

CHAPTER I

INTRODUCTION

A. Background

During the globalization era violence has increased, both in the public and private spheres. Based on the data from 2010 to 2014¹ and from the number of data on violence against women, many types of violence have occurred within the scope of household. It means that the value of the home as the safest place for the residents has faded.

Table 1.1.

Cases of Domestic Violence during the last 5 years in Indonesia

Years	Cases of Domestic Violence
2010	105.103 cases
2011	119.107 cases
2012	216.156 cases
2013	279.760 cases
2014	293.220 cases
Total	1.014.296 cases

Source: Komnas Perempuan, "Lembar Fakta Catatan Tahunan", taken from

<http://www.komnasperempuan.go.id/catatan-tahunan-2016-kekerasan-terhadap-perempuan-meluas-negara-urgen-hadir-hentikan-kekerasan-terhadap-perempuan-di-ranah-domestik-komunitas-dan-negara/>,

on October 10th, 2016, at 8:48 p.m.

¹Komnas Perempuan, "Lembar Fakta Catatan Tahunan", taken from <http://www.komnasperempuan.go.id/catatan-tahunan-2016-kekerasan-terhadap-perempuan-meluas-negara-urgen-hadir-hentikan-kekerasan-terhadap-perempuan-di-ranah-domestik-komunitas-dan-negara/>, on October 10th, 2016, at 8:48 p.m.

Table 1.2

Number of cases of Domestic Violence that have been handled in Indonesia²

Years	Cases of Domestic Violence
2010	93.113 cases
2011	101.935 cases
2012	203.507 cases
2013	263.285 cases
2014	280.710 cases
Total	942.550 cases

The figure shows that women are still very vulnerable to become the object of violence which is even more dominantly done by those closest to the victim. Actually house functions as shelter but ironically most violence was reported in the household.

John Galtung defines violence as "any avoidable impediment to self-realization". Violence is anything that causes people to actualize potential hindered naturally.³ This is certainly on the contrary with the concept of human rights, especially regarding personal rights. Domestic violence is violation of human rights, particularly women's rights.

John Rawls defines human rights as a form of human needs to the civilized life and thus human rights violations are crimes of the most dangerous civilization. People have the honor of being grounded in justice that the whole society cannot be canceled.⁴

² *Ibid.*

³ See, Abdullah Muzakkar, 2006, "Media Massa dan Kekerasan Terhadap Perempuan", Vol. 1 No. 2, Pekanbaru, *Journal Puanri*, p.27.

⁴ John Rawls, 2006, *A Theory of Justice (Teori Keadilan)*, Pustaka pelajar, Yogyakarta, p. 4.

In addition to legal instruments on human rights protection in general mentioned above there are also international legal instruments to promote women's rights and support legal instruments that specifically in line with the elimination of domestic violence. Suseno defines human rights as a fundamental right or right which is absolute and inherited gift from the Almighty God. Human Rights are not due provided by the community and the good of the state, but by a person's dignity.⁵

In 1967 the United Nations issued the Declaration on the Elimination of Discrimination against Women. The declaration comprises the rights and obligations of women under conditions of equality with men and prescribes the women to take the necessary steps to ensure the implementation of the Declaration. The declaration is not binding, so that the United Nations Commission on the Status of Women is based on the Declaration of drafting a convention on the elimination of all forms of discrimination against women.

On December 18th, 1979 United Nations General Assembly had approved the convention, namely the Convention on the Elimination of All Forms of Discrimination Against Women or the Convention on the Elimination of All Forms of Discrimination Against Women, which is now also known as CEDAW⁶. CEDAW has been recognized worldwide as the Bill of Rights for Women, which lays down the basic principles of the elimination of inequality of women's rights. The principles are clearly stated in the articles which contain the substance of CEDAW, namely in Article 1 to Article 16.

⁵Frans Magnis Suseno, 2001, *Etika Politik: Prinsip-prinsip Moral Dasar Kenegaraan Modern*, Jakarta, PT Gramedia, p.121.

