

Domestic Violence Crimes: Legal Sanctions and Implication

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ABSTRACT

This article discusses the application of criminal sanctions against perpetrators of domestic violence (KDRT) according to Law No. 23/2004 on the Elimination of Domestic Violence. Criminal sanctions are not only aimed at providing a deterrent effect to perpetrators but also as a form of legal protection for victims. This article also discusses the relevance of the concept of restorative justice as an alternative resolution in domestic violence cases to achieve balanced justice. The method used is descriptive-analytical with a normative approach, analyzing the application of law and the effectiveness of sanctions.

Keywords: Criminal Sanctions, Domestic Violence, Restorative Justice.

Introduction

Domestic violence (DV) has become one of the most pressing social issues in modern society, significantly threatening the family structure and the integrity of individuals. The family environment, which should be a place of protection and comfort, often turns into an arena of violence. The impact of domestic violence not only damages interpersonal relationships within the family but also violates fundamental human rights, and has long-term consequences on the mental and physical health of the victim. Data from the World Health Organization (WHO) shows that one in three women worldwide experience violence by their partners (Fitriah, 2022; Sari, 2023). In Indonesia, reports from the National Commission on Women (Komnas Perempuan) indicate that violence against wives dominates domestic violence cases, highlighting the urgency of addressing this issue (Fitriah, 2022).

In response to this pressing issue, the Indonesian government passed Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law). This law was designed to provide a comprehensive legal framework, with the aim of preventing domestic violence, protecting victims, and taking action against perpetrators. In this context, victims are entitled to protection from the authorities as well as necessary health services, while the community has a moral and legal responsibility to report and assist victims in accordance with applicable provisions. The PKDRT Law stipulates criminal sanctions for perpetrators of violence, but the main challenge in its implementation is to ensure that these sanctions are not only effective but also consider aspects of restoring relations between victims and perpetrators. In this case, the concept of restorative justice emerges as an attractive alternative, offering a more holistic and humane approach in handling domestic violence. Research conducted by (Setiyawan & Mahmud, 2018) shows that by adopting a restorative justice model, attention can be shifted from criminal prosecution alone to problem solving and reconciliation between the parties involved. Furthermore, (Rosnawati et al., 2018) and (Wahyudhi et al., 2020) discuss the challenges faced in implementing penal mediation and the application of restorative justice in the context of domestic violence, as well as the potential success of this approach in repairing damaged relationships.

This research aims to achieve two main things. First, this research will analyze the form and application of criminal sanctions against perpetrators of domestic violence (DV) under Law No. 23 of 2004. The main focus of this analysis is to explore the various types of

sanctions available and evaluate the effectiveness of their implementation in providing justice for victims as well as cracking down on perpetrators. Second, this research aims to examine the relevance of the concept of restorative justice in the context of applying sanctions in domestic violence cases, in the hope of achieving balanced justice. In this regard, the research will also explore the implications of applying restorative justice approaches in legal and social aspects in Indonesia, including the potential of this approach in restoring relationships between perpetrators and victims and preventing the recurrence of violence in the future. Through these objectives, it is hoped that the research can make a significant contribution to improving the understanding and handling of domestic violence cases in Indonesia. The application of strict and consistent criminal sanctions in accordance with the provisions of Law No. 23/2004 has the potential to prevent domestic violence by providing a deterrent effect for perpetrators. In addition, restorative justice approaches can serve as a significant complement to the criminalization process, focusing on restoring social relations and providing more holistic justice for both victims and perpetrators. As such, the combination of effective criminal sanctions and restorative justice principles can create a safer and more supportive environment for rehabilitation, ultimately contributing to the reduction of domestic violence in society.

