

## Analysis of Law Number 23 of 2004 Concerning The Eliminator of Domestic Violence In Indonesia

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### Abstract

*The phenomenon of domestic violence (KDRT) in Indonesia is a serious problem that is not only in the private sphere, but also reflects human rights violations and criminal acts. This study aims to analyze the position, substance, and implementation of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) in the national legal system. The method used is normative juridical research with legislative, conceptual, and court decision analysis approaches as the main study material. The results of the study show that the PKDRT Law has a strategic role in expanding the definition of domestic violence, including physical, psychological, sexual, and neglectful violence. In addition, this law provides comprehensive victim protection instruments, such as protection orders, legal assistance, and recovery services. Analysis of court decisions indicates that judges have consistently used the PKDRT Law as a basis for legal considerations, although there are variations in the juridical and sociological approaches used in deciding cases. However, the implementation of the PKDRT Law still faces various challenges, such as a strong patriarchal culture, social stigma against victims, and limited access to legal services and protection. Therefore, it is necessary to strengthen synergy between law enforcement agencies, increase public awareness, and optimize victim protection services to ensure the effectiveness of the implementation of the PKDRT Law in ensuring justice and protection for victims of domestic violence.*

**Keywords:** Domestic Violence; PKDRT Law; Victim Protection; Legal Implementation.

### Abstrak

Fenomena kekerasan dalam rumah tangga (KDRT) di Indonesia merupakan persoalan serius yang tidak hanya berada dalam ranah privat, tetapi juga mencerminkan pelanggaran hak asasi manusia dan tindak pidana. Penelitian ini bertujuan untuk menganalisis kedudukan, substansi, serta implementasi Undang-Undang Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga (UU PKDRT) dalam sistem hukum nasional. Metode yang digunakan adalah penelitian yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan analisis putusan pengadilan sebagai bahan kajian utama. Hasil penelitian menunjukkan bahwa UU PKDRT memiliki peran strategis dalam memperluas definisi kekerasan dalam rumah tangga, mencakup kekerasan fisik, psikis, seksual, dan penelantaran. Selain itu, undang-undang ini menyediakan instrumen perlindungan korban yang komprehensif, seperti perintah perlindungan, pendampingan hukum, serta layanan pemulihan. Analisis terhadap putusan pengadilan mengindikasikan bahwa hakim telah secara konsisten menggunakan UU PKDRT sebagai dasar pertimbangan hukum, meskipun terdapat variasi dalam pendekatan yuridis dan sosiologis yang digunakan dalam memutus perkara. Namun demikian, implementasi UU PKDRT masih menghadapi berbagai tantangan, seperti kuatnya budaya patriarki, stigma sosial terhadap korban,



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serta keterbatasan akses terhadap layanan hukum dan perlindungan. Oleh karena itu, diperlukan penguatan sinergi antar lembaga penegak hukum, peningkatan kesadaran masyarakat, serta optimalisasi layanan perlindungan korban guna memastikan efektivitas implementasi UU PKDRT dalam menjamin keadilan dan perlindungan bagi korban KDRT.

**Kata Kunci:** Kekerasan Dalam Rumah Tangga; UU PKDRT; Perlindungan Korban; Implementasi Hukum.

## INTRODUCTION

The phenomenon of domestic violence (KDRT) is still a serious problem in the social life of Indonesian people. Violence that occurs in the domestic realm is not only a personal problem between family members, but also a form of human rights violation and a criminal act that requires adequate legal protection. Records from the Ministry of Women's Empowerment and Child Protection (Kemen PPPA) show that in 2024, there will be a total of 28,789 cases of violence. Of the total cases, the majority of victims are women with 24,973 cases. Meanwhile, male victims are at 3,816 cases.<sup>1</sup>

To answer these challenges, the Indonesian government passed Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law). This regulation is an important milestone in the state's efforts to provide special legal protection for victims of domestic violence, the majority of whom are women and children. The presence of the PKDRT Law reinforces the principle that the household should be a safe, affectionate place, and uphold the dignity of every individual.

