

## Legal Protection Against Women Victims of Violence in The Household (Case Study In Balikpapan City Area)

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**Abstract.** *This research aims to know and analyze the procedure of legal protection for women victims of domestic violence in Balikpapan City. In addition, this study also examines the legal efforts that can be done in protecting women victims of domestic violence in Balikpapan City. The type of research used is sociological juridical research. In this research, the author uses legal protection theory, legal benefit theory and legal protection theory in Islamic perspective as the theoretical framework. In this case, Law Number 23 Year 2004 is a legal regulation that provides legal protection for women who are victims of domestic violence. In addition, there are several facts that show a consistent increase in the number of cases of violence against women in East Kalimantan Province every year. Based on these events, the author believes that the implementation of legal protection for women who are victims of domestic violence (KDRT) with 3 (three) legal efforts, namely preventive legal efforts, curative legal efforts and repressive legal efforts.*

**Keywords:** *Domestic; Framework; Violence.*

### 1. Introduction

Domestic violence is a type of case that often occurs in our country. Domestic violence has existed for a long time until now. Even the media often shows how this phenomenon or crime is still ongoing and occurs in various circles. Domestic violence is a case that is not uncommon and is even a case with a high number.

In connection with the high number of domestic violence cases in Indonesia, it should be remembered that philosophically the prevention of domestic violence has been arranged in such a way by the founding fathers. Efforts to prevent, protect victims, and take action against perpetrators of domestic violence, the state and society carry out prevention, protection, and prosecution of perpetrators in accordance with the philosophy of Pancasila and the 1945

Constitution of the Republic of Indonesia. The state is of the view that all forms of violence, especially domestic violence, are violations of human rights and crimes against human dignity as well as forms of discrimination.<sup>1</sup>

Indonesia as a state of law (*rechtstaat*) has implications for human rights. Clearly, the conception of *rechtstaat*, and the conception of the rule of law, places human rights as one of the characteristics of a state called *rechtstaat*, and upholds the rule of law. In a democratic state, the recognition and protection of human rights is one of the measures of whether a government is good or bad.<sup>2</sup>

The principle of recognition and protection of human rights above is in line with the principle of legality in criminal law, that no act is prohibited and threatened with criminal punishment if it is not determined in advance in the legislation, which in Latin is known as *nullum delictum nulla poena sine praevia lege poenale* (no offense, no punishment without prior regulation).<sup>3</sup> Clearly, everyone is essentially free from prosecution. In line with this, Osman Abdel Malek al-Saleh stated the principle of legality in Islam, that "no person can be accused of crime or suffer punishment except as specified by law".<sup>4</sup>

Based on the explanation of Law No. 23/2004 on the Elimination of Domestic Violence in general, it is said that the integrity and harmony of a happy, safe, peaceful household is the dream of every person in the household. The Republic of Indonesia is a state based on God Almighty (Article 29 of the 1945 Constitution). Thus, every person within the scope of the household in carrying out their rights and obligations must be based on religion. This needs to be continuously developed in order to build the integrity of the household. To realize the integrity and harmony, it depends on each person in the scope of the household, especially the level of quality of behavior and self-control of each person in the scope of the household. The integrity and harmony of the household can be disrupted if the quality and self-control cannot be controlled, which in turn can lead to domestic violence so that there is insecurity or injustice against people who are within the scope of the household. Based on the explanation of Law No. 23/2004 on the Elimination of Domestic Violence in general, it is said that the integrity and harmony of a happy, safe, peaceful household is the dream of every person in the household. The Republic of Indonesia is a state based on God Almighty (Article 29 of the 1945 Constitution). Thus, every person within the scope of the household in carrying out their rights and obligations must be based on religion. This needs to be continuously developed in order to build the integrity of the household. To realize the integrity and harmony, it depends on each person in the scope of the

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<sup>1</sup> Fathul Djannah et al., *Violence Against Wives* (Yogyakarta: LkiS, 2007), 10.

<sup>2</sup> Philipus M. Hadjon, *Protection for the People in Indonesia*, First Edition (Surabaya: PT. Bina Ilmu, 1987), 38.

<sup>3</sup> Roeslan Saleh, *Criminal Acts and Criminal Responsibility Two Basic Concepts in Criminal Law*, 3rd ed. (Jakarta: Aksara Baru, 1983), 38.

<sup>4</sup> Osman Abdel Malek al-Saleh, "The Right of the Individual to Personal Security in Islam," in *The Islamic Criminal Justice System* (London: Oceana Publication Inc., 1982), 58.

household, especially the level of quality of behavior and self-control of each person in the scope of the household. The integrity and harmony of the household can be disrupted if the quality and self-control cannot be controlled, which in turn can lead to domestic violence so that there is insecurity or injustice against people who are within the scope of the household.<sup>5</sup>

Domestic violence according to Law No. 23/2004 on the Elimination of Domestic Violence is any act against a person, especially against 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.

