

Legal protection against women from domestic violence in the Baubau city

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Abstract

At the time of adulthood, women already have a desire for themselves to get married, with the hope of forming a happy family. Women consider marriage as a means of achieving complete self-identity as an adult woman. The phenomenon of domestic violence, especially against women, becomes a serious social problem. Law enforcement is required in order to eliminate domestic violence. The purpose of this study is to find out how the form of legal protection against women as victims of violence in households and to know what factors affect the occurrence of violence in the household. This research method using normative law research method. The data used is secondary data from the Baubau city resort police in 2017. Data were analysis using qualitative analysis. The results of the study indicate that the form of legal protection against women as victims of violence in households is the protection of preventive and repressive law. In two forms of legal protection, preventive law protection is more dominant than repressive.

Keywords: role, social institutions, development

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1. Introduction

At the time of adulthood, women already have a desire for themselves to get married, with the hope of forming a happy family. Women consider marriage as a means of achieving complete self-identity as an adult woman (Saraswati, 2009). Many reasons were stated when deciding to get married. One of the main reasons is the existence of a sense of security as well as being protected. Adult women who began to release their self-dependence from parent figures, began to be attracted to adult male figures who were able to provide a sense of security while loving him (Lestari, 2012).

According to Law Number 1 of 1974, marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the Godhead of the Almighty.

In reality, the purpose of the marriage is often not achieved because in the marriage often domestic violence occurs, namely violence that occurs in the household by the husband or wife against their partners (Saraswati, 2009; Soeroso, M, 2010). Violence in this household is very contrary to the original purpose of the marriage.

Even though the family is an ideal social institution to develop the potential that exists in each individual, in reality the family is often a container for the emergence of various cases of irregularities or other illegal activities that cause misery or suffering committed by one family member against other family members, such as persecution rape and murder. This situation is commonly referred to as Domestic Violence (Syukur, 2011).

The integrity and harmony of the household can be disrupted if the quality and self-control cannot be controlled, which in turn can lead to violence in the household resulting in insecurity or injustice towards people who are in the household environment (Soeroso, M, 2010). To prevent, protect victims and take action against perpetrators of domestic violence, the State and the community must implement the prevention, protection and prosecution of perpetrators in accordance with the mandate of the Pancasila and the 1945 Constitution (Harahap, 2016).

Today's developments show that physical, psychological, sexual abuse and neglect of the household in fact often occur, so that adequate law is needed to eliminate domestic violence. The legal means available to protect victims of domestic violence are sufficient, such as the 1948 human rights declaration guaranteeing the human rights of every human being to be free from all forms of violence. Conversion on the elimination of all forms of discrimination against women (convention on the Elimination of all Discrimination Against Women), the 1945 Constitution, the Criminal Code (KUHP), Law Number 39 of 1999 concerning Human Rights (HAM) , Law Number 5 of 1998 concerning Conversion Against Torture and Cruel Punishment, Law Number 23 of 2004 concerning the Elimination of Domestic Violence.

There are still many people who do not know that at this time if someone has experienced acts of violence in the household both physical, psychological, and sexual violence can be reported and can be punished even if the violence occurred in the household. Victims will receive legal protection and nonviolent perpetrators can be punished according to the applicable laws and regulations (Astuti, 2014). In this study, we want to answer how the form of legal protection against victims of domestic violence and what factors are driving the occurrence of acts of violence in the household so that domestic violence can be prevented.

Based on this description, this article is intended to discuss how the legal protection of women as victims of domestic violence in the Baubau City Police Department? And what factors influence the occurrence of acts of domestic violence in the Baubau City Police Department?

2. Methodology

The research method used is normative juridical legal research, which is a library research with a program examining library materials related to the object under study (Salim & Nurbani, 2013). In this study using a case approach (case approach). Types and sources of data used in this study are secondary data and primary data. To collect the data needed the data collection techniques used are documentation and interviews. In accordance with the problems to be answered and the objectives to be achieved in this study, the data collected both secondary data and primary data were analyzed qualitatively. Qualitative analysis requires the quality / quality of the data in order to provide a description with words for the findings according to the object of research.

3. Findings and Discussions

3.1. Legal Protection of Women as Victims of Domestic Oversight

Violence against wives (women) still often occurs because of the view of the community that the violence perpetrated by the husband is due to the wife being disobedient to the husband and the culture that places the husband as the leader who has the right to control the wife in all matters. So if the wife acts not according to her wishes, the husband has the right to take actions including violence.

