

DOMESTIC VIOLENCE ACCORDING TO LAW NUMBER 23 OF 2004: A JURIDICAL STUDY

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Keywords

Domestic Violence (KDRT),
Legal Aspects, actors.

Abstract. Domestic violence (KDRT) is a social problem that is detrimental, violates human rights, and has a serious impact on the welfare of individuals and society. This research aims to conduct a juridical study of the implementation of Law Number 23 of 2004 concerning the Elimination of Domestic Violence in Indonesia. The research method used is a descriptive analytical method with a normative juridical approach. Data was obtained through literature study, analysis of the content of laws, and study of documentation related to government policies. The research results show that Law Number 23 of 2004 has become an important legal basis for efforts to eradicate domestic violence in Indonesia. The research results show that Law Number 23 of 2004 concerning the Elimination of Domestic Violence (UU PKDRT) is a significant step in handling cases of domestic violence in Indonesia. This law provides clear definitions of various forms of violence and identifies who is included in the domestic sphere. The importance of this law can be seen in the effort to provide legal protection to victims, especially women, and change society's paradigm towards domestic violence. In addition, the Domestic Violence Law creates a legal basis for addressing inequality, opening wider access to justice, and identifying actors involved in violence, such as domestic workers. The research conclusion confirms that the PKDRT Law is not only a legal instrument, but also a tool for fairer social change and the protection of human rights.

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1. INTRODUCTION

Domestic Violence (KDRT) is indeed a complex problem and difficult to solve, because it involves various factors, including the perpetrator's understanding and perception of their actions (Fanani, 2018). Some perpetrators may not realize that their behavior can be categorized as domestic violence, perhaps due to a lack of understanding or awareness of the negative impacts it causes. These factors can be related to a lack of education, understanding of social norms, or even a lack of knowledge regarding the definition of domestic violence itself (Syaifuddin, 2018).

On the other hand, there are also cases where the perpetrator deliberately ignores their awareness of the acts of domestic violence they have committed. They may be aware that this behavior violates laws or social norms, but choose to ignore it by taking refuge under established norms in society (Utami, 2018). This can include cultural aspects, patriarchal values, or even gender inequality that are still part of society's mindset. In their view, domestic violence may be considered something normal or even a personal right (Faizah, 2013).

Domestic Violence (KDRT) involves various forms of detrimental actions, including not only physical violence or abuse, but also exploitation, neglect and sexual violence which can be experienced by wives/husbands, children or domestic workers (PRT). (Harnoko, 2010). This condition is becoming increasingly disturbing because many cases of domestic violence occur, both reported and unreported, creating a profound negative impact on daily life (Sutiawati & Mappaselleng, 2020).

It is important to recognize that domestic violence, especially against women, is not just a personal problem, but is also a form of discrimination and violation of fundamental human rights (Merung, 2016). The right to live in security and free from all forms of threats and fear is a basic right that should be obtained by every individual. Violence against women not only harms victims

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physically and psychologically, but also creates systemic gender inequality (Purwanti & Hardiyanti, 2018).

So far, in resolving domestic violence cases based on Law no. 1 of 1974, concerning Marriage. Most victims of violence choose to divorce, only a few victims are willing to take their case to criminal proceedings (Rahmi, 2018). However, in several cases of domestic violence that occur in society, apart from legal considerations, the view of society which considers that the problem of domestic violence is a matter for the husband and wife concerned, which must be resolved by both of them, also hinders the process of protecting women (Lestari, 2005). The lack of equal access to justice is related to the issue of upholding the principle of equality before the law in legal practice. Ideally, this principle can only be effective if everyone has equal access to justice (Diana & Irawati, 2022).

Seeing the increasing number of cases of Domestic Violence (KDRT) which continue to color people's lives, awareness has arisen of the importance of establishing a special law that specifically addresses this problem. In line with this, Law No. 23 of 2004 concerning the Elimination of Domestic Violence (UU PKDRT) was born as a legal umbrella that provides the basis for efforts to eliminate, prevent, protect victims and take action against perpetrators of domestic violence (Wiguna, 2018). The main mission of this law is as a concrete step in efforts to eliminate domestic violence from levels of society. With the provisions in this law, the state has a strong legal basis to prevent domestic violence, take action against perpetrators, and protect victims (Mahfiana, 2022).

Before the PKDRT Law came into existence, acts of domestic violence were often considered an internal family matter that did not require outside interference. However, the PKDRT Law marks a paradigm shift by categorizing acts of violence, whether physical, psychological, sexual or neglect, as criminal acts that can be followed up by law. These actions can involve various relationships within the household, including between husband and wife, parents and children, carrying clear legal consequences (Nadhifah, 2018).

