



Legal Protection for Victims of Domestic Violence

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Abstract: The purpose of this research is to find out what is becoming factors causing violence against women in the household as well as legal protection efforts for victims of violence against women in the household in the Kusambi Police Region, West Muna Regency. The research method used is Empirical. Legal protection efforts that can be given to victims of domestic violence in the Kusambi Police area from the perspective of police victimology in minimizing the incidence of victims of domestic violence in the Kusambi Police area are carried out using a preventive approach, which is a follow-up effort from pre-emptive efforts. which provides counseling and outreach to the community. Meanwhile, repressive efforts are by way of law enforcement against perpetrators of domestic violence in accordance with applicable punishments. Conclusion From the point of view of critical victimology, the main factors that cause violence against women contain three points, namely in terms of substance, constraints by law enforcement officials, and the legal culture of society. Forms of legal protection that can be given to victims of domestic violence in the Kizami Police area from a victimological perspective namely preventive efforts and repressive.

Keywords: Victimology, Domestic Violence, Women..

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How to cite (Chicago Style):

Sarjono. "Legal Protection for Victims of Domestic Violence, *Estudiante Law Journal*, 5 no. 1 (2023): 230-243

1. Introduction

One of the mandates of the Opening of the 1945 Constitution of the Republic of Indonesia as the *modus vivendi* (noble agreement) for the formation of the Indonesian state in the fourth paragraph states that one of the goals of the state is "to protect the entire Indonesian nation", this has provided a bridge to the existence of holistic and comprehensive protection that become the responsibility of the state along with the elements of the state inherent in it. As is well known, that Of course, if you read the nuances of kebatinan from the birth certificates of this country, then substantively this country was formed to be free from all forms of oppression, both physically and psychologically for all the people and society mediating the Unitary State of the Republic of Indonesia, including, in this case, is the child.¹

Indonesia is the highest agreement of the state's farmers, even though it has experienced a constitutional test when the 1945 Constitution was amended into the Constitution of the United Republic of Indonesia in 1949, even so the recognition of the regions under the auspices of the State of Indonesia is still recognized.² An absolute requirement for state sovereignty is the existence of a society that obeys the Constitution and its government.³ Because the essence of the constitution is the conception of the state which is the basis and limitation of the constellation of the state administration system.⁴ Therefore, in legal politics, a legal discovery and new law-making that is in accordance with the goals of the State is a value that must be implemented in order to achieve legal supremacy and justice.⁵

In our daily lives, even in society, in order to make ends meet, there are often crimes and violations committed by certain people and people who threaten some members of society, which in law is known as criminal acts.⁶ At present, not only the crime rate or quantity of crime is increasing but also the type of crime or quality has developed rapidly in Indonesia. Criminal sanctions are seen as an effective solution in tackling this problem. Criminal sanctions are a manifestation of the state's responsibility to maintain security and order as well as efforts to protect the law for its citizens. This is a logical consequence

¹ N. M. Alhasni, M. R., Badu, L. W., & Nggilu, "Menakar Peran Kepolisian Dalam Mencegah Tindak Pidana Pencabulan Terhadap Anak Di Bawah Umur," *Jurnal Legalitas* 12, no. 2 (2019): 110-23.

² Novendri M. Nggilu, "Tinjauan Yuridis Pengaturan Sanksi Pidana Dalam Peraturan Daerah Provinsi Gorontalo," *Lambung Mangkurat Law Journal*. 5, No. 2 (2020): 109-121., 110

³ Mellisa Towadi and Nur Mohamad Kasim, "An Indication of China ' s Policy towards Uighurs and Its Implications by International Law Aspects." *Jambura Law Review*. 3, No. 01 (2021): 55-71., 69

⁴ Ahmad dan Novendri M. Nggilu Fakultas, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution of the Constitution Through the the Principle of the Guardian of the Constitution." *Jurnal Konstitusi*. 16, No. 4 (2019): 785-808., 791

⁵ Mohamad Hidayat Muhtar, "Model Politik Hukum Pemberantasan Korupsi Di Indonesia Dalam Rangka Harmonisasi Lembaga Penegak Hukum." *Jambura Law Review*. 1, No. 1 (2019): 68-93., 73

