

THE LEGAL PROTECTION FOR WOMEN VICTIMS OF DOMESTIC VIOLENCE IN CENTRAL ACEH

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Abstract: *The objectives of this study to determine the legal protection measures given to women victims of domestic violence. This study also and to find out the obstacles constitution enforcement in implementing the protection for women victims of domestic violence. The research was conducted in the Takengon (Central Aceh) District Court using a literature review method combined with a field case study. Primary data obtained from the interview, while secondary data obtained from various literature, documents and regulations. The result of the research indicates the protection effort to the women victims of domestic violence and regulated by constitution Indonesian, such as Criminal Crime No. 23/2004 concerning the elimination of domestic violence. The existing legal institution of protection directly such as integrated service centres and legal aids. The constraints of enforcement officials in implementing legal protection for women victims of domestic violence, the victim and family did not provide information about domestic violence. Afterwards, the case of domestic violence wasn't continued by police due to the victim choose to withdraw the report. Whereas the constraints of the prosecutors' office, they did not fulfil material requirements such as absence or escape. Afterwards, they did not fulfil formal requirements such as lack of evidence from the judiciary. The victim did not present at the trial. And then the police report did not complete, and the victim did not provide information. The last points are the perpetrator did not absence at the trial.*

Keywords: Legal Protection, Women, Victims, Central Aceh, Domestic Violence

Research Area: Law

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1. INTRODUCTION

The violence of women is a form of conduct the contrary to the joints of humanity because the violence of the women constitute is a violate human rights (HAM) and national legal instruments regarding the elimination the violence of the women are needed. The objective to be achieved by the constitution are expected to provide legal protection for individual and community. The link is very deep with the legal protection of human rights (Muladi, 33/2005). Women are an individual who carries a dual mission in social lives (1) women are the hereditary successor and can't be replaced by me. (2) woman is a mother which a fundamental reason why the women need to get special attention to be protected and respected.

Indonesia acts the violence of the women are the experienced problem by many women because the problem like a pyramid on the top is small and on the bottom is big. Domestic violence will be resolved by family and the women as a victim of domestic violence keep the mouth and save the issues.

Legal protection for women, particular violence has been regulated of national legal instruments. The criminal code is several articles directly and qualified as acts of physical violence on the article 351-356 of the Indonesian criminal code. The addition the criminal code provides legal protection for women victim of physic is also regulated on article 6, 16 concerning protection and article 44 to recognize to criminal sanctions of domestic violence.

The general of constitution No. 23/2004 concerning the elimination of domestic violence explained the integrity and harmony of household. The domestic violence is a complicated problem to solve. The reason is the perpetrators of domestic violence really did not realize what has done or the perpetrators are aware the act committed is domestic violence. The perpetrators ignore it because sheltered under obtaining norm have been established violence to be natural and personal.

The objectives of this study to determine the legal protection measures given to women victims of domestic violence. This study also and to find out the obstacles constitution enforcement in implementing the protection for women victims of domestic violence. This study to observe the legal protection efforts women as the victim of domestic violence and the legal prevention constraints in implement the protection for women victim of domestic violence.

The data taken from Takengon (Central Aceh) women's empowerment institute did not showed the cases of for women victims of domestic violence as abuse, persecution results in death, as well the killing have increased significantly.

2. LITERATURES STUDY

LEGAL PROTECTION

Based on constitution No. 23/2004 stated “ The protection of domestic violence on Article (I) paragraph (4) is legal protection to efforts aimed the provided a sense of security to victims carried out by family, advocate, social institution, police, prosecutors, courts and others, both temporary and based on the determination of the court.

Criminal law was made to regulate society, basically has two forms of legal protection are preventive and repressive. To enforce criminal law can be active criminal law enforcement in society (Arief, 73/2008)

Victim protection criminal on Indonesia is abstract because criminal act according to positive criminal did not seen as an act of attacking the interest of a personal victim and concrete but was seen as a violation of the norm and orderly. The protection of victim is indirect and can be said the criminal sanction and accountability system did not directly and concretely focused on the protection of sthe victim, indirect and abstract (Arief, 79/2008):

- a. The determination of compensation did not be independent sanction in addition to the principal crime, but the judge imposed by a judge attention to impose a conditional crime.
- b. The special determination in the form of compensation did be judge impose maximum prison a year or imprisonment.

Based on the statement above, the conditional criminal was deemed to have taken into account the interests of the victim.