This definition can be interpreted that domestic violence is a form of violence given by one family member to another family member. The scope of the household according to Article 2 of Law of the Republic of Indonesia Number 23 of 2004 on the Elimination of Domestic Violence is the husband, wife, children, and people who have a family relationship due to blood, marriage, breastfeeding, parenting, and guardianship as well as people who work to help the household and live in the household.

The explanation in the article can be seen that victims of domestic violence are not only wives or children but also all those included in the scope of the household. This certainly illustrates that the family, which is supposed to provide protection and security, can instead become a provider of pain not only physically, but also psychologically, economically, neglect and other forms of violence which will certainly have a negative impact on the victim.

The family is essentially the closest environment that not only arises because of blood relations but also because it is in a scope that has the greatest intensity of meetings. But in reality there is still a lot of violence that arises within the family.

Victims of domestic violence may feel deeply traumatized by the violence they experience. This violence is not a family affair but must receive attention from all parties including the community, especially in the event of domestic violence in the surrounding environment.

The rise of domestic violence cases is of course influenced by several factors that are the cause or reason for violence within the scope of the household. This obstacle is certainly not only related to the economy considering that there are still many cases of domestic violence that occur in the family environment as often displayed or shown in the media from various circles. Therefore, domestic violence must receive optimal attention from various parties.<sup>6</sup>

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<sup>5</sup> Makarao MT et al., *Child Protection Law and the Elimination of Domestic Violence* (Jakarta: Rineka Cipta, 2013).

<sup>6</sup> Rika Araswati, *Women and the Resolution of Domestic Violence* (Bandung: PT. Citra Aditya Bakti, 2009), 2.

One of the victims of domestic violence that often occurs are children who are weak creatures and certainly need special protection. The impact of violence on children can provide pain not only physically but also psychologically and can even cause deep trauma. Likewise, wives who are also the most common victims of domestic violence cases not only get physical injuries but can provide injuries that cause the victim's psychological or psychic disturbance. Based on data from the Online Information System for the Protection of Women and Children (Simfoni PPA), the number of cases of violence against women and children has increased every year. In 2019 the number of violence against children was 11,057 cases, which then increased in 2020 with 11,278 cases and in 2021 also experienced a fairly high increase with 14,571 cases. Apart from violence against children, data on violence against women has also increased every year. In 2019 the number of cases of violence against women was 8,864 cases, then in 2020 it increased with 8,686 cases and in 2021 cases of violence against women experienced a fairly high increase with 10,368 cases.<sup>7</sup>

Given the impact of domestic violence on victims, maximum protection is needed for victims as regulated and guaranteed by the state. This protection is a form of victim rights obtained in realizing justice and optimal law enforcement. Various forms of protection to victims are expected to provide a form of recovery and justice to victims so that victims can recover and continue their lives as they should. Various laws and regulations have regulated the protection of victims, but in its implementation there are still many victims who have not received maximum protection. Meanwhile, legal protection for victims is one of the rights given by the state to its citizens as regulated in our positive law, namely Law Number 23 of 2004 concerning the Elimination of Domestic Violence, Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Witness and Victim Protection, Law Number 1 of 1964 concerning the Criminal Code, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, Law Number 39 of 1999 concerning Human Rights. Various regulations have explained that victims have special rights as a form of protection and recovery provided by the state.<sup>8</sup>

Although there is still a stigma in society that everything that happens within the family, including violence, is a disgrace that must be kept secret, the state must protect every citizen in obtaining security, justice and a decent life.<sup>9</sup>

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<sup>7</sup> Ardito Ramadhan, "Reports of Cases of Violence Against Children and Women Have Increased in the Last 3 Years" (Jakarta, 2022), 1, <https://nasional.kompas.com/read/2022/01/20/12435801/laporan-kasus-kekerasan-terhadap-anak-dan-perempuan-meningkat-3-tahun>.

<sup>8</sup>Badriyah Khaleed, 2015, *Legal Settlement of Domestic Violence and Recovery Efforts*, Pustaka Yustisia, Yogyakarta, p. 11.

<sup>9</sup> Badriyah Khaleed, *Legal Resolution of Domestic Violence and Efforts to Restore It* (Yogyakarta: Pustaka Yustisia, 2015), 11.

Balikpapan City is one of the cities in East Kalimantan with a high number of domestic violence cases. Based on data from the East Kalimantan Regional Police (POLDA KALTIM) there was a significant increase from 2021 to 2024 related to domestic violence in the form of physical violence. Where, in 2021 there were 9 reports, in 2022 there were 20 reports, 2023 there were 43 reports, and most recently in 2024 (until May) there were 12 reports.<sup>10</sup>

## 2. Research Methods

The type of research used is sociological juridical research. Sociological juridical is an approach based on binding norms or regulations, so that it is hoped that this approach can be known how the law, which is empirically a symptom of society, can be studied as a causal variable that has consequences on various aspects of social life.<sup>11</sup>This type of juridical-sociological research uses primary data, where the primary data is obtained directly from the source so that it is still raw data. The approach method used in this research is the juridical-sociological approach method, which can be interpreted that in writing this thesis using primary data, where the primary data is directly obtained from the source so that it is still raw data. The specifications in this juridical-sociological research are descriptive-analytical, which has the intention of being able to provide a complete and written description of the results of library research.

