

**Legal Protection Of Wife's Victims Of Husband's Violence From Viewed From
The KDRT Law And Dayak Customary Law, Uud Danum**

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Abstract

Law Number 23 of 2004 concerning the Elimination of Domestic Violence and the 2001 Uud Danum Dayak Customary Law Book have provided protection for wives who are victims of domestic violence by their husbands. The protection provided by Law Number 23 of 2004 concerning the Elimination of Domestic Violence is provided from the time the victim makes a police report, when he is questioned and arrives at a court decision. Legal protection provided by Tomakung to wives who are victims of violence (hotuhui) by husbands by paying fines and implementing siro sahkik to restore conditions damaged by violence (hotuhui) between husband and wife. Factors that cause domestic violence by husbands are caused by internal and external factors. Internal factors are caused by wives who cheat, wasteful with money, lazy to cook. Internal factors in husbands are due to being lazy to work, not having a job, having an affair, gambling and being an alcoholic drink addict. The government should provide jobs for all levels of education that are evenly distributed from villages to cities. The government should, in helping the poor, not provide social assistance in the form of direct cash assistance because a small nominal amount of money is only enough to buy alcohol and play gambling. The increase in domestic violence is not solely the fault of the citizens but due to a lack of community awareness raising by the central and regional governments that is right on target because today the Government is building more infrastructure than building the mental and spiritual Indonesian people themselves.

Keyword; legal protection of wife's, dayak customary law, Uud Danum.

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1. Introduction

Legal protection for wives who are victims of domestic violence according to this law are (1) temporary protection; (2) apply for a protection order by the court; (3) Provision of Special Service Room (RPK) at the police station; (4) provision of safe houses or alternative shelters; (5) submit legal consultations by advocates to victims at the levels of investigation, prosecution and examination at court hearings.

Forms of legal protection for wives (as included in the scope of the household) who are subject to acts of violence in the Law on the Elimination of Domestic Violence (UU No. 23 of 2004) include:

- a. Article 10, which concerns the rights of victims to obtain:
 1. protection from the family, police, prosecutors, courts, advocates, social institutions or other parties, either temporarily or based on a stipulation of a protection order from the court,
 2. Health services in accordance with medical needs;
 3. Special handling related to victim confidentiality;
 4. Assistance by social workers and legal assistance at every level of the examination process in accordance with statutory provisions;
 5. Spiritual guidance services.
- b. Articles 11 to 15, relate to the obligations of the government and society in efforts to prevent violence in the household.
- c. Article 16 to Article 38 ; forms of protection for victims of domestic violence provided by the police, health workers, social workers, companion volunteers, spiritual advisers, advocates, and courts.
- d. Article 39 to Article 43; the victim's right to obtain remedy.
- e. Article 44 to Article 49; is a criminal provision that provides for punishment for perpetrators of violence, including:
 1. Physical violence;
 - a. Physical abuse; maximum imprisonment of 5 (five) years or a maximum fine of Rp. 15,000,000.- (fifteen million rupiah).
 - b. if it causes illness or serious injury; maximum imprisonment of 10 (ten) years or a maximum fine of Rp. 30,000,000,- (thirty million rupiah).
 - c. if it results in death; imprisonment for a maximum of 15 (fifteen) years or a fine of Rp. 45.000.000,- (forty five million rupiah).
 - d. if the physical violence does not cause illness or impede one's daily activities; maximum imprisonment of 4 (four) months or a maximum fine of Rp. 5,000,000.- (five million rupiah).

2. Psychological Violence;
 - a. psychic violence; maximum imprisonment of 3 (three) years or a maximum fine of Rp. 9,000,000,- (Nine million rupiah).
 - b. if the psychological violence does not cause illness or hinders the carrying out of work or daily activities; maximum imprisonment of 4 (four) months or a maximum fine of Rp. 3,000,000.- (three million rupiah).
3. Sexual violence,
 - a. Sexual Violence, shall be punished with imprisonment for a maximum of 12 (twelve) years and or a fine of up to Rp. 36,000,000.- (thirty-six million rupiah).
 - b. Forcing sexual relations against someone within the household for commercial purposes and/or specific purposes, shall be subject to imprisonment for a minimum of 4 (four) years and a maximum of 15 (fifteen) years or a fine of at least Rp. 12,000,000.- (twelve million rupiah) and a maximum of Rp. 300,000,000.- (three hundred million rupiah).
 - c. If the coercion of sexual intercourse results in the victim having an injury which will not heal at all, the fetus falling/death, the reproductive organs not functioning, the victim shall be punished with imprisonment for a minimum of 15 (fifteen) years and a maximum of 20 (twenty) years or a fine of at least Rp. 25,000,000.- (twenty five million rupiah) and a maximum of Rp. 500,000,000.- (five hundred million rupiah).
4. If you neglect other people within the scope of the household, you will be punished with imprisonment for a maximum of 3 (three) years or a fine of up to Rp. 15,000,000.- (fifteen million rupiah).

