



## Implementation of Victims' Rights in District Court Decisions: A Study of Legal Protection for Victims of Domestic Violence

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### ABSTRACT

*This study aims to identify factors that trigger domestic violence (DV) by husbands against their wives. Some of the main factors include the patriarchal system, discrepancies in husband's expectations, economic competition in the household, and husband's frustration that leads to physical, sexual, psychological violence, or family neglect. In addition, women's limited access to the legal process is also an obstacle, where the Criminal Procedure Code minimally addresses victims' rights, and reports are often considered as ordinary domestic conflicts. This research also examines legal protection for victims of domestic violence based on Law No. 23 of 2004 and how the district court provides protection for victims in its decisions. The research used a normative juridical method with a statutory and case approach, as well as literature study techniques to collect data. The results showed that the judge's decision still focused on punishment for the perpetrator, without considering the victim's right to compensation either through restitution or compensation. Decisions tend to only follow the provisions of the written law without including aspects of recovery for victims in the criminal justice system in Indonesia..*

**Keywords:** Legal Protection, Victims, Domestic Violence, Judge's decision

## 1. INTRODUCTION

Domestic violence (DV) is a social phenomenon that remains a serious problem in many countries, including Indonesia (Hayati et al., 2011). Data from Komnas Perempuan (2023) shows that domestic violence cases continue to increase every year, with most victims being women (Martitah et al., 2024; Siregar, 2024). In 2022, there were more than 457,895 cases of domestic violence, both in the form of physical,

psychological, economic, and sexual violence (Suparmi et al., 2024). However, although there are regulations governing the protection of victims, many cases have not received optimal justice, both in the legal aspect and psychosocial recovery. The weak implementation of legal protection for victims in court decisions is one of the factors that make it difficult for victims to obtain their rights optimally. This shows that the criminal justice system in Indonesia still faces major challenges in providing comprehensive protection for victims of domestic violence (Yuliantini, 2019; Kamalludin, 2024).

From a legal perspective, protection for victims of domestic violence has been regulated in Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law) (Herawati, 2024). This law emphasizes that victims have the right to protection, health services, psychological recovery, and access to a fair judicial process (Article 10, Law No. 23 Year 2004). In addition, the concept of restorative justice in criminal justice also emphasizes the importance of victims' rights to restitution and compensation for their suffering (Ali et al., 2022; Kusyandi, 2023). However, studies show that in practice, many court decisions only focus on punishing perpetrators without considering aspects of victim recovery (Wiyanti et al., 2022). This reflects the gap between the written legal norms and the implementation in court decisions (Habernal et al., 2024). Therefore, there needs to be further study on how district court decisions accommodate the rights of victims of domestic violence in the criminal justice system in Indonesia.

This research aims to analyze the implementation of victims' rights in district court decisions related to domestic violence cases in Indonesia (Yustisianto et al., 2022). Specifically, this study will examine the extent to which judges' decisions accommodate victims' rights in accordance with Law No. 23 of 2004, as well as how the legal mechanism is applied in providing protection for victims of domestic violence. This study will also evaluate the obstacles in the implementation of legal protection for victims, both from the aspects of regulations, court decisions, and implementation in the field. Thus, this study is expected to provide academic and practical contributions in efforts to strengthen legal policies that are more favorable to victims of domestic violence in Indonesia (Rambe & Sihombing, 2024).

Based on the social facts and literature review that have been presented, this research departs from the hypothesis that the implementation of victims' rights in district court decisions is still not running optimally. Although normatively the regulations have accommodated victims' rights, in practice there are still structural and procedural obstacles that cause victims not to get maximum justice. Thus, this research will examine the extent to which district court decisions are able to provide justice for victims of domestic violence, as well as identify strategic steps that can be taken to

strengthen legal protection for victims in the criminal justice system in Indonesia (Rambe et al, 2023).

## RESEARCH METHODE

The research method used by the author is to conduct a construction analysis of the data that has been collected and processed in order to reveal the truth of the research systematically, methodologically and consistently (Gioia, 2022). In analyzing the data, the author uses a normative analysis data analysis technique where the analysis is not stated using exact formulas or in the form of numbers or statistics, the researcher collects and analyzes data sources to be processed and presented in the form of research reports and literature, this type of literature can also be said to be a normative research method which is generally carried out by not going directly to the field and the research carried out is based on written works, and from previous research

## 2. RESULT AND ANALYSIS

### Definition of Crime, Elements of Crime, and Types of Crime

The legislator has used the word “*Stafbaar Feit*” to refer to what we know as a “criminal offense” in the Criminal Code without providing an explanation of what exactly is meant by the word “*Stafbaar feit*” (Yulida & Anggreini, 2024).

