

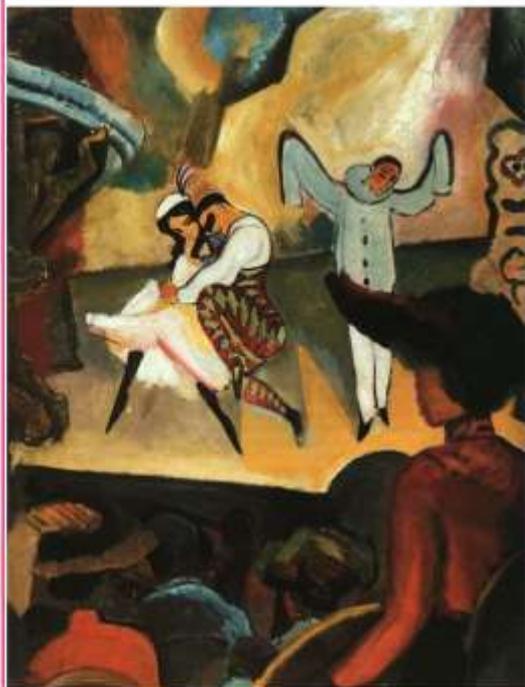
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# Prevention of violence against women in household by the Indonesian laws

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## Abstract

This study will analyze in depth the prevention of violence in household undertaken by the Indonesian government through the laws. This is a normative legal research with descriptive analysis. The results of the research show that in the prevention of domestic violence, Indonesian government has used a specific law and regulation such as Domestic Violence Law 23 of 2004 based on the Declaration of UNO on the Elimination of Discrimination against Women. In conclusion, to prevent violence in household, Indonesia also has used other related laws such as: Marriage Law 1 of 1974, and Human Rights Law 39 of 1999.

**Keywords:** Prevention, Violence, Household, Indonesian Laws.

# Prevención de la violencia contra las mujeres en el hogar por las leyes indonesias

## Resumen

Este estudio analizará en profundidad la prevención de la violencia en el hogar emprendida por el gobierno de Indonesia a través de las leyes. Se trata de una investigación jurídica normativa con análisis descriptivo. Los resultados de la investigación muestran que en la prevención de la violencia doméstica, el gobierno de Indonesia ha utilizado una ley y regulación específicas, como la Ley de

Violencia Doméstica 23 de 2004, basada en la Declaración de la ONU sobre la Eliminación de la Discriminación contra la Mujer. En conclusión, para prevenir la violencia en el hogar, Indonesia también ha utilizado otras leyes relacionadas, tales como: Ley de matrimonio 1 de 1974 y Ley de derechos humanos 39 de 1999.

**Palabras clave:** prevención, violencia, hogar, leyes indonesias.

## 1. INTRODUCTION

The oppression of women is not a new issue. It is something that has long taken place. In primitive times, women are not considered to be of the same type as men, but are treated equally as animals. Women are considered to be low-class and despicable creatures, and they work only to manage the household and increase heredity. In Greece, women are considered to be low-class and despicable creatures, with

the task of simply managing the household and multiplying only birth. When women give birth to a defective baby, they kill the woman.

In Sparta, when women are unable to produce a strong soldier, the women will be sentenced to death. In Rome, women are the perfect embodiment of the devil and various disturbing spirits. Women are considered to have the ability to distort the hearts, minds and thoughts of men. That is why they always commit violence against women. In India and Iran, women are considered lower than animals. Women are regarded as captives and slaves and made merchandise. In China, as it is written in religious books, women are referred to as sicknesses which eliminate fortune and wealth. A husband can easily commerce his wife anytime they want, including also burying him in a state of life (Angbre, 2016; Alqahtani, 2016; Fakunmoju and Bammeke, 2017).

Violence against women has not yet ended. The incident is still in effect, only the shape, scope and its cause are different. In the meantime, malignancy by men is far worse than women. In addition, the violence committed by men is similar to the violence committed by women and only differ in their motives, as said by Gelles, Straus, men are more likely to use serious violence (e.g. punching and kicking), whereas women are more likely to use minor violence (such as throwing things or slapping). In addition, men use violence against their wives to control or to get them to do something whereas women use violence against their husband in self-defense or retaliation, or to

reduce their own tension, or in an attempt to convince their husband to talk .

The study of violence against women in the household has been widely practiced in various perspectives. Studies conducted by Claudia García-Moreno ... (et al.) stated the physical and sexual violence against women by husbands indicates widespread in all of the countries, various forms from country to country, and from setting to setting. Studies conducted by Sharada and Arjun (2007) showed the relationship between dowry and violence. In South Indian village large dowries reduce marital violence in household against women. The study by Chisato (2000) stated that Taiwan considered sexual violence as the more important aspect in household as well as physical violence (Hazrat, 2015; Baba et al., 2016; Basazinewu, 2018).

