

CONSTRUCTION OF LEGAL PROTECTION AGAINST CHILDREN VICTIMS OF PSYCHICAL VIOLENCE IN THE HOUSE

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Abstract: Psychological violence in the household, including against children, has a deep and long-lasting impact. This violence often goes unnoticed because it is verbal and non-physical. Children who experience psychological violence are at risk for short- and long-term mental and physical health problems. Support and therapy are important for children affected by psychological violence to heal the trauma. Legal protection for children who are victims of psychological violence in the household must be considered within the legal framework of the Indonesian government, such as the 1945 Constitution Article 28 G and Law Number 23 of 2004 concerning the Elimination of Domestic Violence. Legal protection of children also includes diversion in the criminal justice system, divorce cases, child labor, abandonment, and abandonment. This research provides insight and policy recommendations to strengthen the child legal protection system. Knowing the psychological impact of violence on children is important, as well as legal and psychological support for victims. Legal protection of children must be based on a humanitarian and human rights perspective to protect children's rights and ensure their welfare. This research uses a normative juridical approach method with analysis of articles in statutory regulations. This descriptive analysis research uses secondary data from literature studies and primary, secondary and tertiary legal documentation. Data collection was carried out through field and literature studies using qualitative data analysis methods to produce information relevant to the research objectives. The results and discussion presented explain the equal rights and obligations for each individual, the role of women in the household, the principles of building a household, as well as legal regulations related to domestic violence. Law no. 23 of 2004 concerning the Elimination of Domestic Violence regulates criminal acts of violence and the law enforcement process. This research highlights the differences between abuse in the Criminal Code and physical violence in the PKDRT Law, as well as the importance of understanding legal construction related to physical violence. The PKDRT Law emphasizes "balanced sentences" to maintain family integrity in handling cases of domestic violence. Article 51 of the PKDRT Law regulates criminal sanctions for perpetrators of physical violence as a complaint offense, where the perpetrator can be sentenced to a maximum prison sentence of 12 years or a fine of up to IDR 30,000,000.00.

Keywords: Legal protection; Child Victims of KDT; Child protection laws; Domestic Violence Law

I. INTRODUCTION

Psychological violence in the domestic environment, including that perpetrated against children, is a form of abuse that can have deep and long-lasting impacts. It consists of actions that result in fear, loss of self-confidence, inability to act, feelings of helplessness, and severe psychological suffering. This often goes unnoticed by both perpetrators and victims because of its verbal and non-physical nature. The effects Children who witness or experience psychological violence at home are at serious risk of both short-term and long-term mental and physical health problems such as anxiety, suffering from post-traumatic stress disorder, struggling with feelings of guilt, developing aggressive behavior, and even experiencing injury. physical which is indirectly related to violence. Importantly, although some effects appear immediately after witnessing violence, other effects may not appear until adulthood and can include depression, anxiety, and patterns of abuse embedded in the relationship.

Support and therapy are essential for children affected by domestic psychological violence to heal and manage the trauma. Strategies that can be implemented are Ensuring Safety: Removing children from violent environments whenever possible is a key step in protecting well-being. Strengthening Healthy Relationships and Boundaries: Teaching children about respectful interactions and personal boundaries can help them understand what healthy relationships are. Professional Help: Therapies such as cognitive behavioral therapy can help children process their experiences and learn coping strategies. Building a Support System: A stable and supportive social framework consisting of family, counselors, and specialized support groups can greatly aid a child's recovery. It is also important to be aware of the complexities of providing evidence in a legal environment for psychological abuse and to work with professionals who understand the intricacies of such cases(Nahuddin, 2023).

Although children will never forget what they have observed or experienced, with the right support, children can overcome these experiences to live healthier lives. It is important to break the cycle of violence because children who grow up in violent homes are more likely to repeat similar behavior as adults or become victims. In research conducted by Mohammad et al(Mohammad et al., 2023); Sarah et al(Sarah et al., 2022)highlighting that in order to realize legal protection for children who are victims of domestic psychological violence, it is important to consider the legal framework provided by the Indonesian government. The Indonesian government has enacted various laws to protect and prevent domestic violence, such as the 1945 Constitution Article 28 G and Law Number 23 of 2004 concerning the Elimination of Domestic Violence. This law requires local governments, together with the community, to carry out preventive, protective and remedial efforts for victims of gender-based violence, including children. Furthermore, Yahya et al(Yahya et al., 2022)describes the concept of legal protection for children including guaranteeing their basic rights and freedoms, as well as their overall welfare.

