

Psychic Violence in the Household Scope: Indonesian Criminal Law Perspective

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ABSTRACT: *In the midst of the current of life as it is today, being able to maintain the integrity of the household is a very special achievement. In the reality that happens in a life, there is not a single family that has never experienced conflict. In the context of domestic life, women are often the object of violence in that scope. Violence against women includes being able to result in physical, sexual or psychological harm or suffering to women. In resolving domestic violence, most victims of violence choose to divorce, only a few victims whose cases are criminally processed, so from the description above, the author is interested in raising the issue, namely the Review of Criminal Law Against Psychic Violence in the Household Scope. The method used in this paper is the normative juridical research method. A juridical approach that is based on existing legal or statutory regulations. The way to overcome Domestic Violence is to apply the sanctions that have been fully determined in Law no. 23 of 2004 concerning the Elimination of Domestic Violence. Legislation, especially regarding criminal acts that fall within the private sphere (family) should no longer require the existence of a complaint offense. Legislation on psychological violence should be more focused on the consequences and consequences that will result from criminal acts that have been committed within the family.*

KEYWORDS: *psychological violence, domestic violence, wife violence.*

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I. INTRODUCTION

Having a sakinah mawaddah warrahmah family is everyone's dream. However, to make it happen is not easy. In the midst of the current of life as it is today, just being able to maintain the integrity of the household is already a very special achievement. In the reality that happens in a life, there is not a single family that has never experienced conflict. But what will happen if the existing conflicts continue to drag on and become more serious, of course, the integrity of the family is at stake and no one wants this to happen. The causes of conflict in family life can vary. Marital conflict in the household arises due to various kinds of problems that occur between husband and wife. Problems in the household that can trigger conflict usually occur due to an imbalance in meeting urgent household needs (Johar & Sulfinadia, 2020).

To realize wholeness and harmony in a married life, it really depends on everyone in the household, especially the level of quality of behavior and self-control of everyone in the household. Integrity and harmony in the household can be disrupted if the quality and self-control cannot be controlled, which in the end can occur domestic violence so that insecurity or injustice arises against people who are within the scope of the household.

In the context of domestic life, women are often the object of violence in that scope. Violence against women, including in the domestic context, is an act based on gender-based discrimination that results in or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether in the realm of public and in private life (Muhajarah, 2016). Domestic violence or often called domestic violence and more specifically violence against wives or wife abuse is a fundamental problem for women. The reason is clear, violence against women (wife) is an indication of the low status of women in social thought (Ahdiah, 2013).

Violence against women (wife) in principle is a phenomenon of human rights violations and is a serious social problem that often gets antipathy from the community (Aji, 2019). This is because first, violence against wives has a relatively closed (private) scope and is closely guarded because the problem occurs in the family area. Second, violence against the wife is often considered "natural" because it is believed that treating the wife as she pleases is the husband's right as the leader and head of the household. Third, violence against wives occurs in legal institutions, namely marriage. In their entanglement, the victim will experience many negative feelings including shame, confusion, guilt, self-blame, being "controlled" and "controlled" and

helpless. Trapped in the game created by the perpetrator and the inability to think of and take alternative actions, it is very difficult to get out of the violence (T. R. P. Lestari, 2016).

Psychological violence is another form of domestic violence (domestic violence) in Law No. 23 of 2004 concerning the Elimination of Domestic Violence. Domestic Violence is defined as any act against a person, especially a woman, which results in physical, sexual, psychological misery or suffering, and/or neglect of the household including threats to commit acts, coercion, or unlawful deprivation of liberty within the scope of the household. ladder. Here there are four kinds of Domestic Violence and psychological violence including them. Psychological violence can be in the form of actions that result in fear, loss of self-confidence, loss of ability to act, feeling helpless, and/or severe psychological suffering on a person as stated in the provisions of Article 7 of Law no. 23 of 2004 concerning the Elimination of Domestic Violence (Arie Dyah Astuti, Endang Sri Indarwati, 2006). In resolving domestic violence, most victims of violence choose to divorce, only a few victims whose cases are criminally processed.

