

Legal Education About Efforts to Resolve Domestic Violence Against Wives

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Abstract

Introduction: Domestic violence, especially against wives, is a legal event that we often encounter in Indonesian society. Violence against wives that occurs in the household is not only experienced and found in the public sphere, but also very prevalent in the domestic sphere.

Purposes of The Devotion: Providing Understanding to the Community, Community Service in Waipirit Village, Kairatu District, West Seram Regency, about Domestic Violence and efforts to resolve domestic violence crimes experienced by wives can be done using a restorative justice approach.

Method of The Devotion: The method used is legal counseling to the community about efforts to resolve domestic violence crimes experienced by wives can be carried out using the Western restorative justice approach in Waipirit Village, Kairatu District, West Seram Regency.

Results Main Findings of the Devotion: The implementation of Community Service activities in Waipirit Village, Kairatu District, West Seram Regency, can be found in efforts to resolve domestic violence crimes experienced by wives can be carried out using a restorative justice approach where it provides opportunities for parties who are involved, especially the perpetrator and the victim, to participate in solving the case in such a way that the role of the perpetrator and victim here only acts as witnesses when the case of violence is resolved by the police, especially in the Child Protection Law.

Keywords: Legal Education; Prevention; Domestic Violence.

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INTRODUCTION

Domestic violence, especially against wives, is a legal event that we often encounter in Indonesian society. Violence against wives that occurs in the household is not only experienced and found in the public area, but is also very popular in the domestic area which is categorized as one of the forms of violence contained in the Law on the Elimination of Domestic Violence (Law on the Elimination of Domestic Violence). The occurrence of various cases of domestic violence, especially against wives, can be classified in this case as victims. The relationship between husband and wife should be a role model and example for their children and the relationship can be based on harmonious and happy nuances, but in reality the wife in her position faces many acts of violence from her husband, including physical, psychological, sexual violence and household neglect (economic).¹

¹ Sopacua Margie Gladies Taufik Iqbal and Latumaerissa Denni, "Restorative Justice Approach in Order to Resolve Physical Violence Committed by Husbands Against Wives In Maluku Regional Police," *Jurnal Jurisprudentie* 11, no. 1 (2024): 13-25, <https://doi.org/https://doi.org/10.24252/jurisprudentie.v11i1.41991>.

Women as wives who are victims of physical violence in the household will experience adverse effects on their psychology, one of which is in the form of severe depression, which requires treatment and supervision from a psychologist. For this reason, physical violence against wives needs to be handled properly. One form of handling of wives who experience physical violence at the police level is to provide legal protection when the wife reports the incident of mild physical violence she has experienced, then at the level of settlement at the police, usually the wives still maintain the harmony of their households so that the settlement of cases of mild physical violence is carried out through a restorative justice approach.² Margie Gladies Sopacua argues that "The Law of the Republic of Indonesia on Human Rights provides an affirmation that what is meant by human rights are all rights that are inherent and contained in humans as creations of God Almighty. The rights regulated in the Human Rights Law must be respected, protected, and maintained by the state through various positive legal regulations. Human rights originate from God Almighty as the creator. The state must protect them as the holder of the power to make legal regulations to protect the human rights of each human being"³.

Issues that arise in the community provide different perceptions in general, where women themselves get less attention and women are classified as weak. Thus, the violence experienced by women is continuously neglected and remain hidden. This view is influential and affecting how society conducts daily activities, in connection with the values that develop in the community regarding the position of women in society.⁴ Domestic violence, especially against wives, is a legal event that we often encounter in social life in Indonesia. Violence against wives that occurs in the household is not only experienced and found in the public area, but is also very popular in the domestic area which is categorized as a form of violence contained in the Law on the Elimination of Domestic Violence. The occurrence of various cases of domestic violence, especially against the wife, can be classified in this case as a victim. The relationship between husband and wife should be a role model and role model for their children and the relationship can be based on harmonious and happy nuances.⁵ Domestic Violence is a problem that has deep roots and occurs in all countries of the world. In this regard, the international community has created effective legal standards and specifically pays attention to domestic violence. Actions to beat women, for example, have been included in international and regional human rights conventions which have a legally binding nature on countries that have ratified them. These international human rights documents include the Universal Declaration of Human Rights ("UDHR"), the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights which are the standard general human rights, where victims of domestic violence can sue their respective countries.⁶

The enactment of the Law on the Elimination of Domestic Violence is a must for Indonesia as a country that has ratified several international conventions on women, such as Members

² Sopacua Margie Gladies Taufik Iqbal and Denni, *Ibid*.

