



APPLICATION OF CRIMINAL SANCTIONS AGAINST PERPETRATORS OF PSYCHOLOGICAL DOMESTIC VIOLENCE IN HOUSEHOLDS

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Abstract: Domestic Violence is a complex issue influenced by various factors, including a lack of awareness and understanding of psychological violence as a legal violation. Although Law Number 23 of 2004 on the Elimination of Domestic Violence regulates forms of violence such as physical, psychological, sexual, and economic neglect, its enforcement still faces numerous challenges. Criminal sanctions against perpetrators of psychological violence, such as imprisonment or fines, often fail to provide a sufficient deterrent effect due to multiple inhibiting factors. The main challenges in law enforcement include weak legislation, limited understanding among law enforcement officers, inadequate support facilities, and low public awareness of victims rights. Additionally, patriarchal cultural factors, social stigma, and the perception that domestic violence is a private matter exacerbate the situation. The lack of public education on victims' rights and legal procedures further complicates the law enforcement process. Data show that psychological violence is one of the most frequently reported forms of domestic violence, yet its handling remains suboptimal. Legal reform, improved capacity of law enforcement, and better support services for victims are crucial to ensuring effective protection and recovery.

Keywords: *Criminal Sanctions; Domestic Violence; Households*

I. INTRODUCTION

Domestic Violence is a complex and challenging issue to address due to various triggering factors that cause it to occur. One of the factors is that individuals committing domestic violence often do not realize that their actions constitute a form of violence within the family environment. Additionally, some perpetrators are aware that their actions are domestic violence, but they choose to ignore it by hiding

behind existing social norms in society. This leads perpetrators to view domestic violence as something normal and acceptable. In the eyes of society, domestic violence is often seen as a personal issue. However, with the passage of time, violence against women and children can no longer be regarded as merely a private matter when the abusive behavior towards family members results in significant harm to the victims.

Domestic violence is regulated by law under Law No. 23 of 2004 concerning the Elimination of Domestic Violence. This law covers various types of domestic violence, including physical, psychological, sexual abuse, and economic neglect. Any act that causes physical, mental, or economic suffering to a family member is considered a violation of the law and may be subject to sanctions according to the applicable provisions. With this regulation, the state aims to provide better protection for victims and imposes.¹

Emotional or psychological abuse, particularly in the form of verbal violence, can have a significant impact on a person's psychological well-being. However, awareness of the importance of protecting others' psychological well-being remains uneven in society. Psychological abuse committed by family members or close individuals is often ignored or even considered unproblematic, despite its potential to cause serious harm to the victim's mental and emotional health. This lack of awareness leaves victims feeling powerless, isolated, and without the necessary support. In many cases, victims are often reluctant to report the incidents or may not even realize that they are experiencing psychological abuse. Yet, psychological abuse can result in severe mental health issues, such as post-traumatic stress disorder (PTSD), excessive anxiety, and various other mental health problems that require serious attention.

Domestic violence is a serious violation that negatively impacts the well-being and safety of individuals within the household. Law No. 23 of 2004 on the Elimination of Domestic Violence explicitly prohibits various forms of domestic violence, as outlined in Article 5, which divides them into four main types: physical violence, psychological violence, sexual violence, and neglect. Despite these clear regulations, real-world situations reveal that many people still do not comply with or fully recognize the importance of these prohibitions. This non-compliance is attributed

¹ Fitri Wahyuni dan M. Rizqi Azmi, 2022. *Konsep Sanksi Bagi Pelaku Kekerasan dalam Rumah Tangga yang Berkeadilan (Studi di Wilayah Hukum Kabupaten Indragiri Hilir)*. Jurnal Selodang Mayang 8, no. 2, p. 137.

to various factors, including a lack of awareness, patriarchal culture, social stigma, and fear of stigma or retaliation. As a result, cases of domestic violence continue to be prevalent, with victims often feeling trapped in difficult situations due to these barriers.²

II. RESEARCH METHODS

This study will employ a normative legal method, utilizing a legal research approach through literature analysis. The study will also explore relevant legal theories that can provide insights into the application of criminal sanctions. It is hoped that this approach will enhance the literature and ensure that the application of criminal sanctions for perpetrators of psychological domestic violence is effectively implemented.

