

Juridish Review of Law No. 23 of 2004 concerning the Elimination of Domestic Violence of Household in Biak Numfor Regency

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Abstract

This study aims to determine the law enforcement of Law No. 23 of 2004 concerning the Elimination of Domestic Violence in North Minahasa Regency and to find out efforts to optimize the enforcement of Law No. 23 of 2004 concerning the Elimination of Domestic Violence in North Minahasa Regency. The population in this study are perpetrators of domestic violence crimes, the community and all parties involved in law enforcement of the Law on the Elimination of Domestic Violence. The sample in this study was taken purposively (purposive sampling) on the population, including law enforcement officers consisting of police, prosecutors and judges as well as the community in Biak Numfor Regency. The data collected is then analyzed qualitatively, namely the analysis that describes the data obtained, both primary data and secondary data, then made interpretations for decision making. The results of this study indicate that the prevalence of violence is closely related to the aggressive nature of living things including humans to defend themselves in order to survive, besides that the occurrence of violence has strong roots in materialist mindsets and selfish attitudes, so that violence has become a social phenomenon that occurs everywhere, both in both urban and rural communities. Violence against fellow human beings seems to know no boundaries of space and time. Violence does not only occur in public spaces, but also occurs in domestic spaces.

Keywords

elimination; violence and domestic; household



I. Introduction

The household is the smallest community of a society. A happy and peaceful household is everyone's dream. The Republic of Indonesia is a country based on the One Godhead. Thus, everyone in the household to carry out their rights and obligations must be based on religion and humanitarian theology. This is important to be developed in order to build the integrity of the household.

To make this happen, it depends on everyone in one household, especially in the attitudes, behavior, and self-control of everyone in the household. Integrity and harmony in 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 against people who are within the scope of the household. To prevent, protect victims, and take action against perpetrators of domestic violence, the state is obliged to carry out prevention, protection and prosecution of perpetrators.

The family is the smallest unit of society consisting of the head of the family and several people who are gathered and live in one place under one roof in a state of interdependence (Setiadi, 2008). Family is a group of two or more people who live together through marital ties and emotional closeness of each, identify themselves as part of the family (Ester, 2007). Violence is defined as the use of physical force to injure people or to damage goods, and also includes threats of coercion on individual freedoms (Rika, 2009: 2).

Family support according to Friedman (2010) is an attitude, the act of family acceptance of family members, in the form of informational support, assessment support, instrumental support and emotional support. So family support is a form of interpersonal relationships that include attitudes, actions and acceptance of family members, so that family members feel someone is paying attention. (Hasibuan, S. et al. 2020). According to Hakristuti Harkrisnowo (2000:79), violence against women does not receive adequate attention in the legal system, including legal apparatus and legal culture in Indonesian society, because of the meaning of violence or perceptions of violence in society.

Taylor et al (2009), explained that domestic violence is an act of violence perpetrated by one family member to another. The most common forms of domestic violence are parental abuse of children, abuse of husbands against their wives, but there is also abuse of wives against their husbands, or children against their parents. In families where the wife is beaten by her husband, children are also at risk of being abused. Studies of wife abuse, revealed that almost 25% of their children were also exposed to physical abuse, and half were exposed to verbal abuse while in the same room, (Edleson, Mbilinyi, Beeman, & Hagemester, 2003 in Taylor et al 2009).

From the definition of violence according to the experts above, it can be said that if violence is an act that violates the law and cannot be justified in any way, violence can be committed by someone from various events, such as domestic violence, violence against children, and others. The frequent occurrence of violence in society, especially in the family, is a blurry record in the history of this nation. The family is the first social environment known to humans. In the family, humans learn to start interacting with other people. Therefore, people generally spend a lot of time in the family environment.

Even though the family is an ideal social institution to develop the potential that exists in each individual, in reality the family is often a forum for the emergence of various cases of violence or other illegal activities, resulting in misery or suffering perpetrated by one family member against another family member, such as abuse, rape, even murder. There are many stories about violence against women which are quite concerning. From various impressions in the mass media, we can see how many cases occur every day.

Women who are beaten by their husbands, together raise children, do housework, raise and form families, make money, and are emotionally attached to the perpetrators of the violence. Violence against women, including in the domestic context, is an act based on gender-based discrimination that results in or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public as well as in private life.

