

## THE ROLE OF *ASAHAN* POLICE INVESTIGATORS IN CRIMINAL ACTS OF DOMESTIC VIOLENCE CASE

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### **Abstract**

*The purpose of writing this research is to find out and describe the data that after being explained earlier shows that the settlement of cases of domestic violence is very important that is enforced by the police investigators, the approach method used uses a socio-legal approach, the results of the study state that the protection of victims of domestic violence at the Unit The PPA of the Asahan Police is carried out by maximizing the role of the Asahan Police Investigator in eliminating Domestic Violence. Among the legal innovations carried out beyond Act No. 23 of 2004 concerning the Elimination of Domestic Violence, especially law enforcement officers such as the Police, Advocates and courts in providing services and protection for victims of domestic violence, especially beyond setting up protection mechanisms in courts for the safety of victims, namely regarding protection mechanisms in courts for the safety of victims.*

**Keywords:** *Criminal; Domestic; Investigator; Police; Violence.*

### **A. INTRODUCTION**

In the criminal justice mechanism in terms of implementation and implementation of enforcing criminal law in Indonesia, the body that has personal functions is involved. The criminal justice mechanism is a mechanism for dealing with crime in the public. The mechanism here is borne in the realm of the police, the prosecutor's office, the level of decisions against the courts and public institutions<sup>1</sup>. The police as the leading person in tackling the criminal justice mechanism which is crucial in enforcing criminal law in Indonesia. This is also due to the fact that the police are increasingly communicating directly or indirectly with the public.

Based on Act No. 2 of 2002 concerning the National Police of the Republic of Indonesia as stated in article 4 aims to ensure order and law

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1 Mardjono Reksodiputro, *Sistem Peradilan Pidana Indonesia HAM serta SPP Pusat Keadilan serta Pengabdian Hukum*, Erlangga, Jakarta, 1994, page 84

enforcement in fostering public peace so that the realization of public safety and order in the country, its realization in maintaining state security and the realization of national goals beyond promoting human rights. In the public, social control is carried out against the police beyond preventive (prevention) and repressive (eradication) methods.<sup>2</sup> In the judiciary, the police are responsible for the investigation.

A household where violence often takes place is a container of the lives of its inhabitants consisting of various statuses, such as husband and wife, parents, children, people who are related by blood, people who work to help the household life in question, other people who settle down, and people who still or have lived together in a household.<sup>3</sup> Behavior or acts of domestic violence as a social fact are not new from the sociological perspective of Indonesian society. This problem has been going on for a long time and is still ongoing.<sup>4</sup> Among the events in public life, especially in the household, is a matter of great concern. One of the various kinds of problems that often occur is cases of domestic violence, which in lay people here are considered private, tensions and conflicts are common, ranging from disputes, quarrels, ridicule or even continuous ridicule is a common thing. The problem of domestic violence is currently increasingly showing its complexity, even every year it shows an increasing number of cases, just like the iceberg phenomenon.<sup>5</sup>

Defines domestic violence The Domestic Violence can be generally defined as each conduct containing violent, abusive, or hostile actions against adults who are linked to families or relatives.<sup>6</sup> Domestic violence according to the PKDRT Act No. 23 of 2004 is any act against a person, especially a woman, which results in physical, sexual, psychological misery or suffering, and/or neglect of the household including threats to commit acts of coercion, or unlawful deprivation of liberty within the household scope.<sup>7</sup>

A serious problem that rarely gets attention here is domestic violence, let alone the response in the middle of the social community. full of the assumption that domestic violence is a private sphere that cannot be touched by other individuals or other families, then it is full of families who cover this case. Behavior or acts of domestic violence as a social fact are not

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2 Satjipto Raharjo, *Membangun Polisi Sipil*, Kompas, Jakarta, 2007, page 25.

3 Muhammad Kemal Dermawan, *Teori Kriminologi*, edisi kedua, Departemen Pendidikan Nasional, Universitas Terbuka, Jakarta, 2007, page 5

4 Mohammad 'Azzam Manan, Kekerasan Dalam Rumah Tangga Dalam Perspektif Sosiologis, *Jurnal Legislasi Indonesia*, Vol. 5, No. 3, September 2008, page 9-34

5 Haiyun Nisa, Gambaran Bentuk Kekerasan Dalam Rumah Tangga Yang Dialami Perempuan Penyintas, *Gender Equality: International Journal of Child and Gender Studies*, Vol. 4, No. 2, September 2018, page 57-66

6 Mahfud, Rizanizarli, Domestic Violence against Women in Indonesia: The Recent Domestic Violence Elimination Law Analysis, *Fiat Justisia: Jurnal Ilmu Hukum*, Vol. 15, No. 4, October-December 2021, page 385-398.