⁶UN Women Asia Pacific, http://unwomen-asiapacific.org/docs/cedaw/archive/indonesia/ CEDAW_text_Bahasa, accessed on Wednesday, November 2nd, 2016, at 5:17 p.m.

On July 24th, 1984, Indonesia ratified CEDAW into Law of the Republic of Indonesia No. 7 of 1984 on Ratification of the Convention on the Elimination of All Forms of Discrimination against Women (Convention on the Elimination of All Forms of Discrimination Against Women). Article 1 of the Law is determined by the requirements of ratification of the Convention (reservation) of Article 29 paragraph (1) on the settlement of disputes concerning the interpretation or application of the Convention.⁷

Elimination of violence against women has also been regulated by the Law of the Republic of Indonesia Number 23 of 2004 on the Elimination of Domestic Violence (UU PKDRT). Domestic violence that has been considered only in the private sphere has been used as a public issue.⁸ Law of PKDRT was formulated with the intention and purpose to prevent all forms of domestic violence, protect victims of domestic violence, take action against perpetrators of domestic violence, and maintain the integrity of households harmonious and prosperous.⁹

So, the protection of women as victims of violence should be rigorously enforced. As seen from the above statistics, women as victims of violence is increasing every year, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) into a reference in International Law and Indonesia have ratified but the numbers of violence against women remain increasing. Therefore, the author is

⁷Article 29 paragraph (1) this convention stated: “provides that disputes between two or more States parties about the interpretation of the Convention which cannot be settled by negotiation, may be submitted to arbitration, and where the parties are unable to agree referred to the International Court of Justice for determination.” In the explanation of the Law of the Republic of Indonesia No. 7, 1984, Article 1, among others, stated that the Indonesian government is not willing to bind themselves to the provisions of that article, because in principle it cannot accept the obligation to apply international disputes, where Indonesia snagged, the International Court of Justice

⁸Ester Lianawati, 2009, *Tiada Keadilan Tanpa Kepedulian KDRT*, Paradigma Indonesia, Yogyakarta, p.1-2.

⁹Article 4 Law Number 23 of 2004 on Eradication of Domestic Violence

interested in conducting a study entitled The Protection of Women as a Victim of Domestic Violence in Indonesia based on CEDAW and Law number 23 of 2004.

B. Research Problem

1. How is the protection of women as a victim of domestic violence based on CEDAW and Law Number 23 of 2004?
2. How is the effectiveness CEDAW and Law Number 23 of 2004 in eradicating the number of domestic violence in Indonesia?

C. Objective of Research

1. To understand the role of CEDAW and Law number 23 of 2004 to protect Women as A Victim of Domestic Violence in Indonesia.
2. To analyze the effectiveness of CEDAW and Law Number 23 of 2004 in Eradicating of Domestic Violence to protect women.

D. The Benefits of Research

1. Theoretical

This research would give theoretical benefit in the analysis of role of Convention on the Elimination of all form of Discriminations Against Women (CEDAW) and Law Number 23 of 2004 in the protection of women as victims of Domestic Violence in Indonesia.

2. Practical

This research would give better understanding on how to protect women based on CEDAW and Law number 23 year 2004 on Eradication of Domestic Violence

E. Overview of the Chapter

This research consists of five chapters, namely: Chapter I Introduction, Chapter II Literature Review, Chapter III Research Methods, Chapter IV Finding and Analysis, Chapter V Conclusion and Recommendation.

Chapter One: Introduction, here author explains background of the research, problem formulation, objective of research, benefits of research, and overview of the chapters as well.

Chapter Two is literature review: here author elaborates each variable on this undergraduate thesis, such as: The definition of Domestic Violence, CEDAW, and Implementation of the Women's Convention in Indonesia, Law Number 23 of 2004.

Chapter Three: Methodology, in this chapter, the author explains type of research, type of data, data collecting method and data analysis.

Chapter Four demonstrates the result and discussion. In this chapter the author highlights the results and discussion of CEDAW and Law Number 23 of 2004 regarding the women protection from the Victim of Domestic Violence in Indonesia.

Finally, the last chapter is chapter five which presents the conclusion and suggestion from the author toward the result of research.