## 3. Result And Discussion

### 3.1. Procedures for Legal Protection of Women Victims of Domestic Violence in Balikpapan City Area

Violence should not occur within the scope of the household, because the household is a place of shelter and protection for each family member. Violence within the household can be dealt with through the legal system, but violent behavior by alleged perpetrators or perpetrators against victims within the household tends not to be resolved through the law directly. One explanation is that women who experience violence try to hide the situation from others, perhaps out of shame or because they value the peace of the family/household.<sup>12</sup>

In this case, Law No. 23/2004 is a legal arrangement that provides legal protection for women who are victims of domestic violence. The purpose of this law is to protect victims. This is certainly a positive step forward, as victims of domestic violence can feel safer knowing that they are legally protected. The laws of law are very important to achieve the existence of a condition of legal order, so this is an urgency because laws are the fundamentals of law. In addition, there are several facts that show a consistent increase in the number of cases of violence against women in East Kalimantan Province each year. Data on the level of

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<sup>10</sup> East Kalimantan Regional Police, "Recap of the Number of Data on Handling of Cases of Violence Against Women by the East Kalimantan Regional Police from 2021 to 2024," 2024.

<sup>11</sup> Ronny Hanitijo Soemitro, *Legal Research Methodology and Jurimetrics* (Bandung, 1990), 34.

<sup>12</sup> Maulana M., *Formation of the Law on the Elimination of Domestic Violence and its Urgency for Family Resilience* (Banda Aceh: Indonesian Constitutional Study Institute (LKKI), 2021), 1.

violence in various regions in East Kalimantan Province, as a sample, the number of reported violence in 2021 to 2024 (from January to May) as contained in the following table:

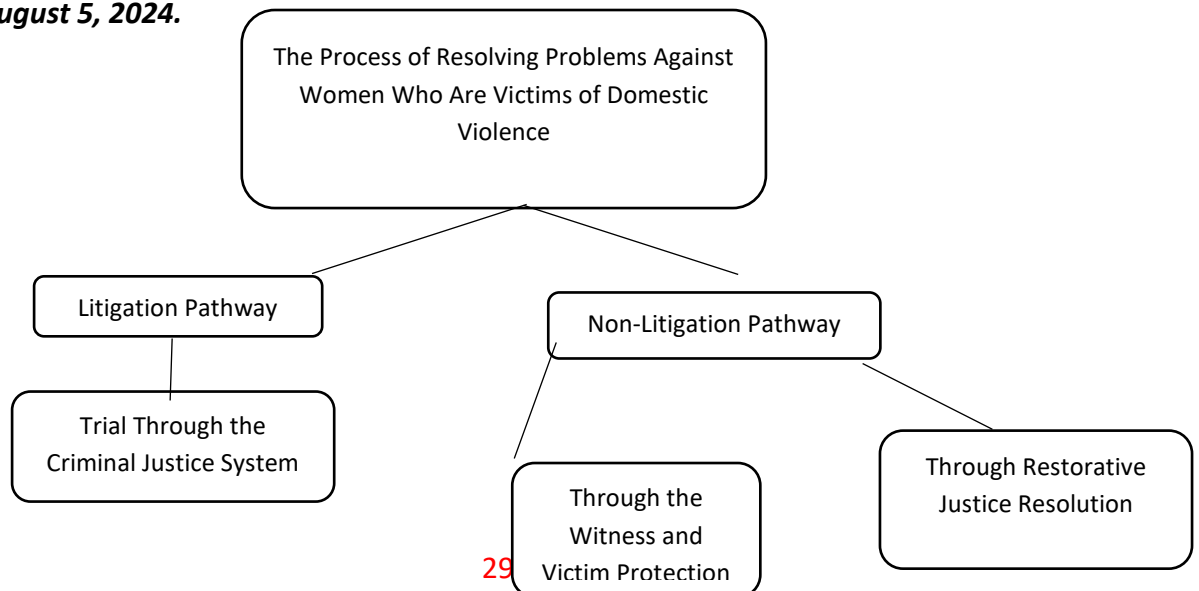
**Recap of Total Data on Handling Cases of Violence Against Women of East Kalimantan Regional Police from 2021 to 2024 (Jan to May)**

