



Regulation and Implementation of Punishment for Perpetrators of Domestic Violence (Case Study at the Dili District Court)

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Abstract

The problem of domestic violence is a form of crime that insults and tarnishes human dignity. Domestic violence can be categorized as a type of crime against humanity. Concerning domestic violence as a crime, it is regulated in the Timor-Leste State Law, No. 7 of 2010 concerning the Eradication of Domestic Violence. This research aims to find out the regulation of acts of domestic violence and the application of punishment for perpetrators of domestic violence. This research applied the normative juridical research method. This research is only limited to setting existing norms and the results of court decisions in the case of domestic violence that already exist and are described. The results show that the regulation of acts of domestic violence still uses the existing provisions in the Timor-Leste Criminal Code, and the arrangements are incomplete, such as psychological and economic violence are not included in acts of domestic violence. The application of punishment is only limited to the provisions in Law No. 7 of 2010 and there needs to be a change.

Keywords: regulation, punishment, domestic violence

1. Introduction

The problem of domestic violence is a form of crime that insults and tarnishes human dignity. Domestic violence should be categorized as a type of crime against humanity. Even so, not all crimes contain elements of violence, and not all acts of violence can be said to be components of crime.¹

Acts of violence in society is actually not a new thing. Various cases regarding domestic violence develop in society. Generally, domestic violence is an internal matter of the family and household, such as violence that occurs between parents against their children, husbands against their wives, and employers against household assistants. However, so far this has always been kept secret by the family and the victim himself for various reasons, for example the perpetrator and the victim have a work relationship (boss and employer).

Therefore, domestic violence which incidentally is a problem in the family can affect anyone, including husbands, wives, their children and people who live with them. In this case, the researcher only discusses the notion of domestic violence, especially abuse committed by husbands against wives. This is because most of the victims in domestic violence are wives. In the Timor-Leste Law No. 7 of 2010 concerning domestic violence, which is mostly women, must

¹ Alimuddin, *Penyelesaian Kasus KDRT di Pengadilan Agama*, Penerbit CV. Mandar Maju, Bandung, 2014, hlm. 38.

receive protection from the state and society in order to avoid violence or threats of violence, torture, or treatment that degrades human dignity.

Domestic Violence is any act against a person, especially a woman, which results in physical, sexual, psychological misery or suffering, neglect of the household including threats to commit acts, coercion, or unlawful deprivation of liberty within the household sphere.²

Based on the background above, there is a formulation of the problem as follows.

1. What efforts have been made to regulate acts of domestic violence?
2. What is the process for imposing punishment for crimes of domestic violence at the Dili District Court?

2. Research Method

This study uses a sociological juridical approach. Sociological juridical is an approach that uses legal principles originating from written regulations that aim to clarify the actual situation in society towards the problem under study. In other words, to give importance to the steps of observation.⁷ The following are some forms of data used in this study.

a. Primary Primer

Primary data is data obtained directly from the original source by means of direct interviews with the sources concerned with this research by means of interviews and questionnaires with related parties, especially with Judges in the Court.

b. Secondary Data

Secondary data is data obtained from legally binding materials or which make people obey the law, such as:

1. Basic regulations, such as the Constitution
2. Legislation
3. Jurisprudence
4. Treaty

a) Secondary legal materials

Secondary legal material is defined as legal material that is not binding but explains primary legal material which is the result of the processing of the opinions of experts and experts who study a particular field in particular.

1. Draft laws and regulations,
2. The scientific work of scholars,
3. Magazines or documents related to domestic violence.

c. Tertiary materials

Tertiary materials are primary and secondary legal materials by providing understanding and understanding of other legal materials.

1. Bibliography
2. Indonesian Dictionary
3. Data Collection Methods

² Undang-undang TL No. 7 Th. 2010, tentang Undang-undang PKDRT

The method of collecting data in this study is a) Literature Study, namely written information regarding law that comes from various sources and is widely published and is needed in normative legal research.³ b) Field Study, namely how to obtain primary data. In this case, the researcher uses interview techniques with the informant, namely judges.