This research provides valuable practical recommendations for law enforcement in applying appropriate and proportional sanctions for perpetrators of domestic violence. In addition, this research examines in depth how the concept of restorative justice can be integrated into the criminal justice system, thus enabling a more comprehensive resolution of domestic violence cases. With this approach, it is hoped that a mechanism can be created that not only enforces the law, but also encourages the restoration of relationships between victims and perpetrators, and provides support for the process of rehabilitation and social reintegration. These findings are expected to make a real contribution to efforts to reduce domestic violence and improve the quality of justice in society. In the context of this research, the conceptual framework is built on three main pillars: criminal sanctions, domestic violence, and restorative justice. First, criminal sanctions stipulated in Law No. 23/2004 include various forms of punishment for perpetrators of domestic violence, including imprisonment, fines, and additional sanctions. These sanctions not only function repressively, but also have preventive and educative dimensions, which aim to prevent domestic violence. terulangnya tindakan kekerasan dan meningkatkan kesadaran masyarakat tentang bahaya KDRT.

Secondly, domestic violence itself includes various forms of violence, such as physical, psychological, sexual and economic neglect. These forms of violence are often a manifestation of unequal power relations within the household, especially between husband and wife. Understanding these dynamics is crucial to formulating effective interventions.

Third, the restorative justice approach emphasizes the importance of restoring the relationship between the offender and the victim through a process of mediation and mutual agreement. The aim of this approach is to achieve justice that is fairer for all parties, avoiding mere punishment that may not provide long-term solutions. By integrating these three pillars, this research aims to offer a comprehensive perspective in handling domestic violence cases, optimizing law enforcement, as well as improving social welfare in the community.

Domestic violence in Indonesia is regulated in Law No. 23/2004 on the Elimination of Domestic Violence. This law defines domestic violence as an act that can cause physical, sexual, or psychological suffering to the victim (Hidayat, 2023). Law enforcement in the context of domestic violence often focuses on criminal sanctions, which may include imprisonment or fines (Setyaningrum & Arifin, 2019; Purnawan, 2023). However, various studies have shown that this approach is not always effective in addressing the underlying issues that cause violence, such as gender inequality and lack of legal education in the

community (Aminah, 2023; Kadir, 2022). On the other hand, restorative justice offers a more inclusive approach by emphasizing the restoration of relationships between perpetrators and victims, and involving the community in the conflict resolution process (Ramadhanti, 2022; Mansyur, 2016). This approach seeks to restore the situation before the violence occurred through dialogue and mediation involving all parties (Rabbani, 2021). In the context of domestic violence, restorative justice has the potential to help reduce stigma against victims and perpetrators, and provide opportunities for rehabilitation and social reintegration (Maya & Wadjo, 2021; Nugroho, 2023)..

Although the application of restorative justice in domestic violence cases in Indonesia is promising, there are still various challenges that need to be overcome, including a lack of understanding and training for law enforcement officials and the community (Aminah, 2023; Suartini, 2023). Therefore, it is important to increase the capacity of human resources and educate about gender justice and human rights (Wardhani & Mahmud, 2021; Merung, 2016). Thus, restorative justice can serve as an effective tool in addressing domestic violence, not only as an alternative to criminal sanctions, but also as an effort to create more sustainable and inclusive justice (Idris, 2023; Arief & Ambarsari, 2018). By adopting a more holistic approach, it is hoped that justice can be achieved that not only punishes perpetrators, but also restores victims and repairs social relationships damaged by domestic violence. This research adopts a normative method with a descriptive-analytical approach, designed to explore and understand the norms and legal rules that apply in the context of domestic violence. The normative method focuses on the assessment of norms and guidelines that exist in society, aiming to analyze the application of these norms in legal and social practice. Meanwhile, the descriptive-analytical approach serves to describe and analyze relevant phenomena, not only by describing existing facts, but also by providing in-depth analysis of the relationship between these facts and the applicable norms.

