

ANALYSIS OF CRIMINAL LIABILITY FOR PERPETRATORS OF PHYSICAL VIOLENCE IN DOMESTIC RELATIONSHIPS (A Study of Decision Number 329/Pid.Sus/2025/PN.Gns)

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Abstract

Physical violence within the domestic sphere remains one of the most prevalent forms of criminal offense, causing significant adverse impacts on victims as well as on family life. This study aims to analyze the factors contributing to the occurrence of physical domestic violence and to examine the criminal liability of perpetrators based on Decision Number 329/Pid.Sus/2025/PN.Gns. This research employed both normative juridical and empirical juridical approaches. The data were collected through library research and field research, including interviews with investigators from the Central Lampung Regional Police, public prosecutors at the Central Lampung District Attorney's Office, and judges of the Gunung Sugih District Court. The data were analyzed using a qualitative juridical method. The results indicate that physical domestic violence is influenced by psychological factors, the family environment, patriarchal culture, as well as social and economic factors that encourage perpetrators to commit acts of violence against victims. The criminal liability of the perpetrator is established based on the fulfillment of the elements of the criminal offense as stipulated in Article 44 paragraph (1) of Law Number 23 of 2004 on the Elimination of Domestic Violence. Based on the facts revealed during the trial, the defendant was legally and convincingly proven guilty of committing physical violence against his wife and was therefore sentenced to imprisonment in accordance with the court's decision. The judgment reflects the application of the principle of criminal liability, which is based on the existence of the perpetrator's culpability and the fulfillment of lawful evidence in accordance with the Indonesian Code of Criminal Procedure.

Keywords: Criminal Liability, Domestic Violence, Physical Violence, Court Decision, Law No. 23 Of 2004 On The Elimination Of Domestic Violence.

INTRODUCTION

The family is fundamentally the primary social institution that serves as a place for protection, guidance, and the fulfillment of the rights of every family member. Through the institution of marriage, husbands and wives are entitled to equal status and are obliged to respect, love, and support one another both materially and spiritually, as mandated by Law Number 1 of 1974 on Marriage. However, in practice, the family does not always provide a safe environment. Various forms of violence continue to occur within the domestic sphere, particularly physical violence committed by husbands against their wives. This condition reflects a disparity between the ideal purpose of family formation and the social realities that exist within society.

Domestic violence constitutes a violation of human rights that results in both physical and psychological suffering for victims. Law Number 23 of 2004 on the Elimination of Domestic Violence defines domestic violence as any act that causes physical, sexual, or psychological suffering, or household neglect, including unlawful threats, coercion, and deprivation of liberty within the domestic sphere. The enactment of this law signifies a paradigm shift in which domestic violence is no longer regarded merely as a private family matter but as a public legal issue requiring state protection for victims and law enforcement against perpetrators.

Despite the existence of specific legislation addressing the elimination of domestic violence, the incidence of domestic violence remains relatively high. One of the contributing factors is the persistence of patriarchal culture, which places men in a dominant position within the family. Such a perspective often leads to the belief that violence against a wife is an internal family matter that should not involve law enforcement authorities. In

ANALYSIS OF CRIMINAL LIABILITY FOR PERPETRATORS OF PHYSICAL VIOLENCE IN DOMESTIC RELATIONSHIPS

(A Study of Decision Number 329/Pid.Sus/2025/PN.Gns)

Tami Rusli et al

addition, limited public legal awareness and victims' reluctance to report the violence they experience have resulted in many cases remaining undisclosed or unresolved through legal proceedings (Rumayan, 2009).

From the perspective of criminal law, every act that fulfills the elements of a criminal offense must be accompanied by criminal liability, provided that the perpetrator possesses criminal responsibility and has committed the offense with culpability. Moeljatno (2005) argues that a person cannot be punished solely because a criminal act has been committed; rather, there must also be fault as the basis for criminal liability. This principle is known as *geen straf zonder schuld* (no punishment without fault). Therefore, proving the existence of fault constitutes an essential element in determining whether an individual can be held criminally liable.