NO	JENIS TP	JUMLAH LP	TAHUN 2021		TAHUN 2022		TAHUN 2023		TAHUN 2024 (SD MED)		JUMLAH	
			CT	CC	CT	CC	CT	CC	CT	CC	CT	CC
1	KDRT (UU NO 23/2004)											
	KEKERASAN FISIK PASAL 44		9	9	20	19	43	25	12	11	84	64
	KEKERASAN PSIKIS PASAL 45											
	KEKERASAN SEKSUAL PASAL 46											
	PEMAKSAAN HUB SEKSUAL PASAL 47 & 48											
	PENELANTARAN PASAL 49											
2	PERKOSAAN PSL 285,286 KUHP				1	1	1	1			2	2
3	PENCABULAN PSL 289,290 KUHP		6	2	2	1	1				9	3
4	PERZINAHAN PASAL 284 KUHP		3	2	3	3	4	1			10	6
5	EKSPLOITASI SEKSUAL UU TPPO				4	21	17	2			21	19
6	PORNOGRAFI/AKSI UU PORNOGRAFI					1	1				1	1
7	PEMBUNUHAN PSL 338, 340 KUHP					1	1				1	1
8	PENGANIAYAAN PSL 351 SD 355 KUHP				10	10	30	23	13	10	53	43
9	TPKS (UU NO 12/2022)											
	A. Pelecehan Seks Non Fisik PASAL 5											
	B. Pelecehan Seks Fisik PASAL 6						5	5	2	2	7	7
	C. Pemaksaan Kontrasepsi PASAL 8						2	2			2	2
	D. Pemaksaan Sterilisasi PASAL 9											
	E. Pemaksaan Perkawinan PASAL 10											
	F. Penyiksaan Seksual PASAL 11											
	G.Eksploitasi Seksual PASAL 12		5	4			16	11			21	15
	H. Perbudakan Seksual PASAL 13											
	I. Kekerasan Seks Berbasis Elektronik PASAL 14											
10	Tindak pidana lain											
	<b>JUMLAH TOTAL</b>		<b>23</b>	<b>17</b>	<b>36</b>	<b>38</b>	<b>125</b>	<b>87</b>	<b>29</b>	<b>12</b>	<b>211</b>	<b>163</b>

CT = CRIME TOTAL

CC = CRIME CLEARANCE

**Source:East Kalimantan Regional Police, Recap of Total Data on Handling Cases of Violence Against Women of East Kalimantan Regional Police from 2021 to 2024, processed August 5, 2024.**



Based on the flow chart above, according to the author's view, the process of solving problems for women who are victims of domestic violence can be through formal law. Formal settlement of domestic violence cases (KDRT) can be done through litigation or non-litigation channels divided into 2 (two) stages, namely:

1) Litigation

Based on Article 54 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence which reads:

*"Investigations, prosecutions, and examinations in court sessions are carried out in accordance with the provisions of the applicable criminal procedure law, unless otherwise specified in this Law."*

In the provisions of the above article, domestic violence cases can be resolved through legal proceedings in court. The implementation of the criminal justice system is carried out with the Criminal Code as the basic and fundamental basis of the law (formal) and the Criminal Code as a process to implement the mechanism of the criminal justice system, where the police function as investigators. Cases can only be processed after a complaint has been received from the victim or the public, which indicates suspicion of criminal activity. The police can then pursue the victim's complaint by conducting a thorough investigation.

For the purpose of case development, the police are given the authority to appoint suspects and detain them when necessary. The findings of the investigation and investigation were submitted to the Public Prosecutor (JPU). In this case, the prosecutor assumes the responsibility to further investigate the case with investigators, to gather additional information from the victim and the suspect. In addition, the prosecutor also has the authority to detain suspects. If the prosecutor has a conviction that the documents are sufficient to be valid and authentic evidence, then the documents will be submitted to the court for trial.

After reaching the scope of the trial, the status of the suspect was changed to the status of a defendant. The judge in the process of examining the case, is authorized to request information from the victim, the defendant, and other witnesses. Even the judge has the authority to unite victims and suspects in court. During the trial process in court, there was significant interaction between the defendant and various individuals including the victim, detention center/correctional institution officers, court clerks, public prosecutors, and judges. Such interactions are intense and occur regularly during the trial. In the criminal justice system regulated by the Criminal Code, suspects or defendants are given a greater opportunity to engage with law enforcement compared to victims. The victim only engages in interactions during the examination in court. The victim was never consulted or notified when investigators communicated or submitted the case file to the public prosecutor. In essence, the Criminal Code

does not provide access to the Public Prosecutor before the examination process reaches the Court.

## 2) Non-litigation

Domestic violence cases can be resolved outside the court, for example through mediation with the help of the Witness and Victim Protection Institute or through restorative justice.

First, the function of LPSK in upholding the rights of crime victims to obtain justice through restitution is explained in Article 7A paragraph (1) of Law Number 31 of 2014 which is an amendment to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, which reads:

*(1) Victims of criminal acts are entitled to restitution in the form of:*

- a. compensation for loss of wealth or income.*
- b. compensation for damages incurred as a result of suffering directly related as a result of a criminal act and/or.*
- c. reimbursement of medical and/or psychological treatment costs.*

This provision articulates the responsibility of the institution to ensure that victims are adequately compensated for their losses.

