

# The Role of The Police as Law Enforcement Officers in Handling Cases of Criminal Acts of Domestic Violence (KDRT) Against Women as Victims Based on A Normative Juridical Basis

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## ABSTRACT

*Domestic violence against women is a serious and dangerous form of human rights violation. The police as law enforcement officers play an important role in handling domestic violence cases, including protecting women victims and providing justice for them. This research examines a brief overview of the role of the police in handling domestic violence cases against women victims, as well as the challenges faced in carrying out their duties with reference to UU No. 23 of 2004. This includes the initial response to the victim's report, careful investigation, collection of evidence, and arrest of the perpetrator. The police as one of the units of the police apparatus responsible for law enforcement has a duty to implement upright laws such as conducting investigations and providing protection for victims of violence in domestic violence. The police are at the forefront in handling domestic violence cases, namely by enforcing the law as stipulated in Article 13 of Law No. 23 of 2002 concerning the police of the Republic of Indonesia. The research conducted is normative juridical research, namely by examining legislation, literature in accordance with the problems studied.*

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## I. INTRODUCTION

Marriage is a physical and mental bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household), based on the Almighty God. Marriage is also considered one of the important needs for everyone. According to Law Number 1 of 1974 concerning Marriage, it is stated regarding the Principles of Marriage that:

"Husband and wife must love each other, respect, be loyal and provide physical and mental assistance to one another".

To be able to form a happy family, husband and wife must be able to build a family properly and correctly. However, in a family it is not uncommon to encounter life problems that result in disruption of the happiness and harmony that has been built. Inability to reconcile differences, economic problems, and other factors that come from outside the household also often cause conflict in the household. So that these things often have the potential to be the centre of domestic violence.

It is clear from the provisions of Article 1 and Article 3 of the Marriage Law that the purpose of marriage is to create a happy family and bring peace and comfort to the couple and family members. Such domestic violence is not in accordance with the purpose of marriage, but the family is the smallest social unit in society, which has a very large role and influence on the social development and personality development of each family member. A family is said to be harmonious if all family members feel happy, characterised by the absence of conflict, tension, disappointment and satisfaction with the condition of all family members (physical, mental, emotional and social). Tensions and conflicts between husband and wife and parents with children are natural in a family or household.<sup>1</sup>

The PKDRT Law, which actually aims to protect victims, turns out that in practice this is not the case, so it is doubtful that its function is said to protect women so that concerns arise that this PKDRT Law does not fight for women's rights.<sup>2</sup> Women's empowerment is still missing in Indonesia. One of the missions of sustainable development is the issue of gender equality which contains the empowerment of women. In Indonesia, there have been phenomenal and revolutionary figures, one of whom is R. A. Kartini, who showed how women's involvement in fighting for women's rights is also able to be equal to men to engage in the world of social, political and educational affairs.

Violence is the last resort for married couples who want to end their household. One of the causes of violence committed by husbands against their wives is because it has minimal social consequences. This means that as a result of this violent treatment, it causes trauma for victims, especially women. Violence perpetrated by husbands against their wives can take many forms and often occurs in our society, such as physical violence, psychological violence, and sexual violence.<sup>3</sup>

There has been a lot of domestic violence (KDRT) whose perpetrators are generally husbands who commit violence against their wives, which is a terror against women, and this happens a lot in developing countries like Indonesia and in other parts of the world. Domestic violence is the most common violence experienced by women, especially in Indonesia. This may be due to the husband's childhood who experienced unpleasant treatment from his parents or people around him. Or it may also be due to the husband's parenting. So it is hoped that the Police and its ranks will provide socialisation / direction / counselling and provide information about legal protection to victims of domestic violence.

As domestic violence has its own problematic characteristics, the Government of the Republic of Indonesia created legal regulations governing certain matters of domestic violence through Law No. 23/2004 on the Elimination of Domestic Violence. Article 1 paragraph (1) of Law Number 23 Year 2004 on the Elimination of Domestic Violence, the meaning of domestic violence is: "Domestic violence is any act against a person, especially women, which results in physical, sexual, psychological, and/or domestic neglect, including threats to commit acts, coercion, or unlawful deprivation of liberty within the scope of the household".