The PKDRT Law is also a manifestation of Indonesia's commitment to international instruments, especially the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which has been ratified through Law Number 23 of 2004. This ratification obliges the state to take concrete steps to eliminate all forms of discrimination and violence against women. Therefore, the PKDRT Law can be seen as an implementation of the state's obligation to fulfill, protect, and respect human rights within the Indonesian constitutional framework, as guaranteed in Article 28G paragraph (1) of the 1945 Constitution which states that everyone has the right to the protection of personal self, family, honor, dignity, and property under his or her power.<sup>2</sup>

The presence of the PKDRT Law provides a number of important updates in the Indonesian criminal law system. First, this law recognizes that forms of domestic violence are not only limited to physical violence, but also include psychological violence, sexual violence, and domestic neglect.<sup>3</sup> This shows that the perspective of the PKDRT Law is more progressive than the Criminal Code which has only focused on acts of physical violence. Second, the PKDRT Law emphasizes the protection of victims by providing special mechanisms, such as protection orders from the courts, and provides an important role for law enforcement officials, social workers, and community service institutions in handling domestic violence cases.

However, even though this regulation has been in effect for almost two decades, the problem of domestic violence remains high and the implementation of the PKDRT Law still faces various obstacles. One of the main obstacles is the patriarchal cultural factor

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<sup>1</sup> Trias Palupi Kurnianingrum, "The Urgency of Protection for Victims of Domestic Violence," *INFO Brief* Vol. 17 No (January 2025): 01. [https://berkas.dpr.go.id/pusaka/files/info\\_singkat/Info%20Singkat-XVII-1-I-P3DI-Januari-2025-214.pdf](https://berkas.dpr.go.id/pusaka/files/info_singkat/Info%20Singkat-XVII-1-I-P3DI-Januari-2025-214.pdf)

<sup>2</sup> Government of the Republic of Indonesia, "Law of the Republic of Indonesia of 1945," n.d.

<sup>3</sup> Government of the Republic of Indonesia, "Law No. 23 of 2004 concerning the Elimination of Domestic Violence" (n.d.).

that is still firmly rooted in Indonesian society. In many cases, victims of domestic violence are reluctant to report because of social stigma, fear of the perpetrator, and economic dependence on their spouses. As a result, although the law provides a mechanism of protection, victims' access to justice is often hampered.<sup>4</sup>

In the context of family law, the PKDRT Law also emphasizes that marriage should not be used as a justification for the occurrence of violence. This is relevant to the development of the discourse on marital rape or forced sexual relations in marriage, which is explicitly regulated in the PKDRT Law as a form of sexual violence. This recognition is a step forward in national law, although in its implementation it still faces cultural resistance and legal debate.

This study aims to analyze the position, substance, and implementation of the PKDRT Law in the Indonesian national legal system. The discussion will include: (1) an analysis of the position of the PKDRT Law as a *lex specialis* in Indonesian criminal law; (2) an explanation of the forms of violence regulated in the PKDRT Law and its sanctions; (3) legal protection for victims of domestic violence; and (4) challenges in the implementation of the PKDRT Law, both in terms of culture, structure, and legal substance. With a juridical normative approach, this paper is expected to make an academic contribution in strengthening the perspective of legal protection for victims of domestic violence in Indonesia.

## **RESEARCH METHODS**

This research uses a normative juridical method or known as doctrinal law research, which focuses on the study of positive legal norms that govern the elimination of domestic violence. This approach was chosen because the research was directed to examine in depth the legal construction in Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law), as well as assess the consistency and adequacy of norms in providing legal protection. In its methodological framework, this research is qualitative with the character of prescriptive analysis, which is not only describing norms, but also providing legal arguments for the problems being studied.<sup>5</sup>

The approaches used in this study include the statute approach, the conceptual approach, and the case approach. The legislative approach is used to systematically review the provisions in the PKDRT Law and other related regulations. Conceptual approaches are used to analyze various legal doctrines and theories, such as legal protection theory, gender justice, and human rights as the basis of normative analysis. Meanwhile, the case approach is carried out by examining relevant court decisions to understand the implementation of norms in judicial practice and identify gaps between norms and empirical reality.

