

**ANALYSIS OF CRIMINAL ACTS OF PSYCHIC VIOLENCE WITHIN THE SCOPE OF THE HOUSEHOLD (Study of Medan District Court Decision Number 298/ Pid.Sus/2020/PN Mdn)**

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**ABSTRACT**

*In general, domestic violence is always preceded by psychic violence that is often not realized by a family. A wife or a child does not know that psychic violence has befallen them. Like feelings of fear, they must have felt but they didn't know that it was a form of psychic violence. The type of research used in this study is normative legal research, the nature of the research used in this study is descriptive, while research data is obtained from primary, secondary, and tertiary data using library research methods (Library Research) Crimes of domestic violence can cause victims either due to physical, psychological, sexual violence, or neglect. So that efforts are needed to protect victims of domestic violence acts can generally be classified into 2 (two) types, namely internal factors, and internal factors. In the Decision of the Medan District Court Number 298 / Pid.Sus / 2020 / PN Mdn) it is appropriate for the defendant to be found guilty by the Medan District Court and get a verdict that is in accordance with his crime.*

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**1. INTRODUCTION**

Marriage is a new chapter for individuals to initiate an obligation and share a new role with their partner. The role function will determine the duties and obligations of the individual in a harmonious family. With this marriage, a

rule of law will be obtained that protects its existence among the people. (Prodjohamidjojo, 2011).

The continuation of the marital relationship, the couple will be a family consisting of a father, mother, and child or even without children. In the order of society of each nation, a common judgment is that people who have a family have a position that is more valued than those who do not marry..(Sembiring, 2016) In the Unitary State of the Republic of Indonesia, the marriage bond has been guaranteed by a constitution that states "everyone has the right to form a family and continue offspring through a valid marriage".

Furthermore, it is also regulated in Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage, where in the Law it is said "Marriage is an inner birth bond between a man and a woman as husband and wife.

Criminal law as one of the branches of public law is a guide and description of the offense, regulations on the terms of a person's conviction (strafbaarheid), the appointment of a convicted person and the provisions on his criminal conviction. Criminal law is also divided into 2 (two) groups, namely the general criminal law listed in the Criminal Code (KUHP) and the special criminal law listed in the regulations but outside the Criminal Code (KUHP). (Hamzah, 2017).

The phenomenon of violence that occurs in domestic life does not escape the lack of harmony in establishing family relationships that cause disputes so that violence cannot be avoided, both physical, psychic, sexual, and economic violence. In its development, victims of domestic violence have little protection for their suffering to law enforcement, due to the strong view that one family member's abusive treatment of their family is part of a private or private matter, so there is rarely reported to law enforcement or police officers.

In general, domestic violence is always preceded by psychic violence that is often not realized by a family. A wife or a child does not know that a psychic violence has befallen them. Like feelings of fear, they must have felt but they didn't know that it was a form of psychic violence (Arini, 2013).

A wife who experiences psychic violence from the husband because the wife forgets to prepare breakfast and then gets a curse from her husband with harsh and hurtful words, then the husband has an affair with another woman and begins to look for many reasons to get to the stage of divorcing the wife, children who experience fear of their parents even to the point of experiencing severe psychic suffering or prolonged trauma due to unfavorable treatment of parents just because the child is unruly are just a few examples of concrete events of domestic psychic violence.

One of the cases that occurred related to the criminal act of domestic violence is stated in the Medan District Court Decision Number 298 / Pid.Sus / 2020 / PN Mdn, where the perpetrator is proven to have committed a criminal act of psychic violence which is an act of leaving or abandoning a household member so as to cause depression to the household member.

