



LEGAL STUDY OF THE AUTHORITY OF THE MEDAN HIGH COURT IN CORRECTING CRIMINAL DECISIONS IN DOMESTIC VIOLENCE CASES

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Article Info	Abstract
Article History Received : 2024-09-03 Revised: 2024-09-05 Published: 2024-10-01 Keywords: Criminal, Household, Domestic Violence, Wife Neglect, UUD	<i>What is desired by couples in a marriage is to form a family that is able to provide eternal happiness and create harmony and peace in addition to having children in accordance with Law Number 1 of 1974 concerning Marriage. Domestic violence (KDRT) is a form of violence that has characteristics that occur in the home environment, involving family members as perpetrators and victims. However, domestic neglect of wives still often occurs, although various efforts have been made to reduce and even overcome it. Based on this, the problem arises of what factors cause domestic neglect and how to punish perpetrators of domestic violence. Therefore, research is needed, namely the type of empirical legal research. In this case, the law is conceptualized as an empirical symptom that can be observed and studied in the field. The factors that cause domestic neglect are economic problems, infidelity and behavioral factors. The problem of punishment from the analysis of cases of domestic neglect that were raised was the imposition of a criminal sentence on the defendant with a very light 6-month prison sentence. Regarding the elimination of domestic violence, this is regulated in Law Number 23 of 2004.</i>

I. INTRODUCTION

Violence, especially domestic violence, is a violation of human rights and a crime against human dignity and is a form of discrimination. Violence in any form and carried out for any reason is a form of crime that cannot be justified. Therefore, no matter how small the violence committed, it can be reported as a criminal act that can be prosecuted. Domestic violence (KDRT) 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.

Domestic violence (KDRT) according to Law Number 23 of 2004 is any act against a person, especially women, which results in physical, sexual, psychological misery or suffering and neglect of the household including threats to commit acts, coercion and/or unlawful deprivation of liberty within the household.

Domestic violence generally involves perpetrators and victims among family members in the household, while the form of violence can be physical violence and verbal violence. Perpetrators and victims of domestic violence can be anyone, not limited by social status, education level, and ethnicity. Domestic violence against

wives is a serious social problem, but it has received little response from the community and law enforcement.

So far, violence has occurred due to a lack of communication and commitment within a family to respond to life dynamics/problems, often women and children are the victims.

From a social work perspective, this becomes the focus of social workers to play a role in efforts to help/assist the recovery of victims who tend to have psychological impacts which of course hinder their relationships and social functioning, so that the role of social workers in assistance is very much needed according to the mandate of article 10 concerning Victims' Rights, namely assistance by social workers and legal assistance at every level of the examination process in accordance with the provisions of laws and regulations.

Seen from here the number of domestic violence cases in Indonesia continues to increase and victims need legal protection which is very crucial in nature. Protection of victims must be socialized by law enforcers such as the police, prosecutors, and courts for the sake of justice (*gerechtigheid*) together. This study uses empirical legal research methods and qualitative normative analysis methods. The results of the study indicate that the implementation of Article

23 of Law Number 23 concerning the Elimination of Domestic Violence (PKDRT) with the authority of the Medan High Court judge provides corrections in the verdict of the district court by considering the charges from the public prosecutor which are adjusted to the facts in the trial and other legal bases.

In the Indonesian legal system, namely Article 44 of the Domestic Violence Law, it states that anyone who commits an act of physical violence within the scope of the household shall be punished with a maximum imprisonment of five years or a maximum fine of Rp. 15,000,000. Then, if the victim falls ill or suffers serious injuries, the perpetrator shall be punished with a maximum imprisonment of 10 years or a maximum fine of Rp. 30,000,000. However, if the victim dies as a result of the violence, the perpetrator shall be punished with a maximum imprisonment of 15 years or a maximum fine of Rp. 45,000,000.

In the Domestic Violence Law, Article 45, states that anyone who commits psychological violence is subject to a maximum of three years in prison or a maximum fine of Rp. 9,000,000. Then, if it is done by a husband against a wife or vice versa, and does not cause illness or obstacles to work or daily activities, it is subject to a maximum of four months in prison or a maximum fine of Rp. 3,000,000.

And in Article 46 of the PDKRT Law for sexual violence, a maximum prison sentence of 12 years or a maximum fine of Rp. 36,000,000 is imposed. Then Article 47 states that anyone who forces a person who lives in his household to have sexual relations is subject to a minimum prison sentence of four years and a maximum prison sentence of 15 years.

years or a fine of at least Rp. 12,000,000 or a maximum fine of Rp. 300 million. And explained in the Domestic Violence Law, Article 48, namely in the case of acts as referred to in Article 46 and Article 47 resulting in the victim getting injuries that do not give hope of healing at all, experiencing mental or mental disorders for at least 4 weeks continuously or 1 year not in a row, miscarriage or death of the fetus in the womb, or resulting in the failure of the reproductive organs to function, shall be punished with imprisonment of at least 5 years and imprisonment of at most 20 years or a fine of at least Rp. 25,000,000 and a maximum fine of Rp. 500,000,000.00.

