

**LEGAL PROTECTION FOR HOUSEHOLD ASSISTANTS AS VICTIMS BASED ON  
LAW NUMBER 23 OF 2004 ON THE ELIMINATION OF DOMESTIC VIOLENCE****Mila Cahyawati**Law Science, Faculty of Law, Universitas Muhammadiyah Surakarta  
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[mj122@ums.ac.id](mailto:mj122@ums.ac.id)**ABSTRACT**

This study is based on the case of household assistants, or ART, who often suffer violence that is part of household violence itself, even though in its terminology the perpetrators and victims are part of the household. In this case, a household assistant is a person who is outside the family circle but is often the target of household violence incidents. This research aims and will focus on legal protection for household assistants who are often victims of household violence itself, which will be analysed legally based on Law Number 23 of 2004 concerning the Elimination of Domestic Violence. The research method used is a doctrinal approach and normative legal; the researcher wants to provide a broad and brief description of the legal protection for household assistants who are victims of household violence from the existing law regulations. From the author's in-depth study, it was found that the results of the study were to provide a reference for household assistants in handling the resolution of domestic violence found and become a general description of the actions and legal protection related to violent acts against household assistants in the scope of the household. As well as emphasizing the position of household assistant in the scope of the household and providing legal certainty for household assistants as victims of domestic violence.

**Keywords:** Household Assistant, Domestic Violence, Legal Protection**BACKGROUND**

Domestic violence is not something rare, and we often hear about it in our society, whether it happens to ordinary people or public figures, to government officials or law enforcers. [1] Nowadays, we generally know that there are many factors that support domestic violence in the family environment, an environment that should provide a sense of comfort, safety, and peace. Sometimes it becomes the most feared and most dangerous environment. And there are many

cases of domestic violence that result in the loss of someone's life, both from the perpetrator and the victim. [2]

Women or wives are the people who are most often victims of household violence, although it is possible that victims of violence also occur to men or husbands. This is not without reason, but because our society still considers women to be weak creatures and dependent on a man or head of the family who structurally has higher responsibilities and positions in a family, so that sometimes children and wives often become the outlet for a husband who commits household violence. [3] This is clearly a violation of the struggle for the freedom of a woman and child that violates the rules and is not in accordance with human rights and is against the law in the family sphere.

The term domestic violence itself is stated in article 1, number 1, of law number 23 of 2004 concerning the elimination of household violence, which in the law is referred to as household violence, which means violence in a certain scope that is relatively smaller. This article explains that domestic violence itself does not only reach wives and children but also anyone in the same area of the house. So, in it there are also stepchildren, people who have relationships with the family, household assistants, or ART who also live under the same roof, even though they are only outsiders from the family and are often only bound by a work contract. These individuals can experience emotional, psychological, and even physical abuse, highlighting the need for a broader understanding of household violence. It is crucial to recognize that the impact of such violence extends beyond traditional family boundaries, affecting anyone who shares a living space. These individuals can experience emotional, psychological, and even physical abuse, highlighting the need for a broader understanding of household violence. It is crucial to recognize that the impact of such violence extends beyond traditional family boundaries, affecting anyone who shares a living space. [4]

A household assistant, or what we often know as ART, is someone who socially and legally works under the auspices of another person who focuses on maintaining the family sphere and is responsible for household chores, such as cleanliness, tidiness, and security. ART can also live with their employer or go home after the work they do is finished, depending on the agreement made beforehand, and usually ART who do not live with their employer have a house that is not

too far from the employer's residence. The working hours of the ART itself are relatively dependent on the agreement between the two; it can be 24 hours, half a day, or just a few hours for certain purposes. [5]

The duties of the ART itself are not far from general housework and are usually determined by the employer. However, there are indeed some ARTs who use the services of a Foundation or labour supplier with an initial agreement regarding what work must be done and the salary that must be given from the employer to the ART. There are indeed several pluses and minuses related to the work system that uses an agency or independently personally, one of which is regarding the legal protection obtained by ART when carrying out or carrying out their duties.

According to the KBBI, violence itself is something that is harsh and forced on someone that results in injury to another person or even death. [6] The problem of violence generally occurs in personal relationships between one person and another in a certain environment, such as in the family, school, and community that are more closely known to the perpetrator of violence. An example is violence in the family environment such as a parent to a child or an uncle to a nephew or it can also happen to an older sibling to his grandchild. Nowadays there are no limits to acts of violence, anyone can be a perpetrator and anyone can be a victim and the first step to prevent this is to provide protection to everyone both physically and non-physically so that their rights as human beings are not taken or removed by force. [7]

ART is one of the people who are in the family circle even though there is no blood relationship with the family, but the relationship is by agreement in the scope of work, but it does not rule out many cases that make the meaning as a victim of household violence. The government has provided legal protection in Law Number 23 of 2004 concerning the Elimination of Household Violence, which was then ratified on September 22, 2004, as an initial step by the government to guarantee the rights of every citizen in the household. And the law is a breakthrough in the legal system of government in Indonesia, which provides many articles or rules that have not been fulfilled in previous regulations related to acts of household violence, which also contains an explanation of how, in the trial process, this is included in a certain type of crime that provides an opportunity for victims to provide evidence and witnesses that can strengthen the violence that occurs in the household. [8]

Domestic violence as stipulated in Article 2, paragraph (1) C of Law Number 23 of 2024 is not only physical violence but violence that includes psychological, sexual, and neglect or irresponsibility towards the family. Referring to several cases that have occurred in Indonesia, the most violence that occurs or most often occurs is from women who often experience pressure to the point of physical or mental violence against people in the family environment, and often the perpetrator is a man who should be a leader or protector in the family.

