Legal Protection for Domestic Violence Due to Advances in Information and Communication Technology

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Article Info
Received: 2021-04-24
Revised: 2021-05-30
Accepted: 2021-06-01

Keywords:
Criminal Law Protection, Domestic Violence (KDRT), Online Gender Based Violence (KBGO, Information and Communication Technology (ICT), Social Media.

Abstract
In the ever-evolving digital era, technological developments have had a significant impact on social relationships and family dynamics. Although ICT offers various conveniences in communicating and accessing information, there are challenges and risks associated with using this technology. This study seeks to examine the impact of advances in information and communication technology (ICT) on intimate partner violence (KDRT) and the penal law protections available in this context. This study employs a normative legal research methodology to investigate and analyze legal materials and related literature on domestic violence and the impact of ICT developments. According to the findings of this study, the development of information and communication technology (ICT) has had a significant effect on the incidence of domestic violence (KDRT). Online Gender-Based Violence (KBGO) has emerged as a new form of violence that employs technology to harass, denigrate, exploit, and intimidate victims on the basis of their gender or sexuality. Domestic violence perpetrators use Law no. 11 of 2008 concerning Information and Electronic Transactions (ITE) in Indonesia, specifically Article 27 Paragraphs (1) and (3) Jo. Article 45 of the ITE Law, to suppress domestic violence victims and continue the misuse of technology. However, the existence of the ITE Law in the context of KBGO has also raised concerns regarding free speech and the protection of domestic violence victims..

A. INTRODUCTION

Domestic violence (KDRT) is a social phenomenon that affects the lives of thousands of individuals worldwide. In the last few decades, the development of Information and Communication Technology (ICT) has brought about significant changes in the way we interact and communicate. However, the presence of this technology also raises new challenges in terms of legal protection for victims of domestic violence (Ghosh & Choudhuri, 2011; Utami, 2018).

Social media, instant messaging, and other communication technologies, as well as advances in ICT, have altered the terrain of social relations, particularly in the domestic environment. ICT enables easy and quick communication, information sharing, and access to many internet services (Wantu & Sarson, 2020). Smartphones, laptops, and the internet have become an indispensible part of daily life, and

household dynamics are no exception. With easy access to ICT, perpetrators of domestic violence can use technology to commit verbal, psychological, and physical assault. Domestic abuse that occurs through social media, instant messaging, and online platforms is becoming more common (Uswatina et al, 2020).

It's no longer an exaggeration to say that social media is a major agent of change and renewal in today's world. The role of social media in bridging the gap between the old and the new. Instead, citizens can bypass intermediaries and raise concerns about a wide range of government services through open channels of communication. The government now expects social media to play a role in resolving complaints or public service reports, boosting citizen involvement in monitoring public services, and speeding up the completion of public service reports (Al Ghazali et al, 2018). It has been suggested that social media can serve as a channel for citizens to voice their worries and various desires to their communities and the government (Suhadi et al., 2018).

However, ICT, especially social media, has been linked to an increase in KDRT. Most domestic violence occurs because men wrongly believe their wives are chatting with people of the opposite sex online (Sutiawati & Mappaselleng, 2020). In addition, victims of domestic violence in the modern period may be subjected to electronic manipulation. This form of abuse includes gaining access to the victim's electronic communications without permission (hacking), monitoring the victim's movements and activities with a tracking device, monitoring the victim's social media accounts, and pressuring the victim to reveal passwords. account Several researchers (Hidajat et al., 2015).

Victims of domestic violence often report that their abusers used their personal information to create fake social media profiles and post threatening messages to their friends and family. The offender also threatened victims with indecent photographs of themselves. A domestic violence survivor claimed that his abuser had shared naked photos of him online (Hayati, 2020).