³ Margie Gladies Sopacua, "Perception of Indonesia and Afghanistan in Preventing Psychic Violence Against the Household Women," *Jarlev: Jambura Law Review* 5, no. 2 (2023): 251-77, <https://doi.org/10.33756/jlr.v5i2.18529>.

⁴ Muhammad Wahid Ramadhan and Dimas Sutawijaya, "Tinjauan Kriminologi Kekerasan Dalam Rumah Tangga Yang Terjadi Di Kota Balikpapan Studi Kasus Di Direktorat Reksrimum Polda Kaltim (A Review Of Domestic Violence Criminology Taking Place In Balikpapan Case Study At Kaltim Police Directorate)," *Jurnal Lex Suprema* 2, no. 2 (2020): 117-32.

⁵ Margie Gladies Sopacua, "Konsep Ideal Pencegahan Kekerasan Dalam Rumah Tangga Terhadap Perempuan," *Jurnal Pembangunan Hukum Indonesia* 4, no. 2 (2022): 213-26, <https://doi.org/10.14710/jphi.v4i2.213-226>.

⁶ Wulandari Fenny, Ferry Anka Sugandar et al., "Konsekuensi Hukum Kekerasan Dalam Rumah Tangga (KDRT) Serta Dampaknya Terhadap Perkembangan Keluarga Dan Anak-Anak," *BHAKTI HUKUM Jurnal Pengabdian Kepada Masyarakat* 1, no. 1 (2022): 149-57.

of the CEDAW Convention (Convention on the Elimination of All forms of Discrimination against women) or the Convention on the Elimination of All Forms of Discrimination Against Women through Law Number 7 of 1984. Law on the Elimination of Domestic Violence has strategic value for efforts to eliminate violence against women. First, the enactment of the Domestic Violence Law will shift the domestic violence issue from a private issue to a public issue. Thus, it is hoped that it can break down the psychological barriers of victims to reveal the violence they have suffered without being haunted by feelings of guilt for revealing disgrace. Second, The Domestic Violence Law will provide space for the state to intervene against crimes that occur in the home so that the state can provide more optimal protection for citizens who need special protection (women and children) from acts of violence. Third, the Domestic Violence Law will have an effect on accelerating the realization of the zero-violence tolerance policy against women that was launched by the government several years ago.⁷

METHOD OF THE DEVOTION

Community service is one of the main activities in the tri dharma of higher education that must be fulfilled by the academic community. This activity has an important role because through this service, universities can apply the science, knowledge and technology they have developed. This Community Service Activity was carried out in Waipirit Village, Kairatu District, West Seram Regency. This Community Service Activity activity carried out several stages including; 1) Observing some household data in Waipirit Village, Kairatu District, West Seram Regency; 2) Providing legal counseling on the prevention of domestic violence against husbands, wives and children and people in the household. Solutions Offered: Solutions offered to men, women and children in Waipirit Village, Kairatu District, West Seram Regency. Through this Community Service Program Community Service Activity is how to resolve violence against wives or others who are still within the scope of the household. Methods Offered: Community service activities through legal education are felt to be important for various efforts to resolve domestic violence for wives. The stages of activities carried out in this legal counseling activity are: 1) Coordinating with the relevant Village Government Parties in Waipirit Village, Kairatu District, West Seram Regency to be able to prepare various things needed in Community Service Activity activities; 2) Prepare materials in the form of powerpoint materials related to the issues that will be studied in this Community Service Activity activity; 3) This legal counseling also involves two (2) students of the Faculty of Law, Pattimura University to assist Community Service Activity activities; 4) Prepare the location that will be used for activities in Waipirit Village, Kairatu District, West Seram with the help of the community. Carrying out legal counseling activities in Waipirit Village, Kairatu District, West Seram through a panel discussion in which the speaker delivered the material in turn then continued with questions and answers between the speaker and the community.