The importance of witness and victim protection is motivated by the shifting perspective from retributive justice to restorative justice. This shift is a shift in the philosophy of justice from positive law which is based on the principle of material law in the criminal justice system. This shift has brought a new perspective on criminal law and the criminal justice system, namely as follows.

1. Justice in criminal law is oriented towards the interests or suffering of the victim (victimization or the impact of crime) and the responsibility of the offender for the act and its consequences for the victim.

2. Crime or violation of criminal law is a violation of the public interest and the interests of the victim are the first and foremost part of the public interest. So, crime is a conflict between the offender and between individuals (victims) as part of the public interest.
3. Victims are people who are harmed because of crimes (criminal law violations), first and foremost are victims (immediately), society, the State, and actually also the offenders themselves.
4. The administration of criminal justice functions as a means of conflict resolution.
5. The punishment and the type of punishment to be imposed on the offender is part of the conflict resolution by emphasizing the offender's responsibility for the act and its consequences
6. Victims, society, the State, and offenders in the criminal justice process are active. (Mudzakir, 2005: 28).

This research was conducted in Sintang District in general and for Uud Danum Dayak residents in particular in cases of domestic violence perpetrated by husbands against wives. In the author's minor observation, the factor in the occurrence of violence against wives perpetrated by husbands is by often scolding their husbands for not getting a job and not having money for household needs due to the termination of the employment relationship that befell the husband because of the family's financial condition where there are currently many workers. had to lose his job due to the Covid-19 pandemic. Many wives with messy household conditions close the dignity of their household by not reporting to their parents, RT head, Temenggung (Tomakung) especially to the authorities, this condition provides an opportunity for husbands to repeat their actions because they are not given sanctions or even reprimanded by their parents . Considering the incidents of husband-to-wife violence in Sintang where the victims came from the Uud

Danum Tribe, this made the writer interested in conducting research with the aim of knowing the factors that cause domestic violence against wives perpetrated by husbands, as well as knowing the forms of legal protection for wives. who are victims of acts of husband's violence given by the authorities and the Traditional Dayak Uud Danum and know the obstacles faced in efforts to provide legal protection for wives who are victims of acts of husband's violence.

The existence of customary law as a form of law that is recognized for its existence in the life and legal culture of the Indonesian people is listed in the 1945 Constitution of the Republic of Indonesia Article 18 b paragraph (2) which reads: "The state recognizes and respects customary law community units along with their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated in law". Furthermore, Article 28 I Paragraph (3) states that: "Cultural identity and traditional community rights are respected in accordance with the development of the times and civilization". The affirmation regarding the recognition of customary law by the state is also contained in Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, "All citizens have the same position before law and government and are obliged to uphold this law and government without exception." The existence of customary law can be seen through the existence of customary courts and instruments of customary law that are still maintained by indigenous peoples in Indonesia.

Domestic violence perpetrated by husbands against wives, children and people living in the house or known as domestic violence or vice versa has occurred in the jurisdiction of the Sintang Resort Police, in this case there are 239 (Two Hundred Thirty Nine) Village or within the scope of 14 (fourteen) Districts. Violence against women is often not seen as a big problem or a social problem because it is a household matter and other people do not need to intervene.

Even though the existence of views like the above does not mean that it is an excuse not to provide adequate legal protection for women who are victims of domestic violence. Legal protection is every effort made by parties to overcome violence against women, violence in the form of physical, psychological, sexual and economic violence. Parties that can provide legal protection for women victims of domestic violence, can be anyone, for example it can be done by the victim's family, victim's neighbors, community leaders, law enforcement officials (police, prosecutors, judges), social institutions and so on that can provide a sense of safe for wives who are victims of spousal violence.

The Sintang Police have received reports of complaints of victims of domestic violence committed by perpetrators as shown in the table below.

Table. 1.1. Development of Domestic Violence Cases in Sintang District No Year Revocation Report of the Court Number of Cases

Number	Year	Revoke Report	Hearing	Number of Cases
1	2013	4	3	7
2	2014	10	1	11
3	2016	1	5	6
4	2018	1	3	4
5	2019	4	-	4
6	2020	2	1	6
7	2021	1	2	3
8	2022	1	2	3

Source: Sintang Resort Police Data 2013 – 2022

In going through the process of married life, there will definitely be problems and it doesn't always go smoothly. If a legal household relationship is not able to resolve the problem properly, it is not uncommon for many divorce cases to occur. In Indonesia, divorce cases are very high. Many factors lead to the breakdown of household relationships, for example, domestic violence (domestic violence), infidelity, and economic problems. Based on the

background of the problems above, the writing of this research article aims to analyze how Legal Protection Of Wife's Victims Of Husband's Violence From Viewed From The KDRT Law And Dayak Customary Law, Uud Danum.