The eradication of discrimination against women made it necessary to provide legal protections for female victims of violence, notably domestic violence. These laws were particularly important in the United States. The bulk of the law prohibiting violence against women may be found in the KUHP, which is the Criminal Code. Articles 351 through 356 of the Criminal Code cover a range of behaviors that are either explicitly or implicitly classified as violence against women. These behaviors include sexual assault, stalking, and aggravated assault. Female victims of physical violence are afforded legal protection under Law No. 23 of 2004 Concerning the Elimination of Domestic Violence (Helmi, 2014). This protection can be found in Article 6, Article 16 Concerning Protection, and Article 44 Concerning Criminal Sanctions.

Criminal law protection against domestic violence in the context of ICT progress is still inadequate. Criminal law is generally unable to anticipate and deal

with crimes committed through technology, as well as a lack of public awareness about the risks and consequences of using technology in the context of domestic violence.

Given the complexity of this issue, this study aims to dig deeper into the impact of ICT advances on domestic violence and analyze the criminal law protection available in this context. As such, this research will make an important contribution to understanding the challenges of criminal law in protecting victims of domestic violence and dealing with the impact of ICT advances. Through this research, it is hoped that findings and recommendations will be found that can be used as a basis for developing more effective and comprehensive legal protection for domestic violence due to advances in ICT.

B. METHODS

This is a study of legal norms that was based on library research. (Diantha, 2016) Normative legal research is research that describes, examines, explains, and analyzes issues concerning the legal protection of women who are victims of domestic violence or domestic violence caused by ICT. Normative legal research is research that discusses legal science doctrines or principles because it employs secondary data as its primary data source. Normative legal research is research that discusses legal science doctrines or principles because it employs secondary data as its primary data source. The Philosophical Approach is utilized to examine the legal concepts defined in the consumer protection and data protection provisions. The Statutory Approach investigates the laws and regulations pertinent to the currently discussed legal issues.

C. RESULTS AND DISCUSSION

1. Domestic violence

Any act against a person, especially a woman, that causes physical, sexual, psychological misery or suffering and/or neglect of the household, including threats to perform acts of coercion or denial of liberty, is defined as domestic violence in Article 1 of Law Number 23 of 2004. In a clandestine manner and while staying at home with the family. The legal definition of domestic violence encompasses all instances of violence (physical or mental) committed within a household by a member of the same household, including husbands against wives, wives against husbands, fathers against children, mothers against children, and children against parents. However, the wife and children of the husband are the primary victims of violence. The emergence of domestic violence, according to Ihromi (1995) and Xue et al (2020), includes:

a) Communication. The health of a family unit is most directly related to the level of open dialogue amongst its members. An increase in openness and trust within the family unit can be achieved through improved communication. Poor

family communication practically guarantees arguments, which almost always leads to domestic violence, which almost always results in victims.

b) deviation. When a third party enters a married couple's life, it causes a lot of problems for them. This usually results in separation or an instance of KDRT (domestic violence). Like a married man having an affair with a woman who is caught by his wife on a date. When the woman questioned her husband about this at home, he flatly denied it, leading to an argument that escalated into his using physical force against her. Many times, the husband is the perpetrator, and the wife or child is the victim who takes the abuse.
c) Negative feelings towards oneself. This characteristic usually manifests itself when the husband is discouraged by problems at work and his wife insists that he continue working to provide for the family. The husband's frustration levels rise under these conditions, leading to an angry outburst. Frustration breeds hostility, and hostility can escalate to acts of domestic violence.
d) Changes in social standing. Domestic violence in middle- and upper-class households in urban areas: causes and risk factors. It's an issue that has a major impact on the family's way of life. The surfacing of such situations makes every member of the family feel embarrassed in front of his peers and places undue stress on the shoulders of the breadwinner, typically the father, in the event of a decline in income or the expiration of an official's term in office. Because of this, domestic violence in the home is more likely to surface.
e) The use of violence to resolve conflicts. When a person is exposed to violence from birth on, is raised in a hostile environment, and is taught values related to elements of violence, he is more likely to view violence as the most effective and expedient means of resolving conflict within his own family. A problem cannot be resolved without periodic acts of violence because violence is endemic.

