

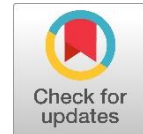


Prevention of Violence Against Wife In The Household (Human Rights Perspective)

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Abstract

This paper aims to find and discuss new ideas or thoughts in preventing violence against wives in the household. This research is a normative legal research, the type of research is descriptive analytical. Sources of Legal Materials used are primary legal materials and secondary legal materials. The technique of collecting legal materials is through a library research on legal materials, both primary legal materials, secondary legal materials, then analyzed qualitatively on the problems, as well as conducting an inventory and systematization. The results of this study found several new ideas in an effort to prevent before the occurrence of domestic violence, including 1) as part of a legal society we must help each other in creating a "harmonious household" 2) provide understanding to husbands that domestic violence against wives is a crime that can be subject to legal sanctions, 3) help instill good religious values for men in this case is the husband 4) Build a positive mindset for men as husbands to fight egoism and believe that violence against wives is something that is prohibited 5) The role of religious leaders in this case is every couple who is getting married must at least carry out premarital counseling for 3 (three) months, and 6) be aware that domestic violence committed to the wife will have a psychological impact that is not good for the wife, especially the child's psychology.

A. INTRODUCTION

The Indonesian government has enacted Law Number 23 Year 2004 concerning the Elimination of Domestic Violence (Law on the Elimination of Domestic Violence) which one of the objectives is that victims of domestic violence, mostly women, should receive protection from the state and/or the community in order to avoid and be free from violence or threats of violence, torture, or treatment that degrades the degree and dignity of humanity. In order to prevent domestic violence, apart from the Law on the Elimination of Domestic Violence, it is also necessary to understand the rights and obligations of husband and wife in marriage as regulated in the Marriage Law.¹

Domestic violence is basically a violation of human rights and a crime against human

¹ Mayasari, D. E. (2017). Tinjauan Normatif Perlindungan Hukum Terhadap Istri Korban Kekerasan Dalam Rumah Tangga. *Refleksi Hukum: Jurnal Ilmu Hukum*, 1(2), 175-190.

dignity as well as a form of discrimination that must be eliminated². Domestic violence which is defined in this study is violence that has been regulated in Law on the Elimination of Domestic Violence which stipulates that any act against a person, especially a woman, which results in physical, sexual, psychological misery or suffering, and/or neglect of the household, including threats to commit acts, coercion or deprivation of liberty against the law in the domestic sphere.

Prevention of domestic violence was chosen as the target of legal protection in community service this time based on the consideration that currently cases of domestic violence tend to increase³. Violence against women in the personal sphere occurs in various types, which describe the violence that occurs to the victim. These forms are violence against wives, the highest number of violence in the realm of domestic violence/personal relations is the same as the previous year, namely violence against wives which reached 3,221 cases or 50% of all cases in the realm of domestic violence/personal realm⁴. The number of cases of domestic violence against wives really requires steps in an effort to prevent it so that violence against women as wives in the future will no longer occur.

Based on this, the problem discussed in this paper is how to prevent before the occurrence of criminal acts of violence against wives in the household. The purpose of this paper is to find and discuss new ideas or thoughts in an effort to prevent before the occurrence of criminal acts of domestic violence against women as wives in the household. This writing is different from previous research including the first, the Efforts to Prevent Domestic Violence⁵ where the problems analyzed are about efforts to prevent acts of domestic violence that can be prevented through two forms, namely through pre-emptive efforts and preventive efforts. the second, is the Combating Criminal Acts of Domestic Violence in Makassar City⁶, The problems analyzed in this paper are the factors that cause domestic violence in the Makassar City and the efforts to overcome domestic violence in the Makassar City, and the third is a Criminological Study of Combating Domestic Violence at the Semarang Police Station⁷, discusses the problem of domestic violence in Indonesia in terms of the criminological aspect, the driving factors for the occurrence of domestic violence and the efforts to overcome domestic violence based on the Law on the Elimination of Domestic Violence in the Semarang City.