The data sources in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations and court decisions related to domestic violence cases. Secondary legal materials include textbooks, articles from reputable scientific journals, as well as the opinions of legal experts relevant to the research topic. The tertiary legal materials are in the form of legal dictionaries, encyclopedias, and other supporting sources. The data collection technique is carried out through library research by inventorying, classifying, and reviewing relevant legal materials. Furthermore, the data was analyzed using qualitative analysis techniques with descriptive-analytical methods, namely describing, interpreting, and evaluating legal

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<sup>4</sup> Sulistyowati Irianto, *Women and Law: Towards Law with a Perspective of Equality and Justice*, Edition KE (Jakarta: Yayasan Obor Indonesia, 2006).

<sup>5</sup> Muhaimin, *Legal Research Methods* (Mataram: Mataram University Press, 2020).

norms systematically in order to obtain comprehensive conclusions about the effectiveness of the regulation and implementation of the PKDRT Law.

## RESULTS AND DISCUSSION

### The Position of the PKDRT Law in the National Legal System

The presence of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) is an important milestone in the Indonesian legal system, especially in the protection of victims of gender-based violence in the domestic sphere. Prior to the birth of this law, the crime of domestic violence (KDRT) was often only charged with general provisions in the Criminal Code (KUHP), such as articles on persecution (Article 245 of the Criminal Code) or morality.<sup>6</sup> However, this approach is not able to capture the specific dimension of domestic violence that occurs within the scope of personal and domestic relationships.

In the theory of criminal law, the principle *of lex specialis derogat legi generali* is known, namely a special law that overrides a general law. The <sup>7</sup> PKDRT Law is present as *a lex specialis* of the Criminal Code because it regulates in more detail the forms of violence that were previously not adequately accommodated in the Criminal Code. For example, Article 5 of the PKDRT Law classifies violence into four forms: (1) physical violence, (2) psychological violence, (3) sexual violence, and (4) domestic neglect. This regulation is more comprehensive than the Criminal Code which only views persecution as limited to physical injuries.<sup>8</sup>

In addition, the PKDRT Law also emphasizes the aspect of victim protection, which is rarely touched by the Criminal Code. For example, Article 16 of the PKDRT Law affirms the victim's right to receive protection from law enforcement officials, including temporary protection that can be provided by the police or courts.<sup>9</sup> This means that the PKDRT Law not only views the perpetrator as a subject of law, but also provides legal protection for victims, a more progressive approach in Indonesian criminal law. From a sociological perspective, the PKDRT Law also functions as a legal instrument that is responsive to Indonesia's socio-cultural context, where households are often considered private areas that cannot be touched by the state. By placing domestic violence as a public offense (Article 26), the state affirms that domestic violence is not just a domestic affair, but a violation of human rights that has an impact on social life at large.

As a *lex specialis*, the PKDRT Law has a dual function: first, it provides legal rules that are more detailed and specific than the Criminal Code; Second, it complements the weaknesses of the general law in dealing with domestic violence. Thus, the PKDRT Law as a *lex specialis* not only enriches the Indonesian criminal law system, but also strengthens the state's position in protecting the rights of women and other family members from the practice of domestic violence. The application of the principle of *lex specialis derogat legi generali* ensures that domestic violence cases are more

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<sup>6</sup> Government of the Republic of Indonesia, "Law No. 1 of 2023 concerning the Criminal Code" (2023).

<sup>7</sup> Muhammad Raihan Nugraha, "The Principle of Lex Superior, Lex Specialis, and Lex Posterior," *Law Online*, (February 02, 2025), <https://www.hukumonline.com/klinik/a/asas-lex-superior-lex-specialis-dan-lex-posterior-cl6806/>.

<sup>8</sup> Dwi Aprilianti, "The Implementation of the Lex Specialis Principle in the Enforcement of the PKDRT Law on Domestic Violence Cases," *Ius Quia Iustum Law Journal* Vol. 29 No. 01 (2022): 115, <https://doi.org/10.20885/iustum.vol29.iss1.art6>.

