

# Legal Protection Efforts for Women and Children Centres against Women Victims of Domestic Violence

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Victims of violent crimes get protection regulated by Article 16 through Article 38 of Law Number 23 of the Year 2004, but some of these protections have not yet been implemented. One of the weaknesses that can be seen in this law is the crime of complaint offense, which means that victims of domestic violence do not want to file a case because it is considered a family disgrace. There is a lack of protection and care for victims of domestic violence; the rights of victims, as both human beings and members of society, are not guaranteed in the applicable rules. The main problem addressed by this study is how the role of the Women's and Children's Services Unit in the Pekanbaru City Police enforces laws against women victims of domestic violence. This type of research was observational (observational research), was conducted with a survey that was directly related to the location of the study, and used data collection tools such as interviews and questionnaires. The research was analytical descriptive and intended to provide a detailed, clear, and systematic description of whether the Women and Children Service Units' treatment of women victims of domestic violence has been carried out well, i.e., has applied the appropriate rules of the Criminal Code and Law Number 23 of 2004 concerning the Elimination of Domestic Violence. These include handling and assisting victims, ensuring the confidentiality of reporters, and counselling the public about the impact of violence in the home so that incidents of domestic violence can be anticipated early on.

**Key words:** *Legal Protection, Domestic Violence.*

## Background

Article 1 of Law No. 1 of 1974 concerning Marriage states, "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 a Godhead." Participants in a marriage bond want a happy, peaceful, and prosperous life. To create a *sakinah*, *mawaddah*, and *warrahma* in a family demands emotional control from both husband and wife. Marriage is a legal action; therefore, it is regulated by a legal rule with legal consequences that stipulates the rights and obligations of the husband and wife, as well as other parties. As stated in Article 33 of Law Number 1 of 1974 concerning marriage, "Husband and wife must love each other in love, respect, be loyal and give assistance to one another, physically and mentally."

Violence in a household is not normal. The problems in domestic violence are also related to human rights. Human Rights are a gift given by God Almighty to every human being; basic rights are naturally possessed by humans and are both universal and eternal, so they have to be protected, respected and defended (Adrian Sutedi, 2009). Domestic violence occurs due to a lack of concern regarding the fulfillment of human rights, namely equal rights and obligations in law. Violence that occurs in a household and is committed by a married couple is considered normal. Sometimes in situations of domestic violence, both husband and wife are hide it because it is considered a private matter of the family; however, an act of violence is an act that is contrary to the rules of law, and the perpetrators can be subject to criminal sanctions under Law No. 23 of 2004 concerning the Elimination of Domestic Violence. To prevent this crime, the government has issued regulations that optimally regulate these crimes (Heni Susanti, S.H., 2018).

The protection of victims of domestic violence is carried out by the Women's and Children's Services Unit, which was formed through Perkapolri No. 10 of 2007 concerning the Organization and Work Procedures of the Women's and Children's Services Units. In Article 3, it is stated that: "The Women's and Children's Services Unit is tasked with providing services in the form of protection of women and children who are victims of crime and law enforcement against the perpetrators." In its implementation, it refers to Perkapolri No. 3/2008 concerning the Formation of Special Service Spaces, which describes the duties of the Women's and Children's Services Units as protecting women and children victims of criminal acts.

In reality, although Law Number 23 of the Year 2004 concerning the Elimination of Domestic Violence has been established, victims of violent crimes receive protection regulated in Article 16 through Article 38 of Law Number 23 of the Year 2004, which has been only partially implemented. One of the weaknesses that can be seen in this law is the crime of complaint offense, which means that victims of domestic violence do not want to file a case because it is considered a family disgrace. In fact, there are victims of domestic violence who have suffered

injuries, disability, and even death. We must admit that the lack of protection and care for victims of domestic violence. The rights of victims, as human beings, as members of society, and as gender-equal women, are not guaranteed in the applicable regulations.

### **Main problem**

The main problem of this study: What is the role of the Women's and Children's Services Unit of Pekanbaru City Police in dealing with women victims of domestic violence?

### **Research Methodology**

Observational research was conducted with a survey, which was directly related to the research location, and interviews were used as data collection tools (Effendi, 2005, page 3). The research was conducted to provide a complete, clear and systematic understanding of the main research question. Soerjono Soekanto proposed that a descriptive study should provide a data set by researchers about humans, overcome or raise other questions, aim to reinforce hypotheses, assist in the research of old theories, and/or seek research into new theories (Soekanto, 2008, p. 10). Respondents in this study comprised: the Head of the Women's and Children's Services Unit of Pekanbaru City Police, Actors and Victims of Domestic Violence.

### **Research and Discussion Results**

The police have the responsibility to establish a situation that is conducive to citizens. In general, the police institution has 3 (three) functions based on the Police Law, namely:

1. maintaining security.
2. community service.
3. criminal justice.

Their duties are listed in Article 13 and Article 14, paragraph (1) of the Police Law. Article 13 of the Police Law states that the main tasks of the Republic of Indonesia National Police are:

- a. Maintaining public security and order.
- b. Upholding the law.
- c. Providing shelter, protection, and services to the community.

