
Community Legal Culture in Preventing and Dealing with Domestic Violence (KDRT) in Pekanbaru

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Abstract

Article 1 of Marriage Law No. 1 of 1974 defines the boundaries of what is meant by marriage, namely as an inner and outer bond between a man and a woman as husband and wife to form a happy and eternal family (household) based on Belief in the One God. Human Rights Act No 39 of 1999 also regulates the ban on violence against human beings. Even Elimination of Discrimination Against Women Act Number 7 of 1984 concerning the was also present to reinforce the legal framework that domestic violence is a prohibited act that degrades human dignity. Elimination of Domestic Violence Act Number 23 of 2004 invites everyone to respect human rights by not committing violence either physically or psychologically. In practice, however, cases of domestic violence can be assimilated to the tip of the iceberg. Pekanbaru is the capital city of Riau Province, whose people adhere to Malay customs based on: Adat bersendi Sara, Sara bersendi Kitabullah. Ideally, in line with the values in efforts to prevent domestic violence in the Law on Marriage and Handling Domestic Violence with a legal approach and legal culture, the community should be able to anticipate the high number of domestic violence in Pekanbaru. However, the increasing number of cases raises the question of how the legal culture of the community approaches family violence prevention and response.

INTRODUCTION

These natural rights are not a gift from the state, but are attached to humans by human dignity.¹ Law Number 39 of 1999 concerning Human Rights also regulates the prohibition of violence against humans. Even Law Number 7 of 1984 concerning the Elimination of Discrimination Against Women was also present to reinforce the legal framework that domestic violence is a prohibited act that degrades human dignity. Law Number 23 of 2004 concerning the Elimination of Domestic Violence invites everyone to respect human rights by not committing violence either physically or psychologically. But in practice, cases of domestic violence can be likened to the top of the iceberg.

¹ Limtila Kirmila, "Reformulasi Saksi Pidana Kekerasan Psikis yang terjadi dalam Rumah Tangga di Indonesia" (Skrpsi, Universitas Riau, 2021), 2.

In 2010 there were 101,128 cases of domestic violence, in 2011 there were 113,878, this number has increased by 5.9%. Whereas in 2012, with a total of 142,662 cases, it also experienced an increase of 11.61% compared to the previous year's cases.² Violence in the form of rape was 72% (2,399 cases), sexual harassment was 18% (601 cases), and sexual harassment was 5% (166 cases). It is undeniable that women belong to a group that is vulnerable to violence, especially violence in the household.³

The difficulty for society to understand the phenomenon of violence against women is also reflected ironically in how law enforcement agencies in Indonesia respond to this problem.⁴ Tools of social engineering has a significant role in changing the constellation of legal culture in society.⁵ The problem of violence against wives in the household occurs in legal institutions, namely marriage.⁶ Pekanbaru is the capital city of Riau province⁷, whose community firmly adheres to Malay customs that are joined: Adat Bersendi Sara, Sara, bersendi Kitabullah. Therefore, based on the above background, it is necessary to carry out research with the Title: Community Legal Culture in Preventing and Dealing with Domestic Violence (KDRT) in Pekanbaru which raises the question of how the legal culture of the community in preventing and dealing with Domestic Violence as well as the Reconstruction of Community Legal Culture in KDRT.

² Mery Ramadani dan Fitri Yuliani, "Kekerasan Dalam Rumah Tangga (Kdrt) Sebagai Salah Satu Isu Kesehatan Masyarakat Secara Global" *Jurnal Kesehatan Masyarakat Andalas* 9, no. 2 (April, 2015): 81.

³ Agung Budi Santoso, "Kekerasan dalam rumah Tangga (KDRT) terhadap perempuan: Perspektif pekerjaan Sosial", *Komunitas: Jurnal Pengembangan Masyarakat Islam* 10, no. 1 (2019).

⁴ *ibid*

⁵ Limtila Kirmila, *Op.cit*, 1.

