

PROBLEMATICS OF RESOLUTION OF DOMESTIC VIOLENCE FOR THE TOBA BATAK TRIBE COMMUNITIES IN TOBA ASSOCIATED WITH LAW NO. 23 OF 2004

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Abstract

*This research is sociological juridical, meaning how the positive law determined by the government lives and applies in the midst of society whose research method is descriptive in which data collection is carried out by interviews, observations and questionnaires with details namely 10 victims, 10 perpetrators 5 traditional elders and 2 government officers. From the research results, it was found that even though there was the Law on Domestic Violence No. 23 of 2004 this did not apply in the Batak Toba community, it does not mean that the Batak Toba people do not understand the law, but prefer to maintain their household without any grudges between the two party because if a case of Domestic Violence occurs at the police level, it means that whatever the law is, it must work, namely that there are sanctions for husbands to be imprisoned. This has caused bad feelings on the part of the husband's family, so it will be considered to widen household problems. Therefore, Batak women prefer *boa baenon nga nasib anak kokido hamoraon diau, sonang doau marsogot dibaen anakku, maila iba begeon ni jolmai, mangulama iba asa boi sikkola anak niba satimbo- satimbo na. how can you make it fate, detain my child is my wealth anyway tomorrow my child will be ashamed to be heard by the people around, work hard so that I can send my child to school as high as possible hold on to any problems in the Toba Batak tribe, especially domestic violence, are always decided based on local wisdom because it is considered capable of providing a sense of justice in society.**

Keywords: Problems; resolution; violence; household; Constitution.

I. INTRODUCTION

Every human being strives for marriage to provide happiness and peace for both parties, especially husband and wife, therefore it is very necessary to get to know each other more deeply before there is a desire to have a family, don't let the nature and character appear when time passes. one of the parties that has the potential to cause domestic violence.

The government, in this case, needs to make a strict rule so that everyone who wants to have a family must receive counselling first so that there are strong directions and fundamentals for both partners as to what the true meaning and purpose of marriage is.

In the Marriage Law No. 1 of 1974 it is said that the purpose of marriage is to form a household that is eternally happy based on belief in God Almighty and between the husbands having the same position where the husband is the head of the household and the wife is the housewife.

Even though Indonesia already has the Law on the Elimination of Domestic Violence No. 23 of 2004 but there are still cases of domestic violence experienced by Indonesian women, recently the mass media has been so incessant showing cases of domestic violence experienced by a famous Indonesian celebrity named Lestigejora and her husband Rizky Bilar and followed by cases from ex members of the council and also as celebrities named Vena Melinda and Ferry Irawan casually these two men committed physical violence against two young Kartini who had a social position in society.

This illustrates that domestic violence is inseparable from the lives of women who are considered as the weak. From these two cases, the way to solve them is very different. Vena Melinda will legally solve them which will be accompanied by divorce on the grounds that domestic violence has often been carried out and on the other hand, the Lestigejora case ended with an apology from the wife by withdrawing the case from the police and it was resolved amicably. Lestigejora still wants to maintain the integrity of his household. So the man's arrogance and power are not only found in Toba Batak society but also in all levels of society



II. RESEARCH METHOD

This research is a juridical sociological research whose research location is the area of the Toba Batak tribe which consists of 16 sub-districts and several villages, and this research takes 5 sub-districts consisting of 92 villages which are taken as respondents as many as 50 people consisting of: 10 people from each sub-districts consisting of: perpetrators of domestic violence, 2 people, victims 2 traditional leaders 2 people as informants 2 people from the community 2 people and 2 government officials, whose data was obtained by observation, open interviews and questionnaires taken from each sub-district after new data was collected analysed so that it can provide an actual picture of how the implementation of a positive legal regulation, namely the Law on the Eradication of Domestic Violence No. 23 of 2004 in the Toba Batak community.

III. RESULT AND DISCUSSION

According to customary law there are 3 systems of marriage, namely:

- a. Endogamy is a form of marriage within its own clan
- b. Exogamy, marriage outside the clan
- c. Eleutrogamy is a combination of the two mating systems above

In the Batak custom, marriage is often carried out based on the endogamy and exogamy systems which must be carried out with several stages of traditional events which are considered a requirement if someone carries out a marriage based on Batak custom.