III. DISCUSSION

a. Criminal Sanctions for Perpetrators of Psychological Domestic Violence

Criminal sanctions consist of two terms: "sanction" and "criminal." Generally, a sanction refers to a form of threat imposed as a reaction to a breach of rules. In the legal context, sanctions specifically refer to criminal penalties (*strafbewaking*), which are imposed to enforce compliance with legal norms and regulations. These sanctions aim to ensure that every individual or entity within society adheres to the established rules, and if a violation occurs, the consequence is the enforcement of criminal penalties according to the applicable law.³

Sanctions are not merely threats but also direct consequences of actions or behaviors that violate legal norms. They can include fines, imprisonment, or other forms of punishment prescribed by law. Criminal sanctions reflect the state's response to actions deemed harmful to public interest, order, and social justice. Therefore, sanctions play a crucial role in maintaining social order, preventing further legal violations, and educating the public to deter similar misconduct.

Sanctions imposed for violations of legal norms have several key characteristics: first, they can be enforced by law enforcement authorities; second, their implementation is compulsory and non-negotiable; and third, the execution of these sanctions originates from government or state authority. This distinguishes legal

² Pius. A. Samponu, dkk, 2022. *Sanksi Pidana Terhadap Anak yang Melakukan Tindak Pidana Kekerasan dalam Rumah Tangga*. Jurnal Interpretasi Hukum, p. 300.

³ *Op.cit.* p. 138

sanctions from other types of social sanctions, such as moral or social sanctions, which rely more on social acceptance and agreement rather than formal coercion.⁴

The essence of imposing criminal sanctions is to restore balance within the social order disrupted by legal violations. When a legal norm is breached, social and legal equilibrium is disturbed, and through the enforcement of criminal sanctions, it is hoped that the disrupted state can be returned to its original condition. This process of restoration not only serves to punish the offender but also aims to protect the victim, reinforce public trust in the legal system, and maintain harmony and order within society.⁵

In addition, criminal sanctions also function as a tool for rehabilitating offenders with the hope that the punishment will encourage behavioral change and awareness of the wrongdoing committed. Criminal sanctions play a role as a deterrent mechanism, both specifically by preventing the offender from repeating the offense and generally by making the wider community aware of the legal consequences of similar violations. Thus, criminal sanctions focus not only on retributive aspects but also have important restorative and preventive dimensions in law enforcement and the maintenance of social order.

Under Article 45 of Law No. 23 of 2004 on the Elimination of Domestic Violence, perpetrators of psychological violence in domestic settings may be subject to criminal sanctions, which include imprisonment for up to 3 (three) years or a fine of up to Rp9,000,000 (nine million rupiahs). Psychological violence encompasses actions that cause emotional or psychological suffering to the victim, such as intimidation, insults, threats, or other behaviors that damage the mental and psychological well-being of the victim.

These sanctions are primarily aimed at protecting victims from the negative impacts of psychological violence, such as trauma, mental health disorders, and a decline in quality of life. The legal protection is intended to ensure that victims receive justice and the support needed to recover from their experiences of violence. In this context, the punishment for perpetrators serves not only as a form of proportional

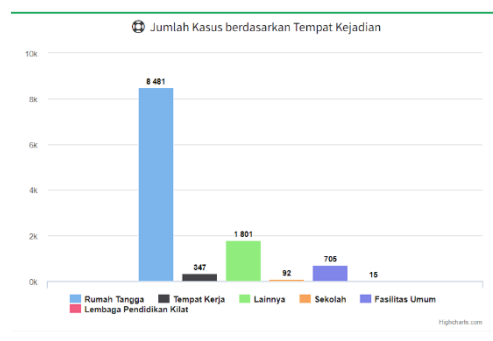
⁴ Thalib, H. H, 2013. *Sanksi Pemidanaan dalam Konflik Pertanahan*, Jakarta: Kencana, p. 40.

⁵ Andi Istiqlal Assaad, 2017. *Hakikat Sanksi dalam Perspektif Hukum Pidana Indonesia dan Hukum Pidana Islam (Studi Tentang Pidana Mati)*, "Tesis" Makassar: Universitas Muslim Indonesia, p. 53.

retribution but also as a means of rehabilitating victims, helping them to return to a life of safety and without fear.