<sup>9</sup> Nurul and Ramdani, "Legal Protection for Victims of Domestic Violence after Law No. 23 of 2004," *Journal of the Law Pulpit* ol. 34 No. (2022): 221. <https://doi.org/10.5281/zenodo.10650166>

appropriately handled with the PKDRT Law than the Criminal Code, because the nature and characteristics of legal events are very different from general criminal acts.<sup>10</sup>

The following table is compiled to systematically show the fundamental differences between the Criminal Code and the PKDRT Law, both in terms of legal aspects, focus, approach and forms of violence. By understanding these differences, it can be analyzed how the PKDRT Law provides a more progressive legal paradigm in protecting victims' rights and encouraging more gender-based criminalization.

**Table 1.** Comparison of the PKDRT Law and the Criminal Code

No	Aspect	Law No. 1 of 2023 concerning the Criminal Code	Law No. 23 of 2004 concerning PKDRT
1	Legal Object	Criminal acts in general	Criminal acts in the context of domestic relations
2	Focus	Imposition of criminal sanctions	Victim protection, rehabilitation of perpetrators and imposition of criminal sanctions
3	Approach	Repressive	Preventive and Repressive
4	Forms of Violence	Limited to physical	Physical, psychological, sexual and neglect

Prior to the enactment of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, the handling of domestic violence still relied on general provisions in the Criminal Code. For example, acts of physical violence in the family can only be subject to articles regarding persecution as stipulated in Article 351 of the Old Criminal Code and article 245 of Law No. 1 of 2023 concerning the Criminal Code. However, the construction of the Criminal Code has not been able to accurately represent the dynamics of power relations that occur in the family, so that the legal protection provided to victims is inadequate.<sup>11</sup>

The PKDRT Law occupies a position as *a lex specialis* to the provisions of the Criminal Code because it provides more detailed regulations on various forms of domestic violence, including physical, psychological, sexual, and neglect violence as stipulated in Article 5. In contrast to the Criminal Code, which basically only highlights the dimension of criminal acts (*actus reus*), the PKDRT Law presents a more comprehensive approach by also regulating protection that is oriented to the interests of the victim, including through the provision of the right to protection, rehabilitation, and psychological recovery as stated in Article 10 and Article 16.

From the author's point of view, the presence of the PKDRT Law is not just an expansion of criminal norms, but also a form of shifting the criminal law paradigm from

<sup>10</sup> Indah Puspita Sari, "Domestic Violence as a Human Rights Violation in the Perspective of the PKDRT Law," *Journal of Human Rights* Vol. 14 No (2018): 89. <https://doi.org/10.14421/musawa.2016.151.125-128>

<sup>11</sup> Online Law, "Article 351 of the Criminal Code on Persecution," 2023.

a retributive approach to a more victim-oriented approach. This shows that the state is beginning to recognize that domestic violence cannot be seen solely as an ordinary criminal act, but is a phenomenon that is loaded with power relations inequality, economic dependence, and gender discrimination that require special handling mechanisms.

Meanwhile, Law Number 35 of 2014 concerning Child Protection as an amendment to Law Number 23 of 2002 provides special arrangements related to the protection of children from various forms of violence. The provisions of Article 76C and Article 76D expressly prohibit all forms of violence against children, both physical and psychological. In addition, this regulation also stipulates a relatively heavier criminal threat for perpetrators of violence against children when compared to the provisions of the PKDRT Law and the Criminal Code.<sup>12</sup>

The existence of the Child Protection Law shows that the state sees violence against children as an issue that has special characteristics, especially because children are a group that has limitations in protecting themselves. Therefore, the imposition of heavier criminal sanctions is not only intended for repressive purposes, but also as a form of affirmation of the importance of guaranteeing legal protection for children as vulnerable legal subjects. Thus, normatively, the Child Protection Law also strengthens the victim protection regime in the national legal system, as well as complements the legal apparatus that has been built through the Criminal Code and the PKDRT Law.

The intersection of regulation between the PKDRT Law and the Child Protection Law is evident when children become victims of domestic violence. In this context, law enforcement officials tend to prioritize the implementation of the Child Protection Law as a *lex specialis derogat legi generali* provision against the PKDRT Law, considering that the protection of children is placed as a legal priority as well as accompanied by heavier criminal threats. For example, Article 80 of the Child Protection Law provides a sanction of up to 15 years in prison for perpetrators who cause the death of a child to be a criminal threat that is significantly higher than the provisions in the PKDRT Law and the Criminal Code. Thus, there is a normative affirmation that violence against children is seen as a criminal act that has a higher level of seriousness and requires stricter legal handling.