THE PROTECTION OF DOMESTIC VIOLENCE

The household (family) is the foundation of a country because the family is a creation of the national cadres. Therefore, domestic violence is one of the factors damage the family did joint illness did not personal. Article (I) point (i) domestic violence is regulated act for an especially women, in physical misery or suffering, sexual, psychological and neglect of household. The form of domestic violence in the article (5) on domestic violence protection are:

1. Physical violence
2. Psychological violence
3. Sexual violence, and
4. Neglect of the household

Based on the statement above, physical, psychological, sexual violence and neglect household are increasingly prevalent in daily life and the adequate legal instruments are needed to eliminate the domestic violence.

The constitution of Republic Indonesia No 23/2004 stated the elimination of violence on household has specially regulated the matter of prevention, protection and recovery victims of domestic violence. Regulated the criminal law act, as follow:

1. Physical violence (the constitution article 6 of the domestic violence),
2. Psychological violence (the constitution article 7 of the domestic violence),
3. Sexual violence (the constitution article 8 of the domestic violence), and
4. Neglect of household (the constitution article 9 of the domestic violence)

For the criminal provision Law No. 23/2004 article 44 stated the eliminations of domestic violence are:

1. Who commits an act of physical violence within the scope of the household as referred on article 5 (a) is 5 years on prison or pay Rp. 15. 000.000., (Fifteen million),
2. Based on Paragraph (I) about the victim, the victim falling ill or seriously injured, 10 years on prison or pay Rp. 30. 000.000., (Thirty million)
3. Based on paragraph (II) the victim death, 15 years imprisonment or pay Rp. 45.000.000., (forty five million)
4. Based on Paragraph (I) carried out by husband of wife or vice versa which did not cause disease or obstruction to carry out work or livelihood or daily activities, 4 years on prison and pay Rp. 5.000.000., (Five Million)

3. METHOD

A research location is a place or region for the researcher research. And the research was conducted based on title and the title is “*the legal protection for women victims of domestic violence*”

The research is intended to obtain and collect primary and secondary data. Primary data is obtained the data directly from respondents and the court decision. Secondary data got from libraries, derived from legislation, writings or journals and documents or archives other materials and support for the research.

The data has been collected, writing the data obtained both primary and secondary data, the data is processed and analyzed descriptively and qualitatively using the constitution and case approach, interpreting data based on theory.

4. DISCUSSION

The constitution of protection was born to save domestic violence. It is good for the victim of domestic violence because did to carry and legally protected. the threat of violence occurring in household which is often done by family themselves and difficult to be seen by outsiders. The perpetrators and victims of victimization are often related to or know each other (Arif Gosita, 23/2003).

Based on 4th (1995) World Women’s Conference in Beijing stated “ the term violence is women was interpreted as violence was carried out based on gender. Harkristuti

Harkriswono quoted (Eimina Martha, 23/2003). Article (I) the declaration on the elimination of violence women formulate notion as follow:

1. The protection is needed for women victims of domestic violence to need recovery, physical (economic, health) and psychological (traumatic)
2. The legal protection of women on criminal code. Indonesia criminal is continues to pose a threat to the perpetrators of domestic violence and others. The article and criminal threats are seen in the table 1.

Table 1. Prosection of Domestic Violence based on Indonesia regulations

No	Article	Kinds of Domestic Violence	Minimum Prosecution	Prosecution
1	The constitution of domestic violence No. 44	Physical violence	-	5 years on prison or fine IDR 15. 000.000.
2	The constitution of domestic violence No. 44 (2)	victim falling ill sick or seriously injured	-	10 years on prison or fine IDR. 30. 000.000.
3	The constitution of domestic violence No. 44 (3)	the victim death	-	15 years of imprisonment or fine IDR. 45.000.000.
4	The constitution of domestic violence No. 44 (4)	carried out by husband of wife or vice versa which did not cause disease or obstruction to carry out work or livelihood or daily activities	-	4 years on prison and fine IDR 5.000.000.,

The articles related to the provision of law on domestic violence . made it possible as a means or efforts for enforcement officers to be used as references. The domestic violence is several acts of violence are part of violence women, on article (5) of the constitution domestic violence stated that domestic violence is physical, psychological, sexual and neglect of household.

Based on the article above, related to legislation on domestic violence was made it possible as a means or efforts for enforcement officers to be used as references as a repressive for perpetrators of domestic violence.

5. CONCLUSIONS

The legal protection effort for women victims of domestic violence is currently regulated in Indonesia constitution, such as No. 23/2004 stated that the elimination of domestic violence. Form of legal protection directly through an existing institution such as integrated service centres and legal institutions. Constraints the law enforcement officer on implementing legal protection for women victims of domestic violence are The victim and victim's family did not give the information about domestic violence, and the domestic violence did not continues the report.

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