Likewise, domestic violence that occurs in Biak Numfor Regency is influenced by various factors, including: cultural, social, economic factors, education, environment, alcoholic beverages, pornography, physiological, and low loyalty, honesty, and openness in the household, so that a mechanism and form of protection and empowerment is needed for victims of domestic violence.

Thus, violence against women can be physical, clearly discrediting women, and some are symbolic, abstract in nature, not realizing that violence exists, but in practice violence occurs against women. (Kholil, S. et al. 2021)

The Regional Government has not yet stipulated a Regional Regulation concerning the Protection of Victims of Domestic Violence, to take legal, political, economic, and social actions in the context of preventing, stopping, recovering, and resolving post-domestic violence. The establishment of a Regional Regulation concerning the Protection of Victims of Domestic Violence which is regulated comprehensively, clearly, and firmly, aims to protect and side with victims, as well as provide education and awareness to all levels of society.

II. Research Methods

In conducting this research, the method used by the author is a qualitative research method, especially descriptive qualitative research methods (depictions), which is a study that describes what happened when conducting research, because in it there are efforts to describe, record, analyze, and interpret conditions- conditions that are currently occurring or exist.

So this study aims to obtain information about the current state, and see the relationship between the existing variables. This study does not test the hypothesis, but only describes the information as it is objectively. Therefore, descriptive research generally uses the question word "how" in formulating the research question sentence, Sugiyono (2017).

One of the data collection techniques carried out is interviews (interviews) of related parties and are directly related, both personally and the occurrence of problems. In qualitative research, the 'process' of the research is more important than the 'results' obtained. Therefore, the researcher as a data collection instrument is one of the main principles.

Only with the involvement of researchers, it is in the nature of the data collection process that the research results can be accounted for. In the process of descriptive qualitative research methods, interviews are one of the processes carried out to obtain information that makes it easier to explore and collect information.

III. Result and Discussion

3.1. Protection of Victims of Domestic Violence

According to Governor Regulation Number 8 of 2013 concerning Protection of Victims of Domestic Violence, handling violence is a series of activities carried out systematically and planned during and after domestic violence which includes prevention, cessation, resolution of violence, and post-violence recovery. Prevention is a series of activities that involve increasing the capacity of local governments, families, and social institutions before the occurrence of domestic violence. Cessation is a series of activities to stop violence, save victims and their families, report violence, and protect whistleblowers. Resolution of violence is an effort to facilitate the process of resolving litigation and non-litigation against domestic violence.

Communication is crucial to success in achieving the objectives of the policy to protect victims of domestic violence. Policies that are communicated appropriately, accurately, and consistently are needed so that decision makers and implementers will be more consistent in implementing policies that will be implemented in the community.

Regarding the implementation of domestic violence policies, it was found that communication between decision makers and implementers had not gone well as expected. This is evidenced by the non-use of Governor Regulation Number 8 of 2013 concerning the Protection of Victims of Domestic Violence as a basis for efforts to protect victims of domestic violence.

The success of implementing a policy is influenced by resources. The main resources in policy implementation are staff, information, authority, and facilities. The implementation of the Governor's Regulation Number 8 of 2013 concerning the Protection of Victims of Domestic Violence is not fully supported by sufficient resources, this is evidenced by the absence of sufficient, adequate, and competent staff in the fields related to the protection of victims of domestic violence. .

Information regarding supporting regulations in the regions has not been established, so that the implementor does not have the authority to carry out the stipulated policies, when there is no authority, the policy implementation process cannot be carried out. Apart from that, there are no physical facilities that can support the implementation of the policy.

Another thing that influences the successful implementation of policies to protect against domestic violence is the disposition in the form of appointing bureaucrats who are dedicated to the established policies. In Biak Numfor Regency, the appointment of bureaucrats or dispositions has not been carried out, this causes the handling of cases of domestic violence is still as it is and has not been structured.

The success of an implementation of a policy of protection against victims of domestic violence is a bureaucratic structure. Such a complex policy requires the cooperation of many people, when the bureaucratic structure is not available it will cause resources to be ineffective and hinder the course of the policy. In the implementation of the domestic violence policy in Biak Numfor Regency, there are no Standard Operating Procedures (SOPs) for policy implementers in accordance with the minimum standards required, besides that there has been no effort to spread responsibilities or activities to handle, prevent, stop, resolve violence, and recover. post violence.