The first time it is done in a *marhusip* way where the nuclear family of the prospective husband comes to convey their desire to marry the prospective bride, at this stage the prospective groom is still wary because the possibility of being rejected is very large.

If there is a new agreement, the groom's relatives come, determine the *partuppolan* day (an agreement in the church that both parties promise to form a household) but for now, if the economic situation of the prospective groom is in place, they have brought traditional food, but the prospective women prepare food at random to welcome the arrival of the groom's entourage.

Because in the Batak Toba tradition, whatever is discussed is always over food with the hope and prayer that everything that is being negotiated goes well. *Partupolon* was also held to provide an opportunity for third parties who objected to the existence of a wedding plan between the two parties, which was given a grace period of two weeks. It is at the *partupolon* event that it is determined how many *sinamot* candidates will replace the woman, how many invitations from the *paranak* and *parboru* parties, usually at a Batak Toba show (wedding party) the number of invitations from the groom's party is 2 times that of the bride, what form the marriage will take depends on the agreement, whether to put it up for sale or sell it.

If the marriage is sold, the man who prepares the building and the party is the man, but if it is put up for sale, the party is made by the woman or commonly called *napaherbang amak* (the one who spreads the mat).

Traditionally there are 2 types of *sinamot* forms, namely:

- a. *Sinamot Sitombol* means an amount of dowry given to the bride's family which will be used for party expenses and everything related to traditional weddings, usually hundreds of millions of rupiah for those who can afford it and here it is up to the woman how she wants the wedding ceremony to be carried out. However, from a practical point of view, the woman also tries so that the groom's family does not feel embarrassed at the wedding ceremony.
- b. *Sinamot Rambu Pinundun*, *sinamot* that is given to the bride's family is just an amount of money to be spent at the time of the wedding for the cost of buying, *dekke si mudur udur*, *ulos hela*, *ulos herbang* which will be shared later on the groom's family and *boras pir* Party and building costs are all borne by the men.

So in the Toba Batak tribe, the marriage of *dialapjual* and *sinamot signs pinundun* is the marriage that the Toba Batak man really wants. Because the man is *sibolak amak* and is considered a very good marriage and the man feels honored.

Usually the *sinamot* is given only part of the *martuppul* time and paid off at the wedding ceremony at the *loloan* (at the peak of the wedding ceremony).

After an agreement was made on the day that had been determined by both parties, in the morning before *nakok mataniari* (sunrise rising) the groom's entourage came bringing traditional food (*juhut*) which will be eaten together which is called *mangan indahan sibuha buhai*. at the event of picking up the bride to be brought to church.

It was only then that the bride and groom were paraded to go to the church to receive the marriage blessing. At this moment, there was a very complete promise that the bride and groom would make at the Church which became the basis of the Batak Toba Christian household life wherever he was,



namely "therefore men will leave their mother and father and unite with his wife so that the two of them become one flesh (Matthew 19 verse 5) so they are no longer two but one what God has joined together no man may separate. (Matthew 19 verse 6) this is the basis from the religious point of view of each household cannot be divorced unless divorced by death.

In Batak custom, marriage is legal if it is done according to religion and custom, if a person marries only based on religion, the marriage is not valid according to custom. The consequence is that the party concerned may not participate in traditional ceremonies, if a child is born then the child is considered the child of the wife. Besides that, for example, if his younger sister marries, the person concerned cannot *mangulosi*, must be folded and cannot speak in traditional ceremonies. After the blessing is continued with a traditional event in a building that has been agreed upon by both parties, in Batak Toba *sinamot* may not be paid to the entire bride's family because it is considered a sign of bond between the two families to form a new kinship. It was at this time that the *Sinamot* was paid in full which was handed over to the bride's parents on a plate filled with rice and received on the *ulos* mat.

Sinamot is considered a purchase by a woman because it will enter and move into the husband's clan so that as a result children who are born follow the lineage of men and women become heirs in the husband's family even if the husband dies, if a widow wants to marry because she is still young there are 3 choices

- a. Widow marries sister or
- b. brother of her late husband
- c. Marry with her husband's surname

These three choices were made with the intention that wealth would not go anywhere and that the children born would be in the same clan as their husbands.