The government's solution in overcoming the crime of domestic violence is one of them by establishing the Law on the Elimination of Domestic Violence. However, the problem of domestic violence cannot be solved only with the formation of the law. There needs to be intervention and awareness from various parties, both parties who commit domestic violence, victims, and parents. The existence of community leaders in solving domestic violence problems is also considered important, because community leaders have a big role to help the community in solving various problems, including cases of domestic violence. Community leaders in overcoming this are the Head of RT/RW, Village Head, and Ulama (Religious Leaders). Intervention from these parties is very much needed to reduce the occurrence of

² Terina, T. (2010). Implementasi Pemenuhan Hak-Hak Korban Perempuan Yang Berprofesi Sebagai Pekerja Rumah Tangga Dalam Upaya Pencegahan Terhadap Bentuk Kekerasan Dalam Rumah Tangga. *Keadilan Progresif*, 10(2), 199–213

³ Chairah, D. (2019). Perlindungan Hukum Terhadap Perempuan Dan Anak Korban Kekerasan Dalam Rumah Tangga Di Kabupaten Sidoarjo. *Jurnal Hukum Pidana Islam*, 5(1), 153–175

⁴ Komisi Nasional Perempuan. (2021). Perempuan Dalam Himpitan Pandemi: Lonjakan Kekerasan Seksual, Kekerasan Siber, Perkawinan Anak, Dan Keterbatasan Penanganan Di Tengah Covid-19. *Journal of Chemical Information and Modeling*, 138(9), 1689-99.

⁵ Sopacua, M. G., & Riza, M., M. Syukri Akub., Sakharina, I. K. (2018). Preemptif and Preventive Measure in Combating Domestic Violence. *Journal of Law, Policy and Globalization*, 8(12), 211–222.

⁶ Sutawati, & Mappaselleng, N. F. (2020). Penanggulangan Tindak Pidana Kekerasan dalam Rumah Tangga di Kota Makassar. *Wawasan Yuridika*, 4(1), 17–30. <https://doi.org/10.25072/jwy.v4i1.315>

⁷ Sianturi, R., Rochaeti, N., & Wisaksono, B. (2017). Studi Kriminologis Penanggulangan Tindak Pidana Kekerasan Dalam Rumah Tangga Di Polresta Semarang. *Diponegoro Law Journal*, 6(1), 1-13.

increasing cases of domestic violence⁸.

The Law on the Elimination of Domestic Violence has been promulgated by the Government of Indonesia with the aim that women as wives are protected and free from violence that has been regulated in the law, but the reality is that domestic violence against women is still happening as a wife.

B. RESEARCH METHODS

Research according to Peter Mahmud Marzuki is a process to find the rule of law, legal principles, and legal doctrines in order to answer the legal issues faced.⁹ This type of research is normative legal research, which is legal research carried out by researching library materials or secondary legal materials¹⁰. The approach method in this research is a statute approach to analyze existing problems in order to answer problems comprehensively, and a conceptual approach, namely research that moves from the views and doctrines in legal science, researchers will find ideas which makes legal understandings, legal concepts and legal principles that are relevant to the issues discussed¹¹. Sources of Legal Materials used in this study are: Primary Legal Materials consisting of legislation; and Secondary Legal Materials is to provide an explanation of primary legal materials consisting of scientific opinions of scholars and literature books, legal dictionaries, encyclopedias and so on. The technique of collecting legal materials used in this paper is carried out by means of library research on the legal materials both primary legal materials, secondary legal materials, then analyzed descriptively qualitatively.

C. RESULTS AND DISCUSSION

1. The Phenomenon of Domestic Violence

The family is the most ideal social institution to develop the potential that exists in each individual, in fact the family is also often a forum for the emergence of various cases of irregularities or other illegal activities that cause misery or suffering for other family members¹². Patriarchy is a culture that prioritizes and gathers men, they feel they have control over women and keep women controlled in various ways. Men feel they have the right to determine the norms of life and leadership styles that are felt to be able to continue to strengthen their dominance and power. Violence against wives as an illustration of a patriarchal system to eliminate women's control over production, reproduction, sexuality, women's movement, property, and other economic resources¹³.

The phenomenon of cases of domestic violence is currently increasing, in terms of quantity and quality¹⁴. This phenomenon is a serious concern and all parties are able to understand all forms of crime and the factors that cause it, as well as efforts to overcome domestic violence¹⁵. The forms of domestic violence that occur vary widely, such as physical, psychological, sexual violence, and violence in the form of neglect. These various forms of crime are crimes that are prohibited and threatened with punishment as stipulated in the Law on the Elimination of Domestic Violence which aims to ensure that victims of domestic violence,

⁸ Bhakti, I. S. G., & Gunawan, T. A. (2020). Upaya Preventif Aparat Desa Dalam Penanggulangan Kasus Kekerasan Dalam Rumah Tangga. *Journal of Public Administration and Local Governance*, 4(1), 49-64.