3. Results and Discussion

3.1 Regulation for Domestic Violence Crimes

In this section, the researcher discusses regulation of domestic violence crimes in the aspects of legal sovereignty, state power, authority of state sovereign bodies in making domestic violence regulations.

With the rule of law, absolute power can be avoided. Therefore, any action that disturbs the community, such as domestic violence, needs to be stipulated in the form of laws and regulations by the state authorities who have the authority to do so, namely the Parliament and the Government according to the Timor-Leste constitutional system.

1. Domestic violence behavior

Every family always expects a happy and harmonious family both physically and mentally. In reality, not all families can feel happiness because in every family there are always problems. Ironically, there are still various kinds of domestic violence. The amount of violence that occurs is increasing day by day, both quantitatively and qualitatively, as shown in the following data on the number of cases of domestic violence that are processed at the Dili District Court.

Table 1. The Annual cases of domestic violence processed at the Dili District Court

| VD | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | Total |
|----|------|------|------|------|------|------|------|------|------|------|-------|
| | 89 | 181 | 216 | 358 | 378 | 396 | 511 | 516 | 468 | 322 | 3435 |

Source: Dili District Court (VD=Violência Doméstica)

The data above shows that domestic violence always occurs every year. The types of domestic violence that were processed at the Dili District Court including physical violence and sexual violence. Meanwhile, psychological and economic violence are not included in the category of domestic violence according to Article 35 of Law Number 07 of 2010. It does not mean that the level of domestic violence related to psychological violence and economic violence does not occur. Based on the data above, it is necessary to regulate domestic violence crimes profoundly.

2. The authority to regulate acts of domestic violence

Related to the regulation of sanctions, the state has the authority to make laws and regulations to be enforced. This is regulated in article 95 of the Constitution regarding the

³ Abdulkadir Muhammad, *Hukum dan Penelitian Hukum*, Citra Aditya Bakti, Bandung, 2004, hal 81-83

authority of the Parliament in making laws. In addition, article 96 of the Constitution reads, “the National Parliament gives competence to the Government to make or establish Government Regulations in Lieu of Laws (decreto Lei).

According to article 115, Paragraph 3 of the Constitution “The government has competence in making Government Regulations (Decreto do Governo).” In this case, the National Parliament has the authority to regulate domestic violence.

Crimes are regulated in Government Regulations in Lieu of Laws (Decreto-Lei) which are authorized by parliament. In this case, the authority was through Law No. 13 of 2008 which was amended by Law No. 6 of 2009, so that the government issued a Government Regulation in lieu of Law (Lei Decree) No. 19/2009, dated April 8, which ratified the Criminal Code.

In the Criminal Code, there is no explanation about domestic violence. However, due to pressure from various parties in the context of upholding human rights, the National Parliament issued Law No. 7 of 2010 which specifically regulates the Elimination of Domestic Violence (Lei contra violência doméstica), with reference to crimes regulated in the Timor-Leste Criminal Code which was stipulated by the government with the aforementioned Decree Law. Domestic violence includes physical violence, sexual violence, psychological violence and economic violence and in Law Number 7 of 2010, it only regulates domestic violence that is related to physical violence and sexual violence. It can be found in Article 35 of Law No. 7 of 2010.

3. Regulating the types of acts of domestic violence

Types of domestic violence are regulated in article 350 of Law Number 7 of 2010, which is divided into two types of acts of violence, namely types of acts of domestic violence due to statutory provisions and types of acts of domestic violence due to violations of the law. In accordance with the provisions in article 36 of law number 7 of 2010, governing the nature of domestic violence is an ordinary offense (crime publico). If there is domestic violence, anyone who knows about it can report it to the authorities (police or public prosecutor) for legal processing.

a. Crime due to statutory provisions (*tipo legal*)

Types of violence due to provisions in the law (*tipo legal*) are regulated in the provisions of Articles 153, 154, 155 and 156 in the Criminal Code. Crime because of the provisions of the law is an act that is categorized as a crime because the law stipulates that the act is a crime. Domestic violence that violate the provisions of the law are regulated in Article 35 of law number 7 of 2010, which can be explained as follows.

