

Legal Protection for Victims of Domestic Physical Violence from the Perspective of Justice Theory: Study of the Decision of the Sleman District Court No. 472/Pid.Sus/2016/Pn.Smn

Anglin Virgine Lumapow¹, Fransiska Alessandra Naomi¹, and Ensalina Papilaya^{1*}

¹Master of Law Sciences Atma Jaya University Yogyakarta, Indonesia

Submitted: 10 January 2025

Revised: 05 March 2025

Published: 09 March 2025

Abstract:

Domestic physical violence is a violation of human rights that requires a fair and effective legal response to protect victims. This study aims to examine the practice of legal protection for victims of domestic physical violence which is interesting to question, especially from the perspective of justice, with a case study at Sleman District Court No.472/PID.SUS/2016/PN.SMN. By basing on the judiciary as a process of law enforcement and justice, qualitatively, the judge's consideration in the decision will be examined based on applicable law and Aristotle's theory of justice. The results of the study indicate that the one-year criminal sentence imposed on the perpetrator of physical violence in Case Number 472/PID.SUS/2016/PN.Smn, in terms of legal provisions, does not violate, because it is still within the maximum criminal sanction that can be imposed. However, in terms of justice, the sentence is too light and not proportional to the physical suffering experienced by the victim. The lenient punishment also does not provide a deterrent effect for perpetrators or potential perpetrators in the future. There needs to be a change in the attitude of the judge in favor of the victim, by giving a sentence that is comparable or more just from the victim's side, and provides a deterrent effect for perpetrators and potential perpetrators of violence.

Keywords: Legal Protection, Criminal Act, Domestic Violence

INTRODUCTION

Indonesia upholds human rights and is committed to providing adequate protection to the community. This is done to achieve the nation's goal, which is to create a just, prosperous, independent, united society and to have a safe, peaceful, orderly, peaceful, and prosperous life. This is based on Pancasila and the 1945 Constitution (UUD 1945), which are the highest sources of law in Indonesia (Harun, 2010). These principles are further elaborated in the laws and regulations that are expected to support the achievement of the nation's goals. The protection of individuals in society starts with the smallest unit, namely, the family. Family is the core of human birth and is an important element that must be protected. There are various roles in the family, such as the father as the head of the family, mother, child, husband, wife, and other members. In living a household, it is not uncommon for various challenges to arise that must be faced together.

A household is not only a place to live but also a symbol of a safe and peaceful place that provides peace of mind and body. Households are an order of life that continues to develop as part of human

*Corresponding Author : Ensalina Papilaya, Master of Law Sciences Atma Jaya University Yogyakarta, Indonesia, ORCID iD: 0009-0000-1375-6091, E-mail: linapapilaya95@gmail.com

social interaction, with the main purpose of continuing offspring and forming a complete family. Household formation is not just an instinct or habit, but also a religious recommendation that emphasizes the importance of each individual at the right time to build and maintain a harmonious family.

In realizing a prosperous and happy family, Article 1 of Law Number 1 of 1974 concerning Marriage confirms that "marriage is a physical and mental bond between a man and a woman as husband and wife with the aim of forming a happy and lasting family and household based on the Almighty God." Households are the smallest organizations in society and are formed through marital ties. However, conflicts often arise during family life. Tension and disappointment in the family are the main factors that cause conflict. If conflicts can be resolved in a good and healthy way, each family member can learn to understand each other's feelings, personalities, and emotional control. This brings happiness to families. Conversely, if conflicts are resolved in an emotional and unhealthy way, it can lead to violence, mistreatment, or discrimination against family members (Harefa, 2021).

Domestic violence is one of the most serious issues involving human rights violations and degradation of individual dignity. The impact is not only felt physically by the victim, but also psychologically, economically, and socially (Mertokusumo, 2009). The case was tried in Sleman District Court Decision No.472/Pid. Sus/2016/PN.Smn provided a clear picture of the dynamics of offenses in Indonesian criminal law. In this case, defendant Novi Triono was proven to have committed physical violence against his wife and a third party who was considered to have a relationship with his wife. The act involved the use of sharp weapons and resulted in serious injury to the victim. Legally, the protection of victims of physical domestic violence is regulated by laws such as Law No. 23/2004 on the Elimination of Domestic Violence, which is the legal basis for the court to impose criminal sanctions on the defendant. However, the application of the law in protecting victims often faces challenges in terms of legal substance, enforcement, and the patriarchal culture of society.

