

# Settlement of criminal acts of sexual violence in husband and wife relationships (case study of Surabaya District Court decision 1815/PID.C/2020/PN SBY)

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## ABSTRACT

This thesis explores the legal framework for addressing cases of sexual violence within marital relationships, focusing on a case study of Decision No. 1815/PPID.C/2020/PN SBY from the Surabaya District Court. The study aims to identify the various forms of domestic violence that manifest in marital relationships and to critically evaluate how judges applied legal principles in this case. Sexual violence within the household is often perceived as a private matter, making it difficult to address openly, despite the significant harm it inflicts on victims, particularly women. The research findings emphasize that sexual violence in a domestic setting not only includes physical abuse but also psychological harm, which can lead to long-term mental health issues for the victims. Utilizing a legal analytical approach, the study examines the protection mechanisms available for victims under Law No. 12 of 2022 concerning Sexual Violence Crimes. The analysis highlights that although legal regulations are in place to protect victims, their enforcement remains hindered by various factors, including pervasive societal stigma and a lack of public awareness regarding victims' rights and legal remedies. Through this research, the thesis aspires to contribute to the development of legal studies by providing a deeper understanding of and strategies for addressing sexual violence within the context of domestic relationships.

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## 1. INTRODUCTION

In the 1945 Constitution, one of the goals of the state is to protect the entire Indonesian nation and its territory. The rights of citizens, including the right to life, freedom from discrimination, violence and threats, are guaranteed in the constitution. The fulfillment of these rights also includes protection and justice, which becomes important in dealing with cases of sexual violence (Wirawan & Permatasari, 2022).

Sexual violence can occur in various places, such as work environments, public places, schools, and even in families. This research will focus on sexual violence. Such violence often occurs due to a lack of self-control and quality of life issues, which can disrupt household harmony and create a sense of insecurity or unfairness (Kurniawan et al., 2023). Sexual violence includes all acts or words

that lead to sexuality, committed with coercion by any person, regardless of the relationship of the perpetrator to the victim (D. Riski, 2023).

Society often considers domestic violence a private matter, but Law No. 23/2004 emphasizes that victims of domestic violence, the majority of whom are women, are entitled to protection from the state and society. This protection aims to prevent victims from violence, threats, or actions that are degrading to human dignity (Law, 2004).

Sexual violence in households is often hidden, making it difficult to uncover. Although it has been regulated as a criminal offense, its status is still a complaint offense, which means that victims must actively report to get justice. Unlike physical violence that leaves tangible evidence, sexual violence often only leaves a psychological impact on the victim. Law No. 23 of 2004 on the Elimination of Domestic Violence to protect victims, especially women, from violence in the family (Alexius Robot, 2021).

Domestic violence can happen to anyone, regardless of social background or profession, including public figures. One concrete example is the case that happened to actress Venna Melinda in 2023, where she reported an act of violence committed by her husband, Ferry Irawan. Venna reported the incident to the East Java Police, revealing that she suffered an injury to her nose due to her husband's actions. In addition, in the statement given, Venna said that Ferry's threats of violence had occurred repeatedly before (Syarifah, 2023). This case illustrates that domestic violence is not a problem that is only experienced by ordinary people, but can also happen to individuals who have influence in the public sphere.

Although many cases of domestic violence occur all the time, this phenomenon is often considered a private matter in marital relationships and is rarely brought to the surface. Public awareness about the importance of preventing violence against spouses is growing, but domestic violence is often categorized as a private matter, so its handling is often limited to the family sphere without involving legal efforts or broader protection (Fitri et al., 2020). In fact, this approach can worsen the victim's condition, especially if the perpetrator continues to commit acts of violence without intervention or protection from the authorities.

To maintain peace and social harmony, as well as ensure the physical and emotional safety of all members of society, the government has enacted a number of regulations and laws designed to prevent sexual violence. These regulations aim to ensure that any violation of applicable laws, including sexual violence, can be sanctioned. However, the effectiveness of the implementation of these laws is highly dependent on public awareness and participation in upholding the rules set by the state (Safitri, 2022).

## 2. METHOD

### 2.1 Research Approach

This research uses a *case study approach*, which is a research method that aims to explore in depth certain phenomena in the context of real life (Yin, 2018). This approach was chosen because this research focuses on Surabaya District Court Decision Number 1815/PID.C/2020/PN SBY, which is a specific case of sexual violence in a husband and wife relationship.

