

# Law Enforcement of Criminal Acts of Domestic Violence in Semarang District Court

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**Abstract.** Demonstrations of abusive behavior at home by and large include culprits and casualties among relatives in the family, while the standard types of savagery are actual viciousness and verbal brutality (dangers of savagery). In reality, the state's efforts to protect victims of domestic violence have not been sufficient. This is because the application of sanctions against perpetrators is very light and does not cause a deterrent effect. The purpose of this research is to describe the regulation of law enforcement against perpetrators of domestic violence based on the value of justice. The author uses a normative juridical approach, using primary and secondary data. The research used qualitative data analysis. The consequence of the examination is that the Law on the Disposal of Abusive behavior at home complies with an elective danger framework, specifically the discipline forced as detainment or fines with least and most extreme guidelines so it offers a benefit of equity that following the torment and misfortunes of the person in question. The judge's decision on the perpetrator of the crime of domestic violence can be in the form of acquittal, clemency, and sentencing.

**Keywords:** Law enforcement; Perpetrator; Criminal act; Domestic violence

## 1. Introduction

The family is the fundamental social climate known to people. The family is a social establishment that abilities to cultivate every one of the limits that exist in every individual furthermore. All things being equal, it is entirely expected for families to encounter different instances of anomalies or criminal operations that cause wretchedness or enduring and are perpetrated by individuals from one family against other relatives like maltreatment, assault, and in any event, finishing off with murder. This present circumstance is generally alluded to as Aggressive behavior at home or all the more regularly abbreviated to Abusive behavior at home.

Domestic Violence (KDRT) itself has been regulated in Regulation Number 23 of 2004 concerning the End of Aggressive behavior at home, hereinafter alluded to as the PKDRT Regulation, as would be considered normal to turn into a legitimate instrument that manages counteraction, security of casualties, and indictment of culprits of aggressive behavior at home, while keeping up with the trustworthiness and family congruity. [1]

Specifically, the PKDRT Regulation makes sense of that each resident has the privilege to have a solid sense of security and liberated from all types of brutality following the way of thinking of Pancasila and the 1945 Constitution of the Republic of Indonesia. What this Act wants to achieve is to eliminate the crime of domestic violence as well as realize equal equality

between men and women. [2] An equal position between husband and wife, children and parents, as well as an equal position between the nuclear family and those who are directly or indirectly part of the family, are the key points to prevent victims from criminal acts of domestic violence.

Current turns of events and observational reality express that demonstrations of physical, mental, and sexual savagery and disregard of the family happen a ton. This can be known directly or through mass media, both print and electronic media. These empirical facts illustrate that there is a gap between law in books; law in action, which needs attention from all parties as a problem that needs solving (problem-solving) through scientific research.

The example of harmful way of behaving at home that had stood apart was what was going on with the decision of the Sleman Area Court Number 180/Pid.Sus/2018/PN.Smn which communicated that the disputants NKS and MFR were genuinely and convincingly exhibited to have commonly executed the bad behavior of real fierceness inside the family circle, and ignores Article 44 entry (1) of the PKDRT Guideline. Considering these exercises, the respondents were reliant upon confinement for 8 (eight) months. One more case is what is happening with the decision of the Semarang District Court Number 630/Pid.Sus/2018/PN.Smg communicated that the disputant AM was genuinely and convincingly exhibited to have commonly executed the bad behavior of real brutality inside the family circle, and mishandled Article 44 area ( 1) of the PKDRT Guideline. Because of these exercises, the respondents were reliant upon confinement for 10 (ten) months.

The peaceful effort chosen between the victim and the perpetrator of the crime of domestic violence is a separate weakness in efforts to minimize the crime of domestic violence. Mediation efforts are an indication that the state's protection for victims of domestic violence is inadequate. This is due to the application of sanctions against perpetrators being inappropriate and does not create a deterrent effect due to the light imprisonment sanctions received by perpetrators of crimes of domestic violence.

The presence of an elective approval framework recorded in the law above can prompt error, in particular those (culprits) who carry out violations of aggressive behavior at home can pick elective burden of assents by paying crook fines with the goal that they are liberated from legitimate subjugation. Moreover, the incorporation of just the most extreme approval without including as far as possible can prompt lawful vulnerability. The culprit may just be given the base and lightest discipline which is lopsided to the activities he has committed. For this reason numerous casualties are hesitant to grumble about the demonstrations of aggressive behavior at home they experience since it will just sit around and can't satisfy a feeling of equity for survivors of abusive behavior at home, despite the fact that equity is an overall idea.[3]

The problem in this paper is how to implement law enforcement against victims of domestic violence based on justice in the Semarang District Court.

