

Criminal Justice System Law Elimination of Domestic Violence (Case Study at Polda Jateng)

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Abstract

The problems that will be studied are: 1) How is the criminalization system in the law on the elimination of domestic violence, 2) What are the obstacles faced in punishing perpetrators of domestic violence. This research will be compiled using a normative legal research type, namely a process to find a legal rule, legal principles, and legal doctrines in order to answer the legal issues faced. The results of the study concluded that: (1). The regulation of the criminalization system in the Criminal Code with Law Number 23 of 2004 concerning the Elimination of Domestic Violence is the same, namely recognizing the imposition of imprisonment and fines, only the length of the prison sentence and the amount of the fine are not the same. Related to the legal subject and the regulatory system both in the Criminal Code and in Law Number 23 of 2004 concerning the Elimination of Domestic Violence are the same, namely using the legal subject of people and a single track system. (2). The obstacles faced in punishing perpetrators of domestic violence are: The legal factor itself, the factor of law enforcement officers, the factor of facilities and facilities.

Keywords: Criminal System, Elimination Domestic Violence, Criminal Acts Domestic Violence

1. PENDAHULUAN

Legal protection is the right of every citizen protected by the state. Therefore, the state is obliged to provide legal protection to its citizens. In principle, the protection of law against society rests and is based on the concept of recognition and protection of dignity, and dignity as a human being. So that the recognition and protection of citizens as individuals and families cannot be differentiated. Legal protection is any effort to fulfill rights and provide assistance to provide security to witnesses and or victims, which can be realized in such forms as through: restitution, compensation, medical services, and legal assistance.

The family is the first social environment known to man. The family is a social institution that serves to improve all the abilities that exist in each individual. Even so, it is not uncommon for there to be various cases of irregularities or illegal activities that cause misery or suffering and are carried out by members of one family against other family members such as: persecution, rape, and even lead to murder. This situation is commonly referred to as *Kekerasan Dalam Rumah Tangga* (KDRT).

Kekerasan Dalam Rumah Tangga (KDRT) has been regulated in Law No. 23 of 2004 on the elimination of domestic violence, hereinafter referred to as the PKDRT law is expected to be a legal instrument that regulates the prevention, protection of victims, and action against perpetrators of domestic violence, while maintaining the integrity and harmony of the family..

In particular, the PKDRT law explains that every citizen is entitled to a sense of security and freedom from all forms of violence in accordance with the philosophy of Pancasila and the Constitution of the Republic of Indonesia in 1945. What this law really wants to achieve is to eliminate the crime of domestic violence while realizing equal equality between men and women. A balanced position between husband and wife, children and parents, and also an equal position between the nuclear family and people who are either directly or indirectly part of the family is a key point to avoid victims of domestic violence.

Adult development this, empiris reality states that acts of physical, psychological, sexual violence and domestic neglect in fact occur a lot. This can be known directly or through mass media, both print and electronic media. These empirical facts give an idea that there is a gap between law in books & law in action, which needs attention from all parties as a problem that needs to be solved (solving problems) through scientific research.

One example of domestic violence cases is the case of the Sleman district court decision number 180 / Pid.Sus/2018/PN. The Smn stated that the NKS and MFR defendants were legally and convincingly proven to have jointly committed the crime of physical violence in the domestic sphere, and violated Article 44 paragraph (1) of the PKDRT law. For this reason, the defendants are subject to imprisonment for 8 (eight) months. Another case is the case with the District Court Semarang decision number 630 / Pid.Sus/2018/PN. The Smg stated that the defendant AM was legally and convincingly proven to have jointly committed the crime of physical violence in the domestic sphere, and violated Article 44 paragraph (1) of the PKDRT law. For this reason, the defendants are subject to imprisonment for 10 (ten) months. Before the trial resumed, the peaceful efforts made first.

The peaceful effort chosen between the victim and the perpetrator of domestic violence becomes a weakness in the midst of efforts to minimize domestic violence. In fact, mediation efforts are a kind of indication that the state's protection of victims of domestic violence is not sufficient. This is due to the application of sanctions against the perpetrators to be inappropriate and does not cause a deterrent effect due to the lightness of prison sanctions received by perpetrators of domestic violence.