⁹ Marzuki, M. (2017). *Penelitian Hukum*. Jakarta: Kencana Prenada Media.

¹⁰ Soekanto, S. (2012). *Metode Penelitian Hukum*. Jakarta: Rineka Cipta

¹¹ Marzuki, M. (2017). *Op. Cit.*

¹² Sianturi, R., Rochaeti, N., & Wisaksono, B. (2017). *Op. Cit.*

¹³ Sutiawati, & Mappaselleng, N. F. (2020). *Op. Cit.*

¹⁴ Abdurrachman, H. (2010). "Perlindungan Hukum Terhadap Korban Kekerasan Dalam Rumah Tangga dalam Putusan Pengadilan Negeri Sebagai Implementasi Hak-Hak Korban. *Ius Quia Iustum Law Journal*, 17(3), 475-491. <https://doi.org/10.20885/iustum.vol17.iss3.art7>

¹⁵ Fanani, E. R. (2018). Undang-Undang Nomor 23 Tahun 2004 tentang Kekerasan dalam Rumah Tangga, Antara Terobosan Hukum dan Fakta Pelaksanaannya. *Jurnal Legislasi Indonesia*, 5(3), 1-8.

especially women, get legal protection.¹⁶

Violence against women is also a social phenomenon that is currently a concern for various parties¹⁷. Violence has become a phenomenon in people's lives in Indonesia. Violence occurs not only in the public area, but also in the domestic area which gives birth to domestic violence. Ironically, in various cases of domestic violence, women, especially wives, are victims. The ideal husband-wife relationship is built in an atmosphere of harmony and happiness, but many wives experience acts of violence from their husbands, both physical, psychological, sexual and economic violence¹⁸.

Any violence that occurs in society actually departs from a certain ideology that legitimizes the oppression on one side of both individuals and groups towards other parties that caused by inequalities that exist within the community. The position of women (as wives) is subordinate to husbands, where a woman must always submit and obey her husband¹⁹.

Domestic violence is a violation of human rights and a crime against human dignity as well as a form of discrimination that must be eliminated, as stated in the 1945 Constitution amendment IV Article 28 letter G paragraph (1) which states, "Everyone has the right to protection for himself, his family and his family, honor, dignity and property under authority and have the right on the basis of a sense of security and protection from the threat of fear to do and or not to do something which is a human right"²⁰.

2. The Efforts To Prevent Violence Against Wives In The Household

Empirical facts about the possibility of humans to commit crimes, in this case violence against women, which is the domain of social science, converge practically into normative practical science or normative science. So that prevention enters the regulation in the social, economic, cultural and political fields. In terms of practical normative science, or normative science, this is the principle of imputation. The principle of imputation means the principle that stipulates what should be the obligations of certain subjects in concrete events or certain actions, there has been no act of 'avoiding' in the sense of to hinder, to exclude or to avoid 'the occurrence of violence against women'. Many positive things can be learned and benefited from the social relationships that are built in the household. Domestic violence can actually be avoided if a household is enforced by carrying out various positive principles and noble ethics based on the functions of members according to their respective rights and obligations²¹. The handling of violence against women in the context of upholding human rights is based more on events that have occurred (post-factum). While 'preventive' actions so that incidents of violence against women can be avoided, are focused on general handling in the social, economic, cultural fields.

One form of threat to equality between men and women is violence directed against women as wives. Violence that occurs against women, especially as wives, creates feelings of helplessness, lack of hope, feelings of humiliation, feelings of unappreciation, and a tendency

¹⁶ Yulia, R. (2006). Impelmentasi Undang-undang Nomor 23 Tentang Penghapusan Kekerasan Dalam Rumah Tangga Dalam Proses Penegakan Hukum (sebuah solusi dalam upaya perlindungan hukum terhadap korban). *Jurnal Hukum Pro Justitia*, 4(3), 292–300.

¹⁷ Nurhayati, S. R. (2005). Atribusi kekerasan dalam rumah tangga, kesadaran terhadap kesetaraan gender, dan strategi menghadapi masalah pada perempuan korban kekerasan dalam rumah tangga. *Jurnal Psikologi*, 32(1), 1-3.

¹⁸ Jamaa, L. (2014). Perlindungan Korban Kekerasan Dalam Rumah Tangga Dalam Hukum Pidana Indonesia. *Jurnal Cita Hukum*, 1(2), 249–272.