This includes the provision of education, decent living conditions, security and health services. In the context of legal protection for children, especially those facing legal problems, it is important to consider the application of diversion in the criminal justice system. Diversion as a method of non-formal punishment for children in conflict with the law has an important role in the legal protection of children.(Hambali, 2019)In addition, legal protection for children also covers divorce cases, thereby ensuring that children's rights to education, housing, security and health are maintained even after the dissolution of the marriage.(Azani & Cysillia, 2022)Apart from that, it is important to know the psychological impact of violence on children. Although qualitative and quantitative research on forensic psychology in the context of child victims of sexual violence is still limited, it is important to provide legal and psychological support for victims inside and outside the legal process.(Ni Made Swandari et al., 2022)In addition, legal protection of children must also address cases

of child labor, neglect, and abandonment, and ensure that children receive the necessary legal protection and support. (Laksmana & Irawan, 2021)

Research on the construction of legal protection for children who are victims of domestic psychological violence, with a focus on the study of the Child Protection Law and the Domestic Violence Law, offers substantial insight in efforts to understand the dynamics of legal protection for vulnerable children. . Through this approach, it is hoped to provide a deeper understanding of how the existing legal framework, especially the Child Protection Law and the Domestic Violence Law, is implemented in the context of protecting children from psychological violence in the domestic environment. Recent analyzes of cases and statistics of psychological violence against children strengthen the foundation of this research by presenting relevant empirical data, enabling the identification of emerging challenges in child protection as well as opportunities for improvement. In addition, this research can provide policy recommendations based on empirical findings to strengthen the existing legal protection system. A humanitarian and human rights perspective is a necessary moral foundation in understanding the urgency and need for legal protection for children, as well as being a driving force for effective policy implementation and fair law enforcement in handling cases of psychological violence in the household. Thus, this research not only enriches the academic literature on the issue of violence against children, but also makes a substantial contribution to efforts to protect children's rights and ensure well-being in a safe and supportive environment.

Therefore, a common thread can be drawn regarding the formulation of the problem of how to construct legal protection for children who are victims of domestic psychological violence in the law, as well as the factors that become obstacles and solutions to overcome this.

II. RESEARCH METHOD

The research method is a scientific approach used to obtain valid data with the aim of developing and proving it with certain knowledge so that it can later be used to understand, solve and anticipate problems in a particular field. Research methods include a description of the specification approach, data sources and research materials, tools, location, research subjects, and research data analysis (Purwati, 2020). In this research, the approach method used is the normative juridical approach method, which is carried out deductively by analyzing the articles in the statutory regulations that regulate this issue 1] The 1945 Constitution of the Unitary State of the Republic of Indonesia. 2) The Book of Laws Criminal Law 3) Criminal Procedure Code 4) Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. This research is descriptive analysis, where the reality or activity being studied will be described clearly. The type of data used is secondary data, obtained through literature study and documentation study, consisting of primary, secondary and tertiary legal materials. Data collection was carried out through field studies and literature studies, using qualitative data analysis methods which involved discussion, examination and grouping of data to be processed into information relevant to the research objectives.

III. DISCUSSION

Everyone basically has the same rights and obligations. This is clearly regulated in Article 27 of the 1945 Constitution of the Republic of Indonesia which states that "Every citizen has the same position in law and government and is obliged to respect the law and government without exception." This article also emphasizes that everyone has the same position in the eyes of the law (Setiawan, 2021). Women are considered equal partners to men, having the same rights, obligations and opportunities in all aspects of life, including

within the household. Life together begins with a family formed through marriage. In building a household, there are several noble basic principles. These principles include building obedience and worship to Allah SWT, realizing peace (sakinah), love (mawaddah), and affection (rahmah), as well as realizing that marriage is a means to create a holy life from bad behavior and with noble goals.

Legal regulations regarding criminal acts of domestic violence are regulated clearly and consistently in Law No. 23 of 2004. Criminal acts of domestic violence will be processed in accordance with applicable law by various agencies such as government agencies, police, prosecutors, courts, advocates, social institutions and other law enforcers. The large number of cases of violence, especially domestic violence committed by husbands and wives, is one of the reasons for the promulgation of Law No. 23 of 2004 concerning the Elimination of Domestic Violence (Wardhani, 2021). This law aims to prevent domestic violence, provide protection and recovery to victims, and specifically regulate violence that occurs in the household. Perpetrators of domestic violence will be subject to UUPKDRT.

In line with the need for more specific regulations, the government enacted Law Number 23 of 2004 concerning PKDRT to pay more attention to the interests of victims of criminal acts of domestic violence. Domestic violence etymologically means suffering caused by acts of violence against another person. According to WHO, violence is the intentional use of physical or non-physical force against individuals or groups that can cause injury, death, psychological harm, and so on. Domestic violence involves family members who are related by blood and can happen to anyone in the household.

Law 23 of 2004 defines domestic violence as an act against a person, especially a child, which results in physical, psychological, sexual, psychological suffering, or domestic neglect, including threats, coercion, or unlawful deprivation of liberty within the home. ladder (Lesnussa et al., 2021). So the common thread can be drawn that Domestic Violence (KDRT) includes all forms of acts of violence that occur against the opposite sex or other family members. Domestic violence can cause physical, sexual, psychological suffering or domestic neglect. Therefore, there is a need for protection from the state or society so that victims are protected from violence, torture, or treatment that degrades human status and dignity.