This law also regulates protection for everyone who becomes a victim of household violence, which includes medical protection, counselling, and legal protection if the realm enters the trial as mentioned in Article 44. This is also inseparable from Indonesian culture, which is impressed by the patriarchal nature that makes men dominant in the family subsystem so that it provides more access to a man to do something within the scope of his own family, therefore it is very important for anyone who experiences household violence, including household assistants.

Based on the explanation above, the problem raised is how to provide legal protection for household assistants based on Law Number 23 of 2004 and efforts by household assistants in filing legal claims against perpetrators of household violence.

## **RESEARCH METHOD**

The method in this study uses normative legal research or doctrinal law with a doctrinal approach and a conceptual approach. [9] This study examines the doctrinal approach to the legal protection system related to ART in Indonesia, which will be studied through. This type of research is descriptive research using several relevant sources and explaining the phenomena of events that occur at this time and their implementation related to the regulations that have been formed. This study uses secondary data from literature studies in the form of data from books, journals, literature, and opinions of legal experts and several other sources such as print media or mass media that can support the success of this research and can be used in general or as a source of knowledge for the author himself. [10]

## **DISCUSSION**

### **1. Legal Protection for Household Assistants based on Law Number 23 of 2004**

Family is the smallest unit of a social system consisting of husband, wife, and children. [11] Family can also be defined as someone who has blood lineage vertically or horizontally up to the 3rd degree or people who have a marital relationship, such as husband and wife. From the family, the meaning of a household is formed, where the husband acts as the captain who is accompanied by the wife. In running a household, each person has the freedom to manage their household as long as it does not conflict with existing norms, such as having an assistant who will help with household chores or what is commonly known as ART. [12]

ART itself has the meaning of a person who works in the household of his employer to do housework. [13] By law, ART is someone who works under the auspices of another person on an individual basis in the household. ART is one part that is considered a family. According to article 2, paragraph (2), ART is someone who works in the scope of the household and is seen as part of the family during the period in question working.

Legal protection for victims of household violence, including household workers, has actually been regulated in Law Number 23 of 2004 concerning the Elimination of Domestic violence (UU PKDRT). In this regulation, a household worker has legal protection that includes the right not to be physically, sexually, or psychologically harmed and the right to report directly to the police if they experience violence. Then it is also regulated in employment law, which is a person who is bound by work with other people and professionally is a worker, which is also the regulation. Regarding employment and the rights that must exist and must be fulfilled by him/her, they must also include receiving good treatment from users and family members, then receiving wages in accordance with the work agreement, getting a living break, getting holiday allowances, getting leave in accordance with the agreement, and not being limited to his/her freedom from a human being.

There are so many cases or polemics that occur in ART that are then not resolved properly and cause many rights to be lost and implemented properly. This is what then encourages relationships with household assistants who are included in the family scope according to the sound of Article 2, paragraph (1), concerning the scope of the household. [14]

As explained at the beginning, not only physical protection is obtained but also social protection to legal protection from the beginning of the judicial realm until the judicial realm is

finished, along with all medical actions that need to be taken for the implementation of a good legal process after the trauma that occurs to the victim. [15]

In Indonesia itself, there are so many patterns related to problems that occur to ART, who seem to not get certainty regarding their rights, which should be that everyone gets legal protection, and in this profession it can be said to be inadequate. Starting from minor problems to problems related to the struggle for freedom that violates human rights, violence beyond social norms and immorality, and various rights that must be received but are not given properly. [16] ART themselves are indeed one of the most potential objects to experience physical or verbal violence or torture carried out by family members of the employer, including the children of the employer where they work. If then drawn from a sociological perspective, it will provide a brief conclusion regarding the position of ART, who is not a member of the core family or just a subordinate who can be treated arbitrarily. Whereas what we know is that everyone who is under the auspices of the unitary state of Indonesia has equal rights in the eyes of the law, and ART are people who live under the auspices of the law, and their relationship with their employer is a form of work that is protected by law. [17]

There are various forms of legal protection for ART that already exist in Indonesia, including in the 1945 Constitution in Article 27, paragraph two, stating that every citizen of the Republic of Indonesia has the right to every job and a decent life in accordance with humanity. Then continued with Article 28 D, paragraph two, which explains that everyone has the right to receive wages or salary or compensation or the like and receive good treatment when carrying out an employment relationship. [18]

