

Legal Implementation of Domestic Violence: A Case Study of Military Justice and Social Issues in Ambon, Indonesia

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Abstract

Law enforcement of domestic violence (DV) cases involving members of the military in Indonesia presents unique and complex challenges, particularly as it involves the overlap between general criminal law and military criminal law. This study analyses the relevant legal foundations, namely the Military Criminal Code (KUHPM) and Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law), in the context of handling domestic violence cases committed by members of the military. Using a case study method and interviews with victim-witnesses, this research reveals that the application of the law against domestic violence in the military often faces obstacles due to the military hierarchy and strict corps values. The research findings suggest the need for stronger integration between military and civilian legal frameworks, as well as policy reforms in the procedures for handling domestic violence cases in the military to ensure fairer and more transparent justice. In addition, the study also proposes the establishment of a special unit to handle domestic violence in the military, improved gender-sensitive training, and stricter implementation of a "Zero Tolerance" policy to prevent and effectively handle domestic violence cases. These reforms are expected to strengthen military integrity and discipline and protect the rights of victims of domestic violence in Indonesia.

Keywords: *Domestic Violence, Law Enforcement, Military, Military Criminal Law, Legal Reform, Zero-Tolerance Policy.*

Introduction

Domestic violence is an issue that has received increasing attention in many parts of the world (Fischbach & Herbert, 1997; Garcia-Moreno et al., 2006; Scharff Peterson, 2016), including Indonesia. This phenomenon not only impacts the individual experiencing the violence but also has far-reaching implications for society and the legal system. In the Indonesian context, the application of laws related to domestic violence often faces complex challenges (Davies & Lyon, 2013; Meier, 2003), especially when military justice is involved. Military justice in Indonesia, which has its own characteristics and procedures (Crouch, 1979; Sasmito, 2018), is often in the spotlight in cases involving members of the Indonesian National Army (TNI) who are involved in acts of violence in the domestic environment.

Domestic violence in Indonesia is regulated by Law No. 23/2004 on the Elimination of Domestic Violence. This law aims to protect victims of violence and sanction perpetrators. However, in practice, the implementation of this law often encounters obstacles, especially in terms of law enforcement and protection for victims. One of the major challenges is when the perpetrators of violence are members of the military. In these cases, there is often a shift from the general justice system to military justice, which may not always provide adequate protection for victims.

Military courts in Indonesia have different functions and objectives compared to general courts. This creates its own challenges in handling domestic violence cases involving members of the TNI. The military justice system is more likely to focus on military discipline and discipline, which often ignores the aspect of protecting human rights for victims. As a result, many domestic violence cases involving members of the military are not taken seriously, and victims often feel marginalized in the legal process.

One important aspect that needs to be considered is the social stigma attached to victims of domestic violence (Fugate et al., 2005; Kennedy & Prock, 2018; Murvartian et al., 2023), especially if the perpetrator

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is a member of the military. Society often has a biased view of victims, which can worsen their situation. In many cases, victims feel pressurized not to report the violence they have experienced for fear of social stigma (Evans & Feder, 2016; Kennedy & Prock, 2018; Reina et al., 2014), and injustice in the legal process (Fialk & Mitchel, 2004). This creates a vicious cycle where the violence continues, and the victim is further isolated.

In this context, it is important to conduct an in-depth study of the application of domestic violence law in Indonesia, particularly in cases involving military justice. This research aims to explore the challenges faced by the legal system in handling domestic violence cases, as well as the impact on victims and society. By understanding these dynamics, it is hoped that more effective solutions can be found to protect victims of domestic violence and ensure justice for them.

One approach that can be used in this research is a comprehensive legal analysis, which includes a study of the applicable laws, judicial practices, as well as community views on domestic violence. In addition, a sociological approach is also important to understand the social context in which domestic violence occurs. By combining these two approaches, it is hoped that this research can provide a more complete picture of the issue of domestic violence in Indonesia.