¹⁹ Sopacua, M. G., & Sakharina, I. K. (2018). The legal Protection of Women from Violence (Human Rights Perspective). *Journal International Knowledge Sharing Platform*, 67(8), 44–52.

²⁰ Karya, D. (2013). Tindak Pidana Kekerasan Dalam Rumah Tangga Yang Dilakukan Suami Terhadap Istri. *DIH, Jurnal Ilmu Hukum*, 9(17), 35–46.

²¹ Sibarani, S. (2016). Prospek Penegakan Hukum Undang-Undang Penghapusan Kekerasan Dalam Rumah Tangga (UU PKDRT). *Jurnal Hak Asasi Manusia*, 7(1), 1–9.

to blame themselves as the cause of the violence. Therefore, it is our responsibility as good citizens to prevent and eliminate all forms of domestic violence against women as wives.

Preventing violence against women is a shared responsibility between the government and the community, this can be seen in Chapter V concerning the obligations of the government and society in Article 12 and Article 15 of Law on the Elimination of Domestic Violence. Therefore it is our responsibility to prevent and eliminate all forms of violence that occur within the household²². In addition, to avoid the occurrence of domestic violence, it is necessary ways to overcome it, namely:

- 1) The need for strong faith and sticking to one's religion so that domestic violence does not occur and can be handled properly and with patience.
- 2) There must be harmony and peace in a family, because in religion it teaches about love for mothers, fathers, brothers, and others. So that family members can respect each other's opinions.
- 3) There must be good communication between husband and wife, in order to create a harmonious and harmonious household. If in a household there is no harmony and harmony between the two parties, it can also be a trigger for domestic violence.
- 4) Need mutual trust, understanding, mutual respect and so on between family members. So that the household is based on mutual trust. If there is mutual trust, then it is easy for us to carry out activities. If there is no sense of trust then what arises is jealousy which is sometimes excessive and suspicion which is sometimes excessive.
- 5) A wife must be able to coordinate whatever finances are in the family, so that a wife can cope if there is a minimal income, so that economic deficiencies in the family can be overcome properly.

Preventing domestic violence will be achieved starting from fighting the causes, factors and elements that trigger it. This at least consists of sharing efforts that must be carried out with the aim that domestic violence at least occurs again than before. In the following, the authors find some new ideas or thoughts in an effort to prevent the occurrence of domestic violence against the wife, including:

- 1) As part of a legal society we must help each other in creating a "harmonious household" where life respects, respects, and protects and is developed with love so that family members will feel comfortable and peaceful.
- 2) Provide understanding to the husband that the act of domestic violence against the wife is a crime that must be handled immediately and subject to legal sanctions and for that this domestic violence act must be abolished.
- 3) We must help instill good religious values for men, in this case the husband, that violence against the wife is forbidden by God Almighty.
- 4) Build a positive mindset for men as husbands to fight selfishness and believe that violence against wives is something that is prohibited because it will have legal repercussions for them.
- 5) The role of religious leaders in this case is that every couple who is getting married must at least carry out premarital counseling for 3 (three) months, this needs to be done so that each partner realizes that the household to be fostered should not be based on violence because many couples are divorced as a result of violence by husbands against their wives.
- 6) Make the husband aware that domestic violence committed to the wife will have a psychological impact that is not good for the wife, especially for the child's psychology.

²² Sopacua, M. G., & Riza, M., M. Syukri Akub., Sakharina, I. K. (2018). *Op. Cit.*

D. CONCLUSION

Based on the results of research and discussion, the authors found that several new ideas or thoughts in an effort to prevent domestic violence before the occurrence, namely: (1) as part of a legal society we must help each other in creating a “harmonious household” where life respects, respects, and protects and is developed with love so that family members will feel comfortable and peaceful; (2) provide understanding to the husband that the act of domestic violence against the wife is a crime that must be handled immediately and subject to legal sanctions and for that this domestic violence act must be abolished; (3) we must help instill good religious values for men, in this case the husband, that violence against the wife is forbidden by God Almighty; (4) build a positive mindset for men as husbands to fight selfishness and believe that violence against wives is something that is prohibited because it will have legal repercussions for them; (5) the role of religious leaders in this case is that every couple who is getting married must at least carry out premarital counseling for 3 (three) months, this needs to be done so that each partner realizes that the household to be fostered should not be based on violence because many couples are divorced as a result of violence by husbands against their wives; and (6) make the husband aware that domestic violence committed to the wife will have a psychological impact that is not good for the wife, especially for the child's psychology.

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