PROTECTION OF THE WIFE AS A VICTIM OF CRIME IN DOMESTIC VIOLENCE (Study in Police Resort Blitar)

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Abstract

Domestic violence is an unlawful act, and if it is specifically regulated by the Criminal Code or a particular law, it can be classified as a criminal offense. This study focuses on the "Protection against Victims of Domestic Violence (Blitar Regency Resort Police Study)." The research problem is formulated as follows: How is the legal protection of victims of domestic violence crimes by the Blitar Resort Police, and what obstacles do they face in providing such legal protection. Empirical research methods were used to collect data, and the research was conducted at the Blitar Resort Police. In-person interviews with the organizational structures in the Blitar Resort Police served as the primary data source. Secondary data sources include Article 351 of the Criminal Code, which defines abuse in physical and verbal forms, and Law No. 23 of 2004 on the Elimination of Domestic Violence. Additionally, legal books, legal journals, legal writings, and the perspectives of jurists were used as tertiary data sources. The data analysis utilized qualitative descriptive techniques, leading to the research findings at the Blitar Resort Police. The legal protection efforts included preventive measures and repressive actions. Preventive efforts involved following up on reports or complaints of domestic violence and conducting awareness campaigns. Repressive efforts included taking legal action against domestic violence perpetrators and providing full legal assistance to domestic violence victims. The main obstacles faced by the Blitar Police were the victims' reluctance to immediately report domestic violence cases to the police and the perpetrators' tendency to escape, which hindered the investigative process.

Keywords: *Legal Protection, Domestic Violence, Domestic Violence Elimination Act, Policing, Victims*

1. INTRODUCTION

The problem of domestic violence (KDRT) victims in Indonesia is not new. The government has established specific rules for this crime, including the Criminal Code and Statute No. 23 of 2004 on the elimination of domestic violence. Domestic violence is considered a felony criminal offense in Indonesia, a state of law ("*rechtstaat*") with a written constitution defined in Article 1 Paragraph (3) as "the state of Indonesia is a state of law." Consequently, Indonesian citizens are obligated to comply with the rule of law and refrain from behaviors that violate the Constitution.

Domestic violence is a significant issue in society, but many people lack a clear understanding of the forms of violence that occur within families, as victims often hide their experiences due to privacy concerns and shame associated with family disgrace. However, the community also plays a role in reporting domestic violence to the police. It is important to address the specificity of this type of violence, as it predominantly occurs within the homes of the perpetrators and victims.

Women (wives) are often the victims of domestic violence within the household sphere, and this issue is particularly concerning. Domestic violence is often considered a

hidden crime, as both victims and perpetrators tend to keep it concealed from the public or community. Indonesian positive law, or *Ius Constitutum*, recognizes domestic violence against women as a form of violence causing physical, mental, psychological, sexual suffering, or even abandonment within the family or household sphere.

Various factors contribute to acts of domestic violence, such as jealousy between spouses, economic strain, infidelity, parental issues, and differences of opinion. While Statute No. 23 of 2004 on the elimination of domestic violence is crucial for addressing this problem, law enforcement in Indonesia extends beyond this statute to encompass the provisions in the Criminal Code. The law aims to provide criminal sanctions against perpetrators of domestic violence, including violence against both wives and children.

The recent severe domestic violence incident in Blitar, East Java, highlights the urgency of addressing this issue. The incident resulted in the death of a 47-year-old victim, with the perpetrator being the victim's husband. Economic factors and infidelity are cited as some of the main triggers of domestic violence in Blitar Regency, where numerous cases of violence against women and children have been recorded in recent years.

To combat domestic violence effectively, serious law enforcement efforts are needed. This study aims to determine and analyze the legal protection provided to wives as victims of domestic violence by Blitar Resort police. Additionally, the obstacles faced by the police in offering this legal protection will be investigated.

2. RESEARCH METHOD

In this writing, the author employs the method of Empirical Legal Research, which is a legal research approach that relies on legal facts and empirical methods. The sample for this research is gathered directly from perpetrators through interviews, as well as from actual data and facts within the jurisdiction. Empirical research allows for the observation and examination of human actions through physical evidence or archival records.

The approach used in this study is the empirical approach, as described by Soekanto & Mamudji (1986). The empirical approach involves analyzing the law as it manifests in the behavior of the community, aligning with the patterns of social interactions in their lives. In this context, law is viewed as an instrument used by society to achieve specific goals, which can be verified and observed in an empirical manner. This approach emphasizes the practical and tangible aspects of law in society (Mahmud, 2006). The positive regulations utilized in this research are the Criminal Code (KUHP) and Statute No. 23 of 2004 on the elimination of domestic violence.