Then, in Article 98 paragraph (1) of Law Number 8 of 1981 concerning the Criminal Procedure Code, which reads:

"If an act that is the basis of an indictment in an examination of a criminal case by the District Court causes harm to another person, then the presiding judge at the request of that person may decide to combine the case of a lawsuit for damages to the criminal case."

The above article indicates that if the actions on which the charges are based in a case filed by the public prosecutor in court result in harm to the victim, the victim has the right to file a claim for compensation with the public prosecutor. The judge may then consider consolidating the victim's compensation claim with the criminal case during the trial. Therefore, it is anticipated that a large number of future judges' rulings will not only punish and impose fines on perpetrators, but will also include restitution mandates for individuals involved in domestic violence crimes.

In this case, the Investigator and the Public Prosecutor are obliged to inform the victim about their right to apply for restitution. This is to ensure that victims can exercise their right to seek justice. Coordination between various parties, including victims' companions, law enforcement officials, social services, health services, and other relevant agencies, is essential. This collaboration is needed to ensure that perpetrators of criminal acts receive the heaviest punishment, so that they can help prevent the recurrence of domestic violence crimes against other victims. As well as restoring the dignity of victims as human beings with various rehabilitation programs and the provision of restitution. It is important



to prioritize the restoration of victims' dignity through various rehabilitation initiatives and restitution facilities.

Second, the settlement of domestic violence cases through the concept of restorative justice depends on the victim submitting a report to the police, where the investigator can then process the case. Submission or reporting from the victim is very important so that the case can be investigated and handled properly through the practice of restorative justice. Based on the Regulation of the National Police Chief Number 8 of 2021 concerning the Handling of Restorative Justice-Based Cases, there are technical stages that must be passed after reporting domestic violence, namely:

- 1) Carry out investigations on perpetrators, whistleblowers and witnesses who know of the domestic violence case. Furthermore, the investigator will continue to complete documents related to the administration of the investigation.
- 2) Carry out the title of the case. The investigation process consists of a series of actions taken by investigators to search for and find an event that is suspected of being a criminal act. This process aims to ensure whether an investigation can be carried out in accordance with the provisions that have been normed in the legal arrangements.
- 3) Ensuring that the status of a case can be followed up to the investigation level or not, in the event that the case is considered to need to be upgraded to an investigation, then the case is presented in the form of a case title that contains the results of the initial case analysis. The examination steps are presented in a systematic format and detailed in the form of news reports.
- 4) When dealing with a case of domestic violence, it is necessary to contact the reported or suspected perpetrator. After that, a series of investigations were carried out and restorative justice measures related to the incident were carried out. This includes methods to find solutions related to the restoration of harmony in domestic relationships. However, if the parties involved are unable to reach an agreement during the mediation conducted by the authorities, the matter will be brought to the process to address the lack of consensus, thus leading to further legal action. If mediation is successfully carried out with the victim, then the parties must prepare a peace letter. Furthermore, the victim must issue a letter of revocation of the Police Report (LP) in front of witnesses from local administrative units (RT and RW), family members, and investigating officers. Victims must declare their intention to drop the charges and formally file a request for revocation with law enforcement authorities. This action indicates that the complainant no longer wants to continue the case, which results in the termination of the prosecution process. These changes are omitted for clarity and smoothness.
- 5) The final step is to carry out the act of binding legal documents and submit them to the prosecutor's office, or the decision to withdraw the charges, involving a complicated process that must be followed carefully. Furthermore,

hand over the Suspect's Personal Data Profile Letter (SPDP) document to the Prosecutor within a maximum of 7 (seven) days from the start of the investigation process. In the event that investigators have commenced an investigation into an incident that qualifies as a criminal offense, they are required to immediately notify the public prosecutor. After that, the submission of SP2HP (Notification and Development of Investigation Results Letter), in which the police authorities disseminate information to the public regarding the development of cases under their jurisdiction.

However, there are several provisions and conditions that must meet the settlement of domestic violence through restorative justice based on Attorney General's Regulation Number 15 of 2020 regarding the requirements for carrying out restorative justice, namely:

- 1) The criminal act committed by the perpetrator is a minor criminal act (tipiring) and is committed for the first time (not recidivist);
- 2) Material or immaterial losses incurred are a maximum of IDR 2,500,000.00 (two million five hundred rupiah);
- 3) There is an agreement between the parties (perpetrator and victim);
- 4) Criminal offenses are only threatened with a fine or imprisonment for a maximum of 5 (five) years;
- 5) The perpetrator is obliged to return the goods that have been stolen, or confiscated, or obtained from criminal acts committed against the victim;
- 6) The perpetrator compensates the victim;
- 7) The perpetrator is obliged to reimburse the costs (compensation) incurred as a result of the criminal offense and/or repair the damage caused by the impact of the criminal offense.

