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DOMESTIC VIOLENCE RESULTING IN DIVORCE VIEWED FROM A SOCIOLOGICAL PERSPECTIVE ON THE VERDICT OF SINGARAJA COURT NUMBER 119/PID.SUS/2022/PN SGR

Nyoman Gede Dodo Adiyasa Kunde¹ , Komang Febrinayanti Dantes² , I Nengah Suastika³

Faculty of Law and Social Sciences, Ganesha University of Education, [Email:dodo.adiyasa@undiksha.ac.id](mailto:dodo.adiyasa@undiksha.ac.id)

Faculty of Law and Social Sciences, Ganesha University of Education, Email: febrinayanti.dantes@undiksha.ac.id

Faculty of Law and Social Sciences, Ganesha University of Education, Email: nengah.suastika@undiksha.ac.id

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Corresponding Author:
Nyoman Gede Dodo
Adiyasa Kunde, email:
Dodo.adiyasa@undiksha.ac.id

Abstract

This study aims to (1) To find out the judge's consideration of the Singaraja District Court's decision in verdict number 119/Pid.Sus/2022/PN Sgr. (2) To find out the legal impact of domestic violence in terms of a sociological perspective. (3) To find out the legal consequences of domestic violence based on Decision number 119/Pid.Sus/2022/Sgr in terms of Law of the Republic of Indonesia Number 23 Year 2004. The type of research used by researchers is normative legal research, namely through a statutory approach, and a conceptual approach. The sources of legal materials used are the Constitution of the Republic of Indonesia, the Criminal Code (KUHP), Law No. 1 of 1974 concerning Marriage, Law No. 23 of 2004 concerning the Elimination of Domestic Violence and Singaraja District Court Decision Number 119/Pid.Sus/2022/PN SGR. The results showed that (1) The judge's consideration of Decision Number 119/Pid.Sus/2022/PN Sgr was the fulfillment of the elements in Article 44 paragraph (2) of Law of the Republic of Indonesia No. 23 of 2004 concerning the Elimination of Domestic Violence and Law No. 8 of 1981 concerning Criminal Procedure Law. (2) The legal consequences of acts of domestic violence viewed from a sociological perspective lead the perpetrators of domestic violence towards deviant behavior that is not in line with social norms. (3) The legal consequences of acts of domestic violence in terms of Republic Act No. 23 of 2004 are punishable in articles 44 to 53.

Introduction

Quantitatively, violent crimes tend to increase with a variety of modus operandi with serious impacts on both female and male victims. The concern for victims of violence is increasingly

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prominent because many cases of crime are not resolved completely, while the impact on victims at the time of the incident until after victimization is quite sad and brings prolonged trauma. 1 When traced carefully in everyday life, the number of acts of violence that are typically directed at women, in the form of sexual violence, acts of rape, sexual harassment, the majority of which are directed at women. Such violence is understood as gender-based violence. This concept actually refers to the subordinate position of women because the relationship between the two reflects powerless and powerful, in other words, there is an imbalance of power between women and men (Sihite, 2007). Marriage is a new chapter for individuals to start an obligation and share a new role with their partner. Role functions will determine the duties and obligations of individuals in a harmonious family. With this institution, there will be legal rules that protect the existence of these relationships in society. Later on, the couple becomes a family consisting of a father, mother, and children or even childless. In living a family life, of course, it is not as easy and smooth as imagined, there must be many twists and turns of problems that must be faced by the family (Suastika, 2022). Towards a happy household there will definitely be obstacles or trials that can disrupt the stability of the household. With these various obstacles, it depends on how the family will be able to solve them. A successful marriage is often characterized by readiness to assume responsibility. Once they decide to get married, they are ready to bear all the burdens that arise as a result of marriage, whether it is related to providing maintenance, education of children, or related to religion, protection and good socialization. When one of these responsibilities and obligations fails, especially for the husband, such as providing maintenance, protecting biological needs, and educating children from a religious or social perspective, it will have an impact on the stability of the household itself, a wife will feel depressed if the figure of a husband they crave does not match what is expected. When the responsibilities that must be carried out are difficult to do, it will make a wife depressed and a desire for divorce arises.