The case study approach allowed the researcher to analyze in detail the juridical aspects of the case, including the application of Law No. 12 of 2022 on the Crime of Sexual Violence. With reference to Yin (2018), this method not only examines legal documents and court decisions, but also evaluates the consistency of the application of the law in the factual context of the case. This approach provides an in-depth understanding of the relationship between legal regulations and their implementation in the justice system.

In addition, the case study approach allows exploration of various aspects of the case, such as the background of the problem, the judicial process, and the impact of the decision. This provides an in-depth insight into the legal dynamics related to the crime of sexual violence, particularly in the context of husband and wife relationships, and makes an important contribution to the analysis of the application of relatively new laws in Indonesia.

### 2.2 Type of Research

This research belongs to the descriptive-analytical type of research. Descriptive research aims to provide a detailed and systematic description of the phenomenon under study. According to Creswell (2021), descriptive research focuses on describing in detail about certain situations, events, or conditions (Creswell, 2021). In this context, the research will describe in detail the settlement of

sexual violence crimes regulated in Law Number 12 of 2022 and how these legal norms are applied in the case under study.

Meanwhile, analytical research aims to analyze existing data to gain a deeper understanding of the object of research. This research not only describes the application of the law but also analyzes the suitability of the application of the law with the applicable regulations, and provides criticism and evaluation of the application of Law Number 12 of 2022 in the case of Surabaya District Court Decision 1815/PID.C/2020/PN SBY.

### **2.3 Sources and Types of Legal Materials**

In normative juridical research, the source of legal material is divided into two types, namely primary legal sources and secondary legal sources.

#### **2.3.1 Primary Legal Materials**

Law No. 12 of 2022 on the Crime of Sexual Violence; Law No. 23 of 2004 on the Elimination of Domestic Violence. These regulations will be analyzed to see how the written law regulates sexual violence and protection for victims; Law Number 8 of 1981 concerning the Criminal Code; District Court Decision SURABAYA 1815/PID.C/2020/PN SBY which is the main case study object. This decision will be analyzed in depth to understand how judges use Law No. 12 of 2022 in the crime of sexual violence.

#### **2.3.2 Secondary Legal Materials**

Books, scientific journals, articles, and other scientific works related to the crime of sexual violence and its law enforcement. For example, the literature used includes Riski (2023) on understanding sexual violence in modern society, and Safitri (2022) which discusses the social implications of sexual violence in the household.

### **2.4 Legal Material Collection Technique**

The technique of collecting legal materials in this research is done in two ways, namely:

#### **2.4.1 Document Study**

Document study is a method of collecting legal materials by examining documents related to the object of research (Bowen, 2020). The documents reviewed in this study include court decisions, laws and regulations, and relevant legal literature. Document studies allow researchers to gain a deeper understanding of the content of legal regulations and their application in concrete cases.

#### **2.4.2 Literature Study**

Literature study was conducted to collect secondary legal materials in the form of theories, concepts, and results of previous research that support the analysis in this study (Creswell, 2021). Researchers collected references from law books, scientific journals, articles, and various other sources relevant to the research topic, especially those related to the handling of sexual violence in a legal context.

### **2.5 Legal Material Analysis Technique**

The legal material analysis technique used in this research is juridical qualitative analysis. According to (Soekanto, 2020), juridical qualitative analysis is an analytical method that focuses on the interpretation of legal norms and their application in certain cases. This technique is used to analyze legal materials obtained from primary and secondary sources. The steps in analyzing legal materials include:

a. Legal Material Collection

Legal materials were collected from various primary and secondary sources relevant to the crime of sexual violence and court decisions.

b. Classification of Legal Materials

The legal materials obtained are classified based on their type and source, for example legislation, court decisions, or legal literature.

c. Normative Analysis

The legal material that has been classified is then analyzed normatively, namely by understanding the legal rules contained in the legislation and seeing how these rules are applied in the case under study.

d. Inference

Conclusions are drawn based on the results of normative analysis, where researchers evaluate the extent to which the application of the law in the case under study is in accordance with applicable regulations.

### **2.6 Research Procedure**

The research procedure includes the following steps:

### 2.6.1 Stage

At this stage, researchers identify research problems, formulate research objectives, and prepare research materials such as laws and regulations, court decisions, and relevant legal literature.

#### 2.6.1 Collection of Primary Legal Materials and Secondary Legal Materials

The researcher collected court decisions that became the object of the case study as well as laws and regulations related to the crime of sexual violence. In addition, researchers also collected relevant legal literature.