For this study, the author adopts a descriptive analysis, which offers a concise overview of the problems under investigation and is presented in accordance with the relevant rules, regulations, and applicable laws pertaining to the discussed issues (Bandung et al., n.d.).

3. RESULTS AND DISCUSSION

3.1. Legal Protection of the Wife as A Victim of Domestic Violence in Police Resort Blitar

According to the information in the rules of the law on the elimination of domestic violence, it is explained that there are 4 forms of violence in the household, namely, the first is in accordance with Article 6 which explains that physical violence is an act and action that results in illness or falling ill and serious injury. All acts that are mild to severe actions, whether wearing weapons or signs of using weapons that cause minor injuries to cause the death of someone are included in the category of domestic violence. Examples of actions that are acts of domestic violence are by pinching, biting, burning, hitting, kicking, slapping, injuring, and so on (Aripurnami, 2000)

Furthermore, in the form of psychological violence in accordance with Article 7 of the domestic violence Elimination Act, it is an act that causes fear, causing loss of confidence in oneself, inability to take action, feeling helpless, and causing severe suffering to one's psychology. Examples of such actions are by insulting, berating, threatening, mocking, and so on. Then the next is violence against sexuality described in Article 8A which is an act of forcing to have intimate relations with partners both wives and husbands in the household. Then according to the explanation in Article 8B that sexual violence is an act of coercion to have intimate relations with one party in the family or household that is done with other people for commercial purposes or a specific purpose (Arif, 1993).

The last is a form of violence in the form of neglect in the household regulated in Article 9 paragraph (1) explained that a person is prohibited from abandoning the family in the household environment that a person is legally obliged to finance, care for, maintain the family or household. Article 9 paragraph (2), neglect applies to someone who causes economic dependence by prohibiting one of the wife or husbands to work properly in the home environment or outside the home environment that results in the victim can be controlled by the perpetrator of the neglect (Harkrisnowo, 2000).

After conducting research and special interviews with Ipda Inar who is the head of the women and Children Protection Unit at the Blitar Police Criminal Investigation Unit, it was found that domestic violence that often occurs in the Blitar area is usually domestic violence in the form of physical violence that causes minor injuries in the form of abrasions caused by scratches to severe injuries in the form of bruises, cuts and cuts that leave scars and result in physical disabilities. Furthermore, usually domestic violence that occurs in Blitar occurs due to economic factors in the family.

3.2. Causes of Domestic Violence

The cause of domestic violence is biologically explained that humans do have a selfish nature and desire which is indeed a human condition contained in every human being. Aggressiveness in humans causes someone to commit violence, especially domestic violence. Then the theory of aggression explains that someone who is experiencing frustration usually tends to have an aggressive nature with the reason to vent their anger in a certain condition and circumstances (Luhulima, 2000)

Furthermore, in the theory of control which is when the condition of a person in a state of distress and stress than meet with others and vent their anger to others. According to the results of research and interviews obtained the results that the causes of domestic violence committed by the husband against his wife is usually due to lack of mutual trust between the spouses.

So, if the husband sees something suspicious done by the wife, the husband will abuse his wife without thinking due to the anger of the husband. And the next factor is infidelity that occurs in the household that resulted in the husband doing violence against his wife (Poerwandari, 2000). The Control Theory dominates the incidence of domestic violence in the Blitar area due to married couples who cannot consult about the condition of their homes.

3.3. The Consequences of An Act of Violence

In accordance with several cases of domestic violence in the Blitar area that have been handled by the Blitar Police, clearly the impact that affects the wife at the time of violence committed by her husband is usually in the form of stress, depression, to confusion because they feel depressed. This condition is because the wife has a mental and psychological condition that is weaker than the husband.55 even worse is the physical violence that is very clearly visible impact on the condition of the wife as a victim of domestic violence. Wives who are victims of domestic violence are usually afraid to fight the actions done by their husbands because the wife's physical and mental strength is not as strong as the husband. Domestic violence also has a bad impact on the condition of children who could be victims of these acts of violence. The impact usually affects children who are still infants to adolescence. Infant children who receive violence will have a bad impact on their cognitive abilities resulting in difficulty in controlling their emotions (Ali, 1985).