The word “*feit*” itself in Dutch means “part of a fact”. “*Strafbaar feit*” could be translated as ‘part of a punishable fact’, which would be inaccurate, as we will later find out that what is punishable is actually a human being as a person and not a fact, deed or action. According to Lamintang (1997: 192) every criminal offense contained in the Criminal Code can generally be described into elements which we can basically divide into two (2) kinds of elements, namely subjective elements and objective elements (Yunfeng, 2023).

What is meant by the subjective elements are elements that are attached to the perpetrator or related to the perpetrator and include everything that is contained in his heart (Robben & Hinton, 2023). Meanwhile, the objective elements are elements that are related to the circumstances, namely in which the actions of the perpetrator must be carried out.

The subjective elements of a criminal offense are.

1. Intentionality or unintentionality (*dolus* or *culpa*);
2. Intent or *voornemen* in an attempt or *poging* as referred to in Article 53

paragraph 1 of the Criminal Code;

3. Various intentions or *oogmerk* as found for example in crimes, theft, fraud, extortion, forgery and others;
4. Planning in advance or *voorbodachte raad* as found, for example, in the crime under Article 340 of the Criminal Code;
5. Feeling of fear or *vrees* as found, among others, in the formulation of the crime under Article 340 of the Criminal Code.

The division of criminal acts in the Indonesian criminal law system is divided into two main categories, namely "crimes" and "violations". This division is not only the basis for the preparation of the Criminal Code (KUHP) which is divided into Book II (on Crimes) and Book III (on Violations), but also becomes fundamental to the entire criminal law system in Indonesia. The difference between crimes and violations carries a number of legal consequences that have an impact on material criminal law (Herring, 2021).

Several differences in material law that arise from this classification cover various aspects. First, in cases of violations, the Criminal Code does not distinguish between intent (*opzet*) and negligence (*culpa*) in determining the elements of a criminal act (Wijanarko et al., 2024). Second, attempts to commit violations cannot be punished as regulated in the Indonesian criminal system (Article 53 of the Criminal Code). Third, participation (*medeplichtigheid*) in violations is not subject to criminal sanctions, unlike crimes that accommodate this concept (Articles 55 and 56 of the Criminal Code). Fourth, in cases of violations committed by business entities or corporations, managers or commissioners can only be subject to sanctions if the violation occurred with their knowledge (Article 51 of the Criminal Code).

In addition, there are differences in the prosecution and sentencing procedures between crimes and violations. Violations do not require a complaint as a prerequisite for prosecution (Article 72 of the Criminal Code). The statute of limitations for prosecuting perpetrators of violations is shorter than for crimes, as regulated in Article 78 Paragraph (1) of the Criminal Code. Furthermore, the right to prosecute can be waived if the maximum fine is paid voluntarily, this provision only applies to violations (Article 82 Paragraph (1) of the Criminal Code). In addition, the Criminal Code stipulates that the confiscation of objects obtained from violations has its own rules that are different from confiscation in cases of crimes (Article 39 Paragraph (2) of the Criminal Code).

In the context of jurisdiction and application of law, there are provisions that limit prosecution for Indonesian citizens who commit crimes abroad. If the act is qualified as a crime in the Criminal Code, then it can be prosecuted in Indonesia, but if it is only classified as a violation, then it cannot be followed up legally (Article 5 of the Criminal

Code). The same applies to civil servants who commit crimes of office abroad, where only crimes can be subject to criminal sanctions in Indonesia, while violations of office are not subject to sanctions (Article 8 of the Criminal Code).

### **Understanding Domestic Violence**

Domestic violence (DV) is a form of human rights violation that is still a serious problem in society. Positive law in Indonesia has not fully provided specific regulations regarding efforts to prevent and overcome DV, although acts of violence such as beatings, torture, and extortion against individuals, both women and men, have been categorized as crimes in criminal law. However, in practice, law enforcement officers are often reluctant to intervene in cases of domestic violence, on the grounds that this problem is considered a private area that does not require state intervention.