Defendant left victim Witness, Defendant never again visited or fulfilled his responsibilities as husband to victim Witness even at the time the victim Witness gave birth to his child on September 10, 2018, Defendant did not see/visit the victim Witness and also at the time his child died after 2 (two) days of birth due to amniotic water. The victim witness had attempted to contact the Defendant and the family of the Defendant but domestic violence is the end of less harmonious domestic relations. Especially the husband-wife relationship which is always in a state of conflict. In a social context, domestic violence is constructed from the values that are used as a reference in a society. It is in this

context that a public perspective is built on the nature and dignity of humanity or what is known as human rights (HAM). (SinlaEloE et al., 2011).

Domestic violence is abusive behavior exhibited by a family member or partner that causes discomfort, fear or insecurity. This not only hurts physically, but also includes being bullied, insulting and demeaning words, being threatened and forced to do things that you don't want to do. Violence is often carried out in conjunction with one form of criminal act, violent acts can be carried out with violence or threats of violence carried out with tools. The act can happen to anyone, both male and female, to children to adults.

## **2. METHODS**

Methods as a way or technical in research are very important for a researcher to know in order to know what methods are appropriate to use in order to realize his research (Qamar & Rezah, 2020).

This research is directed to normative legal research. Normative legal research is also called doctrinal legal research. This type of legal research perceives law as what is written in the regulations of law in books or law is conceived as a rule or norm that is a benchmark for human behavior that is considered appropriate (Buku, 2012).

Data collection and collection are carried out by means of library research or also known as document studies which include primary, secondary and tertiary legal materials. (Soekanto, n.d.) The literature method is used when prospective researchers look for answers to problem formulations in reading sources (references), such as book literature, papers, journals, internal, and so on. Literature studies and systematically analyze materials that are mainly related to unlawful acts including other materials that are related and discussed. The data in this study leads to secondary data consisting of primary, sukender, and tertiary legal materials.

### **3. FINDINGS AND DISCUSSION**

Domestic violence is one of the most dangerous forms of violence against women. This happens a lot in society. In family relationships women of all ages are subjected to all forms of violence, including beatings, rape of other forms of sexual, mental and other forms of violence perpetuated by traditional attitudes. Economic dependence, forcing women to endure relationships based on violence.

These forms of violence put women at risk of violence and coercion. It also places women at risk of health, and negates the opportunity to participate in family life and public life on the basis of equality. (Krisnalita, 2018) The problem of violence against women is a serious problem and has been going on for many years and can be found everywhere, both in the family, workplace, society and country. With physical, psychic, sexual forms and domestic neglect with abusers either by individuals, families or groups in the household.

There are several reasons why domestic violence, also known by its abbreviation of domestic violence, does not come to the fore. First, domestic violence has a relatively closed scope because it occurs within the realm (domain) of the family. Secondly, society often, Second, people often consider that domestic violence is normal because such treatment of the husband is the right of the husband and wife. Third, domestic violence occurs in legal institutions, namely the family. These three things make domestic violence a disease that is difficult to treat because the diagnosis can never be done.

The issue of domestic violence needs to be specifically regulated in an Act, given the specific context of the problem. Because the Criminal Code itself does not recognize the term domestic violence. In fact, this term is important to put forward considering the ideology of family harmonization that has been instilled in the minds of the community and law enforcement, so that it does not take

domestic violence seriously or only considers domestic problems as private problems.

Judging from its background, the domestic violence bill arose because existing laws such as the Criminal Code (KUHP) were inadequate to protect the perpetrators. So far violence has only been viewed physically. Even though the violence received by women (wives) can be both psychic and sexual. In addition, the understanding of law enforcement officials is also still narrow. In addition, there is a lot of assumption that domestic violence is a private matter.

The House of Representatives of the Republic of Indonesia in a plenary meeting on September 14, 2004 approved and passed the draft law on the elimination of domestic violence submitted by the government. And as we know before it was approved, of course, it has gone through stages, marathon joint discussions between the council and the government. Furthermore, based on the approval of the House of Representatives, the draft law is stated in the laws and regulations, namely: "Law of the Republic of Indonesia No. 23 of 2004 concerning the Elimination of Domestic Violence".