II. METHODOLOGY

This research is a normative juridical research. A juridical approach that is based on existing laws or regulations (Haris, 2017). In addition, it also uses a normative approach, based on legal theories and by looking at the reality that occurs in society. The research carried out in this writing is by using library research, namely the research method carried out by reading and studying relevant theories and supported by field data as a complement in this research. Normative legal research always focuses on secondary data sources. Secondary data in this study were obtained from primary legal materials, secondary materials and tertiary legal materials. In this study, secondary data were sourced as follows: Primary legal material sources, consisting of legislation, namely Law no. 23 of 2004 concerning the Elimination of Domestic Violence. Secondary legal sources, consisting of books and the results of previous research. Data collection techniques used in this study are library and documentation techniques. The library technique is by studying books, journals, newspapers, internet sites and applicable laws and regulations and various library sources related to this problem. For example looking for data about theories, opinions of experts and others. Documentation, namely by collecting data by recording data obtained from references or archives related to the formulation of the problem to be studied. The data analysis technique that the author uses in compiling this is qualitative analysis. Data analysis in this study uses qualitative analysis methods, in this case examining in depth legal materials which are then combined with other legal materials, combined with supporting theories and then general conclusions are drawn.

III. DISCUSSION

Domestic violence is a problem that can occur within the family and is common in Indonesia. Talking about violence in the family will often lead to the wife. However, indirectly this understanding can be formed by understanding the concept of domestic violence in Law no. 23 of 2004 concerning the Elimination of Domestic Violence, it is stated;

- a. Husband, wife, and children (including adopted children and stepchildren);
- b. People who have family relationships with people as referred to in letter a because of blood relations, marriage, breastfeeding, care, and guardianship, who live in the household (in-law, son-in-law, brother-in-law and besan); and/or;
- c. People who work to help the household and stay in the household (Domestic Workers).

The household as an institution that gives birth to a community called family starts from a sacred commitment (ijab kabul) between a man and a woman to live side by side, help each other and work together to achieve noble goals. However, it is possible in a household to face a problem that ultimately results in violence (Basri, Sayifuddin S Kasim, 2018). A basic understanding of Domestic Violence as a personal issue has limited the breadth of legal solutions to actively address the problem. In most societies, domestic violence is not yet accepted as a form of crime (Manan, 2008).

In domestic life, women are often the object of violence. This is because the society or culture that dominates today is patriarchal, where men are superior and women are inferior so that men are justified in controlling and controlling women. This makes women subordinated (Anwar, 2017).

In the Big Indonesian Dictionary the term "violence" is defined as the act of a person or group of people causing injury or death to another person or causing physical or property damage to others. Violence is an act of a person or group of people that causes injury, death or physical damage to another person. Very close to actions that contain torture (torture) and the imposition of suffering or very heavy pain. The term domestic violence or domestic violence is a limitation that leads to violence that occurs in the household locus or commonly known as "family". Indeed, there is no uniform understanding except for the locus and various forms of violence that occur, so that the perpetrator and the victim are a very open area, in the sense that anyone who can be categorized as a family member or lives within the scope of the household is a party that can be categorized as a perpetrator or victim of violence. domestic violence or domestic violence (Maemuna, 2007).

Domestic violence can happen to anyone, be it a wife, husband or other family members. However, the term domestic violence in much of the literature has narrowed its meaning, which only includes the abuse of a husband against his wife. This is because more victims of domestic violence are experienced by the wife than the husband and other family members (Melati, 2017). Meanwhile, by Feminists, violence against women (wives) is defined as any act of variable or physical violence. The coercion or threat to life felt by a woman, whether a child or an adult, that has caused physical or psychological harm, humiliation or deprivation of power that eliminates women's sub-dominance (Hasbi, 2017). Violence according to Johan Galtung is divided into three parts, namely (Dwi Eriyanti, 2017):

1. Cultural violence, namely legitimizing the occurrence of structural violence and direct violence and causing violence to be considered normal (accepted) by some people.
2. Structural violence, namely violence in the form of systematic exploitation accompanied by mechanisms that prevent the formation of patience and hinder the presence of institutions that can oppose exploitation, oppression, such as injustice and oppressive policies.
3. Direct violence, namely violence that is seen directly in the form of events or actions, so that this type of violence is very easy to identify because it is a manifestation of cultural and structural violence.