The case of violence against women has increased in Indonesia. Based on the report of the National Women's Commission (2009), it was stated that in 2008, the number of reported violence was of 54,425 cases, increased by 263 percent in 2009 to 143,586 cases. The figures do not represent the whole number of lawul cases occurring in society. According to the note, many women victims of violence do not report their case to any party with authority for various reasons, such as shame on disgrace, avoiding negative public outcry, longstanding lawlessness and long-running court proceedings (Udeani and Kayode, 2018; Tom and Barbra, 2015; Njagi et al., 2018).

Based on the Declaration of UNO on the Elimination of Discrimination against Women, Indonesia imposed a specific law on

the Elimination of Domestic Violence namely Indonesian Domestic Violence Law 23 of 2004. The Law is intended to promote human rights, to achieve gender equality, to eliminate discrimination and to protect victims of violence, to punish perpetrators and to maintain the harmony of the household. The Law also highlights the roles of government, community, the need for protection and rehabilitation for victims and also provides for sanctions to be imposed on perpetrators (Nafisatou et al., 2005).

## **2. VIOLENCE THEORY**

In this paper, the author uses the aggressive theory of violence. Aggressive action is described as an instinct's drive to harm or injure others both physically and psychologically. Aggressive behavior cannot be separated from the theory of Freud, which states that basically, humans have two instincts, they are sexual instinct and death instinct. In humans, there are two different types of aggression (1) defense aggression, which aims to survive, biologically adapted and occurs only when there is a real threat; and (2) malevolent aggression which aims to get violence and destruction as characteristics of humans. Therefore, in certain circumstances, humans can become crueler than animals. This aggression can be distinguished from two: (1) aggression that contains hostile, characterized by the satisfaction because of the opponent suffered, injured or sick; (2) aggression gives

a certain satisfaction, characterized by the satisfaction because of the opponent failed to achieve the desired object (Tubagus, 2001).

### **3. DISCUSSION**

This study is designed to discuss violence, forms of household violence, parties to protect, what to protect, and related laws. In 1967, the Organization of the United States (UNO) issued a Declaration on the Elimination of Discrimination against Women. The Declaration contains the rights and obligations of women on the basis of equal rights with men and declares that necessary steps be taken to ensure the implementation of the declaration. Since the declaration is nonbinding, the UNO Commission on the Status of Women establishes a conventional draft on the Elimination of All Forms of Discrimination against Women (CEDAW).

Then in the cause of violence rampant against women in Indonesia and based on the CEDAW, the Indonesian government issued Presidential Decree, 181 of 1998 on the National Anti-Violence Commission on Women set on October 9, 1998. Section 1 of the Presidential Decree expressed in the context of the prevention and treatment of violence against women as well as the elimination of all laws of violence committed against women, formed a national commission named National Commission of Violence Against Women.

The Commission has the purposes of (a) disseminating an understanding of all forms of violence against women occurring in Indonesia; (b) developing conducive conditions for the elimination of all forms of violence against women in Indonesia; and (c) increasing efforts to prevent and combat all forms of violence against women and the protection of women's fundamental rights. Therefore, the existence of the National Commission is merely a set of rules in charge of preventive measures against victims of typical violence to women victims and is not a law tool that explicitly takes law against the perpetrator. The existence of this commission is clearly inadequate to provide maximum protection to victims of violence such as women's victims. Finally in 2004, based on Indonesia policy, the Indonesian Five Basic Principles and the Indonesian 1945 Constitution, the Domestic Violence Law 23 of 2004 was approved.

Section 28 G (1) of the 1945 Constitution states, every person is entitled to personal protection, personal, family, honor, dignity, and property property under his control, and shall be entitled to a sense of security and protection against the threat of fear of doing or do not do anything that is a human right. Then section 28 H (2) states, every person is entitled to the privilege and discretion of having equal opportunity and benefits to achieve equality and justice (Ahmed, Umrani, Qureshi & Sarmad, 2018; Ali & Haseeb, 2019; Haseeb, Abidin, Hye, & Hartani, 2018; Haseeb., 2019; Suryanto, Haseeb, & Hartani, 2018).

Both sections clearly provide assurance to every citizen to feel safe and free from all forms of violence. Within the household when it is safe, free from all forms of violence and no discrimination, an intlaw and harmonious household will be born. This means that the integrity and harmony of household, happiness, peace, peace and peace become the dream of everyone in the household. The existence of Law 23 of 2004 has supported the enforcement of domestic violence in Indonesia, and under this law, the police can protect victims along with the certainty of victims in seeking justice. Furthermore, the domestic violence that initially became the personal affairs of each individual, has now become a criminal case into public affairs.

### *3.1. Violence*

Violence contains the meaning of a physical assault or mental integrity of a person's psychology with the intention or to injure his prey. And the word intent contains the main meaning because the word is meant to distinguish the wound from an accident with a wound due to violence. As noted by Elizabeth Kandel Englander (2003), In general, violence is aggressive behavior with the intent to cause harm (physical or psychological). The word intent is central; physical or psychological harm that occurs by accident, in the absence of intent, is not violence.