The legal basis underlying this Law is the 1945 Constitution article 28 G. Likewise, several laws and regulations that are closely related and have been in force before, namely: Law No. 1 of 1946 concerning the Criminal Code and its amendments, Law No. 8 of 1981 concerning the Criminal Code, Law Number 16 of 2019, On the Amendment of Law No. 1 of 1974 on marriage, Law No. 7 of 1984 on the ratification of the convention on the elimination of all forms of discrimination against women and Law No. 39 of 1999 on Human Rights.

The passing of Law Number 23 of 2004 concerning the Elimination of Domestic Violence is a historical moment for the Indonesian nation, especially for women and other community groups who have concerns about the problem of women's violence. The birth of the law is part of the enforcement of human

rights and democracy. The birth of the Domestic Violence Law is one of the milestones in efforts to protect victims of violence that occurs within the domestic sphere, especially women and children as a vulnerable group to become victims of violence. In addition, this law also regulates measures to anticipate the birth of new violence and the clarity of strict sanctions for perpetrators of violence.

Domestic violence is one of the problems that the government eventually pays attention to. This is reflected in the promulgation of Law No. 23 of 2004 concerning the Elimination of Domestic Violence (hereinafter abbreviated as the Law on the Elimination of Domestic Violence). This law was born and became a legal reference because in the Criminal Code (hereinafter abbreviated as the Criminal Code), The criminal threats and fines for domestic violence are so mild that they are not enough to deter the perpetrator.

The birth of Law No. 23 of 2004 concerning the elimination of domestic violence on the one hand seems to provide benefits, especially for wives (women) who are allegedly more often victims in the practice of domestic violence, but on the other hand the issuance of the Law can actually cause new problems because it has the potential to cause gender injustice.. Domestic violence especially the violence committed by the husband against the wife , generates not only physical suffering but also psychic suffering.

This is in accordance with the form of domestic violence listed in Article 5 of Law No. 23 of 2004 concerning the Elimination of Domestic Violence, namely physical violence, psychic violence, sexual violence or domestic neglect. Therefore, victims of domestic violence must receive maximum protection. Legal protection is a form of protection granted by the state with rules maintained by the state or ruler with the intention of achieving the order of living together and all the distress associated with it.

Gender injustice can be triggered by interpretations that position women as subordinates and are assumed to be victims. Actually, those who can become victims of domestic violence are not only women (wives) but also children, housemaids or even men themselves who can become victims, but it is common knowledge that women are more often the victims.

It is not without reason that women are more likely to become victims of domestic violence. The violence that occurs in an institution called the household is actually only the tip of the iceberg, a series of issues related to the relationship between women and men that are more often presented by the executive, legislative and judicial bodies or in another language is the state.

Article 1 point 1 states that domestic violence is "Any act against a person, especially a woman, which results in physical, sexual, psychological misery or suffering and/or neglect of the household including threats to commit acts, coercion or deprivation of liberty unlawfully within the home environment." ladder.

The Law on the Elimination of Domestic Violence has raised awareness for wives who are victims of violence to report acts of domestic violence to the authorities. With the increasing number of women complaining about their cases, this shows that the birth of the PKDRT Law has caused society to no longer regard domestic violence as a private matter. This law also provides access for victims to seek resolution through legal channels.

Basically, physical violence is included in a criminal act. What is meant by the scope of the household are: Husband, wife, and children People who have a family relationship with the person referred to in the point above. Because of the blood relations of marriage, breastfeeding, parenting, and guardianship that reside in the household. People work in the household and live in the household. Forms of Domestic Violence include



## A. Physical Violence

Physical violence is an act that results in pain, falling ill or serious injury

### 1. Serious Physical Violence,

In the form of severe abuse such as kicking; hitting, burning; commit attempted murder or homicide and all other acts which may result in:

- a) Serious injury
- b) Not able to carry out daily tasks
- c) Faint
- d) Serious injuries to the victim's body and/or wounds which are difficult to heal or which result in death
- e) Losing one of the five senses.
- f) Got disabled.
- g) Suffering from paralysis.
- h) Disturbed thinking power for more than 4 weeks
- i) The death or death of a woman's womb
- j) Victim's death.