⁶ Emi Sutrisminah, "Dampak Kekerasan Pada Istri Dalam Rumah Tangga Terhadap Kesehatan Reproduksi", *Majalah Ilmiah Sultan Agung Unissula* 50, no. 157, (2012). (<http://jurnal.unissula.ac.id/index.php/majalahilmiahsultanagung/article/view/62>)

⁷ www.Datacentre.Riau.Go.id : Pekanbaru jadi kota metropolitan mulai tahun depan, dikunjungi 17 Maret 2019

COMMUNITY LEGAL CULTURE IN PREVENTING AND DEALING WITH DOMESTIC VIOLENCE (KDRT) IN PEKANBARU CITY

The process of solving crimes through customary law is familial in nature and can re-establish a sense of kinship.⁸ Indeed, there is no single clear definition relating to domestic violence. Even so, usually, domestic violence is fundamental, including:⁹

- (a) Physical violence, namely any act that causes death,
- (b) psychological violence, any actions and words that cause fear, loss of self-confidence, loss of ability to act, and feelings of powerlessness in women,
- (c) sexual violence, namely any act that ranges from sexual harassment to forcing someone to have sexual intercourse without the victim's consent or when the victim does not want it; and/or engaging in sexual relations in ways that are unnatural or that the victim does not like; and or keep him away (isolate) from his sexual needs,
- (d) economic violence, namely any act that restricts people (women) from working inside or outside the home to produce money and or goods; or letting the victim work to be exploited, or abandon family members.

Women are almost always victims of violence because the culture and values of our society are shaped by patriarchal forces,¹⁰ which physical, sexual, and psychological violence is perpetrated or condoned by the state.¹¹ with which men are culturally welcome to be the determinants of life. According to Foucault,¹² men have been formed to become owners of

⁸ Ledy Diana, "Penerapan Sanksi Adat Melayu Dalam Penyelesaian Perkara Kejahatan di Siak Sri Indrapura", *Jurnal Universitas Islam Kalimantan Muhammad Arsyad Al Banjari* 5, no. 1 (2019): 27.

⁹ Yeni Huriyani, "Kekerasan Dalam Rumah Tangga (KDRT): Persoalan Privat yang Jadi Persoalan Publik", *Jurnal Legislasi Indonesia* 5, no. 3 (2008): 76.

¹⁰ Merupakan suatu ideologi yang dikembangkan laki-laki untuk menghilangkan peran perempuan dalam relasi sosial; suatu simbol keberadaan laki-laki yang prinsipil; suatu kekuasaan yang dominan dari sang bapak; suatu bentuk tekanan laki-laki atas seksualitas dan fertilitas perempuan; dan suatu gambaran tentang dominasi laki-laki dalam struktur lembaga dan institusi. Dalam antropologi budaya, patriarkal pada awalnya mengacu kepada struktur sosial di mana ayah (pater) atau laki-laki tertua (patriarch) memiliki kekuasaan mutlak dalam keluarga sehingga perempuan dalam keluarga tersebut menjadi harta dan hak miliknya "Kramarae dan Treichler, *Feminist Dictionary*, (Boston: The University of Illinois Press, 1991), 323".

¹¹ Cintami Farmawati, "Peningkatan Peran Masyarakat dalam Pencegahan KDRT Melalui Penyuluhan Anti Kekerasan Berbasis Gender", *Jurnal IAIN Pekalongan* 10, no. 2 (2018): 150.

¹² Pertama, bermacam hubungan kekuatan, yang imanen di bidang hubungan kekuatan itu berlaku, dan yang merupakan unsur-unsur pembentuk dan organisasinya; kedua, permainan yang dengan jalan perjuangan dan pertarungan tanpa henti mengubah, memperkuat, memutarbalik; ketiga, berbagai hubungan kekuatan yang saling mendukung sehingga membentuk rangkaian atau system, atau sebaliknya, kesenjangan, dan kontradiksi yang saling mengucilkan; terakhir, strategi tempat hubungan-hubungan kekuatan itu berdampak, dan rancangan umumnya atau kristalisasinya dalam lembaga terwujud dalam

'power' that determines the direction of the 'discourse of knowledge' in society. Violence against women in general (in general) occurs through the concept of control over women, both personally, institutionally, symbolically, and materially. Thus, when the relationship between the sexes is constructed through a domination-subordination relationship, women are in the position of being governed by men. Domestic violence in America is the greatest danger to women compared to the dangers of robbery and theft. Statistical data in America shows that every 9 minutes a woman becomes a victim of physical violence, and 25% of women are killed by their male partner.¹³

The condition of not being ready for marriage is that the husband/man often seeks escape with negative things (drunkenness, gambling, drugs, sex) which leads to the abuse of the wife in various forms, both physical, psychological, sexual violence, and even neglect.¹⁴ The culture of domestic violence is closely related to the problem of violence that has been experienced since birth and is in a harsh environment and continues to be educated with values related to elements of violence, because domestic violence is considered as an excess of household dynamics which is part of privacy, and is a family disgrace.¹⁵