Persecution of people who are under the care or responsibility of educating (care) or subordinates in labor activities, persons with disabilities (mental, physical, sick and old age and conditions of concern) are regulated in Article 153 of the Criminal Code of Timor-Leste which can be punishable by imprisonment from two years to six years. Victims are children, family members of deviating lines, families and families by marriage to the second degree, adopted

children and those who live together who are considered family, the threat of imprisonment can be added one third to the lowest limit and the highest limit threatened.

Persecution of a married couple or spouse (maus-tratos á cônjuge) is regulated in Article 154⁰ with a prison sentence of two to six years. Persecution of minors regulated in Article 155⁰ which all of them still live together in a house and are economically dependent between them is punishable by a prison sentence of two to six years.

In accordance with Article 156⁰, it stipulates that crimes that occur in connection with crimes regulated in Article 153⁰ and Article 155⁰ which result in serious maltreatment as regulated in Article 146⁰ are punishable by a prison sentence of three years to ten years. If the victim dies, the penalty is five to fifteen years imprisonment. The crimes described above are crimes because they are stipulated by law.

b. Crime due to violation of the law (tipo ilícito)

Types of violence for breaking the law (tipo ilícito) are regulated in Articles 138, 139, 141, 145, 146, 167, 171, 172, 175, 177, 178 and 179 of the Timor-Leste Penal Code. In this case, relating to domestic violence which is a violation of the law (tipo ilícito) can be said to violate the rights of others, as explained below.

Crimes related to other people's lives, such as ordinary murder are "acts of taking other people's lives" which can be punished with imprisonment of eight years to twenty years as stipulated in article 138⁰ of the Criminal Code. Qualified murder (aggravated homicide) against another person regulated in Article 139, carries a penalty of 12 to 25 years in prison. Abortus provocatus, regulated in Article 141, which is punishable by imprisonment from two years to eight years.

Minor abuses, such as crimes relating to the body, are regulated in Article 145 of the Criminal Code, which carries a prison sentence of three years or a fine. Severe persecution is regulated in Article 146 of the same book, punishable by imprisonment from two years to eight years. Inhuman torture regulated in Article 167, is punishable by imprisonment from two years to eight years.

Crimes related to sex, such as obscenity with threats of violence (coação sexual), are regulated in Article 171, with a prison sentence of two to eight years. Rape against anyone is regulated in Article 172, with a prison sentence of five to fifteen years. Prostitution of children under the age of seventeen, is regulated in Article 175, with a prison sentence of four to fifteen years. Obscene acts with minors, regulated in Article 177, carry a prison sentence of five to twenty years. Obscene acts with children aged between fourteen to sixteen years, are regulated in Article 178, with a prison sentence of up to five years. Obscene acts against people who are sick, abnormal physically and psychologically and take advantage of this situation, are regulated in Article 179, with a prison sentence of four to twelve years.

4. Domestic violence that is not stipulated in law

Several types of domestic violence are not regulated in law number 7 of 2010, but this violence always appears in domestic life, for example psychological violence related to the crime of threats regulated in Article 157 of the Criminal Code and economic violence and others are also regulated in Articles 143, 166, 225, 258, 259 and 263 of the Criminal Code (Código Penal). The crime of making threats is any person who in any way threatens another person causing fear can be punished by imprisonment for one year or a fine. This crime can be processed if there is a complaint from the victim.

The crime of leaving someone who needs help is punishable by imprisonment for one to six years. If the person who needs help is seriously ill, the penalty is imprisonment for two years up to eight years. In addition, if it causes the death of a person who needs help, a prison sentence of five to fifteen years can be imposed. If the person who needs help is related to the family, such as husband and wife, children, parents, family in a deviant line, family due to marriage up to the second degree, adopted children or adoptive parents, the threat of imprisonment as previously arranged is added one-third for the lowest sentence and the highest threat of punishment.

The crime of selling people, with the threat of imprisonment for four to twelve years⁴, against children under seventeen years of age and for those who do have family relations, guardians, structural dependency, economic dependence and employment.

The crime of not fulfilling obligations such as providing necessities of life (food, clothing and shelter, education and others) is punishable by imprisonment for up to three years or a fine. This crime can be processed if there is a complaint from the victim⁵.

