

## Legal Protection for Women and Children Victims of Domestic Violence in Gorontalo City

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### Abstract

*Violence against women and children is worrying enough. There is a lot of violence against women and children in the domestic (household) environment. Violence against women and children is an act that is contrary to the basic principles of humanity. Because acts of violence against women are violations of human rights, a national legal instrument is needed to eliminate violence against women and children in Indonesia. The purpose of this research is to find out the legal protection efforts given to women and children as victims of domestic violence. data analysis The description used in this study is a qualitative type of qualitative research that aims to find facts, conditions, changes in phenomena, conditions during the research and what is presented. The results of this study indicate that there are efforts to protect themselves from the law. In Indonesian law, such as: Law Number 23 of 2004 concerning the Elimination of Domestic Violence Reform Forms of direct legal protection from existing institutions such as: Integrated service centers and legal support offices.*

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### Abstrak

Kekerasan terhadap perempuan dan anak sudah cukup mengkhawatirkan. Banyak terjadi kekerasan terhadap perempuan dan anak di lingkungan domestic (rumah tangga). Kekerasan terhadap perempuan dan anak merupakan tindakan yang bertentangan dengan prinsip dasar kemanusiaan. Karena tindakan kekerasan terhadap perempuan merupakan pelanggaran hak asasi manusia, maka diperlukan instrumen hukum nasional untuk menghapuskan kekerasan terhadap perempuan dan anak di Indonesia. Tujuan penelitian ini adalah untuk mengetahui upaya perlindungan hukum yang diberikan terhadap perempuan dan anak korban kekerasan dalam rumah tangga. analisis data Deskripsi yang digunakan dalam penelitian ini adalah jenis penelitian kualitatif kualitatif yang bertujuan untuk menemukan fakta, kondisi, perubahan fenomena, kondisi pada saat penelitian dan apa yang disajikan. Hasil penelitian ini menunjukkan adanya upaya perlindungan diri dari hukum. Dalam hukum Indonesia seperti: Undang-Undang Nomor 23 Tahun 2004 tentang Reformasi Penghapusan Kekerasan Dalam Rumah Tangga Bentuk perlindungan hukum langsung dari lembaga yang sudah ada seperti: Pusat pelayanan terpadu dan kantor penunjang hukum.

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## 1. INTRODUCTION

Households are the smallest community of a society. A happy, safe and peaceful household is everyone's dream. The Republic of Indonesia is a country based on the belief in One Almighty God. Thus, every person within the household sphere must carry out their rights and obligations based on religion and humanitarian theology. This is important to develop in order to build household integrity. To make this happen, it depends on everyone in the household, especially in the attitudes, behavior and self-control of each person in the household.

The integrity and harmony of the household can be disrupted if attitudes, behavior and self-control cannot be controlled. In the end, domestic violence can occur, resulting in insecurity or injustice towards people within the household. To prevent, protect victims and take action against perpetrators of domestic violence, the state is obliged to carry out prevention, protection and action against perpetrators.

According to Article 1 point 1 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (UU PKDRT): "Domestic violence is any act against someone, especially women, which results in physical, sexual, psychological misery or suffering and/or domestic neglect including threats to commit unlawful acts, coercion or deprivation of liberty within the household.

According to Muladi, violence against women (DRT) is an obstacle to development because violence can have cumulative consequences that are not simple. Domestic violence is an interesting problem to study considering that the reported number of domestic violence shows an increase from year to year.

Based on data from Komnas HAM, it shows that throughout 2012 there were 8,315 cases of violence against wives, or 66 percent of the cases handled by Komnas HAM. Almost half, or 46 percent, of these cases were psychological violence, 28 percent physical violence, 17 percent sexual violence, and 8 percent economic violence. Another form of domestic violence that is currently being reported by public officials is marital crime. According to the Komnas HAM report, cases of domestic violence are often treated like other criminal cases, where law enforcement officials only use a normative perspective and are based on fulfilling the elements of criminal offenses and collecting witnesses and evidence.

