

# The Effectiveness of the Penal System in Addressing Domestic Violence Offenders in Indonesia

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**ABSTRACT** – This research examines the effectiveness of the punishment system against perpetrators of domestic violence (KDRT) in Indonesia with a normative juridical approach. The main focus is to analyze the applicable laws and regulations, the implementation of criminal penalties, and the role of law enforcement institutions in providing protection for victims. Domestic violence, which includes physical, psychological, sexual and economic aspects, is a serious crime that has a wide-ranging impact on families and society. Although Law No. 23/2004 on the Elimination of Domestic Violence has been implemented, many challenges remain, including in the implementation of the criminal justice system. This study found that law enforcement is often constrained by a lack of understanding of victim protection, less than optimal criminal sanctions, and weak coordination between related institutions. By analyzing legal literature and case studies, this research provides recommendations to strengthen the existing legal system, including through strengthening victim protection mechanisms, educating the public, and reforming criminal policy. This research aims to provide an academic contribution in improving the criminal law system related to domestic violence, as well as increasing its effectiveness in creating justice and protection for all parties involved.

**Keywords:** Criminalization, Domestic Violence, Legal Protection, Legal Effectiveness, Policy Reform, Criminal Law, Victims' Rights.

## A. INTRODUCTION

Domestic violence is a form of crime that often occurs in society. This crime harms victims physically and psychologically. Based on data released by women and child protection organizations, this violence shows an increasing trend every year. Law No. 23/2004 on the Elimination of Domestic Violence comes as an effort by the government to provide legal

protection for victims. However, the effectiveness of the implementation of this regulation is still a big question mark.

The main problem in handling domestic violence is the weak implementation of the applicable punishment system. Siahaan (2023) argues that the criminal justice system often does not provide a sufficient deterrent effect for perpetrators, so that these crimes continue to recur. The inability of victims to report domestic violence cases is also one of the inhibiting factors. Most victims are reluctant to report due to social stigma and threats from the perpetrator.

The protection mechanism for victims is still not optimal. Sulastris (2019) explains that many victims do not have access to temporary protection or legal assistance. The lack of competent human resources in handling these cases is the main cause of the non-optimality of the punishment system.

Hidayati (2019) added that in cases of domestic violence, children are often indirect victims who feel the psychological impact. Prolonged trauma to child victims of domestic violence can lead to serious problems in their development. This emphasizes the importance of strengthening the legal system that can provide comprehensive protection.

Another important issue is the difference in interpretation in the application of the law. Prasetyo (2019) revealed that courts often give decisions that are not in accordance with the community's sense of justice due to the lack of clear guidelines in sentencing perpetrators of domestic violence.

While there has been a lot of research on domestic violence, there are limited studies that specifically evaluate the effectiveness of Indonesia's punishment system. Some studies have focused more on the preventive aspect than the responsive. This creates a gap in analysis that can answer the extent to which punishment is able to provide a deterrent effect

and rehabilitation for perpetrators. This research offers novelty by integrating the evaluation of punishment regulations and their implementation in the field. It also highlights the role of law enforcement in providing protection to victims and recommends corrective measures. This research aims to analyze the effectiveness of the punishment system against perpetrators of domestic violence in Indonesia and provide recommendations to improve legal protection for victims through a more progressive approach to criminal law.

## B. METHOD

This research uses a normative juridical approach, which aims to analyze legal regulations and policies related to domestic violence (KDRT) in Indonesia. The main focus of this method is to examine the effectiveness of the applicable laws and regulations and their application in relation to the punishment system. This type of research is descriptive-analytical. Descriptive research was conducted to provide an overview of the criminalization system against perpetrators of domestic violence as regulated in Law Number 23 Year 2004 on the Elimination of Domestic Violence. An analytical approach is used to evaluate the effectiveness of the regulation based on secondary data and relevant literature.

The data used in this research consists of secondary data in the form of laws and regulations such as Law Number 23/2004 on the Elimination of Domestic Violence and the Criminal Code (KUHP). Law books, academic journals, scientific articles, and the results of previous research.

The data collection method is done through literature study by reviewing related legal sources. The data was analyzed to find weaknesses in the punishment system and potential improvements. The validity of the data is guaranteed by triangulating sources, i.e. checking the consistency of information from various primary, secondary and tertiary legal materials. The validity of the research was also strengthened by comparing the results of the literature review to legal practices in Indonesia.