The most interesting thing is that during the ceremony of giving *ulos* to the bride and groom, the *hula2* (namely the group of the bride's parents) has one meaning and is a request to God Almighty that the two brides, *maranak 17 marboru 16*, mean the hope from *hula2* that the bride and groom have sons 17 people and girls 16 people although in terms of practice the younger generation is now more inclined towards government programs with two children is enough

In the Toba Batak custom, previously the aim of marriage was to get labour to work in the fields but with the development of knowledge and public awareness the purpose of the marriage has changed, namely to continue the lineage or clan, which is better known to continue the patrilineal lineage, which means continuation of descent from one the family is one boy.

Sons are a very high value for the Toba Batak tribe, therefore every family tries to have sons as continuation of the lineage either by adoption or IVF. Because of his special position in the family, there is selfishness and self-will and arrogance, this is carried on when the person concerned has a family, this is the reason why domestic violence always arises in the Batak Toba family.

The government has issued Law No. 23 of 2004 concerning the Elimination of Domestic Violence, meaning that the State guarantees preventing domestic violence.

However, in the Toba Batak society, domestic violence often occurs, both in the middle-class economy, among people who already have higher education, and even elite people who occupy positions in government.

From a practical point of view in everyday life, due to superior characteristics and a feeling of having a higher position in the family, without realizing it, domestic violence is considered a mere habit and is not really an issue. In the Law on Domestic Violence there are 2 forms of violence, namely physical and physical, these two forms of violence often occur both within the family and in official meetings at parties.

The Toba Batak people only know domestic violence only in the family environment which consists of *gezin* (father and mother of child), children see firsthand how violent acts are committed by their parents so that boys who also see acts of violence committed by their father will be imitated, as a result domestic violence in Batak society it has become a vicious circle.

The customary structure of the Batak tribe is what has made domestic violence so enduring today, what is even very sad to see is that marriage for the Batak tribe is not in harmony with what is regulated in the law, namely to form a household that is eternally happy and based on God Almighty but the main goal is to continue the descent from the husband's clan.

So that a woman's reproduction must also be guaranteed to have the ability to give birth to a son, is this not covert domestic violence? so that as a result, even though one family already has only daughters, peace and tranquillity in the family is not guaranteed because there is still strong friction from family and customs, even though the era is modern and advanced, every way is done to get a son, whether it's by way of a baby IVF, adopting children or by means of the man remarrying with another woman to get a son in order to continue the descent, regardless of the



physical violence experienced by women who are unable to give birth to a son to continue their descent.

In this Batak tribe there is a very extraordinary conflict between religious regulations and customs, in religion it is said that one cannot divorce if not divorced by death, in terms of the fact that a woman who is unable to give offspring will be *diaulak* (returned back to her parents)) on the other hand, if she is unable to produce offspring for a son, the woman will be ready to be divorced or married.

But at the present time, with technological advances coexisting with religious provisions which state that divorce is only possible because of death, family life can be maintained in order to continue the lineage, namely by having IVF, because in IVF this program costs a lot of money. there are many, the husband's embryos of sons have been selected which will be inserted into his wife's ovum with the hope and prayer and help of GOD ALMIGHTY a son will be born as a continuation of the lineage.

Isn't this a form of violence where a woman seems to have to be able to provide guarantees to continue her offspring by giving birth to a son?

Based on observations in the field that the rights of a woman in the Toba Batak tribe are not touched, the two things mentioned above are all the fault of the woman.

Likewise, if there is a divorce, it must be seen whether the divorce was at the will of the husband, for example, because they do not have children, the woman must be *paulak*.

carried out in a traditional ceremony, the man's family came to the woman's family because as a result of the marriage in Batak custom a new *dalihan natolu* was formed, so to maintain this balance, a *Paulak ulos pangose* traditional Batak event was made the purpose of the arrival of the men, there are several reasons *paulak ulos pangose tu natua2 na*

a. for reasons of not having children, the woman's parents cannot refuse it, in traditional Batak events it is always started with a meal together with the intention that what will be discussed later will receive blessings and direction from God Almighty, no matter how bitter the decision of the conversation will be. the traditional elders and relatives of both parties, finished eating together and then stated their intention to return the *boru* because they could not *marenteng tuhami* (unable to bear fruit in our family) come back to live happily).

