amounted to 348 446, this number jumped considerably compared with the previous year at 259 150.⁹

Diagram 1 Bentuk Kekerasan terhadap Perempuan



⁸Soerjono Soekanto and Sri Pamudji, 1985, *Penelitian Hukum Normatif*, Radjawali, Jakarta, Pg. 35

⁹Komnas Perempuan, 2018. *Tergerusnya Ruang Aman Perempuan Dalam Pusaran Politik Populisme, Catatan Kekerasan Terhadap Perempuan Tahun 2017*, Jakarta, Pg. 13.

Data: Handling Situation Report on Violence Against Women In 2017

Based on the data obtained it appears that psychological violence (848 or 33%) and sexual violence (733 or 29%) dominate forms of violence against women that occurred in 2017.

Examples of the data obtained from the PA Semarang with Decision Number 2292 / Pdt.G / 2017 / PA.Smg., Wife filed for divorce to sue because of a dispute, quarrel until hitting limbs jealous wife who caused the wife to her husband because selling environment PSK localization Sunan Kuning Semarang. That is the wife of a psychic experience domestic violence as the issue has been discussed between husband and wife with a husband but still selling environment PSK localization *Sunan Kuning* so that the wife suffered physical domestic violence because of a beating and suffered psychological violence caused jealousy which resulted in the wife disturbed soul. Soerjono Soekanto mentions five factors that determine the effectiveness of the law or a law, namely the rule of law, law enforcement facilities, law enforcement, public awareness and legal culture.¹⁰

2.1. pandect

The rule of law addressing domestic violence has been clear that all the provisions of Act Number 23 of 2004 on the Elimination of Domestic Violence. Soerjono Soekanto as cited I Made Arya Utama said that the rule of law can be effective if it qualifies enforceability in the juridical aspect, sociological and philosophical.¹¹

If certain legal rules have fulfill the requirements of enforceability of the three aspects of the case of violation against him will be easily enforced. In this PKDRT Act, juridical requirement is fulfilled. This can be seen by the application of the formulation process in accordance with the rules of procedure applicable legislation.¹² Philosophically, the rules in the Act PKDRT the elaboration of philosophical values enshrined in the Indonesian state of Pancasila and the 1945 Constitution Sociologically, the rules contained in the Law on Elimination of Domestic Violence can be accepted by most people as a brilliant idea that is intended to resolve the impasse marital conflict before the law.

Constraints in the effectiveness of this Act, as it turned out in the Act Number 23 of 2004 on the Elimination of Domestic Violence was not found understanding of the juridical of pain, sickness, or serious injury, whereas this sense the most important to determine and prove what kind of actions undertaken by perpetrators, suspects, defendants, and therefore these notions should be sought in the Criminal Code and Jurisprudence.¹³

2.2. Enforcement Law

¹⁰ Mohammad Hatta, 2010, *Sistem Peradilan Pidana Terpadu*, Galang Press, Yogyakarta, Pg. 4.

¹¹ I Made Arya Utama, 2010, *Hukum Lingkungan*, Reader Silk, Bandung, Pg. 5

¹² The process of law making starts with the preparation of the draft law and an academic text, then discussed openly in order to get input from all elements of society as a representative, has been discussed in the legislative assemblies and then be approved with the president and DPR.RI. After the law was signed by the President and promulgated in the State Gazette Number 95 of 2004

¹³ Interview with Raudlatul Maunah, Division of Legal Assistance in PPT chrysanthemum, March 14, 2019.

One of the breakthroughs law made through Act Number 23 of 2004 on the Elimination of Domestic Violence is about the roles of law enforcement authorities, particularly the police, lawyers and the courts to provide protection and services for victims of domestic violence, especially with the exclusion of the mechanisms for the protection of the courts for the safety of the victim.

The authorities have done their best, but there are things to be the main obstacle in law enforcement for the handling of psychological violence, domestic violence is the proof. In proof of psychic domestic violence is not as easy as proof of physical violence, in contrast with the proof in the physical abuse is clearly visible the invisible, psychological violence is the soul, the spiritual and mental as well as mental illness that can only be perceived by the victim. The solution of these factors then demanded foresight in implementing the theory of proof for victims of psychological violence in the family.¹⁴

2.3. amenities Law

Amenities law are all means by which law is applicable and legal objectives can be achieved.¹⁵ Following up on the implementation of Law on Elimination of Domestic Violence, the government provides sufficient legal facilities varied and responsive. In addition to the provision of facilities such as the common law provision of police stations, prisons, courts, detention cars, stationery and others, law enforcement PKDRT also equipped with special facilities.