Based on the theory of George C. Edward III, the successful implementation of a policy is determined by four variables, namely: communication, resources, disposition, and bureaucratic structure. The results of the study show that the implementation of the Governor's Regulation Number 8 of 2013 concerning Protection of Victims of Domestic Violence has not gone well, because there is no communication built between policy makers and implementors, so that implementors only use Law Number 33 of 2004 concerning Domestic Violence as a reference in efforts to handle, stop, resolve violence, and post-violence recovery.

If it is associated with George C. Edward III's theory, then Governor Regulation Number 8 of 2013 concerning Protection of Victims of Domestic Violence which includes prevention, termination, resolution of violence, and post-violence recovery has not yet been implemented and cannot be implemented in Biak Numfor Regency. This is evidenced by the number of cases of domestic violence in Biak Numfor Regency that cannot be legally resolved, due to marriages that are not legally registered (civil registration), there is no forum that specifically handles victims and perpetrators of domestic violence, and in addition to the lack of information on public knowledge about domestic violence policy.

However, the Biak Numfor Regency Government, in this case the Office of Women's Empowerment, Child Protection and Family Planning as the leading sector, continues to seek socialization about domestic violence to the community and cooperate with other cross-sectors in assisting victims and perpetrators of domestic violence.

One example is the perpetrators of domestic violence who will be subject to criminal sanctions in accordance with the provisions stipulated in Law Number 23 of 2004 concerning the Elimination of Domestic Violence and in the Criminal Code.

3.2. Factors Influencing the Implementation of Policies Concerning the Protection of Victims of Domestic Violence

Every policy implementation regarding the protection of victims of domestic violence is certainly influenced by factors, both supporting factors and inhibiting factors. The implementation of domestic violence policy in Biak Numfor Regency is influenced by supporting factors, namely the understanding of the Police regarding Law Number 33 of 2004 concerning Domestic Violence which is always used to handle cases of domestic violence in the jurisdiction of the Biak Numfor Regency Police.

The Office of Women's Empowerment, Child Protection and Family Planning as the stake holder responsible for implementing domestic violence policies, has made efforts with existing self-help to be able to provide assistance and handling cases of domestic violence. Meanwhile, the inhibiting factor for implementing domestic violence policies is the lack of public awareness to register their marriages, so that victims get services that are not optimal when domestic violence occurs. The role of adat in resolving domestic violence has not been maximized, so it has not created a deterrent effect for perpetrators of domestic violence. There are no experts in assisting victims and perpetrators of domestic violence.

The Integrated Service Center for the Protection of Women and Children (P2TP2A) as a cross-sectoral forum for handling cases of domestic violence has not functioned properly, making victims and perpetrators of domestic violence not handled properly as mandated by Governor Regulation Number 8 of 2013 concerning Protection of Victims of Violence In the Household.

Various supporting factors and obstacles to policy implementation have an impact on victims and perpetrators, by not getting maximum assistance, resulting in repeated domestic violence, victims do not dare to report acts of violence they experience because they feel afraid and feel unprotected.

The number of factors that hinder the implementation of domestic violence policies in Biak Numfor Regency is the cause of delays in the implementation of domestic violence policies.

Every policy implementation regarding the protection of victims of domestic violence, will certainly have an impact on the relapse effect of perpetrators of domestic violence. After conducting interviews with stake holders, victims, and perpetrators, it is known that the implementation of the Governor's Regulation No. 8 of 2013 concerning the Protection of Victims of Domestic Violence has not gone well in Biak Numfor Regency, causing the absence of a clear protection system for victims of domestic violence. so that the victim chooses not to report back or withdraw the report related to the violence she experienced.

This is an opportunity for perpetrators of domestic violence to repeat their actions. In addition, another impact caused by the non-implementation of Governor Regulation No. 8 of 2013 concerning the Protection of Victims of Domestic Violence is the absence of assistance to perpetrators, so that efforts to prevent the occurrence of domestic violence carried out by perpetrators can be carried out.

IV. Conclusion

Problems of policy implementation are always related to communication, resources, disposition, and bureaucratic structure that involve components of the policy implementation process. Policy implementation is influenced by human resources, public awareness, legal compliance, facilities and infrastructure, as well as the expertise of the implementor in handling cases of domestic violence.

The bureaucracy as the implementer of a policy must be able to support the policies that have been decided. Information related to how to implement policies and information regarding compliance with implementing government regulations and regulations that have been set are important things that must be considered as supporting the functioning of an institution.

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