In marriage, every couple dreams of building a harmonious, happy and loving family, but in fact many families are not harmonious, but rather feel depressed and sad because of domestic violence, whether physical, psychological or psychiatric, sexual, emotional, or family neglect. Domestic violence can be caused by internal and external factors, both individually and collectively, especially in the era of openness and advances in information technology, where violence often

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appears through information media that cannot be filtered for its negative influence on the comfort of living in a household.

The household where violence often takes place is the container of a life of its inhabitants consisting of various statuses, such as husband and wife, parents, children, people with disabilities. -People who are related by blood, people who work to support the household, other people who stay, and people who are still or have lived together in a household. Meanwhile, the scope of households as intended in Law Number 23/2004 on the Elimination of Domestic Violence, Chapter 1 on General Provisions Article 2 includes husbands, wives, children, people who have a relationship with husbands, wives, and children due to blood, marriage, breastfeeding, nurturing, and guardianship who live in the household, and or people who work to help the household and live in the household. Article 5 of Law Number 23 Year 2004 on the Elimination of Domestic Violence states: "Every person is prohibited from committing domestic violence against persons within the scope of their household, by means of: a. physical violence; b. psychological violence; c. sexual violence; or d. domestic neglect". The content of the article states that it is not allowed for anyone to commit domestic violence in various forms. The elimination of domestic violence is a guarantee given by the state to prevent the occurrence of various forms of domestic violence. The state must take action against perpetrators of domestic violence, and protect victims of domestic violence. Anyone who commits domestic violence is given legal sanctions because domestic violence is a criminal offense.

Research Methods

The writing in this thesis research uses this type of research is normative legal research, namely legal research conducted by examining library materials or secondary data, also called doctrinal research, where the law is often conceptualized as what is written in laws and regulations (law in books) or conceptualized as rules or norms which are benchmarks of human behavior that are considered appropriate. the type of research conducted in this thesis research is normative legal research, because researchers use library materials as the main data to analyze cases, and the authors do not conduct field research. This research is researched using library materials (secondary materials) or library legal research which is broadly aimed at: research on legal principles, research on legal systematics, research on legal synchronization, research on legal history, and research on

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legal comparisons. The nature of research in this study is qualitative descriptive research. In qualitative descriptive research generally aims to describe precisely the characteristics of an individual, situation, symptom or certain group, or to determine whether there is a relationship between a symptom, or to determine whether there is a relationship between a symptom and other symptoms in society.

Results and Discussion

Judges' Consideration of the Decision of Singaraja District Court in Decision Number 119/Pid.Sus/2022/PN Sgr

Consideration of Facts and Law As for the discussion of domestic violence on the grounds of divorce, of course, it is closely related to several aspects that have been discussed, because divorce itself has large, broad, and complex implications, among others in terms of the breakdown of marriage due to divorce is the result of the former wife, children, joint property, and others, even the consequences of domestic violence such as the existence of victims who also need victim protection. In connection with divorce as a reason for domestic violence, there are many aspects that are interrelated with each other, such as the wife being a victim of violence by her husband, children who are victims of violence by their father because they know and/or witness violence against their mother, and so on. These interrelationships cause some parties to become victims of violence, and these parties also need legal protection. Domestic violence is a cause of divorce so that in the process it is necessary to temporarily separate, so that the violence does not continue. This kind of separation is a temporary measure or action that provides protection because the existence of some domestic violence is evidence that the opportunity for the occurrence or continuation of such violence remains open in the future.

The testimony of witnesses at trial and evidence or based on facts that are often used to strengthen divorce lawsuits (Tommy, 2018). Based on Decision Number 119/Pid.Sus/2022/PN Sgr, the witnesses were the victim witness, the victim's child witness and the kelian banjar dinas witness. The victim witness testified that the defendant was carrying a kitchen knife and approached the victim witness from behind with his right hand holding the knife then the defendant choked the victim witness using the inner segment of the defendant's left hand and then thrust the knife he was

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carrying into the left back and chest of the victim witness then the victim witness cried out for help then because the defendant felt panicked the defendant went home with the knife and after arriving home the defendant drank Bodrek and seprit pills until the defendant became unconscious and was hospitalized.