This study will also consider the perspective of victims, who are often overlooked in legal proceedings. Listening to victims' voices and understanding their experiences can provide valuable insights into how the legal system can be more responsive to their needs. In addition, it is important to explore the role of government and non-government agencies in providing support to victims of domestic violence, as well as efforts made to raise public awareness of the issue.

In facing these challenges, cooperation between various parties is needed, including the government, law enforcement agencies, civil society, and the media. Education and public awareness campaigns on domestic violence are essential to change social stigma and encourage victims to report. Finally, this research is expected to contribute to the development of better legal policies and practices in handling domestic violence cases in Indonesia, especially those involving military courts. Thus, it is hoped that a safer and more supportive environment can be created for victims of domestic violence, as well as encouraging fair and just law enforcement.

Literature Review

The application of domestic violence (DV) law in Indonesia is a complex and multidimensional issue (Hayati et al., 2011; Putra et al., 2019), that involves legal aspects (Lubis, 2024; Sugianti & Minarosa, 2022; Zulfahmi, 2024), social (Meier, 1992; Weissman, 2007; Winick, 2001), and culture (Reddy, 2014; Rees, 2004). In this context, it is important to understand how military justice interacts with domestic violence cases and their impact on society. This review will examine relevant literature on the application of domestic violence laws, the role of military justice, and the social challenges faced in handling these cases.

Domestic violence has been recognized as a serious human rights violation around the world (Bronson, 1993; McQuigg, 2011; Meyersfeld, 2010; Ozeni, 2020), including Indonesia. According to the Ministry of Women's Empowerment and Child Protection, domestic violence often occurs in the context of gender inequality, with women being the main victims. Several studies have shown that cultural factors and social norms contribute to the high rate of domestic violence in Indonesia (Fuady, 2024; Kurniawati & Sa'adah, 2022; Puspasari & Pawitaningtyas, 2020; Razzak et al., 2024; Wati et al., 2024), where many women feel pressurized to remain silent and not report the acts of violence they experience (Duran, 2019; Mills, 1999).

In the legal context, Law No. 23/2004 on the Elimination of Domestic Violence provides a legal framework for dealing with domestic violence cases. However, the implementation of this law often faces various obstacles. Other research shows that one of the main challenges is the lack of understanding among law enforcement officials regarding the substance and legal procedures stipulated in the law (Green et al., 2013; Hobbs, 2017). This has led to many domestic violence cases not being handled properly, and victims often not receiving adequate protection.

Military courts in Indonesia have a unique role in dealing with domestic violence cases, particularly those involving members of the TNI. Military courts are often seen as institutions that emphasize discipline and order (Irawan, 2019; Renggong & Waspada, 2024; Ulfah et al., 2013, 2013). Thus, the handling of domestic violence cases within the military is often not in line with the principles of human rights protection. In some cases, acts of violence committed by military members against their spouses are not seriously followed up, creating a sense of impunity.

On the other hand, there is still a gap between the written law and the practice in the field (Baude & Sachs, 2019; Patterson, 1990; Scott & Trubek, 2002). While domestic violence laws provide clear protections for victims, implementation in military courts is often inconsistent. Many victims are afraid to report domestic violence cases to the authorities, especially if the perpetrator is a member of the military. This creates a dilemma for victims, where they have to choose between seeking justice and facing possible social stigma or retaliation.

The social problems associated with domestic violence cannot be ignored either, as the social stigma against victims of domestic violence is still very strong in Indonesian society (Mentari, 2024; Rahawarin et al., 2023; Zuhri & Amalia, 2022). Many victims feel isolated and unsupported by their neighbors, exacerbating their psychological and emotional state. In addition, economic factors also play an important role in maintaining the cycle of violence, with many women who are financially dependent on their partners reluctant to leave toxic relationships.