⁶ Dian Ekawaty Ismail and Mohamad Taufiq Zulfikar Sarson, "Criminology Analysis of Women's as Perpetrators of Domestic Violence Crimes," *Jambura Law Review* 3, no. 1 (2021): 57-76., 58

of the concept of forming a state which, according to JJ Rosseau, is based on community agreements. Furthermore, the people agreed to enter into a noble agreement (*modus vivendi*) which was set forth in a basic law in the form of the state constitution.⁷ Legal protection is really needed because of efforts to integrate various needs in associations so that there are no conflicts between needs and can enjoy all the rights granted by law.⁸ The state is firmly obliged to try to fulfill the rights of every citizen.⁹

Humans as social beings (*zoon politicon*) generally always correlate with other people. In order to have a correlation with other people, sometimes there are irreconcilable circumstances between each other. To be honest, there is no human movement without contact with other people. The satisfaction of these desires and interests here and there gives rise to activities that can harm other people, be it property, security, fame, feelings, or other things that must be monitored and maintained.

The reasons for these destructive activities include the human instinct to keep an eye on something that is useful to him despite the fact that the side effects of these thoughts or activities are hurtful to the individual.¹⁰ because in a rule of law state is "there is respect for and commitment to upholding human rights and guarantees that all citizens have the same position before the law (equality before the law)."

Article 27 paragraph (1) of the 1945 Constitution confirms:

"All citizens have the same position before law and government and are obliged to uphold that law and government without exception."

Ideally, these principles are not just principles, such principles should ideally not only be contained in the 1945 Constitution but more importantly and most importantly, enforced. As stated in the 1945 Constitution, the existence of law in society is urgent and important, considering that the ability to regulate is the defender of human interests from all disturbances and losses, both physical and moral.

More important and most important is the execution. Considering that regulatory capacity is "defending human interests from all disturbances and losses, both physical and mental, the existence of law in society is an urgent issue and needs to be carried out by other parties who break the law. With the law, it is also believed that the standard of

⁷ Ramdan Kasim, "Dehumanisasi Pada Penerapan Hukum Pidana Secara Berlebihan (Overspanning van Het Strafrecht)," *Jambura Law Review*. 2, No. 1 (2020): 1-29., 3

⁸ Jufryanto Puluhulawa, Mellisa Towadi, and Vifi Swarianata, "Perlindungan Hukum Situs Bawah Air Leato / Japanese Cargo Wreck The Legal Protection of The Leato Underwater Site" *Jurnal Reformasi Hukum* 24. No. 2 (2020): 189-208., 197

⁹ Julius Mandjo, "The Right to Obtain Free Assistance and Legal Protection for The Indigent People Through Legal Assistance Organizations." *Jambura Law Review*. 3, No. 02 (2021): 365-77., 375

¹⁰ Hasan, *Nilai-Nilai Viktimologi Dalam Hukum Pidana Islam (Telaah Tindak Pidana Kisas)*, Sejahtera (Jakarta, 2022).

justice for society will be understood, especially for people who are protected and peaceful.”¹¹

Enforcement practices are in most cases colored by matters that conflict with these standards. For example, persecution of suspects to seek confession, terror, designing cases, coercion, extortion, and so on. Then from the victim's side, they also feel that their freedom has been neglected, including accusations of powerlessness, light requests, not knowing progress, handling cases, not getting paid, and not fulfilling different privileges.¹²

Violence against women is “any act based on gender that results in, or is likely to bring about, physical, sexual or mental harm to women, including particular harm, coercion or deprivation of liberty, whether occurring openly or secretly.”¹³

Domestic violence (against women) In general, it is “any demonstration of verbal or actual violence, coercion or perceived danger to life against a woman, whether child or adult, which causes physical or psychological harm, shame or freedom hardship and lead to a subordinate position in women.”¹⁴

Domestic violence is not a taboo in family life. Reporting of cases that came to light in various institutions that have the position to handle domestic violence cases is proof that abusive behavior at home is common.

There are several indications of violent behavior at home throughout everyday life, including excessive jealousy of their partners, rushing at every opportunity to make choices, often acting recklessly towards others, wanting to control their partners, and having deep sentiments tall one. in addition, have uncertain assumptions about their partners, for example wanting a perfect life partner. The family is "the first social environment known to humans. In the family, humans learn to start interacting with others. However, in reality, the family often becomes a place for the emergence of various cases of irregularities or other illegal activities that cause misery or suffering, which are carried out by members of one family against another family, such as abuse, rape, murder.”¹⁵

According to the opinion of experts, among others, Soedharyo Saimin stated that marriage is:

¹¹ John Kenedi, *Perlindungan Saksi Dan Korban: Studi Perlindungan Hukum Korban Kejahatan Dalam Sistem Peradilan Di Indonesia* (Yogyakarta: Pustaka Pelajar, 2020).

