

Implementation of Criminal Sanctions for Domestic Violence (KDRT) in Indonesia

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ABSTRACT

Domestic violence (DV) is a form of human rights violation that has serious impacts on victims, especially women and children. In Indonesia, the crime of domestic violence is regulated in Law Number 23 of 2004 concerning the Elimination of Domestic Violence. This study aims to examine the extent to which the application of criminal sanctions against perpetrators of domestic violence is in accordance with the objectives of criminal law and provides effective protection to victims. Using a normative legal approach and supported by jurisprudence studies, this article reviews the effectiveness of law enforcement in the field, obstacles to law enforcement, and the need for a restorative approach. The results of the analysis show that although regulations have been comprehensively available, implementation at the law enforcement level still faces obstacles such as patriarchal culture, lack of understanding of the Domestic Violence Law, and minimal support for the victim protection system. This study recommends strengthening the capacity of law enforcement officers, public education, and optimizing the protection mechanism for victims of domestic violence. This study is expected to contribute to encouraging the renewal of criminal law policies that are more responsive to victims of domestic violence.

Keywords: Domestic Violence, Criminal Sanctions, Victim Protection

INTRODUCTION

Domestic violence (DV) is a social and legal phenomenon that not only involves the physical dimension, but also reflects structural problems in society, including gender inequality, patriarchal culture, and weak legal protection systems. Although the household should be a safe and loving space, reality shows that many family members, especially women and children, are victims of those closest to them. Data from the National Commission on Violence Against Women notes that cases of domestic violence each year rank highest in reports of violence against women in Indonesia.

The government responded to this problem by establishing a legal umbrella through Law Number 23 of 2004 concerning the Elimination of Domestic Violence. This law emphasizes that domestic violence is a criminal act and provides a legal basis for enforcing sanctions against the perpetrators. In this law, domestic violence is divided into several forms: physical violence, psychological violence, sexual violence, and domestic neglect. Each form has legal consequences and criminal sanctions that can be imposed on the perpetrator. However, the effectiveness of implementing these sanctions is still being debated because in practice many cases are not reported, are stopped midway, or do not receive a fair resolution for the victim.

Domestic violence not only has physical impacts, but also psychological and social impacts on victims. Fear, shame, and social pressure make many victims choose to remain silent and not report the violence they experience. In addition, the long and tiring legal process often adds to the burden on victims. On the other hand, law enforcement officers sometimes do not have an adequate perspective on the importance of protecting victims and implementing laws that are sensitive to gender.

In the context of criminal law, criminal sanctions have several purposes, namely as a form of retaliation for unlawful acts (retributive), as a deterrent so that the perpetrator and the community do not repeat their actions (preventive), and as a tool for social rehabilitation. The application of criminal sanctions in cases of domestic violence should not only be oriented towards punishing the perpetrator, but also towards the recovery of the victim and the restoration of social relations damaged by the violence.

Thus, the urgency of studying the application of criminal sanctions in domestic violence cases is very important. This study will review how judicial practices in domestic violence cases work, whether criminal sanctions reflect substantive justice, and how the role of law is in providing real protection to victims. This study is expected to enrich the criminal law literature and provide applicable recommendations for the renewal of the criminal justice system in Indonesia.

METHOD

This study uses a normative legal approach, namely an approach that is based on the study of applicable written legal norms. This study examines in depth the provisions of Law Number 23 of 2004 concerning the Elimination of Domestic Violence and the provisions of the Criminal Code (KUHP) and the Criminal Procedure Code. Secondary data were obtained from literature studies, including legal documents, scientific journals, previous research results, and jurisprudence from relevant court decisions. Data analysis was carried out descriptively qualitatively by evaluating the effectiveness of legal norms and obstacles in their implementation. This study also considers the sociological aspects of law by examining the socio-cultural factors that influence the application of criminal sanctions against domestic violence.

DISCUSSION

1. Definition and Forms of Domestic Violence

Domestic violence (DV) is an act that occurs in the domestic sphere and can be in the form of physical, psychological, sexual violence, and economic neglect. Law Number 23 of 2004 concerning the Elimination of Domestic Violence defines DV as an act against a person, especially women, which results in physical, sexual, psychological suffering or misery, and/or domestic neglect including threats to commit acts, coercion, or unlawful deprivation of liberty.

Domestic violence is often invisible to the naked eye, especially when it is carried out in the form of psychological and economic violence. Many victims are reluctant to report due to social pressure, financial dependence, and strong patriarchal cultural factors. Therefore, a legal approach to domestic violence requires gender sensitivity and a contextual understanding of household dynamics.