In this context, social interventions are crucial as well as the need for public education and awareness programs that can help change social views on domestic violence (Amin & Murdiono, 2024; Dobash et al., 2000; Sinurat et al., 2023; Zoe Hilton, 2018). The program should involve various stakeholders, including the government, non-governmental organizations, and civil society, to create a safe environment for victims to report the violence they have experienced.

In order to improve the effectiveness of law enforcement against domestic violence, some researchers have also proposed reforms in the military justice system to strengthen the capacity of law enforcement officers (Morreale & Ortmeier, 2004), including military courts, in handling domestic violence cases. This includes specialized training for judges and prosecutors on gender and domestic violence issues, as well as the development of clear protocols for handling such cases.

In conclusion, the application of domestic violence law in Indonesia, particularly in the context of military justice, faces complex challenges. While a clear legal framework exists, implementation on the ground is often inadequate. In addition, social stigma and gender inequality remain barriers for victims to seek justice. Therefore, a comprehensive and collaborative approach is needed to address the issue of domestic violence, involving legal reform, public education, and capacity building of law enforcement officials.

Methods

Research Approach

This research will use a qualitative approach to gain an in-depth understanding of the application of domestic violence law in the context of military justice in Indonesia and its social implications. This research is conducted at the Ambon Military Court, the selection of this location is based on the object of research related to the subject matter of the study.

Case Study

Case studies will be the main focus to explore specific cases of domestic violence handled by military courts. This may include an exploration of the judicial process, legal decisions, and the social impact on victims, perpetrators, and the surrounding community.

Data Collection Method

In-depth Interview: Interviews will be conducted with various stakeholders, including military judges, prosecutors, lawyers, victims of domestic violence, and legal and social experts who have experience in military justice.

Participatory Observation: Observation at military courts and related institutions to understand the legal process and interactions between the parties involved.

Documentary analysis: Analyse legal documents, court decisions, case reports, and laws and regulations related to domestic violence in the military.

Unit of Analysis

Specific cases of domestic violence occur in the military environment.

Legal aspects, such as the application of Law No. 23/2004 on the Elimination of Domestic Violence and the Military Law.

The social impact on the victim, perpetrator, and the community surrounding the case.

Data Analysis Technique

Thematic analysis: Identifying key themes that emerged from the interview, observation, and document data. This process involved coding the data, grouping the themes, and interpreting the findings.

Data Triangulation: Combining multiple data sources to increase the validity and reliability of the research.

Narrative Analysis: Use narrative analysis to interpret the stories of individuals and groups involved in domestic violence cases in military justice.

Result and Discussion

Legal Foundation: KUHPM and PKDRT Law

Domestic violence in the military presents unique challenges in the application of the law because it involves aspects of general criminal law and military criminal law. In cases involving members of the military, the Military Criminal Code (KUHPM) and Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law) are the main references in determining the sanctions and legal processes applied. According to Article 6 of KUHPM, criminal sanctions for members of the military can be in the form of dismissal from military service with or without revocation of the right to return to the armed forces. This is a special criminal sanction in military law (*zijin van zuiver militaire aart*) which is not found in the general criminal law (KUHP). On the other hand, the PKDRT Law states that domestic violence is an act that causes physical, sexual, psychological, or neglect within the scope of the household, which is carried out against the law.

Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law) is a legal regulation in Indonesia that aims to protect victims of domestic violence and sanction perpetrators of violence. This law aims to prevent domestic violence (DV), protect victims, take action against perpetrators, and maintain the integrity and harmony of households. The PKDRT Law defines domestic violence as any act against a person, especially women, that results in physical, sexual, psychological, or domestic abuse or neglect, including threats, coercion, or unlawful deprivation of liberty within the scope of the household. The types of violence regulated in this Law include physical violence, psychological violence, sexual violence, and domestic neglect.