II. RESEARCH METHODS

Empirical Juridical Approach Method,

empirical juridical research is a legal research on the enforcement or implementation of normative legal provisions. This approach focuses on literature studies and reviews of laws and regulations, court decisions, and relevant legal literature. This approach will help in understanding and analyzing the legal basis regarding the authority of the Medan High Court in examining and correcting decisions in domestic violence cases. The analysis method used is qualitative analysis, where the data that has been collected is analyzed in depth to find the relationship between the authority of the Medan High Court and the correction process for criminal decisions in domestic violence cases. The results of this analysis will explain how the Medan High Court uses its authority and the factors that are considered in correcting decisions.

III. RESULTS AND DISCUSSION

A. Considerations made by the High Court Judge at the Medan High Court regarding cases of Domestic Violence

Household is the smallest organization in society that is formed because of the bond of marriage. Usually a family consists of a father, mother and children. However, in Indonesia, there are often relatives who also live in a household, for example parents from either husband or wife, siblings or step siblings from both sides, nephews and other family members who are blood relatives. In addition, there are also domestic helpers who work and live together in a house (living under one roof)

The decision of the District Court judge in North Sumatra is certainly very important to ensure justice with considerations and aggravations that also vary in Special Criminal cases, namely Domestic Violence cases. Judging from several cases of Domestic Violence crimes that are still found legally to be relatively unfair. The judge's considerations are adjusted to the type of domestic violence case ranging from neglect, minor physical injuries, serious injuries, to injuries resulting in death. High Judges must be able to make decisions by considering three very essential things, namely justice (*iustitia*), legal certainty (*legal certitudo*) and benefits (*utilitas*). The decision of the judge from the district court must be re-examined if one of the parties to the case, either the defendant or the defendant's legal counsel and the prosecutor, objects or is dissatisfied with the decision of the district court,

then one of them files an appeal at the Medan High Court.

Article 51 of Law Number 49 of 2009 outlines the main duties and authorities of the high court in Indonesia. One of the authorities of the high court is to try criminal and civil cases at the appellate level. The High Court is considered a Repeat Court that has the authority to re-examine criminal cases of Domestic Violence whose decisions or conclusions may be the same as the decision of the District Court. The decision is in the form of strengthening the decision of the District Court in North Sumatra. However, there are also decisions that are not the same between the District Court and the Medan High Court, in the form of reducing or adding to the detention period, strengthening, or rejecting or canceling the results of the District Court decision.

In correcting the verdict of Domestic Violence cases, see the articles charged in connection with the facts that occurred in the Trial. The principles of justice with legal objectives are considered with the indictment of the Public Prosecutor with the facts that occurred in the Trial. There were 161 cases of domestic violence from 2017-2024 at the Medan High Court.

B. Implementation of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (UU PKDRT)

The enactment of Law Number 23 of 2004 concerning the Elimination of Domestic Violence is a milestone in efforts to protect victims of violence that occurs within the household, especially women and children as groups that are vulnerable to becoming victims of violence. In addition, this law also regulates anticipatory measures for the emergence of new violence and the clarity of firm sanctions for perpetrators of violence.

Various types of Domestic Violence cases that have been registered and decided will be considered with the Criminal Articles in the Criminal Code. The High Judge at the Medan High Court who was previously a Career Judge in the Courts in Indonesia will examine, decide and resolve the cases he receives, of course, will try for the sake of common justice in domestic violence cases by matching the legal basis of the case, namely Article 338 of the Criminal Code concerning Murder, or Article 458 paragraph (1) of Law 1/2023 which is valid for 3 years from the date of enactment, namely 2026. Article 351 paragraph (3) of the Criminal Code concerning Abuse or Article 466 paragraph (3) of Law

1/2023, the death of the victim must only be a consequence that was not intended by the perpetrator, or in other words, the death of the victim was not the perpetrator's goal.

Of the many cases of Domestic Violence that exist, a number of factors have been found to cause domestic violence to explode in the community, namely psychological factors of the perpetrator, social factors such as economic pressure, unemployment, and family instability, cultural factors, environment, individuals, gender, and family history factors. This makes various aspects of society such as the government and related agencies must be more active in socializing self-awareness to prevent and minimize the high rate of domestic violence in society. After all, harmony in the household is the most important thing in the family which will later equip a child to become a child who fears God and has faith with good social skills and a good soul in his future life in society later.