#### 2.6.2 Analysis of Legal Materials

The legal materials that have been collected are analyzed in a normative juridical manner to understand how the law is applied in the sexual violence case under study. Researchers also made comparisons with other relevant court decisions.

#### 2.6.3 Conclusion Drawing and Report Preparation

Based on the results of the analysis, the researcher draws conclusions regarding the suitability of the application of Law No. 12 of 2022 in the case under study. The results of the research were then compiled in the form of a research report.

## 3. RESULTS AND DISCUSSION

### 3.1 Application of Criminal Law in Sexual Violence in Surabaya District Court Decision 1815/PID.C/2020/PN SBY

The crime of sexual violence in the domestic sphere is a complex problem and requires a comprehensive approach from a criminal law perspective. In this case, sexual violence against women is not only categorized as a violation of human rights, but also as a criminal act that has a serious impact on victims. These impacts include physical and mental losses, as well as disrupting the stability and harmony of society in general.

Referring to Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law), sexual violence is classified as part of physical and psychological violence. These acts can cause deep suffering for victims, often exacerbated by their hidden nature and the social pressure that discourages victims from reporting due to fear or stigma.

The PKDRT Law was formulated to provide strict legal protection for victims of domestic violence. One of the main objectives of this law is to ensure protection for victims of various forms of violence, including sexual violence, as well as to encourage transparent and effective reporting and case resolution processes. This effort is a strategic step in creating a safe and harmonious household environment, as well as providing appropriate punishment for perpetrators as a deterrent effect.

Domestic sexual violence is an issue that requires special attention. According to the PKDRT Law (Law No. 23/2004), sexual violence includes acts that degrade, humiliate, or injure a person's body and sexual rights, either through force or manipulation. These actions not only impact the physical health of the victim but also cause deep psychological wounds.

Unfortunately, older laws such as Article 285 of the Criminal Code did not provide protection for women experiencing marital sexual violence as it only regulated rape outside of marriage. The PKDRT Law addresses this lacuna by stipulating that domestic sexual violence, including that between husband and wife, is a criminal offense. In addition, there are several other laws that support the protection of victims of sexual violence, including: **Law on Witness and Victim Protection (No. 31/2014)**: This law ensures victims receive protection, psychological support, and legal assistance. **TPKS Law (No. 12 of 2022)**: This law expands the scope of the definition of sexual violence and sets more detailed rules to deal with sexual violence cases more effectively.

### 3.2 Consideration of Judges in Imposing Criminal Punishment on Perpetrators of Sexual Violence in Husband and Wife Relationship DECISION of SURABAYA District Court 1815/PID.C/2020/PN SBY

One of the cases of domestic violence (KDRT) experienced by the beautiful artist Venna Melinda committed by her husband, Ferry Irawan, occurred on January 8, 2023 at a hotel in Kediri, East Java. Venna reported the incident to Kediri City Police on the same day, alleging that Ferry had pressed her nose with his head causing bleeding. The domestic violence incident stems from an argument between Venna and Ferry at a hotel in Kediri City. Venna revealed that Ferry has an irritable nature, especially when his requests are not fulfilled, and is easily jealous, this factor is thought to be the trigger for domestic violence committed by Ferry Irawan against Venna Melinda.

Judicial deliberation is the process by which the judges (Panel of Judges) think about and assess all the facts revealed during the trial. This is an important step to ensure the judge's decision complies with the rule of law and provides justice to all parties involved. If a judge is not thorough or careful in their reasoning, their decision can be overturned by a higher court, such as the High Court or Supreme Court. Judges are court officials who have the duty and authority to adjudicate or receive, examine and decide cases based on the facts. Upholding law and justice, making decisions that are impartial, within the rules, and fair to society. Judges must work freely and independently. This means they should not be influenced by anyone, including the government. The 1945 Constitution (Articles 24 and 25) states that judicial power is independent. The law also prohibits interference in the duties of judges. If anyone tries to intervene, it can be considered a violation of the law. When making a decision, judges must adhere to the applicable law, consider justice in society, be professionally responsible honest and impartial, remember the oath of office, carefully examine the facts before deciding the case. The judge's judgment is the main basis for a fair decision. Judges who work conscientiously, honestly and independently help ensure that justice is served according to the law.