¹² Bambang Waluyo, *Viktimologi Perlindungan Korban Dan Saksi* (Jakarta: Sinar Grafika, 2014).

¹³ Ali said, *Mengakhiri Kekerasan Terhadap Perempuan Dan Anak Di Indonesia* (Jakarta: Kementerian pemberdayaan perempuan dan perlindungan anak, 2017).

¹⁴ Joko Sriwidodo, *Pengantar Hukum Kekerasan Dalam Rumah Tangga* (Yogyakarta: Kepel Press, 2021).

¹⁵ Bustanul Arifin dan Lukmanul Santoso, “Perlindungan Perempuan Korban Kekerasan Dalam Rumah Tangga Perspektif Hukum Islam,” *Jurnal Hukum Dan Syariah UIN Sunan Kalijaga Yogyakarta* 8, no. 2 (2016): 113-25.

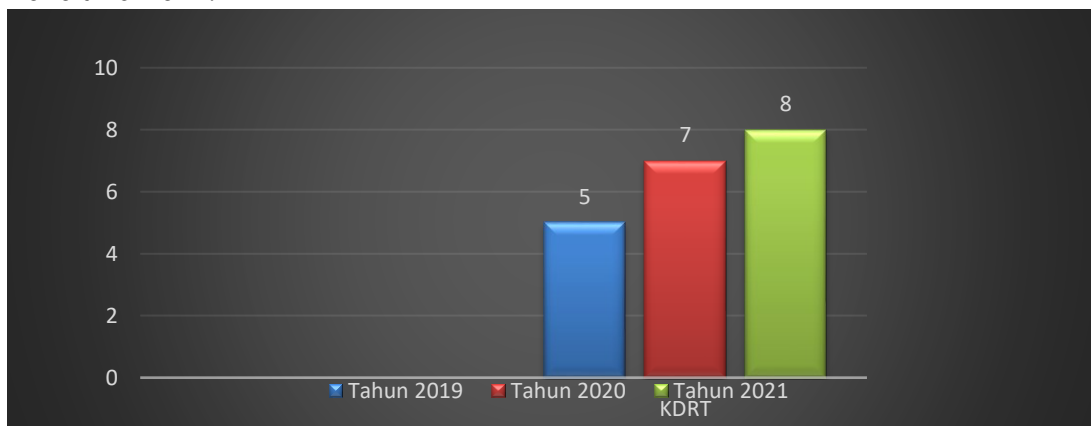
*"an agreement entered into by two people, in this case an agreement between a man and a woman with a material goal, namely forming a happy and eternal family (household) must be based on Belief in One Almighty God, as the first principle in Pancasila."*¹⁶

Violence against women, for example, this cannot be separated from the recognition of patrimonial culture by the Indonesian people which places women as number two while men as the main individuals. This culture continued to thrive for a very long period of time, bringing conflicting relationships between women and men.

This disorder has a negative effect on social life which manifests itself in the form of inequality towards women such as underestimating the opening of the door to work which results in negative labeling, violence and double burdens. Injustice towards women causes the weak position of women which makes women powerless against crime.

Based on research conducted by the legal resource center, the equality and rights orientation of Human Rights Watch shows that the number of violence against women continues to increase. Victims of this violence are not only limited to adult women but also occur to children.¹⁷

Figure 1.1 Diagram of the number of cases of domestic violence at the Kusambi Police in 2019, 2020 and 2021.



Data source: Kusambi Police¹⁸

From the results of observations made by the author in the Kusambi Police area, the author obtained the data above. It can be seen from the data above, that between 2019 and 2021 there was a significant increase in cases of domestic violence in the jurisdiction of the Kusambi Police. The details of these cases are as follows; 4 cases of Sidamangur village in 2019/20220Kusambi sub-district, 3 cases in Guali village, Kusambi sub-district,

¹⁶ Jamaluddin dan Amalia Nanda, *Buku Ajar Hukum Perkawinan* (Unimal Press, 2016).

¹⁷ Dwi Habsari Retnaningrum, "Incest Sebagai Bentuk Manifestasi Kekerasan Terhadap Perempuan," *Jurnal Dinamika Hukum, Fakultas Hukum UNSOED, Purwokerto* 9, no. 1 (2009): 24.