Article 4 of Law No. 23/2004 states that the purpose of eliminating domestic violence is to prevent all forms of domestic violence, take action against perpetrators of domestic violence, and maintain the needs of a harmonious and prosperous household.<sup>4</sup>

The role of law enforcement agencies is much needed in the implementation of the law. The police as a unit of the police apparatus responsible for upholding the law have duties for the implementation of upright laws such as conducting investigations and providing protection for victims of violence in acts of domestic violence. The police are at the forefront of handling domestic violence cases, namely by enforcing the law regulated in Article 13 of Law No. 23 of 2002 concerning the police of the Republic of Indonesia. As in previous research by Nancy Yosepin Simbolon in a journal entitled "Juridical Analysis of the Role of Police in Overcoming Criminal Acts of Domestic Violence at DITRESKRIMSUS POLDA SUMUT" that the Function and Role of Police Investigators of the North Sumatra Police Ditreskrim in Overcoming Criminal Acts of Domestic Violence is by providing a Women's and Children's Service unit as a place for victims to report criminal acts of domestic violence that they experience themselves.

Although it has been supported by the rule of law and law enforcement officials, the reality shows that criminal acts of domestic violence, be it physical, psychological, sexual violence and domestic neglect, still often occur in Indonesia. From this background, the author is very interested in taking the title "The Role of Police as Law Enforcement Officials in Handling Cases of Criminal Acts of Domestic Violence (KDRT) Against Women as Victims Based on Normative Juridical Foundations".

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<sup>1</sup> Erfani Aljan Abdullah, *Pembaharuan Hukum Perdata Islam*, UII Press, Yogyakarta, 2017, hlm. 137-138

<sup>2</sup> Ester Lianawati, *KDRT (Perspektif Psikologi Feminis)*, Paradigma Indonesia, Yogyakarta, 2010, hlm 1-4.

<sup>3</sup> Sylvia Walby, *Teorisi Patriarki*, Jalasutar, Yogyakarta, 2014, hlm. 193 - 194

<sup>4</sup> Prayudi, *Guse Berbagai Aspek Tindak Pidana Kekerasan dalam Rumah Tangga*, Yogyakarta: Merkid Press, 2015.

## II. RESEARCH PROBLEMS

Based on the later background above, it can be seen that there are several problems, namely:

1. How is the role of the police in resolving criminal acts of domestic violence?
2. What are the obstacles in the implementation of the protection of women as victims of domestic violence?

## III. RESEARCH METHODS

The type of research used is normative juridical legal research. Normative juridical legal research is a type of legal research methodology that bases its analysis on applicable laws and regulations that are relevant to the legal issues that are the focus of the research.<sup>5</sup> Normative juridical legal research is conducted through literature studies, especially secondary data such as laws and regulations, court decisions, contract agreements or other legal documents, this normative juridical method can be complemented by interviews, and discussions. Research using this normative juridical method is supported by literature related to the problem under study. By using normative legal research we can find a normative fact whether a legal action carried out by a person is in accordance with the applicable rules in Indonesia.<sup>6</sup>

In this normative juridical research, the author can find facts and find out how the implementation of temporary protection and protection based on Court decisions given to victims of criminal acts of Domestic Violence in accordance with Law No.23 of 2004 concerning the Elimination of Domestic Violence.

The data source used by the author in this research is secondary data, this is because researchers use normative juridical legal research, the data used is a literature study. The legal materials used are as follows.

### 1. Primary Legal Materials

The primary legal materials used by the author include:

- a. Law No. 23 of 2004 concerning the Elimination of Domestic Violence
- b. Law No. 2 of 2002 concerning the Indonesian National Police as an apparatus for maintaining domestic security
- c. Law No. 1 of 1974 concerning Marriage

### 2. Secondary Legal Materials

Secondary data is data obtained indirectly. That is, data that comes from other parties rather than the researchers themselves. The data is obtained through theoretical literature books, magazine literature, articles, the internet and others, related to the problem under study, namely temporary protection and protection based on court decisions for victims of criminal acts of domestic violence.