Based on the analysis conducted by the author in enforcing the law on domestic violence in its handling requires cooperation from various parties. Only through this joint effort, we can reduce the number of domestic violence even though there are still many cases of domestic violence that have not been reported because of the fear felt by the victims or parties who are embarrassed if their neighbors and closest relatives find out about their problematic household. In addition, the role of law enforcement must protect human rights, and ensure that every individual can live in a safe and violence-free environment. Law enforcement agencies must also play an important role in handling cases of domestic violence. Some law enforcement agencies involved in handling cases of domestic violence include the police, prosecutors, and courts.

C. Factors Causing Husbands to Neglect Their Wives in the Household

Society often assumes that domestic violence is normal because it occurs within the family, so many cases are difficult to express in society, for example, feelings of annoyance and anger that have been suppressed for a long time, will eventually emerge as acts of violence against the wife, husband or children.

Many victims who experience domestic violence do not report the incident to the authorities, namely the police. This is because there is a threat of pressure from one party so that a perception arises in society that domestic

violence is a normal thing that occurs in husband and wife relationships and is a problem in the internal realm. Society does not need to know about other people's household affairs and does not need to interfere.

Factors that cause neglect in the household, namely:

1. Economic Factors
Humans as individual beings and social beings are always faced with economic problems. Economic factors that are identical to income can meet the needs of each person. Quarrels in husband and wife relationships can be triggered by the husband's income problem. Not infrequently, quarrels can even end in violence. The husband's small income often makes the wife confused about meeting the needs that must be met.
2. Infidelity Factor
Infidelity is the presence of a new person or a third person entering a household. Physical and psychological violence often occurs because a husband or wife has a special relationship with someone else. A husband or wife does not hesitate to hit her husband or wife if one of them has a special relationship with someone outside. Sometimes there are still wives who maintain their relationships, their households because they think about the fate of their children, want to be with society and are even afraid of being beaten or divorced.
3. Behavioral Factors
A person's behavior can trigger domestic violence such as emotions, like gambling, even drunkards or like drinking alcohol. In a household, husband and wife should love and respect each other. In addition to actions from behavior, harsh words issued by a husband or wife can also cause psychological violence.

Article 9 of Law Number 23 of 2004 concerning Domestic Violence divides two forms of domestic neglect of a wife, namely:

1. Not providing a living

One of the husband's obligations is to provide for his wife according to his ability, which is expressly regulated in Article 34 of Law Number 1 of 1974 concerning Marriage.

2. Creating Dependency
3. In addition to not providing for his wife, husband's neglect can also be said to be a behavior of prohibiting his wife from working and controlling his wife's space of movement. The prohibition of the wife from working is emphasized on 2 things, namely:
 - a. Prohibiting wives from working because it will result in economic dependency, so that when the husband is not around, the wife cannot independently meet her own needs.
 - b. Prohibiting a wife from working with the aim of controlling her, thus opening up the possibility of the husband acting arbitrarily

Domestic violence is a behavior that has a very complex impact on women who are victims of domestic violence.¹ So based on the incidents or phenomena that have occurred a lot in society about the neglect of wives by husbands, the injured party should report the incident to the police for follow-up and the perpetrator can be given sanctions in accordance with what he did.

IV. CONCLUSIONS AND RECOMMENDATIONS

Talking about Domestic Violence cases is indeed never-ending. The conditions of lack and dissatisfaction make the parties involved such as husband and wife, children to closest relatives trigger someone to commit violence both verbally and non-verbally. This should not need to be imitated by other communities. Law enforcement in domestic violence cases should be strengthened again by socializing anti-domestic violence through public advertisements in the media. Legal issues such as domestic violence are not easy to eradicate because of the many factors that cause them. The emotional conditions of husbands, children and siblings also vary.

The public's expectations of law enforcement in domestic violence cases should be given more attention, especially to victims who experience domestic violence. Through legal protection is enough. In the future, the role of the state is very important to reduce the number of domestic violence by opening up employment opportunities, providing assistance to the less fortunate because economic factors are the ones

¹Rosma Alimi, Factors Causing Domestic Violence Against Women, Vol. 2 No. 1 (Pandjajaran University: Faculty of Social and Political Sciences, 2021), Page 1

that most often cause the number of domestic violence to continue to increase.

The ability of the High Court Judge in Medan High Court in deciding cases fairly is quite clearly felt by the parties to the case even though there are some parties who are dissatisfied and this problem often occurs in every case. As a repeat court that re-examines in other words corrects the previous District Court decision which is in the form of strengthening and can also cancel the decision made by the district court.

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