In the case of the offense committed by Ferry Irawan in the crime of domestic sexual violence, the Panel of Judges in the trial process will examine and consider various facts that appear in the trial, both facts that are directly related to the events that occurred (trial facts) and applicable legal facts. This consideration is important to determine whether the defendant can be considered guilty of the criminal offense charged to him.

For example, in this case, the defendant was charged under the *Second Alternative Charge* which refers to Article 46 of Law No. 23/2004 on the Elimination of Domestic Violence. To charge the defendant with this article, there are several elements that must be proven first, including:

### **3.2.1 Domestic violence**

In this case, the judge will carefully assess whether the actions committed by the defendant meet the criteria of domestic violence as set out in Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law). This law covers various forms of violence that occur in the context of the household, which can be physical, psychological, or sexual violence. Physical domestic violence, according to the law, includes acts that cause physical harm or pain to family members, such as beatings, repeated beatings, or excessive use of physical force against the victim. The judge will examine available evidence, such as medical reports or forensic examination results, to determine whether the act falls under the category of physical violence prohibited by law. Psychological domestic violence includes any form of action that can damage the victim's mental or emotional well-being, such as threats, insults, intimidation, or manipulation that results in the victim feeling depressed.... or mentally distressed. In this case, the judge will assess the available evidence, such as the testimony of the victim or witnesses who know the psychological impact experienced by the victim, as well as the opinion of psychological experts if needed. Sexual violence also falls under the category of domestic violence under the PKDRT Law, which includes sexual acts without consent or those committed by force, threat, or manipulation. The judge will examine relevant evidence, such as the results of medical or forensic examinations, and listen to victim and witness testimonies to assess whether the actions committed by the defendant fulfill the elements of sexual violence as stipulated in the law. By considering all available evidence and testimony, the judge will determine whether the actions committed by the defendant can be classified as domestic violence in accordance with applicable legal provisions, and then make a decision that is fair and in accordance with the law.

### **3.2.2 Treatment that harms the victim**

Facts showing that the defendant's actions caused harm or suffering to the victim, either physically or emotionally, are very important in the decision-making process by the judge. In cases of domestic violence or sexual assault, some of the facts that may be evidence to show harm or suffering to the victim include:

**Physical Evidence:** Medical reports or forensic examinations that show injuries, bruises, or signs of physical violence caused by the defendant's actions. These injuries can include open wounds, broken bones, or injuries that require medical treatment; Results of forensic examinations such as DNA analysis or other evidence that corroborates that the defendant's actions caused physical injury or violence to the victim's body.

**Emotional and Psychological Evidence:** Evidence that the victim suffered severe stress, anxiety, depression, or other psychological disorders as a result of the defendant's actions. This can be based on the testimony of psychological experts who have examined the victim's condition after the incident;

Stories or statements from the victim describing how the acts of violence experienced have affected her emotional life, including changes in the victim's behavior or social life. Testimony from witnesses who know the victim's psychological condition can also provide a clearer picture of the emotional impact; Evidence that the victim has difficulty in carrying out daily activities, such as interacting with others, working, or living a social life, due to the psychological trauma caused by the defendant's actions; Testimony from the victim's family or friends who witnessed changes in the victim's behavior or physical condition after the incident, such as becoming more withdrawn, anxious, or unable to function normally.

The existence of other criminal elements: There are additional criminal elements that can prove that the act committed by the defendant is an offense in accordance with the article charged, especially in cases of sexual violence or domestic violence. Here are some additional criminal elements that can be used to support the charges, such as the use of force or threats against the victim:

- a. Use of Physical Force (Coercion) One of the important elements in the crime of sexual violence or domestic violence is whether the act is committed with physical force or coercion against the victim. Physical coercion can be in the form of actions involving violence or threats that force the victim to do or allow an act against their will.
- b. If the victim feels threatened with further violence or threats if she refuses to perform the acts requested by the defendant, then this element of threat is additional evidence to support that the act meets the criteria of violence or violation of the law in accordance with the article charged.