Law No. 23 of 2004 on the elimination of domestic violence, States the protection of the rights of victims, as stipulated in Article 10, victims are entitled to:

- a. Protection from the family, police, prosecutors, courts, advocates, social institutions, or other parties either temporarily or based on the establishment of a protection order from the court;
- b. Health services in accordance with medical needs;

- c. Handling in particular with regard to the confidentiality of victims;
- d. Assistance by social workers and legal assistance at each level of the examination process in accordance with the provisions of legislation
- e. Spiritual guidance services.

Some of the weaknesses found in the PKDRT law are that with the alternative sanction system listed in the law above, namely fines with rehabilitation sanctions, this can lead to misinterpretation, namely those (perpetrators) who commit domestic violence crimes can choose alternative sanctions by paying fines to be free from legal bondage. In addition, the inclusion of maximum sanctions without including a minimum limit can cause legal uncertainty. The perpetrator can only be sentenced to the minimum and lightest crime that is not comparable to what he has done. This is because many victims are reluctant to complain about domestic violence because it will only waste time and cannot fulfill a sense of justice for victims of domestic violence.

Family relations must be declared at the time of filing a complaint. The prosecution is limited only to the person named in the complaint. If, for example, only the perpetrator of the crime is mentioned, then no prosecution can be made against the accomplice of the crime, who may also be of close family. Thus this complaint is fragmentary (splitsbaar). Of the articles listed regarding the offense of the complaint, the use of the term “prosecution can only be carried out if there is one”. Then the sentence raises the thought or opinion that thus the investigation can be carried out by the officer of the law for the sake of preventive purposes.

Although such an opinion is correct, it is in the interests of the rule of law that it is more good faith when the inquiry is submitted orally from the injured party that he will file a complaint. Both absolute complaints and relative complaints, which are often called complaints, are intended to prioritize the interests of the injured party rather than the interests of the prosecution. In other words, the legislator gives the injured party a reward and the opportunity to make a choice, whether he intends to file a complaint or silence the issue, for example, for the sake of the good name of the family or perhaps to keep it as a secret that does not need to be known to the public.

Based on the above problems, this writing is intended to analyze the formulation of criminal law policies in the context of combating domestic violence. Determining the purpose of punishment can be the basis for determining the means, means or actions that will be used in the context of combating domestic violence. On the basis of the above explanation the

author examines the “*Criminal Justice System Law Elimination of Domestic Violence (Case Study at Polda Jateng)*”.

2. METODE PENELITIAN

The type of research used in completing this thesis is descriptive research methods, namely research conducted by researching library materials (secondary data) or library Law Research. The method of approach in this study is to use normative juridical approach that is a process to find a rule of law, legal principles, and legal doctrines in order to answer the legal issues faced. The source of data used in this study is secondary data is an indirect data source that is able to provide additional data as well as strengthening the research data. Secondary Data in this study include : a). Primary legal materials are legal materials that have binding force such as laws and regulations or decisions related to domestic violence. In this study, the primary legal materials used in the form of regulations within the scope of norms or rules include: *Kitab Undang-Undang Hukum Acara Pidana (KUHAP)*, Law No. 23 of 2004 on the elimination of domestic violence and Law No. 31 of 2014 on amendments to Law No. 31 of 2006 on the protection of witnesses and victims, and Government Regulation No. 4 of 2006 on the implementation and cooperation of recovery of victims of domestic violence; b). Secondary legal materials, which provide an explanation of the primary legal materials such as research results, the results of the scientific work of scholars, articles, books that are closely related to the subject matter in this study; c). Tertiary legal materials, namely materials that provide guidance and explanation of primary and secondary legal materials, for example, The Great Indonesian dictionary, Legal Dictionary, English Dictionary, and Dutch Dictionary. The Data that has been obtained are systematically compiled and then analyzed qualitatively to elaborate the realities that exist in society, using legal theories, legal concepts and legal doctrines related to the problem under study.