Violence against women is any act of violence perpetrated against women that results in or tends to cause physical, sexual or psychological harm and suffering to women. This includes threats, coercion or deliberately restricting women's freedom. Most women often react passively and apathetically to the violence they face. This strengthens the hidden conditions of violence against the wife committed by the husband. This fact causes a lack of public response to the actions taken by husbands in the marriage bond. The wife keeps the problem to herself, doesn't know how to solve it and is increasingly convinced of the wrong assumption, the husband is dominant over the wife. The household, the family is the smallest and most autonomous social institution, so that it becomes a domestic area that is closed from the reach of public power (Sianturi et al., 2017).

The impact of violence against the wife in question is: experiencing physical pain, mental stress, decreased self-confidence and self-esteem, experiencing a sense of helplessness, experiencing dependence on a husband who has tortured him, experiencing post-traumatic stress, experiencing depression, and wanting to commit suicide (Hotifah, 2011). Another impact of violence on the wife's work is poor performance, more time is spent seeking help from a psychologist or psychiatrist, and fear of losing her job.

Psychological violence, or in article 7 of Law No. 23 of 2004 on the Elimination of Domestic Violence referred to as psychological violence is an act that results in fear, loss of self-confidence, loss of ability to act, feeling helpless, and/or severe psychological suffering. on someone (Republik Indonesia, 2004). The psychological effects of abuse for many women are more severe than the physical effects. Fear, anxiety, fatigue, post-traumatic stress disorder, and eating and sleeping disorders are long reactions to acts of violence. However, not infrequently the result of acts of violence against wives also results in biologically disturbed reproductive health which in turn results in sociological disturbances. Abused wives often isolate themselves and withdraw because they try to hide evidence of their abuse (Nurmadiansyah, 2011).

This form of Psychic Violence against the wife is usually rarely realized, because its form is not visible (D. Lestari, 2017). But actually, this violence will actually cause feelings of pressure, not free and uncomfortable. This form of non-physical violence is in the form of giving nicknames that contain ridicule; make someone a laughing stock; threatening, excessive jealousy, limiting their partner to do activities they like, extortion, isolating, prohibition of making friends, insults, prohibition of preening, prohibition of being friendly to others and so on.

Legal Protection for Victims of Psychological Violence in the Household. As for the sanctions that can be imposed on perpetrators for cases of psychological violence that apply to wives who wish to report their husbands to court for criminal cases, Law on the Elimination of Domestic Violence No. 23 of 2004 regulates it in Article 45 as follows:

- 1) Everyone who commits acts of psychological violence within the household as mentioned in Article 5 letter b shall be punished with imprisonment for a maximum of 3 (three) years or a fine of a maximum of Rp. 9,000,000.00 (nine million rupiah).
- 2) In the event that the act as referred to in paragraph (1) is carried out by a husband against his wife or vice versa which does not cause disease or obstacles to carry out his job, position or livelihood or daily activities, he shall be punished with imprisonment for a maximum of 4 (four) months or a fine of not more than 4 (four) months. a lot of Rp. 3,000,000.00 (three million rupiah).

This law also stipulates additional penalties that can be given to perpetrators in the form of keeping the perpetrator away from the victim, placing the perpetrator under the supervision of a certain institution, and setting the perpetrator to pay compensation to the victim. And it is possible for the victim in addition to making criminal charges as well as at the same time making civil demands against the perpetrators. From the provisions of the articles in Law no. 23 of 2004 concerning the Elimination of Domestic Violence, it can be seen that the overall formulation of the articles of this law is not a clach delict so that the authorities are highly expected and

obliged to act actively in conducting investigations and investigations against the perpetrators even though they do not receive reports or complaints of victims and their families.

The current phenomenon, there are many perpetrators of violence against women (wives) who are difficult to prosecute, of course this is very unfortunate even though it has been responded positively by many groups, especially women. Because basically there is still an influence or cultural reflection on violence against wives in society. Law No. 23 of 2004 concerning the Elimination of Domestic Violence also provides protection to victims of domestic violence by providing rights including:

- a. protection from the family, police, prosecutors, courts, advocates, social institutions, or other parties, either temporarily or based on the stipulation of a protection order from the court.
- b. Health services according to medical needs.
- c. The handling is specifically related to the confidentiality of the victim.
- d. Assistance by social workers and legal assistance at every level of the examination process in accordance with the provisions of the legislation.
- e. Spiritual guidance services. The protection of the rights of victims of domestic violence above is balanced with the obligations of the government and the community in an effort to prevent acts of domestic violence.