There are two main causes of domestic violence. First, economic factors. The economic factor in question is the husband's income, so it often triggers arguments that result in physical violence. Economic reasons are generally the cause. There are demands from wives who always ask for more from their husbands, while husbands are unable to fulfill them. Another case is when the wife always insults, always criticizes the husband and even curses at him if there are problems in the household. It's not because of a lack of money, but an excess, only in this case it's caused by the wife's income meeting all household needs. If a husband feels annoyed at being treated in such a quarrelsome way, it usually ends in physical violence.

Second, the infidelity factor. Apart from economic problems, it is usually not because of a shortage but an excess or enough, so that apart from meeting his household needs sufficiently, he also uses it to support the life of the woman he is having an affair with, so that he is a little offended and immediately curses or hits his wife because it is to cover up his affair. The increasing number of cases of domestic violence in Indonesia cannot be separated from many factors. Cultural factors, social and economic life and the current condition of the nation and state contribute directly or indirectly to the increase in the rate of violence. Even though many efforts have been made to reduce this number, it appears that this has not significantly reduced the number of cases.

Violence experienced by women can be a traumatic event which, if not resolved healthily, will become a psychological trauma disorder. However, on the contrary, if handled healthily and effectively, psychological trauma, apart from being recoverable, will also open up the possibility of growing individual abilities in minimizing and overcoming the negative impacts of a disaster (resilience). Therefore, it is important for victims of domestic violence to receive legal, medical and psychological assistance.

Many parties will be involved in the management of victims of this violence. In essence, all activities or programs will be aimed at strengthening the resilience of women victims of violence so that they can solve their problems independently and constructively. That unpleasant experiences will continue to exist, and women must realize that brands are not worth experiencing (violence) again.

Victims have the right to receive recovery as regulated in Article 39 of Law Number 23 of 2004 and in more detail in the implementing regulations, namely Government Regulation Number 4 of 2006 which clearly states that:

1. Victim recovery is any effort to strengthen victims of domestic violence so that they are more empowered, both physically and psychologically.
2. Recovery services are all actions that include services and assistance to victims of domestic violence.
3. Assistance is all actions in the form of counseling, psychological therapy, advocacy, and spiritual guidance, in order to strengthen themselves as victims of domestic violence to resolve the problems they face.
4. Collaboration is a systematic and integrated way between recovery providers in providing services to recover victims of domestic violence.
5. Recovery organizers are health workers, social workers, volunteer companions and/or spiritual guides.

This can be seen in the comparison of data from the Population Control, Family Planning, Women's Empowerment and Child Protection (DPPKBP3A) Department of Gorontalo City from 2019 and 2020. The DPPKBP3A Service recorded at least 108 victims of violence against women and children in Gorontalo City in 2020. Starting from January 1 to December 2020, which also occurred during the Covid-19 pandemic. Of the 108 victims of violence against women and children, there were 54 cases of women, 10 cases of adult men, 23 cases of boys and 21 cases of girls who were victims of violence.

Of the several forms of violence that exist, domestic violence has a high prevalence among other forms of violence. Domestic violence does not only affect women or wives, but can happen to every member of the family. However, most of it affects women, the elderly and children. Weak family members are at risk of becoming victims of violence, especially those who live together in the same house.

## **2. RESEARCH METHOD**

Scientific activity, which is based on certain methods, systematics and thinking, which aims to study one or several particular legal phenomena, by analyzing them. Apart from that, it also carries out an in-depth examination of the legal facts, to then try to find a solution or problem that arises in the legal phenomenon. In this definition, legal research is constructed as a scientific activity. Scientific activities are activities related to the development of development science and technology. Researchers will use several approaches in this thesis regarding the reconstruction of the implementation of protective facilities for victims of domestic violence.

## **3. RESEARCH RESULTS AND DISCUSSION**

### **3.1. Legal protection**

There are several definitions of protection contained in the dictionary, as well as statutory regulations. In the Big Indonesian Dictionary (KBBI) the meaning of protection is: a. shelter; b. actions (things and so on) to protect. Meanwhile, the meaning of protection as specified in Law No. 23 of 2004 concerning the Elimination of Violence Against Women is: "all efforts aimed at providing a sense of security to victims carried out by families, advocates, social institutions, police, prosecutors, court, or other party either temporarily or based on a court order"

Meanwhile, the meaning of protection related to child protection is regulated in Law No. 23 of 2002 which states that: "Child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop and participate, optimally in accordance with their dignity. and human dignity, as well as protection from violence and discrimination."