This law not only provides provisions for criminal sanctions, but also regulates aspects of procedural law and the state's obligations to provide immediate protection to victims who report. Therefore, it can be considered that the PKDRT Law is not only a legal instrument, but also a fundamental breakthrough for efforts to enforce Human Rights (HAM), especially in the context of protecting individuals who have experienced negative impacts in the family or household environment. . Thus, the PKDRT Law provides a solid foundation for creating a family environment that is safe and free from violence (Mareta, 2016).

This research aims to explore the implementation of Law no. 23 of 2004 concerning the Elimination of Domestic Violence (UU PKDRT). Apart from that, this research also aims to explore the views and experiences of domestic violence victims in accessing justice and receiving protection. It is hoped that the benefits of this research can contribute to a deeper understanding of the effectiveness of the Domestic Violence Law, formulate recommendations for policy improvements, and increase public awareness of the importance of protecting victims of domestic violence. It is hoped that the conclusions of this research can make a real contribution to efforts to prevent and overcome domestic violence, as well as increase access to justice for all individuals who are victims, creating a more just and safe society.

2. METHOD

The legal research in this thesis adopts normative research methods, known as library research. This method involves collecting data from various literature sources to support research analysis (Soekanto, 2003). This research uses a descriptive analysis approach, which includes discussion, explanation and analysis of laws and regulations relevant to the research topic. A qualitative approach is the basis, where the data produced is descriptive, both in the form of written and spoken words from the informants observed, without using variables or hypotheses (Yulianah, 2022). This research specifically adopts a statutory approach in writing literature, focusing on normative analysis of legal material relevant to the scope of the research.

3. RESULTS AND DISCUSSION

A significant legal breakthrough contained in the Law on the Elimination of Domestic Violence (UU PKDRT) is the clear identification of actors who have the potential to be involved in violence. Article 2 of the PKDRT Law expressly specifies that the scope of the household involves (a) husband, wife and children, (b) people who have family relationships as intended in letter (a) due to blood relations, marriage, breastfeeding, parenting, and guardianship, who live in the household, and/or (c) people who work to help the household and live in the household and are therefore seen as family members.

The identification of violence against domestic workers as a form of domestic violence has given rise to controversy, especially regarding the handling of cases within the framework of employment relations between workers and employers. However, the PKDRT Law addresses the gap in legal protection found in Indonesian labor law which does not cover domestic workers. Therefore, the PKDRT Law expands the scope of legal protection, so that victims of domestic violence, including domestic workers, are recognized as individuals who experience violence and/or threats of violence in the domestic context. Through this breakthrough, the PKDRT Law provides a more legal basis. solid and inclusive, helping to address the legal protection gaps previously faced by domestic workers and voicing their rights in the domestic context, in line with the principles of human rights and equality before the law.

The PKDRT Law marks a positive legal breakthrough in the Indonesian constitutional system by bringing personal issues into the public domain. Before the PKDRT Law came into existence, cases of Domestic Violence (KDRT) often faced obstacles in legal resolution. The Indonesian Criminal Law at that time did not recognize the term domestic violence, not even the word "violence" was found in the Criminal Code (KUHP). This situation makes handling cases of beatings by husbands against wives or parents against children difficult, because the use of articles on abuse in the Criminal Code is not always sufficient to accommodate the required evidentiary elements. As a result, many domestic violence cases complained of by victims are no longer followed up legally, creating a vacuum of legal protection for those who experience violence in the domestic sphere.

With the existence of the PKDRT Law, the paradigm for handling domestic violence cases has undergone significant changes. This law provides a specific legal framework to address the issue of domestic violence, recognizing and addressing weaknesses in previous legal regulations. The Domestic Violence Law creates a clear legal basis and expands the scope of protection, recognizing individual rights to be free from violence in the domestic environment. In this way, the Domestic Violence Law provides better and more specific protection for victims of domestic violence, and confirms the state's commitment to protecting human rights at the domestic level.

The existence of the Law on the Elimination of Domestic Violence (UU PKDRT) has opened the door for disclosure of cases of Domestic Violence (KDRT) and efforts to protect the rights of victims. Previously, domestic violence was often considered a private domain that was protected and could not be intervened by external parties. However, with the enactment of the PKDRT Law since 2004, this paradigm has undergone fundamental changes. This law recognizes the rights of individuals, especially women, to be free from domestic violence, and as such, provides a legal basis for the disclosure of previously hidden domestic violence cases.