Violence against women in the household is a crime. In legal juridical terms, according to R. Soesilo crime is an act of behavior that is contrary to the law.

Various forms of domestic violence certainly have negative impacts on the victims themselves and their children. Physical violence generally results in physical damage such as injury, injury, disability to the body and or death. Emotional or psychological power is generally difficult to see and rarely noticed but has a more serious impact than other forms of violence. Mild psychological effects experienced include feelings of inferiority, loss of self-concept and loss of self-confidence. Psychic consequences are certainly not good for the mental development of the victims because it inhibits the potential of self that should develop. Sexual violence can cause disruption to the production function, irregular menstruation, frequent miscarriage, and difficulty enjoying sexual relations.

Philipus M. Hadjon distinguishes legal protection into 2 namely; Preventive Legal Protection and Repressive Legal Protection. Domestic violence has become a big problem especially for women victims who have to get legal protection. Efforts to protect victims of domestic violence by the resort police of Baubau City are preventive and repressive measures.

a. Preventive Efforts

Preventive efforts are efforts made to prevent domestic violence. Prevention is better than prosecution. Protection of victims from acts of violence against women in the household has been carried out by the Baubau City Police. The efforts made by the Baubau City Police Department are as follows:

- Legal counseling to community groups especially regarding the socialization of Law Number 23 of 2004 concerning domestic violence
- Legal counseling to victims and perpetrators during mediation so that domestic violence does not recur.

b. Repressive Efforts

Punishing a guilty person is indeed one way of overcoming crime. Punishment is known by the world of law as having a preventive value, for the perpetrators of a crime not to repeat their actions, or for others not to commit an act or crime.

Tackling the problem of crime in a repressive manner is more indicated in cases that have already occurred. So this effort is one form of activity carried out when a crime has occurred. Usually these efforts are mostly legal actions both written and unwritten laws in the sense of customary law (customary law). Legal protection for women as victims of domestic violence has been carried out optimally by the Baubau City Police. This was explained by Bripka Darmawati as the Head of the Baubau City Police Resort PPA Office interview on 20 April 2017 stated that:

"setiap ada laporan/pengaduan dari korban kekerasan dalam rumah tangga pihak kepolisian memproses agar penegakan hukum represif bisa ditegakkan dalam rangka memberikan perlindungan kepada korban, namun dalam proses penyidikan terkadang pelapor mencabut laporannya karena pertimbangan anak dan nafkah keluarga, karena kasus kekerasan dalam rumah tangga merupakan delik aduan, maka yang bisa ditempuh adalah penyelesaian dengan mediasi, pihak kepolisian memberikan penyuluhan dan penyadaran hukum agar rumah tangga yang bersangkutan kembali harmonis dan tidak terulang kembali kekerasan di dalam rumah tangga"

Furthermore, similar thing was also expressed by Bripka Sarini as PPA's unique assistant investigator at the Baubau City Police Resort interview on 20 April 2017 stating that:

"Upaya perlindungan terhadap korban kekerasan dalam rumah tangga tetap kami lakukan secara procedural dan kami proses secara hukum. Serta keamanan daripada pelapor tetap kami lindungi sepanjang pelaku dan korban tidak menempuh jalur damai".

Protection for the victim at the same time implies providing "protection to the community" because the existence of individuals is part of the community. So, the state in this case the government is obliged to protect women and children victims of violence.

From this study, the authors conclude that the legal protection of women as victims of domestic violence carried out by the Baubau City Police Department has proceeded according to procedure by taking repressive measures. But the weakness of the repressive measures is that the victim suffers more, because the condition of the household does not get better, the victim must also bear the family's own livelihood because her husband is in prison. It would be better if victims and perpetrators made peace with their determination to build harmonious household relations.

Preventive legal protection carried out by the Baubau City Police in ensuring protection of women as victims of domestic violence needs to be compared with repressive legal protection in order to know which legal protection is more effective and has legal benefits. The following are data on the amount of Domestic Violence (Domestic Violence) based on how to resolve cases:

YEAR	FORM OF VIOLENCE	TOTAL
2014	Mediation	14
	Criminal	8
2015	Mediation	25
	Criminal	10
2016	Mediation	4
	Criminal	8
2017	Mediation	5
	Criminal	3

The data shows that preventive legal protection is more dominant in resolving cases of violence against women in the household. According to this writer is very good, the most important thing is not just to punish the perpetrators of violence, but to revive the perpetrators to be able to return to the right path and return to make the household harmonious in accordance with the purpose of marriage which is to get happiness.