In the PDKRT Law, physical violence is an act that causes pain or injury to the body, while psychological violence is an act that results in fear, loss of confidence, or psychological suffering. Sexual violence includes forced sexual intercourse, and domestic neglect occurs when a person within the scope of the household is left without care or does not fulfill agreed obligations. The PKDRT Law also regulates protection for victims of violence, including emergency health services, temporary shelter, spiritual guidance, counseling, and legal assistance. In addition, law enforcement officials and related institutions are required to provide the necessary protection. The legal process stipulated in this law includes criminal sanctions in the form of imprisonment, fines, or both, as well as protection orders from the court to prohibit the perpetrator from approaching the victim or entering certain areas. Overall, the PKDRT Law is an important step in the effort to protect victims of violence, especially women and children, and to ensure that perpetrators of domestic violence are dealt with strictly in accordance with applicable laws, so as to maintain household harmony in the community.

Military Member Domestic Violence Case

- *Interview 1 (Juferi)*

Based on the testimony of the witness Juferi, a resident of Batu Merah, Sirimau Sub-District, Ambon City, the witness has known the defendant since January 2021, when the defendant married the witness's younger sibling, Witness-1 (Ms. Enjelyn Merisca). On 24 February 2022, at approximately 6.45 pm, the witness, who was at home in Batu Merah, Ambon City, received a call from Witness-1 asking for help because she had been hit by the defendant. After receiving the call, the witness immediately went to Witness-1's house which was located at Batu Merah Military Base, Sirimau Sub-District, Ambon City, together with Witness-3 (Rizal Wally, the witness's husband) and their mother, Wa Ode Nau. When they arrived at the location, the witness saw Witness 1 in his private car in a frightened state with bruises on his face and neck, indicating physical violence committed by the defendant.

After that, the witness' mother, Wa Ode Nau, met the defendant who was on the second floor of the house. There was an argument between the two, and not long after, the defendant left the house on a motorbike in a state of anger. The witness revealed that the beating by the defendant was allegedly caused by a dispute over an ATM card that was held by Witness 1 and was not given to the defendant when requested. After the incident, at approximately 20.00 WIT, the witness together with Witness-1 reported the acts of violence committed by the defendant to the UP3M Pomdam XVI/Patimura post for further processing in accordance with applicable legal provisions. Nevertheless, the witness stated that the relationship between the defendant and the witness's extended family continues to run well without any prolonged conflict.

The witness also confirmed that the defendant committed his actions while conscious and was not under the influence of alcohol. As a result of these acts of violence, Witness 1 suffered bruising and swelling to several parts of her body, including the top of her head, face, neck, chest, and right thigh, as well as abrasions from the defendant's scratches. This case highlights the importance of strict application of the law and discipline within the military in dealing with cases of domestic violence.

- *Interview 2 (Rizal Wally)*

Based on the testimony of Rizal Wally, a civil servant who lives in Batu Merah Military Centre, Sirimau Sub-District, Ambon City, the witness has known the defendant since January 2021. At that time, the defendant married the witness's sister-in-law, Witness-1 (Mrs Enjelyn Marisca). On 24 February 2022, at approximately 6.45 pm, Witness 2 (Juferi, the witness's wife) received a call from Witness 1 asking for help because she had been hit by the defendant. In response to this call, Rizal Wally together with his wife, Witness-2, and their mother-in-law, Wa Ode Nau, immediately went to Witness-1's house at Batu Merah Military Base. At around 6.55 pm, when they arrived at the house, they saw Witness-1 crying with bruises on his face, neck, and body. This condition indicated that there had been serious physical violence against Witness 1.

The witness's mother-in-law, Wa Ode Nau, then met the defendant on the second floor of the house. There was an argument between the two, and shortly after, the defendant left the house in a state of anger or emotion. The witness stated that the cause of this beating was because the defendant asked for the ATM card that Witness-1 was holding, but was not given it. After the incident, at approximately 20.00 WIT, Witness 2 together with Wa Ode Nau went to the UP3M Pomdam XVI/Patimura to report the acts of violence committed by the defendant. This report was filed so that the case would be processed in accordance with the applicable law.