Data were analyzed qualitatively using the deductive-inductive method. The analysis begins by identifying the problems of the punishment system in the applicable regulations. Furthermore, findings from the literature are compared with implementation in

the field to produce more effective legal policy recommendations. This research emphasizes a normative perspective to ensure that the recommendations are theory-based and relevant to Indonesia's legal framework.

## C. RESULTS AND DISCUSSION

### **The Effectiveness of the Punishment System for Perpetrators of Domestic Violence**

The effectiveness of the punishment system against perpetrators of domestic violence in Indonesia has been the subject of much debate. One critical aspect of concern is the extent to which Law No. 23/2004 on the Elimination of Domestic Violence can provide justice for victims and perpetrators. This law regulates various types of violence, including physical, psychological, sexual violence, and domestic neglect. However, its implementation still faces various obstacles.

First, the main problem in law enforcement against domestic violence cases is the lack of understanding of law enforcement officials regarding the rights of victims, which should be at the core of the legal process. An excessive focus on imposing criminal sanctions on perpetrators often overrides the victim's need for physical, psychological, and legal protection. For example, victims often face protracted legal proceedings without adequate counseling or legal representation, leaving them vulnerable to repeated trauma. This reflects that law enforcement officials do not fully understand their responsibility in providing security to victims during the legal process.

An approach that is only oriented towards punishing perpetrators ignores the principle of comprehensive justice, where victims should be able to recover from the impact of violence. Law enforcement officers who are not trained to handle domestic violence cases sensitively often treat victims simply as witnesses without considering the psychological impact of their violent experiences. As a result, many victims feel that they do not receive proper protection, even while they are involved in the legal process. These issues point to the need for reforms in the training of law enforcement officers to ensure that the handling of domestic violence cases focuses on punishment, as well as the full fulfillment of victims' rights.

Second, the effectiveness of the punishment system for cases of domestic violence is often hampered by the strong influence of the patriarchal culture that is still rooted in society. This culture creates social norms that tend to

blame the victim and protect the perpetrator, so many victims are reluctant to report the violence they experience. Hidayati (2019) notes that women are often in a difficult position, facing social pressure to maintain their marriage despite being victims of physical or psychological violence. This pressure is often reinforced by the traditional view that divorce is taboo or that domestic violence is an internal family matter that should not be taken to the law. As a result, victims are trapped in situations that constantly threaten their safety without adequate protection.

Patriarchal culture also influences how law enforcement officials, communities and victims' families respond to domestic violence cases. In many cases, victims who report violence are faced with dismissive or blaming attitudes from those who should support them. Law enforcement officials often view domestic violence cases as domestic conflicts that do not require serious intervention, while the community tends to stigmatize victims, considering them to have defamed the family. This prevents victims from getting justice, and reinforces a cycle of violence that is difficult to break. To overcome these obstacles, intensive efforts are needed to educate the public about victims' rights and the importance of taking legal action in domestic violence cases, so that the dominating patriarchal norms can be gradually changed.

Third, victim protection mechanisms often do not work optimally, so victims of domestic violence do not receive the protection they should. Jamaa (2014) notes that many victims do not receive adequate legal assistance or psychological support during the legal process. This situation indicates a serious gap in the assistance system designed to protect victims from further pressure while they are involved in the legal process. Victims are often left facing convoluted procedures without professional assistance to help them understand their legal rights and the steps to take.

This lack of assistance also exacerbates the psychological condition of victims, who are often already traumatized by the violence they have experienced. Ineffective assistance systems fail to provide counseling services that can help victims restore their mental health, so victims are likely to experience further trauma. Jamaa (2014) asserts that reform of the victim protection system must include the provision of legal and psychological assistance that is

integrated with the legal process. This requires a commitment from relevant institutions to provide facilities and competent professionals, so that victims not only feel heard but also get a sense of security and support during the legal process. Such reforms are essential to ensure that victim protection mechanisms actually function as a real effort to provide justice and recovery for them.

Fourth, the criminal regulation in Law No. 23/2004 on the Elimination of Domestic Violence (Domestic Violence Law) has significant weaknesses, especially in determining criminal penalties that can provide a deterrent effect. The maximum sentence of five years' imprisonment for perpetrators of physical domestic violence, as stipulated in the law, is often considered too light to reflect the severity of the impact experienced by victims. Prasetyo (2019) highlights that these low criminal penalties tend to fail to deter perpetrators from repeating their actions, resulting in the cycle of violence continuing without any meaningful change in perpetrator behavior. These low criminal penalties also provide a weak signal to the public about the seriousness of the state in dealing with cases of domestic violence.

