Wife beating in social and legal perspective In indonesia

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Abstract

This study aims to determine the act of wife beating according to the views or perspectives of sociology and law in Indonesia and also to find out the thoughts and understanding of Law Number 23 of 2004 concerning the Elimination of Domestic Violence in terms of loading on sanctions for perpetrators of wife beating. The techniques used in data collection through normative research and social aspects are further methods of collecting matari and literature data from, legislation, and various reading sources with national and international integration, used analysis techniques in qualitative form. The conclusion obtained is that in terms of sociology and law in Indonesia the act of beating a wife is an act that is prohibited both in terms of sociology and law, but in the application in society there is still a development of misunderstanding and ignorance in this matter. In solving the problem, the presence of regulations of Law No. 23 of 2004 concerning the Elimination of Domestic Violence is not only seen, read and heard but also implemented properly, because it requires a combination of personal and social matters, and is supported by a strict legal system in taking action against the perpetrator, providing very strict legal sanctions and also appropriate for those who commit acts of wife beating in society so as to create a fair, peaceful and safe quality of life.

1. Introduction

Starting from a sense of mutual love and love between the two parties, namely husband and wife, a marriage is born which is expected to be eternal, run well and also last forever on the basis of God Almighty. The physical and mental bond between a woman as a wife and a man as a husband is in accordance with the reasons for forming a household or family contained in Law Number 1 of 1974 Article 2.

The main purpose of a marriage is the realization and creation of a family in which there is inner and outer peace, mutual love, and mutual love in the family.

However, in fact, a marriage is always faced with problems, conflicts and disharmony in the household which, if it cannot be resolved in a good way, will cause and experience feuds, the act of hitting a wife is one form of domestic violence.

This action involves several human aspects, especially morality, law, religion and ethics in life so that it is categorized as a fairly complicated problem. The act of beating a wife is not a taboo to talk about and an open secret anymore, because the act is an event that has occurred in various places and times.

The act of beating a wife is very contrary to the laws and regulations as well as ethics and morals in Indonesia. A wife should get and receive good treatment in accordance with the provisions of a husband's obligations. A wife who should feel happiness in marriage.

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The act of hitting the wife is a form of physical violence in terms of including being hit, thrown with objects, spit on, slapped, grabbed by the hair and kicked most of the wives who are victims.[2]

In accordance with the problematic developments that occur and also provide protection for the entire Indonesian nation in terms of providing protection against threats, challenges, obstacles and disturbances, a legal umbrella was created Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT) which is a special rule that handles and finds domestic violence, including wife beating. The act of hitting a wife includes specific violence contained in the legislation. The types of violence contained in the PKDRT Law are:

1. Article 6 (six) namely; "Actions that cause pain, illness, or serious injury". Contains the definition of physical violence.
2. Article 7 (seven), namely; "Actions that result in fear, loss of self-confidence, loss of ability to act, helplessness, and/or severe psychological suffering in a person". Contains a definition of psychological violence.
3. Article 8 (eight), namely; "
   a. "Coercion of sexual intercourse committed against a person who resides in the household environment,"
   b. “Coercion of sexual intercourse of one person within the scope of his/her household with another person for commercial purposes and/or such purposes". Contains definition of sexual violence
4. Article 9 (nine) Namely;

   Paragraph 1 "Every person is prohibited from neglecting a person within the scope of his/her household when according to the law applicable to him/her or

[1] Sifa Mulya Nurani, Relasi Hak Dan Kewajiban Suami Istri Dalam Perspektif Hukum Islam, *e-Journal Al-Syakhsiyyah Journal of Law and Family Studies*, Vol. 3 No. 1 2021

[2] Nys. Arfa, *Analisis Yuridis Terhadap Tindak Pidana Kekerasan Seksual Dalam Rumah Tangga Menurut Undang-Undang Nomor 23 Tahun 2004 Tentang Kekerasan Dalam Rumah Tangga* Jurnal I novatif, Volume VII Nomor II Mei 2014 hal 15.

by agreement or treaty he/she is obliged to provide life, care or maintenance to such person".