In addition to the above actions, legal action can also be taken in the event of domestic violence in accordance with Article 26 paragraph 1 of the Law on the Elimination of Domestic Violence No. 23 of 2004, that victims have the right to directly report domestic violence to the police, both at the place where the victim is and at the scene of the case. The victim party can also authorize the family or other people to report domestic violence to the police, both at the victim's location and at the scene of the case.

The community also has an obligation to participate in the prevention of domestic violence. This is regulated in Article 15 of Law no. 23 of 2004 concerning the Elimination of Domestic Violence states the following:

Everyone who hears, sees, or knows about the occurrence of domestic violence is obliged to make efforts within the limits of his ability to:

1. prevent the occurrence of criminal acts;
2. provide protection to victims;
3. provide emergency assistance; and
4. assist the process of submitting a request for protection determination.

In Article 7 of Law no. 23 of 2004 concerning the Elimination of Domestic Violence provides things that should be owned by victims of domestic violence including getting compensation for the losses experienced, the right to get guarantees for their rights related to their status as wives, mothers, and children. and has the right to obtain emergency services which include medical services in the form of health checks and written reports, crisis counseling, legal information and other services that may be received by the victim. Professional staff are also provided who will help victims to overcome their problems, provide services and protection such as medical officers, medical social workers and also volunteer assistants.

The most important thing and must be a concern for the community and law enforcement is that acts of domestic violence are mostly complaints (complaint offenses), complaints are acts that will only be acted upon by the authorities (police) if there are complaints that come in, but If no complaints come in, the authorities cannot take any protection or security measures.

Acts of complaint/complaint offenses usually for physical or psychological violence that do not cause illness or obstacles to carrying out job positions or livelihoods or daily activities are offenses against Article 51 and Article 52 of Law no. 23 of 2004 concerning the Elimination of Domestic Violence, namely that criminal proceedings can only be carried out if there are complaints or reports from people who are victims of criminal acts (or their proxies).

Article 51

The crime of physical violence as referred to in Article 44 paragraph (4) is a complaint offense.

(Article 44 paragraph (4) states that: In the event that the act as referred to in paragraph (2) results in (4) the death of the victim, the punishment shall be a maximum imprisonment of 15 (fifteen) years or a maximum fine of Rp. 45,000,000.00 (forty five million rupiah))

Article 52

The criminal act of psychological violence as referred to in Article 45 paragraph (2) is a complaint offense.

(Article 45 paragraph (2) In the event that the act as referred to in paragraph (1) is carried out by the husband against the wife or vice versa which does not cause disease or obstacles to carry out the work of the position or livelihood or daily activities, the punishment is a maximum imprisonment of 4 (four) months or a maximum fine of Rp. 3,000,000.00 (three million rupiah)).

In this complaint offense, the victim of a crime can withdraw his report to the competent authority if there has been a reconciliation between them. This complaint can be withdrawn within 3 (three) months after the complaint is filed (Article 75 of the Criminal Code).

Domestic violence is a serious social problem that has not received a response from the community because so far domestic violence has a relatively closed or private scope and privacy is strictly maintained because the problem occurs in the family (Manumpahi et al., 2016). In addition, domestic violence is often considered "natural" because it is believed that treating the wife as the husband wishes as the leader and head of the household is appropriate and it is taught in religion (Mansyur, 2009). Moreover, domestic violence occurs in legal institutions, namely marriage, this fact causes the lack of public response to the complaints of wives who experience problems of domestic violence in their marriages. As a result, they keep the problem to themselves, do not know how to solve it and are increasingly convinced by the mistaken assumption that the husband has the right to control his wife excessively. Against this, Islam actually provides protection to the wife from the possibility of violence, which also includes psychological violence in the form of a prohibition on *adhal*, treating women as inheritance and prohibiting wasting his wife and ex-wife (Santoso & Arifin, 2017).