2. Analysis and Discussion

The Police have provided Legal Protection in accordance with the mandate of the Law to the Wives of Victims of Domestic Violence starting with receiving police reports, examining witnesses, summoning perpetrators, making minutes of examinations, if the first action is needed the police immediately take action to arrest and detain the perpetrators for Minimize perpetrators repeating crimes or destroying evidence. Victims of domestic violence are provided with assistance by female police officers and guided by social workers or psychologists to provide peace and entertainment for victims who are traumatized and stressed because of threats or violence perpetrated by their husbands. If cases of domestic violence that have been reported to the police are continued to the next stage, the police always ask victims and perpetrators to be accompanied by legal counsel and victims are also asked to be accompanied by social workers. It's just that the Sintang Police Office has not yet provided a special room for victims of domestic violence due to a lack of budget. The police have also provided temporary protection within 1 x 24 hours after a police report has been received from the victim and protection has been carried out for the next 7 (seven) days after the victim reports that a crime has occurred. Police officials, Attorney Judges have carried out their duties and functions in accordance with the mandate of the law to protect all the rights of victims of domestic violence and have restored the rights of victims with a court order if the case reaches the trial stage.

In the customary traditions of the Dayak people, domestic violence is prohibited because husbands and wives are life partners in joy and sorrow where when they marry they are

asked to make good promises to fellow humans and also to nature which governs life in this world. Therefore, in the Uud Danum Dayak community who live in two sub-districts in the Serawai and Ambalau sub-districts, they ask the perpetrators to pay for adat with the conditions set out in Uud Danum's customary law. As for the rules referred to in the Uud Danum Dayak Customary Law Book that every married person must maintain the integrity of the family and there is a saying that the Dayak people are more prone to quarreling than playing hands with their wives and children. As for the settlement procession to restore the situation that was damaged due to fights or domestic violence by the husband to the wife (hotuhui). (Uud Danum's Dayak Customary Law Book 2002:152):

1. If the victim suffers an injury and bleeds at the front of the head, the perpetrator is asked to pay 6 (six) Jihpon.
2. If the victim suffers an injury and bleeds from the back of the head, the offender is asked to be held accountable for paying the customary fee of 8 (eight) Jihpon.
3. If the victim suffers an injury and bleeding not on the front or back of the head, then the offender is asked to be held responsible for paying the customary fee of 2 (two) jihpon.
4. If the victim suffers a bruise on the head, the perpetrator is asked to account for his mistake by paying customary sanctions in accordance with 4 (four) jihpon.
5. If the victim suffers bruises not on the head, then the perpetrator is asked to account for his mistake by paying customary sanctions in accordance with 2 (two) jihpon.
6. If the perpetrator is a traditional administrator or tomakung, the customary sanctions given to the perpetrator are doubled.
7. Apart from the responsibility to pay the customary sanctions above, the perpetrators are also asked to bear all the costs of the victim's treatment until the victim recovers and

perform siro sahkik (restore the natural atmosphere that was damaged due to fights or violence) by preparing several traditional tools as below: A pig with a minimum weight 20 (Twenty Kilos).

- a. A free-range chicken
- b. Rice 2 (two) bushel
- c. A plate filled with village rice
- d. Sabhang leaves
- e. Siro (Uud Danum Dayak bracelet) 3 pieces
- f. Hardener money as much as Rp. 50.000 (fifty thousand rupiah)
- g. A machete (hardeners) a

Notes :

1. (one) Jihpon is calculated by 100 bushels of rice

Researchers can convey to all of us that the Dayak Customary Law in Sintang District prohibits domestic violence either perpetrated by husbands on wives or by wives on husbands or by husbands on their children or by wives on their children and even violence what husbands and wives do to people who live with them. Especially for the Dayak Uud Danum community in Sintang Regency, the customary sanctions for the perpetrators are as severe as possible and if the perpetrators are traditional administrators, the customary sanctions are multiplied. In the Dayak community, violence in the household perpetrated by husbands against wives is a violation of custom which must be sanctioned by the chief of adat. Why is it that the husband, in this case, as the perpetrator, must be given customary sanctions so that the husband can maintain his emotions and speech to his wife, children and people in the house. In one case a husband from a certain Dayak tribe had a wife from a different Dayak tribe and then in an

incident the husband beat and kicked his wife causing injuries to her head and bruises on her hands because she was beaten by her husband with a sharp weapon and a blunt weapon. Until his wife was hospitalized. For this incident, the perpetrator, in this case the husband, was asked by the family of the victim, who was none other than his own wife, to pay and a number of customary sanctions of up to Rp. 50. 000. 000.00 (Fifty Million Rupiah) or (6 jihpon/ulun).

3. Conclusion

The state has been present in providing protection to wives who are victims of domestic violence following Law number 23 of 2004 concerning the Elimination of Domestic Violence. In addition, the Uud Danum Dayak Customary Law has also provided legal protection for wives who are victims of violence by their husbands. There should be criminal threats for perpetrators of crimes of violence against wives, the crime rate against wives will decrease, but what happens in Sintang Regency every year there are still cases that are reported and even have to end in court and we need to know that there may be many cases of violence against wives that are it is not reported because the family is ashamed to reveal their own shame even though violence is a crime.

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