Furthermore, these weaknesses in criminal regulation have the potential to disadvantage victims who have been brave enough to report the violence they have experienced. Light penalties can create a sense of injustice, especially for victims who must endure the long-term physical and psychological impacts of the violence. Prasetyo (2019) suggests that revisions to the criminal provisions in the Domestic Violence Law need to be made to aggravate criminal threats, so that they better reflect the seriousness of the state in providing protection to victims and ensuring that perpetrators actually receive appropriate punishment. With stricter criminal penalties, it is expected that perpetrators are punished and realize the serious consequences of their actions, so that the deterrent effect can be effectively achieved.

Fifth, there is a lack of integration between the criminal justice system and social institutions that play a role in the rehabilitation of offenders and victims. Perpetrators serving prison sentences do not always receive adequate rehabilitation programs to prevent repeat violence.

Technical barriers such as a lack of witnesses are often a significant obstacle in proving Domestic Violence (DV) cases in court. In many situations, violence occurs in private spaces without the presence of a third party, making it difficult for victims to provide strong enough evidence to support their claims. Srifianti (2023) notes that the absence of witnesses is one of the main reasons why many domestic violence cases do not proceed to trial or are even closed before a verdict. This puts victims in a very weak position, as the burden of proof is entirely on them, even though they are already in a vulnerable situation.

The lack of witnesses or supporting evidence also often strengthens the position of the perpetrator, who can easily deny allegations without meaningful legal consequences. Srifianti (2023) emphasizes that the legal system needs to adopt more adaptive mechanisms in handling domestic violence cases, including considering non-traditional evidence such as medical records, psychological reports, or testimonies from relatives who have indirect knowledge of patterns of violence. By expanding the types of evidence that are admissible in court, the justice system can provide greater opportunities for victims to obtain justice. These technical barriers emphasize the need for reform in the rules of evidence in domestic violence cases so that the legal process does not only rely on direct witnesses but also makes room for other relevant evidence.

In the international context, Indonesia's legal approach also needs to be juxtaposed with practices in other countries that have successfully reduced levels of domestic violence. The implementation of alternative detention mechanisms for perpetrators that are educative and rehabilitative in nature, such as those implemented in Scandinavian countries.

### **Efforts to Increase the Effectiveness of the Punishment System**

Efforts to increase the effectiveness of the criminalization system against perpetrators of domestic violence can begin by strengthening legal education to the community. This education aims to increase understanding of the rights of victims, the obligations of perpetrators, and the legal consequences faced in domestic violence cases. Rahmawati (2020) proposes a national campaign as one effective way to convey this information widely, targeting vulnerable groups such as women and children.

The campaign could involve various media, ranging from television to digital platforms, as well as cooperation with community organizations to disseminate educational materials in local communities. This step is important to build public awareness that domestic violence is not just a domestic issue, but a serious offense that requires a legal response.

Through continuous education, potential victims can better understand their rights and have the courage to report acts of violence. Perpetrators are also expected to realize that acts of domestic violence have strict legal consequences, thus preventing violence in the first place. Legal education also gives the community a better understanding to support victims and encourage the reporting of domestic violence cases. Without efforts to massively increase legal awareness, the punishment system is unlikely to achieve its effectiveness, as many cases remain unreported or do not receive adequate legal attention. Therefore, legal education should be a priority in the domestic violence prevention agenda, as it targets law enforcement and cultural change that is more supportive of human rights protection.

Furthermore, strengthening regulations is an urgent need in an effort to deal with Domestic Violence (DV) more effectively. Law No. 23/2004 on the Elimination of Domestic Violence has provided a clear legal basis to protect victims and punish perpetrators. However, the increasingly complex development of domestic violence cases suggests that this regulation requires revision to accommodate a more comprehensive approach. Soesilo and Prakoso (2018) proposed the addition of additional criminal provisions, such as the obligation for perpetrators to participate in rehabilitation programs. This provision aims to ensure that the punishment is not only repressive but also rehabilitative, so that the perpetrator can realize their mistakes and prevent the recurrence of violence.