The victim witness realized that the defendant was carrying a knife and thrust it at the victim witness to kill her. As a result of the defendant's actions, the victim witness suffered lacerations to the left back and chest in accordance with the visum et repertum No: 042/034/VI/RSUD/ /2022 dated 15 June 2022 made by a Forensic and Medicalolegal Specialist at the Buleleng Regency Regional General Hospital.

Based on Decision Number 119/Pid.Sus/2022/PN Sgr, there was one item of evidence in the form of a kitchen knife with a wooden handle, which was used to injure the victim. The defendant was charged by the Public Prosecutor with alternative charges, so the Panel of Judges, taking into account the legal facts mentioned above, directly chose the first alternative charge as stipulated in Article 44 paragraph (2) of Law of the Republic of Indonesia No. 23 of 2004 concerning the Elimination of Domestic Violence, the elements of which are as follows:

1. Everyone
2. Committing acts of physical violence within the scope of the household resulting in the victim getting sick or seriously injured

Customary Law

Judges are state court officials who are authorized to adjudicate according to applicable law. In the life of today's society, judges according to applicable regulations have a position as an institution that resolves any problems that arise. For this reason, a judge in carrying out his duties is not allowed to take sides with one of the parties other than siding with the truth and justice and human values. In order to realize the value of a judge's decision that is fair and contains legal certainty, the consideration of a judge is very important. In addition, the judge's consideration can provide benefits for both parties to the case, so that in providing consideration, the judge must be thorough, good and careful. So that it is not canceled by the high court / supreme court. A judge in carrying out the examination of a case requires proof. Because in deciding a case proof is needed. Proof is the most important process in the examination at trial. The purpose of proof is to obtain certainty that the events

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submitted really happened so as to obtain a correct and fair judge's decision. The judge cannot make a decision before it is clear to him that the event / fact really happened, that is, the truth is proven, so that there appears to be a legal relationship between the parties. A judge in finding the law is allowed to reflect on jurisprudence and the opinions of famous jurists (Doctrine). When a judge makes a verdict, it is not solely based on the legal norms prevailing in society. A judge in deciding a verdict is based on the applicable regulations, however, the judge does not only refer to theoretical regulations, but must refer to other concrete matters in the case which are certainly not the same as one another. In judicial practice in the judge's decision before judicial consideration is proven. Then the judge will draw facts in the trial that appear and are cumulative conclusions from statements to witnesses, defendant testimony and evidence. The judge's consideration consists of two parts, namely juridical and non-juridical considerations.

The judge's consideration in giving reasons for imposing a decision or for deciding a divorce case and using what legal basis is used. There are several reasons or occur because of a reason for the judge to impose a decision in a divorce case based on Decision Number 119/Pid.Sus/2022/PN Sgr:

1. Aggravating circumstances: That because all elements of Article 44 paragraph (2) of Law of the Republic of Indonesia No. 23 of 2004 on the Elimination of Domestic Violence have been fulfilled, the Defendant must be declared legally and convincingly proven to have committed the crime as charged in the first alternative charge. The Panel of Judges did not find anything that could eliminate criminal responsibility, either as justification or excuse, so the Defendant must be held accountable for his actions. That the evidence in the form of 1 (one) kitchen knife with a wooden handle that has been used to commit a crime. The actions of the defendant disturbed the community.
2. Mitigating circumstances: The defendant was polite during the trial and has never been convicted. That the defendant is the head of the family. That the defendant admitted his actions. That there was an agreement/statement of reconciliation between the defendant and the victim witness dated July 26, 2022.

Criteria for Domestic Violence and Factors that Lead to Divorce in Domestic Violence Cases

Divorce is one of the causes of the breakup of a marriage bond, which has been regulated in Marriage Law Number 1 of 1974 in Article 39, which in Paragraph (2) reads "To carry out a divorce

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there must be sufficient reason, that the husband and wife will not be able to live in harmony again".