In the results of interviews with Riau Malay traditional institutions regarding cases of domestic violence that are rife in Riau Province. The Malay people of Pekanbaru City in conducting marriages refer to the Siak Sri Indrapura Malay traditional marriage. Pekanbaru was a trade center during the Siak sultanate so Pekanbaru was headed by a Batin appointed by the sultan of the Siak kingdom. Batin was the sultan's representative to regulate social, economic, and other issues. At that time, there were three tribes in Pekanbaru, namely the Tenayan, Senapelan, and Pengambang tribes.¹⁶ dan syarak bersendi kitabulla, Informan from LAM Pekanbaru.

If domestic violence occurs, the community always goes straight through positive legal channels by reporting it to the police, so there needs to be a breakthrough to carry out sit-down activities between the LAM Pekanbaru management and the Police, namely by working

perangkat Negara, perumusan hukum, dan hegemoni social "Michel Foucault, *Seks dan Kekuasaan: Sejarah Seksualitas*, Rahayu S. Hidayat (Penerj.) (Jakarta: Gramedia Pustaka Utama, 1997). 113-114.

¹³ Meey Ramadani & Fitri Yuliani, "Kekerasan Dalam Rumah Tangga (KDRT) Sebagai Salah Satu Isu Kesehatan Masyarakat Secara Global", *Jurnal Universiatas Andalas Padang* 9, no. 2 (2018): 81.

¹⁴ Agung Budi Santoso, "Kekerasan Dalam Rumah Tangga (KDRT) Terhadap Perempuan: Perspektif Pekerja Sosial", *Jurnal Komunitas: Jurnal Pengembangan Masyarakat Islam* 10, no. 1 (2019): 46.

¹⁵ M. Munandar Sulaeman dan Siti Homzah, *Kekerasan terhadap Perempuan Tinjauan dalam Berbagai Disiplin Ilmu & Kasus Kekerasan*, (Bandung: PT Refika Aditama, 2019), 103.

¹⁶ Hasil wawancara dengan Datuk M. Ishak, MKA LAM Riau pada tanggal 30 Juni 2022 di Pekanbaru

together to carry out preventive activities. If there is a domestic violence problem for the Malay community in Pekanbaru City, before the case is processed by the Police, it should be resolved in a Malay customary way driven by the LAM Pekanbaru.¹⁷ For the existence of LAM to be felt by the Malay community in Pekanbaru City, it is necessary to carry out activities such as seminars with academic parties so that LAM does not only receive support from the government but can also receive support from the academic community and support from the Malay indigenous people of Pekanbaru City.¹⁸ The problem that makes the Malay custom less exist in handling domestic violence is that the Malay customary structure is not implemented properly and the role of the Subdistrict LAM and Kelurahan LAM is not optimal, even though the Subdistrict LAM and Kelurahan LAM are the spearheads of the existence of Malay custom in society, that is because LAM The village closest to the community.

THE LEGAL CULTURE OF POLICE OFFICERS IN PREVENTING AND DEALING WITH DOMESTIC VIOLENCE (KDRT) DI PEKANBARU CITY

Sexual violence is regulated in Article 8 of Law Number 23 of 2004 concerning PKDRT which reads "Sexual violence as referred to in Article 5 letter c includes forcing sexual relations against people who live within the scope of the household and forcing sexual relations against one of within the scope of the household with other people for commercial purposes and/or certain purposes. Article 1 of the Criminal Code states, "no act of crime may be punished except on the strength of the penal code and the previous law of the act (*Nullum Crimen, Nulla Poena Sine Praevia Lege Poenalis*). Because, KDRT in a personal sphere full of emotional relations, its resolution is not as easy as criminal cases in a public context. The voices of women or victims of domestic violence tend to be mute. Several reasons cause acts of domestic violence such as the iceberg phenomenon, more cases are hidden than seen. Several reasons make victims reluctant to take legal action when violence occurs, among others:¹⁹

- a. That the acts of violence experienced are commonplace, even considered as an educational process carried out by husbands against wives, or parents towards children. This assumption is related to the belief that the husband is the head of the family, so he has the right to rule (with violence if necessary) towards his family members.

¹⁷ Datuk M. Ishak, MKA LAM Riau, *Op Cit*.

¹⁸ *Ibid*

¹⁹ *Ibid*, 81.