Radhika Coomaraswamy, said, domestic violence is often, albeit problematically, labeled family violence so that the lawful structure of the family, whether defined as nuclear, joint or single-sex, becomes an important subject of investigation.... At its most complex, domestic violence exists as a powerful tool of oppression and also used to control women in the one space traditionally dominated by women, the home. In the declaration of CEDAW, violence is defined as any law of gender-based violence that results in or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such laws, coercion or arbitrary, deprivation of liberty, whether occurring in public or in private life.

Meanwhile, in the context of household, the Indonesian Law 23 of 2004 states Violence in Household shall be any law against anyone particularly woman, bringing about physical, sexual, psychological misery or suffering, and/or negligence of household including threat to commit law, forcing, or seizure of freedom in a manner against the law within the scope of household. It is explained that family or household in this law includes; husband, wife and child; those who have a family relationship with the husband, spouse and child because of blood relations, marriages, damsels, care, and guardianship, residing in the household; and/or people who work to help households and reside in the household. Furthermore, people who work in helping households and residing in the home are also meant as members of the family within the period of time in the household concerned (Saidi & Siew,

2019).

### *3.2. Forms of Household Violence*

Under the Law 23 of 2004, the forms of domestic violence are physical, psychic, sexual violence; or negligence of household. Physical violence is defined as a law bringing about pain, sickness, or serious injury, while psychic violence is a law bringing about fear, loss of self-confidence, loss of capability to law, helplessness, and/or serious psychic suffering on someone. Sexual violence is defined as forcing sexual intercourse carried out against an individual living within the scope of the household and forcing sexual intercourse against one of the individuals within the scope of the household for commercial purpose and/or certain purpose. While negligence of a household is defined as any law that applies to anyone bringing about economic dependence by limiting and/or prohibiting an individual to work properly inside or outside the house thereby the victim is placed under the control of the individual (Einollahi, 2016)

### *3.3. Parties to Protect*

It is explained that family or household in this law includes; husband, wife and child; those who have a family relationship with the husband, spouse and child because of blood relations, marriages, damsels, care, and guardianship, residing in the household; and/or

people who work to help households and reside in the household. Furthermore, individual working to assist the household and living in the household is also considered as a family member during the period while living in the household in question. This means that those mentioned above, are the parties that are protected by this law (Yang et al., 2019).

### *3.4. What to Protect*

The Indonesian Domestic Violence Law 23 of 2004 is intended to prevent all forms of violence in the household to; protect the victim of violence in the household; take lawion against the perpetrator of violence in the household, and maintain the intlawness of the harmonious and prosperous household. It is meant to prevent, protect victims and violate domestic violence lawors so that it is necessary to arrange for a specific violation of domestic violence that has been subject to specialization even though this matter has already been regulated in the Indonesian Penal Code (hereafter referred to as KUHP) such as persecution, morals, neglect of persons who need to be provided with livelihood and humiliation. Meanwhile, other legal regulations relating to Indonesian domestic violence Law are as Indonesian Marriage Law, 1 of 1974, CEDAW and the Indonesian Human Right Law 39 of 1999 (Soo et al., 2019).

### *3.5. Related Laws*

According to Woolfenden, the law has the function to maintain order and politeness, protecting citizens from offensive and injurious attacks and providing adequate protection from special exploitation and occupation to any vulnerable person. It is clear that only through law state can protect its citizens. Furthermore, Woolfenden said, ... that the function of the law was to 'preserve public order and decency, to protect the citizen from that which is offensive or injurious and to provide sufficient safeguards against exploitation and the corruption of others, particularly those who are especially vulnerable. The seriousness of Indonesia in dealing with all forms of violence including domestic violence has been shown by the issuance of several laws relating to the matter.

Prior to the enactment of Domestic Law 23 of 2004, Indonesia has adopted other laws relating to the prevention of violence in the household such as Indonesian Criminal Code, Indonesian Marriage Law, 1 of 1974, and Indonesian Human Rights Law, 39 of 1999. In the Criminal Code, the abuse includes a persecution in common sense, a persecution causing serious injuries, death, minor persecution, pretraining of preliminary plans, persecution with preliminary plans causing serious injuries, persecution with premature plans causing death, serious persecution, serious persecution causing death, serious persecution with preliminary plans, serious persecution with premeditated plans causing death, persecution of a legitimate mother or father, wife or son, persecution of an office staff when or for the

discharge of their legal duties, persecution by providing material that is harmful to life or health to eat or to drink (Indriastuti, 2019).

#### **4. CONCLUSION**

Domestic violence is a worldwide crime that must be abolished in the world because it does not conform to humanity and justice. This crime can happen at any time and against anyone in the family without distinction of the tribe, nation, race, and religion. This crime both quantitatively and qualitatively continues to increase. Therefore, many countries have passed a special law on the prevention of this crime, including Indonesia. Indonesian Domestic Violence Law 23 of 2004 was made with the intent to prevent the occurrence of this ration. The law also regulates the role of police, prosecutors, advocates, social institutions or other parties in preventing domestic violence. Prior to the issuance of Domestic Violence Law 23 of 2004, Indonesia has used the Criminal Code to punish the perpetrators of this crime.

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