7 Mery Ramadani, Fitri Yuliani, Kekerasan Dalam Rumah Tangga Sebagai Salah Satu Isu Kesehatan Masyarakat Secara Global, *Jurnal Kesehatan Masyarakat Andalas*, Vol. 9, No. 2 2015, page 80-87

new from the sociological perspective of Indonesian society.<sup>8</sup> In addition, domestic violence takes place in a legal institution (marriage), as a result, personally gives a natural attitude to every wife who is exposed to domestic violence.

In resolving domestic violence cases, the police are the first and foremost person in handling this domestic violence case. Protection for victims of domestic violence is carried out for the police from the Women and Children Protection Unit (PPA Unit) which was formed by the National Police Chief Number 10 of 2007 concerning the Organization and Work Procedure of the Women and Children Protection Unit (PPA Unit). The rules here emphasize that the PPA Unit is tasked with providing protection services for women and children who are victims of crimes and law enforcement against the perpetrators. Then the procedure refers to Perkapolri No. 3 of 2008 concerning the Establishment of a Special Service Room which reveals the task of the PPA Unit to provide protection for women and children who are victims of criminal acts.

The purpose of writing this research is to find out and describe the data which, after previously explained, shows that the settlement of cases of domestic violence is very important that is enforced by the police investigators.

## **B. RESEARCH METHODS**

This study used an empirical juridical approach method with legal research that examines the applicable legal provisions and what happens in reality in society or research conducted on the actual conditions that occur in society, with the aim of finding facts that are used as research data and then the data analyzed to identify problems that ultimately lead to problem solving.<sup>9</sup> Empirical legal research or socio legal which was another approach model in researching law as an object of research.<sup>10</sup> To obtain the data needed in this paper, a library research method was used, by studying literature books, magazines, bulletins and journals, internet sources, papers and studying the laws and regulations that have to do with the problem to be discussed.<sup>11</sup>

## **C. RESULTS AND DISCUSSION**

### **1. Legal Protection in Cases of Domestic Violence at The *Asahan* Police**

Violence, especially domestic violence, is a violation of human rights and a crime against human dignity and is a form of discrimination.

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8 Darania Anisa, Kholifatun Nur Mustofa, Problematika Tindak Pidana Kekerasan Dalam Rumah Tangga (KDRT) (Perspektif Sosiologi Hukum), *Jurnal Kajian Gender & Anak*, Vol. 05 No. 2, Desember 2021, page 115-128

9 Kornelius Benuf, Muhamad Azhar, Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer, *Jurnal Gema Keadilan*, Vol. 7 Edisi I, Juni 2020, page 20-33

10 Depri Liber Sonata, Metodologi Penelitian Hukum Normatif & Empiris: Karakteristik Khas dari Metode Meneliti Hukum, *Fiat Justisia Jurnal Ilmu Hukum*, Vol. 8, No.1, 2014, page 15-35

11 Soerjono Soekanto, *Pengantar Penelitian Hukum*, UI-Press, Jakarta, 1986, page 10

Violence in any form and carried out for any reason is a form of crime that cannot be justified.<sup>12</sup> Acts of violence against children are not only perpetrated by parents against their biological children or stepchildren, but also against housemaids who are not yet adults. This act of violence against children includes cases of domestic violence.<sup>13</sup>

The forms of domestic violence contained in Act No. 23 of 2004 concerning the Elimination of Domestic Violence (KDRT), the types of violence classified as domestic violence are: first, open violence, namely physical violence that can be seen, for example fighting, hitting, kicking, grabbing, pushing to kill. Covert violence, which can be called psychological or emotional violence, is usually hidden in nature, for example threats, insults, ridicule that causes the victim to have difficulty sleeping, lack of confidence, helplessness, terror and the desire to end his life appears. Third, sexual violence, is violence carried out to satisfy sexual (physical) and verbal desires. Physical examples are sexual harassment (touching, touching intimate organs, kissing and forcing beyond force), while verbal such as making comments / nicknames that mock nature and making pornographic expressions / gestures. Fourth, financial violence, is violence that is carried out in the form of exploitation, manipulation and control of the victim, beyond forcing the victim to work and taking the property of a partner without their knowledge.<sup>14</sup>

Based on data from the PPA unit of the *Asahan* Police, the number of cases of domestic violence (KDRT) in 2017 was 42 cases, 2018 was 36 cases, 2019 was 30 cases and 2020 the number of domestic violence cases rose to 44 cases.<sup>15</sup> The data includes cases of domestic violence in 2017-2019 the total cases fell, but cases of domestic violence increased again in 2020.