In criminal law, there are three kinds of theories about the purpose of punishment. First, the theory of retaliation. According to this theory, the aim of imprisonment is retaliation or rewarding someone who has committed an adverse act or crime. Second, relative theory or purpose. According to this theory, criminal imprisonment aims to deter and prevent the repetition of criminal acts both by the person himself and by others (special prevention and general prevention). Third, the combined theory. According to this theory, the purpose of punishment includes both retaliation and

deterrence and prevention as well as to improve the mentality of the perpetrators of the crime.

Preventive and repressive legal protection if we peel using a theoretical approach to the purpose of punishment will be clearly illustrated that the protection of repressive and preventive law can be provided through criminal sentences to the perpetrators of criminal acts. However, according to the author, preventing the repetition of a criminal offense by the perpetrator does not have to be a criminal sentence, preventive legal protection can be given to the victim of a criminal offense when the victim and the perpetrator choose the path of peace. Considering that domestic violence is a complaint offense, when the victim withdraws his report and chooses to restore harmony to his household by making peace, the obligation of the police is to provide counseling and legal awareness. Legal counseling provided by the police is also a preventive legal protection so that perpetrators do not repeat their mistakes in the future.

In preventing violence against women in the household, it is the duty of all parties, including the police, government, religious leaders, traditional leaders, and all who are part of the community members.

The elimination of violence in the household must be maximized both preventively and repressively. Considering the purpose of eliminating domestic violence is: 1) preventing all forms of domestic violence; 2) protect victims of domestic violence; 3) cracking down on perpetrators of domestic violence; 4) maintaining the integrity of a harmonious and prosperous household.

It must be realized that the Criminal Law is not the only strategy that can influence the problem of eliminating violence against women. However the structure and strategy of a country can influence the form and attitude towards women and the violence suffered.

Law enforcement efforts are expected to be a means to bring about justice. The function of the existence of law to regulate and create a balance of human interests must always be pursued, because the need for order is an objective need for every human being.

Violence in the household is not a personal matter, but a matter of society, government, and our obligation to eliminate it.

The community needs to change the perception of crime in the household to serious crime so that prevention of acts of violence in the household can be jointly prevented and tackled. With the enactment of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, various groups need to be socialized to increase awareness of human rights.

3.2. Factors That Influence Domestic Violence

Violence against women is a systematic problem that has long been considered a natural thing, because it has been buried for so long based on the collective unconscious of the public, so violence against women is often considered part of the reasonableness of the dynamics of life. In addition, cultural social assumptions about the reasonableness of violence tend to make the wider community especially victims and their families unaware of the variety of violence they have experienced and done. This situation makes victims and their families often do not make legal efforts or other efforts to overcome the impact of violence that occurs. On the other hand, the perpetrators often

evade responsibility for the violence they perpetrated, and often the perpetrators even defended themselves and then blamed the victims.

The root of violence against women is because of the culture of male domination of women. It is in this structure of male domination that violence is often used by men to win dissent, to express dissatisfaction and sometimes to merely demonstrate.

Domestic violence is not a new thing, before the enactment of Law Number 23 of 2004 concerning domestic violence, domestic violence has been going on for a long time, only the resolution of the problem of domestic violence that occurred so far has been resolved through the District Court and Religious Courts are often felt unsatisfactory. In the District Court, the articles used in the Criminal Code (KUHP) whose threats are still often too mild, unless the act of violence is endangering / threatening lives or losing lives, then sanctions are increased. While in the Religious Courts the settlement of the case is usually by a divorce suit on the grounds that there are no more matches or ongoing disputes. However, in this study the authors only examined domestic violence that had occurred after the enactment of Law Number 23 of 2004 concerning the elimination of domestic violence.

From the results of this study it is known that cases of domestic violence reported at the Baubau City Police Station from 2014 to 2017 recorded as many as 75 cases and quite a number of such cases. There are a number of cases reported, but the report / report is revoked by the victim / reporter with various considerations. It is estimated that the number of cases does not reflect the real situation, many victims do not report acts of violence they experienced, and even tend to cover up this problem, because it is considered as a household shame that must be kept secret.