¹⁸ Hasil Wawancara Dengan Kanit Reskrim Polsek Kusambi Bripka Sahur (24 april 2021)

2019/2021, 2 cases in Lemoambo village, 2019/2020, 2 cases in Lahaji village, Napano Kusambi sub-district in 2021, 1 case in Konawe sub-district, Kusambi sub-district in 2020, 3 cases in Lapokainse village, Kusambi sub-district in 2020 2020/2021, 1 Uмба of Lahaji village, Napano Kusambi sub-district in 2020, 1 person from Bakeramba village, Kusambi sub-district in 2021, 1 case of Tanjung Pinang village, Kusambi sub-district in 2021, 1 case of Tangkumaho village 1 person in 2021.¹⁹

Over time, cases of domestic violence have now become a social problem, not a family problem that needs to be hidden. This is stated in the rules contained in article 11 of law number 23 of 2004 which reads "the government is responsible for preventing domestic violence."

In this case, it is confirmed by Angelita's research, where Generally, the causes of domestic violence are:

*"There is a patriarchal culture that is still attached to most societies, where men are always considered more dominant than women, both in domestic life and outside of household life, there is family economic pressure."*²⁰

So that victims of violence become more free in demanding their rights, besides that the government has issued various regulations that aim to protect those who are victims of domestic violence. Among them are Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT), Law Number 27 of 2004 concerning the Truth and Reconciliation Commission, and ULaw Number 13 of 2006 concerning Protection of Witnesses and Victims.

Apart from the guarantees of various regulations, police officers also play an important role in protecting victims and expanding efforts to eliminate domestic violence. Law enforcement officers include the police, lawyers, and justice organizations.

Current developments in the working area of the Kusambi Police, West Muna Regency, between 2019 and 2021, there have been 20 cases of domestic violence. This shows that in fact acts of physical violence often occur, so that an adequate legal instrument is needed to eradicate domestic violence.

There are still many people who do not know that currently if someone experiences domestic violence, whether physical, psychological, or sexual violence, it can be reported and can be punished even if the violence occurred in the household. Like wise the

¹⁹ Wawancara Dengan Kanit Reskrim Polsek Kusambi Bapak Bripka La mponi S.H 24 April 2021 Bertempat Di Polsek Kusambi Kecamatan Kusambi Kabupaten Muna Barat

²⁰ Cristina Angelita, "Kajian Hukum Tindak Pidana Kekerasan Fisik Dalam Rumah Tangga Ditinjau Dari Perspektif Viktimologi Kritis,," *JUSTITIA: Jurnal Ilmu Hukum Dan Humaniora* 9, no. 4 (2022).

religious factor, because there are still those who have a wrong understanding of obedience to their husbands.²¹

Thus, the researcher is interested in conducting research related to the **Criminological Review of Victimology of Violence Against Women in the Kusambi Police Area.**

2. method

This type of research is empirical research, the research method is a way of doing something by using the mind carefully to achieve a goal by searching, writing, formulating, and analyzing a report.²² This research uses techniques data analysis is a research activity in the form of a study or research on the results of data processing using previously obtained theories

3. Analysis And Discussion

Legal Protection for Victims of Domestic Violence

It has become a national and international issue, and legal protection for victims of criminal acts has not been implemented adequately. Therefore, legal protection for victims of crime has received serious attention from various parties. This can be seen by the formation of the "Declaration of Basic Principals of Justice for Victims of Crime and Abuse of Power" by the United Nations (UN) as a result of "The Servant United Nations Congress on The Prevention of Crime and The Treatment of Offenders" which took place in Milan, Italy in September 1985.²³

As far as victims of crime are concerned in the declaration, the United Nations (UN) has suggested that at least a minimum of 4 (four) things be considered as follows: a) Access to justice and be treated fairly; b) Payment of compensation by perpetrators of criminal acts to victims, their families, or other people whose lives are formulated in the form of criminal sanctions in the applicable laws and regulations; c) If the convict is unable, the State is expected to provide compensation in the form of money to the victim, his family or those who are the victim's dependents; d) Assistance in the form of material, medical, psychological and social assistance to victims through the state, volunteers and the community.

²¹Wawancara Dengan Kanit Reskrim Polsek Kusambi Bapak Bripka La mponi S.H 24 April 2021 Bertempat Di Polsek Kusambi Kecamatan Kusambi Kabupaten Muna Barat

²² Cholid Narbuko dan Abu Achmadi, *Metodologi Penelitian* (Jakarta : PT. Bumi Aksara, 2003).