The criminal act of domestic violence is very common talk among the public. Domestic violence often occurs due to several factors, among which are economic factors that occur in the household as was the case between husband and wife or parents and children.<sup>16</sup> In general, acts of domestic violence involve the perpetrators and victims as family members in the house. Common forms of violence include physical violence, as well as verbal violence (threats of violence). Perpetrators

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12 Agung Budi Santoso, Kekerasan Dalam Rumah Tangga (KDRT) Terhadap Perempuan: Perspektif Pekerjaan Sosial, *KOMUNITAS: Jurnal Pengembangan Masyarakat Islam*, Vol. 10 No. 1, Juni 2019, page 39-57

13 Abu Hanifah, Permasalahan Kekerasan Dalam Rumah Tangga & Alternatif Pemecahannya, *Jurnal Penelitian & Pengembangan Kesejahteraan Sosial*, Vol 12, No. 03, 2007, page 45-56

14 Interview with Ipda Rispita Nainggolan, (Head of PPA Polres Asahan), 13 October 2021 at 11:00 AM.

15 Interview with Ipda Rispita Nainggolan (Head of UPPA Polres Asahan), 06 October 2021, 09.00 Am.

16 Jehan Bestari Amartiwi, Sugiharto, Legal Protection of The Children on Violence By The Parents (a Study in Demak), *Jurnal Pembaharuan Hukum*, Vol. V, No.1, April-Agustus 2018, page 116-124

and victims of domestic violence usually happen to anyone, not limited to strata, social status, education level and ethnicity.

In Article 1 point (1) of Act No. 23 of 2004 concerning the Elimination of Domestic Violence, it is stated that Domestic Violence is: "Any treatment against individuals, especially women, which results in physical, sexual, psychological suffering and neglect. In the household, including threats to carry out treatment, coercion, deprivation of liberty against the law in the scope of the household.

The Law on the Elimination of Domestic Violence was born to save victims of domestic crimes. The issue of violence against women and the birth of legal instruments to eliminate domestic violence against women in Indonesia cannot be separated from the contribution of the women's movement in advancing women's rights,<sup>17</sup> here is a good sign for victims of domestic violence, because they are able to sue and are protected against the law. The issuance of various treaties and laws from a gender perspective to protect women from human rights violations cannot fully guarantee them against human rights violations.

There needs to be intervention and awareness from various parties, both parties who commit domestic violence, victims, and parents. The existence of community leaders in solving domestic violence problems is also considered important, because community leaders have a big role to help the community in solving various problems, including cases of domestic violence. Community leaders in overcoming this are the Head of RT/RW, Village Head, and Ulama (Religious Leaders). Intervention from these parties is needed to reduce the increasing number of domestic violence cases.<sup>18</sup>

Among the legal innovations carried out beyond Act No. 23 of 2004 concerning the Elimination of Domestic Violence, especially law enforcement officers in serving victims of domestic violence, especially beyond the regulation of protection mechanisms in courts for the safety of victims, is the matter of protection mechanisms in courts for the safety of victims.

The police must immediately explain the victim's right to service/support when they receive a report of a domestic violence incident. When the police receive a report regarding a case of domestic violence, they must immediately explain the rights of the victim to receive services and assistance. In addition, it is also very important for the police to introduce their identity and emphasize that domestic violence is a crime against humanity so that it is the duty of the police to protect victims.<sup>19</sup>

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17 Maria Silvy E. Wangga, R. Bondan Agung Kardono, Alternatif Penyelesaian Kekerasan Terhadap Perempuan, *ADIL: Jurnal Hukum*, Vol. 9, No.2, 2018, page 78-93

18 Indira Swasti Gama Bhakti, Tri Agus Gunawan, Upaya Preventif Aparat Desa dalam Penanggulangan Kasus Kekerasan dalam Rumah Tangga, *Journal of Public Administration and Local Governance*, Vol. 4, No.1, 2020, page 49-64

19 Grees Thelma Mozes, Peran Penegak Hukum Dalam Penghapusan Kekerasan Dalam Rumah Tangga, *Jurnal Hukum Unsrat*, Vol. 23, No. 8, 2017, page 15-26

Broadly speaking, the mission of the police is not only as a law enforcement agency, but also to maintain security and public order and morality (order maintenance officer). In other cases, police missions can be divided into preventive and repressive activities. Preventive efforts have been carried out to prevent the occurrence of crimes that confuse residents, and the police after carrying out repressive efforts beyond a series of criminal investigations. The goal is that the perpetrators of criminal acts can be tried and punished accordingly (if proven). The repressive activities are designed to restore the excitement engendered by criminal behavior.<sup>20</sup>

In protecting victims of domestic violence, law enforcement officers are able to work together beyond health workers, social workers, related social institutions and peer volunteers to help victims. This is clearly explained in Articles 21 to 24 of Act No. 23 of 2004 concerning the Elimination of Domestic Violence.