Acts of domestic violence are actually slightly different from acts of personal/community violence which only have a physical dimension. The action actually has a broad dimension, which is not limited to physical action. It also includes actions that prevent people from being creative and actualizing themselves according to their potential, and actions that force them to work or maximize their potential beyond their limits (Manan, 2018). Within certain limits, this also includes restrictions on working and looking the way you want, and restrictions on contact with people you like. Therefore, acts of domestic violence also have a non-physical dimension, which includes all actions that can lead to a commitment to mutual trust, sharing, tolerance and love among all members of the household as meant in the sacred goal of marriage and domestic life harmony. , injured (Fanani, 2018; Mulyana et al., 2020).

Domestic violence in any form is clearly classified as a crime and a serious violation of universal human values from the perspective of human rights (HAM). Domestic violence 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. Its stipulation as a crime with the threat of criminal law is greatly influenced by a situation where cases of domestic violence are getting stronger and more open, thus provoking a strong public reaction. Article 1 of the Criminal Code states, "no act of crime may be punished except for the strength of the criminal code and the previous law for that act (*Nullum Crimen, Nulla Poena Sine Praevia Lege Poenalis*).

As a crime, domestic violence is also an anti-social behavior that harms a member or a number of household members physically, psychologically and economically. The classification into crime is not because the act is anti-social but because it contains evil intent (mens rea) which can result in physical and non-physical harm to the victim which is prohibited by criminal law.

2. Domestic Violence Due to the Development of ICT

In the era of increasingly advanced information technology in the 21st century, the paradigm of domestic violence (KDRT) has undergone significant changes. Over the years, domestic violence has often been associated with images of intimidation and physical or verbal attacks that occur in the household. However, with advances in technology, perpetrators of violence have found new ways to express power and control victims through the use of technology (Amin & Nazariana, 2023).

Perpetrators of domestic violence can use technology to digitally monitor, threaten, oppress, and harm their victims. In the era of social media that dominates everyday life, perpetrators of domestic violence can use these platforms to spread victims' personal information, belittle them in public, or threaten them through instant messaging and online communication. In some cases, perpetrators even use technology to track victims' locations or access their personal information with the aim of reinforcing control and fear.

In addition, the existence of monitoring technology such as surveillance cameras or telephone tapping devices also provides opportunities for perpetrators of domestic violence to monitor the victim's every move, disturbs their privacy, and exacerbates the conditions of violence that occur. It can also produce victims' feelings of insecurity and limited freedom, as they constantly feel they are being watched and are not free to act or speak freely.

The development of information and communication technology has also brought serious psychological consequences for victims of domestic violence. Perpetrators use technology to carry out gaslighting, namely distorting reality and challenging the victim's confidence, thereby making them doubt the truth and authenticity of their experiences. Perpetrators can easily spread negative, insulting or belittling messages to victims through online platforms, which can result in lasting psychological trauma and emotional damage.

The use of technology is an effective tool for perpetrators of domestic violence to maintain power and control over their partners. Abusers may use technology to

monitor partner activity, track their location, or even install bugging devices to collect personal information. By doing this, perpetrators are able to reinforce their dominance and increase the victim's sense of fear and dependence.

However, this misuse of technology often does not stand alone. Domestic violence perpetrators who use technology to monitor and intimidate their partners are also more likely to engage in forms of physical and emotional violence. Technology is just one tool that perpetrators use to achieve their violent goals. Other intimidation such as verbal threats, emotional rejection, insults, or physical attacks often coexist with technology abuse.

According to CETA, one in four women and one in six men will experience partner violence during their lifetime. While research into technology abuse is rare, a 2017 report from Australia called it a growing trend. The results found are that cellphones, tablets, computers, and social media are usually used to isolate, punish, and humiliate victims of domestic violence. In the UK, a landmark law has been passed which prohibits the use of technology to track or spy on spouses or ex-partners. The law specifically defines the misuse of technology, given its controlling and coercive nature, as a form of domestic violence .