### **Domestic Violence Perspective Law No. 23 of 2004 concerning PKDRT**

The problem of domestic violence (KDRT) emphasizes that we are in the reflection of wives who are persecuted or wives who are abandoned because of the husband's actions at will towards them, wives. Domestic violence in principle is one of the incidents of human rights violations (HAM) as a form of discrimination, especially to women (wives). Meanwhile, in today's era, domestic violence is not only perpetrated by women and children, but men (husbands) are also victims of domestic violence committed by women (wives).<sup>13</sup>

Domestic violence is one of the social problems that does not receive a response from residents because some of the issues, namely initially, domestic violence has a relatively closed (private) scope and the clan is strictly protected because the problem is intertwined in the family. Second, domestic violence is often considered a natural matter because it is believed that by carrying out domestic violence to the spouse it can solve the

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<sup>12</sup> Government of the Republic of Indonesia, Law Number 35 of 2014 concerning Child Protection.

<sup>13</sup> Nurhapsyah Rahayu, "Legal Protection Against Victims of Domestic Violence (Case Study in the Takengon Police Area)," *Scientific Journal of Student Sciences of the Faculty of Law* Vol. 08 No (August 2025): 47, <https://doi.org/https://ojs.unimal.ac.id/jimfh/>.

problem of heartache felt by one of the parties, the wife or the husband. Third, domestic violence occurs in legal institutions, namely marriage. Where the marriage itself is a private institution of hukurn, as a result not everyone can enter the area at will.<sup>14</sup>

Domestic violence according to Article 1 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence is:

*"Any act against a person, especially a woman, that results in misery or suffering physically, sexually, psychologically, and/or domestic neglect, including threats to commit acts of coercion, or unlawful deprivation of independence in the household."*

Violence in the stairs is a hidden act of violence and victims of violence often resign themselves because they are related to the perpetrator who has a close family or emotional relationship. As a result, the victim also hopes that the perpetrator will repent of the act that was tried on the victim.

The basis for considering the ratification and enactment of Law No. 23 of 2004 concerning the Elimination of Domestic Violence is that every citizen of the country has the right to have a sense of security and freedom from all forms of violence. Every form of violence is a violation of human rights and a crime against humanity. Usually, victims of domestic violence are women and children, but women as perpetrators of acts of domestic violence can be intertwined in community life.

From the definition mentioned above, it can be seen for whom this law is enforced, not only for the needs of women, but for all people and those who face subordination. Those who face subordination in their situation are not only women, both adults and children, but also men, both old and children. It's just that so far, the reality that proves that most of the victims who face domestic violence are women and children. Forms of domestic violence.

First, physical violence in the domestic is a form of human rights violations that are often intertwined in a hidden and repeated way. In Indonesia, protection for victims of domestic violence has begun to gain a solid legal footing since the promulgation of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law).

In the legal context, physical violence is defined in Article 6 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence as an act that causes pain, illness, or serious injury to a person's body. In practice, this violence can be in the form of beatings, kicking, torture, and other actions that result in physical injury.<sup>15</sup>

Law enforcement against perpetrators of domestic physical violence not only aims to punish the perpetrator, but also provides protection for victims and prevents the recurrence of similar incidents.

Second, psychological violence often occurs in daily life. Forms of Psychological Violence often occur in everyday life. Forms of psychological violence generally occur within the household. Article 7 of Law No. 23 of 2004 concerning the Elimination of Domestic Violence provides a definition of psychological violence as an act that results

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<sup>14</sup> Kartini, "The Crime of Domestic Violence Against Husbands" (Islamic University of Indonesia, 2012), 34-35.