- b. Hope that the violence will stop. Violent acts have a deceptive “violence cycle”. It is wrapped as a feeling of love and commitment to their partner, but it keeps repeating.
- c. Economic dependency. If women have economic independence and have rights/authority and power outside the family, the level of violence by their partners is lower.
- d. For the sake of the children. It is common knowledge that children will become victims of parental conflict, often causing women to succumb. The ideal figure of a woman is embodied in a mother who sacrifices and devotes herself to her children and husband so that her needs and identity are lost in the household routine she lives. This sacrifice lives not only in culture and society but also in the reality of religion. Mother Mary is described as a mother figure who sacrifices for her child and finds happiness in making others happy. Women, according to Daly, must be able to say "no" to the morality of sacrifice, so that women's self-esteem or ethic of personhood emerges in response to women's wants and needs.
- e. Weakness and lack of self-confidence and low support from family and friends. Society's view of widowed women makes women victims of violence maintain their marriages, and it is difficult for families to provide support as a result of this stigma.
- f. The pressure from the environment to stay in the relationship and the assumption that the violence was his fault

Kristi Poerwandari details the forms of violence against women as follows:²⁰

1. Physical violence, such as hitting, slapping, choking, and so on.
2. Psychological violence, such as shouting, swearing, threatening, harassing, and so on.
3. Sexual violence, such as carrying out actions that lead to sexual solicitations/urges such as touching, kissing, forcing sex without the victim's consent, and so on.
4. Violence has a financial dimension, such as taking the victim's money, withholding or not providing financial needs, and so on.
5. Spiritual violence, such as undermining the beliefs and beliefs of the victim, forcing the victim to practice certain religious rituals.

We can see the handling of domestic violence by the Women and Children Unit at the Pekanbaru Police in the table below:

Tabel. 1 Pekanbaru Police Domestic Violence Cases from 2020 to 2022

Years	Types KDRT	Amount	Perpetrator	Victim	Brief Chronology	Information

²⁰ Shinta Rukmi Budiati, “Peran Serta Masyarakat Dalam Penanggulangan Kekerasan Dalam Rumah Tangga, *Jurnal Universitas Slamet Riyadi Yogyakarta* 5, no. 3 (2019): 471.

2021	Physical abuse	15	Husband 14 Cases and Biological Children 1 Case	Wife 14 Cases and Biological Children 1 Case	Beaten, choked, bump	Proses 11 Dihentikan 4
	Psychic Violence	0	0	0	0	-
	Sexual Violence	0	0	0	0	-
	Abandonment	2	Husband	Wife	Not providing	process
2022	Physical abuse	8	Husband 7 Cases and Biological Mother 1 Case	Wife 7 Case and Biological Children 1 Case	Beaten, choked, Slap	process
	Psychic Violence	0	0	0	0	-
	Sexual Violence	0	0	0	0	-
	Abandonment	0	0	0	0	-

Based on the data table obtained from the Pekanbaru Police, many cases of domestic violence occurred in Pekanbaru, 15 cases in 2021, mid-2022 8 cases (only those who dare to report). that every year cases continue to increase, which means that there is an increase in the treatment of domestic violence in the nuclear family. In this case, efforts made through the role of law enforcement officials were criminally processed in 11 cases in 2021 and 4 cases were discontinued, while in mid-2022 there were 8 cases, all of which were processed criminally. A more massive preventive effort to provide assistance and outreach to the people in Pekanbaru regarding the dangers of domestic violence.

If domestic violence occurs, the community always goes straight through positive legal channels by reporting it to the police, so there needs to be a breakthrough to carry out sit-down activities between the LAM Pekanbaru management and the Police, namely by working together to carry out preventive activities. If there is a domestic violence problem for the Malay community in Pekanbaru City, before the case is processed by the Police, it should be resolved in a Malay customary way driven by the LAM Pekanbaru.