Then explained in Law Number 23 of 2004 concerning the elimination of household violence, which in Article 1, paragraph 1, explains that domestic violence is an act of violence, especially against people who are in the scope of the household, such as husband, wife, children, and people who work and live in the house, according to Article 2, which results in suffering or misery physically, psychologically, or sexually, or neglect, which can be in the form of threats to do something by force to the realm of freedom carried out in an unlawful manner within the scope of the household. [19]

Then in article 2, paragraph (1) and paragraph (2), which confirm that the scope of the family is all people who are in the family environment, including anyone who works in the family, are included as part of the family scope. Continued in article five, which regulates that ART is also part of the people who are included in the family scope and receive legal protection and their rights as a human being, family member, and worker, and then have the right to receive protection from the family, police, prosecutors, courts, advocates, social institutions, non-governmental organizations, health services, and so on, as people in general get without any exceptions or discrimination. [20]

Finally, in article 9, paragraph 1, which orders to provide legal protection for life, care, and things that support the life of a person who is in the family scope. This explains that the obligation is to provide primary needs as the main life passengers for people who live in the family scope. [21]

## **2. Household Assistant's Efforts in Making Legal Claims Against Perpetrators of Household Violence**

The instinct of a human being is to survive and maintain their life, so it is appropriate and natural that when someone feels intimidated or acts with threats or coercion that can take away the independence that each person has, resistance will arise. In the household sphere as explained above, the patriarchal nature of Indonesian society is still very strong and supported by the existing religious dogma that makes a man the ruler in the household, and people who have a higher degree will oppress those who are lower, so it is not surprising that there are so many cases of domestic violence and the victims are women, whether they are wives, mothers, or household assistants. [22]

Violence committed by men against women or vice versa will leave quite deep trauma for the victim's psychology. Things like this are very difficult to resolve because of the thin guarantee of protection for victims who are women who tend to be silent, considering that it is still grey about what is right and what is wrong.

ART is one part of the people who live and live in the family circle, which has been previously conveyed that there are many cases of violence that occur to them that are not

resolved properly according to law and legal norms because they are resolved through the family system. This then puts pressure on the victim if this case is then brought into the realm of law or reported to the police. Feeling that they have a higher status, employers often threaten and pressure household assistants who want to report criminal acts committed by their employers. Another supporting factor is when an ART then feels inferior and is afraid of being fired or dismissed so that they cannot continue their lives, and there are still many factors to consider when experiencing violence by their employers and are reluctant to report to the police. [23]

Several cases of violence occurred to ART, who then dared to report this to the police with a report or demands that will be forwarded to the investigation until it goes to court with evidence and is carried out. And if it has entered the court realm, the decision will be on the judge's side. And it is explained in article 44, paragraph one, which explains that anyone who commits physical violence in the household, as previously explained in article 5, letter A, will be subject to imprisonment for a maximum of five years and a maximum fine of Rp15,000,000, and that is domestic violence at the lightest level. Then at the highest level, which then causes the victim to lose his life, he will be sentenced to a maximum of 15 years and a maximum fine of Rp45,000,000. [24]

Providing legal certainty to victims, the government must provide self-recovery facilities from the trauma that occurred to the victim and provide protection from threats from external parties who do not accept the decisions or actions taken by the victim, especially from the parties concerned with the perpetrator, so that there is no further violence or criminal acts. This is the government's response to the community as a form of certainty; finally, the government will deal with various problems in the community. It will provide an opportunity for victims to return to life in the community.

## CONCLUSION

From the research above, it can be concluded that

1. Domestic violence has been regulated in Law Number 23 of 2004 concerning the Elimination of Household Violence, in which context it is explained that the objects or subjects of domestic violence or those affected by the presence of this law are all people in the family environment,

including household workers. Household workers often receive treatment that is not justified by legal norms or social norms because in the social strata in the household, household workers have a position as an employee or worker who works under an employer. From the 1945 Constitution to laws and regulations, legal protection has been provided for every citizen who lives under the auspices of the Republic of Indonesia, from laws that regulate in general to specifically, and household workers are part of Indonesian citizens who have the right to receive protection.

2. There are many cases of household assistants that then have to be covered up by amicable settlements, not an excuse, but many considerations that are important considerations for a household assistant when she is going to take action against her employer that has violated criminal provisions to the police because it will have an impact on her or her family. The hope for the future is that after getting legal certainty about what a household assistant should do if she experiences violence while doing her job, she has the courage to report it to the police or the law so that she can be helped and the problem can be resolved legally and get the facilities that the government must provide to the victim so that similar things do not happen and do not have a traumatic effect on the victim. Formally, the Law on Violence Against Household Workers is still under discussion by the Indonesian House of Representatives. Because the Law on Protection of Violence Against Household Workers is included in the Prolegnas in addition to the Law on Confiscation of State Assets.

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