Methods Research

By combining normative methods and a descriptive-analytical approach, this research aims to provide a comprehensive understanding of social and legal practices based on existing norms. Primary data used in this research consists of laws and regulations, particularly Law No. 23 Year 2004, while secondary data is obtained from literature sources such as books and scientific journals related to the topic. The analysis was conducted to evaluate the effectiveness of the application of criminal sanctions against perpetrators of domestic violence and explore the potential integration of the concept of restorative justice in the justice system. Through this methodology, it is hoped that this research can make a significant contribution in understanding and formulating better policies in handling domestic violence.

Result and Discussion

Types and Application of Criminal Sanctions

Criminal sanctions in Law No. 23/2004 on the Elimination of Domestic Violence include several types, which are regulated in the following articles:

1. Imprisonment

(a) Article 44: Regulates physical violence, with the sanction of imprisonment:

- A maximum of 5 years or a maximum fine of Rp15,000,000 for light physical violence.
- A maximum of 10 years or a maximum fine of Rp30,000,000 if it results in serious injury.
- A maximum of 15 years or a maximum fine of Rp45,000,000 if it results in the death of the victim.

- (b) Article 46: Regulates sexual violence, with a maximum penalty of 12 years imprisonment or a maximum fine of Rp36,000,000²³.
 - (c) Article 47: Forcing a person to have sexual intercourse, punishable by imprisonment for a minimum of 4 years and a maximum of 15 years, and a fine between Rp12,000,000 and Rp300,000,000.
2. Fine Penalty
- (a) [Article 44: Fines are also regulated along with imprisonment for various types of violence:
 - Maximum fine of IDR15,000,000 for minor physical violence.
 - Maximum fine of Rp30,000,000 for serious injury.
 - Maximum fine of Rp45,000,000 for death.
 - (b) Article 45: For psychological violence, the maximum fine is Rp9,000,000.
3. Additional Sanctions
- (a) Article 50: Regulates additional sanctions that can be imposed by the judge, such as:
 - Restriction of movement of the perpetrator from the victim.
 - Determination of the perpetrator to participate in a counselling program under the supervision of a certain institution.

Thus, Law No. 23/2004 on the Elimination of Domestic Violence provides a clear legal framework regarding criminal sanctions related to domestic violence, both in the form of imprisonment, fines, and additional sanctions aimed at rehabilitation and protection of victims.

Effectiveness of Sanction Implementation

The implementation of Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT) in Indonesia has been a subject of interest in various studies. Some studies, such as the one conducted by Jamaa (2014), emphasize the importance of legal measures to protect victims of domestic violence, while Ardiansyah (2016) compares sanctions against acts of violence, especially sexual violence, in Islamic law and the PKDRT regulation. Khadafi (2016) explored the position and protection of victims of domestic violence under the law. Another study by Mayasari (2017) highlighted the importance of reporting domestic violence to the authorities to prevent the recurrence of acts of abuse. Andiko (2017) provides a critical study of Law No. 23 Year 2004 from the perspective of Islamic law related to domestic violence and its sanctions. In addition, Kuswardani (2017) compared the forms of domestic violence as well as the issues surrounding it in Indonesia and Malaysia. Iskandar et al. (2019) discussed the role of forensic science in uncovering physical violence in the domestic environment, while Jaftoran et al. (2019) focused on legal protection for women as victims of domestic violence.

However, while this law provides for criminal sanctions, its implementation in the field often faces various obstacles that reduce its effectiveness. Some of the factors contributing to this problem include the practice of peace and mediation, where many domestic violence cases end with an agreement between the perpetrator and victim, often disregarding the imposition of criminal sanctions. This can be due to social pressure or the desire to maintain family relationships, even if it means sacrificing justice for the victim.

Furthermore, the stigma and social pressure on victims of domestic violence can prevent them from reporting, as they fear negative judgment from the community. Access to support services is also limited, especially during the pandemic, which leaves many victims trapped at home with their perpetrators without the opportunity to seek support. The strong patriarchal culture in society also strengthens the position of the perpetrator and weakens the position of the victim, creating an environment where violence is considered acceptable. Finally, the economic impact experienced by many families can exacerbate the situation of

domestic violence, where financial instability often triggers domestic conflicts that can lead to acts of violence.