<sup>15</sup> Government of the Republic of Indonesia, Law No. 23 of 2004 concerning the Elimination of Domestic Violence.

in fear, loss of confidence, loss of ability to act, sense of helplessness, and/or severe psychological suffering in a person.<sup>16</sup>

Acts of psychological violence are generally difficult to see. A person who becomes a victim often does not realize that he or she is a victim. It is important to note that an act can be said to be psychological violence if:

- 1) There are statements made with swearing, anger, insults, negative labeling, and degrading body attitudes.
- 2) These actions often pressure, insult, degrade, restrict, or control the victim in order to meet the perpetrator's demands.
- 3) These actions cause fear, loss of confidence, loss of ability to act, and feelings of helplessness.<sup>17</sup>

Third, sexual violence as referred to in Article 5 letter c of the PKDRT Law includes:

- a) Forced sexual relations committed against people who live within the scope of the household;
- b) Forced sexual relations against one person within the scope of his household with another person for commercial purposes and/or certain purposes.<sup>18</sup>

This provision emphasizes that sexual violence is not only in the form of coercion of intimate relations between husband and wife, but also includes actions that use the bodies of family members for the benefit of other parties. In this context, sexual violence clearly cannot be seen simply as a moral issue or a violation of morality, but as a form of exploitation and objectification of the human body that is contrary to human rights principles. In fact, the commercialization aspect mentioned in letter b shows that the Domestic Violence Law expressly recognizes the possibility of families, especially women, being used as objects of sexual transactions by perpetrators. Thus, this arrangement expands the scope of legal protection from mere forced sexual relations within the household to coercive acts that degrade the dignity of the victim and provide benefits to the perpetrator. Through this formulation, the Domestic Violence Law seeks to remove the erroneous view that sexual relations in marriage are always automatic, natural, or "right" of one of the parties. On the contrary, the law affirms that sexual relations carried out without consent, or even involve elements of coercion against third parties, are criminal acts that must be processed legally.

Fourth, the formulation of article 9 of the PKDRT Law shows that neglect in the household is not solely understood as moral indifference, but is a violation of the law that ignores basic obligations in family relationships. Acts of neglect can occur when the responsible party either because of his position as a husband, wife, parent, or other family member neglects to meet the basic physical and spiritual needs of the party under his responsibility. From a legal perspective, the obligation to provide life, care, and maintenance is not only a moral responsibility, but also a juridical responsibility born from family ties, both through marriage agreements and legal provisions. Therefore,

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<sup>16</sup> Salmah, "Law Enforcement of Children as Victims of Domestic Violence in the Perspective of Islamic Law," *Journal of Scientific Research* Vol. 01 No (2024): 1145, <https://doi.org/https://manggalajournal.org/index.php/SINERGI>.

<sup>17</sup> Hukum Online, "Pengertian Kekerasan Psikis Sebagai Tindak Pidana," April 2022, <https://www.hukumonline.com/berita/a/pengertian-kekerasan-psikis-sebagai-tindak-pidanalt624e97e997e02/?page=2>.

<sup>18</sup> Pemerintahan Republik Indonesia, Undang-Undang No. 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga.

domestic neglect has a much broader dimension than just "indifference", since it concerns the violation of a person's fundamental right to obtain a decent life and protection in his own family environment.

### **Effectiveness of Legal Protection for Victims of Domestic Violence**

Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) is a significant juridical foundation in efforts to protect victims of domestic violence in Indonesia. This regulation aims to eliminate various forms of violence in the family, provide protection to victims, and ensure law enforcement against perpetrators. The scope of violence regulated includes physical, psychological, sexual, and economic violence, as well as ensuring the fulfillment of victims' rights through health services, legal assistance, and psychological assistance. With these provisions, it is hoped that the chain of domestic violence can be broken, the victim recovery process runs faster, and legal protection can be accessed optimally. In addition, the existence of this law is intended to realize justice and maintain the harmony of family life, although its implementation in practice still faces various obstacles.

Although the Domestic Violence Law has been in force for almost twenty years, its implementation still faces significant obstacles, especially related to the lack of courage for victims to submit reports. One of the dominant factors that causes victims, especially women, to not report acts of violence is strong social pressure and stigma, accompanied by economic and emotional dependence on the perpetrators. Records from the Ministry of Women's Empowerment and Child Protection (Kemen PPPA) show that throughout 2024 there will be 28,789 cases of violence where the majority of victims are women, namely 24,973 cases, while male victims amounted to 3,816 cases. This fact illustrates that even though Law Number 23 of 2004 concerning the Elimination of Domestic Violence has been implemented for many years, domestic violence cases continue to increase. This indicates that regulation alone is not enough; Effective protection and the courage of victims to report remain a major challenge.