Then, the crime of damaging other people's property is such as destroying goods that are not more than \$ 1,000.00 USD in value⁶. The crime of destroying other people's property with a loss value of more than \$1,000.00 USD is punishable by a prison sentence of two years up to eight years. The crime of threatening to destroy other people's property with violence is punishable by a prison sentence of four to twelve years.

Crimes that are not regulated in the provisions of Law Number 7 of 2010, which are described above are the authors' considerations because in many cases these crimes always occur and cannot be processed according to the provisions of Law Number 7 of 2010, for example the crime of threatening people and the obligation to fulfill needs, cannot be legally processed if the victim withdraws the complaint. Meanwhile, according to provisions relating to domestic violence, all forms of crime have the nature of ordinary offenses. This means that anyone who knows that a crime has occurred can be reported to the authorities to be processed according to the provisions of the applicable criminal procedure law.

By taking into account the arrangements for sanctions for domestic violence that have been described above, it can be concluded that the sanctions regulated for domestic violence only include sanctions or imprisonment and fines. However, the sanctions are in the form of prison sentences and fines, it is possible to apply other sanctions provided for in the Timor-Leste Penal Code. In setting sanctions for domestic violence, basically, the arrangements are incomplete. An

⁴ pasal 166 ayat 2 (a) dan (b) Dekrit-Undang-undang n^o 19 Tahun 2009.

⁵ pasal 225^o Dekrit-Undang-undang N^o 19 Tahun 2009.

⁶ pasal 258, 259 dan 263 Dekrit Undang-undang N 19 Tahun 2009.

amendment to the law is needed to add Articles relating to domestic violence that have not been regulated in Law Number 7 of 2010. This is related to the principle of legality.

3.2 Application of Criminal Sanctions Against Acts of Domestic Violence

1. Concrete Cases of Domestic Violence

In order to clarify the existence of domestic violence, it is necessary to discuss three concrete cases whose cases were submitted to the Court, with unique NUC crime numbers: 0064/20.DINFT, 0241/19.DICMR, 0158/19.DINFT and 0130/16.DIBCR.

Firstly, Unique Crime Number 0064/20.DINFT, where the defendant is named Cipriano Nunes de Carvalho with married status, lives at home with his parents named Joaquina Nunes and has a younger sister named Maria Nunes, lives in Becora. On 24 April 2020, at approximately 20 minutes past 7, the defendant asked his sister Maria Nunes for money to buy coffee and her sister replied “I don’t sleep on money”. With that answer the defendant became angry and asked the mother to reprimand her daughter, Maria Nunes. Joaquina Nunes made comments in defense of Maria Nunes. Unfortunately, the defendant became angry and slapped his mother on the left cheek which caused pain. With these actions, the public prosecutor demanded that the defendant violate Article 145⁰ of the Criminal Code jo. Articles 2⁰, 3⁰ and 36⁰ (b) Law No. 7 of 2010, with imprisonment for up to three years or a fine.

Secondly, Unique Crime Number 0241/19.DICMR, the victim Maria Rosalia is the wife of the defendant Adelino Gonçalves, has been married since 1974 and they have one child. On March 18 2019, 20:15 minutes, at their house in Aitarak Laran, Kampung Alor Village, Dom Aleixo-Díli District. The defendant was angry because the victim was late in preparing dinner. In this case, the victim is sick or has just finished a cesarean section (birth). Then, they argued and the defendant slapped her on the left and right cheeks, pounded her right shoulder, choked her neck which of course caused the victim to suffer pain. With the actions of the defendant, the public prosecutor charged the defendant with violating Article 145⁰ of the Criminal Code jo. Articles 2⁰, 3⁰ and 36⁰ (b) of Law Number 7 of 2010, with a prison term of up to three years or a fine.