The Panel of Judges will examine all of the evidence and witness testimony presented during the trial to determine whether the charges filed by the victim, Venna Melinda, are in accordance with the facts found during the trial. If the elements of the charged article are proven, then the defendant can be sentenced in accordance with the applicable provisions.

a. Case Position

Criminal case of Venna Melinda who was a victim of domestic violence with Case Register Number 1815/Pid.C/2020/PN

b. Perpetrator Identity

Full Name : Raden Ferry Irawan Kusuma  
Place of Birth : Jakarta  
Age/Date of Birth : 46 years old / February 9, 1977  
Gender : Male  
Nationality : Indonesia  
Address : Jakarta, Indonesia  
Religion : Islam  
Jobs : Actor

c. Case Chronology

- (1) On Thursday, January 8, 2023 at around 19.00 at a hotel in Kediri, East Java, the domestic violence incident began with an argument between Venna and Ferry, Venna complained to her husband saying that "I'm tired, I just want to work, please support". he continued then referred to a quarrel about Venna closing the bathroom door when Ferry was relieving himself. Finally, the commotion became more heated, Venna's words apparently sparked Ferry's emotions even more. Venna said Ferry then lifted her body and pushed her to the bed. Venna Melinda suffered an injury to her nose after Ferry Irawan pressed her nose with his head. The wound caused heavy bleeding to Venna Melinda.
- (2) A domestic violence incident caused an injury to Venna Melinda's nose, which resulted in bleeding. She underwent medical treatment to recover her physical condition. Venna Melinda admitted to experiencing Post-Traumatic Stress Disorder PTSD after the domestic violence incident. This condition is characterized by feelings of excessive anxiety, tension and restlessness. She also experienced severe depression and was haunted by guilt, which impacted her morale and daily activities. due to the psychological distress experienced, Venna lost her appetite, potentially affecting her overall health which may have worsened.

In the decision of the Surabaya District Court Number 1815/PID.C/2020/PN SBY, the Panel of Judges made a decision that considered several things related to the sexual violence that occurred. This trial process involved analyzing and assessing various evidence and facts revealed during the trial. Based on this case, here are some of the things that the judge considered in making his decision:

### 1. Legal Facts and Evidence Presented

The judge analyzes the facts revealed in the trial with great care, considering all available evidence and testimony, both from the victim, witnesses, and physical evidence or documents relevant to the case being processed. This process is part of an effort to ensure that decisions are based on objective facts and are not distorted by the interests of any party. In this case, the judge will carefully assess whether the evidence is strong enough to support the charges against the defendant. In cases of sexual violence, relevant and highly weighted evidence is necessary to prove the existence of a criminal offense committed by the defendant. Medical evidence, such as a medical report recording the victim's physical condition, is essential to show physical violence or injury caused by the defendant's actions. Forensic examinations, which can include DNA analysis, fingerprints, or other evidence that can show a direct link between the victim and the defendant, are also very significant evidence in strengthening the charges. In addition, witnesses who can provide testimony that supports the victim's story also play a very important role in providing a clearer picture of the events that occurred. Eyewitness accounts, or even witnesses who were aware of the victim's condition after the incident, can provide a more in-depth context of the act that occurred and its impact on the victim. By carefully considering all of this evidence, the judge will evaluate whether the evidence is sufficient to prove that the defendant actually committed the act of sexual violence as charged. This whole process is aimed at ensuring that justice is served and the victim gets her rights, while the defendant is also treated in accordance with the applicable law.

### 2. Elements of Sexual Violence

In this decision, the judge conducted a careful examination to ascertain whether the actions committed by the defendant fulfilled all of the elements set out in the law, particularly those set out in Law No. 12 of 2022 on the Crime of Sexual Violence (TPKS Law) and Law No. 23 of 2004 on the Elimination of Domestic Violence (PKDRT Law). Both laws provide a clear legal basis to determine the forms of sexual violence that can be criminalized and the handling procedures that apply in such cases. Sexual violence, in accordance with the applicable provisions, generally includes acts committed without the consent or will of the victim, which are carried out by means of coercion, threats, or manipulation of the victim's body or sexual functions. In this case, the judge will assess whether the defendant's actions include these elements, by referring to the definition in the Anti-Sexual Violence Law, which includes sexual acts committed in a way that degrades the victim's dignity and honor, and causes physical and psychological suffering. The judge will also examine whether the defendant's actions meet the criteria of domestic violence as set out in the PKDRT Law, which includes all forms of physical, psychological, sexual violence, or neglect against family members in a household. If it is proven that the defendant's actions contain elements of sexual violence that fit the definition, the judge will decide whether the actions should be punished under the applicable law. This process is important to ensure that the law is enforced fairly, provides justice for the victim, and provides a deterrent effect commensurate with the actions committed by the defendant, while still prioritizing the protection of the victim's deep rights.