3. RESULTS AND DISCUSSION

1. Punishment System in Domestic Violence Elimination Law in Decision Number 716 / Pid.Sus/2018/PN.Smg, Number 610 / Pid.Sus/2018/PN.Smg, and number 594 / Pid.Sus/2018/PN.Smg

Domestic violence tends to be perpetrated by men in the age group who are young, do not work, are not in a legal marriage, may have witnessed domestic violence in childhood, as well as the presence of psychiatric problems that vary from depression to substance abuse. Some other circumstances that need attention to the possibility of

domestic violence are problems related to drugs and alcohol, situations related to stress and depression. Many domestic abusers commit violence under the influence of alcohol. But the perpetrators who commit violence in a conscious state take on a greater proportion.

In general, in every act between the perpetrator and the victim often do not know each other and even seem foreign. Indeed, there are some criminal acts committed by people who already know each other (friends, friends, neighbors), as well as people who are related by blood. Actually, the form of violence that occurs in the household is also the same as the forms of criminal acts in general, such as persecution stipulated in Article 351 KUHP, murder (Article 338 KUHP), rape (article 285 KUHP), and humiliation (Article 310 KUHP), adultery (Article 284 KUHP) and other acts that can be categorized as criminal acts stipulated KUHP. However, domestic violence has a special nature and characteristics that lie in the relationship between the perpetrator and the victim, as well as ways of solving it.

Formulation of norms or rules in law No. 23 of 2004 on the elimination of domestic violence set forth in Article 5 to Article 9. In Article 5 of Law No. 23 of 2004 stated, Everyone is prohibited from committing domestic violence against people within the scope of his household by : (a). physical violence; (b). Psychological violence; (c). sexual assault; or (d). domestic neglect.

In Article 6, it is stated that physical violence as referred to in Article 5 letter A is a change that results in pain, illness, or serious injury. Another correlation that domestic violence is a form of gender-based violence and also as a form of discrimination, is as stated in the fourth paragraph of the general explanation of the PKDRT law, which confirms : "...The state is of the view that any form of violence, especially domestic violence, is a violation of human rights and a crime against human dignity and a form of discrimination". The statement of the views of the state is as mandated in the provisions of Article 28 of the Constitution of the Republic of Indonesia year 1945 and its amendments, and the mandate of Article 28g paragraph (1) determines that : "everyone has the right to personal protection, family, honor, dignity, and property under his control, and the right to a sense of security and protection from the threat of fear to do or not do something that is a human right". Article 28h paragraph (2) of the Constitution of the Republic of Indonesia year 1945 determines that "everyone is entitled to convenience and special treatment to obtain equal opportunities and benefits in order to achieve equality and Justice".

Furthermore, Article 7 contains a statement that, psychological violence as referred to in Article 5 letter b is an act that results in fear, loss of self-confidence, loss of ability to act, a sense of helplessness, and/or severe psychological suffering in a person. Meanwhile, in Article 8, it is stated that sexual violence as meant in Article 5 letter c includes : (a) coercion of sexual relations carried out against persons established within the scope of the household, (b) coercion of sexual relations against one person within the scope of his household with another person for commercial purposes and / or certain purposes.

Then in Article 9 it is stated, (1) every person is prohibited from abandoning a person within the scope of his household, whereas according to the law applicable to him or by agreement or agreement he is obliged to provide life, care, or maintenance to that person; (2) neglect as meant in Paragraph (1) also applies to any person who causes economic dependence by limiting and/or prohibiting to work properly inside or outside so that the victim is under the control of that person. In this law, it is also stated that the crime of physical violence as referred to in Article 44 paragraph (4) is a complaint offense (Article 51). Likewise, the crime of psychological violence as referred to in Article 45 paragraph (2) is a complaint offense (Article 52). Likewise, the crime of sexual violence as referred to in Article 46 committed by the husband against the wife or otherwise constitutes a complaint offense (Article 53).

Any crime that occurs will cause casualties. By victims of crime is meant : “those who suffer physically and spiritually as a result of the actions of others who seek the fulfillment of their own or other people's interests contrary to the interests and human rights of those who suffer”.