²³ Faisal Khadafi, "Perlindungan Dan Kedudukan Korban Dalam Tindak Kekerasan Dalam Rumah Tangga Menurut Undangundang Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga DiIndonesia," *Jurnal Pembaharuan Hukum* 2, no. 2 (2015): 391-99.

The victimological perspective is present in studying victims providing an orientation for community welfare, humanitarian development, society, in an effort to make members of society not to become victims in a broad sense. J. E Sahetapy stated that:

*"Victimology is a science or discipline that addresses the problems of victims in all aspects. The existence of a victimological perspective is very important to study today against women victims of sexual harassment in the criminal justice system."*²⁴

The definition of protection according to Law Number 13 of 2006 concerning Protection of Witnesses and Victims, in Article 1 number 6 is:

"All efforts to fulfill rights and provide assistance to provide a sense of security to victims must be carried out by the Witness and Victim Protection Agency (LPSK) or other agencies in accordance with the provisions".

This protection is given to witnesses and victims in all stages of the criminal justice process within the judicial environment, starting from the process at the police, prosecutors and courts. In Article 10 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, it provides legal protection for victims by granting the following rights: a. 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, b. Health services according to medical needs, c. Handling specifically related to victim confidentiality; d. Assistance by social workers and legal assistance in each inspection process in accordance with statutory regulations; e.

Because in accordance with the preamble to Law Number 23 of 2004 concerning the Elimination of Domestic Violence, victims of domestic violence, most of whom are women, must receive protection from society and/or the state to avoid and be free from violence and threats of violence, torture, ill-treatment which demeans the degree and dignity of humanity.²⁵

If seen in the international Human Rights (HAM) legal system, the recognition of women's rights as human rights is rooted in the General Declaration of Human Rights which appeared in 1947 and was ratified by the general assembly of the United Nations (UN) on December 10, 1948. This declaration later called the UDHR, as the beginning of the codification of standard recognition of human rights which includes women's rights.

The various principles outlined above have values that can support the aspect of victimology, moreover, they can serve as a strong basis for the formulation of laws for

²⁴ Halaman All Kompas.Com, "4 Poin Perubahan RUU PKS Ke RUU Tindak Pidana Kekerasan Seksual," Kompas.com, 2022, <https://www.kompas.com/tren/read/4-poin-perubahan-ruu-pks-ke-ruutindak-pidana-kekerasan-seksual?page=al>.

²⁵ Irene Anindayaputri, "Hidup Sehat, Psikologi Korban KDRT Bertahan Dalam Pernikahan," Hallosehat.com, 2023.

the interests of victims of criminal acts in the formulation of regulations for each country regarding the rights of victims of acts of violation of the law.

Critical victimology has been present regarding the regulation of victims' rights, but it is not yet more comprehensive. Furthermore, in the 21st century, post-modern victimology emerged, which re-based more on thoughts related to the rights of victims which are currently influencing the formation of regulations related to the fulfillment of victims' problems by the state, including Indonesia. Even though the basic rules regarding sexual harassment have not been regulated in the law, it certainly makes the protection of the fulfillment of victims' rights still neglected.

There are several arrangements that have been seen from starting to accommodate guidelines in handling women's cases in the law enforcement process such as Perma No. 3 of 2017 concerning Guidelines for Trying Cases of Women Against the Law and Prosecutor's Guidelines No. 1 of 2021 concerning Access to Justice for Women and Children in Handling Criminal Cases. However, there are no regulations regarding the crime of sexual harassment in Indonesia.

Hillipus M. Hadjon in his theory states that:

legal protection for the people as a preventive and repressive government action. 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 handling them in the judiciary.

As the theory of legal protection put forward by Phillipus M. Hadjon mentioned above, it should be oriented towards the interests of the Indonesian people by combining the Pancasila ideology with the Western concept of legal protection for the people. This opinion deserves to be used as a source in the application of legal protection in Indonesia so that the application of legal protection in Indonesia does not deviate from the ground norm, namely Pancasila which is the basis of the ideology of the Indonesian nation.

Based on the victimological approach, the form of protection provided by the police to victims of domestic violence is as follows:

Premetive efforts in general by instilling religious education and good values to our children from a young age so that these values are instilled in their conscience and do not act against the law, provide counseling and education to those who are going to get married in order to raise awareness and live up to the meaning of marriage itself so that a household is built that is peaceful, serene, happy both physically and mentally.