## **2. Method**

The technique utilized recorded as a hard copy this applied paper is the enlightening scientific strategy, specifically by utilizing information that obviously depicts the issues straightforwardly in the field, then the examination is done and afterward finished up to take care of an issue.[4] Strategies for information assortment through perception and writing study to acquire critical thinking in the planning of this paper.

This examination utilized an observational juridical methodology, which is a methodology that doesn't go against composed positive regulation (regulation) as optional information, yet

from genuine way of behaving as essential information got from field research areas (field research).[4] This study portrays the state of the article under study, specifically zeroing in on the guideline and execution of regulations against violations of abusive behavior at home in view of the worth of equity, which is under Regulation Number 23 of 2004 concerning the End of Abusive behavior at home and Regulation Number 31 of 2014 concerning Revisions to Regulation Number 31 of 2006 concerning Security of Witnesses and Casualties.

### **3. Findings and Discussion**

#### **3.1 Arrangements for Legal Protection for Victims of Domestic Violence Crime Based on the Value of Justice**

The Big Indonesian Dictionary defines an act as an act. While criminal is a crime, criminal. So, a crime is an evil act or a criminal act. Barda Nawawi Arief stated, "criminal acts, in general, can be interpreted as acts that are against the law, both formally and materially".[5] Crime is a juridical meaning, it is different from the term "evil act" or "crime" (*crime or Verbrechen or misdaad*) which can be interpreted juridically (law) or criminologically.[6]

"The term crime has no accepted definition in the law, except the circular one that is anything that the lawmakers define as a crime. Basically, a crime is a wrong, usually a moral wrong, committed against the society as a whole. Criminal prosecutions are brought in order to punish wrongdoers, either because we want to deter future crime or simply because we believe wrongdoers deserve to be punished."[7]

As a general rule, in each demonstration between the culprit and the person in question, they frequently don't have the foggiest idea about one another and even appear outsiders. To be sure, there are a few crook acts committed by individuals who definitely know one another (companions, companions, neighbors), as well as individuals who are connected by blood. The types of demonstrations of savagery that happen in the family are likewise equivalent to different types of criminal demonstrations as a rule, for instance, misuse directed in Article 351 of the Lawbreaker Code, murder (Article 338 of the Crook Code), assault (Article 285 of the Crook Code), and embarrassment (Article 310 of the Lawbreaker Code). Infidelity (Article 284 of the Lawbreaker Code) and different demonstrations can be sorted as criminal demonstrations managed in the Crook Code. Notwithstanding, aggressive behavior at home has extraordinary qualities and attributes which lie in the connection between the culprit and the person in question, as well as the approaches to tackling it.

The meaning of guidelines or rules in Guideline no. 23 of 2004 concerning the Removal of Oppressive way of behaving at home is communicated in Articles 5 to 9. Article 5 of Guideline no. 23 of 2004 communicated, everyone is denied from committing harmful way of behaving at home against people, inside the degree of their family by a. genuine abuse; b. spiritualist hostility; c. sexual hostility; or d. family give up. In Article 6 it is communicated that genuine brutality as implied in Article 5 letter a can't avoid being a change that results in torture, becoming wiped out or serious injury. Another relationship that aggressive behavior at home is a type of orientation based viciousness and furthermore a type of separation, is as expressed in the fourth section of the Overall Clarification of the PKDRT Regulation, which affirms: "...The state sees that all types of brutality, particularly abusive behavior at home, are infringement of common freedoms. furthermore, violations against human nobility and types of separation". The assertion on the perspectives on the state is as commanded in the arrangements of Article 28 of the 1945 Constitution of the Republic of Indonesia and its changes, and the order of Article 28G passage (1) specifies that: "Everybody has the privilege

to assurance of himself/herself, family, honor, nobility, and property under his influence, and is qualified for a feeling of safety and security from dangers of dread to do or not accomplish something which is a common freedom". Article 28H passage (2) of the 1945 Constitution of the Republic of Indonesia specifies that "Each individual has the option to get extraordinary offices and treatment to acquire equivalent open doors and advantages to accomplish fairness and equity".

