

## Law Enforcement Against Perpetrators of Domestic Violence

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**Abstract.** *In Law Number 23 of 2004 concerning the Elimination of Domestic Violence, Article 1 states that "Domestic violence (KDRT) is any act against a person, especially women, which results in suffering or physical, sexual, psychological, and neglect of the household including threats to commit acts, coercion or deprivation of liberty unlawfully within the scope of the household". Domestic violence is a problem that is quite interesting to research and study because the number of reported domestic violence shows an increase from year to year. In this study, two problems will be examined, namely what are the factors that cause domestic violence and how to enforce the law for perpetrators of domestic violence. The method used by the author in compiling the journal uses the Normative legal method with the research specifications used in this study is the descriptive analysis type. The data collection technique used in this study uses literature studies, collecting data from the results of a review of library materials and secondary data including primary legal materials, secondary legal materials and tertiary legal materials. The data analysis technique in this study was carried out by qualitative data analysis. The results of the study of factors causing domestic violence are economic factors, then domestic violence is often considered only a misunderstanding in the family environment. In law enforcement for perpetrators, it is regulated in Law number 23 of 2004 concerning the Elimination of Domestic Violence, but law enforcers often apply articles in the Criminal Code in cases of domestic violence.*

**Keywords:** *Enforcement; Law; Perpetrators.*

### 1. Introduction

Humans are social creatures where they cannot live alone, they live in pairs and produce offspring or build a household. The household should be a place of shelter for all family members. However, in fact, many households are places of

suffering and torture because of violence. The problem of violence (especially in the household) is a form of crime that abuses and tarnishes human dignity, and should be categorized as a type of crime against humanitarian law. However, not all crimes contain elements of violence, and not all acts of violence can be said to be components of crime.<sup>1</sup>

Domestic violence is a problem that has long existed in society, Nawal El Saadawi illustrates how domestic violence has occurred since the emergence of a culture.<sup>2</sup>In Law Number 23 of 2004 concerning the Elimination of Domestic Violence, Article 1 states that "Domestic violence (KDRT) is any act against a person, especially women, which results in suffering or physical, sexual, psychological suffering, and neglect of the household, including threats to commit acts, coercion or deprivation of liberty unlawfully within the scope of the household."

There are two main triggers for domestic violence. First, economic factors. The economic factor in question is the husband's income problem, so it often triggers arguments that result in physical violence. Economic reasons are generally the cause of the wife's demands who always ask for more from her husband, while the husband is unable to fulfill them. Another case is when the wife often insults, criticizes her husband and even curses him when there are problems in the household. Not because of lack of money, but because the wife can earn a higher income than her husband and fulfill all household needs. If the husband feels that he cannot accept being treated like that, then an argument occurs, which usually ends in physical violence. Second, the factor of infidelity. In addition to economic problems, it is usually not because of a shortage but excess or sufficient, so that in addition to fulfilling the needs of his household sufficiently, he also uses it to finance the life of the woman he is having an affair with, so that if he is slightly offended he immediately curses or hits his wife to cover up his affair.

According to data from the Ministry of Women's Empowerment and Child Protection, as of October 2022 there have been 18,261 cases of domestic violence throughout Indonesia, 79.5% or 16,745 victims were women. In addition to this data, what we can highlight from the data from the Ministry of Women's Empowerment and Child Protection is that domestic violence also affects men, as many as 2,948 victims. So, men and women should not be ignored because each has the risk of becoming a victim of domestic violence.<sup>3</sup>

As a state of law (*reechstaat*) the principle of the rules of law must be upheld in the Republic of Indonesia. For us, the principle of the rules of law is none other

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<sup>1</sup>Alimuddin, 2014, *Settlement of Domestic Violence Cases in Religious Courts*, Publisher CV. Mandar Maju Bandung, p. 38

<sup>2</sup>Nawal El Saadawi, 2001, *Women in Patriarchal Culture*, Pustaka Pelajar, Yogyakarta, p. 177