In this case it is quite clearly stated that everyone is prohibited from committing acts in the household in the form of psychological violence which can result in: Fear, loss of self-confidence, loss of ability to act and a sense of helplessness and Severe psychological suffering to the point of causing madness to the victim. Law No. 23 of 2004 concerning the Elimination of Domestic Violence provides things that should be owned by victims of domestic violence including getting compensation for the losses experienced, the right to get guarantees for their rights related to their status as wives, mothers, and children. and has the right to obtain emergency services which include medical services in the form of health checks and written reports, crisis counseling, legal information and other services that may be received by the victim. Professional staff are also provided who will help victims to overcome their problems, provide services and protection such as medical officers, medical social workers and also volunteer assistants. Law No. 23 of 2004 concerning the Elimination of Domestic Violence, chose a different form of procedural law compared to the provisions contained in the Criminal Procedure Code, especially in terms of evidence. According to Article 40, valid evidence consists of witness testimony (victim, victim's companion), expert testimony, letters, instructions, testimony of the defendant and evidence. Witness statements can be obtained from anyone who has seen, heard and or experienced firsthand the occurrence or occurrence of domestic violence and or accompanying health services or people who are experts in their fields. The paragraphs of the article state that judges are given the freedom to impose a sentence based on only one valid piece of evidence. It is also possible for relatives to provide information in connection with a criminal act that occurred given the difficulty of obtaining other evidence in the investigation process.

Violence against women is a manifestation of differences in power in the relationship between men and women throughout history which has resulted in domination and discrimination against women. This of course hinders the full progress of women. Violence experienced by women throughout their lives is essentially derived from cultural patterns, in particular the harmful effects of certain traditional practices, harmful habits and all extreme habits related to race, sex, language or religion, which perpetuate, give status to women. lower than women in the family, at work and in society.

In relation to the offense of psychological violence against the wife in the household, the purpose of the law can be related from the aspect of the perpetrator, the law imposed is a commensurate reply or it is hoped that the perpetrator can make amends for the mistakes made to the victim. Perpetrators are subject to severe punishments that can deter them from repeating their evil deeds in the future. For the community, the severe punishment imposed by the perpetrator is expected to be a process of educating awareness of the tendency to do evil. The law is a preventive effort so that other people's assumptions do not follow in committing psychological violence against women, both within the household or outside of marriage or also in public places.

While the benefits for the victim, by applying legal sanctions to the perpetrator, it is directly a form of legal attention (protection) to the victim of a crime. Legal protection for women who are victims of psychological violence in the household is not only limited to the punishment of the perpetrators, but also the consequences, for example psychological disorders that arise not only to their wives but also to psychologically protect their children and other family members.

However, the desire for aggressiveness in husband and wife will not last long and repeatedly if husband and wife are equipped and based on a strong religious attitude. So that both husband and wife realize that what is being done is inappropriate and inappropriate in the life of a husband and wife who are bound by marital ropes. In this case, it is clear that the cause of a lot of violence between husband and wife is not only due to the lack of existing laws and regulations, but more than that the awareness of each individual is very much needed in fostering and maintaining household life.

Government policies, both in Islamic law and positive law, such as laws and regulations on violence, for example, Law no. 23 of 2004 concerning the elimination of domestic violence accompanied by rules and legal protection mechanisms for victims of violence is a legal instrument to be enforced with the hope that in the future this law can be used as a legal instrument for seeking justice and of course so that acts of domestic violence does not happen again or at least can be minimized.

IV. CONCLUSION

That the law cannot be expected much in obtaining justice for women as long as patriarchal bias is still prominent. For this reason, legal protection is needed for victims of psychological violence in the household. Because violence against women (wives) in the household is indeed a conventional form of crime, but it requires more serious and critical attention compared to other forms of conventional crime, because it covers various aspects of women's lives in particular and society in general.

Legislation on psychological violence should be more focused on the consequences and consequences that will result from criminal acts and not on family relationships or seeing only in part. The consequences that will arise from the criminal act must be assessed based on the facts, not only based on assumptions or temporary assumptions. As is well known, the law has three main objectives, namely fulfilling a sense of justice, providing legal certainty, and being able to provide benefits (utility) for victims, perpetrators and the community.

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