### 3. Consideration of Consent or Coercion

The judge in deciding the case will consider very carefully and in-depth whether the actions taken by the defendant received clear, unequivocal, and voluntary consent from the victim, or whether the actions were carried out in ways that were coercive, intimidating, threatening, or used other forms of pressure that directly or indirectly eliminated the victim's ability to provide valid consent. In this case, the judge does not only assess the confessions of the parties, but also looks at the available evidence, including the psychological, physical, and situational circumstances surrounding the incident to ascertain whether the consent given by the victim was truly based on free will without any element of coercion. If it is proven that the defendant's actions were carried out by force, using physical or psychological violence, or in a situation where the victim did not have the capacity to give valid consent, for example because she was under pressure, the influence of drugs, threats, or in a state of unconsciousness, then the act can legally be classified as an act of sexual violence. In the legal context, sexual violence includes not only physical acts, but also other acts that disregard the rights and free will of the victim, thus violating universally recognized legal, moral, and human rights norms.

#### 4. Assessment of the Victim's Condition

In handling cases of sexual violence, judges will pay in-depth and comprehensive attention to the conditions experienced by the victim, both from a physical and psychological perspective. This is done to ensure that the real impact of the defendant's actions on the victim can be fully understood, considering that sexual violence often leaves a very deep trauma. This trauma is not only limited to the physical injuries that the victim may experience, but also includes complex psychological impacts, which can affect victims in various aspects of their lives, including mental health, interpersonal relationships, ability to adapt in a social environment, and the ability to continue normal daily activities. This psychological trauma is often long-term and can even have a lifelong impact, making it one of the important elements that judges need to consider in their decision-making process. To gain an in-depth understanding of the psychological impact experienced by victims, judges can request testimony from psychological experts, especially those with expertise in dealing with trauma or forensic psychology. This expert testimony is very important because they can provide an objective analysis of the victims' emotional state, changes in behavior, and psychological disorders that may have developed as a result of the incident, such as post-traumatic stress disorder (PTSD), excessive anxiety, or severe depression. In addition, the judge may also hear testimony from other parties close to the victim, such as family members, friends, or coworkers, who may provide additional insight into the significant changes the victim experienced after the incident. This approach suggests that in sexual assault cases, attention to the victim's condition is not only seen as a supporting aspect, but also as a very important element in uncovering the truth and determining the true impact of the defendant's actions. Judges must consider various dimensions relating to the victim, including how the trauma affects their quality of life in the long term. As such, consideration of the victim's condition, both physical and psychological, is integral to upholding comprehensive justice and ensuring that the sentence imposed on the defendant reflects the true impact of his or her actions. This approach also aims to provide respect and protection for victims' rights, as well as send a strong message that acts of sexual violence are not only unlawful but also undermine fundamental human values.

#### 5. Application of Relevant Articles

Based on the evidence and facts gathered during the investigation and trial process, the judge will conduct an in-depth analysis to determine the relevant articles of the Criminal Code (KUHP), the Law on the Elimination of Domestic Violence (PKDRT Law), and the Law on Criminal Acts of Sexual Violence (TPKS Law), which can be applied in the case. In this process, the judge will carefully consider all elements of the criminal offense, including the legal elements that have been met, the correspondence between the facts on the ground and the elements of the article charged, as well as the impact of the defendant's actions on the victim. The judge will also examine all evidence, such as witness testimony, expert testimony, evidence, as well as the confession or defense of the defendant, to ensure that the decision made is based on the principles of justice, legal certainty, and legal benefits. If after a thorough analysis the defendant is legally and convincingly proven to have committed an act of sexual violence as stipulated in these articles, the judge will impose a sentence in accordance with the applicable legal provisions. This sentence will be adjusted to the level of guilt of the defendant, the impact caused to the victim, as well as aggravating or mitigating factors that may be relevant in the case, such as malicious intent (*mens rea*), *modus operandi*, or the vulnerable state of the victim. By imposing proportional sentences, judges not only aim to provide a deterrent effect to the defendant but also seek to protect the rights of victims, restore their dignity, and send a clear message that sexual violence is an act that cannot be tolerated in a society that upholds the values of law and humanity.