RESULTS AND DISCUSSION

A. General Description of Restorative Justice

⁷ Abdurrachman Hamidah, ““Perlindungan Hukum Terhadap Korban Kekerasan Dalam Rumah Tangga Dalam Putusan Pengadilan Negeri Sebagai Implementasi Hak-Hak Korban,” *Ius Quia Iustum Law Journal* 17, no. 3 (2010): 475–91, <https://doi.org/10.20885/iustum.vol17.iss3.art7>.

Achie Sudiarti Luhulima, divides forms of domestic violence into several groups ⁸ including the following: a) Physical, for example hitting, slapping, strangling, kicking, throwing things at the victim's body, stepping on, injuring with bare hands or killing tools/weapons; b) Psychological, for example shouting, swearing, threatening, humiliating, controlling, harassing, stalking and spying, other actions that cause fear, including those directed at people close to the victim, such as family, children, husband, close friends; c) For example, sexual acts that lead to sexual activities such as touching, touching, kissing and doing other actions that are not desired by the victim. Forcing sex without the victim's consent, with physical violence or acts of coercion to carry out sexual activities that are not liked, demean, torture or injure the victim; d) For example, taking the victim's money, withholding or not providing the financial needs of the victim, controlling and supervising the expenditure of money to the smallest extent, all with the aim of controlling the victim; e) Spiritual, for example, demeaning the victim's beliefs and beliefs, such as forcing the victim to believe in things they don't believe in, forcing the victim to practice certain rituals or beliefs.

Restorative justice involves restoring the relationship between the victim and the offender. Restoration This can be based on mutual agreement between the victim and the offender. The victim can convey the loss they have suffered and the perpetrator is given the opportunity to make up for it, through the mechanism of compensation, peace, social work, or other agreements. The reality at this time, restorative justice only focuses on juvenile justice who commit criminal offenses. The author is of the view that he wants to initiate this restorative justice model to be the best solution in marital rape cases in Indonesia. If solving marital rape problems through law enforcement or courts, it will result in divorce and not provide the right solution so that the community should be given socialization about the existence of restorative justice to solve their household problems so that divorce does not occur. In resolving marital rape cases through restorative justice, it requires a third party in the form of family, friends, and family members. requires a third party in the form of family, community leaders, or a body that regulates specifically about marital rape cases in Indonesia. The third party here can carry out various comprehensive and universal approaches in dealing with cases faced victims of marital rape, namely through various approaches including psychology, law, and medical. The psychological approach is carried out by psychological therapy between the two, namely husband and wife can be done by means of a mediation approach. As a result, some cases of marital rape cases can be resolved through consultation (mediation), and only a few of them continued to the legal to legal action. ⁹

Restorative Justice is an approach to justice that focuses on the needs of victims and offenders, and involves community participation, not to carry out the principle of punishment of the perpetrator accompanied by the consideration of judges. Everyone has the right to receive protection for himself and protection of his family, dignity, honor, and property and is entitled to a sense of comfort and protection from various threats which are regulated in Article 28 G paragraph (1) of the 1945 Constitution, second amendment. The principle of Restorative Justice is the process of resolving violations of the law that occur by

⁸ Achie S. Luhulima, *Pemahaman Bentuk-Bentuk Tindak Kekerasan Terhadap Perempuan Dan Alternatif Pemecahannya*, Kelompok Kerja "Convention Watch" Pusat Kajian Wanita Dan Jende (Bandung: PT Alumni, 2000).

⁹ Setiawan, "Menggagas Model Restorative Justice Terhadap Tindak Pidana Marital Rape Dalam Membentuk Perlindungan Terhadap Perempuan Yang Sesuai Dengan Norma Hukum Di Indonesia," *Jurnal Ius Constituendum* 3, no. 69-81 (2018), <https://doi.org/http://dx.doi.org/10.26623/jic.v3i1.864>.

bringing victims and perpetrators together to talk. Restorative Justice is an approach to justice that focuses on the needs of victims and perpetrators, as well as the communities involved, rather than on the principle of punishing perpetrators. The Restorative Justice process has the following objectives:¹⁰ 1) Take responsibility for the consequences of recording actions and commit to repair or reparation; 2) Victim measures agree to engage in a process that can be done safely, understanding that their actions have affected the victim and others, to then result in satisfaction; 3). Flexible breaches agreed by the parties that emphasize repairing the damage done and as soon as possible also preventing breaches; 4) Offenders make their commitment to repair the damage and undertake and attempt to address their behavioral factors; and 5) Victims and offenders both understand the dynamics leading up to the particular incident obtaining a final outcome and integration/reintegration into society.