In Indonesia, domestic violence protection is still governed by Law number 23 of 2004. This law provides the following forms of protection for victims of domestic violence: (1) temporary protection; (2) the issuance of a protective order by the court; (3) the provision of a Special Service Room (RPK) at the police station; (4) the provision of safe houses or alternative shelters; and (5) the provision of legal consultations by advocates to victims at the investigation, prosecution, and examination stages of court proceedings. Currently, there is no legal protection for domestic violence caused by the development of ICT.

Since the enactment of Law No. 11 of 2008 regarding Information and Electronic Transactions (ITE) in Indonesia, which was later amended to become Law No. 19 of 2016 regarding Amendments to Law No. 11 of 2008, the primary objective has been to regulate electronic commerce transactions and new phenomena in cyberspace. Nonetheless, the existence of the ITE Law has an effect on instances of domestic violence (KDRT), particularly Online Gender-Based Violence (KBGO) (Christian, 2020; Reeves, 2020).

Article 27 Paragraph (1) and (3) Jo. Article 45 of the ITE Law prohibits the distribution, transmission and/or production of moral content and defamation. However, in practice, these articles are often used by perpetrators to silence victims of gender-based and sexual violence in cyberspace. KBGO is a form of violence that occurs online and uses technology to harass, demean, exploit, and intimidate based on the victim's gender or sexuality.

In cases of domestic violence, KBGO can be a factor that exacerbates the victim's situation. Women are vulnerable to becoming targets of violence in the cyber world through various platforms such as websites, blogs, social media channels, and others.

Perpetrators use technology and digital media to disseminate victims' personal information, threaten and insult them online (Harijanto et al., 2022). This can cause serious psychological impacts for victims of domestic violence, feeling isolated, and finding it difficult to get help or protection.

In relation to domestic violence, KBGO expands the realm of violence experienced by victims outside the physical environment of the household. Violence that begins in cyberspace can affect the victim's overall well-being and increase the risk of more severe physical violence. KBGO can also hinder victims' efforts to report violence and seek help, because of the fear, shame, or stigma associated with disclosing violence online.

In this context, it is important to pay attention to the legal protection that exists in the ITE Law regarding KBGO so that it is more effective in protecting victims of domestic violence. It is necessary to evaluate and improve the interpretation and implementation of this law so that it does not stifle freedom of expression and maintains a balance between freedom of speech and protection for victims of gender-based violence in cyberspace.

In addition, public awareness about KBGO and its impact on victims of domestic violence also needs to be increased. Education and campaigns that educate about digital ethics, prevention of gender-based violence, and protection of victims of domestic violence as a whole, including in the online sphere, are very important. This will help reduce the risk of domestic violence involving technology and provide better support to victims of domestic violence.

Overall, the presence of the ITE Law in Indonesia has had an impact on domestic violence, especially in the form of Online Gender-Based Violence (KBGO). KBGO expands the realm of violence experienced by victims in cyberspace, and existing legal protections must be developed and refined to effectively protect victims of domestic violence. Apart from that, education and public awareness efforts are also important to reduce risk and provide support to victims of domestic violence who are involved in KBGO.

D. CONCLUSION

Domestic violence (KDRT) is any form of physical, sexual, psychological violence, or neglect that occurs within the family. Usually, domestic violence occurs when a husband commits violence against his wife and children. Factors such as lack of good communication, marital infidelity, and frustration can trigger domestic violence. Domestic violence not only involves physical violence, but also hinders individual development. Domestic violence is considered a serious violation of human rights and has been regulated as a crime. However, the development of information and communication technology has brought about the phenomenon of Online Gender-Based Violence (KBGO), in which perpetrators use technology to harass, demean, and exploit victims based on gender or sexuality. Domestic violence

perpetrators take advantage of Law no. 11 of 2008 concerning Information and Electronic Transactions (ITE) to continue the misuse of technology. Existing legal protection needs to be evaluated and refined, while public awareness about KBGO and protection for victims of domestic violence also needs to be increased through education and campaigns that educate about digital ethics and prevention of gender-based violence.

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