RECONSTRUCTION OF THE LEGAL CULTURE OF THE COMMUNITY AND POLICE OFFICERS IN PREVENTING AND DEALING WITH DOMESTIC VIOLENCE (KDRT) IN PEKANBARU CITY

Related to justice that is free and impartial and not influenced by any power or force is also an implementation of the principle of independence and independence of judges. The underlying juridical basis is UUD NRI 1945, namely Article 24 paragraph (1) in Chapter IX concerning Judicial Power states that judicial power is an independent power to administer justice to uphold law and justice. Violence against women in the public sphere has so far been regulated in the Criminal Code, particularly in Chapter XIV of Crimes Against Decency. Articles 44 - 53 CHAPTER VIII Elimination of Domestic Violence Criminal Provisions in which several of these articles provide punishment for perpetrators of domestic violence. Monitoring by Komnas Perempuan until 2012 identified 15 (fifteen) forms of sexual violence against women, based on complaints and stories from victims and assistants to women victims of sexual violence.²¹

Thus, domestic violence is any act committed by a person against another person in the household environment which results in suffering both physically and psychologically. nor sexual intercourse with the victim. All forms of violence, whomever the perpetrators and victims are²². The Law on the Elimination of Domestic Violence is a law that specifically regulates specific problems so that it contains *lex special* elements. The *lex special* elements consist of: The Law on the Elimination of Domestic Violence regulates the rights of victims, which are contained in Article 10 among which they receive protection, health services, special handling, and assistance by social workers.²³

Thus regarding the protection of victims of domestic violence, normally it has been fulfilled, but it needs further implementation of these provisions in the form of policies and actions. The government's efforts to prevent domestic violence, it is regulated in Article 12 of the Law on the Elimination of Domestic Violence, namely:²⁴

²¹ Arifin Jauhari dkk, *Mewujudkan Perlindungan Hak-hak Perempuan dan Korban dalam Kebijakan*, (Jakarta: Komnas Perempuan, 2014), 188.

²² Achie Sudiarti Luhulima, *Deklarasi Penghapusan Kekerasan Terhadap Wanita, dalam Pemahaman Bentuk-bentuk Tindak Kekerasan terhadap Perempuan dan Alternatif Pemecahannya*, penyunting Achie Sudiarti Luhulima, (Jakarta: PT. Alumni, 2000), 148.

²³ *Ibid*, 320.

²⁴ *Ibid*, 323-324.

- a. formulate policies on the elimination of domestic violence;
- b. organize communication, information, and education about domestic violence;
- c. organize outreach and advocacy on domestic violence; and
- d. organizing gender-sensitive education and training on issues of domestic violence and establishing gender-sensitive service standards and accreditation.

One of the solutions to cases of domestic violence can be done with the help of the Riau Malay Traditional Institute. In the results of interviews with LAM representatives, so far there have been no complaints or reports from the Malay indigenous people of Pekanbaru City regarding domestic violence problems that occur in their households, but there are other cases, namely land problems and problems of harassment using *Tanjak Melayu* by elements in well-known food outlets. In the city of Pekanbaru, the person was summoned and given a tutorial on using good and correct Malay *Tanjak*. Before socializing the role of LAM to the community, it is necessary to strengthen human resources within the LAM of Pekanbaru City and the need for the occupation of Malay traditional tribes in Pekanbaru City because the Malay indigenous people in Pekanbaru City have mixed with other tribes in Pekanbaru City.

To uphold the existence of Malay Customary and Cultural Values which are coded as *Sara* and the *Al-Qur'an*, all stakeholders in Pekanbaru City need to sit together to build harmonization to prevent and deal with all forms of violence that occur within the household sphere, so that a repressive approach to criminal law used as a last alternative. Therefore, it is necessary to include it in regional legal products in the form of regional regulations in Pekanbaru City regarding efforts to prevent and handle KDRT.

CONCLUSION

Crime is a deviant act, and by existing legal principles in Indonesia, the process of settling cases is through formal channels, namely through the courts, but this is different from society. Nonetheless, it is usually domestic violence on its basis. Because domestic violence occurs in a personal sphere full of emotional relations, its resolution is not as easy as criminal cases in a public context. Several reasons cause acts of KDRT such as the iceberg phenomenon, more cases are hidden than seen. KDRT in any form is classified as a crime and a serious violation of universal human values from the perspective of human rights (HAM). KDRT began to be seen as a crime with the threat of criminal penalties after this case was determined as a criminal offense as regulated in Law Number 23 of 2004 concerning the Elimination of

Domestic Violence. Articles 44 - 53 CHAPTER VIII Elimination of Domestic Violence Criminal Provisions in which several of the articles provide punishment for perpetrators of domestic violence. There needs to be socialization that can be the answer to the problem of rampant cases of domestic violence and both the community and law enforcement officials need to work together to help overcome the problem of domestic violence which continues to increase every year. Furthermore, all policy stakeholders can sit together to formulate efforts to prevent and handle domestic violence in Pekanbaru City in the form of regional legal products so that there is a harmonization between Malay customs and state law.

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