As per Article 1 of the Announcement on the End of Savagery against Ladies, what is implied by brutality against ladies is: "Any movement considering differentiations in sexual direction that result or obligated to achieve physical, sexual or mental sadness or persevering of women, including risks of explicit exercises, impulse or sporadic difficulty of opportunity." [8] As per R. Soesilo, committing savagery implies unlawfully utilizing actual power or strength, for instance hitting with the hands or with a wide range of weapons, kicking, rushing, etc.[9]

Plus, Article 7 contains an explanation that mental violence as suggested in Article 5 letter b is a show that outcomes in dread, loss of certainty, loss of capacity to act, the energy of shortcoming, or potentially serious mental driving forward to an individual. Meanwhile, Article 8 it is communicated that sexual violence as suggested in Article 5 letter c integrates: (a) driving sexual relations committed against still hanging out there inside the degree of the family, (b) convincing sexual relations against one inside the degree of the family by others for business purposes as well as unambiguous purposes. Then in Article 9, it is communicated, (1) Everyone is limited from leaving people inside the degree of his family, in spite of the way that according to the law that concerns him or because of a comprehension or understanding he is obliged to give life, care, or care for that individual; (2) Dismissal as implied in entry (1) similarly applies to any person who causes money related dependence by confining or possibly blocking authentic work inside or outside so the setback is vigorously affected by that person. This guideline similarly communicates that the bad behavior of real violence as suggested in Article 44 segment (4) is a dissent offense (Article 51). Similarly, the bad behavior of mental mercilessness as suggested in Article 45 segment (2) is a complaint offense (Article 52). Likewise, the criminal exhibit of sexual violence as suggested in Article 46 perpetrated by a companion against his life partner or the opposite way around contains a dissent offense (Article 53).

Lawful assurance for survivors of abusive behavior at home, particularly spouses and kids, requires a work to recuperate casualties who have experienced physical, mental, and sexual savagery or disregard of the family. Subsequently, Unofficial law Number 4 of 2006 was drafted in regards to the Association and Participation in the Recuperation of Survivors of Aggressive behavior at home. Taking into account the quantity of arguments that have happened against abusive behavior at home as of now and furthermore the mercilessness of the moves initiated against casualties, focusing on the interests of the victims is fundamental. In this way, full equity can be felt by casualties of aggressive behavior at home.

### **3.2 Implementation of Law Enforcement Against Victims of Domestic Violence Based on Justice in the Semarang District Court**

The utilization of criminal assents is the last piece of the law enforcement framework after examination and indictment. After a report in regards to aggressive behavior at home, the specialist leads an examination and applies it in the minutes of the assessment and afterward designates it to the public examiner to make a prosecution in light of the minutes of the specialist's assessment. After the arraignment is considered adequate, the public investigator will move the case to the Court to be demonstrated at preliminary with respect to what the

public examiner was blamed for. The adjudicator's choice can be as exoneration, absolution, and condemning. The following phase of the policing or concretization of regulation is the stage or application or legal stage, which for this situation is done by the adjudicator.

Regardless of whether the respondent is blameworthy in carrying out a wrongdoing must initially be analyzed whether the lawful realities that have been uncovered satisfy the components of a wrongdoing charged by the public examiner. On account of aggressive behavior at home executed by a spouse against his significant other as actual brutality, the respondent was accused of disregarding Article 44 passage (1) Jo Article 5 letter a Jo Article 6 Regulation No. 23 of 2004 concerning the Disposal of Abusive behavior at home and with every one of the components of a wrongdoing having been satisfied, it is accepted that the litigant has carried out a wrongdoing of actual viciousness in the family, the board of judges has reached a similar resolution as what was expressed by the public examiner in regards to current realities and legitimate grounds.[10]

Criminal provisions in Law no. 23 of 2004 are regulated in Chapter VIII starting from Article 44 to Article 53. The criminal provisions for violence perpetrated by husbands against wives whose forms of violence are physical violence are regulated in Article 44 Paragraph (1) to Paragraph (4).

Article 44 Law no. 23 of 2004 stated:

- (1) Every person who commits exhibits of genuine violence inside the degree of the family as implied in Article 5 letter a will be reliant upon confinement for a restriction of 5 (five) years or a biggest fine of Rp. 15,000,000.00;
- (2) By virtue of the exhibit suggested in segment (1) causing the setback to become wiped out or really hurt, the discipline will be confinement for a restriction of 10 (10 years) or a fine of a constraint of Rp. 30,000,000.00;
- (3) If the showing suggested in segment (2) achieves the death of the individual being referred to, the discipline will be confinement for a constraint of 15 (fifteen) years or a fine of up to Rp. 45,000,000.00;
- (4) In case the go comparably suggested in section (1) is committed by a life partner against his soul mate or the opposite way around which doesn't make disorder or impediments complete work, position or work, or everyday activities, the discipline will be confinement for a constraint of 4 (four) months or a fine, at most of 5,000,000.00;

Article 50 Law no. 23 of 2004 stipulates "In addition to the punishment referred to in this chapter, judges can impose additional sentences in the form of:

- a. Restrictions on the movement of the perpetrators, both those aimed at keeping the perpetrators away from the victims within a certain distance and time, as well as restrictions on certain rights of the perpetrators.
- b. Determination of perpetrators to follow a counseling program under the supervision of a particular institution.