Many studies on domestic violence have been conducted. Some of these are Rochani Nani Raahayu's research (2023), which examines domestic violence in Indonesia through a narrative literature review (R. N. Rahayu, 2023). Belvina Azahra and Asep Suherman (2024) discussed the factors that cause domestic violence against women in Indonesia (Azahra, 2024). Abdul Saman Nst (2004) highlighted the impact of physical, social, and economic violence due to domestic violence (Nst, 2024). Muzaki (2019) sought to prevent domestic violence through family counseling, and Abdu Manif (2007) discussed domestic violence problems and perspectives on their resolution (Suteja & Muzaki, 2019). This study differs fundamentally from previous studies, especially with regard to the approach used. This research uses Aristotle's theory of justice as a philosophical point of view to analyze justice applied in domestic violence cases. According to Aristotle, justice is giving to each individual what is rightfully theirs in proportion. From this perspective, this study aims to evaluate whether the Indonesian legal system has realized the principle of justice, as intended by Aristotle, in handling cases of physical domestic violence. The problem to be studied is how the legal protection for victims of domestic physical violence is based on Aristotle's theory of justice.

METHODS

This study uses normative legal research that focuses on norms, rules, legal principles, doctrines, and other legal sources (Christiani, 2016). Data collection techniques were carried out by studying laws and regulations, court decisions, legal theories, and legal expert opinions (Abdul Kadir, 2015). This research focused on the case of Sleman District Court Decision No. 472/Pid.Sus/2016/PN.Smn. The primary legal material used was Law No. 23/2004 regarding the Elimination of Domestic Violence. In addition, secondary legal materials such as journals and related literature have also been analyzed (Moleong, 2017). The analytical approach refers to Aristotle's theory of justice to assess the application of law and aspects of justice in this case.

RESULTS

Domestic violence is regulated by Article 1, paragraph (1) of Law Number 23/2004 on the Elimination of Domestic Violence (Domestic Violence Law). Domestic violence is defined as any act that causes physical, sexual, or psychological misery, suffering, or domestic neglect, including threats, coercion, or unlawful deprivation of independence within the scope of the household. According to Soerjono, domestic violence is the act of using force against individuals, law, or public freedom. Violence can be in the form of physical, psychological, or attacks that damage the integrity of a person or group (A. Rahayu et al., 2018). Meanwhile, Adrianus Meliala calls domestic violence a type of aggressive behavior that arises in household relationships, both between husband and wife, and parents with children. This behavior is often triggered by stress, social pressure, or unhealthy communication problems (Meliala, 2013). Martha asserts that domestic violence is an internationally recognized form of criminal violence that occurs in the private sphere, and involves intimate relationships, sexual relationships, adultery, or relationships regulated by law (Martha, 2013).

Domestic violence occurs in various forms as stipulated in article 5 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence that "every person is prohibited from committing domestic violence against persons within the scope of their household, by: a physical violence, psychological violence, sexual violence or domestic neglect".

Legal protection for victims of domestic violence is given to legal subjects in the form of legal instruments, both preventive and repressive, both written and unwritten. In other words, legal protection is a description of the function of law, namely the concept that law can provide justice, certainty, benefit, and peace (Putri, 2023). Legal protection for victims of domestic violence aims to provide a sense of security, justice, and recovery through various mechanisms including:

- a. The protection provided by the police is in the form of temporary protection that can last a maximum of seven days. Within 1×24 hours after providing protection, the police must request a protection order from the court. This temporary protection can be achieved by cooperating with health, social, volunteer, and spiritual assistants to protect victims. Services to victims of domestic violence must be carried out in a special police service room, with systems and mechanisms that facilitate access for victims. The police also have the authority to investigate, arrest, and detain perpetrators of domestic violence with sufficient preliminary evidence, accompanied by an arrest and detention warrant, or without a warrant that can be given after 1×24 hours.
- b. Protection by advocates is provided in the form of legal consultation, mediation, or negotiation between victims and perpetrators of domestic violence as well as accompanying victims in the process of investigation, prosecution, and examination in court through coordination with law enforcement, companion volunteers, and social workers.
- c. The protection provided by the court is in the form of a protection order that is valid for one year and can be extended. The court can also issue a restraining order against the perpetrator of domestic violence for 30 days if the perpetrator breaches the signed statement regarding his/her commitment to fulfilling the protection order.
- d. Health services are very important, especially in sanctioning perpetrators of domestic violence. Health workers are obliged to provide written reports on the results of medical examinations and make a postmortem at the request of police investigators or provide other medical information that has legal force as evidence.
- e. Social services are provided in the form of counseling to provide support and a sense of security to victims, as well as information about victims' rights to protection.
- f. Volunteer assistance services are provided to victims to assist them in understanding their rights and objectively conveying their experiences of domestic violence during the investigation, prosecution, and court hearings, as well as providing psychological and physical support.
- g. Services by spiritual advisors are provided to explain the rights and obligations of victims and provide spiritual and religious strengthening to them.

In Indonesia, legal arrangements related to domestic violence are regulated by Law Number 23, Year 2004, on the Elimination of Domestic Violence. Some articles relating to domestic violence in this law are as follows:

- a. Article 1 (1) defines domestic violence as any act against a person in the household that results or may result in physical, mental, or sexual suffering as well as domestic neglect.
- b. Article 5 states that everyone has the right to protect themselves against domestic violence.
- c. Article 6 states that protection against domestic violence can include physical, psychological, social, and legal protection for victims.
- d. Article 8 regulates temporary protection that can be provided by the police to victims of domestic violence in the form of safe temporary housing and other basic needs.
- e. Article 9 regulates the prohibition of domestic violence, which includes physical, psychological, sexual, and neglectful acts committed by a husband/wife, parent, or child in the household.
- f. Article 11 regulates protection orders issued by courts to protect victims of domestic violence during the legal process.
- g. Article 44 provides criminal sanctions for perpetrators of domestic violence, both in the form of imprisonment and fines.
- h. Article 46 provides for the detention of perpetrators of domestic violence who violate provisions or protection orders determined by the court.

Additionally, articles in the Criminal Code can be used to ensnare perpetrators of domestic violence, especially in relation to acts of physical, psychological, or sexual violence that occur in the household, namely Article 351 of the Criminal Code. This article regulates light maltreatment, an act of physical violence that causes minor injuries to the victim. In the context of domestic violence, if a husband or other family member commits physical violence that causes minor injuries, the perpetrator can be charged with the article.

DISCUSSION

Sleman District Court Decision 472/PID.SUS/2016/PN.Smn

This case allegedly occurred when Novi Triono was the defendant on Monday, August 01, 2016, at the Lesada Restaurant in Lodadi Sub-Village Umbulmartani Ngemplak, Sleman Regency, committed maltreatment. The Defendant on Monday, August 01, 2016, at approximately 11:00 am, entered Warsono Raka Siwi's boarding room and found personal belongings, named Sri Astuti Surdasih, who then met his wife at the Lesada Restaurant. When the Defendant saw Warsono, he immediately became angry and took a gobang knife (large knife), then pointed the gobang knife held with his right hand at Warsono and hit him on the neck, left side of his head, thigh, and shoulder.

Furthermore, his wife put up a body to prevent the defendant from persecuting Warsono, which continued to direct the gobang knife to persecute Warsono until it hit his wife on the left arm, back, and fingers of the wife until bleeding occurred. As a result of the Defendant's actions based on the Visum et Repertum dated August 21, 2016 on behalf of Warsono Raka Siwi, made and signed by dr. Sesarius Bimo W, a doctor at Panti Nugroho Hospital with a special examination on the right arm appeared laceration + 4 cm, on the left cheek appeared laceration + 6 cm, on the left temporopanel laceration + 7 cm, on the left thigh laceration to the muscle layer + 4 cm, on the back of the right hand appeared laceration + 4 cm, abrasions on the shoulder 9 cm and 6 cm, back neck 9 cm, back right shoulder 9 X 3 cm, front neck 12 cm, 6 cm and 10 cm, then injuries due to sharp object violence based on Visum et Repertum dated August 21, 2016 on behalf of Sri Astuti Surdasih, made and signed by dr. Sesarius Bimo W, a doctor at Panti Nugroho Hospital, with a special examination on the left forearm showing a laceration to the muscle layer measuring approximately 4 cm and on the right back showing a laceration of approximately 3 cm.