Paragraph 2 "Neglect as referred to in paragraph (1) also applies to every person who causes economic dependence by restricting and/or prohibiting proper work within or outside the home so that the victim is under the control of that person". Contains a definition of domestic neglect violence.[3]

The law emphasizes that husbands or wives are not allowed to commit physical violence in the home under any circumstances and for any reason. In the social reality of society, wife beating is a familiar reality. However, even though this action is no longer a new thing, the fact is that the beating of wives by husbands in terms of domestic violence still tends to be something that has a high level of difficulty to be revealed,

Because the case is understood to contain something specific because it is only the scope of the relationship between the wife and her husband as a personal matter and so it is not wise to interfere with the public. There is also a group of people who think that this is common practice so it is no longer an issue that must be questioned.[4]

The society's culture in terms of addressing such actions is not in accordance with various family values, morals and ethics. It also contradicts good culture, religious beliefs and social norms. In responding to wife beating, the role of the community is needed, because the parties indirectly responsible for all forms of violence against women or wives are various institutions in the community and also the community.

Community involvement when facing the situation of wife beating is a form of empathy, awareness of compliance with the law in not tolerating acts prohibited by law and also a form of Human Rights (HAM) in terms of concern for others, especially wives as victims of arbitrary actions committed by their husbands. Wife beating can also be signaled by long-held perceptions of sex differences or gender inequality. Caused by the inequality of power that exists in society is the basis for gender violence called relatedviolence.

The realities that occur in the case of wife beating in Indonesia require protection both socially and legally directly so that it can facilitate in providing protection to victims of wife beating in obtaining their rights and also avoiding the misuse of the husband's role that is inappropriate and not in accordance with the legislation. Protection of victims, namely wives in the realm of husband beatings, needs to be realized optimally. It is time for the community to change the stigma and perspective on this matter towards a more serious direction.

The presence of Law No. 23 of 2004 on the Elimination of Domestic Violence The community is also expected to make various efforts when seeing,

[3] Agung Budi Santoso, Kekerasan Dalam Rumah Tangga (KDRT) Terhadap Perempuan: Perspektif Pekerjaan Sosial, Jurnal Pengembangan Masyarakat islam Vol. 10 No. 1, Juni 2019.

[4] Siti Nurhikmah, Sofyan Nur, *Kekerasan Dalam Pernikahan Siri: Kekerasan dalam Rumah Tangga?,* PAMPAS: Journal Of Criminal Law Volume 1, Nomor 1, 2020

and hearing in monitoring the act of beating a wife that occurs in the neighborhood.

In cases of wife beating, the process is the same as in other cases of domestic violence. Law Number 23 of 2004 article 15 contains ;

"Every person who hears, sees or knows the occurrence of domestic violence is obliged to make efforts in accordance with the limits of his ability to; prevent the continuation of the criminal offense, provide protection for victims, provide emergency assistance and, assist the process of applying for a protection determination".

2. Research Method

The research method used in this research is the statutory approach. This approach is carried out by examining the laws and regulations related to the problem being studied (Peter Mahmud Marzuki, 2007: 93).[5] The source of legal materials in this research consists of primary legal materials, namely legal materials in the form of laws and regulations (John Ibrahim), and secondary legal materials in the form of legal books including theses, theses, legal journals, legal dictionaries and comments related to research issues. To collect the legal materials needed in this research, library research techniques are used. The tool used to collect legal materials is document study. Analysis of this research material is carried out using qualitative methods.

3. Results and Discussion

Wife Beating in Indonesian Legal Perspective.

Indonesia is not a state of power (mach staat) but this country is a state of law (rech staat), the statement is obtained according to the Indonesian Constitution has a goal to be achieved contained in the preamble of the Constitution, this is based on 1945 article 1 paragraph (3), it states; "The state of Indonesia is a state of law".

