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Review of Medicolegal Aspects of Domestic Violence: A Narrative Literature Review

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ABSTRACT

Domestic violence is a very specific problem because domestic violence occurs at all levels of society, starting from the status community social from low to high social status. Most victims of domestic violence are women, whether wives or daughters, and the perpetrators are usually husbands or other subordinates in the household. This literature review aimed to describe the review of medicolegal aspects of domestic violence. Types of violence can be in the form of acts of physical, psychological, or sexual violence and neglect of the household. Physical violence is a physical act committed against another person or group that results in physical, sexual, and psychological harm. The factors that cause violence against women in the household, especially those perpetrated by husbands against wives, are the existence of an unequal power relationship between husband and wife, economic dependence, violence is used as a tool to resolve conflict, and competition between husband and wife. In conclusion, domestic violence is a form of violence against women because victims of domestic violence are generally women. Violence against women means violence that violates women's human rights, which also means violence that violates human rights.

1. Introduction

Cases of domestic violence have a trend that continues to increase from year to year.^{1,2} There has been a serious increase in the number of cases of gender-based violence against women. The increase in cases of domestic violence is an iceberg phenomenon, where the cases that appear are only a small part of the actual incidents.³ Most victims who report cases of domestic violence are urban residents who have access to and have sufficient knowledge about domestic violence.

Violence is an act that can be physical or non-physical, carried out actively or passively, desired by the perpetrator, and has adverse consequences for the victim (physical or psychological) that are not required by the victim.^{4,5} Violence can be in the form of physical violence or psychological violence. Domestic violence

occurs at all levels of society, starting from people with low social status to people with high social status. Most of the victims of domestic violence are women, whether wives or daughters and the perpetrators are usually husbands (although there are also victims, on the contrary) or people who are subordinated in the household.⁶

In most Indonesian people, domestic violence has not been accepted as a form of crime.^{7,8} This means that the handling of all forms of domestic violence is only a domestic matter for every family, and the state, in this case, has no right to intervene in the internal sphere of its citizens. However, with the passage of time and the opening of the minds of Indonesian women to women's emancipation, anti-domestic violence laws were formed, which were intended to be able to resolve, minimize, take action against perpetrators of violence, and even rehabilitate victims who experienced domestic violence. This literature

review aimed to describe the review of medicolegal aspects of domestic violence.

Definition of domestic violence

According to Law No. 23 of 2004 concerning the elimination of domestic violence, the definition of domestic violence is an act against a person, especially women, which results in physical, sexual, or psychological misery or suffering, and/or neglect of the household including threats to commit acts, coercion, or unlawful deprivation of liberty within the household sphere.^{9,10} Specifically, the law above provides protection to women, the majority of whom are victims of domestic violence. Along with that, a legal mechanism to ensnare the perpetrators has been provided.

Violence is an act that can be physical or non-physical, is carried out actively or passively (does not act), is desired by the perpetrator, and has adverse effects on the victim (physical or psychological) who are not required by the victim.¹¹ Violence against women is every act based on different gender that results in misery and suffering for women physically, sexually, and psychologically including threats of certain actions, coercion, or arbitrary deprivation of liberty whether occurring in public or in private life.¹²

Violence against children is all forms of physical or emotional pain, abuse, sexual, neglect, exploitation, commercial or otherwise, which results in actual or potential injury to the child's health, child survival, child development, or child dignity, which is carried out in the context of a relationship of responsibility, trust or power.