For these acts, the Judge gave the following verdict:

- a. Stating that Novi Triono has not been proven legally and convincingly guilty of committing a criminal offense as charged in the first and second primair indictments.
- b. Acquit the defendant from the charges in the First and Second Primaries

- c. The defendant was legally and convincingly proven guilty of committing the crime of maltreatment and physical violence within the scope of a household.
- d. Therefore, the defendant was sentenced to 1 (one) year of imprisonment.
- e. Stipulating that the period of arrest and detention served by the defendant should be deducted in full from the sentence imposed.
- f. Determine the evidence in the form of 1 (one) large butcher knife/gobang made of stainless steel EAGLE brand 30 (30) cm long 10 (ten) cm wide with a handle made of aluminum croom/silver to be destroyed.
- g. Charges the defendant to pay court costs of Rp. 2,000 (Two thousand rupiah)

Judge's Decision from the Perspective of Aristotle's Theory of Justice

Justice is a fundamental concept in morality, law, and society, which relates to the equality, balance, and fair treatment of individuals and groups in society. Aristotle viewed justice as a form of equality. In numerical equality, every human being is seen as a unit such that all people are equal before the law. Meanwhile, proportional equality gives everyone what they are entitled to according to their abilities and achievements (Rhiti, 2015).

According to Aristotle, justice can be realized if people obey the law because the law is basically created for the happiness of society. In other words, actions taken for the happiness of society can be considered actions. In addition, Aristotle emphasized that the law affirms that individuals should perform courageous acts, such as staying where we are instead of running away or throwing away our weapons. It also includes restrained actions, such as staying away from adultery or violence, calm behavior, and not committing violence or insults against others (Dwisvimiar, 2011).

Aristotle distinguished between distributive and corrective justice (Aristotle, 2004). Distributive justice is justice that applies in public law concerning the distribution of gains or losses based on certain proportions according to individual conditions or rights. In this case, the court's decision reflects the proportion of justice between the perpetrator and victim. The trial showed that the defendant acted out of control due to jealousy, which was exacerbated by his wife's alleged affair with the victim. The defendant used a sharp weapon, which caused serious injury to the victim. The court handed down a sentence of 1 year imprisonment in lieu of 6 months imprisonment.

The court's decision largely reflected Aristotle's principles of distributive justice, particularly in providing appropriate punishment for the perpetrator and recognizing the impact on the victim. However, in the context of material compensation for victims, there are shortcomings that may reduce the sense of justice for parties directly harmed. Corrective justice involves correcting an injustice that has occurred, generally in relation to a violation of the law or an unlawful act, by compensating or punishing an equivalent of the act. In this case, the defendant committed physical violence against the victims. The defendant showed remorse and attempted to provide assistance of Rp 2,000,000 to the victim as a form of reparation. However, this was not enough to cover the loss suffered by the victim because the victim reported that her medical expenses reached Rp13,000,000.

Therefore, the material provided by the defendant does not fully recover the victims' losses. Aristotle also emphasized the importance of the proportionality between actions and punishment. The sentence of 1 year imprisonment in this case reflects an attempt to consider the learning aspect for the perpetrator but is not yet fair enough for the victim who suffered serious injuries and psychological trauma. The verdict can be considered as not fulfilling the principle of balanced justice between the perpetrator and the victim.

CONCLUSION

Law No. 23/2004 on the Elimination of Domestic Violence provides a strong legal basis for protecting victims of domestic violence both preventively and repressively. Protection involves cooperation among the police, medical personnel, social workers, advocates, and spiritual assistants to provide a sense of security to victims. The judicial verdict in Case No. 472/PID.SUS/2016/PN.Smn, who imposed a one-year incarceration on the defendant for committing physical violence against his spouse and a third party, raises concerns regarding distributive justice. The material compensation awarded to the victims is deemed inadequate, failing to proportionally address the physical and psychological damages incurred. This disparity results in an incomplete realization of justice for the affected parties. Furthermore, a relatively brief sentence of one year appears insufficient to serve as a meaningful deterrent. Therefore, future legal proceedings should explore the implementation of more severe penalties and proportionate compensation to better reflect equitable justice principles.

