

**LEGAL ANALYSIS OF THE CRIMINAL ACT OF DOMESTIC VIOLENCE  
ACCORDING TO LAW NO. 23 OF 2004  
(CASE STUDY OF DECISION NUMBER 314/PID.SUS/2023/PN.SKT)**

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**ABSTRACT**

Domestic Violence (KDRT) is a problem that impacts the physical and mental health of the victim. UU no. 23 of 2004 concerning the Elimination of Domestic Violence (UU PKDRT) as a legal instrument to protect victims and take action against perpetrators. This research analysis decision number 314/Pid.sus/2023/PN.Skt to evaluate the effectiveness of the implementation of the PKDRT Law. This research aims to analyze the form and application of law regarding domestic violence in accordance with the PKDRT Law in the case of Decision number: 314/Pid.Sus/2023/PN.Skt. In this way, this research can provide a deeper understanding of the causes and efforts to prevent domestic violence in accordance with applicable laws in Indonesia. This research uses normative juridical methods with a descriptive analysis approach to examine the implementation of Law Number 23 of 2004 concerning the Elimination of Domestic Violence. Data was collected through literature study which includes primary, secondary and tertiary legal materials. In Decision Number 314/Pid.Sus/2023/PN.Skt it is in accordance with legal provisions, but the sentence imposed is relatively light and does not provide a maximum deterrent effect. Apart from that, protection for victims after the incident still needs to be improved, especially in psychological aspects and ensuring safety. Therefore, synergy is needed between law enforcement and social protection mechanisms so that the objectives of the PKDRT Law in preventing and overcoming domestic violence can be realized. To prevent domestic violence, joint efforts from various parties are needed through education, public awareness, support for victims, intervention against perpetrators, and strict law enforcement. Prevention can also be done by strengthening moral values, religion and mutual respect in the family.

***Keywords: Domestic Violence, Prevention, Household***

## INTRODUCTION

The smallest unit in the community environment and plays a crucial role in shaping the personality and attitude of an individual. Based on the Marriage Law No. 1 of 1974, the definition of marriage is a relationship formed between a woman and a man that is physically and mentally binding and is intended to build a family and a household life that is eternal and happy based on the Almighty God.(1). A family can be said to be harmonious if the family has the goal of creating a prosperous, harmonious relationship, and a sense of security for all family members. And conversely, a family can be said to be disharmonious if the family commits acts of violence because conflicts are prone to occur within the family. Serious problems and usually in the form of psychological, sexual, and physical violence that usually occur in the family environment are called domestic violence. Domestic violence can affect the physical and mental health of the victims and disrupt the harmony of the victims as a whole.(2).

The number of cases of violence that occurred in Indonesia throughout 2023, according to information released by KPPPA (Ministry of Women's Empowerment and Child Protection) was 18,466 cases, with the most victims being women at 88.5% or 16,315 people, and among 61.3% or 11,324 cases of domestic violence. The number of individuals experiencing domestic violence cases was 12,158 people and was categorized as the highest among other cases. Based on the 2023 National Commission (Komnas) Perempuan Annual Data released on March 7, 2024, it shows that the most frequent acts of violence reported to Komnas Perempuan were violence against wives, with 674 cases of violence against wives reported during 2023 and an increase of 22% compared to 2022.(3).

National legal regulations that act as regulators and protectors for victims of crime are called criminal law. Women are often victims of domestic violence due to the emergence of patriarchal culture, and also the difference in power between husband and wife.(4). Based on the Domestic Violence Law No. 23 of 2004, Article 1 explains the definition of domestic violence, namely serious problems and usually take the form of psychological, sexual and physical violence and also include neglect, threats and deprivation of liberty which are contrary to the law

which usually occur in the family environment and the victims are women(5). The types of domestic violence include economic violence, psychological violence, physical violence.

In selecting the case study of decision number 314/Pid.sus/2023/PN.Skt as the focus of research in the legal analysis of Law No. 23 of 2004 concerning the Elimination of Domestic Violence which is based on several reasons, namely it can be used as a concrete example of the application of the PKDRT Law in the context of domestic violence cases that often occur in Indonesia. By analyzing this decision, researchers can evaluate the extent to which the applicable law can provide protection for victims and prosecute perpetrators of domestic violence. This decision study also attempts to identify factors that can influence the effectiveness of the PKDRT Law. With this decision, researchers can reveal what obstacles exist in the implementation of the law.

Based on the above information, this study will focus on researching related to domestic violence crimes based on the Law, and will research related to how to prevent domestic violence crimes so that the research that I will do is entitled LEGAL ANALYSIS OF DOMESTIC VIOLENCE CRIMES ACCORDING TO LAW NO. 23 OF 2004 (Case Study of Decision Number 314/Pid.Sus/2023/PN.Skt).

Based on the background that the author has explained above, the formulation of the problem in this study can be formulated as follows: Legal analysis of decision Number 314/Pid.sus/2023/PN.Skt against the Law on the Elimination of Domestic Violence and how to prevent criminal acts of domestic violence in Indonesia?