In addition to criminal liability, the factors contributing to criminal behavior must also be examined to provide a comprehensive understanding of the underlying causes of domestic violence. According to D. Soedjono (2003), criminal behavior is influenced by the interaction between individuals and their social, economic, and cultural environments. Likewise, the anthropological theory proposed by A. Lacassagne emphasizes that the environment plays a significant role in providing opportunities, behavioral models, and social conditions that may encourage individuals to engage in criminal conduct. Consequently, domestic violence is influenced not only by the perpetrator's personal characteristics but also by social, cultural, economic, and familial conditions.

One case that merits further examination is Decision Number 329/Pid.Sus/2025/PN.Gns concerning the criminal offense of physical domestic violence. In this case, the defendant was found guilty of physically assaulting his wife following a domestic dispute, resulting in bodily injuries to the victim. Based on the facts established during the trial, the defendant was convicted under Article 44 paragraph (1) of Law Number 23 of 2004 on the Elimination of Domestic Violence and sentenced to five months of imprisonment. This decision is significant because it illustrates how judges apply substantive criminal law, assess the elements of the offense, and determine the perpetrator's criminal liability based on the evidence presented during the trial.

Research on criminal liability for perpetrators of physical domestic violence remains highly relevant given the continuing prevalence of violence against women and the urgent need to strengthen legal protection for victims. In addition to contributing to the development of criminal law scholarship, this study is expected to provide valuable insights for law enforcement authorities in implementing Law Number 23 of 2004 more effectively, thereby ensuring legal certainty, justice, and adequate protection for victims of domestic violence.

Based on the foregoing discussion, this study aims to analyze the factors contributing to the commission of physical domestic violence and to examine the criminal liability of the perpetrator based on Decision Number 329/Pid.Sus/2025/PN.Gns.

LITERATURE REVIEW

Theory of Criminal Offenses

A criminal offense constitutes the fundamental basis for determining whether an individual may be subjected to criminal sanctions. In Indonesian criminal law, the term *tindak pidana* is derived from the Dutch legal term *strafbaar feit*, referring to an act prohibited by law and punishable by criminal sanctions for anyone who commits it. Moeljatno (2005) explains that criminal law is an integral part of the legal system that regulates prohibited acts, establishes the conditions under which an individual may be punished, and governs the implementation of criminal sanctions. Accordingly, an act can only be classified as a criminal offense if it fulfills all the legal elements prescribed by statutory regulations.

According to Van Hamel, a *strafbaar feit* is a human act prescribed by law, unlawful in nature, committed with fault, and attributable to a person capable of bearing criminal responsibility. Meanwhile, Pompe defines a criminal offense as a violation of legal norms committed intentionally or negligently by an individual who may be held criminally liable. Both definitions emphasize that unlawfulness and fault constitute the essential elements required to establish the existence of a criminal offense.

The elements of a criminal offense generally consist of subjective and objective elements. Subjective elements relate to the mental state of the offender, including intent (*dolus*) or negligence (*culpa*), whereas objective elements include the existence of an act, the resulting consequence, causation, and the unlawful nature of the conduct. All these elements must be established cumulatively before an individual may be declared guilty of committing a criminal offense. Consequently, proving the constituent elements of a criminal offense serves as the legal basis for judges in rendering criminal judgments.

Theory of Criminal Liability

Criminal liability is a legal concept that determines whether an individual who has committed a criminal offense may be subjected to criminal punishment based on the fault attributable to the offender. Indonesian criminal law recognizes the principle of *geen straf zonder schuld*, meaning "no punishment without fault." This principle emphasizes that criminal punishment is not imposed solely because a prohibited act has been committed; rather, the offender's fault must also be established. Moeljatno argues that an individual may only be punished if, in addition to committing a criminal offense, the individual possesses the capacity to be held responsible for his or her actions.

Van Hamel explains that criminal responsibility depends on an individual's ability to understand the nature and consequences of his or her conduct, to recognize that such conduct violates the law, and to exercise control over his or her will at the time the offense is committed. When these conditions are fulfilled, the offender may be held criminally liable. Conversely, the absence of one or more of these requirements may constitute grounds for excluding criminal responsibility.