Crime, in the eyes of restorative justice, is an offense against human beings and human relations. Restorative justice can be implemented through: Mediation between the victim and the offender; Family group meetings; Community services that are restorative for both the victim and the offender. The application of the principle of restorative justice depends on the legal system adopted by a country. If the legal system does not want it, then the application of restorative justice cannot be forced. So it can be concluded that the principle of restorative justice is an option in designing a country's legal system. Although a country does not adhere to it, it does not rule out the possibility of applying the principle of restorative justice in order to provide justice, certainty and legal benefits. Law enforcement in Indonesia today still leaves various problems that must be resolved, especially criminal cases involving one party with another in the community. The sense of justice expected from law enforcement has not been enjoyed by the people in this country. Moreover, it is known that the criminal justice system in Indonesia does not regulate victims much. Thus, sometimes the existence of victims tends to be ignored or “forgotten”, considering that this system focuses more on the perpetrators of crimes. Protection of victims' rights is rights is essentially part of the protection of human rights. Victims need protection to ensure their rights are fulfilled. Because so far in the criminal justice system in Indonesia, the rights of victims are less protected than the rights of the suspect. In this problem, restorative justice can be a solution to the situation or condition¹¹



Figure 1. The Process of Delivering Materials in

¹⁰ Sonya Arini Batubara Andro Giovani Ginting, Vici Utomo Simatupang, “Restorative Justice Sebagai Mekanisme Penyelesaian Tindak Pidana Kekerasan Dalam Rumah Tangga, *Jurnal Rectum*,” *Jurnal Rectum* 1, no. 2 (2019): 180–87, <https://doi.org/http://dx.doi.org/10.46930/jurnalrectum.v1i2.225>.

¹¹ dan Siti Dessi Perdani Yuris Puspita Sari, Handri Wirastuti Sawitri and Muflichah, “Penerapan Prinsip Restorative Justice Dalam Sistem Peradilan Pidana Di Indonesia,” *Soediran Law Reviewer* 4, no. 2 (2022): 105–19.



Figure 2. The Process of Delivering Materialsin

B. Efforts To Resolve Domestic Violence Against Wives

At the normative level, Law Number 23 of 2004 Concerning The Elimination of Domestic Violence provides special protection for victims of violence that occurs within the household, and is implemented based on the principles of respect for human rights, justice and gender equality, non-discrimination. and protection of victims, and has the aim of preventing all forms of domestic violence, protecting victims and taking action against perpetrators of domestic violence and maintaining a harmonious and prosperous household. The existence of this law is expected to provide legal protection for members in the household, especially women who are the most victims of domestic violence.¹²

As part of the reformulation of the new and aspired law (*Ius Constitutum*), there is a desire to be able to overcome and find solutions to the problems of the domestic violence legal vacuum and this is what is urgent, motivating to define, analyze, explain, and complete the laws and regulations. -the invitation. Prevention of the occurrence of domestic violence is a situational action that aims to eliminate the opportunity for domestic violence to occur more specifically, physical and psychological violence. Prevention in this case is mandatory to protect against the occurrence of domestic violence against the wife. Prevention is meant, for example, the act of stopping consciously and spontaneously by someone when they see that there will be differences in thoughts or differences in will between men (husbands), and other examples are acts of preventing physical harm to women (wives). To avoid the occurrence of violence in certain situations, those who saw it directly or directly asked for assistance to prevent the occurrence of domestic violence, were given the obligation to protect women who would become victims of domestic violence.¹³ The restorative justice approach is an approach that has developed in the criminal justice system recently restorative justice is also known as a family settlement involving victims, perpetrators and other related parties to jointly with full awareness and esponsibility to find the best solution in resolving the case at hand, the use of a restorative justice approach in resolving criminal acts of domestic violence is because the use of criminal legal means so far still causes problems so that penal efforts are more appropriately placed as a last resort or ultimum remidium, in resolving criminal acts of domestic violence.still causes problems so

¹² Nuswantari, "Implementasi Perlindungan Hukum Terhadap Perempuan Korban Kekerasan Dalam Rumah Tangga Di Kota Madiun," *Citizenship Jurnal Pancasila Dan Kewarganegaraan* 5, no. 2 (2017): 97-107, <https://doi.org/10.25273>.