According to the data obtained by the author, the Blitar police who are the recipients of reports of domestic violence actions from victims always seek mediation to resolve the circumstances of the problem. Because the Blitar police assume that divorce is not a way out of family problems. Of the 100% of domestic violence problems in Blitar, only 20% of parties who want the case to proceed to the trial stage and choose to divorce so that one of the parties who committed the crime gets a prison penalty and 80% choose to make peace and promise not to commit domestic violence again. If there is no agreement in the mediation process and choose a divorce, then the impact is related to the struggle for custody of children which is something that is so important.

3.4. Forms of Legal Protection Against the Wife as A Victim of Domestic Violence

Discussing the form of legal protection of the wife as a victim of domestic violence, with preventive efforts and repressive efforts in general can be applied either by the community or the government through law enforcement. For example, in terms of providing protection and supervision against threats that can endanger the condition of victims of domestic violence. As for the provision of medical assistance to victims of domestic violence as well as appropriate legal assistance.

In accordance with the interviews conducted by the authors obtained the results that one of the preventive efforts undertaken by the police Blitar namely by providing knowledge and massive socialization of legal protection against the wife as a victim of domestic violence. That the government has created a Protection Agency for witnesses and victims of domestic violence actions that have the aim of protecting the rights of victims of domestic violence. The form of legal protection owned by the Blitar Police is the protection of women and Children Unit or the so-called PPA Unit formed by the women's police with the aim of providing a service in the form of protection and assistance to women who are victims of violence by obtaining maximum protection.

Law No. 23 of 2004 on the elimination of domestic violence discusses the protection of Human Rights or human rights that seek prevention or so-called preventive efforts and

expand the understanding of domestic violence not only includes forms of violence against the physical, psychological, and sexual, but also the act of abandoning the family is included in the form of violence that can be. Domestic violence has various stages and levels of violence in accordance with the impact of violence received by victims who are also various so that the application of sanctions should be applied with different sanctions in accordance with the acts committed by domestic violence perpetrators. Imprisonment is a problem that becomes pressure on the wife as a victim of domestic violence because the victim still feels economically dependent on the perpetrator who has committed domestic violence so reluctant to report domestic violence cases to the police.

The Criminal Code and the Criminal Procedure Code are still unproven and are considered less able to provide protection to the wife as a victim of domestic violence because the rules are still general and do not consider the conditions and difficulties experienced by the victim in obtaining legal protection, especially against the sex of the victim. The rules in the Criminal Code and the Criminal Procedure Code do not consider patriarchal and feudal cultures and social static differences that create disharmony in the social environment. In this rule, everyone is considered equal to be able and have the power to obtain legal justice. In law 23 of 2004 on the rights of victims of domestic violence is regulated in Article 10, namely by obtaining legal protection, obtaining medical services, social assistance.

3.5. Obstacles faced by the Blitar Resort police in providing legal protection to the wife as a victim of domestic violence

Violence against the wife as a victim of domestic violence is an obstacle that results in a lack of confidence in domestic violence victims. Thus, inhibiting the victim in socializing and disturbing the victim's physical and mental health. Police got obstacles in providing legal protection against the wife as a victim of domestic violence. These obstacles include victims still feel ashamed to complain about domestic violence cases that have been experienced to be reported to the local police and consider domestic violence is a personal problem in the household.

Furthermore, the obstacle is the perpetrators of domestic violence who fled after committing domestic violence so that it becomes an obstacle for the Blitar police in conducting an investigation. The lack of witnesses in the case of domestic violence makes the Blitar police find it difficult to prove the case of domestic violence. The efforts of the Blitar police in providing legal protection to the wife as a victim of domestic violence often find obstacles and obstacles. The obstacles that are often faced by the Blitar police in providing a form of legal protection for victims of domestic violence according to Inar, who is the head of the women and Children Protection Unit at the Blitar Police Criminal Investigation Unit, are:

1) The police are still considered to steal private rana other people's domestic affairs.
2) A wife who still loves her husband even though he has been abandoned.
3) Victims of domestic violence are embarrassed to report domestic violence cases because they will be given a negative stigma that their families are not harmonious
4) Victims who still maintain the condition of their families and consider the future condition of their children.
5) Do not want to report when domestic violence occurs

Victims who are reluctant to report acts of domestic violence due to fear and feel threatened, fear of not being provided for by their husbands because they are financially dependent on their husbands, then fear of reporting on the grounds of shame for fear of defaming the family. Victims usually do not know about the conditions and circumstances that are happening to them even though they are experiencing violence. The victim does not know the rights that must be obtained in accepting the actions and treatment of domestic violence. Another factor is that the YAG family is reluctant to report violence to the police. People who are also less responsive to domestic violence cases that occur around their environment because they think that family problems should not be interfered with and are a private shutter. The lack of community in understanding the rules regarding domestic violence that has been regulated in law 23 of 2004 on the elimination of domestic violence.