Rizal Wally also stated that the defendant committed the acts of violence while sober and was not influenced by alcohol. As a result of the defendant's actions, Witness 1 suffered bruising and swelling to several parts of her body, including the top of her head, face, neck, chest, and right thigh, as well as abrasions from the defendant's scratches. This case emphasizes the importance of strict law enforcement against cases of domestic violence, especially in the context of a military environment, where the rules of discipline and law must be strictly applied.

Law Enforcement Under Military Law and Provisions

Based on the relevant legal basis, namely the Military Criminal Code (KUHPM) and Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law), law enforcement in cases of domestic violence involving members of the military needs to be implemented in a firm and transparent manner. The PKDRT Law specifically regulates the prohibition of all forms of physical, psychological, sexual violence, and domestic neglect, and stipulates criminal sanctions for perpetrators. In the military context, KUHPM regulates criminal offenses committed by soldiers and the settlement mechanism through the Military Court or disciplinary punishment from the superior who has the right to punish (ANKUM).

In cases of domestic violence committed by members of the military, proper law enforcement should involve two main steps: judicial proceedings through the Military Court and guidance from superiors for perpetrators who have not been processed in court. (Greenawalt, 2007; Katyal & Tribe, 2002; Langer, 2005). The military justice process can provide criminal sanctions that are educational and preventive for the perpetrators while coaching by superiors aims to improve behavior and restore discipline to soldiers. These measures are in line with legal principles that do not only punish the perpetrator but also prioritize rehabilitation and moral development.

On the other hand, the social impact of cases of domestic violence such as that experienced by Witness 1 in the interview above is very significant. The physical violence experienced by the victim causes deep physical and psychological trauma. In the context of the military environment, such cases can also affect the image and morale of the corps as a whole. Therefore, proper law enforcement must be accompanied by adequate social support, including counseling for victims, perpetrators, and their families. This is important to ensure healing for the victim and prevent the recurrence of similar acts in the future.

Consistent and firm law enforcement against domestic violence cases within the military also serves as a strong message of discipline and commitment of the military corps to upholding the law and maintaining institutional dignity. A fair and transparent legal process will not only provide justice for victims but also be an effective tool of social control to ensure that the behavior of military members remains in line with high ethical and moral standards. Thus, an integrated approach involving strict law enforcement, rehabilitation, and coaching will create a safe and dignified military environment.

Law Enforcement Challenges in Military Environments and Social Impacts

Law enforcement against domestic violence in the military environment faces unique challenges, in several previous studies on "Law Enforcement Against Domestic Violence in the Military Environment in Indonesia." Military discipline and strict hierarchy often become obstacles in the process of handling domestic violence cases (BIN, 2011; Wicaksana, 2023), because reporting and grievances can be perceived as a form of violation of corps values and solidarity between members. Therefore, it is important to have

clear and fair mechanisms that ensure that the law is enforced without discrimination or influence from the military hierarchy.

Domestic violence has far-reaching social impacts, especially in military contexts where values of discipline and honor are held in high regard. There is a need for a tailored intervention approach to address domestic violence in the military setting (Butters et al., 2021; Coutts, 2022; Cowlshaw et al., 2022; Williston et al., 2015). This approach includes counseling for victims and perpetrators, gender sensitivity training for military personnel, and support programs that can help victims recover from trauma. In this case, although the kinship between the accused and the witness's extended family remains good, the psychological impact on the victim should not be overlooked, and recovery measures need to be implemented.

The Need for Legal and Policy Reform in the Military

Facing challenges in law enforcement of domestic violence cases involving members of the military, it is necessary to reform policies and procedures for handling similar cases in the future. A sociology of law perspective in understanding the complexity of domestic violence and how the law should be implemented by considering the social and cultural factors that influence these cases. In the military context, a more holistic legal approach is needed, which not only punishes perpetrators but also provides adequate rehabilitation for victims.