<sup>3</sup> <https://www.metrotvnews.com/play/b2lCrdXL-kemenpppa-rilis-data-nomor-case-kdrt-di-indonesia-untuk-oktober-2022> accessed on January 4, 2024 at 10.59 WIB

than the rules of justice, law enforcement that prioritizes the value of justice. Such a principle needs to be emphasized, because the discrimination in the application of law in reality is too striking. Legal products and their enforcement are more biased towards the ruling class, groups of people who have economic power or political power over others. The rights of people seeking justice who mostly come from powerless groups are always sidelined, substantive or sociological justice is always enjoyed by those who are powerful while the powerless only get formal justice. Such a situation in a newly independent country can still be understood because it concerns the availability of human resources.<sup>4</sup>

Domestic violence is an obstacle to development because violence can cause cumulative effects that are not simple. Domestic violence is a problem that is quite interesting to study and study because the number of reported domestic violence shows an increase from year to year. Based on the description of the background that has been presented, the author is interested in researching what are the factors that cause criminal acts of domestic violence and how to enforce the law for perpetrators of domestic violence according to Law number 23 of 2004 concerning the elimination of domestic violence.

## **2. Research Methods**

The method used by the author in compiling the journal uses the Normative legal method. The research specification used in this study is the descriptive analysis type. In this study, the author focuses on library research and primary materials in the form of applicable laws and secondary materials in the form of expert opinions, law books, journals and magazines. The data collection technique used in this study uses a literature study, collecting data from the results of a review of library materials and secondary data including primary legal materials, secondary legal materials and tertiary legal materials. The data analysis technique in this study is carried out with qualitative data analysis, namely data collection using laws, theories and legal principles.

## **3. Results and Discussion**

### **3.1. Factors Causing Domestic Violence**

Basically every family wants to build a happy family and full of mutual love both physically and mentally, in other words that every family really wants to be able to build a harmonious and happy family which is often called a *sakinah, mawaddah wa rahmah* family. In reality, not all families can run smoothly in navigating their lives, because in the family, happiness and mutual love and affection cannot be fully felt, but there is a sense of discomfort, stress, or sadness and fear and hatred among each other.

There are three theories underlying the causes of domestic violence. First, the biological theory states that not only animals have aggressive traits in

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<sup>4</sup>Satjipto Raharjo, 1983, Problems of Law Enforcement, Sinar Baru, Bandung, p. 19

themselves, but humans also have them since birth. Sigmund Freud stated that humans have a desire for death that leads them to enjoy the act of hurting and killing others or themselves. Meanwhile, Konrad Lorenz stated that aggressiveness and violence are two very useful things for survival. Second, the frustration-aggression theory states that everyone who is frustrated tends to be aggressive for the reason of venting their feelings. Third, the control theory states that humans who have unsatisfactory or inappropriate relationships can easily be forced to commit violence when trying to establish relationships with other humans face frustrating situations.<sup>5</sup>

Factors that cause violence against women in the household, especially that perpetrated by husbands against wives, are:<sup>6</sup>

- a) There is an unequal power relationship between husband and wife. Patriarchal culture places men or husbands at a higher level of power than women or wives, so that women are often considered as their husband's property when they are married. This creates inequality in the relationship because the husband has more power over his own wife.
- b) Economic dependency. Patriarchal education and culture that have become part of society provide the view that a wife should indeed depend on her husband. This phenomenon often makes some wives not used to being independent or economically empowered, so that when domestic violence occurs, the wife must survive. This kind of behavior also makes the husband feel that he has more power over his wife's helplessness.
- c) Violence as a tool to resolve conflict. Violence against wives usually occurs due to the husband's expectations not being in line with reality. Violence is carried out with the aim that the wife can fulfill his expectations without resisting because of her helplessness. This phenomenon is also still one of the cultural bases in society that if women or wives do not obey, then they must be treated harshly so that they become obedient.
- d) Competition. Basically, human life is full of competition and never wants to lose, as well as a husband and wife. Competition between husband and wife occurs due to inequality between the two to fulfill each other's desires, both in education, socializing, economic control, work environment and society can cause competition that can lead to domestic violence. Culture also creates the view that men should not lose or be lower than women, so it is not surprising if violence occurs against women or wives just to fulfill the ego of men or husbands.
- e) Frustration. Violence can also occur due to psychological fatigue that causes frustration and the husband's lack of ability to cope with stress. Frustration