However, after more than four years since its enactment, the PKDRT Law still shows several weaknesses, especially in several articles that are considered unfavorable for women victims of violence. Implementing Regulation (PP) No. 4 of 2006 concerning Recovery is a derivative regulation of this Law which is designed to facilitate the implementation of the PKDRT Law. This PP is expected to overcome several obstacles in the law implementation process, in line with the mandate carried out by the PKDRT Law itself. Thus, this regulation is an important instrument in bridging the implementation of the PKDRT Law and increasing the effectiveness of efforts to protect victims of domestic violence in Indonesia.

Forms of domestic violence as explained in Law Number 23 of 2004 concerning the Elimination of Domestic Violence (UU PKDRT), summarized in article 5, include physical violence,

psychological violence, sexual violence and domestic neglect. Physical violence, which includes all forms of actions that cause pain, illness, even serious injury or can result in death, shows a physical dimension that is very detrimental to the victim. The impact can endanger the immediate health and safety of family members who are targets of this violence. Furthermore, psychological violence provides an image of a threat to the victim's mental well-being. Starting from fear, loss of self-confidence, loss of ability to act freely, distrust, to severe psychological suffering, psychological violence creates deep emotional wounds in a person. These crimes, even though they are not physically visible, have a devastating impact and can leave a lasting impression on the victim's mental health.

Apart from physical and psychological violence, sexual violence is also an important aspect covered by the PKDRT Law. Whether committed by family members or involving forced sexual relations between family members and third parties, sexual violence is an attack on a person's human rights and bodily integrity. Finally, household neglect creates conditions of economic dependence on the victim, threatening the overall well-being of the family. All these forms of violence create a strong legal basis for providing protection and following up serious cases of domestic violence.

Article 6 Law no. 23 of 2004 concerning the Elimination of Domestic Violence provides a clear definition of physical violence. In this context, physical violence is defined as actions that result in pain, illness or serious injury. These acts of physical violence can include various forms, ranging from attacks using deadly weapons to direct beatings. This regulation identifies physical violence as an action that can have a detrimental physical impact on the victim, and provides a legal basis for following up on cases of domestic physical violence.

On the other hand, Article 7 of Law no. 23 of 2004 describes psychological violence as an act that can have serious psychological impacts on the victim. The definition of psychological violence includes various aspects, including fear, loss of self-confidence, loss of ability to act, feelings of helplessness, and severe psychological suffering to a person. Confirmation of psychological violence provides a broader understanding of the negative impacts that can arise from these actions, and provides a strong legal basis for taking action against perpetrators of psychological violence. Thus, the PKDRT Law provides a comprehensive legal framework to protect victims of physical and psychological violence in the household.

Article 8 of Law Number 23 of 2004 provides strict provisions regarding sexual violence in the domestic context. The sexual violence referred to, as described in the article, includes several aspects of acts that harm the victim. First, forced sexual relations are carried out on someone who lives within the household. This includes any form of coercion or pressure that leads to sexual relations that the victim does not want. Second, forcing sexual relations between one member of the household and another person for commercial purposes and/or certain purposes. This regulation provides protection for victims of sexual violence committed with commercial motives or specific purposes, making it an unlawful act.

The explanation in this article expands the understanding of sexual violence, including forcing sexual relations in an unnatural and/or unwanted manner. This means that any form of coercion or pressure that makes someone engage in sexual relations with a will that is not completely free and voluntary can be considered sexual violence. The PKDRT Law firmly states that sexual violence is not only limited to physical acts, but also includes psychological and emotional aspects that can harm the victim. Thus, this article provides a strong legal basis for eradicating and taking firm action against cases of domestic sexual violence. Top of Form

The elements of the crime of domestic violence include all forms of violence directed at individuals within the household or family. Article 2 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence provides a clear definition of who is included in the household sphere. This household includes husband, wife and children. Apart from that, it also includes people who have a family relationship with someone in the household, whether through blood, marriage, breastfeeding, parenting or guardianship. This creates broad and inclusive provisions to ensure legal protection for all household members.



The law also recognizes that people who work to help the household and live in the household are also included in the scope of the household. By recognizing the diversity of household structures, this law provides equal legal protection, covering all people within the household regardless of their status or role in the family. Therefore, Law no. 23 of 2004 creates a solid legal basis for responding to and taking action against violence that occurs within the household, as well as involving all household members in equal legal protection.

With the existence of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, hope is bright for victims who often feel their rights are neglected, especially wives who are vulnerable to experiencing detrimental treatment in the household. This law is not only a legal instrument, but also a breath of fresh air that brings hope for positive change. This effort is specifically designed to eradicate discrimination, as stated in Article 3 point (c) which emphasizes the principle of non-discrimination. Thus, this law creates a strong legal foundation to provide protection and justice for all household members, ends the cycle of violence, and opens the door to more just and humane social change.