Preventive Efforts In cases of domestic violence the police try to make peace or mediation efforts by providing input and solutions to the troubled parties, the Police coordinate with each other through socialization regarding Law no. 23 of 2004 concerning the Elimination of Domestic Violence which strictly regulates sanctions for perpetrators of domestic violence so that it is expected to reduce the occurrence of criminal acts in the household

Repressive Efforts, Covering law enforcement by direct prosecution based on reports of victims of domestic violence which include arrests, examinations, investigations to strict steps in accordance with the crimes they have committed. If the perpetrator is proven to have committed violence, he will be followed up according to applicable law, but first pay attention to and consider aspects of the benefits for both parties, for the sake of family harmony.²⁶

Based on the results of interviews with the Criminal Investigation Unit of the Kusambi Police, namely Bripka Sahur. SH, regarding efforts to deal with domestic violence, it was explained that the Polsek mediated the community who had problems and provided them with a solution to the problem before further processing, the Kusambi Police also applied the following methods:

Preventive Efforts. Protection for victims of domestic violence at the preventive stage is carried out through temporary protection.

As the results of the interview said that:

“Temporary protection is protection that is directly provided by the police before issuing a protection order from the court, usually the protection we provide is by accompanying victims of domestic violence and working with women's and children's protection agencies in Kusambi, always trying to make victims feel safe and protected”²⁷

The process of obtaining temporary protection is regulated in Article 16 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence which states that: 1) Within 1 x 24 (one time twenty-four) hours from knowing or receiving reports of violence in the home households, the police are obliged to immediately provide temporary protection to the victim. 2) Temporary protection as referred to in paragraph (1) is given no later than 7 (seven) days after the victim is received or handled. 3) Within 1 x 24 (one time twenty-four) hours from the granting of protection as referred to in paragraph (1), the police are required to request a letter of determination of a protection order from the court.

The mandate of the law on the police to provide temporary protection to victims of domestic violence is closely related to the duties of the Indonesian police, namely: 1. To maintain order and ensure public security. 2. Maintaining the safety of people, objects and society, including providing protection and assistance. 3. Maintaining the security of the State against interference from within. 4. Preventing and eradicating the spread of community diseases. 5. Ensuring citizen and community obedience to state regulations Temporary protection is very important to be given immediately to wives who are victims of domestic violence because if the victim has to wait for the issuance of a protection order from the court, it is feared that the process will take a long time. while victims need protection in a relatively short time. The urgency of temporary protection is

²⁶ Richard Sianturi, “Studi Kriminologis Penanggulangan Tindak Pidana Kekerasan Dalam Rumah Tangga Di Polrestabes Semarang,” *Diponegoro Law Journal* 6, no. 1 (2017): 8.

²⁷ Hasil Wawancara Dengan Kanit Reskrim Polsek Kusambi Bripka Sahur (12 Oktober 2022)

especially for victims who are vulnerable to further acts of violence from their husbands after they report their cases to the authorities.

Repressive efforts, in addition to providing temporary protection for victims of domestic violence, the police, especially the Kusambi Police, also provide protection in the form of law enforcement against perpetrators of domestic violence, because the act of domestic violence is a form of crime. As the results of the author's interview with Mr. Bripka Sahur said that:

"Law enforcement against perpetrators of domestic violence must go through a formal law enforcement process. Husbands cannot be immediately punished (detained or imprisoned) without going through a legal process according to criminal procedure law procedures. In this regard Law Number 23 of 2004 provides direct rules regarding the process of law enforcement against perpetrators of domestic violence".²⁸

During this protection period, if the perpetrator violates a protection order from the court, the police are authorized by Law Number 23 of 2004 concerning the Elimination of Domestic Violence to arrest the perpetrator (husband). Article 35 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence stipulates: 1) The police can arrest and then carry out detention without a warrant against perpetrators who are believed to have violated a protection order, even though the violation was not committed where the police are on duty; 2) Arrest and detention as referred to in paragraph (1) must be issued with an arrest and detention warrant after 1 x 24 (one time twenty four) hours. 3) Suspension of detention,

Law enforcement against acts of domestic violence is carried out by arresting and detaining the perpetrator (husband) who is strongly suspected of violating an order to protect the victim (wife), without waiting for an arrest and detention warrant. It is feared that the victim will get further acts of violence from the perpetrator if they have to wait for an arrest warrant.²⁹

To comply with criminal procedure law procedures, warrants for arrest and detention can be issued after 1 x 24 hours. The rigid nature of a rule of law sometimes does not protect victims. Thus the existence of the provisions of Article 35 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence is essentially very concerned about the reality of legal protection for victims of crime so far. Because the law provides more protection to the perpetrators of crimes as stipulated in the criminal procedure law.