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<sup>5</sup>Rosma Alimi, Nunung Nurwati, Factors Causing Domestic Violence Against Women, Journal of Community Service and Research (JPPM), Vol. 2 No.1 April 2021, p. 22

<sup>6</sup>Pangemanan, Diana Ribka. 1998. "Acts of Violence Against Women in the Family." University of Indonesia, p. 89

arises due to the discrepancy between expectations and reality felt by the husband. This usually occurs in couples who are not ready to get married, the husband does not have a job and a steady income that is sufficient for household needs, and is still limited in freedom. In this case, the husband usually seeks escape by getting drunk and other negative actions that end in the form of violence against his wife, whether physically, sexually, psychologically, or even neglecting the family.

- f) Lack of opportunities for women in the legal process. In the court hearing process, there is very little opportunity for wives to reveal the violence they have experienced. This can also be seen from the lack of discussion of the rights and obligations of wives as victims, because their position is only as a reporting witness or victim witness. This is important because it could be that the victim's report to law enforcement is considered not a criminal act but only a misunderstanding within the family.

According to Article 5 to Article 9 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, it is stated that the forms of domestic violence are as follows:

- a) Physical violence, namely acts that result in pain, illness or serious injury.
- b) Psychological violence, namely acts that result in fear, loss of self-confidence, loss of ability to act, feelings of helplessness, and/or severe psychological suffering in a person.
- c) Sexual violence, namely forced sexual relations committed against someone within the scope of the household and forced sexual relations against someone within the scope of the household with another person for commercial purposes and/or certain purposes.
- d) Domestic neglect, which is neglecting a person within the scope of his household, even though according to the law applicable to him or because of an agreement or contract he is obliged to provide life, care, or maintenance to that person. Neglect also applies to anyone who causes economic dependency by limiting and/or prohibiting the person from working properly inside or outside the home so that the victim is under the control of that person.

### **3.2. Law Enforcement for Perpetrators of Domestic Violence According to Law Number 23 of 2004 Concerning the Elimination of Domestic Violence**

Law enforcement is an effort to realize the ideas of justice, legal certainty and social benefits into reality. So law enforcement is essentially a process of realizing ideas. Law enforcement is the process of making efforts to uphold or function legal norms in real terms as guidelines for actors in traffic or legal relations in social and state life. Law enforcement is an effort to realize the ideas

and legal concepts that the people expect into reality. Law enforcement is a process that involves many things.<sup>7</sup>

Law enforcement is greatly influenced by several factors. According to Soerjono Soekanto, the factors that influence law enforcement are as follows:<sup>8</sup>

- a) Legal Factors
- b) Law Enforcement Factors
- c) Supporting Facilities Factors
- d) Community Factors
- e) Cultural Factors

According to article 1 number 1 of Law No. 23 of 2004 concerning the Elimination of Domestic Violence (UU KDRT), Domestic Violence is any act against a person, especially women, which results in physical, sexual, 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. This Law on Domestic Violence applies to everyone, regardless of gender. So, this Law on Domestic Violence does not only apply to a wife, but also to a husband. This is in accordance with article 3 letter b of the Law on Domestic Violence, namely that the elimination of domestic violence adheres to the principle of gender equality.<sup>9</sup>

Criminal provisions for perpetrators of domestic violence are regulated in Articles 44 to 46 of Law No. 23 of 2004 concerning the Elimination of Domestic Violence:

#### Article 44

- 1) *Any person who commits an act of physical violence within the household as referred to in Article 5 letter a shall be punished with imprisonment for a maximum of 5 (five) years or a maximum fine of IDR 15,000,000 (fifteen million rupiah).*
- 2) *In the event that the act as referred to in paragraph (1) results in the victim falling ill or being seriously injured, the punishment shall be a maximum imprisonment of 10 (ten) years or a maximum fine of IDR 30,000,000.00 (thirty million rupiah).*
- 3) *In the event that the act as referred to in paragraph (2) results in the death of the victim, the perpetrator shall be punished by imprisonment for a maximum of 15 (fifteen) years or a maximum fine of IDR 45,000,000.00 (forty five million rupiah).*

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<sup>7</sup>Dellyana Shant, 1988, *The Concept of Law Enforcement*, Liberty, Yogyakarta, p. 37