In Batak custom, this is very important because if the woman marries in the future, if the *paulak ulos pangose* event is not held, because at this event both the woman and the man are at the *pago2 pago2* money, the legal consequences if this *pago2* is not carried out, if the woman marries, the child will be born. considered her husband's first child.

b. The woman has children but has bad behavior in the household, for example: often cheats, does something her husband doesn't know about the joint property and wastes it, often follows bad women and doesn't want to care about her obligations as a wife to the household and children.

In Batak custom, the *diaulak* event is very important because if this is not done then the woman still has rights to her husband's family, but if *paulak ulos pangose* is carried out then at that time the woman's relatives and the woman have no more rights for her husband's relatives.

From a practical point of view, it is very ironic that a woman in the Toba Batak tribe, if she does not have sons, must be willing to marry, even though she wants to divorce, her parents still forbid her, *boa baenon da boru songni dope pangalahona sai angiatma marbege todim in jalo Debata tangiangta sai pature turema borumi asa gabe boru nahaseai tu joloanon* (can you make my boru as soon as you hear God for our prayers be healthy, take care of your daughter this girl) which makes your life happy and happy in the future.

It's another matter what treatment a Batak Toba woman receives if her husband dies without having children, the woman finishes the traditional ceremony for her husband's funeral, according to Batak custom the woman must be brought by her family back to her parents' house without attending her husband's funeral or so to speak she doesn't know where her husband is buried.

The wife has no right to property if her husband dies without any children, all property belongs to the husband's family even though positive law says that the wife is entitled to half of the joint property.

If the woman only gives birth to daughters, the original property from the husband is very difficult to give even though the husband has the right to do so. belong to someone else's clan because the daughter will follow the husband's line if she marries.

Therefore, with the progress of science and the way of thinking of the Batak people at this time, every parent, even though he only has a daughter, but both parents have made a final wish before a notary that all of their assets belong to the child and wife in accordance with what is stated in the family card.



In Toba Batak society, even though there must be a divorce, there are things that must be considered: a. if it is at the will of the woman, then the woman must pay back the *sinamot* that was handed over to the male relative at the time of the marriage, three times as much. b. however, if the divorce is at the will of the husband, the *sinamot* does not need to be returned.

This is related to the positive law of Government Regulation No. 10 of 1983 Article 8 says: if the divorce is at the will of a male civil servant, then he must give 1/3 of his salary to his wife 1/3 for their children and 1/3 for male civil servants. Meanwhile, there is still a balance of rights between wives and men who are civil servants, while in the Toba Batak custom, as explained above, the husband has no obligations if the divorce is at the will of the husband on the grounds of not having children, but positive law provides an arrangement that provides protection for women and are entitled to 1/2 of the salary of civil servants.

However, if the divorce is at the will of the wife, the wife loses her right to the salary of the husband's civil servant, whereas in Batak custom, female relatives must pay back the *sinamot* given at the time of marriage, three times as much. This is because the male relative feels humiliated at his wife's request for divorce.

Now that raises the question why the family remains intact even though someone is still accompanied by domestic violence? This is because there are traits that need to be emulated for a woman in the family, namely:

There are 2 philosophies of a Batak woman which are still being carried out today which are considered to be a pattern for the life of Batak women in general, namely:

a. *Ina Batak Pardinding*: a Batak mother is like one wall, always limiting all her household problems in order to maintain the honor and integrity of the family's good name, dignity and family integrity. In any sense the problems in the household will not be heard outside the family circle. So *Raja Peamai Manang Didia Alani Pina Raja Ni Ina Ido* (a husband is respected by people outside the home because he is respected by his wife in the household).

b. *Ina Batak Par para para*: *para* means a place where something is stored above the house in the village and is very difficult to reach, this is where the Batak women usually keep all valuables or money and this is used if there are things that are very important for household needs.