### 2. Mild Physical Violence,

In the form of slapping, grabbing, pushing, and other actions that result in:

- a) Minor injury
- b) Pain and physical injuries that are not in the category of severe
- c) Doing repetition of mild physical violence can be included in the type of heavy violence.

### 3. Psychic Violence:

Psychological violence is an act that results in fear, loss of self-confidence, loss of the ability to act, a feeling of helplessness, and/or severe psychological suffering to someone.

**B. Severe Psychological Violence,**

In the form of acts of control, manipulation, exploitation, arbitrariness, humiliation and humiliation, in the form of prohibition, coercion and social isolation; demeaning or insulting actions and or remarks; stalking; violence and or threats of physical, sexual and economic violence; each of which can result in severe psychological suffering in the form of one or more of the following:

- a) Sleep or eating disorders or drug addiction or sexual dysfunction, one or all of which are severe and/or chronic.
- b) Post traumatic stress disorder.
- c) Severe impairment of body function (such as sudden paralysis or blindness without medical indication)
- d) Severe depression or self-destruction
- e) Mental disorders in the form of loss of contact with reality such as schizophrenia and/or other psychotic forms
- f) Suicide

**C. Mild Psychological Violence,**

In the form of acts of control, manipulation, exploitation, arbitrariness, humiliation and humiliation, in the form of prohibition, coercion and social isolation; demeaning or insulting actions and or remarks; stalking; threats of physical, sexual and economic violence; each of which can result in mild psychological suffering, in the form of one or several of the following:

- a) Fear and feeling of terror
- b) Feelings of helplessness, loss of self-confidence, loss of ability to act
- c) Sleep or eating disorders or sexual dysfunction
- d) Mild impairment of body function (eg, headache, digestive disturbances without medical indication).

Acts of Domestic Violence (KDRT) seem to be getting easier but very difficult to detect. Psychological violence that often occurs in the household is often seen as just an ordinary condiment of marriage so that outsiders do not deserve to interfere with it, even though this psychological violence can develop into other forms of violence. Domestic violence is an unlawful act in which the perpetrators deserve criminal sanctions. Apart from being an act against the law, it is also a violation of Human Rights (HAM). Therefore, with the existence of Law No. 23 of 2004 concerning the Elimination of Domestic Violence, the problem of psychological violence in the household which was previously just a family problem has now turned into a legal issue and anyone may complain to law enforcement officials over cases of cases of psychic violence without fear of being seen as an attempt to interfere with other families.

#### **4. CONCLUSION**

1. Crimes of domestic violence can cause victims either as a result of physical, psychological, sexual violence or neglect. So that efforts are needed to protect victims, including the restoration of physical and psychological health. For perpetrators of domestic violence, law enforcement efforts are needed to resolve cases of violence through the judicial process.
2. Acts of domestic violence can generally be classified into 2 (two) types, namely internal factors and internal factors. Internal factors include the personality of the person who commits violence (perpetrators of domestic violence) which causes the perpetrator to commit acts of violence very easily when the perpetrator is facing a situation that causes frustration or anger. Then from external factors, among others, are factors outside of the personality of the perpetrators of violence such as economic difficulties, husband or wife abuse (cheating), and so on

The Panel of Judges stated that the defendant was proven guilty because the witness-victim was still bestatus as the wife of the defendant so he was obliged to provide physical and spiritual maintenance for the witness-victim, but since July 29 2018 the defendant has no longer provided physical and spiritual maintenance for the witness-victim. Therefore, neglect of the wife becomes a criminal act of psychological violence referred to by the Panel of Judges

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