According to *Kitab Undang-undang Hukum Pidana (KUHP)* not everyone has the right to file a complaint of a criminal offense that he sees, because there is a criminal offense that occurs, an investigation can only be carried out if there is a complaint from the victim (in the case of a complaint offense). In a complaint offense, the above circumstances are important for investigators, namely so that the Complaint can be used as a legitimate basis for investigation, and to prevent investigators from being blamed for conducting investigations that are not based on the law. The complaint offense (*klacht delict*) in essence also contains elements that are commonly owned by each offense. Offense complaint has a special feature and the specificity lies in the “prosecution”. Normally, any offense arises, requiring the prosecution of the public prosecutor, without any express request from the person who is the victim or those who are harmed. In a

complaint offense, the complaint of the victim or the injured party is the main condition for the exercise of the right to demand by the Public Prosecutor.

The reason for the requirement of the complaint according to Simons quoted by Satochid is "because of the consideration, that in some kind of crime, it will be easier to harm the special interests (*bizondere belang*) because of the prosecution, rather than the public interest by not prosecuting it". Against the background of such reasons, the purpose of forming the law is to provide flexibility to the victim or the injured party to think and act, whether by complaining about the case will better protect their interests. Whether it is profitable or by complaining about the case it will harm the interests of his party (example: tarnished the good name of the family, the disclosure of personal secrets or other losses). In the end the initiative to complain and Sue fully (without regard to the principle of opportunity) is on the victim or the injured party. If the existence of the principle of opportunity is not heeded, then the freedom to complain or not complain that is on the victim or the injured party, and the right presumption as stated above. But in fact, something like this is sometimes not entirely true. In certain cases and circumstances, the award and opportunity (discretion) given does not have any meaning when the matter is investigated and then prosecuted by the Public Prosecutor with the right opportunity. So in this situation the general principle that usually applies in a offense, namely the right to prosecution, is placed on the Public Prosecutor again applied. Satochid Kartanegara, gave the following formulation of the complaint offense, the complaint offense is a offense that can only be prosecuted if there is a complaint (*klacht*).

According to Utrecht The only legal reason for establishing a grievous offense is the consideration that in certain cases the importance to the aggrieved that the case should not be prosecuted is greater than the importance to the state that the case should be prosecuted.

The juridical consequence of such a determination is that law enforcement officers cannot take any legal action against the perpetrator, even if they know that a criminal offense has occurred, if the victim of the criminal offense does not make a complaint.

The PKDRT law determines several articles that are included in the complaint offense, so the provisions in Chapter VII of the Criminal Code regarding, including and revoking complaints in criminal cases, which can only be claimed on complaints, apply to the PKDRT law. In the PKDRT law there is no provision that regulates the grace period a person is allowed to complain and the grace period a person is allowed to withdraw his complaint.

Meanwhile, Article 75 KUHP provides for a grace period for revoking a complaint, namely: the person who filed the complaint has the right to withdraw it within three months after the complaint was filed. With the establishment of domestic violence crimes both physical, psychological, sexual violence and neglect in the household as a complaint offense is intended to pay attention to the interests of the victim, but in some cases, for example, the crime of physical violence and sexual violence it is better to be directed into ordinary offenses or general criminal offenses. The consideration of the change of complaint offense into ordinary offense is seen from the consequences and impacts of criminal acts that can be proven not only based on the victim's complaint, and it is the obligation of the state to protect its citizens who have clearly violated their human rights.

The character of Indonesian law is still guided by the character of colonial law, so that the philosophy of colonial law always accompanies the enforcement of Indonesian law, such as Indonesian criminal law is still guided by the philosophy of *Wetboek van Strafrecht voor Nederlandsch-Indie* (S.1915 No.732) with the theory of retributive (retributive theory), although in various formation or reform of Indonesian criminal law has been stated to be guided by the philosophical Pancasila, but the fact can not be denied law-forming in Indonesia using philosophy, basic principles or principles of colonial law.

The purpose of victim protection is to provide a sense of security to victims, especially when giving information on any criminal justice process, provide encouragement and motivation to victims so they are not afraid to undergo the criminal justice process, restore the victim's confidence in social life, and initiate a sense of justice, not only to victims and victims' families, but also to.

This provision on psychological violence is a lighter criminal threat than other domestic violence provisions. In fact, the consequences of psychological violence are as severe as physical violence because it is related to self-esteem even though psychological violence does not leave physical injuries so it is difficult to see with the naked eye. But psychological violence can cause stress on the victim, from this stress can make the body weak so it is easy to get sick.