Within the theory of fault, Van Hamel distinguishes two forms of culpability, namely intent (*dolus*) and negligence (*culpa*). Intent includes direct intent (*dolus directus*), intent with certainty, and conditional intent (*dolus eventualis*). Negligence, on the other hand, refers to the failure to exercise due care, resulting in consequences prohibited by law. The distinction between these forms of fault is significant because it influences both the classification of criminal offenses and the severity of the punishment imposed upon the offender.

Barda Nawawi Arief further argues that criminal liability refers to an individual's legal capacity to account for fault arising from conduct prohibited by law. Criminal liability encompasses not only the fulfillment of the legal elements of a criminal offense but also the offender's capacity to bear the legal consequences of such conduct. Therefore, criminal liability constitutes an essential foundation for ensuring legal certainty, justice, and legal utility within the criminal justice system.

Theory of the Causes of Crime

This study adopts the anthropological theory proposed by A. Lacassagne to explain the factors contributing to criminal behavior. According to this theory, crime is not merely the result of an individual's personal characteristics but rather the product of interaction between the offender and the surrounding social, cultural, economic, and family environments. The environment plays a crucial role by providing opportunities for criminal behavior, shaping behavioral patterns, and creating social and economic conditions that may encourage individuals to commit crimes.

According to D. Soedjono (2003), the social environment represents one of the dominant factors influencing criminal behavior. Similarly, R. Soesilo argues that economic conditions, educational background, and the social environment are closely associated with the incidence of crime. Poverty, low educational attainment, family conflict, and economic pressure may all serve as contributing factors that encourage individuals to engage in criminal conduct. Consequently, the causes of crime should be understood from a multidimensional perspective rather than solely from a legal standpoint.

Within the context of domestic violence, the anthropological theory is particularly relevant because it explains that violent behavior is influenced by patriarchal culture, unequal power relations within the family, and the psychological and social conditions surrounding the offender. Accordingly, analyzing the causes of domestic violence requires consideration not only of the offender's conduct but also of the environmental circumstances that contribute to such behavior.

Concept of Domestic Violence

Domestic violence refers to any act that causes physical, psychological, or sexual suffering, or household neglect, against an individual within the domestic sphere. Law Number 23 of 2004 on the Elimination of Domestic Violence provides the legal framework for protecting victims while imposing criminal sanctions on perpetrators. The enactment of this legislation reflects a significant shift in legal policy, recognizing domestic violence not merely as a private family matter but as a criminal offense that must be addressed through the criminal justice system.

According to Margaretha Rumayan (2009), domestic violence is influenced by various factors, including psychological conditions, patriarchal culture, unequal power relations within the family, and social structures that continue to place women in subordinate positions. These conditions often lead perpetrators to perceive violence as a legitimate means of exercising control over their partners, while victims frequently refrain from reporting incidents due to social pressure or economic dependence.

ANALYSIS OF CRIMINAL LIABILITY FOR PERPETRATORS OF PHYSICAL VIOLENCE IN DOMESTIC RELATIONSHIPS

(A Study of Decision Number 329/Pid.Sus/2025/PN.Gns)

Tami Rusli et al

In this study, the concept of domestic violence serves as the analytical framework for examining acts of physical violence committed by the perpetrator against the victim and for assessing the application of Article 44 paragraph (1) of Law Number 23 of 2004 on the Elimination of Domestic Violence in Decision Number 329/Pid.Sus/2025/PN.Gns. The theories of criminal offenses, criminal liability, and the causes of crime provide the theoretical foundation for analyzing the factors contributing to the offender's conduct and the legal reasoning underlying the court's decision to impose criminal sanctions.

METHOD

This study employed both normative juridical and empirical juridical approaches. The normative juridical approach was conducted through library research by examining statutory regulations, court decisions, legal literature, and other legal sources related to the criminal liability of perpetrators of physical domestic violence. Meanwhile, the empirical juridical approach was applied to obtain field data concerning the implementation of legal provisions through interviews with law enforcement officials involved in handling Decision Number 329/Pid.Sus/2025/PN.Gns.