So a Batak mother has all her savings from excess spending money and thrift and a Batak mother knows very well that the household must be fought for and always supports her husband as a wife and is full of responsibility, so if it's not like that it's not *ina Batak*.

Based on the above, the Batak woman's character is hard and persistent, not so demanding of her husband and a Batak woman never complains that her husband is unable to meet the economic needs of the family.

In fact, based on the results of research in the city of Medan, Batak mothers left the house before dawn looking for *botot* goods and collected leftover food for livestock, which she sold 1 can for Rp. to take care of the children (Roswita Sitompul, 2021)

There is not the slightest burden for a Batak woman to always take part in activities in society, this is because it has been instilled in her heart that one day she will become a successful woman with one extraordinary principle, namely *anakoki do hamoraon di au* (my child is my wealth). I will get that happiness from my child.

This is the motto that makes Batak Toba women always be persistent in fighting for their children to go to school as high as they can, because there is a maturity of thinking that has been awakened that without the knowledge they have, how could their children be established in life.

So that in terms of the reality that exists in the Batak Toba community, the children have all gone to school and the nature of *marsitogutoguan* (mutual help) is very attached, if one brother succeeds in overseas then he will attract his siblings.

The Batak woman is very sensitive to something that happens in the family, she immediately raises her hands to help meet the needs of the household both within the extended family where she is located as *boru*. Even in Batak there is the term "children *hamatean boru do hangoluan*" which means that if a boy is only demanding what is rightfully his, especially in matters of wealth, but if a daughter is a child who always longs for her parents and sacrifices for the slightest cost as long as it is for the benefit of her parents or *hula*. Even at a party, even if the family can't afford the cost of the party, whether it's ups and downs, a daughter always appears to make up for any lack of funds.

Based on the provisions above and in accordance with what is stipulated by the 1945 Constitution, even though there are many cases of domestic violence for the Toba Batak tribe, rarely do they reach a lawsuit in court, this is because of the love of a daughter who remains devoted to her parents. and her *hula* so that no matter what domestic violence problems she is experiencing, she still believes that one day she will be happy at the right time, which will be obtained from her children.



In the table below it can be seen how domestic violence is resolved in Indonesia.

Table 1. Settlement of cases of domestic violence / RP

institution	Non HK	Civil	Investigator	Sp3	V. Hakim	Appeal/Cassation	PK	Restitution	N/A
WCC	214	188	131	10	128	0	0	0	71
hospital	15	-	20	0	0	0	0	0	108
UPPA	87	0	137	54	76	0	0	1	-27
PN	2	2	0	0	209	11	0	0	72
NGO	1043	253	329	21	174	17	3	13	908
P2TP2A	526	67	44	21	46	0	0	0	1447
DP3A	18	0	24	65	12	0	0	0	0
Amount	1905	510	685	171	645	28	3	13	2579

2021 CATAHU report (n =6480)

From the table it can be seen that there are 3 ways to resolve domestic violence/RP cases, namely: a. Non-legal settlement of 1905 cases b. Civil settlements totaled 510 cases c. Not identified amounted to 2579 cases. Settlement of domestic violence based on law, namely the examination stage starts with an investigation and is followed by an investigation and then a judge's decision and in the table it can be seen that there are still appeals for the decision consisting of 28 cases and a review of 3 cases.

Settlement of non-legal domestic violence, namely settlement by deliberation facilitated by NGOs in 1043 cases, P2TP2A in 526 cases and WCC in 214 cases and criminal settlement in 13 cases that have received restitution, meaning that efforts have been made to fulfill the victim's right to recovery.

From the table above it is clear that in Indonesia, even though the Law on Domestic Violence has been regulated, in terms of reality, as many as 1905 cases of domestic violence in the community were resolved outside of legal channels. Even though there is a view that the settlement of domestic violence outside the legal route is to obtain restorative justice, even though this puts pressure on the interests of the victim, actually restorative justice in this case only avoids a criminal lawsuit which is deemed ineffective which further deepens the dispute so that as a result family life becomes fragile because of the sanctions imposed. will be carried out by the perpetrator.