### 3. Tertiary Legal Materials

Tertiary legal materials are legal materials that provide information related to primary legal materials and secondary legal materials such as, Encyclopedia, KBBI, and Legal Dictionary.

## IV. RESULT AND DISCUSSION

### 1. The Role Of The Police In Resolving Criminal Offences Of Domestic Violence

Domestic violence is violence that is still rampant occurs in the household, but not all domestic violence domestic violence can be reached by the authorities. This is because many people who consider the problem of acts of domestic violence is a private matter that is embarrassing when it comes out. So that many victims of domestic violence are reluctant to report domestic violence are reluctant to report their their suffering to law enforcement officials. law enforcement officials.

In Law No. 2 of 2002, police functions are defined as duties and authorities, so that the police functions referred to in Article 2 of Law No. 2 of 2002 which states "the police function is one of the functions of state government in the field of maintaining public security and order, law enforcement, protection, protection, and services to the community", are the duties and authorities of the police which are their institutional responsibility. While its role to maintain security and public order, enforce the law, and provide protection, protection, and services to the community in the context of maintaining domestic security, is its participation in carrying out government functions, where the function in question is one of the functions of government, because the establishment of the Indonesian National Police aims to realise domestic security which includes the maintenance

<sup>5</sup> Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (2020): 23

<sup>6</sup> Depri Liber Sonata. 2014. Metode Penelitian Hukum Normatif dan Empiris. *Fakultas Hukum dan Universitas Lampung*. Vol. 8. No. 1. hlm 25.

of public security and order, order and law enforcement, the implementation of protection, protection, and services to the community, as well as the preservation of public peace by upholding human rights.<sup>7</sup>

The Indonesian National Police, in carrying out its duties as maintaining security and public order, enforcing the law, providing protection, protection and services to the community as stipulated in Law No. 2 of 2002, aligns with the theory of restorative justice. This theory emphasises that in resolving a criminal case, by involving the active role of victims, perpetrators, families of victims and perpetrators as well as the community and other interested parties. This is because criminal cases involve the public interest and harm the community, not just the victim.<sup>8</sup>

Physical violence was the next most common type of violence experienced by victims with 9,545 cases in 2022. Followed by a total of 9,020 complaints of psychological violence, 3,319 others, 2,884 reports of neglect, 476 cases of trafficking, and 290 cases of exploitation.

Most victims also admitted that they experienced one type of violence with 23,361 victims. Furthermore, victims who received two types of violence reached 5,175 victims and three types of violence were recorded as experienced by 1,093 victims. Meanwhile, 55 other victims claimed to have experienced more than three types of violence throughout 2022.<sup>9</sup>

**Table 1.** Number of Divorce by Subdistrict Causative Factor in Banyumas, 2018-2020

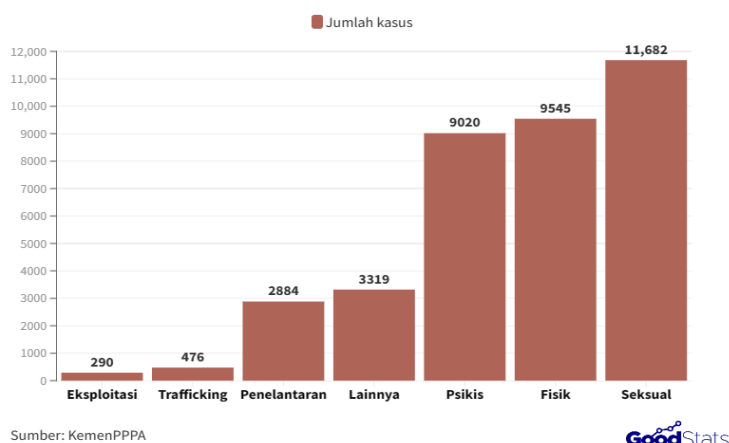
No	Factors Leading To Divorce	Year
1	Srife and fighting continued	746
2	Economy	838
3	Domestic violence	54
Total		1.638