The data used in this study consisted of primary and secondary data. Primary data were obtained through direct interviews with an investigator from the Central Lampung Regional Police, a public prosecutor from the Central Lampung District Attorney's Office, and a judge of the Gunung Sugih District Court, who were selected using a purposive sampling technique. Secondary data were derived from primary legal materials, including the 1945 Constitution of the Republic of Indonesia, Law Number 23 of 2004 on the Elimination of Domestic Violence, Law Number 1 of 2023 on the Indonesian Criminal Code, Law Number 20 of 2025 on the Indonesian Code of Criminal Procedure, and other relevant statutory regulations. In addition, secondary legal materials consisted of textbooks, scientific journal articles, previous research, and legal documents, while tertiary legal materials included legal dictionaries and other supporting references.

Data collection was carried out through library research and field research. Library research involved collecting and reviewing legal literature and documents relevant to the research problem. Field research was conducted through observation and semi-structured interviews, allowing respondents to provide more comprehensive information according to the circumstances encountered during the research process.

The collected data were subsequently identified, classified, organized, and analyzed using a qualitative juridical approach. The analysis was conducted by relating statutory provisions, criminal law theories, interview findings, and the legal facts established in Decision Number 329/Pid.Sus/2025/PN.Gns. The findings were then interpreted descriptively to address the research questions concerning the factors contributing to the occurrence of physical domestic violence and the criminal liability imposed on the perpetrator.

RESULTS AND DISCUSSION

Factors Contributing to the Perpetration of Physical Domestic Violence

Based on the findings of this study, the criminal offense of physical domestic violence examined in Decision Number 329/Pid.Sus/2025/PN.Gns did not occur spontaneously but was influenced by various interrelated factors. Interviews conducted with investigators from the Central Lampung Regional Police, public prosecutors from the Central Lampung District Attorney's Office, and judges of the Gunung Sugih District Court revealed that the violent acts were triggered by prolonged domestic conflicts that eventually escalated into physical violence. These findings indicate that domestic violence is influenced not only by the perpetrator's personal characteristics but also by interpersonal relationships, social conditions, and the family environment.

The first contributing factor identified in this study is the psychological condition of the perpetrator. Based on the facts established during the trial, the violence occurred because the perpetrator was unable to control his emotions during a dispute with the victim. This inability to regulate emotions led the perpetrator to engage in unlawful conduct that caused physical harm to the victim. These findings demonstrate that emotional self-control plays a crucial role in preventing domestic violence. Individuals who fail to manage their emotions are more likely to resort to violence rather than resolve conflicts through peaceful means.

These findings are consistent with the theory of criminal liability, which holds that an individual may be held criminally liable when he or she possesses the capacity to understand the nature of the act, recognizes that the act is unlawful, and is capable of controlling his or her conduct. In the present case, no justifying or excusing

ANALYSIS OF CRIMINAL LIABILITY FOR PERPETRATORS OF PHYSICAL VIOLENCE IN DOMESTIC RELATIONSHIPS

(A Study of Decision Number 329/Pid.Sus/2025/PN.Gns)

Tami Rusli et al

circumstances were found that could eliminate the perpetrator's criminal liability. Therefore, the violent act constituted an intentional offense (*dolus*), thereby satisfying the subjective element required for criminal liability.

In addition to psychological factors, family conflict emerged as a major cause of the criminal offense. Unresolved disputes between husband and wife gradually intensified, ultimately resulting in acts of physical violence. This finding suggests that ineffective communication within the family significantly increases the likelihood of prolonged conflict. In many cases, domestic violence is not an isolated incident but rather the culmination of continuous and unresolved disputes.

Another contributing factor is the persistence of patriarchal culture within society. Such a culture places men in a dominant position within the family, leading some perpetrators to perceive violence as a legitimate means of exercising authority over their spouses. This perspective is inconsistent with the principle of equality within marriage as recognized under Law Number 23 of 2004 on the Elimination of Domestic Violence. Patriarchal values also discourage many victims from reporting incidents of violence because domestic affairs are often regarded as private matters that should not involve external parties.

The findings also support the anthropological theory proposed by A. Lacassagne, which emphasizes that the social environment plays a significant role in encouraging criminal behavior. A family environment characterized by conflict, social pressure, and unhealthy interpersonal relationships may increase the likelihood of violent conduct. Accordingly, criminal behavior should be understood not only as a consequence of individual characteristics but also as the result of environmental influences that either facilitate or discourage criminal actions.