### **3.2.Implementation of Legal Measures in the Context of Protecting Women Victims of Domestic Violence in the Balikpapan City Area**

Domestic violence has emerged as a significant social problem in recent decades. According to a World Health Organization (WHO) report, between 40 and 70% of women are victims, this is due to the increasing incidence of domestic violence globally and its huge impact on the well-being of women and children.<sup>13</sup>The implementation of the PKDRT Law has resulted in better protection guarantees for victims of domestic violence, and this law has clarified and strengthened measures aimed at protecting individuals experiencing domestic violence. The PKDRT Law has imposed restrictions on acts of domestic violence, which are defined as any act directed at a person, especially a woman, that leads to physical, sexual, psychological, and/or neglectful harm, including the unlawful use of threats, coercion, or restrictions on freedom within the domestic sphere, which aims to address and prevent instances of abuse and mistreatment in domestic

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<sup>13</sup> Maulana M., Op. Cit, 104–105.

relationships. Meanwhile, what is meant by "household scope" as referred to in Article 2 paragraph (1) of Law Number 23 of 2004 concerning the Elimination of Domestic Violence includes:

- a. Husband, wife, and children
- b. People who have family ties due to blood relations, marriage, breastfeeding, nurturing, and guardianship, who settle in the household
- c. People who work to help the household and settle in the household.

Victims of domestic violence are those who suffer losses in this situation, so victims must get advocacy and obtain their rights. It is important to get the right protection and recovery. So, every victim must know that they are protected by the law as citizens and have the right to receive timely and appropriate treatment. Victims must receive the necessary assistance in order to exercise their rights effectively. In addition, regarding the rights of victims as normatively specified in Article 10 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, namely:

- 1) The victim has the right to receive protection and security from various parties including family, police, prosecutors, courts, lawyers, social organizations, or other parties. This protection can be granted temporarily or through the issuance of a protection order from the court;
- 2) The victim has the right to access health services in accordance with his or her medical condition and needs;
- 3) The victim has the right to receive individual (special) treatment that upholds his or her confidentiality;
- 4) Victims have the right to receive social work assistance and legal assistance during all stages of investigation, in accordance with the provisions of the law; and
- 5) The victim has the right to receive spiritual service.

The occurrence of acts of domestic violence poses a significant threat to women and children. This can cause physical, sexual, psychological, and economic suffering for a family. According to data obtained from the Online Information System for the Protection of Women and Children (Simfoni PPA) as of March 31, 2024, it has been identified that the majority of cases of violence, especially 164 cases, occur in households. In addition, Noryani Soroyalita, Head of the East Kalimantan Province Population, Women's Empowerment, and Child Protection Office (DKP3A), stated that the number of temporary violence cases has increased significantly. In 2021, there were 551 cases reported. In the following year, namely 2022, the number of cases increased to 945. Finally, in 2023, the total number of reported cases increased further to 1108.<sup>14</sup>The prevalence of violence against

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<sup>14</sup> DKP3A East Kalimantan Province, "DKP3A East Kalimantan Holds FGD on Villages/Villages Without Domestic Violence," 2024, 1, <https://dkp3a.kaltimprov.go.id/berita/detail/9cf7187f-5915-475e-badd-af30f1c4940a?new>.

women and children in East Kalimantan is most prominent in three cities. The highest number of cases was reported in Samarinda, with 293 cases, followed by Bontang with 70 cases, and Balikpapan with 51 cases. Then, Domestic Violence (KDRT) is also related to violence against women and violence against children, where the largest form of self-violence today is physical violence as many as 285 cases, sexual violence as many as 228 cases and psychological violence as many as 124 cases.<sup>15</sup>

Based on the above events, the author is of the view that the implementation of legal protection for women who are victims of domestic violence (KDRT) with 3 (three) legal remedies, namely:

1. Legal protection efforts for women who are victims of domestic violence in a preventive manner

Legal protection for women who are victims of domestic violence can be proactively described as legal protection that aims to prevent such violations before they occur. This approach involves implementing measures and protocols to protect the safety and well-being of women who may be at risk of Domestic Violence (KDRT). Preventive legal protection is specified in the Law on the Elimination of Domestic Violence (UUPKDRT) through the identification of domestic violence crimes. This law describes specific restrictions on prohibited behaviors and also aims to provide protection to victims, so it serves as an important tool in preventing and handling cases of domestic violence in society. The implementation of Law Number 23 of 2004 concerning the Elimination of Domestic Violence in law enforcement efforts is very closely related to concrete initiatives aimed at preventing Domestic Violence (KDRT), namely in the following ways:

a. Educating and providing socialization related to the importance of openness in the family

A harmonious family is undoubtedly the dream of every household, as a harmonious family encompasses an environment in which each of its members, including husband and wife, experiences happiness, comfort, and peace in the home. Living in a harmonious family can be done by discussing differences of opinion or differences of opinion that prevent conflicts that end in domestic rifts or divorce. So as to realize a sense of mutual love, mutual protection, mutual care, love, and nurturing. In addition, the harmony of a family also fosters an attitude of tolerance and effective cooperation in fostering an environment of mutual respect, appreciation, and empathy.