3.6. Obstacles Due to Legal Factors

In its application to Statute 23 of 2004 on the elimination of domestic violence does not explain clearly the juridical understanding of what is called pain, illness, or serious injury, it is very important in determining and proving a type of domestic violence committed by the perpetrator. Therefore, the Blitar police must first analyze the juridical understanding by searching in the Criminal Code and jurisprudence. Domestic violence is a criminal offense that uses a complaint offense, so that domestic violence can be processed further if there is a complaint in advance from witnesses and victims. In addition, in Article 44 paragraph (4) of the domestic violence elimination law, this article makes articles that can weaken complaints about domestic violence because the article profiteering from a complaint offense can be revoked and not continued with the legal process.

3.6.1. Barriers Due to Law Enforcement Factors

Law enforcement officers, namely police, prosecutors, and judges do not care about the existence of domestic violence cases in their jurisdictions by being gender biased, and often use victim blaming and victim participating legal approaches in responding to a case of violence. With this resulted in victims of domestic violence into doubt, worry, to fear to report an act of domestic violence experienced. The fear experienced by the victim also includes the legal process that will be undertaken by the victim. The sense of sensitivity and awareness of gender by law enforcers is still minimal so that the victim feels like an object of domestic violence itself. Integrated Criminal Justice System with Gender justice in handling cases of violence against women is a system that shows a process that is interrelated between agencies or authorities in dealing with domestic violence and access to services that make it easier for victims to reach every legal process. The system requires law enforcers who have a goal of gender justice. In domestic violence this process is sometimes quite difficult. For example, in terms of evidence, the police are difficult to find evidence and witnesses who sometimes do not exist and cases and reports are revoked by the victim himself on the grounds of love and dependence in terms of living. In police agencies, there is often an unpreparedness of the police in handling domestic violence cases. Domestic violence cases should also be handled by female police whose quantity at this time is still quite limited.

3.6.2. Barriers Due to Factors of Facilities and Infrastructure

These barriers include the condition of human resources who have adequate education, skills, organization, and equipment and financial conditions. In this case, the police in

assisting the wife as a victim of domestic violence is still not maximal in providing assistance in litigation to non-litigation. Because this legal assistance is considered very important which aims to restore the victim's self-confidence and heal the victim's trauma

4. CONCLUSION

The research findings and analyses discussed above lead to several significant conclusions regarding the issue of domestic violence and the legal protection of wives as victims in Blitar Regency. Firstly, the Blitar Resort police have taken commendable steps in protecting the rights of wives through a dual approach comprising both preventive and repressive efforts. They promptly respond to reports and complaints related to domestic violence, initiating the legal process to address such cases. Additionally, socialization efforts have been identified as a vital tool in preventing domestic violence, creating awareness within the community to curb such occurrences.

Secondly, it is essential to provide comprehensive legal assistance to the wives who fall victim to domestic violence. By offering necessary support and guidance, the victims can feel empowered to seek help and take action against their abusers. Such legal assistance becomes a crucial aspect of ensuring the overall safety and well-being of the affected individuals.

However, despite these commendable efforts, the Blitar Resort police encounter some obstacles in their pursuit of providing effective legal protection to victims of domestic violence. One major challenge stems from the victims themselves, as some may hesitate to promptly report incidents to the police. This reluctance could be due to fear, shame, or lack of awareness about the available support systems. Addressing this issue necessitates further awareness campaigns to encourage victims to come forward without fear or hesitation.

Another obstacle faced by the police is the swift escape of perpetrators from the scene of the crime. This hampers the police's ability to conduct thorough investigations and apprehend the offenders promptly. Finding solutions to address this issue is vital to ensuring timely justice for the victims and holding the perpetrators accountable for their actions.

In conclusion, to effectively combat domestic violence and protect the rights of wives as victims in Blitar Regency, a comprehensive approach is essential. This approach should include intensified socialization efforts to raise awareness within the community, providing ample legal assistance to the victims, and finding innovative solutions to overcome the obstacles faced by law enforcement agencies. By adopting these measures, Blitar Regency can strive towards creating a safer environment where domestic violence is reduced, and victims are empowered to seek justice and support.

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