From the above statement it can be found that in implementing the Indonesian government has legal arrangements in all aspects of the field in society. This aims to minimize a crime and control the community in behaving and acting in accordance with applicable law. One of the laws created is in the field of marriage. In an effort to protect victims of domestic violence, the government issued legal regulations, among others:

1. Law No.23 of 2004 on the Elimination of Domestic Violence.
2. Government Regulation of the Republic of Indonesia No.04 of 2006 concerning the Implementation and Cooperation in the Recovery of Victims of Domestic Violence.
3. Presidential Decree No.181 of 1998 on the National Commission on Violence Against Women.[6]

A household is a container of a life of its inhabitants consisting of various statuses, such as parents, children, wives, husbands, people who work to support the household, other people who live, and people who are still or have lived together

[5] Peter Mahmud Marzuki, *Penelitian Hukum*, Jakarta: Kencana, Cet. 7, 2011.

[6] Jamaluddin, Perlindungan Hukum Terhadap Korban Kekerasan Dalam Rumah Tangga, Journal Justice. Volume 1, Nomor 1 Januari 2019 hal 86.

in a household and people who have a relationship with them.[7]

Marriage is a dream, marriage is also expected to provide affection between each other and be a source of peace for each party, both the husband and the wife. Every goal of marriage is to get and foster a harmonious family relationship, but in the reality that is found marriage does not always go as desired, in its journey there is a feud.

One form of feud is domestic violence. The definition of domestic violence is contained in Law No. 23 of 2004 article 1 on the elimination of domestic violence;

> "*Any act against a person, especially women, which results in physical, sexual psychological, and/or domestic neglect, including threats to commit acts, coercion, or unlawful deprivation of independence within the scope of the household and so on*".[8]

Wife beating is an expression of extreme power and authority that can inhibit the enjoyment of freedom and rights within the scope of family and marriage. It is an exposure of a married woman being physically beaten and repeatedly injured by her husband.

1. Article 6 (six) namely; "Actions that cause pain, illness or serious injury". Contains the definition of physical violence.
2. Article 7 (seven) namely; "Actions that result in fear, loss of self-confidence, loss of ability to act, helplessness, and/or severe psychological suffering in a person". Contains a definition of psychological violence.
3. Article 8 (eight) namely; "
   c. "Coercion of sexual intercourse committed against a person who resides in the household environment".
   d. "Coercion of sexual intercourse against one person within the scope of his/her household with another person for commercial purposes and/or such purposes". Contains the definition of sexual violence.
4. Article 9 (nine) Namely;

Paragraph 1 "Every person is prohibited from abandoning a person within the scope of his/her household when according to the law applicable to him/her or by agreement or contract he/she is obliged to provide life, care or maintenance to such person".

Paragraph 2 "Neglect as referred to in paragraph (1) also applies to every person who causes economic dependence by restricting and/or prohibiting proper work within or outside the home so that the victim is under the control of that person". Contains a definition of domestic neglect violence.[9]

The act of hitting the wife is categorized as direct physical violence, breaking plates, glasses, flower holders and others, as well as being rude hitting the table, slamming the door is an indirect physical act.[10]

Affirmation with legal certainty against the perpetrators of wife beating requires laws and regulations that stand firm, and accompanied by punishment will be strong and not wither so that in the implementation of the law, the creation of

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[7] Mohammad Azzam, *"Kekerasan Rumah Tangga Dalam Perspektif Sosiologi "*, Media Publikasi Peraturan Perundang-undangan dan Informasi Hukum Direktoral Jenderal Peraturan Perundang-undangan

[8] Undang-Undang No. 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga.

[9] *Op.cit*

[10] Sheridan DJ, Nash KR. Acute injury patterns of intimate partner violence victims. Trauma Violence Abuse. 2007;8:281-9

penalties that are not affected by the bargaining of an individual.[11]

The percentage of battering against wives in 2016 was stated by Thoman Pardosi as the Director of Social Security Statistics of the Central Bureau of Statistics (BPS). He said that "Domestic violence in the form of physical violence where the husband hits his wife for at least one reason, still occurs quite high at 25.86 percent".