¹³ Sopacua, "Konsep Ideal Pencegahan Kekerasan Dalam Rumah Tangga Terhadap Perempuan, *Op. Cit.*"

that penal efforts are more appropriately placed as a last resort or ultimum remedium, in resolving criminal acts of domestic violence.¹⁴



Figure 2. The Process of Delivering Materialsin

Women or children who are victims of domestic violence prefer to remain silent, not reporting because of shame and fear of negative consequences for their reporting actions. Economic dependence also causes victims to choose to immerse themselves in the events they have experienced. In addition, many people, especially victims of domestic violence, do not understand and do not have the heart to punish the perpetrators who are mostly their closest people. Some people tend to be passive in reporting acts of domestic violence. In fact, domestic violence is not only an individual issue but also a public issue. One of the reasons for this condition is the lack of socialization about domestic violence, so that the number of domestic violence tends to increase.¹⁵

Restorative justice is a new legal philosophy that is a combination of existing criminal theories. Restorative justice that is oriented towards resolving cases that focuses attention on the perpetrator, victim and community. Here, restorative justice contains the values of classical criminal theory that focuses on efforts to restore victims contained in the theory of retributive, deterrence, rehabilitation, resocialization punishment. In addition to focusing on the recovery of the perpetrator, restorative justice also pays attention to the interests of the victim and the community. The characteristics of the implementation of restorative justice in responding to a crime ¹⁶ are as follows: 1) Identify and take steps to repair the losses created; 2) Involve all relevant parties; and 3) Efforts to resolve domestic violence experienced by wives can be done by using a restorative justice approach where it provides an opportunity for the parties involved, especially the perpetrator and victim, to participate in resolving the case in such a way that the role of the perpetrator and victim here only acts as a witness when the violence case is resolved by the police, especially in the Child Protection Law. Restorative justice emphasizes improving the relationship between the perpetrator and the victim and the community that has been damaged by the criminal act

¹⁴ Pinondang Pinondang, "Kajian Hukum Mengenai Tindak Pidana Kekerasan Yang Dilakukan Oleh Isteri Terhadap Suami," *Jurna Rectum* 3, no. 2 (2021): 426–36, <https://doi.org/http://dx.doi.org/10.46930/jurnalrectum.v3i2.1954>.

¹⁵ Dakwatul Chairah, "Perlindungan Hukum Terhadap Perempuan Dan Anak Korban Kekerasan Dalam Rumah Tangga Di Kabupaten Sidoarjo," *Jurnal Hukum Pidana Islam* 5, no. 1 (2019): 153–75.

¹⁶ Heny Saida Flora, . " . Keadilan Restoratif Sebagai Alternatif Dalam Penyelesaian Tindak Pidana Dan Pengaruhnya Dalam Sistem Peradilan Pidana Di Indonesia," *University Of Bengkulu Law Journal* 3, no. 2 (2018): 142–58, <https://doi.org/https://doi.org/10.33369/ubelaj.3.2.142-158>.

committed by the perpetrator. The concept of restorative justice views that the judiciary is placed in a position as a mediator with an asensus model, namely a model that prioritizes dialogue between those in conflict to resolve their problems so that it is considered to better meet the demands of justice and efficiency in resolving domestic violence cases

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CONCLUSION

Domestic violence is a legal event that occurs in community life. Efforts to resolve domestic violence experienced by wives can be done by using a restorative justice approach where it provides an opportunity for the parties involved, especially the perpetrator and victim, to participate in resolving the case in such a way that the role of the perpetrator and victim here only acts as a witness when the violence case is resolved by the police, especially in the Child Protection Law. Restorative justice emphasizes improving the relationship between the perpetrator and the victim and the community that has been damaged by the criminal act committed by the perpetrator. The concept of restorative justice views that the judiciary is placed in a position as a mediator with an asensus model, namely a model that prioritizes dialogue between those in conflict to resolve their problems so that it is considered to better meet the demands of justice and efficiency in resolving domestic violence cases.

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