Based on the formulation of the problem that has been presented by the author, this study aims to analyze the form and application of law against Domestic Violence according to the Law on the Elimination of Domestic Violence in the case of Decision number: 314/Pid.Sus/2023/PN.Skt, as well as to identify the causes and efforts to prevent Domestic Violence in accordance with applicable laws in Indonesia.

The benefits of this research are expected can provide significant theoretical benefits, especially contributions to the development of criminal law literature and victimology related to domestic violence. This study examines the implementation of Law No. 23 of 2004 concerning the Domestic Violence Law and improves understanding of relevant legal theories. This study

can help policy makers create better policies for domestic violence crimes. The results can also be a source of additional research on other criminal issues. This study is also expected to increase public awareness of the importance of the causes and prevention efforts of domestic violence in accordance with applicable laws in Indonesia.

## **RESEARCH METHODS**

The research method used in this study is the normative legal method. The method Normative juridical is also known as reference-based legal research, emphasizing the analysis of primary legal documents and other relevant supporting documents. Field research is not required in this study, this method is a study of law based on the theory used by the author. In this study, the scope will include a study by drawing on legal principles, both those contained in written and unwritten positive law.(6).

This research is descriptive analysis, namely research that provides an overview of the new object being studied, analyzing a legal regulation. This study aims to provide a clear picture of how Law Number 23 of 2004 concerning the Elimination of Domestic Violence. In this study, the data collection method uses secondary data through literature studies; that is, information is collected from books, documents, notes, reports, and laws and regulations related to the research subject.

In this study, the data collection method uses secondary data through literature study; that is, information is collected from books, documents, notes, reports, and laws and regulations related to the research subject. The secondary data used are as follows:

a. Primary Legal Materials

1. The 1945 Constitution of the Republic of Indonesia.
2. Law No. 23 of 2004 concerning Domestic Violence.
3. Case Study of Decision Number 314/Pid.Sus/2023/PN.Skt

b. Secondary Legal Materials

Secondary legal materials are non-binding legal materials which are the result of analysis of opinions or thoughts of experts in a particular field. Secondary legal

materials can also be considered as legal data which explains primary legal data and specifically provides a basis for research.(7)

c. Tertiary Legal Materials

Materials that can provide information about primary legal materials and secondary legal materials such as the internet, newspapers, and other media.

## **RESULTS AND DISCUSSION**

### **1.1 Legal Analysis of Decision Number 314/Pid.Sus/2023/PN.Skt Regarding the Law on the Elimination of Domestic Violence**

One type of crime that damages the values of justice and family protection is domestic violence (KDRT).(8). The case raised in Decision Number 314/Pid.Sus/2023/PN.Skt shows how physical violence committed by a husband against his wife can disrupt family harmony and violate the provisions stipulated in Law Number 23 of 2004 concerning the Domestic Violence Law. This decision is important to study because it relates to the implementation of the law which aims to provide protection to victims of domestic violence as well as being a preventive tool to prevent similar acts from occurring in the future.

In this case, the defendant was found guilty of committing physical violence against his wife on October 22, 2022, as stated in the single indictment of Article 44 paragraph (4) of the Domestic Violence Law. Based on the trial facts, the defendant hit the victim five times using his bare hands, causing bruises on the right and left temples and abrasions on the lips. These injuries, although relatively minor because they did not prevent the victim from carrying out activities, are still a form of violence that violates the law. This fact is supported by the statements of witnesses, the visum et repertum, and the defendant's confession at trial.

The Panel of Judges in its considerations explained that the elements of Article 44 paragraph (4) had been fulfilled. First, the element of "every person" refers to the defendant who as an individual is responsible for his actions without any excuse or justification. Second, the element of "committing physical violence" was proven from the beating that caused minor injuries to the victim. Third, the element of "within the scope of the household" was fulfilled

because the defendant and victim were still husband and wife at the time of the incident. Fourth, the element of "not causing illness or obstacles to daily activities" was also proven because the injuries suffered by the victim did not significantly interfere with his activities.

The judge sentenced the defendant to 1 (one) month in prison by considering various factors. On the one hand, the defendant's habit of often getting drunk and his bad temper were aggravating factors. On the other hand, the defendant's cooperative attitude during the trial and his regret for the act were mitigating factors. This decision shows an effort to achieve a balance between repressive and educative punishment, although there is criticism that the punishment may not provide maximum deterrent effect for the perpetrator and full protection for the victim.

In terms of implementation, this decision reflects the implementation of the Domestic Violence Law which aims to protect victims while simultaneously imposing sanctions on perpetrators. However, there are several important notes. First, although the legal process has been carried out according to procedure, the light sentence duration can be considered not to reflect the seriousness of law enforcement against domestic violence. Second, protection for victims after the incident is still minimal, especially in terms of psychological support and security guarantees. This shows the need for synergy between law enforcement and social protection mechanisms to ensure that victims truly recover from trauma.