If considering a violent crime handling scheme beyond the criminal justice mechanism, the police play a law enforcement function. The function of the police as a law enforcement agency in general is that the public expects criminal law enforcement to go beyond preventing the public from becoming victims of crime and solving crimes that are committed beyond arresting and prosecuting the perpetrators. In efforts to tackle violence and serious crimes, the public urges the police to act quickly in fulfilling their law enforcement duties.

The role of the police in dealing with domestic violence cases is also assisted beyond other law enforcement roles such as the role of advocates and the role of the courts. As stipulated in Act No. 23 of 2004 regarding the elimination of domestic violence, as follows:

The police as one of the spearheads of law enforcement in the archipelago, it is very important to have the widest possible knowledge of Indonesian laws and regulations. The goal is that law enforcement officers when considering a case of a criminal act or violation of the law are able to act properly, knowing which article in the regulation can be used as the basis for an investigation.

## **2. The Role of *Asahan* Police Investigators in Criminal Acts of Domestic Violence Case**

The process of investigation, prosecution, and court examination of the crime of domestic violence is carried out in accordance with the provisions of the applicable criminal procedural law and the imposition of Act No. 23 of 2004 concerning the Elimination of Violence. The handling of domestic violence cases goes beyond criminal law, based on Act No. 23 of 2004 concerning the Elimination of Domestic Violence, referred to as handling cases in an integrated criminal justice mechanism. Comprehensive means that when considering cases of domestic violence,

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20 M.Khoidin & Sadjijono, *Mengenal Figur Polisi Kita*, Laksbang, Yogyakarta, 2007, page 58

not only suspects/perpetrators of violence are prosecuted, but also the rights of victims and methods of recovery.<sup>21</sup>

Agree beyond the formulation of the Articles of protection for victims of domestic violence in Act No. 23 of 2004, there are stages in the protection of victims of domestic violence. Protection of victims of domestic violence at the preventive and repressive stages. Preventive legal protection aims to prevent disputes from occurring, which directs government actions to be careful in making decisions based on discretion, and repressive protection aims to resolve disputes, including their handling in the judiciary.<sup>22</sup> Repressive legal protection that aims to resolve problems or disputes that arise.<sup>23</sup>

Temporary protection is the direct provision of protection for victims of domestic violence against the police and/or social institutions and other parties beyond the issuance of a protection order in court. It is very important for the wife of a domestic violence victim to be given temporary protection immediately because if the victim has to wait for the court to issue a protection order, it is feared that the mechanism here will take a long time, while the victim must be protected in a relatively short time. The urgency of temporary protection here applies especially to victims who are vulnerable to further violence against their husbands after they report their cases to the authorities.

Victims of domestic violence sometimes experience physical or mental suffering and therefore need medical help as soon as possible. Because if a wife who experiences domestic violence reports her husband to the police, it is feared that the husband will be more violent towards him after the wife returns home because there is no legal protection from the police and or court.<sup>24</sup> In line with these problems, victims of domestic violence really need a safe place to live or an alternative place to live that can guarantee a sense of security. The form of protection obtained by the *Asahan* Police for victims of domestic violence against the PPA Unit of the *Asahan* Police is to provide a special service room/safe house that is specifically applied to victims of domestic violence or children as victims. The purpose of holding a safe house is to prevent victims of domestic violence from getting repeated violence

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- 21 Dominggus Steven Djilarpoin & Sherly Adam, Pemenuhan Hak-Hak Korban Kekerasan Dalam Rumah Tangga (Studi Pada Polres Kepulauan Aru), *Jurnal Kreativitas Mahasiswa Hukum*, Vol. 1 No. 1, April 2021, page 14-23
  - 22 Syahrul Ramadhon, AAA. Ngr. Tini Rusmini Gorda, Perlindungan Hukum Terhadap Perempuan Sebagai Korban Kekerasan Dalam Rumah Tangga Secara Preventif & Represif, *Jurnal Analisis Hukum (JAH)*, Vol. 3, No. 2, September 2020, page 205-217
  - 23 Zennia Almada, Moch. Najib Imanullah, Perlindungan Hukum Preventif & Represif Bagi Pengguna Uang Elektronik Dalam Melakukan Transaksi Tol Non Tunai, *Privat Law*, Vol. 9, No. 1, 2021, page 218-226
  - 24 La Jamaa, Perlindungan Korban Kekerasan Dalam Rumah Tangga Dalam Hukum Pidana Indonesia, *Jurnal Cita Hukum*, Vol. I No. 2 Desember 2014, page 249-272

against perpetrators of violence. In this case, the perpetrator is no longer able to carry out violence against the victim.<sup>25</sup>