The first regulation that regulates the rights of wives as victims of beatings by their husbands is found in Article 10 of the Law on the Elimination of Domestic Violence, among others, namely

1. Protection from the police, prosecutor's office, family, advocates, social institutions, courts, and other parties, based on court and government decisions and is temporary.
2. Medical needs in accordance with health services.
3. Confidentiality of victims to get special treatment.
4. Assistance of legal aid and social workers as contained in the regulations.
5. Guidance services from a spiritual or religious perspective.

A wife who is the victim of a beating by her husband can file a criminal complaint. The filing of the report is included in the criminal offense of domestic violence. In the process of the report, it is necessary to prove through evidence and evidence in order to obtain a conviction on whether the criminal act charged is true or not and to determine whether there is guilt or innocence in the defendant. Police departments are often the only public agents that can be accessed at all times, but many departments delay or refuse direct intervention.[12]

Evidence in terminology means an effort to show the rightness or wrongness of a defendant in a court session, etymological evidence comes from "evidence" which means an event. Evidence also contains provisions that regulate the evidence that is justified by the law that the judge may use to prove the guilt charged.

In Law Number 8 of 1981 (kuhap) there are 5 (five) valid evidence tools, namely; "Valid evidence is witness testimony, expert testimony, letters, instructions, testimony of the defendant, and things that are generally known do not need to be proven ;

a. Witness Statement
b. Expert Testimony.
c. Letter
d. Instructions
e. Statement of the defendant.[13]

If all the evidence is declared valid in proving the offense of hitting isti, then there are sanctions of imprisonment and fines that will be imposed on the perpetrator. Article 44 of the PKDRT Law contains the following:

(1) Every person who commits acts of physical violence within the scope of the household as referred to in Article 5 letter a shall be punished with a maximum imprisonment of 5 (five) years or a maximum fine of Rp 15,000,000.00 (fifteen million rupiah).
(2) In the event that the act as referred to in paragraph (1) results in the victim getting sick or seriously injured, sjhall be punished with imprisonment of 10

[11] Amran B, Filsafat Sebagai Pencipta Mahasiswa Cendikiawan, Kalam Keadilan Jurnal Hukum, Volume 4 Nomor 1 201

[12] Mark Daniel, Wife Abuse And Public Policy : A Conceptual Model , Journal Creative Sociology, Voloume 9, No 2 Hal 190, 1961.

[13] Kitab Undang-undang Hukum Acara Pidana (Kuhap)

(ten) years or a maximum fine of Rp 30,000,000.00 (thirty million rupiah).

(3) In the event that the act as referred to in paragraph (2) results in the death of the victim, the person shall be punished with a maximum imprisonment of 15 (fifteen) years or a maximum fine of Rp 45,000,000.00 (forty five million rupiah).

Wife Beating According to Sociological Perspective in Indonesia

The first social group in the human life circle, where to declare oneself as social human being in social interaction with the group and also a place to learn, this definition is the definition of family in the view of sociology.

There are several reasons for the occurrence of wife beating in Indonesia.

1. Cultural Patriarchal System

   Dr. Vena Otufale, submits that wife beating is as a result of the socio-cultural belief system prevalent in the relationship between man and woman, where men are socialized into believing that they are entitled to be superior to the women and should be at the top of the decision marriage while women are still at their disadvantage and to achieve this, husbands are willing to control and coerce their wives in various ways to maintain their rights, authority, and position in the marriage. [14] some people still hold fast to the patriarchal power In Indonesia.[15]

   The patriarchal concept has its origins in the concept that wives should be restrained, passive, forgiving, rooted in earlier legal definitions.[16] Gender violence is caused by the inequality of power that exists in society. Forms of crime categorized as gender violence are:

   a. forms of rape against women, including marital rape;
   b. acts of physical assault and beatings that occur within the household (domestic violence). Including acts in the form of torture against children (child abuse);
   c. forms of torture that lead to genital mutilation, such as circumcision of girls.[17]

   Obedience to patriarchal norms tends to reinforce and influence the act of wife beating in general the perception of most men and women to see wife beating as inevitable and justifiable in marriage due to the fact that in a patriarchal society, there is a distribution of power, rights, and privileges in the marital relationship, husbands have the right to dominate and control and take decisions that they deem good for the relationship.