Legal and policy reforms in the military are essential to ensure fairer, more transparent, and effective handling of domestic violence (DV) cases. Domestic violence cases in the military have different complexities compared to those in civilian society, mainly due to the elements of hierarchy, strict discipline, and military norms that govern how the law is enforced. Therefore, reforms in this area should include substantial changes in policies, procedures, and approaches to handling domestic violence cases. One of the first steps required is the strengthening of an integrated legal framework. In the military context, law enforcement against domestic violence cases is often caught in a dualism between Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law) and the Military Criminal Code (KUHPM). These two legal frameworks need to be more explicitly integrated to ensure that members of the military who commit domestic violence are sanctioned equally with civilians. This will prevent impunity that may be utilized by perpetrators due to their military status.

Furthermore, there is a need to establish a special unit or task force that focuses on handling domestic violence cases in the military. Currently, the handling of domestic violence cases is often left to internal units such as the Military Police, who may not have specialized expertise in handling cases that require a gender and trauma-sensitive approach. With the establishment of this specialized unit, domestic violence cases can be handled more professionally and based on an in-depth understanding of gender-based violence.

Reforms should also include a revision of military disciplinary procedures and internal legal processes that often focus more on protecting the institution's reputation than justice for victims. These procedures need to be revised to emphasize the transparency of the process and the involvement of independent third parties, such as Komnas Perempuan or other organizations with expertise in domestic violence. With independent oversight, potential abuse of power can be prevented, and the legal process can run more fairly and objectively.

In addition, increased education and training on gender-based violence for military members is an important component of this reform. Better awareness and understanding of the psychological and social impacts of domestic violence will make service members better equipped to handle such cases appropriately. This training should include material on gender equality and respect for human rights within and outside the household, as well as how to apply these principles in their daily lives and professional duties.

Psychological support and rehabilitation for victims and perpetrators is also a key element of this reform. Often, victims of domestic violence in the military are abandoned after the legal process is completed, with no long-term support to recover from the trauma experienced. Therefore, the provision of integrated

support services, such as counseling and trauma recovery programs, is necessary. This not only helps victims to recover physically and mentally but also helps perpetrators through rehabilitation programs aimed at long-term behavioral change.

Finally, the implementation of a "Zero Tolerance" policy towards domestic violence should be an integral part of military reform. This policy should state unequivocally that violence in any form is unacceptable and will be severely penalized without exception. This needs to be supported by a safe and confidential reporting mechanism, which allows victims or witnesses to report cases of domestic violence without fear of retaliation or stigmatization. Overall, legal and policy reforms in the military related to the handling of domestic violence cases are not only important to protect victims and enforce the law fairly, but also to maintain the integrity, discipline, and positive image of the military institution. Proper implementation of reforms will ensure that all military members comply with the law and behave according to high ethical standards, both on duty and in their personal lives.

Conclusion

The handling of domestic violence (DV) cases involving members of the military in Indonesia requires a more comprehensive approach and significant policy reforms. This study shows that the complexity in law enforcement against domestic violence in the military is caused by the overlap between the Military Criminal Code (KUHPM) and Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law). Limitations in complaint and enforcement mechanisms within the military are often influenced by strict hierarchical and disciplinary norms, which can impede fair and transparent legal processes.

The conclusions of this study highlight the need for integrative legal reforms and more inclusive handling procedures for domestic violence cases in the military. Such reforms include strengthening the integration of civilian and military law, establishing specialized units trained in handling domestic violence cases, and improving education on gender equality and human rights for military members. In addition, the implementation of the "Zero Tolerance" policy should be strengthened to ensure that violence in any form is not accepted and will be subject to strict sanctions without exception. Thus, these proposed reforms are not only important to protect victims and ensure due process, but also to strengthen the discipline, integrity, and positive image of military institutions in Indonesia. Effective reforms will create a safe and dignified environment for all military members and encourage behavior that conforms to high ethical and moral standards, both in personal and professional life.

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