In the context of victim protection, the police can arrest perpetrators of domestic violence based on sufficient initial evidence that they have violated the protection order. Article

²⁸ Hasil Wawancara Dengan Kanit Reskrim Polsek Kusambi Bripka Sahur (12 Oktober 2022)

²⁹ H Abdurrachman, "Perlindungan Hukum Terhadap Korban Kekerasan Dalam Rumah Tangga Dalam Putusan Pengadilan Negeri Sebagai Implementasi Hak-Hak Korban," *Jurnal Hukum Ius Quia Iustum* 7, no. 3 (2010): 475-91.

36 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence which states that: 1. To provide protection to victims, the police can arrest perpetrators with sufficient preliminary evidence for violating protection orders, 2. Arrest as referred to in paragraph (1) may be continued with detention accompanied by a detention order within 1 x 24 (one time twenty-four) hours.³⁰

4. Conclusion

Based on the results of the analysis and discussion that have been described above, it can be concluded that a form of legal protection that can be given to victims of domestic violence in the Kusambi Police area from a victimological perspective namely preventive efforts (temporary protection), the emphasis is on eliminating the opportunity to commit a crime. provide counseling on laws or legislation regarding the elimination of domestic violence and Repressive Efforts, namely efforts to take action which include arrests, examinations, and investigations to strict steps according to those carried out by perpetrators of crimes of domestic violence.

References

Book :

- Ali said. *Mengakhiri Kekerasan Terhadap Perempuan Dan Anak Di Indonesia*. Jakarta: Kementerian pemberdayaan perempuan dan perlindungan anak, 2017.
- Bambang Waluyo. *Viktimologi Perlindungan Korban Dan Saksi*. Jakarta: Sinar Grafika, 2014.
- Chilid Narbuko dan Abu Achmadi. *Metodologi Penelitian*. Jakarta : PT. Bumi Aksara, 2003.
- Hasan. *Nilai-Nilai Viktimologi Dalam Hukum Pidana Islam (Telaah Tindak Pidana Kisas)*. Sejahtera. Jakarta, 2022.
- Jamaluddin dan Amalia Nanda. *Buku Ajar Hukum Perkawinan*. Unimal Press, 2016.
- John Kenedi. *Perlindungan Saksi Dan Korban: Studi Perlindungan Hukum Korban Kejahatan Dalam Sistem Peradilan Di Indonesia*. Yogyakarta: Pustaka Pelajar, 2020.
- Joko Sriwidodo. *Pengantar Hukum Kekerasan Dalam Rumah Tangga*. Yogyakarta: Kepel Press, 2021.

Journal Article :

- Abdurrachman, H. "Perlindungan Hukum Terhadap Korban Kekerasan Dalam Rumah Tangga Dalam Putusan Pengadilan Negeri Sebagai Implementasi Hak-Hak Korban." *Jurnal*

³⁰ Catatan Tahunan Komnas Perempuan Tahun 2020, "Perempuan Dalam Himpitan Pandemi: Lonjakan Kekerasan Seksual, Kekerasan Siber, Perkawinan Anak, Dan Keterbatasan Penanganan Di Tengah Covid-19," Komnasperempuan.go.id, 2021, <https://komnasperempuan.go.id/siaran-pers-detail/catahu-2020-komnasperempuan-lembar-fakta-dan-poin-kunci->