Before the existence of Law No. 23 of 2003 concerning the elimination of domestic violence, in Indonesian criminal law, both from the Criminal Code and outside the Criminal Code, there was no term or definition regarding violence against women or children. Physical violence is generally referred to as abuse. Violence in the broadest sense includes physical attacks or attacks that are emotionally damaging. Violence is not only physical, but can also be non-physical which can be felt by the victim directly. Violence can occur in various places, including within the household. Every form of violence, especially domestic violence, is considered a violation of human rights and a crime against human dignity and is a form of discrimination that must be eliminated in accordance with Article 4 of the Constitution No. 39 of 1999 concerning Human Rights. (Sariroh, 2023).

According to R. Soesilo, violence refers to the legitimate use of significant physical force or power, for example hitting with force or using various weapons, kicking, kicking, and so on. In the Criminal Code (KUHP), physical violence is regulated in several articles, such as: (Yusyanti, 2020):

- 1) Ordinary ill-treatment (Article 351 of the Criminal Code): Concerning ill-treatment that does not cause illness or obstacles in carrying out duties or work, it is punishable by imprisonment for a maximum of three months or a fine.
- 2) Minor abuse (Article 352 of the Criminal Code): Refers to acts of abuse that are planned in advance and result in serious injury or death to the victim.

- 3) Premeditated assault (Article 353 of the Criminal Code): Regulates acts of abuse that are planned in advance and result in serious injury or death to the victim.
- 4) Serious abuse (Article 354 of the Criminal Code): Touching an act of abuse that is carried out intentionally to cause serious injury or death to the victim.
- 5) Premeditated serious assault (Article 355 of the Criminal Code): This is an act of abuse that is planned beforehand and results in the death of the victim.

These articles show that Article 351 of the Criminal Code is more likely to be related to physical violence such as that which occurs within the household. R. Soesilo explained that abuse in Article 351 of the Criminal Code involves intentionally causing feelings of discomfort, pain or injury. Even though the PKDRT Law should be the main reference in cases of physical violence in the household, several articles in the Criminal Code that regulate abuse remain relevant from a criminal law perspective in relation to physical violence. The difference between abuse regulated in the Criminal Code (KUHP) and physical violence regulated in Law Number 23 of 2004 concerning the Elimination of Domestic Violence is as follows:

- 1) The Criminal Code does not specifically regulate the scope of the acts committed, while the PKDRT Law regulates that acts of physical violence occur within the household.
- 2) The Criminal Code recognizes premeditated abuse which refers to acts of abuse that are planned in advance, while the PKDRT Law does not regulate physical violence that is planned in advance.
- 3) In the Criminal Code, the only known sanction is imprisonment without a fine, whereas in the PKDRT Law there is a fine in addition to prison sanctions.

Article 44 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence regulates three forms of physical violence, namely:

- 1) Ordinary physical violence: Article 44 paragraph 1 of the Domestic Violence Law states that anyone who commits physical violence in the domestic sphere can be punished with a maximum prison sentence of fifteen years or a fine of up to fifteen million rupiah. However, there are discrepancies in these regulations regarding the definition and threat of physical violence.
- 2) Light physical violence: Article 44 paragraph 4 of the PKDRT Law regulates light physical violence. Consequently, if physical violence is committed by a party other than the husband against the wife or vice versa and does not result in illness or obstacles in carrying out work, then the act can still be punished under Article 44 paragraph 1 of the PKDRT Law as ordinary physical violence.

Law enforcers must understand the legal construction of "physical violence" in Article 44 paragraph 1 of the PKDRT Law, where the condition is that there is an act that causes pain and hinders the victim in their daily activities. If physical violence is carried out by someone other than the husband against the wife and children or vice versa, then the action that causes pain is sufficient. Therefore, it is important for law enforcers to understand the differences between the qualifications of physical violence and abuse in accordance with the legal construction that applies in Article 44 paragraph 1 of the PKDRT Law.

The drafters of the Domestic Violence Law aim to implement a "balance sentence," namely punishing perpetrators of domestic violence while still maintaining the integrity of the household. As a complaint offense, criminal sanctions are a last resort, and if peace occurs, these sanctions will be revoked to maintain family integrity. Domestic violence causes harm to the victim, and Article 51 of the PKDRT Law regulates criminal acts of physical violence as a complaint offense. Perpetrators of domestic violence can be punished with a maximum prison sentence of 12 years or a fine of up to IDR 30,000,000.00. A

complaint offense is a crime that can be prosecuted if there is a complaint from a victim of domestic violence who has experienced loss.

IV. CONCLUSION

So it can be concluded that everyone has the same rights and obligations before the law and government, including in the household. Life together begins with a family formed through marriage, with noble basic principles such as obedience to God, tranquility, love and affection. Law No. 23 of 2004 concerning the Elimination of Domestic Violence regulates criminal acts of domestic violence with the aim of preventing, providing protection to victims, and specifically regulating domestic violence. Perpetrators of domestic violence will be subject to sanctions in accordance with the PKDRT Law, with the principle of balanced punishment to maintain family integrity.

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