Economic conditions also constitute a contributing factor to domestic violence. Financial difficulties often create stress within the household, increasing the frequency and intensity of disputes between spouses. Although economic hardship was not identified as the primary cause in this particular case, it functioned as a triggering factor that heightened the risk of violence when combined with poor conflict-management skills.

Overall, the findings demonstrate that physical domestic violence results from the interaction of multiple factors, including psychological conditions, family conflict, patriarchal culture, social environment, and economic pressures. These factors are interconnected and collectively contribute to the perpetration of violence against victims. Therefore, efforts to prevent domestic violence should not rely solely on criminal law enforcement but should also include preventive measures such as legal education, strengthening family resilience, promoting gender equality, and encouraging peaceful conflict resolution within families. Such comprehensive approaches are expected to reduce the incidence of domestic violence while providing greater protection for victims.

Criminal Liability of the Perpetrator of Physical Domestic Violence Based on Decision Number 329/Pid.Sus/2025/PN.Gns

Criminal liability constitutes the legal consequence imposed upon an individual who has been proven to have committed a criminal offense and who fulfills the legal requirements for criminal responsibility. Indonesian criminal law adheres to the principle of *geen straf zonder schuld* (no punishment without fault), which requires that before imposing a criminal sanction, the court must establish that the defendant committed an act fulfilling all the elements of a criminal offense, possessed the capacity for criminal responsibility, and was not entitled to any justification or excuse that would eliminate criminal liability.

Based on Decision Number 329/Pid.Sus/2025/PN.Gns, the panel of judges concluded that the defendant had been legally and convincingly proven guilty of committing the criminal offense of physical domestic violence as stipulated in Article 44 paragraph (1) of Law Number 23 of 2004 on the Elimination of Domestic Violence. The judgment was based on legal facts established during the trial, demonstrating that the defendant had committed physical violence against his wife, resulting in bodily injuries. These facts were corroborated by witness testimony, the defendant's own statement, documentary evidence, and other evidence presented by the public prosecutor during the trial.

In assessing the case, the court first examined whether each constituent element of the charged offense had been fulfilled. The element of "any person" was satisfied because the defendant was recognized as a legal subject capable of bearing criminal responsibility. Furthermore, the element of "committing physical violence within the domestic sphere" was established through evidence demonstrating that the defendant intentionally assaulted the victim, who was legally married to him. Since all statutory elements of the offense were proven, there were no legal grounds for exempting the defendant from criminal liability.

ANALYSIS OF CRIMINAL LIABILITY FOR PERPETRATORS OF PHYSICAL VIOLENCE IN DOMESTIC RELATIONSHIPS

(A Study of Decision Number 329/Pid.Sus/2025/PN.Gns)

Tami Rusli et al

The findings indicate that the panel of judges considered not only the fulfillment of the statutory elements of the offense but also both juridical and sociological aspects before rendering its judgment. Juridical considerations were based on legally admissible evidence in accordance with Indonesian criminal procedural law, whereas sociological considerations included the impact of the offense on the victim, the relationship between the defendant and the victim, and the broader consequences of the violence on family life. Accordingly, the judgment reflects not only the application of statutory law but also the pursuit of justice and the protection of victims.

From the perspective of the theory of criminal liability, the defendant fulfilled the requirements for criminal responsibility because no evidence indicated the existence of mental illness or any other condition that would impair his capacity to understand or control his actions. According to Van Hamel, criminal responsibility requires an individual to understand the nature of the act, recognize its unlawfulness, and possess the ability to control his or her conduct. These requirements were satisfied in the present case, and therefore no legal grounds existed to exclude the defendant from criminal liability.

The element of fault also constituted an essential basis for imposing criminal punishment. The facts established during the trial demonstrated that the defendant acted intentionally (*dolus*). He was aware that committing physical violence against his wife was prohibited by law, yet he consciously proceeded with the unlawful act. Consequently, the element of culpability as the foundation of criminal liability was fully established. This finding is consistent with the opinion of Barda Nawawi Arief, who argues that criminal liability may only be imposed upon an individual who possesses criminal responsibility and commits an unlawful act accompanied by fault.