The implementation of the Domestic Violence Law still faces a number of structural obstacles that affect the effectiveness of its protection. One of the main problems lies in the lack of synergy between institutions, including the lack of knowledge and training for law enforcement officials regarding the procedures for handling domestic violence cases according to the provisions of the law. It is not uncommon to find officials who view domestic violence as an internal family problem that should be resolved privately, not as a criminal act that requires a serious legal process. In addition, the limitation of protection facilities such as safe houses and integrated service centers, especially in areas far from urban areas, is also an obstacle that hinders victims' access to obtain protection quickly. Komnas Perempuan data shows that these service facilities are generally concentrated in big cities, while in rural areas access to similar services is still very minimal, so that victims who are far from these facilities often have difficulty obtaining the necessary assistance.<sup>19</sup>

In a number of cases, the violence that occurred actually caused the victim's dependence on the perpetrator, so that the condition experienced by the victim worsened. Therefore, the victim recovery process requires a comprehensive strategy, ranging from physical protection, psychological assistance, to economic empowerment so that victims are able to return to independence. Although various measures have been taken, such as

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<sup>19</sup> Siti Nurliyah, "Legal Protection of Victims of Domestic Violence in Indonesia: An Analysis of Law Number 23 of 2004," *Journal of Legal Publications* Vol. 01 No (2024): 301, <https://doi.org/https://doi.org/10.59581/deposisi.v2i4.4366>.

the provision of free legal aid and life skills training, limited budget and service capacity remain obstacles in providing sustainable support. Thus, strengthening the provision of long-term recovery services is very important to minimize the impact of violence experienced by victims.

The urgency to evaluate the implementation of the Domestic Violence Law is even more evident when considering that even though the regulation has been in effect for two decades, the number of domestic violence cases continues to increase. This condition shows that there is a gap between the legal norms that have been established and the factual situation that occurs in society. One of the fundamental problems lies in the lack of optimal prevention efforts, which until now have not touched all levels of society effectively. Not a few victims and the public still have a lack of understanding of their rights and the procedures that must be taken to obtain legal protection. Therefore, improvements are needed in the mechanism of law implementation to be more responsive to the needs of victims while being able to prevent the next act of violence. A community-based approach that involves community participation in preventive efforts and education about domestic violence is an important strategy in eroding the culture of violence in the family.

Another challenge that arises in the implementation of the Domestic Violence Law is the victim's dependence on legal mechanisms that are considered long and complex. Not a few victims choose to revoke reports or stop legal proceedings because they feel that the procedure is too difficult or has not been able to provide adequate protection. The length of the judicial process also has the potential to worsen the psychological condition of the victim, as well as increase insecurity if the perpetrator is still in the same environment. Therefore, reforms in the justice system that are faster and responsive to the needs of victims are very important. Increased coordination between law enforcement officials and victim service institutions is needed so that the legal process can run more effectively and reduce the burden on victims in an effort to obtain justice.<sup>20</sup>

The implementation of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (UU KDRT) in Indonesia is still facing a number of quite serious obstacles. These various obstacles stem from structural, social, and cultural dimensions that ultimately weaken the effectiveness of legal protection for victims of domestic violence. Various factors, such as societal stigma, strong patriarchal culture, and lack of access to protection facilities, are major problems that must be addressed immediately.<sup>21</sup> Each of these obstacles has a root problem that is not simple and therefore requires a comprehensive management strategy.

#### **Juridical Analysis and Criminal Policy in the Decision of Domestic Violence Cases**

The Bale Bandung District Court Decision Number 1087/Pid.Sus/2025/PN Blb is a criminal case related to the crime of Domestic Violence (KDRT) as stipulated in Article 44 Paragraph (4) of Law Number 23 of 2004 concerning the Elimination of Domestic Violence. Based on the description of the indictment, the defendant is suspected of committing an act of physical violence against his wife which is part of the scope of the household as the elements of the article indicted. The judge determined that the element of "committing an act of physical violence within the scope of the household" was legally

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<sup>20</sup> Oktir Nebi, *Domestic Violence Law: A Perspective of Legal Protection Theory* (West Pasaman: CV. AZKA PUSTAKA, 2021), 41.