The addition of a rehabilitation program in the regulation can also provide wider benefits, especially for the sustainability of family relationships. Many domestic violence cases occur within a family environment that is still emotionally or financially interdependent. Rehabilitation can be a bridge to restore relationships, while still providing justice for victims. Rehabilitation of the perpetrator, for



example through mandatory counseling or emotional management training, can help address the root causes of violence, such as psychological distress, internal conflict, or destructive patterns of behavior. Thus, these additional criminal provisions emphasize the legal consequences for perpetrators, and create a mechanism to break the cycle of violence more effectively.

Revisions to regulations must also be accompanied by strict supervision mechanisms to ensure consistent implementation. Mandatory rehabilitation for offenders requires collaboration between law enforcement officials, rehabilitation institutions, and the community. Implementation requires infrastructure support, such as the provision of adequate rehabilitation centers and trained professionals. Without clear supervision, the implementation of this provision risks becoming a mere formality. Therefore, the revision of Law No. 23/2004 must be designed in detail, including implementation and supervision procedures, so that the goal of protecting victims and preventing further violence can be optimally achieved. Soesilo and Prakoso's (2018) proposal on additional punishment in the form of a rehabilitation program is a strategic step that can have a long-term impact in handling domestic violence.

Collaborative approaches between law enforcement officials, social institutions, and civil society organizations also need to be improved. This can be realized through the formation of a special team tasked with handling domestic violence cases in an integrated manner. Wahid and Irfan (2021) emphasize the important role of community organizations in providing legal and psychological assistance to victims.

Reform at the law enforcement level is also an important element. Law enforcement officers need to receive ongoing training on the victim-centered approach. Ni'mah (2012) notes that this approach has proven effective in increasing victims' trust in the criminal justice system.

Rehabilitation programs that are oriented towards changing the behavior of the perpetrator must be an integral part of the punishment system in dealing with domestic violence. Punishment that is only retributive in nature is often insufficient to solve the problem as a whole, especially regarding family relationships. Hiariej (2020) suggests that the criminal system in Indonesia adopt a

rehabilitation model that not only emphasizes punishment, but also the restoration of family relationships damaged by domestic violence. Under this approach, perpetrators are given criminal sanctions, and are required to attend programs designed to change their behavior patterns, such as emotional management counseling or interpersonal communication training. This approach aims to ensure that perpetrators understand the impact of their actions and can prevent the violence from recurring in the future.

The integration of rehabilitation programs into the penal system also provides long-term benefits for victims and families. In many domestic violence cases, the victim and perpetrator often remain in an economically or emotionally interdependent relationship. Rehabilitation that focuses on restoring relationships allows victims to feel safer without having to completely sever family ties, especially in situations involving children. This approach also helps to create a healthier environment for victims, by providing space to recover their psychological state through ongoing support. Perpetrator rehabilitation can help reduce the risk of recurrence of violence, so that victims are no longer under the same threat after the legal process is over.

For this rehabilitation model to be effective, the legal system needs to support it with clear regulations and adequate infrastructure. The rehabilitation program must be implemented professionally by involving counselors, psychologists, and other experts trained in handling domestic violence cases. Monitoring of perpetrators during and after rehabilitation is crucial to ensure their compliance with the program. Hiariej (2020) emphasized that rehabilitation integrated with the punishment system not only serves as a tool to break the cycle of violence, but also as an effort to restore harmony in the family. As such, this model focuses on justice for victims, and on preventing future violence through sustained changes in offender behavior.

Finally, the application of technology in handling domestic violence cases can also be an innovative solution. This includes using digital platforms to report violence, manage cases, and monitor the implementation of sanctions against perpetrators. Siahaan et al. (2023) show that technology can increase transparency and efficiency in law enforcement.

#### D. CONCLUSIONS

The conclusion of this study confirms that the criminalization system against perpetrators of domestic violence (DV) in Indonesia has several significant challenges that affect its effectiveness. Although Law No. 23/2004 has provided a clear legal framework for handling domestic violence, its implementation still faces various obstacles, both in terms of law enforcement and community culture. These obstacles include law enforcement officials' lack of understanding of victims' rights, the dominance of a patriarchal culture that discourages reporting of cases, and weak support for victims during the legal process. Criminal provisions in the law are often considered unable to provide a deterrent effect, especially due to the lack of rehabilitation programs oriented towards the recovery of perpetrators and victims.