Interviews with judges of the Gunung Sugih District Court further revealed that, in determining the appropriate sentence, the court considered both aggravating and mitigating circumstances. Aggravating factors included the physical suffering inflicted upon the victim and the fact that the offense contradicted the fundamental purpose of establishing a harmonious family. Mitigating factors included the defendant's cooperative attitude during the trial, his admission of guilt, and the absence of any previous criminal convictions. These considerations reflect the implementation of the principle of individualized sentencing, under which punishment is determined by taking into account both the characteristics of the offender and the specific circumstances of the offense to achieve legal certainty, justice, and social utility.

From the perspective of the objectives of criminal punishment, the sentence imposed by the court fulfills not only a retributive function but also preventive and educational purposes. The term of imprisonment is expected to deter the defendant from repeating similar conduct while simultaneously conveying to the public that every form of domestic violence constitutes a criminal offense carrying legal consequences. Furthermore, the judgment provides legal protection for the victim by affirming the state's recognition that the victim's rights to personal security and legal protection had been violated.

Based on the foregoing analysis, this study concludes that the application of Article 44 paragraph (1) of Law Number 23 of 2004 in Decision Number 329/Pid.Sus/2025/PN.Gns was consistent with the legal facts established during the trial. The panel of judges carefully evaluated the admissible evidence, properly assessed the constituent elements of the criminal offense, and correctly applied the principles of criminal liability in determining the defendant's guilt. Accordingly, the judgment reflects the fundamental principles of legal certainty, justice, and expediency that underpin the enforcement of criminal law against perpetrators of physical domestic violence.

CONCLUSIONS

Based on the findings and discussion, it can be concluded that the occurrence of physical domestic violence in Decision Number 329/Pid.Sus/2025/PN.Gns was influenced by several interrelated factors, namely the perpetrator's psychological condition, domestic conflicts, patriarchal culture, the social environment, and economic pressures. The perpetrator's inability to control emotions was identified as the primary factor leading to the physical violence, while prolonged family conflicts increased the likelihood of the offense. Furthermore, the persistence of patriarchal values within society influenced the perpetrator's perception of marital relationships, leading to the belief that violence could be used as a means of exercising control over a spouse. The findings demonstrate that domestic violence is not solely the result of individual characteristics but is also shaped by social and environmental conditions that influence the perpetrator's behavior.

The criminal liability imposed on the perpetrator in Decision Number 329/Pid.Sus/2025/PN.Gns was consistent with the provisions of Article 44 paragraph (1) of Law Number 23 of 2004 on the Elimination of Domestic Violence. Based on the evidence presented during the trial, all constituent elements of the criminal

ANALYSIS OF CRIMINAL LIABILITY FOR PERPETRATORS OF PHYSICAL VIOLENCE IN DOMESTIC RELATIONSHIPS

(A Study of Decision Number 329/Pid.Sus/2025/PN.Gns)

Tami Rusli et al

offense were proven beyond reasonable doubt through legally admissible evidence submitted by the public prosecutor. The perpetrator was also found to possess criminal responsibility, to have acted intentionally, and to have no legal justification or excuse that could exclude criminal liability. In reaching its decision, the panel of judges considered juridical, sociological, and philosophical aspects, thereby ensuring that the judgment reflected the principles of legal certainty, justice, and expediency. Accordingly, the judgment is consistent with the theory of criminal liability and the objectives of criminal punishment under Indonesian criminal law.

RECOMMENDATIONS

Efforts to prevent and address domestic violence should not rely solely on criminal law enforcement but should also emphasize preventive measures, including improving public legal awareness, strengthening family resilience, and enhancing legal protection for victims. Law enforcement authorities are expected to consistently implement Law Number 23 of 2004 on the Elimination of Domestic Violence in order to provide effective legal protection for victims while creating a deterrent effect for perpetrators. Furthermore, stronger collaboration among the government, law enforcement agencies, and society is essential to raise public awareness that domestic violence constitutes a criminal offense that must be prevented and addressed seriously.

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