In the case of this neglect, there is no explanation for the difference in criminal sanctions against economic neglect or neglect of physical and mental livelihood. If the neglect that occurs is only economic neglect, the imposition of prison sanctions is not appropriate, it would be better if the crime imposed is a fine with a minimum and maximum limit and compensation for victims who are abandoned. So the victim feels his rights are fulfilled by law.

The decision of the judge in imposing a criminal sentence on the offender is entirely in the hands of the judge. If we examine more deeply the PKDRT law which adheres to alternative criminal formulations in the form of imprisonment or fines, the judge may decide to impose fines only. The existence of this option will greatly benefit the perpetrator, so the perpetrator does not need to serve a prison sentence within a certain period. The perpetrator is still free to roam and there is a high probability of insecurity and discomfort for the victim. While the inclusion of maximum criminal threats only provides opportunities for perpetrators to receive low criminal sanctions due to the absence of minimal restrictions.

The final part of the Domestic Violence Elimination Act contains criminal provisions, with several forms of crime, namely imprisonment, fines and supervision. The amount of imprisonment and fines is in the range of one year up to fifteen years, which seems to refer to the provisions in KUHP, because the parameters of this criminal designation have never been deciphered at all, as well as in other regulations. A parameter for the determination of a new criminal sanction can be created if it has been agreed in advance what will be used as a basis for thinking about the conviction. With regard to the parameters of criminal determination, in KUHP has made a ranking based on the seriousness (gravity) of criminal acts. The ranking is divided into five levels using the semantic scale technique, from "very light "to "very serious" with the note that "very light" crimes are not subject to deprivation of liberty, while very serious crimes are crimes that are punishable by imprisonment of more than seven years.

Recovery of victims according to Government Regulation No. 4 of 2006 stipulated in Article 1 Paragraph (1), Victim Recovery is any effort to strengthen victims of domestic violence to be more empowered, both physically and psychologically. Efforts to recover victims of domestic violence need to continue to be carried out, the implementation of which is carried out in coordination and integrated across sectors both at the Central, provincial, and district or city levels. In order to support the implementation, it is necessary to regulate the organization and cooperation in the recovery of victims by determining the duties and functions of each and the obligations and responsibilities of health workers, social workers, spiritual guides, and accompanying volunteers. To further streamline the Integrated Services, the regulation established a coordination forum that will coordinate between service personnel, as well as develop a program plan for improving the recovery efforts of victims of domestic violence.

Recovery of victims under Article 1 PP No.4 of 2006 is all efforts to strengthen victims of domestic violence to be more empowered, both physically and psychologically. The implementation of recovery itself is any form of action that includes service and assistance to victims of domestic violence. Assistance efforts provided by escort agencies include: counseling, psychological therapy, advocacy, and spiritual guidance, in order to strengthen the self-victims of domestic violence to solve the problems faced.

The scope of domestic violence is an act against a person, especially women, which results in the emergence of misery or suffering physically, sexually, psychologically, and/or neglect of the household including threats to commit acts, coercion, or unlawful deprivation of liberty within the scope of the household. Most of the victims of domestic violence are women (wife) and the perpetrators are husbands, although there are also victims quite the opposite, or people who are subordinated in the household. Perpetrators or victims of domestic violence are people who have blood relations, marriage, breastfeeding, parenting, guardianship with husbands, and children and even domestic help living in a household. Not all acts of domestic violence can be handled completely because victims often cover up on the grounds of cultural structure ties, religion, and not understanding the applicable legal system. In fact, protection by the state and Society aims to give a sense of security to victims and act on perpetrators. Meanwhile, what is meant by the recovery of victims of domestic violence is any effort to strengthen victims of domestic violence to be more empowered, both physically and psychologically.

Legal protection of victims of domestic violence, especially wives and children, is needed an effort to recover victims, who experience a suffering either physical violence, psychological, sexual, or domestic neglect. Then drafted Government Regulation No. 4 of 2006 on the implementation and cooperation of recovery of victims of domestic violence. Given the number of cases that occur Against Domestic Violence at this time and also the cruel actions taken against the victim, the interests of the victim need to be considered.