Types of domestic violence

Types of violence can be in the form of acts of physical, psychological, or sexual violence and neglect of the household. Physical violence is a physical act committed against another person or group that results in physical, sexual, and psychology. These actions include hitting, kicking, slapping, stabbing, shooting, pushing (forced), and pinching. Meanwhile, psychological violence is the intentional use of power, including physical coercion against another person or group, resulting in physical, mental, spiritual, moral, and social growth. These acts of violence include verbal abuse, scolding/insults, harassment, and

threats. Sexual violence includes coercion of sexual intercourse perpetrated against a person who lives within the scope of the household, as well as coercion of sexual intercourse against one person within the scope of the household with another person for commercial purposes and/or certain purposes. Sexual violence, such as forcing the wife to have sexual intercourse even though the wife is tired and not ready, including during menstruation, or forcing his wife to have sex with other men. Household neglect is a person who abandons a person within the scope of his household, even though according to the law that applies to him or because of an agreement or agreement, he is obliged to provide life, care, or care for that person. In addition, neglect also applies to everyone who results in economic dependence by limiting and/or prohibiting decent work inside or outside the home so that the victim is under the control of that person. Abandonment is like leaving a wife and child without providing a living, not providing the wife money over a long period of time, even years.^{6,11}

The etiology of domestic violence

The factors that cause violence against women in the household, especially those perpetrated by husbands against wives, are the existence of an unequal power relationship between husband and wife, economic dependence, violence being used as a tool to resolve conflict, and competition between husband and wife. The notion that the husband is more powerful than the wife has been constructed in such a way in the family and the culture and structure of society. That the wife belongs to the husband because she has to carry out everything that the owner wants. This causes the husband to feel powerful and finally to be arbitrary towards his wife.⁹⁻¹¹

The wife's dependency factor in economic matters her husband forces the wife to obey all her husband's wishes even though she is suffering. In fact, even though harsh measures were taken against him, he was still reluctant to report his suffering with consideration for his own survival and the education of his children. The husband uses this to act arbitrarily toward his wife.

Violence as a tool to resolve conflicts is the third dominant factor in cases of domestic violence. Usually,

this violence is carried out as an outlet for offense, or disappointment due to the non-fulfillment of desires, then acts of violence are carried out with the aim that the wife can fulfill her wishes and not put up a fight. This is based on the assumption that if a woman is fussy, then she must be treated harshly so that she becomes obedient. The assumption above proves that husbands often use their physical strengths in solving household problems.¹²

The balance between husband and wife, both in terms of education, association, and good economic mastery that they have experienced since they were still in college, in the work environment, and in the community environment where they live, can lead to competition and can further lead to domestic violence.¹³ on the one hand, the husband does not want to lose, while on the other hand, the wife also does not want to be underdeveloped and constrained.

Impact of domestic violence

Suffering as a result of this violence is not only experienced by the wife but also by her children. The impact of domestic violence on wives is physical, sexual, psychological, and economic trauma. The impact of domestic violence is also felt by children. Witnessing violence is a very traumatic experience for children. Domestic violence experienced by children causes these children to have tendencies such as being nervous, easily anxious when faced with problems, often wetting the bed, restless and uneasy, poor performance in school, susceptible to diseases such as headaches, stomach and asthma, and being cruel to animals. When playing, he often imitates offensive language, behaves aggressively and cruelly, likes to run away, and likes to beat other people he doesn't like. Domestic violence that children see is a lesson and a process of socialization for them so that an understanding grows within them that violence and abuse are normal things in family life.^{12,13}

Most children who grow up in abusive households will grow up to be violent children. Research has shown that 50-80% of men who beat their wives or children were raised in households where the father often abused his wife and children. They grow up mentally damaged and have lost compassion, and think that violence against their wife is acceptable.

Legal aspects of domestic violence

The issuance of Law No. 23 of 2004 concerning the Elimination of Domestic Violence, Government Regulation No. 4 of 2006 concerning Implementation and Cooperation in the Recovery of Victims of Domestic Violence, Presidential Regulation No. 65 of 2005 concerning the National Commission on Women, Law No. 13 of 2006 concerning Protection of Witnesses and Victims assigns duties and functions to coordinated institutions providing legal protection against cases of domestic violence.^{9,10} These regulations focus on prevention, protection, and recovery for victims of domestic violence. The Law on the elimination of domestic violence states that the elimination of domestic violence is carried out based on respect for human rights, justice and gender equality, non-discrimination, and victim protection.