- Hukum Ius Quia Iustum* 7, no. 3 (2010): 475-91.
- Alhasni, M. R., Badu, L. W., & Nggilu, N. M. "Menakar Peran Kepolisian Dalam Mencegah Tindak Pidana Pencabulan Terhadap Anak Di Bawah Umur." *Jurnal Legalitas* 12, no. 2 (2019): 110-23.
- Angelita, Cristina. "Kajian Hukum Tindak Pidana Kekerasan Fisik Dalam Rumah Tangga Ditinjau Dari Perspektif Viktimologi Kritis." *JUSTITIA: Jurnal Ilmu Hukum Dan Humaniora* 9, no. 4 (2022).
- Bustanul Arifin dan Lukmanul Santoso. "Perlindungan Perempuan Korban Kekerasan Dalam Rumah Tangga Perspektif Hukum Islam." *Jurnal Hukum Dan Syariah UIN Sunan Kalijaga Yogyakarta* 8, no. 2 (2016): 113-25.
- Fakultas, Ahmad dan Novendri M. Nggilu. "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution of the Constitution Through the the Principle of the Guardian of the Constitution." *Jurnal Konstitusi*. 16, no. 4 (2019): 785-808.
- Ismail, Dian Ekawaty, and Mohamad Taufiq Zulfikar Sarson. "Criminology Analysis of Women's as Perpetrators of Domestic Violence Crimes." *Jambura Law Review*. 3, no. 1 (2021): 57-76. <https://doi.org/10.33756/jlr.v3i0.10984>.
- Kasim, Ramdan. "Dehumanisasi Pada Penerapan Hukum Pidana Secara Berlebihan (Overspanning van Het Straftrecht)." *Jambura Law Review* 2, no. 1 (2020): 1-29. <https://doi.org/10.33756/jalrev.v2i1.2402>.
- Khadafi, Faisal. "Perlindungan Dan Kedudukan Korban Dalam Tindak Kekerasan Dalam Rumah Tangga Menurut Undang-undang Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga Di Indonesia." *Jurnal Pembaharuan Hukum* 2, no. 2 (2015): 391-99.
- Mandjo, Julius. "The Right to Obtain Free Assistance and Legal Protection for The Indigent People Through Legal Assistance Organizations." *Jambura Law Review*. 3, no. 02 (2021): 365-77.
- Muhtar, Mohamad Hidayat. "Model Politik Hukum Pemberantasan Korupsi Di Indonesia Dalam Rangka Harmonisasi Lembaga Penegak Hukum." *Jambura Law Review* 1, no. 1 (2019): 68-93. <https://doi.org/10.33756/jalrev.v1i1.1988>.
- Nggilu, Novendri M. "TINJAUAN YURIDIS PENGATURAN SANKSI PIDANA DALAM PERATURAN DAERAH PROVINSI GORONTALO." *Lambung Mangkurat Law Journal*. 5, no. 2 (2020): 109-21.
- Puluhulawa, Jufryanto, Mellisa Towadi, and Vifi Swarianata. "Perlindungan Hukum Situs Bawah Air Leato / Japanese Cargo Wreck The Legal Protection of The Leato Underwater Site / Japanese Cargo Wreck Abstract Laut Mempunyai Makna Besar Bagi Indonesia , Sebagaimana Dijelaskan Shanti Dwi Kartika Bahwasannya : " Laut Se." *Jurnal Reformasi Hukum*. 24, no. 2 (2020): 189-208.
- Retnaningrum, Dwi Habsari. "Incest Sebagai Bentuk Manifestasi Kekerasan Terhadap

Perempuan." *Jurnal Dinamika Hukum, Fakultas Hukum UNSOED. Purwokerto* 9, no. 1 (2009): 24.

Sianturi, Richard. "Studi Kriminologis Penanggulangan Tindak Pidana Kekerasan Dalam Rumah Tangga Di Polrestabes Semarang." *Diponegoro Law Journal* 6, no. 1 (2017): 8.

Towadi, Mellisa, and Nur Mohamad Kasim. "An Indication of China ' s Policy towards Uighurs and Its Implications by International Law Aspects." *Jambura Law Review*. 3, no. 01 (2021): 55-71.

Website :

Catatan Tahunan Komnas Perempuan Tahun 2020. "Perempuan Dalam Himpitan Pandemi: Lonjakan Kekerasan Seksual, Kekerasan Siber, Perkawinan Anak, Dan Keterbatasan Penanganan Di Tengah Covid-19." [Komnasperempuan.go.id](https://komnasperempuan.go.id), 2021. <https://komnasperempuan.go.id/siaran-pers-detail/catahu-2020-komnasperempuan-lembar-fakta-dan-poin-kunci->.

Halaman All Kompas.Com. "4 Poin Perubahan RUU PKS Ke RUU Tindak Pidana Kekerasan Seksual." [Kompas.com](https://www.kompas.com), 2022. <https://www.kompas.com/tren/read/4-poin-perubahan-ruu-pks-ke-ruutindak-pidana-kekerasan-seksual?page=al>.

Irene Anindayaputri. "Hidup Sehat, Psikologi Korban KDRT Bertahan Dalam Pernikahan." [Hallosehat.com](https://hallosehat.com), 2023.