Integration of Restorative Justice in the Implementation of Law No. 23 Year 2004 on the Elimination of Domestic Violence (KDRT)

The integration of restorative justice principles in the implementation of Law No. 23/2004 on the Elimination of Domestic Violence in Indonesia offers a more humanist approach in dealing with cases of domestic violence. This approach does not only focus on law enforcement through criminal sanctions, but also emphasizes the restoration of relationships between perpetrators and victims. In this context, restorative justice invites all parties involved-both victims and perpetrators-to communicate and reach an agreement that can repair their relationship, such as compensation or an apology.

Several studies have examined various aspects of this integration. Jamaa (2014) emphasized the need for legal protection for victims in the Indonesian criminal law framework. Meanwhile, Helmi (2014) discusses the importance of specialized courts for domestic violence cases, pointing out the need for a comprehensive justice system to effectively address violence against women. Khadafi (2016) focuses on the protection and position of victims in domestic violence law, highlighting the existing legal framework to protect victims in Indonesia. Setiyawan et al. (2018) proposed a restorative justice model to address marital rape, which emphasizes fair and rehabilitative problem solving without relying on criminal prosecution alone. Aminah et al. (2023) highlighted the benefits of restorative justice in combating domestic violence, including giving perpetrators the opportunity to make amends and avoid lengthy and costly court proceedings. Research by Purnama et al. (2020) and Wardhani et al. (2021) also demonstrate the importance of legal protection for women who are victims of domestic violence, by examining national and international legal provisions that protect victims.

Although the restorative justice approach has many benefits, such as reducing psychological trauma for victims and minimizing future violence, its implementation faces several challenges. One of the main challenges is the social stigma faced by victims, who often feel pressured not to report violence. In addition, the readiness of perpetrators to participate in this process is also an obstacle, especially if they do not admit their guilt. Finally, limited resources to support safe and effective mediation processes are also an obstacle to the implementation of restorative justice. Thus, the integration of restorative justice in the implementation of Law No. 23 Year 2004 can provide an alternative solution that is more effective and sensitive to the needs of victims, while strengthening legal protection for women and children as victims of domestic violence. This approach has the potential to improve the legal response to domestic violence in Indonesia, although it requires comprehensive support from various parties to overcome the existing challenges.

Conclusion

The implementation of criminal sanctions against perpetrators of domestic violence is a crucial step in providing a deterrent effect and protecting victims from further violence. However, the successful implementation of these sanctions relies heavily on a deep understanding from law enforcers and the community regarding the importance of consistency in law enforcement. In addition, the restorative justice approach can serve as an effective complementary approach in repairing relationships between perpetrators and victims. Through the restorative justice process, it is hoped that a constructive dialog can be created that not only prioritizes recovery for the victim, but also provides an opportunity for the perpetrator to take responsibility and commit not to repeat acts of violence. Thus, the

integration of criminal sanctions and restorative justice can be a strategic step to prevent the recurrence of domestic violence and create a safer environment for all parties..

Suggestion And Recommendation

To improve the effectiveness of handling domestic violence cases, several strategic steps need to be taken. First, increasing the understanding of law enforcement officials through in-depth training on the application of criminal sanctions and the concept of restorative justice is essential. This training will equip them with the necessary skills and knowledge to handle domestic violence cases more effectively and sensitively. Second, strengthening protection for victims should be a priority, by providing comprehensive assistance services and adequate protection measures. This aims to make victims feel safe and supported in continuing the legal process they are facing. Third, cross-sector collaboration between law enforcement agencies, social services and communities needs to be improved. Harmonious cooperation between these various parties will support the recovery of victims as well as the rehabilitation of perpetrators, thus creating an ecosystem that is more conducive to reducing the risk of violence recurrence. Through these steps, it is hoped that the handling of domestic violence cases in Indonesia can become more comprehensive and sustainable.

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