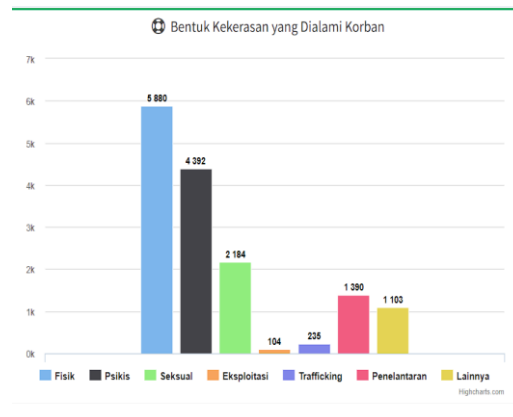
The imposition of such sanctions is intended to deter perpetrators, meaning they will be more cautious and refrain from repeating their actions in the future. This deterrent effect is crucial for reducing the incidence of psychological violence within households, which is often hidden and receives insufficient attention. Furthermore, the application of strict penalties also serves as a warning to the broader community that psychological violence is not merely a private or internal family issue but a serious legal violation with criminal consequences. In reality, despite the existence of Law No. 23 of 2004 on the Elimination of Domestic Violence, which aims to protect victims and punish perpetrators, domestic violence remains prevalent. Factors such as patriarchal culture, gender inequality, financial dependency, and a lack of awareness and access to legal protection contribute to the ongoing challenge of eradicating domestic violence.

Figure 1. Number of Cases Based on Location of Incident
(source: violence.kemenpppa)



In Figure 1, it can be seen that the majority of violence cases based on the location of the incident occur within households, with domestic violence cases reaching 8,481. Meanwhile, 2,960 cases of violence are reported in workplaces, schools, public facilities, and other locations. This data highlights that violence against women is still prevalent, particularly within domestic environments. This situation is often caused by the irresponsible behavior of certain individuals and a lack of understanding and respect for legal regulations and human rights (HR) to respect others. This phenomenon underscores the importance of stricter law enforcement efforts and ongoing education to raise public awareness about the importance of respecting the rights and dignity of every individual.

Figure 2. Forms of Violence Experienced by Victims
(source: violence.kemenppa)



Based on the data shown in Figure 2, it is evident that the majority of violence experienced by victims is physical violence. However, psychological violence ranks second as a frequently experienced form of abuse, with a total of 4,392 cases. This indicates that psychological violence is highly disruptive and has a serious impact on victims, comparable to other forms of violence such as physical, sexual, and neglect, which are more visibly apparent. Although psychological violence may not always be physically observable, it can cause profound emotional trauma and damage the mental well-being of victims. This highlights the importance of recognizing and addressing all forms of violence equally.

b. Factors Hindering the Application of Criminal Sanctions Against Perpetrators of Psychological Domestic Violence

The theory used to address the issues affecting the enforcement of criminal sanctions against perpetrators of psychological violence in domestic settings is the theory of factors influencing law enforcement by Soerjono Soekanto. This theory includes five main factors:⁶

- 1) Legal factors (substantive law)
- 2) Law enforcement factors
- 3) Supporting facilities and infrastructure
- 4) Community factors
- 5) Cultural factors

⁶ Soerjono Soekanto, 2012. *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, Jakarta: Rajawali Pers, hlm. 8.

Based on the literature review conducted by the author, it can be interpreted that one of the main obstacles to the enforcement of law in cases of domestic violence (DV) is the weakness of the existing legislation. Specifically, Law No. 23 of 2004 concerning the Elimination of Domestic Violence is considered inadequate in deterring perpetrators of DV. The criminal sanctions stipulated in this law, such as relatively light prison sentences and fines that do not correspond to the physical, psychological, and emotional harm suffered by victims, are often insufficient to achieve justice.

Under Law No. 23 of 2004, sanctions for perpetrators of DV can include a maximum prison term of 5 years or a fine of up to IDR 15 million for physical violence, and a maximum prison term of 3 years or a fine of up to IDR 9 million for psychological violence. However, many cases show that the penalties imposed are often lighter than the maximum provisions, and sometimes perpetrators only receive probationary sentences. This results in sanctions that are disproportionate to the impact on victims, particularly regarding long-term psychological trauma.