Definition of Victim Recovery according to Government Regulation No. 4 of 2006 stipulated in Article 1 Paragraph (1), Victim Recovery is any effort to strengthen victims of domestic violence to be more empowered, both physically and psychologically. Efforts to recover victims of domestic violence need to continue to be carried out, the implementation of which is carried out in coordination and integrated across sectors both at the Central, provincial, and district or city levels. For the smooth implementation of the recovery of victims of domestic violence, it is necessary to legislate and regulate the

implementation and cooperation between government agencies by involving the community. The recovery effort is the mandate of Article 43 of the PKDRT law.

Recovery efforts of victims of domestic violence aims to provide assistance in the form of services in the form of mentoring both in the field of law, health services, counseling, spiritual guidance to the resocialization of victims in accordance with Government Regulation No. 4 year 2006 on organizing and cooperation in the recovery of victims of domestic violence.

The implementation of Victim Recovery is carried out by government and local government agencies and social institutions in accordance with their respective duties and functions, including providing the necessary facilities for the recovery of victims. Organizing victim recovery is an action that includes services and assistance to victims of domestic violence. Assistance can be provided in the form of counseling, psychological therapy, advocacy and spiritual guidance, in order to strengthen the victim to solve the problems they face.

Facilities provided to victims of domestic violence include: (a). Special service room in the ranks of the police; (b). Skilled and professional; (c). Service centers and safe houses; and (d). Other facilities and infrastructure necessary for the recovery of victims.

Implementation of Victim Recovery activities include: (a). Health services are carried out by health workers in health facilities owned by the government, local governments, and the community, including the private sector by providing treatment and health recovery services for victims; (b). Victim assistance is carried out by health workers, social workers, accompanying volunteers, and/or spiritual guides by providing counseling, therapy, spiritual guidance and advocacy for the strengthening and recovery of victims; (c). Counseling is conducted by social workers, volunteer assistants, by listening empathically and exploring problems for the psychological strengthening of victims; (d). Spiritual guidance is carried out by a spiritual guide by providing an explanation of his rights and obligations, as well as strengthening faith and piety in accordance with the religion and beliefs he professes. (e). Resocialization of victims is carried out by social institutions and social institutions so that victims can re-carry out their social functions in society.

Fulfillment of the interests of the recovery of victims who experience physical violence, then the victim is entitled to receive services from health workers in the form of treatment and health recovery in accordance with professional standards, standard operating procedures, and medical needs of victims. Health recovery services can be done

in basic health facilities, referral health facilities owned by the government and private sector.

Efforts to provide recovery services to victims, there are several steps taken by social workers, namely : (a). Explore the victim's problem to help solve the problem; (b). Recovering the victim from a traumatic condition through psychosocial therapy; (c). Referral to a hospital or safe house or service center or other alternative place according to the needs of the victim; (d). Assist victims in recovery efforts through counseling assistance; and / or (e). Resocialize so that victims can re-implement their social functions in society.

In addition to the steps mentioned above to make it easier to process the implementation of Victim Recovery Services, assistance efforts are also made, as follows : (a). Establish an equal relationship with the victim to be willing to open up in raising the issue; (b). Be empathetic and not blame the victim regarding or relating to the problem; (c). Convince the victim that no one should commit acts of violence; (d). Ask what you want to do and what help is needed; (e). Provide information and connect with institutions or individuals who can help resolve the problem; and/or (f). Help provide information about legal consulting services.

Recovery of women victims of violence must be interpreted broadly, not only interventions made medically, legally, and psychosocial, but also the creation of a situation where women victims of violence can return to their full form, so that they are able to make decisions in their lives and can return to their role in society as women and citizens. This action not only requires the seriousness of the state as the bearer of responsibility, but also requires the support and involvement of the community and family.

2. Obstacles faced in the conviction of perpetrators of domestic violence

1) Own legal factors

There is little problem in this regard, because it turns out that in Law No. 23 of 2004 on the elimination of domestic violence is not found a juridical definition of pain, illness, or serious injury, even though this definition is most important to determine and prove the type of act committed by the perpetrator/suspect/defendant, therefore these definitions should be sought in KUHP and jurisprudence. This crime of physical violence is a complaint offense. So cases of physical violence can be tried in court if there is a complaint first. In addition, Article 44 paragraph (4) of the PKDRT law allows a complaint offense to be revoked.