Article 51 specifies that "The wrongdoing of actual viciousness as alluded to in Article 44 passage (4) comprises an objection offense."

To see the fundamental things that are viewed as by the Adjudicator, in overwhelming crook sanctions on the Semarang Locale Court Choice Number 630/Pid.Sus/2018/PN.Smg, the creator can portray by examining the case referenced above which is connected with the wrongdoing of brutality in the family where the lawbreaker authorize forced on the respondent is excessively light. In view of these activities, the respondents/culprits are dependent upon detainment for 10 (ten) months with the goal that there is no impediment impact for the convict subsequent to leaving jail or completing the condemning system.

The demonstrations of culprits of abusive behavior at home are deserving of wrongdoing as specified in Article 44 passage (1) or section (4) of Regulation no. 23 of 2004 concerning the Disposal of Aggressive behavior at home. The public examiner requested the board from judges to pronounce the AM culprits legitimately and convincingly demonstrated at fault for carrying out a wrongdoing of actual viciousness carried out inside the family as specified in the arrangements of Article 44 passage (1) Jo Article 5 letter (a) Jo Article 6 Regulation - Welcome No. 23 of 2004 concerning the End of Aggressive behavior at home in the principal prosecution, condemned the respondent Sumpono Sugianto to detainment for 10 (ten) months decreased while in brief confinement, and expressed that the litigant ought to pay court costs.

In light of the legitimate realities at preliminary and the litigant at preliminary has given data which generally is that he owns up to the activities being charged, the board of judges accepts that the components in the public examiner's prosecution Article 44 section (1) Jo. Article 5 letter (a) Jo. Article 6 Regulation no. 23 of 2004 has been satisfied, the board of judges expressed that the litigant AM was lawfully and convincingly demonstrated at legitimate fault for carrying out a wrongdoing of actual viciousness carried out inside the family circle. The mitigating factors for the defendant were that the defendant had never been punished, was polite, confessed frankly and regretted his actions and would not repeat them, while the aggravating circumstances for the defendant were the actions of the defendant which harmed his wife who should have been protected, this was stated by Nettler. [11]

The Domestic Violence Law aims to protect victims of domestic violence. However, in reality, the protection provided is inadequate, mainly due to inappropriate sanctions for perpetrators. From a criminal political point of view, the uncontrolled development of domestic violence crimes can be caused by the inaccuracy of the types of criminal sanctions that have been selected and determined. A few articles in the law can't be carried out because of improper legitimate assents and no executing guidelines like safe houses and elective homes for survivors of aggressive behavior at home. Likewise, the elective authorization framework contained in Regulation Number 23 of 2004 for the overall population who are new to the law can prompt distortion where the people who commit aggressive behavior at home can decide to force sanctions if they would rather not be imprisoned, so they can pay a fine. then, at that point, they will be liberated from the subjugation of the law. Also, the incorporation of just the most extreme assent without including as far as possible can prompt lawful vulnerability. The culprit may just be condemned to the base and lightest discipline for the casualty which is unbalanced to the activities committed by the culprit so the casualty is hesitant to whine about the aggressive behavior at home he has encountered which is thought about at last to be exercise in futility and unfit to satisfy the casualty's feeling of equity.

#### **4. Conclusion**

After going through the analysis and discussion above, the writer can conclude the following:

1. Forms of legitimate assurance against criminal demonstrations of abusive behavior at home are controlled in Section VIII of Regulation Number 23 of 2994 Article 44 concerning actual savagery, Article 45 concerning actual brutality, Articles 46, 47, and 48 concerning sexual viciousness, and Article 49 concerning disregard. Other than that, the results of abusive behavior at home don't prompt outcomes in that frame of mind of ailment or obstructions to completing their day to day exercises, which are characterized as protest offenses as alluded to in Article 51 (actual savagery), Article

52 (mental viciousness), and Article 53 (sexual brutality committed by spouse or wife). The Law on the Disposal of Aggressive behavior at home complies with an elective danger framework, in particular discipline as detainment or fines with least and most extreme principles to offer a benefit of equity that is following the casualties' misery and misfortunes.

2. In expansion to the most extreme authorization, it is important to incorporate all the more rigidly as far as far as possible for the burden of criminal assents, both detainment and fines for ensuring legitimate conviction, as well as the elective thought of endorsements in the Law on the Removal of Oppressive way of behaving at home, it is important to consider utilizing a combined elective framework in light of the fact that main involving an elective framework for violations of aggressive behavior at home that are named significant, it is exceptionally uncalled for the person in question, where the culprit can be liberated from detainment simply by paying a fine so the casualty feels shaky.

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