#### 6. Considerations in Sentencing

In addition to considering the evidence and facts that have been revealed during the trial process, judges also have the responsibility to pay in-depth attention to aspects of justice for victims, with the aim of ensuring that victims' rights are recognized, respected and restored through a fair and transparent judicial process. In this context, judges do not only assess the defendant's actions from a purely legal perspective, but also consider the real impact that the defendant's actions have had on the victim's physical, psychological and social conditions, including the potential for long-term trauma affecting the victim's life as a whole. In addition, the judge also considers the importance of providing an adequate deterrent effect to the perpetrator as part of efforts to prevent the recurrence of similar acts, both by the same perpetrator and by others who may have similar intentions. In carrying out their duties, judges will assess various important factors, such as the

malicious intent or intention of the perpetrator which can be reflected in the manner and modus operandi of the criminal offense, the level of loss or suffering experienced by the victim as a result of the act, as well as the existence of factors that can be considered aggravating or mitigating factors for the perpetrator. Aggravating factors, for example, may include the perpetrator's repeated or excessively violent actions, while mitigating factors may involve an admission of guilt, remorse, or reparations made by the perpetrator. By considering all these aspects, judges seek to create decisions that not only reflect legal justice, but also have a positive impact on maintaining order and providing protection to the wider community.

#### 7. Victims' Rights

In cases of sexual violence, it is important to ensure that the rights of victims are not only recognized but also concretely protected and realized in the legal process. The protection of these rights includes various aspects that aim to minimize the adverse impact of the violence experienced by victims, as well as support their overall recovery process. Therefore, judges will carefully consider the various forms of remedies that can be provided to victims, whether in the form of physical, psychological, or legal remedies. This includes the victim's right to protection from threats or intimidation that may be carried out by the perpetrator or other parties related to the case, both during the legal process and afterwards. In addition, victims also have the right to psychological rehabilitation that aims to help them restore their mental and emotional conditions that are disturbed due to the trauma experienced. This rehabilitation often requires the involvement of experts, such as psychologists or psychiatrists, who work to restore the victim's mental balance and help them return to living their lives normally. Another important right is legal assistance, which ensures that victims have equal access to justice during the judicial process. This includes assistance in understanding their rights as victims, accompaniment during the examination or trial, as well as competent legal representation to ensure that the victim's voice is heard and considered in decision-making. Taking all of these efforts into account, judges aim not only to provide appropriate punishment to perpetrators, but also to seek a just and sustainable remedy for victims, so that they can move on with their lives with dignity and security.

#### 8. Indictment of the Public Prosecutor

The domestic violence case involving Venna Melinda and her husband, Ferry Irawan, has gone through a series of legal processes at the Kediri District Court. The public prosecutor filed a primary charge that led to a violation of Article 44 of the Domestic Violence Law with a demand for a prison sentence, namely: Ferry Irawan was sentenced to 1.5 years imprisonment for committing domestic violence against Venna Melinda, which resulted in physical and psychological suffering to the victim. The prosecutor emphasized that this domestic violence incident occurred on January 8, 2023 at a hotel in Kediri. Venna Melinda suffered an injury to her nose due to Ferry Irawan's head pressing on her nose, causing bleeding. In the indictment, the prosecutor also emphasized that the incident occurred after an argument between the two, which was triggered by Venna's rejection of Ferry's request. The following are the articles that Ferry Irawan violated:

##### a. Article Violated

The public prosecutor charged Ferry Irawan under Law No. 23/2004 on the Elimination of Domestic Violence, which consists of two main articles, namely:

##### (1) Article 44 Paragraph (1)

Any person who commits physical domestic violence resulting in physical or mental suffering to a spouse or other family member is liable to imprisonment.

##### (2) Article 45

It stipulates the punishment for perpetrators of domestic violence which can be imprisoned for up to 5 years or fined. In this case, Ferry Irawan was accused of committing physical violence that caused injury to Venna Melinda, his domestic partner.

In the indictment, the prosecutor explained that this violence occurred after a long argument over their personal lives, with one of the causes being tension due to changes in Venna's life as she became more active in politics. Ferry Irawan was known to be jealous and angry, which led to acts of physical violence. Medical post mortem evidence showing physical injuries to Venna Melinda was also used as part of the charges. The nose wound and other signs of violence were obtained through a medical examination which showed bleeding and bruising as a result of the assault. The prosecution's charges against Ferry Irawan

involved serious violations of domestic violence laws, with physical and medical evidence showing violence.