In addition, the Unique Crime Number 0272/18.PNSIC, the victim Mariana da Cruz Martins as the wife of the defendant Agostinho Silveiro. They have been living together since 2015 and have two children. On 12 November 2018, at approximately 6pm, at their home, Metin I-Bebonuc, Dom Aleixo-Díli District, the victim asked the defendant about Uncle L-4’s death, maybe Uncle did not do well. For this reason the defendant became angry and kicked the victim until he fell and picked up a rock and punched the victim in the head, eye and back and stepped on the victim which caused the victim to suffer pain. With the actions of the defendant, the public prosecutor charged the defendant with violating Article 145⁰ of the Criminal Code jo. Articles 2⁰, 3⁰ and 36⁰ (b) Law No. 7 of 2010, which carries a prison term of up to three years or a fine.

The concrete cases above illustrate that domestic violence often occurs for simple reasons, but causes serious violence. Therefore, it needs to be handled seriously so that the household life remains harmonious.

2. Existing criminal sanctions

Basically, there are several types of punishments that are applied to the perpetrators of crimes as stipulated in the Criminal Code. Scientifically, there are several types of punishments, such as death penalty, life imprisonment, imprisonment, fines, and others.

Taking into account the types of punishments above, it is necessary to know the types of punishments regulated in the Timor-Leste Criminal Code. The types of punishment regulated in the Timor-Leste Criminal Code are as follows.

1. Imprisonment (a pena de prisão);
2. Fine (a pena de multa);
3. Punishment works for the public good (a pena de trabalho a favor da comunidade);
4. Punishment warning or reprimand (a pena de admoestação);
5. Additional penalties (a pena acessórias).

In Timor-Leste, it is not justified to apply the death penalty⁷ and life imprisonment.⁸ From the types of punishments mentioned, it can be concluded that there are two types of punishments, namely: principal punishment and additional punishment. The principal punishments consist of imprisonment, fines, working works for the public good (community) and warning sentences. Additional penalties involve revocation of certain rights, such as banning a driver's license for a certain time (three months to two years for the convicted person).

Imprisonment is a type of punishment imposed on criminals to limit their freedom for a certain time in prison. The minimum term of imprisonment is thirty days and the maximum is 25 years⁹. For crimes determined by special law, imprisonment can be up to 30 years. The application of a prison sentence of not more than one year can be replaced by a fine of the same length¹⁰. An imprisonment of not more than three years can be suspended on a condition from one year to five years (*pena suspensaun*). It means that the convict does not go to jail, but for several years according to the decision determined by the judge, the convict may not commit a crime again and if the convict violates it, then he can be punished according to the previous decision¹¹.

Fines are penalties imposed on convicts to pay a certain amount of money to the state as a punishment. Fines are determined based on a certain day and amount of money. Minimum set number of days is 10 days and maximum is 360 days. The minimum amount of money as a fine is \$0.50 cents and the maximum is \$200.00 dollars per day based on the convict's economic

⁷ Pasal 29^o (3) Konstitusi RDTL.

⁸ Pasal 32^o (1) *ibid*.

⁹ Pasal 66^o Dekrit Undang-undang Timor-Leste, nomor 19 tahun 2009, tanggal 8 April, yang mengesahkan Kitab Undang-undang Hukum Pidana Timor-Leste.

¹⁰ Pasal 67^o, *ibid*.

¹¹ Pasal 68^o, *ibid*.

capacity¹². The application of fines can be replaced by imprisonment for 2/3 of the sentence if the convict does not pay the fine voluntarily.¹³

The punishment for working for the benefit of the state is that the convict works voluntarily in a state agency or other agency determined by the Court which is related to public interests approved by the convict. The court that determines work for the public interest, will replace each prison day which has been set for one hour and does not exceed 240 (two hundred and forty hours)¹⁴.

The courts may apply the penalty of working in the public interest to a sentence not exceeding one year or a fine sufficient for the purpose of the sentence¹⁵. A warning sentence is a sentence decided by the Court because the perpetrator committed a crime that carries a sentence of not more than three years or a fine. The court may apply a penalty of reprimand in the following cases:

- a) Losses due to crime have been repaired (recovered);
- b) This is the first time the perpetrator has committed a crime;
- c) Reprimand as a preventive punishment and improve the behavior of the convict¹⁶.