The internal factors that cause domestic violence itself are as follows:

1. Exhaustion Factor Excessive work demands that are felt in a narrow time are a factor for a person to feel emotional pressure or what is commonly referred to as emotional exhaustion or "burnout" (Talahatu, 2018: 174).
2. Domination Factor The excessive dominance factor possessed by one of the parties in a relationship, when viewed from the theory of the causes of crime in general, is that from a psychological perspective, the party who dominates too much will experience mental disorders.
3. Excessive Suspicion Factor This excessive suspicion factor, when viewed from the theory of the causes of crime in a biological perspective, is related to the Criminal of passion, namely a person commits a crime due to great love or anger which causes mental disorders from a psychological perspective.
4. Factors of Past Violent Experience This factor of past violent experience when viewed from the theory of factors causing crime from a biological perspective is related to the theory of Occasional criminal or Criminaloid.

Legal Consequences of Domestic Violence Measured from a Sociological Perspective and Law of the Republic of Indonesia Number 23 Year 2004 on Decision Number 119/Pid.Sus/2022?PN Sgr

Domestic violence in a sociological perspective is a social fact that is cross-ethnic, belief, and regional in nature that can be found in communities of various groups, statuses and social layers in almost all places. As an antisocial and anti-humanitarian act, domestic violence can occur suddenly and intentionally by and against all actors or members in a household who act as perpetrators or victims. Domestic violence in Indonesian legislation is classified as a crime with the threat of criminal law because it causes physical and mental pain and suffering to its victims (Susi, 2016).

Conclusions and Recommendations

Based on the results of the discussion regarding Domestic Violence Resulting in Divorce Viewed from a Sociological Perspective, on the Decision of Pn Singaraja Number 119/Pid.Sus/2022/Pn Sgr, it can be concluded that there are several things related to this research, namely:

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1. Judges' Consideration of the Singaraja District Court Decision Number 119/Pid.Sus/2022/PN Sgr, due to the occurrence of acts of physical violence within the scope of the household resulting in the victim getting sick or seriously injured, committing maltreatment resulting in serious injury, intentionally attempting to take the life of another person, if the intention to do so is evident from the commencement of the implementation and the non-completion of the implementation is not solely due to his own will so that, accompanied by evidence and evidence in the form of a kitchen knife with a wooden handle which was used 2 times to stab the victim's left back and chest, and the results of Visum et repertum No. 042/034/VI/RSUD/ /2022 dated June 15, 2022 made by a Forensic and Medikolegal Specialist at the Rumah Sakit Forensic and Medical Center: 042/034/VI/RSUD/ /2022 dated June 15, 2022 made by a Forensic and Medicalolegal Specialist at the Regional General Hospital of Buleleng Regency. Therefore, the Panel of Judges with regard to Article 44 paragraph (2) of Law of the Republic of Indonesia No. 23 of 2004 on the Elimination of Domestic Violence. 23 of 2004 on the Elimination of Domestic Violence and Law No. 8 of 1981 on Criminal Procedure as well as other relevant laws and regulations adjudicate and declare the defendant legally and convincingly proven guilty of committing the crime of physical violence within the scope of the household resulting in the victim getting sick or seriously injured as in the indictment, impose a sentence on the Defendant therefore with imprisonment for 10 (ten) months, stipulate that the period of arrest and detention that the Defendant has served is deducted in full from the sentence imposed, stipulate that the Defendant remains in custody, stipulate that the evidence in the form of a kitchen knife with a wooden handle; to be destroyed; and charge the Defendant to pay court costs in the amount of Rp. 5,000.00 (five thousand rupiah).
2. Domestic violence in a sociological perspective is a social fact that is cross-ethnic, belief, and regional in nature that can be found in communities of various groups, statuses and social layers in almost all places. Initially, domestic violence is a private matter of a family that is closed and far from the reach of attention and intervention of other parties, including the government. However, a number of internal factors in the personalities of the perpetrators in the household, and external factors centered on local cultural value systems and rapid

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social change, contribute to its causes and triggers. The legal consequences for anyone who violates Articles 5 through 9 of Law No. 23 of 2004, punishable by the penalties as formulated in Articles 44 through 53, are in the form of imprisonment for a minimum of 4 months and a fine of Rp.300,000, - (three million rupiah) 71 and the highest is in the form of imprisonment for a maximum of 20 years or a maximum fine of Rp. 500,000,000, - (five hundred million rupiah). In Decision Number 119/Pid.Sus/2022/PN Sgr the defendant was therefore sentenced to imprisonment for 10 (ten) months and paid court costs in the amount of Rp. 5000.00 (five thousand rupiah).

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