If we see from the data recorded in the Women's and Children's Services Unit (PPA) the number of cases of domestic violence in the last 7 years (2010-2016) is as follows:

YEAR	TOTAL OF DOMESTIC VIOLENCE
2010	12
2011	26
2012	41
2013	21
2014	22
2015	35
2016	13
2017	8

Source: RKP Polresta Kota Baubau, 2017

The table shows the number of cases of domestic violence in 2010 amounted to 12 cases, then increased in 2011 by 26 cases, and increased again in 2012 by 41 cases. In 2013 cases of domestic violence decreased to 21 cases, in 2014 it increased to 22 cases, then in 2015 it increased to 35 cases, but in 2016 it declined again to only 13 cases. Cases of domestic violence are an iceberg phenomenon, because it is estimated that these figures do not reflect the real situation. Many wives do not report acts of violence they experience, and even tend to cover up because it is considered a family disgrace.

Of the many cases of acts of domestic violence reported at the Baubau City Police Office, many factors are the cause of domestic violence in Baubau City.

Economic constraints which are a major need in the household are often one of the causes of domestic violence. But economic factors are not the main factor causing violence against women in the household.

In addition, the lack of understanding of religious knowledge is also a factor that affects the occurrence of violence in the household, because religion is the foundation of every person in understanding the rights and obligations to God and human beings, especially in the relationship of husband and wife.

In an analysis of cases of domestic violence that have been resolved in the Baubau City District Court with a decision number 280 / Pid.Sus / 2016 / PN.Baubau, it can be concluded that violence against victims is caused by jealousy.

The following is a summary of the case, for the sake of ethics and maintaining the good name of the perpetrators and the victims, their names are not explicitly mentioned (disguised):

This violence took place in the city of Baubau in 2016, where a husband of A had the heart to commit violence against his wife. The form of violence committed by the husband to his wife is a form of physical violence in the household, the act is carried out by the perpetrator by: that when husband A returns home drunk, then the husband accuses his wife of having slept with another man (cheating) when her husband is in prison. His wife shrugged off her husband's accusation by saying that he had never slept with another man while he was in prison. But her husband did not believe it and then slapped his wife's cheek and mouth repeatedly using his right hand. Not content to slap his wife, her husband went into the kitchen and took a knife and threatened his wife by saying "I stab you" but his wife answered "don't kill me, remember your child if there is no me who wants to see!" so that the husband again hits his wife's head with the handle of the knife he is holding until the handle of the knife is released. Because the knife handle was released the husband returned to the kitchen to look for another knife, but at that time the wife ran away and after that reported her husband's actions to the authorities.

From the domestic violence case, it can be concluded that the factors causing domestic violence are caused by alcoholism and jealousy. The problem of violence in the household is very complex, the factors causing the occurrence of violence are also very complex both the effects that arise internally from the perpetrators themselves and the effects that appear externally by the perpetrators themselves as well as the influence of alcohol or economic factors. This was confirmed by Andi Hamzah regarding the factor of violation of decency, namely factors originating from the perpetrators themselves and factors originating from outside the actors themselves such as the influence of technology or the environment.

Regarding the factors driving the occurrence of domestic violence before, many researches have been done, including research conducted by Moerti Hadiati Soeroso in his book titled Domestic Violence in Juridical-Victimological perspectives are as follows:

1. Financial problems

Money can often be a trigger for the emergence of disputes between husband and wife.

2. Jealousy

Jealousy can also be one of the emergence of misunderstandings, disputes and even violence.

3. Children's Problems

One of the triggers of disputes between husband and wife is the problem of children. Disputes can become more acute if there are differences in the pattern of education of children between husband and wife.

4. Parents' Problems

Husband and wife parents can be a trigger for conflict and cause a relationship break between husband and wife.

5. Your Problems

Like parents, siblings who live under one roof or not, can trigger a relationship break in the family and conjugal relationship.

6. Polite problems

Between husband and wife must respect each other and mutual understanding. If this is ignored the consequences can lead to misunderstandings that trigger quarrels and psychological violence. It is also possible to end in physical violence.

7. Past Problems

Disputes triggered by the story of each party's past have the potential to encourage disputes and violence.