The court gives an official verbal reprimand to the convict before the public, after the judge's decision has permanent legal force (*tránzitu-em-julgadu*)¹⁷. An additional penalty is a punishment decided for a crime that prohibits exercising a certain right or position (profession). The court sentenced a person holding a public office (civil servant) who was sentenced to an effective prison sentence to be deactivated from his position while serving his sentence (*suspensaun ba nia funsaun ne'ebé nia ezersítu durante ne'ebé nia kumpri pena, kuandu kondenadu la hetan demisaun ka dixiplinar*) and other restrictions¹⁸. Thus, it can be concluded that domestic violence is punishable by imprisonment or by a fine.

3. Application of criminal sanctions

The process of imposing criminal sanctions on perpetrators of domestic violence is the power and authority of the court. To carry out the process of applying criminal sanctions to perpetrators of crime, of course, through a long process, namely through two processes: the process of ordinary proceedings (*processo comum*) and the process of fast proceedings (*processo sumário*).

The two processes mentioned above play an important role in the process of imposing criminal sanctions against defendants in criminal cases related to the types of criminal cases that occur according to the form of the procedural process above.

3.1. Process of ordinary proceedings (*Processo comum*)

¹² Pasal 75^o, *ibid.*

¹³ Pasal 76^o, *ibid.*

¹⁴ Pasal 78^o, *ibid.*

¹⁵ Pasal 79^o, *ibid.*

¹⁶ Pasal 82^o, *ibid.*

¹⁷ Pasal 83^o, *ibid.*

¹⁸ Pasal 85^o, *ibid.*

In the criminal justice system, there are interrelated law enforcement agencies, such as the police, prosecutors, courts, legal aid agencies and correctional institutions. These institutions are involved in the criminal justice process which must be carried out systematically.

The steps in the criminal justice process start from the phase of investigation, prosecution, examination before the court, to the implementation of court decisions or executions, the end of sentences and the filing of documents.

At each stage, there are several actions that must be taken to be able to enter the next stage. Each stage is carried out by each institution in accordance with the duties of their authority. As for the ordinary proceedings against the defendant, it can be carried out through the following stages.

- Stage of conducting an investigation;
- Prosecution stage;
- Stage of examination in court;
- Execution of sentences;
- End of sentence;
- Archives of case documents.

All processes can end and for a process against a crime it can also end and documents can be archived because:

- The victim refuses to be processed in relation to the complaint offense;
- The victim withdraws the complaint (complaint offense) which was approved by the perpetrator;
- Not enough evidence to be indicted and filed by the prosecutor's office;
- Unfounded charges rejected by the judge;
- Final verdict from the judge (can convict the accused and can acquit the accused from being charged).

3.3 Process of fast proceedings (processo sumário)

1. Stage of detention of the defendant

This process is carried out for crimes in general and domestic violence in particular those where the perpetrators are caught red-handed at the time of the crime (*flagante delicto*) and only applies to crimes that carry a penalty of five years in prison and below.¹⁹ Thus, the defendant after being detained, the police can report to the prosecutor's office to prepare an indictment. If there is not enough time to report to the prosecutor's office, the police can take the defendant directly to court and notify the public prosecutor to attend trial.

2. Stage of examination of the defendant

In the process of fast proceedings in court presided over by a single judge (*tribunal singular*) in no more than 72 hours for perpetrators who are detained in a police cell. If the trial cannot be

¹⁹ pasal 346°, Dekrit-Undang-undang n° 13/2005, yang mengesahkan Kitab Undang-undang Hukum Acara Pidana.

held within 72 hours, the judge may order the accused to be released and determine another day for the trial with a fast process (sumário).

In the process of fast proceedings in court is carried out with the usual process, but it is possible that the judge's decision can be dictated to the clerk in making the deed or because of complexity. In other words, a judge's decision can be made in writing which can be read out within a maximum period of five days.

The judge's decision in the fast trial process may or may not be accepted by the perpetrators of the crime, so the only effort that can be made is to appeal to the High Court (Rekursu). The trial is presided over by a single judge. All processes such as making decisions, appeals, executions, ending decisions and archiving case documents are still carried out the same as in the process of ordinary proceedings.