Source: Religious Court Purwokerto<sup>10</sup>

**Figure 1.** Border Areas and Types of Crime

**Jenis kekerasan yang paling banyak dialami korban**

Sepanjang 2022



Source: KemenPPPA

## 2. Obstacles In The Implementation Of The Protection Of Women As Victims Of Domestic Violencen

The obstacles faced by the Police in tackling violence against women in the household include the victim in the investigation process, the victim is less open in providing information to investigators so that investigators

<sup>7</sup> Ni Komang Marsena Yanis Cristiana, dkk, "Peran Kepolisian Sebagai Penyidik Dalam Penyelesaian Tindak Pidana Kekerasan Dalam Rumah Tangga di Kabupaten Karangasem", *Jurnal Ilmu Hukum* Vo. 2, No. 2 (2019): 82-83

<sup>8</sup> Sormin, Rachelia Febriani (2021) *KEBIJAKAN HUKUM PIDANA TERHADAP TINDAK PIDANA KEKERASAN DALAM RUMAH TANGGA*. S1 thesis, Ilmu Hukum.

<sup>9</sup> Nada Naurah, Menilik Statistik Kekerasan Terhadap Perempuan Pada Tahun 2022, dikutip dari laman: <https://goodstats.id/article/menilik-statistik-kekerasan-terhadap-perempuan-pada-tahun-2022-OMS0Y>

<sup>10</sup> Badan Pusat Statistik Kabupaten Banyumas, Jumlah Perceraian Menurut Kecamatan dan Faktor-Faktor Penyebabnya di Kabupaten Banyumas, dikutip dari laman: <https://banyumaskab.bps.go.id/statictable/2021/11/03/396/jumlah-perceraian-menurut-kecamatan-dan-faktor---faktor-penyebabnya-di-kabupaten-banyumas-2018-2020.html>

have difficulty in determining what steps can be taken and difficulty in determining the form of violence and articles that can be applied to the perpetrator. Supporting evidence in the investigation process, the investigator in this case often faces obstacles in terms of evidence, especially for psychological violence and domestic neglect.

The general public's view that the most dangerous place is outside the home, for women this is not the case. Women and children are actually more harmed and experience violence in the personal sphere, whether in relation to their role as a wife or other family members such as children, mothers, grandmothers, brothers or sisters-in-law, and so on. However, this type of violence is one that is very difficult to uncover, among other things, because quite a number of parties consider it to be normal and even part of the education carried out by the husband to his wife, an internal family conflict that should not be interfered with by others. This view is believed by both outsiders and people within the family itself. The threat of violence by one's own family cannot be seen by outsiders. They do not dare to report because of family ties, certain values, certain reputations and other difficulties that arise if the victim reports.

Evidence for the crime of domestic neglect is also difficult to obtain, where a person who provides for his family or not is of course only the victim who knows for sure, because family neglect is something that only in one family knows, so it will be difficult to determine evidence because domestic neglect is related to the husband's obligations to his family and of course there is no evidence. In cases of physical violence that occur in the household, usually the witness is the victim himself, because the act is committed by someone who is still within the scope of the victim's own household, therefore it is not possible for outsiders or other people to interfere in the victim's household affairs.<sup>11</sup>

Efforts made to deal with this obstacle are trying to find and find other evidence in order to fulfil the minimum requirements of evidence and coordination with the investigating party, namely the police. Prosecutors together with the police coordinate and help each other to deal with the obstacles that arise in handling cases of criminal acts of physical violence in the household. A person who is a victim of domestic physical violence is sometimes difficult to provide testimony or testimony in court. Especially if the victim is traumatised. Efforts made to deal with this obstacle are to conduct integrated coordination in providing services to victims with agencies or social institutions needed by victims. This is so that the victim receives protection and assistance so that the victim can provide testimony and testimony at trial.