For facilities that make this law becomes ineffective seen from the lack of a unified judicial handling of domestic psychological violence makes victims through the process of examination, investigation, trial may bring suffering recurring doubled. In addition, the facilities provided so far can be said to be inadequate. The ratio between the number of population, area and the facilities provided have not been balanced.¹⁶

2.4. Public

To see the effectiveness of the law in society, can be seen at the level of legal awareness. Legal awareness is generally understood as the willingness of citizens to respect the law in the sense that comply with the ban and executes the commands listed in the rule of law and awareness of the values contained in man, about the existing law or of the law to expect there.¹⁷

Noted that over the years, efforts to develop legal awareness through counseling has been reduced by the government into a mere awareness of the obligations incurred by

¹⁴ Interview with Raudlatul Maunah, Division of Legal Assistance in PPT chrysanthemum, March 14, 2019.

¹⁵ Soerjono Soekanto, 1983, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, King Grafindo Persada, Jakarta, Pg. 35

¹⁶ Interview with Raudlatul Maunah, Division of Legal Assistance in PPT chrysanthemum, March 14, 2019.

¹⁷ Husain Kasim, HM Djafar Husein Saidi and Alting, "Legal Awareness of Tax Obligation and Retribution towards the Increase of the Regional Original Revenue of City of Tidore Archipelago", Paper, Graduate University of Hasanuddin, Makassar, February 17th, 2019

law. According Soetandyo paradigm can be regarded as nothing more than a policy which makes citizens as the object of law enforcement alone.¹⁸

There is a gap between the legal concepts in the Act PKDRT with public understanding about domestic violence in the community. The stigma that wives who reported both physical and psychological violence experienced is to dismantle the family disgrace. A husband as head of the household is responsible for educating his family so violent forms of violence both physical and psychological violence against women is allowed, and considered a reason "discipline" or "education".

2.5. Culture

In terms of family law inherent in customary law in Indonesia basically there are three systems of kinship or kinship, namely:

- Patrilineal kinship systems that kinship systems that draw lineage from the male line (father), the system was adopted in Tapanuli, Lampung, Bali and traffic-other.
- Matrilineal kinship system is an interesting system of kinship lineage of female line (mother), the system was adopted in the West Sumatra (remote areas).
- Parental kinship systems that kinship systems that draw lineage from the male line (father) and female (mother), the system was adopted for Java, Madura, South Sumatra and others¹⁹

Whatever kinship system adopted in a culture, to make a happy family there will be no domestic violence. To get to the happy family is necessary to understand the rights and obligations of each individual in the family.²⁰ The wife and husband should be mutual understanding of rights and responsibilities. Additionally, the need to help each other without sorting according to gender. No jobs are classified according to gender, but there is only work in accordance with their respective capacities. A husband should be with his wife.²¹

Indonesian culture tend to grow in an environment that adheres to the idea of patriarchy. The conviction was based on the existence of male superiority value is above the level of women.

3. Closing

3.1. Conclusion

From discussion in this study, it could be concluded from the formula issues The effectiveness of the implementation of Act Number 23 of 2004 on the Elimination of Domestic Violence against Psychic Violence in the city, as follows:

Effectiveness Implementation of Act Number 23 of 2004 on the Elimination of Domestic Violence against Psychic Violence in Semarang inadequate or ineffective. Factors that determine the effectiveness of the law or a law, seen in: (1) Rule of Law,

¹⁸Sutandyo Wignyosubroto 2002, *Hukum Paradigma Metode Dan Dinamika Masalahnya*, Elsam and Huma, Surabaya, Pg. 39

¹⁹Sri Widoyatiwiratmo Soekito, 1989; *Anak Dan Wanita Dalam Hukum*, LP3ES, Jakarta, Pg. 58-59.

²⁰Muhammad Sholikhin, 2010. *Ritual dan Tradisi Islam Jawa, Nasi*, Yogyakarta, Pg. 245-256,

²¹Ali Muhammad Khalil Al-Shafti 2003, *Ilmtizam Membangun Komitmen Seorang muslim, Terj. Abdul Hayyi a, Kattani dan Sabarudin*, GIP, Jakarta. P. 34-37.

although not a significant issue, but should be considered to be repaired that is not the standard reference that details of psychic pain. (2) Factors Law Enforcement, difficulty in proving that law enforcement agencies should be keen to apply the theory of proof for victims of psychological violence. (3) Factors Legal Means, yet unification justice for domestic violence cases that need to provide recommendations to the government to build a facility in order to enforce the Law on the Elimination of Domestic Violence. (4) Public factor, low public awareness of the law, especially the law on violence in the home needed more information on the law.

3.2. Suggestion

Look still ineffectiveness Implementation of Act Number 23 of 2004 on the Elimination of Domestic Violence Against Psychic Violence in the city, psychological violence needs to be addressed Public because psychological violence is already a legal basis rather than as a problem in a family alone, but is a question of law which is a crime, because it is in the family needs to be invested tolerant and appreciative attitude among all family members. Governments and institutions concerned with domestic violence should be able to provide awareness to the victims of violence, whether physical or psychological violence that happened to him is not a disgrace that must be covered, but is a criminal act that should be reported and handled in accordance with applicable law.

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