The second obstacle is the law enforcement factor, where there remains a lack of understanding among law enforcement officers about the sensitivity of DV cases, as well as insufficient services and supporting facilities for victims. Data from the National Commission on Violence Against Women in recent years indicate that psychological violence is one of the most reported forms of DV, yet its handling is often suboptimal. This highlights the need for legal reform, enhanced capacity of law enforcement, and better support services for DV victims to ensure effective protection and recovery.⁷

The third obstacle in enforcing criminal sanctions against perpetrators of psychological violence in domestic settings is the lack of adequate facilities and infrastructure. Effective enforcement of criminal sanctions requires support from good facilities, such as adequate correctional institutions and effective monitoring systems for perpetrators.

Data from the Directorate General of Corrections indicates that many correctional institutions in Indonesia have exceeded their ideal capacity, with an average overcrowding rate of over 200%. This situation not only hinders the effective

⁷ Maulida Denta Safira, 2022. *Analisis Yuridis Terhadap Tindak Pidana Kekerasan dalam Rumah Tangga yang dilakukan oleh Suami Terhadap Istri (Studi Kasus Putusan Nomor: 214/Pid.Sus/2021/PN.Pkl)*, "Tesis" Semarang: Universitas Islam Sultang Agung, hlm. 15.

implementation of sentences but also diminishes the quality of rehabilitation and reform for offenders. This shortfall underscores the importance of improving supporting facilities to ensure that the enforcement of law can be effectively carried out, so that both perpetrators and victims receive appropriate treatment and services based on their needs.

Community factors also represent a significant barrier to the application of criminal sanctions against perpetrators of psychological violence in domestic settings. Low legal awareness, social stigma, and cultural tendencies to blame victims often obstruct the law enforcement process. Many people still view domestic violence as a private matter that should not involve external parties, including law enforcement. This attitude leads to victims being reluctant to report the violence they have experienced, fearing ostracism or lack of support from their surroundings. Additionally, prevalent myths and stereotypes about DV victims, such as the expectation for them to "be patient" and "preserve the family," exacerbate this situation.⁸

The lack of awareness about victims' rights and legal procedures also poses a challenge. The public's insufficient information about how to report and obtain legal protection makes the law enforcement process even more difficult. Efforts to raise community awareness, provide legal education, and change attitudes towards domestic violence are essential for making the enforcement of criminal sanctions against perpetrators more effective and ensuring a meaningful deterrent effect.

Cultural factors represent the final barrier to enforcing criminal sanctions against perpetrators of psychological violence in domestic settings. Deeply ingrained patriarchal values, gender-biased social norms, and traditional views on the roles of men and women often hinder the imposition of strict sanctions for domestic violence. In many communities, domestic violence is still seen as a normal and accepted practice, particularly when viewed as a way for men to 'discipline their wives or other family members. Cultural norms of shame and preserving family honor also act as obstacles. In many cases, victims or their families prefer not to report violence due to fear of shame or negative gossip from neighbors and the

⁸ Maulida Denta Safira, 2022. *Analisis Yuridis Terhadap Tindak Pidana Kekerasan dalam Rumah Tangga yang dilakukan oleh Suami Terhadap Istri (Studi Kasus Putusan Nomor: 214/Pid.Sus/2021/PN.Pkl)*, "Tesis" Semarang: Universitas Islam Sultang Agung, hlm. 15.

community. These cultural norms not only make it difficult for victims to seek justice but also reinforce impunity for perpetrators.

IV. CONCLUSION

The application of criminal sanctions against perpetrators of domestic violence still faces significant challenges. Although Law No. 23 of 2004 concerning the Elimination of Domestic Violence has established criminal sanctions for offenders, its effectiveness remains limited. The penalties imposed are often disproportionate to the impact experienced by victims, both physically and psychologically. The weaknesses in this law, including relatively light sanctions and a lack of deterrent effect, are major factors hindering the fair and effective enforcement of justice. Law enforcement in cases of psychological violence in domestic settings is further exacerbated by the low understanding among law enforcement officers, limited facilities and infrastructure, and low legal awareness within the community. The overcapacity of correctional institutions and the scarcity of support services for victims complicate the imposition of appropriate penalties for offenders and the protection of victims. Additionally, patriarchal values and gender-biased social norms obstruct the reporting of domestic violence cases, as such violence is often seen as a private matter.

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