2) Factors of law enforcement officers

Law enforcement officers (police, prosecutors, judges) are still gender biased, and often use victim blaming and victim participating approaches in responding to cases of violence. Victims of violence have doubts, worries and fears to report the events experienced. The victim is afraid of the legal process that will be undertaken. Gender awareness and sensitivity of law enforcement officers are still lacking, so sometimes the victim becomes the object. Integrated Criminal Justice System with Gender justice in handling cases of violence against women (SPPTPKKTP) is an integrated system that shows the process of linkages between agencies/ authorities handling cases of violence against women and easy and affordable access to services for victims in every judicial process of violence against women cases. (SPPT-PKKTP) demands the existence of law enforcers who have a vision of gender justice and not gender bias. Domestic violence cases are sometimes difficult to process. Usually have difficulty in proving (witnesses are usually absent), the case is revoked by the victim himself (out of love/ because of the maintenance case). Police agencies, found a lack of preparedness in handling cases of domestic violence with Special Service room. Ideally cases of domestic violence are handled by female police officers. However, currently the number of policewomen is still very limited.

The prosecutor's institution, which carries out its duties as a public prosecutor, is based on Law Number 16 of 2004. The prosecutor's office has a very important role in the process of criminal law enforcement, because of the possibility of criminal cases, in this case acts of physical violence in the household go to court is entirely dependent on the prosecutor's Office (Public Prosecutor).

Judge, has a big hand in the protection of victims of domestic violence. The judge has the right to decide the case, so that with the criminal imposed on the perpetrator can provide protection and Prevention of physical violence in the household. The judge is free to impose a criminal sentence on the offender. In criminal justice practice, although an independent judge remains bound by what the public prosecutor charges. The judge cannot decide what the public prosecutor does not charge.

3) Utility and Facilities Factor.

Utility and facilities include educated and skilled human resources, good organization, adequate equipment, sufficient finance and so on.

Efforts to overcome obstacles are as follows:

1. Revise the laws and regulations relating to domestic violence so that cases of

domestic violence of any kind can be punished.

2. Police, Prosecutors, and Justice together with the police to coordinate and help each other to deal with obstacles that arise in handling cases of physical violence in the household.
3. Complete the facilities and facilities needed in the process of convicting perpetrators of domestic violence.

3. CONCLUSION

Criminal justice system in KUHP with Law No. 23 of 2004 on the elimination of domestic violence is familiar with the imposition of imprisonment and fines, it's just that the length of the sanction of imprisonment and the amount of the fine is not the same. Related to the subject of law and regulatory system both in KUHP as well as in Law No. 23 of 2004 on the elimination of domestic violence is the same that is using the subject of legal persons and single track system. Related to the criminal sanctions imposed, in KUHP, the sanctions imposed only mention the maximum sentence without mentioning the minimum sentence, while in Law No. 23 of 2004 on the elimination of domestic violence, especially Article 47 and Article 48, the minimum sentence imposed is listed. In Law No. 23 of 2004 on the elimination of domestic violence. In the case studied, the law and law enforcement officers have provided protection to victims even though it is considered less than optimal. The obstacles faced in the punishment of perpetrators of domestic violence are: the legal factor itself, where the weakness of Law No. 23 of 2004 on the elimination of domestic violence that lies in the offense complaint, where although it is clear that the act committed by the perpetrator is a criminal offense and contrary to human rights, but without a complaint from the victim, the perpetrator cannot be prosecuted for the crime he committed. Factors of law enforcement officers, namely law enforcement officers (police, prosecutors, judges) are still many who are gender biased, and often even use victim blaming and victim participating approaches in responding to cases of violence. Factors of facilities and facilities. Such facilities or facilities include educated and skilled human resources, good organization, adequate equipment, sufficient finance and so on. Efforts to overcome obstacles are as follows:

- a. Revise the laws and regulations relating to domestic violence so that cases of domestic violence of any kind can be punished.
- b. Police, Prosecutors, and Justice to coordinate and help each other to deal with obstacles that arise in handling cases of physical violence in the household.

- c. Complete the facilities and facilities needed in the process of convicting perpetrators of domestic violence.

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