Efforts to improve the effectiveness of the criminalization system need to be carried out through various strategic steps. One of them is the revision of regulations to strengthen victim protection, including the addition of additional criminal sanctions such as mandatory participation in rehabilitation programs for perpetrators. A collaborative approach between law enforcement officials, social institutions and the community is also key in creating a system that is more responsive to the needs of victims. Legal education to the community, especially regarding the rights of victims and the obligations of perpetrators, must continue to be expanded to change the social stigma against victims of domestic violence. Law enforcement officers also need to receive ongoing training to ensure they are able to use a victim-based approach in handling domestic violence cases.

The use of technology in handling domestic violence cases also has the potential to increase the efficiency and transparency of the system. Digital reporting and monitoring the implementation of criminal sanctions can provide easier access for victims and increase public confidence in the criminal justice system. Strengthening offender rehabilitation programs that are oriented towards behavior change must be an integral part of the criminal justice system to prevent repeated violence. Cross-sector collaboration between the government, community, and civil organizations is needed to create a comprehensive approach in handling domestic violence cases.

With these improvements, the Indonesian penal system is expected to provide better protection for victims of domestic violence and prevent domestic violence more effectively. This research contributes to identifying key issues and offering strategic solutions that can be implemented to strengthen the criminal law system in addressing domestic violence.

#### REFERENCES

- Arief, B. N. (2017). Masalah Penegakan Hukum dan Kebijakan Hukum Pidana dalam Penanggulangan Kejahatan Kekerasan Seksual. Jakarta: Kencana.
- Hiariej, E. O. (2020). Prinsip-Prinsip Hukum Pidana. Yogyakarta: Cahaya Atma Pustaka.
- Hidayati, N. (2019). Perlindungan Anak terhadap Kejahatan Kekerasan Seksual (Pedofilia). *Ragam Jurnal Pengembangan Humaniora*, 14(1), 68-73.
- Jamaa, L. (2014). Perlindungan Korban Kekerasan dalam Rumah Tangga dalam Hukum Pidana Indonesia. *Jurnal Cita Hukum*, 2(2), 249-272.
- Mulyadi, L. (2019). Kompleksitas Perkembangan Tindak Pidana dan Kebijakan Kriminal. Bandung: Alumni.
- Ni'mah, Z. (2012). Efektivitas Penegakan Hukum Penghapusan Kekerasan dalam Rumah Tangga. *Mimbar Hukum*, 24(1), 55-68.
- Prasetyo, T. (2019). Hukum Pidana Materiil dan Formil Terhadap Tindak Pidana Kekerasan Seksual. *Jurnal Hukum Khaira Ummah*, 14(1), 179-188.
- Rahmawati, D. (2020). Perlindungan Hukum terhadap Korban Kejahatan Seksual dalam Sistem Peradilan Pidana Terpadu. *Jurnal Ilmiah Kebijakan Hukum*, 14(2), 263-282.
- Siahaan, N. R., Pelor, S., & Hutaauruk, A. (2023). Analisis Yuridis Tindak Pidana Kekerasan Dalam Rumah Tangga Studi Kasus No (Putusan 662/Pid.Sus/2022/PN.Mdn). *Yure Humano*, 7(2), 1-8.
- Siahaan, R. Y., Andini, S., PA, R. B. B., & Ibrahim, M. (2023). Analisis Hukum Pidana dalam Penanggulangan Kekerasan dalam Rumah Tangga (KDRT). *Jurnal Ilmu Hukum dan Tata Negara*, 1(4), 257-267.
- Soesilo, R., & Prakoso, D. (2018). Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal. Jakarta: Politeia.

Srifianti, R. (2023). Sistem Pemidanaan Pada Tindak Pidana Kekerasan Dalam Rumah Tangga Di Indonesia. Universitas Islam Sultan Agung Semarang.

Sulastri, S., Satino, S., & Yuli W, Y. (2019). Perlindungan Hukum Terhadap Isteri Sebagai Korban Kekerasan Dalam Rumah Tangga. Jurnal Yuridis, 6(2), 73-92.

Wahid, A., & Irfan, M. (2021). Perlindungan Terhadap Korban Kekerasan Seksual: Advokasi Atas Hak Asasi Perempuan. Bandung: Refika Aditama.

Yulia, R. (2018). Restorative Justice Sebagai Alternatif Perlindungan Hukum Terhadap Korban Kekerasan Seksual. Jurnal Hukum dan Pembangunan, 48(2), 305-320.