According to the author's interview, Juniasti, S.H., the Head of Pekanbaru City Police Women's and Children's Services Unit, formed the Women's and Children's Services Unit with the following working procedures:

1. When the community is exposed to the problem of crime against women, the reporter or victim can come to the police station to make a complaint or report to the local community. Reporting will be served by policewomen who are investigators in the Women's and Children's Services Unit.
2. If, after being investigated, the case does not yet have a criminal element, various collaborative efforts or legal aid efforts can be made, such as counselling from the National Police, the Ministry of Health Laboratory, the Information Centre of the National Police Headquarters, psychologists and others. Not only that, but cooperation can be carried out with relevant agencies and NGOs.
3. If, after being investigated, the case has a criminal element, then the next step will be carried out at the investigation stage, as stipulated by the articles listed in the Criminal Law Code or the Law on Domestic Violence
4. To be aware that because personnel who are in the Women's and Children's Services Unit are under the command of detective, it is necessary to have integrated and harmonious communication and coordination to maximize the performance of Women's and Children's Services Unit .
5. When dealing with violence that occurs within a household, the unit must collaborate with agencies or non-governmental organisations outside of the National Police. The Women's and Children's Services Unit cannot work alone, but must still guided by the applicable rules.
6. When the victim has made a report and a companion or a safe house is needed as a shelter, the Women's and Children's Services Unit works closely with non-governmental organisations to meet the needs of the victim.

The Women's and Children's Services Unit was formed to respond to the demands of the community. If the unit is able to carry out its duties and authority properly, and the community is satisfied with the performance of the police, it is hoped that this can improve the image of the National Police, which is loved by the community. By reporting or processing acts of violence against women and children, the Pekanbaru City Women's and Children's Service Unit will prevent perpetrators from freely roaming the community and reduce the possibility that they will repeat their crimes, both against victims first he himself and other potential victims.

The main causes of domestic violence are economic factors. Materially inadequate family situations and conditions can cause violence. This is because the husband of the victim of domestic violence does not have a job or is unemployed. The wife's demands are so high that it becomes difficult for her husband to fulfill them. Watching porn and other extreme films can also affect the psychological condition of the husband. Thus, the husband vents his lust by beating, kicking, and slapping his wife until she is badly bruised.

The role of the Women's and Children's Services Unit is to enforce laws against domestic violence, which can be proven if a husband violates his wife. In these cases, the police will process according to the procedure that has been applied. Regardless of whether these laws are enforced against perpetrators, victims of violence must be protected so that justice can be upheld for both parties.

Another cause of acts of violence against wives in the household are legal factors, in the form of legal substance (content of law), law enforcement officers (structure of law), and legal culture in society (culture of law). These legal factors are apparently not in favour of the interests of women, especially in matters of violence. The Criminal Code, which is the spearhead of legal decision making, is no longer sufficient to cover the variety of violence that occurs in the community. Cultural values that justify women's subordinate positions are even confirmed in various legislations, such as is written in Law Number 1 of 1974 concerning Marriage, which clearly distinguishes the roles and positions of husband and wife. Article 31, Paragraph 3 reads, "The husband is the head of the family and wife is a housewife."

Article 34, Paragraphs 1 and 2 stipulates, "A husband must protect his wife and provide all the necessities of household life, in accordance with his abilities," and, "The wife must regulate household affairs as well as possible." It is clearly seen that the law places the wife in a position of great economical dependence on her husband. This causes the position of the husband to be seen as more dominant than that of the wife. From the interview results above, it can be stated that the factors causing domestic violence can be categorised as follows:

#### 1. Internal Factors

Internal factors are related to the behaviour and attitudes of a violent person that predispose that person to perpetrate acts of violence, especially when faced with situations that cause anger or frustration. Aggressive behaviours and attitudes are more likely to be caused by daily relationships within the family or social environment.

##### a. Individual Problems

It can be seen that it is not uncommon for a husband to be very selfish in a household. According to Moerti Hadiati Soeroso, many husbands still placed more value in their actions than those of their wives. Thus, the husband wants all his wishes to become a kind of law, to which all family members must submit. It can be concluded that if there is resistance from the wife or other family members, a fight will arise, accompanied by acts of violence (Moerti, 2010, p. 80). According to the results of interviews between the authors and victims of domestic violence, there is one factor that causes quarrels in the household: the lack of carrying out obligations. For example, a wife who rarely cooks or is not even good at cooking can cause arguments in the household.

b. Problems do not have offspring

Not all marriages will be inherited, due to certain factors. Things like this make a husband or wife feel dissatisfied with their partner, and thus make a husband and wife feel bored with the marriage. This boredom can lead to quarrels between husband and wife, and a lack of healthy separation will also result in domestic violence.

c. The past

Past problems are synonymous with difficulties in the household. These can arise when a prospective husband and wife are not open about each other's future. This open nature is an attempt to prevent one party from learning about the couple's past from another person. In reality, the story obtained from a third party cannot be debated. Besides that, not everyone likes to have their past brought up. And there is also a wife who cannot accept the past or vice versa who cannot accept the past speak. The knowledge of each other's past encourages household spending, and things like this can trigger quarrels.