b. Verdict

After a series of in-depth hearings, on May 23, 2023, the Kediri District Court found Ferry Irawan guilty of committing domestic violence against Venna Melinda. This decision refers to the evidence revealed during the trial, including the testimony of the victim, other witnesses, and physical evidence submitted by the public prosecutor. The judge ruled that Ferry Irawan's actions fulfilled the elements of the crime of domestic violence as stipulated in Law Number 23/2004 on the Elimination of Domestic Violence. In its decision, the panel of judges considered various factors, such as the nature of the violence committed, the impact on the victim, and the characteristics of the defendant. Although there were mitigating factors, such as Ferry's confession of his actions and the fact that he had no previous criminal record, the judges still gave a verdict that was considered in accordance with the provisions of the law. Therefore, Ferry Irawan was sentenced to 1 year in prison, which was lighter than the public prosecutor's demand of 1.5 years in prison. This verdict also reflects an effort to provide justice for the victim, in this case Venna Melinda, by ensuring that acts of domestic violence that occur are not left unpunished. With this decision, it is hoped that it will have a deterrent effect on perpetrators of domestic violence and provide further protection for victims. In addition, the rights of victims, including the right to protection and rehabilitation, remain an important consideration in this legal process. Below are the details of the court's decision:

- (1) Sentenced to 1 year in prison: The panel of judges sentenced Ferry Irawan to 1 year in prison even though the public prosecutor had demanded that the defendant be sentenced to 1.5 years in prison. The judges' decision to give a lighter sentence was based on a number of factors that were considered to mitigate the sentence for the defendant. One of them was Ferry Irawan's confession to his actions, which showed remorse and openness in facing the legal process. Such admissions are often considered a form of cooperation with the authorities and can be seen as a sign of personal responsibility for his actions. In addition, the panel of judges also considered the time Ferry Irawan had served in detention as part of the sentence. This suggests that the defendant had spent time in prison prior to the verdict, and this is often taken into account in awarding a lighter sentence. However, despite the mitigating factors, the judge still emphasized that the actions committed by Ferry Irawan were serious offenses that impacted the victim and should still be given appropriate legal sanctions. The decision was made to balance between providing a fair punishment for the victim and providing an opportunity for the defendant to improve himself.
- (2) Leniency Consideration: One of the reasons that can lead to a lighter sentence is the confession of the defendant, in this case Ferry Irawan, as well as the fact that he has no previous criminal record. A confession can be considered a form of remorse or cooperation with the legal process, which is often a mitigating factor for the defendant. Additionally, having no prior criminal record suggests that the defendant may not have been involved in any previous criminal offenses, which can be a consideration in formulating a sentence. Nonetheless, although these factors could be reasons to give a lighter sentence, the judge still considered that the acts of sexual violence committed by Ferry Irawan had a serious impact on the victim and could not be justified. Therefore, despite the mitigating reasons the judge still decided that the act should be subjected to appropriate legal sanctions to provide a deterrent effect as well as justice for the victim. Judges must balance considerations between mitigating and aggravating factors, and ensure that the sentence imposed not only takes into account the personal circumstances of the defendant but also reflects the interests of protecting victims and preventing similar crimes in the future.

#### 4. CONCLUSION

The results of the research on the juridical analysis of the settlement of criminal acts of sexual violence in husband and wife relationships as follows: Based on juridical analysis, domestic violence (KDRT) regulated in Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) includes several forms or types of violence. The violence is not only limited to physical violence, but also includes psychological, sexual violence, and domestic neglect. Forms of domestic violence under the PKDRT Law include physical violence in the household, which includes any form

of action that causes injury or injury to the victim's body, such as beatings, maltreatment, or other physical actions that cause physical suffering to the victim. Sexual violence in the household includes acts that degrade, humiliate, or attack a person's body, sexual desire, or reproductive function, especially women including forced sexual intercourse, sexual harassment, or sexual acts carried out by force or manipulative means, either with threats or without the victim's consent. Psychological violence any form of action that causes mental distress, humiliation, or emotional suffering to the victim. Neglect in the context of domestic violence includes neglecting or not fulfilling obligations to care for, provide for, or fulfill the basic needs of family members who are victims. In Surabaya District Court decision 1815/Pid.C/2020/PN SBY, the judge assessed whether there was sufficient evidence and whether the defendant's actions fulfilled the elements of sexual violence in accordance with the applicable law. After considering the facts of the trial, the judge gave a decision that reflected the principles of justice and legal certainty, both for the victim and the defendant in a case of sexual violence between husband and wife. The legal verdict in the domestic violence case between Ferry Irawan and Venna Melinda gives a clear message that domestic violence must be taken seriously by law enforcement officials. Although the sentence imposed is fairly light, this case provides a lot of learning for the community about the importance of addressing domestic violence issues and providing protection to victims.

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