In the Toba Batak community there is also no desire to resolve household issues through legal channels because of the strong role of the natolu excuse from both parties to ensure there is a harmony in the family and community. by deliberation for consensus in accordance with the fourth principle of Pancasila, namely deliberation for consensus.

This does not mean that the Toba Batak people do not understand Law No. 23 of 2004, but that the Toba Batak people are more confident in resolving domestic violence based on local wisdom, namely the role of the Natolu pretext that can maintain friendly relations from both parties.

The Government of Indonesia enthusiastically and actively socializes the Law on Domestic Violence. With this enthusiasm, the WCC, RS, UPPA, LSM, P2TP2, DP3A institutions emerged as official institutions to work so that people can complain about domestic violence in the sense of eradicating the vicious cycle of domestic violence. occurred in the Toba Batak community.

Based on observations in the field, there were several cases of domestic violence handled by this agency and there were also shelters provided for victims of domestic violence which were temporary stopovers from victims when domestic violence cases occurred to protect victims from the emotions of perpetrators, there were several cases handled and ended with peace.

However, this institution is also very pro-active if the case leads to a crime they will convey it to the police.

Domestic violence is a condition that often occurs both in highly educated people and not in the table below, you can see domestic violence behaviour in terms of education and employment.

Table 2. Characteristics of victims and perpetrators

INFORMATION			EDUCATION			WORK		
AGE	Perpetrator	Victim	Levels	Perpetrator	Victim	Type	Perpetrator	Victim
N/A	2041	299	N/A	2126	1086	N/A	2654	879

>80 yrs	49	3	Other	35	15	Other	468	240
61-80	94	40	PT	768	752	Labourer	341	87
41-60	928	734	high school	2065	2265	Farmer	182	58
25-40	2286	2383	junior high school	682	1198	Student/student	427	1798
18-24	799	1168	SD	429	691	Businessman	480	266
14-17	251	942	>SD	109	132	TNI/Polri	39	0
6-13	32	732	No school	266	314	DPR/DPRD	3	0
						Religious leaders	17	1
						civil servant	147	116
						Employee	1212	738
						not working	329	508
						IRT	136	1705

Based on the table above, the perpetrators of domestic violence do not look at age, even those aged > 80 who are already mature there are still 49 perpetrators of domestic violence, and in the data above it can also be seen that the largest number of perpetrators and victims of domestic violence are those with high school education, as many as 2065 perpetrators and victims of 2265 cases which are usually perpetrated by ex-boyfriends and friends and the large number of domestic violence occurs for women who are of reproductive age.

And for those with higher education there is almost a balance between perpetrators and victims, namely: 756 perpetrators and 752 as victims of domestic violence, meaning that the higher one's knowledge and education is not a guarantee not to become perpetrators and victims of domestic violence, while the assumption from society is that the higher one's education level the volume of violence is lower. It is clear from the above data that domestic violence and violence against women are not limited by education level.

This data also applies to the Toba Batak people, both those who have migrated and held positions in the domestic violence government are still there, so that no matter how high the position of a Batak Toba woman is in society, she is still a victim of domestic violence from men as husbands and priests in the family.

In terms of work in the table it can be seen that workers as students or students occupy the highest rank with 427 perpetrators and 1798 victims. And those with the status of housewives are the most victims of domestic violence, 1705. This gives us an illustration, meaning that the house of one family is no longer a comfortable place for a housewife, this is due to the social position of the housewife and low economy.

IV. CONCLUSION

1. The factor of domestic violence that occurs in the Toba Batak tribe is not due to economic conditions but due to the influence of the kinship system that is adopted and results in the superior position of men giving rise to arrogance in the household.

2. Domestic violence in the Batak Toba tribe, even though there are positive laws that regulate it, the Batak Toba people believe more that local wisdom is capable of fulfilling a sense of justice and is able to accommodate the maintenance of household life because the Batak people try as much as possible to look after each other. good relations between the two sides' *natolu dalihan*.
3. In Batak Toba society, domestic violence persists and can be said to be a vicious cycle even though a woman's social position in society has been taken into account.

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