4. Application of sanctions in concrete cases

Of the 3.435 cases of domestic violence that have occurred since the enactment of Law Number 7 of 2010 concerning the Eradication of Domestic Violence, in collecting data on the application of concrete sanctions, researcher only selected four cases that had been decided in court and the results of interviews with the head of the Court relating to the application of criminal sanctions against domestic violence that has been decided.

The four cases of domestic violence which are the material for analysis in this study are as follows.

Table. 2 The Four Selected Cases of Domestic Violence

| NO | Crime | Number of Unique Crime (NUC) | Judge's Decision | Application | Information |
|----|--------------------------|------------------------------|-------------------|------------------------------------|--------------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 1. | Persecution againts wife | 0064/20.DINFT | Fine penalty | Alternative fines and imprisonment | receive punishment |
| 2. | Persecution againts wife | 0241/19.DICMR | 6 months in jail | Suspension for one year | receive punishment |
| 3. | Persecution againts wife | 0158/19.DINFT | One year in jail | Suspension for two years | receive punishment |
| 4. | Torture againts wife | 0130/16.DIBCR | Two years in jail | Suspension for two years | receive punishment |

From the four cases above, the researcher found several types of punishments applied to perpetrators of domestic violence, such as fines with the threat of alternative imprisonment if the convict does not comply with the fines imposed. Imprisonment with a suspended term of one

year up to five years against a sentence of imprisonment not exceeding three years, the prison sentence is effective. That is, the convict must be put in prison.

The application of sanctions varies, depending on the cases processed. Regarding the judge's considerations for imposing punishments or sanctions, there are several considerations which form the basis, in this case, related to aggravating and mitigating matters. The punishments applied above were in light of mitigating circumstances, especially for the defendant who was brought before the court for the first time, confessed his guilt, lived together again and most importantly the perpetrator was responsible for the victim and their children. For the perpetrators of raping their own children, the Court imposed quite severe sanctions, because the rape of a family member threatened to add one third to the penalty.

With the various sentences above, the researcher made observations at the Dili District Court on November 5, 2020, at 5:00 pm and interviewed the Chief Justice of the Dili District Court, Afonso Carmona, specifically regarding the application of sanctions against perpetrators of domestic violence. In essence, the penalties applied to all criminal cases are aimed at prevention. Although the application of sanctions varies. Prevention in question is general prevention and special prevention. The general purpose of prevention is to apply sanctions to the perpetrators, it is hoped that in the future the public or anyone, will not commit the crimes that have been committed by the perpetrators. The specific prevention objective is to apply sanctions to the perpetrators, it is hoped that in the future the perpetrators will not commit the crimes they have committed. For the perpetrator, if in the future he still commits a crime, the application of the sentence will be tougher, for example in the past the judge applied a fine with a penalty and the perpetrator still committed the crime in question, then the application of the next law, no longer with a fine but with a prison sentence, can be suspended and can be with the application of effective prison law, this depends on the behavior of the crime that occurred, such as the occurrence of a crime due to provocation, because of insulting the perpetrator and others.

5. Conclusion

In conclusion, the regulation of domestic violence in Law Number 7 of 2010 is incomplete. Some domestic violence that is related to psychological violence and economic violence in the household has not been regulated, such as crimes that threaten someone, destroy property, leave people who need help, and do not provide for other people's needs because of their obligations and selling people in a relationship with living together in the household and economic dependence has not been included in it. Thus, an amendment to Law No. 7 of 2010 is hoped to be done.

Furthermore, the process of imposing sanctions against perpetrators of domestic violence in the Dili District Court varies greatly because the types of crimes committed by the perpetrators are not the same, and the sentences applied are different, for example, fines with alternative imprisonment, suspended prison sentences and effective prison sentences. It depends on the aggravating circumstances and mitigating circumstances of the offender.

The application of sanctions against perpetrators of domestic violence aims at general and specific prevention. That is, the public expects general prevention or anyone else not to commit the crime committed by the perpetrator and for the perpetrator not to repeat the actions that have been committed. If the perpetrator still commits the same crime or other crimes in the future, the application of sanctions will be made more severe. The judge's decision needs to consider justice, legal certainty, and expediency. The judge's decision can be appealed.

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