In order to further strengthen the protection mechanism for victims of domestic violence, Act No. 23 of 2004 has several stages, namely the preventive stage through temporary protection from the police and/or court protection, placing the victim in a "safe house," and a curative stage for both physical and psychological health, and action repressive against perpetrators of domestic violence.<sup>26</sup>

Efforts are being made to the PPA Unit of the *Asahan* Police, such as services to provide a sense of security for victims of domestic violence and to ensure the physical and psychological safety of victims as reporters or victims' witnesses in the *Asahan* jurisdiction. The police also work together beyond the P2TP2A of the *Asahan* Regency Government and the Social Service to provide protection for victims of domestic violence.<sup>27</sup> In addition to temporary protection for the police, permanent protection for the courts, as well as assistance in the mechanism of spiritual guidance and protection of victims in legal mechanisms, another activity that is part of the protection of victims of domestic violence is sentencing. The perpetrator is appropriate beyond the form of domestic violence committed against the victim, because domestic violence is one of the criminal acts.

The determination of a criminal sanction against perpetrators of domestic violence in accordance with the formal law must go through a law enforcement mechanism. The perpetrator cannot be directly punished without undergoing a trial in accordance with the provisions of the criminal procedure legislation. With regard to beyond that, Act No. 23 of 2004 contains strict rules regarding the prosecution of perpetrators of domestic violence. In this evidentiary system, it states that to determine whether or not the defendant is guilty of an action, it is based on and guided by the principles of proof based on evidence that is regulated and explained in the applicable laws and regulations.<sup>28</sup>

Another procedure for the protection of victims of domestic violence carried out against the PPA Unit of the *Asahan* Police is to go beyond the principles of restorative justice. Restorative justice is the settlement of cases outside the trial, where we meet both parties to find the best solution to the problem before sending the case file to the public prosecutor for trial. a justice approach that focuses on the needs of victims, perpetrators of crimes, and involves the public, not just following the law or just filing criminal charges. In this case, the victims are also involved in the said mechanism, and the perpetrators are also encouraged to take responsibility for their treatment, namely correcting

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25 Interview with Bripka Fadlan Noor Manurung (assistant investigator staff), 17 January 2022, 10.00 Am.

26 La Jamaa, *Op.Cit*, page 249-272

27 Interview with Bripka Fadlan, *Op.cit*

28 Alwin Rais Lubis, etc, Pengaturan Hukum Penyebaran Berita Bohong (Hoax) Melalui Media Online, *Jurnal Tectum LPPM Universitas Asahan*, Vol. 1, No. 1, November 2019, page 16-30



the mistakes made, apologizing, returning stolen money / providing public services.<sup>29</sup>

In fact, the perpetrator may not heed the protection order in court. In addition, there are cases of domestic violence that present quite serious pain to victims, and perpetrators perpetrate violence against victims. Based on the case as stated. The police are able to arrest the perpetrators if they find reports of such violence. This is closely related to the existence of domestic violence crimes as a criminal offense against Article 53 of Act No. 23 of 2004. This means that only officers are capable of arresting and detaining perpetrators if there are complaints from victims/other parties. Criminal liability is a form of finding whether a suspect or defendant is responsible for a crime that has occurred.

#### **D. CONCLUSION**

The protection of victims of domestic violence at the PPA Unit of the *Asahan* Police is carried out by maximizing the role of the *Asahan* Police Investigator in eliminating Domestic Violence. Among the legal innovations carried out beyond Act No. 23 of 2004 concerning the Elimination of Domestic Violence, especially law enforcement officers such as the Police, Advocates and courts in providing services and protection for victims of domestic violence, especially beyond the regulation of protection mechanisms in courts for the safety of victims, namely regarding protection mechanisms in courts for the safety of victims.

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29 Hanafi Arief & Ningrum Ambarsari, Penerapan Prinsip Restorative Justice pada mekanisme Peradilan Pidana pada Indonesia, *Jurnal Al 'Adl*, Vol. X, No. 2, 2018, page 177.

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