Article 10 letter (a) of the Law on the Eradication of Domestic Violence states that victims are entitled to protection from family, police, prosecutors, courts, advocates, social institutions, or other parties either temporarily or based on the determination of orders or protection from the court. The third party in this case is a person who is between the parties to the dispute, either within the family or from outside the family of both parties, for example a Lembaga Swadaya Masyarakat (LSM) engaged in gender equality. This third party is sometimes very influential in the conditions of a case, for example in domestic violence cases, in this case the victim is accompanied by an LSM who tries to help resolve the case, sometimes even making the problem worse. LSM's sometimes intervene in the case. In addition, sometimes the family requests that domestic violence cases be resolved amicably because they believe it is a family matter and a disgrace that must be covered from the public.<sup>12</sup>

Law Enforcement Professionalism becomes an obstacle if the ability and skills of law enforcers in this case the Police in resolving each case are important, especially in domestic violence cases, considering that the PKDRT Law is a new and special thing, where handling it requires special law enforcers as well. Law enforcement at the Polres in this case can be said to have been able to act professionally but only a few people, understanding of domestic violence is not owned by all law enforcers, only a few people are given the opportunity to know more, and get education and understanding of domestic violence, especially violence against women in the household through seminars and counselling.

The patrilineal culture that considers women to be subservient to men, in this case a wife must submit and obey her husband, has resulted in domestic violence as a natural thing to happen in family life, with the reason being to educate, the violence is legalised by culture. In addition, the culture of a forgiving society is indeed very good for social life, but in terms of domestic violence, especially violence against women in the household, it cannot be said that the culture of forgiveness from the community solves all problems, in the PKDRT Law it is very clear that domestic violence, especially violence against women in the household, is a crime that must be resolved legally, but here in practice, often problems that have been reported and even processed by the police will be stopped or revoked by the parties on the grounds that they have forgiven each other and reconciled.<sup>13</sup>

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<sup>11</sup> Nanci Yisepin Simbolon, "Analisis Yuridis Terhadap Peran Polisi Dalam Penanggulangan Tindak Pidana Kdrt Di Ditreskrimsus Polda Sumut", *Jurnal Ilmiah Kohesi*, Vol. 4, No. 2 (2020): 47-48

<sup>12</sup> Idi.

<sup>13</sup> Sormin, Rachelia Febriani (2021) *KEBIJAKAN HUKUM PIDANA TERHADAP TINDAK PIDANA KEKERASAN DALAM RUMAH TANGGA*. S1 thesis, Ilmu Hukum.

## V. CONCLUSION

Violence is still prevalent and occurs within households. However, not all instances of domestic violence are reported to the authorities. Many victims consider it a private matter and feel embarrassed to disclose it. The Indonesian National Police aligns with the theory of restorative justice, which emphasizes the active involvement of victims, perpetrators, families, and the community in resolving criminal cases, as criminal cases affect the public interest and harm the community. Physical violence is the most common type of violence experienced by victims, followed by psychological violence, neglect, trafficking, and exploitation. The majority of victims reported experiencing one type of violence, while a significant number experienced two or three types of violence. A smaller number claimed to have experienced more than three types of violence.

Factors causing domestic violence against wives are motivated by a lack of communication between husband and wife in the family which is a determinant of family harmony, there is no harmony in the household, the wife's fault, economic incompetence, In the investigation process, the victim is less open in providing information to the investigator so that the investigator has difficulty in determining what steps can be taken and difficulty in determining the form of violence and the article that can be applied to the perpetrator. In the investigation process, investigators often face obstacles in terms of evidence, especially for psychological violence and domestic neglect. Some people still think that opening up family problems is the same as opening up family disgrace, which will make the family shunned and ostracised by the community.

These conclusions highlight the prevalence of domestic violence, the importance of reporting and addressing such cases, and the need for a comprehensive approach involving various stakeholders to ensure justice and support for the victims.

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