Presidential Regulation No. 65 of 2005 concerning the National Commission on Violence against Women, hereinafter referred to as the Perpres of Komnas Perempuan, is a refinement of Presidential Decree No. 181 of 1998 concerning the National Commission on Violence Against Women.¹⁴ Komnas Perempuan was formed based on the principle of the rule of law, which realizes that every form of violence against women is a form of violation of human rights, so efforts are needed to prevent and overcome the occurrence of violence against women.

Recovery for victims of domestic violence is regulated by Law No. 23 of 2004 concerning the Elimination of Domestic Violence.¹⁵ For the purposes of recovery, victims can obtain services from health workers, social workers, companion volunteers, and spiritual guides. The implementation of recovery for victims is carried out by government agencies and local governments as well as social institutions in accordance with their respective duties and functions, including providing the necessary facilities for the recovery of victims. Organizing recovery activities for victims of health services, victim assistance, counseling, spiritual guidance, and resocialization.

Definition of offense

A criminal act or delict is an act that is prohibited by law, and anyone who violates this prohibition is subject to criminal sanctions. In addition, a criminal act can be said to be an act that is prohibited by the

rule of law and is punishable by punishment. It should be remembered that the prohibition is aimed at the act, while the penalty is aimed at the person who caused the crime. In another definition, the offense is an unlawful act that has been committed intentionally or unintentionally by someone who can be held accountable for his actions and by law has been declared as an act or action that can be punished.¹⁶

Ordinary offenses are offenses that have a main form accompanied by aggravating elements or also have basic forms accompanied by mitigating elements. Ordinary offenses, or in Bareskrim terms, are pure crimes, namely, all criminal acts that occur which cannot be stopped by reasons that can be understood in the complaint offense, for example, fraud. Even though the victim has forgiven or the perpetrator has made compensation, the legal process continues until the verdict is reached because this is a pure offense that cannot be revoked.

Complaint offenses are offenses in which the prosecution process is based on the victim's complaint. Complaint delict occurs when there is a complaint or report from a person who is a victim of a crime. For example, rape, family theft, and bed-table theft (*schidding van tavel en bed*). Complaint offenses can be withdrawn if the complainant withdraws his report, for example, because there is a peace or peace agreement that is known by the investigator if he has entered the investigative stage, by the prosecutor if he has entered the prosecution level or by the judge if he has entered the trial but has not yet been sentenced. Withdrawal of complaints or reports usually occurs in cases of rape where the victim feels ashamed or the perpetrator wants to marry the victim. In cases of family theft or splitting of bed tables, it is usually family reasons.¹⁶

Domestic violence is a form of violence against women because victims of domestic violence are generally women. Violence against women means violence that violates women's human rights, which also means violence that violates human rights. With the issuance of the Law on the elimination of domestic violence No. 23 of 2004, the problem of domestic violence is no longer a private problem but has become a public problem. This is evidenced by the increasing number of reported domestic violence. The increase in the number of domestic violence reported is one of the

changes in the perspective of the Indonesian people, who no longer consider domestic violence as a private matter that other people should not know about. The increase in reported data and changes in the public's perspective on domestic violence is the result of the hard work of several parties, one of which is social institutions.

The attitude of the perpetrators of violence that violates agreements that have been mutually agreed between victims, perpetrators, families, and/or social institutions becomes an obstacle for social institutions to carry out their roles. Efforts to overcome these obstacles are more conditional in nature, meaning based on the case that occurred. To overcome obstacles that come from within the institution is to expand the network of cooperation with donor agencies or other social institutions, instill the vision of the struggle of feminists in young activists and challenge them to sacrifice for the sake of the victims. To overcome obstacles from outside the institution is to give firmness to victims to make and choose good choices in their opinion and make these choices, empowering victims by building self-confidence in victims and the courage to solve the problems they face, introducing institutions to the community, and fostering public trust in the institution.¹¹

2. Conclusion

Domestic violence is a form of violence against women because victims of domestic violence are generally women. Violence against women means violence that violates women's human rights, which also means violence that violates human rights.

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