Conflict of Interest

All the authors declare that there are no conflicts of interest.

Funding

This study received no external funding.

How to Cite:

Lumapow, A.V., Naomi, Z. F.A., Papilaya, E. (2025). Legal Protection For Victims Of Domestic Physical Violence From The Perspective Of Justice Theory: Study Of The Decision Of The Sleman District Court No. 472/Pid.Sus/2016/Pn.Smn. *International Journal of Law, Social Science, and Humanities (IJLSH)*, 2(1), 144–150. <https://doi.org/10.70193/ijlsh.v2i1.200>.

REFERENCES

- Abdul Kadir, M. (2015). Hukum Dan Penelitian Hukum. *Bandung : PT. Citra Aditya Bakti.*, 8(1), 52.
- Aristotle. (2004). *Nicomachean Ethics*. Oxford University Press.
- Azahra, B. (2024). Factors Causing Domestic Violence Against Women in Indonesia. *Journal of Law and Public Policy Studies*, 2(1), 67. <https://doi.org/https://doi.org/10.62379/cmb00z20>
- Christiani, T. A. (2016). Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object. *Procedia-Social and Behavioral Sciences*, 219, 201–207. <https://doi.org/http://dx.doi.org/10.1016/j.sbspro.2016.05.006>
- Dwisvimiar, I. (2011). Justice in the Perspective of Philosophy of Legal Science. *Journal of Legal Dynamics*, 1, 527.
- Harefa, A. (2021). Factors Causing Criminal Acts of Domestic Violence. *Journal of Panah Keadilan*, 1(1), 18.
- Harun, R. (2010). *Menjaga Denyut Konstitusi: Refleksi Satu Tahun Mahkamah Konstitusi*. Konstitusi Pers.
- Martha, A. E. (2013). *The Legal Formation Process of Violence Against Women in Indonesia and Malaysia*. Aswaja Pressindo.
- Meliala, A. (2013). *Criminology of Domestic Violence*. University of Indonesia Press.
- Mertokusumo, S. (2009). *Chapters on the Discovery of Law*. Liberty.
- Moleong, L. J. (2017). *Metodologi Penelitian Kualitatif* (31 (ed.)). PT. Remaja Rosdakarya.
- Nst, A. S. (2024). Domestic Violence: An Examination of the Impact of Physical Violence, Domistic

- Violence, Social Violence, and Socio-Economic Violence. *Journal of Scientific Horizons*, 3(11), 45. <https://doi.org/http://bajangjournal.com/index.php/J>
- Putri, M. D. (2023). Kekerasan Dalam Rumah Tangga (KDRT) Pada Perkawinan Usia Anak Di Wilayah Kota Bengkulu. *Supremasi Hukum: Jurnal Penelitian Hukum*, 32(2), 147–160.
- Rahayu, A., Prihatining, & Hamsia, W. (2018). Resiko Kekerasan Dalam Rumah Tangga (KDRT) Pada Pernikahan Usia Anak Di Kawasan Marginal Surabaya. *Pedagogi: Jurnal Anak Usia Dini Dan Pendidikan Anak Usia Dini*, 4(2), 89–102.
- Rahayu, R. N. (2023). Domestic Violence in Indonesia A Narrative Literature Review. *Intelektiva: Journal of Social Economics & Humanities*, 4(6), 12.
- Rhiti, H. (2015). *Philosophy of Law Complete Edition (From Classics to Postmodernism)*. Atma Jaya University.
- Suteja, J., & Muzaki, M. (2019). Community Service Through Family Counseling as an Effort to Prevent Domestic Violence (KDRT) in Cirebon Regency. *Journal of Guidance, Counseling, and Islamic Counseling*, 2(1), 23. <https://doi.org/https://doi.org/10.59027/alisyraq.v2i1.26>