8. Misunderstanding Problems

Misunderstandings that are not immediately sought for a way out or resolved immediately, will cause quarrels and can also trigger violence.

9. Problems Not Cooking

There is a sumi who says he only wants to eat his own wife's cooking, so that if his wife can't cook it will be noisy.

10. Husband Wants To Win Alone.

There is an attitude of a husband who feels "more" in everything than a wife. Therefore, the husband wants all his wishes to be a kind of "law", where all people who live in the house must submit to it. Thus, if there is resistance from the wife or other occupants of the house, then there will be a fight followed by the onset of violence.

The forms of acts of domestic violence according to Law Number 23 of 2004, are listed in Article 6, Article 7, Article 8 and Article 9, namely:

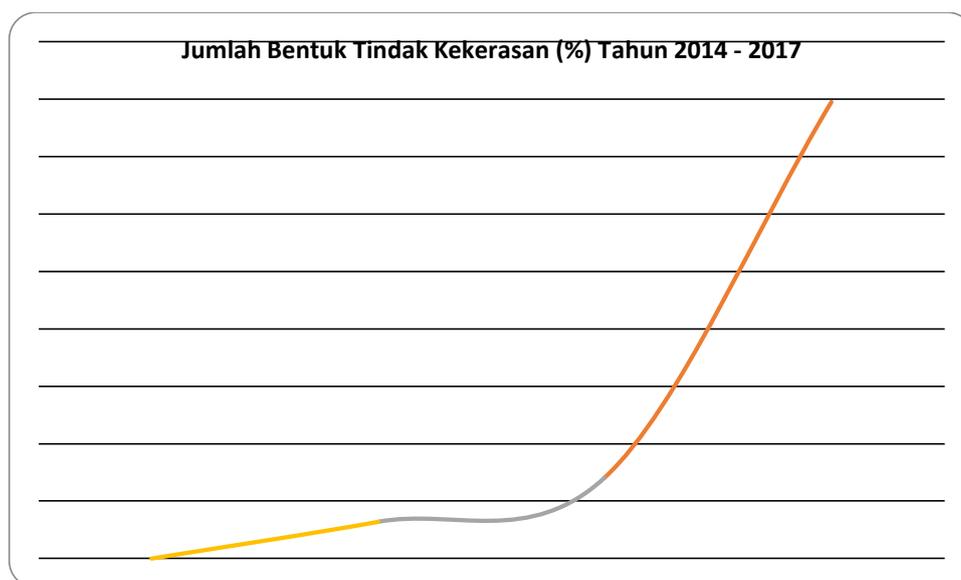
1. Physical violence
2. Psychic Violence
3. Sexual Violence
4. Neglecting the Household

The number of cases found in the Baubau City Resort Police when viewed from the forms of violence as a form of violence in Law Number 23 of 2004 is as follows:

YEAR	FORM OF VIOLENCE	TOTAL
2014	Physical abuse	18
	Psychic violence	4
	Sexual Violence	-
	Abandonment	-
2015	Physical abuse	28
	Psychic violence	5
	Sexual Violence	2
	Abandonment	-
2016	Physical abuse	10
	Psychic violence	-
	Sexual Violence	3
	Abandonment	-
2017	Physical abuse	6
	Psychic violence	2
	Sexual Violence	-
	Abandonment	-

Sumber: RPK Polresta Kota Baubau, Tahun 2017

From the table above it can be seen the percentage of forms of violence based on the forms of violence are as follows:



Of the cases of domestic violence reported in the Baubau City Police Department from 2014-2017, 78 cases were found, of which the most experienced cases of victims were physical violence with a percentage of 79%. In the second place is psychological violence with a percentage of 14%, in the third place is sexual violence with a percentage of 6%.

4. Conclusion

Legal protection for women as victims of domestic violence is given repressively and preventively by the Police. In both safeguards preventive measures are more dominant than repressive when viewed from the way of resolving cases of domestic violence from year to year. Preventive efforts are carried out so that acts of violence against women in the household do not reoccur and re-create a harmonious family.

Factors that influence the occurrence of acts of domestic violence can be classified as internal and external factors. Internal factors related to the mental condition of the offender, usually the offender has bad character and behavior. While external factors are external factors such as the influence of economic pressure, jealousy, misunderstanding, and others.

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