To foster harmony in the family, it is very important for each member to foster an open and transparent environment. With this openness, a sense of trust will grow

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<sup>15</sup> Maya Prabawati, "3 Cities in East Kalimantan with the Highest Cases of Violence Against Women and Children" (East Kalimantan, 2022), 1, <https://diskominfo.kaltimprov.go.id/kekerasan/3-kota-di-kaltim-tinggi-kasus-kekerasan-terhadap-perempuan-dan-anak>.

between husband and wife, instead of mutual suspicion and prejudice. In its most basic form, in family financial matters, it would be very beneficial if there was transparency between couples, in order to proactively address potential financial challenges in the future, it is important to be aware of them in advance. This knowledge allows for better strategic preparation and planning. Married and unemployed women should refrain from taking on debt without their husband's knowledge. This is very important, because there may be times when the husband is surprised by the accumulation of debt that exceeds his ability to pay off, and it is appropriate for both partners to communicate openly and transparently regarding financial matters to avoid unpleasant surprises in the future. In the same capacity, the husband must refrain from incurring debts for vague purposes without obtaining his wife's approval.

b. Applying the teachings of cultural culture and religious culture

No member of a household lives without basic values that contribute to the formation of their personality, guide and influence their thought and action processes. Basic values can come from religious doctrines, local customs, or cultural practices prevalent in the area, each tradition and culture has unique positive values that demonstrate its local wisdom. These values vary from culture to culture and extend to the concept of the ideal household.

Although it is widely believed that religion should serve as a primary reference and source of value, beating out other potential sources, such as local cultural traditions and practices often take an important role in guiding daily activities and decisions within households, these customs and traditions often play an important role in shaping the moral compass and ethical framework within a community. which often replaces the influence of religious teachings to a certain extent. The importance of tradition and culture is such that confusion and misinterpretation of their values often give rise to conflicts between individuals, which ultimately leads to incidents of domestic violence. Therefore, it is crucial for husbands, wives, and other household members who have diverse traditional and cultural backgrounds to understand and articulate the good principles of their culture with linguistic and verbal piety. This can be achieved by maintaining polite, calm, peaceful, and friendly speech, and furthermore, everyone has the opportunity to demonstrate their social piety through acts of courtesy, forgiveness, and other similar behaviors.

c. Strengthening the foundation and turning of the family economy

The simple journey of family life with a high level of basic needs no longer seems appropriate in an increasingly complex life with a series of demands that must be met. The complexity of life does not only occur in urban areas, but also in rural areas, with various similarities and differences. An excessively burdened life can cause an emotional imbalance that can trigger the occurrence of Domestic Violence (KDRT). Therefore, each household member is expected to exert efforts in accordance with their respective capacities to strengthen the foundation and

structure of family economic stability. As the head of the household, it is very important for the husband to work diligently and remain steadfast in the face of external pressures that can make him give up his main source of income prematurely.

In addition to fulfilling his primary responsibilities, husbands are also expected to consistently seek opportunities to innovate and develop new creations, although they may not be directly aligned with their primary job. In addition, the wife, as the second main member of the family, can also perform the same duties as her husband, especially if he works in the formal or informal sector. Except for children who are already working, children who are still in school are not obliged to provide additional income for their families, but children have the opportunity to contribute indirectly to the family's finances by saving and asking their parents to provide for their basic needs. Basically, in strengthening the family economy, a family must avoid debt and carry out financial policies for good financial turnover, such as investing in gold, stocks, property, crypto and other investment models.

## 2. Efforts to protect the law for women who are victims of domestic violence through mentoring and services

Therefore, in accordance with Law Number 23 of 2004, the protection of victims of domestic violence does not only include preventive measures. However, this must also be accompanied by curative efforts and victim rehabilitation programs, including:

### a. Spiritual ministry

In this particular scenario, the victims also need support, including guidance from spiritual advisors for spiritual services. Based on Article 24 of Law Number 23 of 2004, spiritual advisors are mandated to provide explanations of rights and obligations, as well as provide encouragement of faith and piety to those affected by Domestic Violence (KDRT). Spiritual services can be provided to wives who are victims of domestic violence by clergy in accordance with their religious beliefs. For victims who are Muslims, spiritual services can be provided by da'i, kiai, or other Islamic religious leaders who have been given authority by the government.

### b. Assistance from social volunteers

Based on Article 23 of Law Number 23 of 2004 explains that in implementing its services, companion volunteers can:

- 1) inform the victim of his right to have one or several companions;
- 2) provide assistance for the benefit of the victim during investigations, prosecutions, or court examinations, ensuring that the victim is guided to objectively and comprehensively explain the domestic violence experienced;
- 3) be a good listener with empathy for all the victim's explanations, thus creating a safe environment for the victim to feel supported and accompanied; and
- 4) actively expressing opinions or recommendations to strengthen the

psychological and physical condition of the victim.