4. CONCLUSION

Law Number 23 of 2004 concerning the Elimination of Domestic Violence is a very important legal breakthrough in overcoming and preventing domestic violence in Indonesia. This law provides a clear definition of various forms of violence, such as physical, psychological and sexual, as well as identifying who is included in the domestic sphere. The importance of the PKDRT Law can be seen in its efforts to provide legal protection to victims of violence, especially women who are often victims in the domestic context. This law not only provides a legal basis for taking action against perpetrators of violence, but also stipulates the state's obligation to provide immediate protection to victims who report it. Within the framework of this law, efforts are also seen to eliminate discrimination, in accordance with the principle of non-discrimination contained in Article 3. The PKDRT Law opens wider access to justice, changes society's view of domestic violence as an internal problem, and provides a role active state in protecting individual rights. Apart from that, the PKDRT Law also provides a legal basis for identifying actors involved in violence, such as domestic workers, who previously did not receive adequate legal protection. This conclusion reflects that the PKDRT Law is not only a legal instrument, but also a tool for social change and protection of human rights.

REFERENCES

1. Diana, P., & Irawati, A. C. (2022). Analisis Pola Asuh Orang Tua Terhadap Anak Yang Mengalami Kekerasan Dalam Rumah Tangga (KDRT). *Rampai Jurnal Hukum (RJH)*, 1(2), 60-67.
2. Faizah, N. (2013). Nusyuz: Antara Kekerasan Fisik Dan Seksual. *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 6(2), 113-128.
3. 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.
4. Harnoko, B. R. (2010). Dibalik tindak kekerasan terhadap perempuan. *Muwazah*, 2(1).
5. Lestari, D. (2005). Kekerasan Dalam Rumah Tangga Terhadap Perempuan. *Jurnal Hukum dan Pembangunan*, 35(3), 367-385.
6. Mahfiana, L. (2022). Kekerasan dalam Rumah Tangga dalam Perspektif Hukum di Indonesia.
7. Mareta, J. (2016). Mekanisme Penegakan Hukum Dalam Upaya Perlindungan Hak Kelompok Rentan (Anak Dan Perempuan)(Mechanism of Law Enforcement in Protecting the Rights of Vulnerable Group)(Child and Woman). *Jurnal HAM*, 7(2), 141-155.
8. Merung, P. V. (2016). Kajian Kriminologi Terhadap Upaya Penanganan Kasus Kekerasan Dalam Rumah Tangga (KDRT) Di Indonesia. *Veritas et Justitia*, 2(2), 397-423.
9. Nadhifah, N. A. (2018). Peran organisasi perempuan Sidoarjo dalam merespon kekerasan terhadap perempuan dan anak di Sidoarjo. *Al-Hukama'*, 8(2), 292-319.

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10. Purwanti, A., & Hardiyanti, M. (2018). Strategi Penyelesaian Tindak Kekerasan Seksual Terhadap Perempuan dan Anak Melalui RUU Kekerasan Seksual. *Masalah-Masalah Hukum*, 47(2), 138-148.
11. Rahmi, A. (2018). Urgensi Perlindungan Bagi Korban Kekerasan Seksual Dalam Sistem Peradilan Pidana Terpadu Berkeadilan Gender. *Jurnal Mercatoria*, 11(1), 37-60.
12. Soekanto, S. (2003). Metode penelitian hukum.
13. Sutiawati, S., & Mappaselleng, N. F. (2020). Penanggulangan Tindak Pidana Kekerasan dalam Rumah Tangga di Kota Makassar. *Jurnal Wawasan Yuridika*, 4(1), 17-30.
14. Syaifuddin, M. I. (2018). Konsepsi Marital Rape dalam Fikih Munakahat. *Al-Ahkam Jurnal Ilmu Syari'ah dan Hukum*, 3(2), 171-190.
15. Utami, P. N. (2018). Pencegahan Kekerasan Terhadap Anak Dalam Perspektif Hak Atas Rasa Aman Di Nusa Tenggara Barat (Prevention of Violence to Children from the Perspective of the Rights to Security in West Nusa Tenggara). *Jurnal HAM Vol*, 9(1), 1-17.
16. Wiguna, K. Y. A. (2018). Penyelesaian Hukum Terhadap Tindak Pidana (KDRT) Kekerasan Dalam Rumah Tangga Di Wilayah Kabupaten Kendal (Studi Kasus Di Pengadilan Negeri Kendal). *Jurnal Hukum Khaira Ummah*, 13(1), 171-182.
17. Yulianah, S. E. (2022). *Metodelogi Penelitian Sosial*. CV Rey Media Grafika.