From these two laws it can be concluded that the protection of women and children contains the following elements:

1. All efforts/activities
2. To provide a sense of security
3. Guarantee the rights of women and children
4. Provided by the State, family, advocates, social institutions, or other parties

Thus, the word protection contains the meaning, namely an act of protection or action to protect the rights of certain parties aimed at certain parties using certain methods. Conceptually, the protection provided is an implementation of the principle of recognition and protection of human dignity which is based on Pancasila and the principles of the Rule of Law based on Pancasila. This means that as a rule of law, the state has a state obligation to promote, protect, guarantee, fulfill and ensure that rights possessed by humans both as citizens and non-citizens (foreigners).

What is meant by to promote is that the state is obliged, through its tools, both at the central and regional levels, to promote/socialize the importance of protection and various laws and regulations related to human rights to increase the level of public awareness of human rights.

*To protect*(protect) means that the State has an obligation to protect the human rights of every citizen without being based on discrimination based on religion, race, ethnicity, ethnicity, etc. The state not only has the obligation to proactively protect the human rights of every citizen, but the state is also not permitted to act by omission regarding human rights violations that occur in society.

*To guarantee*(guarantee) means that the protection of human rights is not only stated in the state's objectives (stat ideas) and the articles in the constitution, but the most important thing is how the state guarantees the recognition and protection of human rights as outlined in its implementing regulations, be it laws, regulations. Government, Presidential Regulations and at regional level through Regional Regulations and other policies.

*To fulfill* means that in the event of a human rights violation that results in victims, the state has an obligation to fulfill the victims' rights immediately and proportionally without being required under certain conditions to ensure (make sure) means that the state can ensure that perpetrators of human rights violations will be held accountable in accordance with the provisions applicable.

Regarding protection, protection provided through legal products can be interpreted as legal protection or protection using legal institutions and means. There are various definitions of legal protection, including:

1. According to Satjipto Raharjo, legal protection is providing protection for human rights that are harmed by other people and this protection is given to the community so that they can enjoy all the rights granted by law.
2. According to Philipus M. Hadjon, legal protection is the protection of honor and dignity, as well as recognition of human rights possessed by legal subjects based on legal provisions against arbitrariness.

The law can provide protection through certain methods, including: Making regulations (by providing regulations), which aims to guarantee rights and obligations and guarantee the rights of legal subjects at both central and regional levels; Enforcing regulations (by law enforcement) by state officials. So it can be said that through legal protection, rights and obligations will be created between each other. Legal protection will be the right of every citizen, and on the other hand it can also be said that legal

protection is an obligation for the state itself, therefore the state is obliged to provide legal protection to its citizens.

### **3.2. Women and Children Victims of Domestic Violence**

Women and children are groups that need protection, because of their socio-cultural system and physical conditions. Women have a unique position in every society and country in the world. Women make many contributions in almost all areas of daily life, such as taking care of the household, taking care of children, working and so on. However, they often become second class citizens and are neglected. They seem to suffer in absence and become a group in a position that is often at a disadvantage in facing various obstacles and obstacles. Therefore, the need to strengthen capabilities and equal rights based on gender sensitivity in society is still their main problem. The intensification of women's problems and movements supporting women's rights throughout the world have been reflected in various Conventions that have been issued by the United Nations. Some of these internationally recognized protections have helped articulate the ideology of women's rights fighters.

To understand the meaning of women cannot be separated from issues of gender and sex. Women in the context of gender is defined as a characteristic that is inherent in someone to be feminine. Meanwhile, women in the sense of sex are a gender characterized by reproductive organs in the form of a uterus, egg cells and breasts so that women can become pregnant, give birth and breastfeed.