Thus, the presence of accompanying volunteers plays an important role in helping victims in expressing the violence they experience in the household objectively and comprehensively. For this reason, the accompanying volunteers are tasked with listening with empathy to all events experienced by the victim so that they feel safe and accompanied by accompanying volunteers.

c. Health Services

The authority of medical personnel in handling victims of domestic violence (KDRT) has been regulated in Law Number 23 of 2004. Based on Article 40 of Law Number 23 of 2004, health workers are required to conduct an examination of the victims in accordance with their professional standards (SOP). In a scenario where the victim requires medical attention, it is the responsibility of the healthcare professional and the mandate for medical personnel to restore or rehabilitate the victim's health.

In addition, health workers are also mandated and have the responsibility to make reports on the findings of the victim's examination as well as provide *visum et repertum* if requested by police investigators and/or other medical certificates. Therefore, it is important to note that a medical certificate is a valid document and has the same legal force as evidence.

d. Assistance and legal aid rights from advocates

In addition to the assistance and services above, the main fundamental lies in the assistance provided by advocates to victims through litigation (court trials). Based on the explanation in Article 25 of Law Number 23 of 2004 that in terms of providing legal protection and legal aid services, advocates are obliged to:

- 1) recommending legal advice involving the dissemination of information related to victims' rights and informing the stages of implementation of judicial procedures;
- 2) assisting the victim during the investigation, prosecution, and examination stages of the court, by ensuring that the victim fully discloses any incidents of domestic violence she has experienced; or
- 3) collaborating with law enforcement officials, accompanying volunteers, and social workers is essential for the smooth functioning of the judicial process.

3. Legal protection efforts for women who are victims of domestic violence in a repressive manner

Legal protection for women who are victims of Domestic Violence (KDRT) within the scope of repressive legal remedies is a form of legal protection aimed at overcoming the challenges faced by these individuals, namely the victims. This legal protection is the last act that may involve criminal sanctions such as fines, imprisonment, additional punishments, and other sanctions. These consequences can only be enforced in the event of a violation. The repressive protection outlined

in the Law on the Elimination of Domestic Violence is evidenced by criminal sanctions imposed on individuals who violate its provisions. The Law on the Elimination of Domestic Violence outlines two forms of protection, namely:

a. Forms of Temporary Protection from the Police

Regarding temporary protection from the police, based on Article 13 letter a of Law Number 23 of 2004 it is explained that in order to implement services for victims, the local authorities can provide or seek the availability of special service rooms (RPK) at police stations. In this case, the author has an argument that in relation to human resources, the majority of members of the National Police are dominated by men, therefore, in accordance with the provisions that have been normed in Law Number 23 of 2004, a special room called the Special Service Room (RPK) in the police and special female police members (Polwan) were formed so that the victims were not afraid and there was no intervention to show the violence on their face.

In addition, many victims of domestic violence have so far been unable to escape the cycle of abuse, especially due to the victim's reluctance or fear to report the incident to law enforcement officials. One factor that causes fear or reluctance of victims is the attitude of law enforcement officials, who often appear unresponsive, fail to provide adequate protection, and may even blame the victim. This police attitude can further exacerbate the victim's distress and unwillingness to seek help or report crimes.

b. Forms of Temporary Protection from the Court

One of the main protective measures that is the main fundamental of repressive legal protection and available to women who are victims of Domestic Violence (KDRT) is temporary protection and protection ordered by the court. Through the temporary protection process, the victim is expected to get a sense of security from repeated acts of violence from the perpetrator (her husband). Temporary protection from the police is granted up to one week after receiving a report of domestic violence involving the victim.

However, to improve the safety and security of victims, the law specifically mandates that court orders provide protection for a maximum duration of up to one year after a grace period of more than one week. The protection provided by the court may be extended at the discretion of the court. Even based on Article 34 of Law Number 23 of 2004, it has been explained that by considering the potential risks involved, the court has the authority to impose one or more additional conditions in the protection order. This decision is made based on input provided by victims, medical personnel, social workers, support volunteers, and/or spiritual advisors.

Then, to improve the safety and security of victims, the law specifically mandates that court orders provide protection for a maximum duration of up to one year after a grace period of more than one week. The protection provided by the court may be extended at the discretion of the court.



#### 4. Conclusion

The author's conclusion regarding the legal protection of women victims of domestic violence in Balikpapan City shows that although there are conventions and laws to protect women's human rights, guarantees against violations of these rights are still limited. The prevalence of violence often perpetrated by family members, especially husbands, makes detection by outsiders difficult and causes victims to be reluctant to report due to factors such as family relationships and social norms. Although local governments have implemented Law No. 23/2004, cases of domestic violence remain high. Therefore, the author suggests pre-emptive legal efforts and the involvement of psychologists in the legal process, as well as socialization of the impact of domestic violence to the community in Balikpapan.

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