2. External Factors

External factors are factors external to the perpetrators of domestic violence. Those who are not classified as having aggressive behaviour can commit acts of violence when dealing with situations that cause frustration.

a. Economic problems

Economy or finances in the household plays a big role in daily life. Without money, a person will not be able to survive, let alone raise a family consisting of more than one person. Money is a very influential factor in family life, and it can even be a threat to families if the economy is lacking.

b. Third-person problems

Third-person problems or infidelity can be a cause of domestic violence.

c. Problems from parents or relatives

Parents from the side of both husband and wife can be a trigger for contention and result in a rift between husband and wife. Moreover, parents who always interfere in their children's household affairs, for example, their finances, children's education, or work, often become a trigger for a fight that ends with acts of violence. Fights can also be triggered by differences of opinion from each parent.

d. Environmental problems

Environmental factors play an important role in the perpetration of criminal domestic violence acts. Victims of crime, who are essentially the party that suffers the most from a crime, do not get as much protection as is provided for perpetrators by the Act, as stated by Andi Hamzah,

"In discussing criminal procedural law specifically relating to human rights, there is a tendency to explore matters relating to the rights of the suspect without regard to the rights of the victim." (Hamzah, 1986, p. 33)

Legal protection for victims of crime is part of the protection of the community. It can manifest in various forms, such as through the provision of restitution and compensation, medical services, and legal assistance (Gultom D. M., 2007, p. 31). Compensation is something that is given to those who suffer losses commensurate with taking into account the damage suffered (Bentham, 2007, p. 316). The difference between compensation and restitution is "compensation arises from the request of the victim and is paid by the public or is a form of community or state responsibility, while restitution is criminal, arising from a criminal court ruling and paid by the convict, or is a form of accountability".

Concepts of legal protection for victims of household violence must contain several legal principles so that reflect material criminal law, formal criminal law, and the implementation of the crime (Gosita, 1993, p. 50). The following legal principles are referred to:

1. Principle of Benefits
2. Principle of Justice
3. Principle of Balance
4. Principle of Legal Certainty

The provision of justice and benefits is something that cannot be ruled out, especially for those who work as law enforcers. These principles serve as a shield for law enforcement officials in carrying out their duties and authority to eradicate crime (Gultom D. M., 2007, p. 164).

In the author's interview with the Head of the Women's and Children's Services Unit of Pekanbaru City Police Precinct, Akp. Juniasti said that the unit received complaints from victims of violent crime against women, which would be processed in police reports through the following procedure:

- a. General information
- b. Time of Reporting Examination
- c. Time of Victim Examination, accompanied by psychologist/psychiatrist
- d. Checking witnesses
- e. Checking perpetrator
- f. Time of Examination of Actors
- g. Catch and Hold
- h. Send the file to the prosecutor's office (Stage I)

The Women's and Children's Services Unit is tasked to provide protection for women and children who are victims of crime or violence and enforce the law against its perpetrators. In carrying out its duties, the Women's and Children's Services Unit organises:

- a. Receive Reports.
- b. Complaints about crime.

The role of the unit is to eradicate or eliminate domestic violence by making police reports, providing counselling, referring or sending victims to the nearest Integrated Service Centre or hospital, and investigating cases, including requests for Visum et Repertum; provide certainty to reporters of domestic violence that there will be a follow-up to their report or complaint; guarantee the confidentiality of information obtained; ensure the security and safety of the complainant and the victim; transfer victims to Legal Aid Institutions or Safe Houses, if needed; coordinate and cooperate with cross-functions, agencies, or related parties by informing them and the reporter of the progress of the investigation; and finally, make periodic activity reports, according to procedure and hierarchy.

According to the results of the interview with Akp. Juniasti, the procedure carried out by the Women's and Children's Services Unit in cases of domestic violence is as follows:

1. When the reporter or victim has finished making a report, the police will immediately follow up on the report.
2. If the victim needs assistance, the authorities will provide assistance to the victim.
3. To prevent widespread violence occurring in the household, the police have promoted gender-based violence by prioritizing the interests of victims.

According to the results of the interview with Akp. Juaniasti, the number of criminal acts of domestic violence in 2017 and 2018 had increased. In 2017, the Women's and Children's Services Unit received 24 reports, whereas in 2018, the unit received 28 cases of incoming reports. In law enforcement, the Women's and Children's Services Unit prefers mediation rather than taking legal action. Their goal is to become a mediator as well as a facilitator, because domestic violence is related to the family.

## **Conclusions**

The role of the PPA Unit (Women's and Children's Services) in law enforcement against women victims of Domestic Violence has been carried out well, namely by applying the appropriate rules in accordance with the Criminal Code and Law Number 23 of the Year 2004 concerning the Elimination of Violence in Households. These include handling and assisting



victims, ensuring the confidentiality of reporters, and counselling the public about the impact of violence in the home so that incidents of domestic violence can be anticipated early on.



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