The struggle to provide protection for the rights of women and children in order to protect women and children from domestic violence has been carried out for a long time, and the struggle through the formation of legislation was finally successful with the ratification of Law no. 23 of 2002 concerning child protection, Law no. 23 of 2004 Domestic Violence or often referred to as the Domestic Violence Law, and Law no. 13 of 2006 concerning Protection of Witnesses and Victim Witnesses. The three legal products clearly base their articles on human rights principles. There is a need to guarantee the protection of women and children. The need for guaranteed protection arises along with the awareness to provide special protection because of the many problems faced by women and children such as physical and psychological violence, discrimination, backwardness in various fields, and so on, so that in various studies this group is classified as a vulnerable group.

The special treatment given is also guaranteed in the constitution, namely in Article 28H paragraph (2) of the 1945 Constitution of the Republic of Indonesia which stipulates: "The right to receive facilities and special treatment to obtain the same opportunities and benefits in order to achieve equality and justice. Protection is also provided with the consideration that it is the right of legal subjects, both women and children.

Apart from women who need special treatment, another group is children. There are various definitions of children outlined in national and international law. According to The Minimum Age Convention Number 138 of 1973, the definition of a child is someone aged 15 years or under. Furthermore, in the 1989 Convention on The Rights of the Child which states: For the purposes of the present Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, the majority is attained earlier.

Thus it is stated that children are those aged 18 years and under. Meanwhile, UNICEF defines children as people aged between 0 and 18 years. Meanwhile, in

national law, the definition of child can be found in several statutory regulations, including:

Republic of Indonesia Law Number 4 of 1979 concerning Child Welfare, states that children are those who are not yet 21 years old and are not married. Meanwhile, the Marriage Law sets an age limit of 16 years for girls and 18 years for boys (in the context of being able to carry out a marriage). Furthermore, the meaning of child according to Article 1 point 1 of Law No. 23 of 2002 is someone who is not yet 18 (eighteen) years old, including children who are still in the womb. From these definitions as a whole it can be seen that the age range categorized as a child lies on a scale of 0 to 21 years. The explanation regarding the age limit of 21 years is determined based on consideration of the interests of social welfare efforts, personal maturity and a person's mental maturity which is generally achieved after a person exceeds the age of 21 years.

According to Law No. 23 of 2002 concerning child protection, children's rights are part of human rights which must be guaranteed, protected and fulfilled by parents, society, government and the state, as is the case with women. It is these women and children who are vulnerable to becoming victims of violence, due to the cultural system and the conditions of the women and children themselves.

In Law Number 23 of 2004, concerning the Elimination of Domestic Violence, it is stated that a victim is a person who experiences violence and/or threats of violence within the household.

Furthermore, in Article 1 number 2 of Law Number 13 of 2006, concerning the Protection of Witnesses and Victims, it is stated that a victim is someone who experiences physical, mental suffering and/or economic loss resulting from a criminal act.

Meanwhile, what is meant by violence against women is any act that is related to or may result in misery or suffering for women, physically, sexually, psychologically, threats of certain acts, coercion and deprivation of liberty, whether occurring in the community or in the domestic environment.

Meanwhile, Law No. 23 of 2004 states that domestic violence is any act against someone, especially women, which results in physical, sexual, psychological misery or suffering, and/or domestic neglect, including threats to commit acts, coercion, or confiscation freedom unlawfully within the household sphere.

In connection with understanding the juridical basis, the urgency of protecting women and children victims of violence through the preparation of Regional Regulations is to obtain legal certainty for both the community, women and children victims of violence and the government. Budiono Kusumohamidjojo places legal certainty in 2 (two) main components, namely certainty in community orientation and certainty in the application of law by law enforcement.

In the context of protection for women and children victims of violence, the contents of regional regulations that provide protection for women and children victims of violence will provide understanding to students and the public that protection for women and children victims of violence will be more optimal if there are legal regulations.

#### **4. CONCLUSIONN**

Legal protection efforts for women who are victims of domestic violence in this country are regulated in Law no. 23 of 2004 concerning the Elimination of Domestic Violence. Law enforcement officials, namely the National Police of the Republic of Indonesia, have tried to minimize criminal acts of domestic violence through KAPOLRI

Regulation no. 10 of 2007 concerning Organization and Work Procedures. A form of police effort to tackle domestic violence and protect victims of domestic violence by forming a unit tasked with providing services and protection to women and children, which called the PPA Unit (Women and Children Services).

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