The lack of legal response to domestic violence reflects gaps in the criminal justice system, where many victims experience obstacles in obtaining effective legal protection (Cardenas et al., 2024). This is contrary to the principles of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which has been ratified by Indonesia through Law No. 7 of 1984, as well as Law No. 23 of 2004 on the Elimination of Domestic Violence, which should provide protection for victims (CEDAW, 1979; Law No. 23 of 2004). Therefore, it is necessary to strengthen regulations and the commitment of law enforcement officers in following up on domestic violence cases as criminal acts that must be handled seriously in the national legal system.

Violence against women becomes even more tragic when it occurs in the institution of marriage, which in the perspective of Indonesian society is considered a sacred institution. Ironically, marriage, which should be a space of protection and welfare for couples, has instead become a place where violence and torture occur against women (Mahajan & Fried, 2024). Reality shows that many women experience domestic violence (KDRT), both physical and psychological, without anyone else knowing. Physical violence such as beatings, torture, and coercion in marital relationships often occurs, but the impact that is no less serious is psychological violence, which causes prolonged mental and emotional suffering for victims (Deutsch & O'Brien, 2024).

Research shows that women victims of domestic violence often feel powerless to report the incidents they experience, either due to economic dependency, social pressure, or lack of effective legal protection (Rohn & Tenkorang, 2024). Although Law Number 23 of 2004 concerning the Elimination of Domestic Violence (UU PKDRT) has regulated the protection mechanism for victims, there are still many cases of violence that are not revealed and do not receive adequate legal handling (Law No. 23

of 2004). Therefore, there is a need to strengthen the legal system and social advocacy to ensure that women victims of domestic violence receive their rights and are free from violence in the institution of marriage.

### **Rights of Victims of Domestic Violence**

Law Number 23 of 2004 concerning the Elimination of Domestic Violence (UU PKDRT) provides protection guarantees for victims of domestic violence. Article 10 of the PKDRT Law stipulates that victims have the right to receive various forms of protection, including protection from family, police, prosecutors, courts, advocates, and social institutions, either temporarily or based on a protection order from the court (Article 10 of Law No. 23 of 2004). In addition, victims also have the right to receive health services according to medical needs, special treatment while maintaining confidentiality, assistance from social workers and legal assistance during the examination process, and spiritual guidance services.

In the justice system, the process of investigation, prosecution, and examination in court of domestic violence cases must follow the provisions of the applicable criminal procedure law and refer to the Domestic Violence Law (Article 25 of Law No. 23 of 2004). The legal approach used in handling this case is called an integrated criminal justice system, where the focus is not only on punishing the perpetrator, but also considering the rights of the victim and the recovery of the victim's physical and psychological condition (Siregar et al., 2024).

Furthermore, Article 4 of the Domestic Violence Law stipulates the main objectives of the domestic violence elimination policy, namely preventing all forms of domestic violence, protecting victims, prosecuting perpetrators, and maintaining harmony and welfare in the household (Article 4 of Law No. 23 of 2004). Therefore, in the legal process, both at the investigation and trial stages, there must be a balance between imposing sanctions on perpetrators and protecting and restoring victims (Apt, 2024). With this more comprehensive approach, it is hoped that the criminal justice system can provide justice that is more in favor of domestic violence victims, as well as being an effective step in eliminating domestic violence in Indonesia (Rambe et al, 2024).

## **CONCLUSION**

This study reveals various factors that trigger domestic violence (KDRT) by husbands against wives. One of the main factors is the imbalance of power relations in the household due to the patriarchal system, which places men as the main authority in social, cultural, and economic aspects. In addition, the mismatch between the husband's expectations and reality often triggers conflicts that lead to violence. Other contributing factors are competition in the household, especially in economic aspects

and control of resources, as well as the husband's frustration due to social or economic pressures that encourage destructive behavior such as alcohol abuse and violence against his wife. On the other hand, the lack of access for women to legal protection hinders victims from obtaining justice, because in practice, victims are often only considered as reporting witnesses, not as subjects entitled to recovery.

This study also found that Law No. 23 of 2004 concerning the Elimination of Domestic Violence has not fully accommodated the rights of victims, especially in material compensation through restitution and compensation. Judges tend to only base their decisions on written provisions in the law without considering the victim's recovery as a whole. The main focus in the judicial process is more focused on proving the criminal elements committed by the perpetrator, so that the criminal verdict is often light and does not provide a deterrent effect. Therefore, reform is needed in the domestic violence criminal justice system so that it does not only punish the perpetrator, but also ensures protection and recovery for the victim. A restorative justice approach must be applied by including the victim's rights to restitution, compensation, and psychosocial recovery services, so that the legal system is more on the side of the victim and no longer considers domestic violence as a purely domestic issue

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