2. Social control

   In this view, wife-beaters need to be physically dominated by damaged manhood in order to submit to social control. As Reverend Phebe Hanaford explains: We might assume that the wife-beater dislikes bodily pain, and the short time spent at the whipping post-he is forced to be passive, and some other

[14] Onwe Friday Ph.D1, Odio Charity Elom, Eze Adaobi Chika, *Socio-Cultural Factors Associated With Wife Beating in Nigeria: A Review of Key Issues,* Journal of Social Service and Welfare Volume 1, Issue 3, 2019, PP 1-14

[15] Michel Foucault, The Politics of Truth. (New York: Semiotext, 1997).

[16] David H. Flaherty, *For a fuller discussion of how law silences womenís experience and protects a patriarchal vision of law, see Carol Smart, ìLawís Power, the Sexed Body, and Feminist Discourseî* . Journal of Law and Society, vol. 17, 1990, pp. 194-210

[17] Zahratul Umniyyah, *Kekerasan Berbasis Gender: Belenggu Patriarki Terhadap Perempuan Dalam Novel Tempurung Karya Oka Rusmini*, Journal of Feminism and Gender Studies Volume 1 Nomor 1 2021

man with strong muscles is vigorously active, the wife-beater learns two lessons: one, what it feels like to be beaten, and the other, that the law will not allow him to whip his wife without inflicting the same on himself. The wife would be unlikely to receive a second spanking.[18]

3. Low Social Level.

Observations about social biases informing law enforcement efforts do not rest on the claim that wife beating is distributed evenly across the population even if it is. Class and racial biases can motivate and shape enforcement efforts, even if violent marriages are more prevalent in poor households. For women's rights advocates, a structural diagnosis of male violence against women dictates structural remedies. Violence is astructured response due to the cumulative feeling of unsatisfactory. The legality of violence. as an impact of cultural poverty occurred because poor people tended to have lower education.[19]

4. Week Law

The formation of violent behavior in solving uncontrollable problems is the basis of reduced public trust in the law and weak social control.

5. Intergenerational transmission of violence

The data on wife health and women's violence shows that women whose fathers have beaten their mothers, or whose in-laws have beaten their wives, are more likely to be abused by their husbands, as found in a study in Central Java.

The second case is that he is more likely to later abuse his own wife. If he has witnessed his father beating his mother, it is the basis for the formation of violence to treat women that is called the "intergenerational transmission of violence".

Childhood trauma, and in particular violence, when experienced, can be a major barrier to poverty across generations. Repeated exposure to violence can impair people's functioning on multiple dimensions that are important for individual adaptation and the ability to absorb adversity. It makes us incapable of effective prosocial interaction strategies. It reduces our capacity to develop effective modes of interpersonal communication. It compromises the development of altruism and empathy.

4. Conclusion

To complete this research study, the following conclusions can be stated:

1. For the public to understand the prohibition of hitting their wives according to Law No. 23 of 2004. so that domestic violence in the form of beatings does not occur. Law enforcers must continue to provide publications and socialization on the prohibition of wife beating because it is contrary to Law Number 23 of 2004.
2. In the study of wife beating, there are many contradictions, both from a

[18] Rev. Phebe A. Hanaford, The Whipping Post for Wife-Beaters, 17 MEDICO-LEGAL J. 108, 109 (1899) (paper read before the Medico-Legal Society (Psychological Section) in New York, May 17, 1899) (emphasis added).

[19] Arri Handayani, Suwarno Widodo,Desi Maulia, Violence is a structured response due to the cumulative feeling of unsatisfactory. The legality of violence as an impact of cultural poverty occurred because poor people tended to have lower education, Gender Equality: International Journal of Child and Gender Studies,Vol. 8 No. 2 (2022)

sociological point of view, in order to implement socially appropriate behavior, it must include various elements of society, institutions, and especially individuals themselves. and to the public to understand that there is a prohibition against beating his wife because it is against the norms and values in Indonesia

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