Table 1. Compliance of Court Decisions with the Existing Domestic Violence Law

Aspect	Court ruling	Provisions of the Domestic Violence Act	Compliance
Elements of every person	The accused is legally responsible for his actions without justification or excuse.	Referring to Article 1 of the Domestic Violence Law, the perpetrator is a legal subject who is responsible for his actions.	In accordance
Elements of	The beating caused minor injuries to	Article 44 paragraph (4) covers acts of physical	In accordance

physical violence	the victim (bruises and abrasions).	violence that do not cause illness or work obstacles.	
Household scope	The defendant and victim were a married couple at the time of the incident.	Article 2 paragraph (1) explains that the scope of the household includes husband, wife and children.	In accordance
Effects of victim's injuries	The injuries suffered by the victim did not hinder daily activities.	Article 44 paragraph (4) requires that violence does not result in work obstacles or illness.	In accordance
Penalty sanctions	Prison sentence of 1 (one) month.	Article 44 paragraph (4) provides a maximum prison sentence of 3 (three) months or a fine.	Appropriate but relatively light punishment

This analysis is expected to provide a deeper understanding of the implementation of the Domestic Violence Law and its effectiveness in providing protection for victims of domestic violence. This decision is an important reflection in evaluating how the law is applied in the context of domestic violence in Indonesia.

This case provides a real picture of the implementation of Law Number 23 of 2004 in the realm of justice. While the verdict has been in accordance with the provisions of the law, there is still room to improve protection for victims, especially in terms of psychological support and safety guarantees. So that concrete actions are needed from various parties including society and legal institutions to build a safe environment free from domestic violence. Only with a holistic and sustainable approach can the noble goals of the PKDRT Law be optimally realized.

## 1.2 Prevention of Domestic Violence in Indonesia

Family is the first environment for individuals to adapt. How to create an ideal family and avoid disputes and problems in the family, there are several strategies used to improve communication and harmony in the home. However, the fact is that there must be a problem in the family environment due to external and internal factors.(9). The existence of patriarchal culture or behavior is the first trigger for domestic violence, where this patriarchal culture places women in a lower position than men.(10).

Domestic violence often occurs due to several factors of problems in the household. The following are factors of domestic violence that often occur in family problems:

### 1. Economic factors

Of the many factors of domestic violence, the most dominant is economic issues. Economic conditions that continue to worsen are often the main factor in the occurrence of domestic violence. Difficult living conditions result in a lack of access that supports family welfare.(11).

### 2. Age factor of marriage

Domestic violence often occurs in early marriages because a person is not yet mature enough to control their emotional nature, which causes the maturity within the person to not yet grow.(12).

Domestic violence involves early signs such as difficult behavior to control emotions and repeated insults. By recognizing these signs, a person can take preventive measures before the situation gets worse. Prevention is part of the protection system, human rights enforcement, and respect for women. Efforts to prevent domestic violence, protect victims, follow up on perpetrators of domestic violence, and the community are required to prevent, protect, and follow up on domestic violence as stipulated in the 1945 Constitution.(13). Prevention of domestic violence can also be done by increasing faith, morals, and also adhering to religion, respecting each other, understanding, and respecting each other and respecting family members.(14).

Theoretically, there are two forms of legal protection, namely 1) preventive domestic violence protection is a protective effort that is preventive before domestic violence occurs.

These efforts include: a) trying to align visions, principles, and unite all thoughts into an ideal. In this way, the power and dominance that cause domestic violence will slowly disappear; b) the burden of problems in the family can trigger emotional instability, therefore each family member must work to strengthen the foundation and structure of their economic building; c) education and public awareness that can be achieved through education programs and campaigns to encourage awareness of the impact of domestic violence on families, communities, and individuals themselves and provide a sense of public awareness of the importance of gender equality, human rights and the value of healthy relationships; 2) repressive domestic violence protection is legal protection that helps victims to solve their problems. The role of legal protection is to provide imprisonment, fines, and additional penalties. Protection can be achieved by involving cooperation between volunteer companions, health workers, and social workers.(15).

## CONCLUSION

Based on the Domestic Violence Law No. 23 of 2024 in decision Number 314/Pid.Sus/2023/PN.Skt, however, there are a number of factors that need improvement to provide more optimal protection for victims of domestic violence. In this case, it can show that there is a legal initiative to provide a deterrent effect on perpetrators of domestic violence, but the sanctions imposed are still not enough to protect victims and also do not provide a deterrent effect on perpetrators. In addition, victims still receive very minimal protection such as security and psychological assistance.

In preventing cases of domestic violence, it can include efforts to increase awareness of gender equality. In Indonesia, it is very necessary to recognize early signs of violence, such as controlling emotions and repeated insults. Efforts to prevent domestic violence in the household require law enforcement and social protection for victims so that they get support or enforcement of the rights needed by victims of domestic violence in this household. The need for psychological support and security guarantees for victims in cases of domestic violence.

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