<sup>8</sup>Soerjono Soekanto, 2004, *Factors Influencing Law Enforcement*, Fifth Edition, Raja Grafindo Persada, Jakarta, p. 42

<sup>9</sup> <https://www.hukumonline.com/> accessed on January 4, 2023 at 12.36 WIB

- 4) *In the case of acts as referred to in paragraph (1) committed by a husband against his wife or vice versa which do not cause illness or obstacles to carrying out work or livelihood or daily activities, the perpetrator shall be punished with imprisonment for a maximum of 4 (four) months or a maximum fine of IDR 5,000,000.00 (five million rupiah).*

#### Article 45

- 1) *Any person who commits an act of psychological violence within the household as referred to in Article 5 letter b shall be punished with a maximum imprisonment of 3 (three) years or a maximum fine of IDR 9,000,000.00 (nine million rupiah).*
- 2) *In the case of acts as referred to in paragraph (1) committed by a husband against his wife or vice versa which do not cause illness or obstacles to carrying out work or livelihood or daily activities, the perpetrator shall be punished by imprisonment for a maximum of 4 (four) months or a maximum fine of IDR 3,000,000.00 (three million rupiah).*

#### Article 46

*"Any person who commits an act of sexual violence as referred to in Article 8 letter a shall be punished with a maximum imprisonment of 12 (twelve) years or a maximum fine of IDR 36,000,000.00 (thirty-six million rupiah)."*

In resolving criminal cases, the law often puts too much emphasis on the rights of the suspect/defendant, while the rights of the victim are ignored. Many victims of crime are found to lack adequate legal protection, both immaterial and material protection. Victims of crime are placed as evidence that provides information, namely only as witnesses, so that the possibility for victims to obtain freedom in fighting for their rights is small. Victims are not given authority and are not actively involved in the investigation and trial process, so they lose the opportunity to fight for their rights and restore their condition due to a crime.<sup>10</sup>

On the other hand, perpetrators of Domestic Violence crimes in the application of criminal sanctions still often experience dualism in the application of criminal provisions. This dualism occurs, namely with the enactment of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT), it turns out that the rules in the Criminal Code are still in effect.

#### **4. Conclusion**

The causes of domestic violence are triggered by several factors such as economic factors, infidelity factors, competition factors between husband and wife, and behavior of demanding each other to fulfill their rights where the parties are unable to fulfill these demands, causing arguments and often

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<sup>10</sup>Vidi Pradinata, Legal Protection for Victims of Domestic Violence (KDRT), Khaira Ummah Law Journal Vol. 12. No. 4 December 2017, p. 773

followed by violence. In law enforcement against perpetrators of domestic violence, it has actually been regulated by law specifically with the enactment of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, however, in its implementation, there is still legal dualism where cases of domestic violence are often sentenced with the punishment contained in the Criminal Code.

## 5. References

### Books:

Alimuddin, 2014, Settlement of Domestic Violence Cases in Religious Courts, Publisher CV. Mandar Maju Bandung.

Dellyana Shant, 1988, The Concept of Law Enforcement, Liberty, Yogyakarta.

Nawal El Saadawi, 2001, Women in Patriarchal Culture, Pustaka Pelajar, Yogyakarta.

Pangemanan, Diana Ribka. 1998. "Acts of Violence Against Women in the Family." University of Indonesia, Depok.

Satjipto Raharjo, 1983, Problems of Law Enforcement, New Light, Bandung.

Soerjono Soekanto, 2004, Factors Influencing Law Enforcement, Fifth Edition, Raja Grafindo Persada, Jakarta.

### Journals:

Rosma Alimi, Nunung Nurwati, Factors Causing Domestic Violence Against Women, Journal of Community Service and Research (JPPM), Vol. 2 No.1 April 2021.

Vidi Pradinata, Legal Protection for Victims of Domestic Violence (KDRT), Khaira Ummah Law Journal Vol. 12. No. 4 December 2017.

### Legislation:

<https://www.hukumonline.com/>

<https://www.metrotvnews.com/play/b2lCrdXL-kemenpppa-rilis-data-nomor-case-kdrt-di-indonesia-until-oktober-2022>

### Internet:

Law No. 23 of 2004 concerning the Elimination of Domestic Violence (KDRT Law)