2. Criminal Law Framework in Handling Domestic Violence

Law No. 23 of 2004 is the main legal basis for dealing with domestic violence in Indonesia. The articles in the law regulate the types of violence, reporting procedures, victim protection, and criminal sanctions for perpetrators. For example, Article 44 paragraph (1) states that anyone who commits physical violence within the scope of the household can be punished with a maximum of five years in prison or a maximum fine of Rp. 15,000,000.00.

In addition to the Domestic Violence Law, the Criminal Code (KUHP) can also be used subsidiarily to ensnare perpetrators of domestic violence, especially in cases that are not explicitly regulated in the Domestic Violence Law. For example, Article 351 of the Criminal Code on assault and Article 285 on rape. This dual approach provides flexibility in adjusting criminal sanctions to the degree of guilt and the consequences of the perpetrator's actions.

3. Law Enforcement and the Role of Law Enforcement Officers

Law enforcement against domestic violence cases in Indonesia often faces complex challenges. Law enforcement officers, such as the police, prosecutors, and courts, have an important role in the case handling process. However, there are still cases where the victim's report is not followed up seriously, or even ignored, because it is considered an internal household problem. This shows the still low gender sensitivity among law enforcement officers and the lack of special training in handling domestic violence.

On the other hand, the existence of the Women and Children Service Unit (PPA) in the police and victim protection institutions such as the National Commission on Violence Against Women and the Witness and Victim Protection Agency (LPSK) have been positive steps in supporting victims. However, the effectiveness of these institutions still depends on the availability of budget, human resources, and coordination between institutions.

The implementation of criminal sanctions against perpetrators of domestic violence also faces obstacles. Some perpetrators receive relatively light sentences or are even free because of peace between the victim and the perpetrator, either due to family pressure or for economic reasons. This raises concerns about the recurrence of violence and creates distrust in the legal system.

4. Obstacles in the Implementation of Criminal Sanctions in Domestic Violence Cases

Although normatively the law has provided strong protection for victims of domestic violence, its implementation is often not optimal. The first obstacle is the patriarchal culture that is still dominant in society. This culture places women in a subordinate position and considers that household matters are not the realm of state intervention. As a result, many victims feel ashamed or afraid to report, even when experiencing severe violence.

The second obstacle is the lack of access to legal aid and protection services. Many victims, especially those from the lower middle class, do not have the information or support to obtain legal and psychological assistance. This situation is exacerbated by the lack of shelters or safe houses for victims who want to protect themselves from perpetrators.

Third, the long and tiring justice system is also a major obstacle. The investigation, prosecution, and trial processes often take a long time, so victims often choose to withdraw their reports or reconcile. It is not uncommon for victims to experience re-victimization when giving statements to investigators or during the trial process.

5. Restorative Approach and Victim Protection Efforts

In recent years, the restorative justice approach has begun to be introduced in domestic violence cases, especially to provide a more humane and long-term alternative solution. Restorative justice aims not only to punish the perpetrator, but also to restore the victim and improve social relations. This approach places the victim in a central position in the justice process, taking into account their emotional and psychological needs.

However, the application of restorative justice in domestic violence cases must be carried out very carefully. Unlike other minor crimes, domestic violence has complex dynamics and is prone to manipulation. The use of a restorative approach must not ignore the victim's right to protection and justice. Therefore, the involvement of a neutral third party, such as a professional mediator or social worker, is an absolute requirement in its application.

The government has also developed various policies to strengthen the protection of victims of domestic violence, including through Government Regulation No. 4 of 2006 concerning the Implementation and Cooperation of the Recovery of Victims of Domestic Violence and the Regulation of the Minister of Women's Empowerment and Child Protection concerning SOPs for handling victims. This policy emphasizes the importance of coordination between agencies, starting from the police, health services, to social institutions.

CONCLUSION

The application of criminal sanctions against perpetrators of domestic violence in Indonesia has a sufficient legal basis through Law No. 23 of 2004. However, in practice, there are still many implementation obstacles that prevent protection for victims from being maximized. Patriarchal culture, minimal legal awareness, and lack of capacity of law enforcement officers are the main challenges. Criminal sanctions often do not provide an optimal deterrent effect on perpetrators. Law enforcement must be supported by a comprehensive protection system, from reporting to victim recovery. A more restorative approach is needed in resolving domestic violence so that justice is not only retributive. Public education about the law and victims' rights is very important to encourage case reporting. The government also needs to strengthen legal and psychological assistance services for victims. Integrative efforts across sectors, including NGOs, officers, and communities, must continue to be improved. Reformulating criminal law policies in the context of domestic violence is a strategic step to strengthen victim protection and reduce domestic violence rates.

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