<sup>21</sup> Amrullah Hayatudin Agil Fatkhurohmah, Muhammad Yunus, "Legal Protection for Women Victims of Domestic Violence in Divorce Cases," *Journal of Islamic Family Law Research* Vol. 03 No (2023): 52–55, <https://doi.org/https://doi.org/10.29313/jrhki.vi.2154>.

and convincingly proven after considering the testimony of witnesses, *visum et repertum*, as well as the confession of the defendant who did not raise objections.

Juridically, the Panel of Judges appeared to base its consideration on valid evidence, especially the *visum* which showed physical injuries in the form of abrasions on the eyes, bumps on the head, and bruises on the victim's arms, thus fulfilling the element of "causing injury" as referred to in the provisions of Article 44 paragraph (4) of the Domestic Violence Law. This legal consideration is in line with the doctrine that the crime of domestic violence does not require serious injury, but it is sufficient to have minor physical consequences, so that the proof has run according to the standards of criminal procedure law.

The Panel of Judges also paid attention to the fact of the trial that the defendant admitted his actions and that there had been peace with the victim. However, this aspect of peace is only used as a mitigating circumstance, not to remove criminal liability. This can be seen from the judge's consideration of mitigating and incriminating matters, including the defendant's remorse, polite attitude in the trial, and having never been convicted. These considerations are in accordance with the principle of individualization of punishment but still maintain the repressive function of the domestic violence criminal law.<sup>22</sup>

From the perspective of procedural justice, even though the defendant was not accompanied by legal counsel, the judge still continued the judicial process on the grounds that the defendant chose to face the case himself. This situation deserves criticism because cases involving domestic violence basically contain consequences for the protection of victims and defendants, so that legal assistance is actually a substantial need in guaranteeing the principle of fair trial and avoiding inequality of position between defendants and public prosecutors.

The verdict imposed a prison sentence of three months and stipulated that the detention period was deducted from the sentence imposed, and ordered the defendant to remain in custody. This verdict shows that the panel considers the defendant's actions to have a real level of error and requires criminal sanctions even though in fact there are emotional conditions that also trigger the incident. However, this decision has not accommodated the perspective of victim protection to the maximum, for example, there was no warning about the victim's right to receive further protection or victim recovery services as mandated in the PKDRT Law.

Overall, this decision shows the application of the right article elements based on legal facts and valid evidence, as well as considering proportionately mitigating and burdensome aspects. However, from the perspective of advocates and judicial analysts, criticism is needed regarding the non-optimal fulfillment of the right to legal assistance for defendants and the absence of a substantive victim protection approach. This decision highlights the penal aspect rather than the protection approach that is the spirit of the Domestic Violence Law. Thus, even though the verdict has been in accordance with the elements, there is room for evaluation in judicial practice to prioritize restorative justice and comprehensive victim protection as the purpose of the law.

Decision Number 783/Pid.Sus/2025/PN Blb shows that the Panel of Judges has applied the principle of criminal responsibility appropriately to the Defendant's actions in the Domestic Violence (KDRT) case as stipulated in Article 44 paragraph (4) of Law Number 23 of 2004. From the series of legal facts revealed at the trial, it is proven that

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<sup>22</sup> Bale Bandung District Court, "Bale Bandung District Court Decision Number. 1087/Pid.Sus/2025/PN Blb." (2025).

the Defendant knowingly and deliberately committed physical violence against his wife, which resulted in abrasions, bleeding, and bruising, although not to the point of causing illness or permanent obstruction in the victim's activities. The element "within the scope of the household" is also perfectly fulfilled because the legal relationship between the perpetrator and the victim is a legal husband-wife relationship.

The Panel of Judges considered that the evidence in the form of victim witness statements, child witnesses, environmental witnesses, and *Visum et Repertum* had mutually reinforcing probative power. This consideration is in line with the doctrine of proof in the criminal procedure law, especially the principle of a minimum of two valid pieces of evidence (Article 183 of the Criminal Code). The Defendant's partial confession that admitted physical force further strengthened the judge's belief that the act of violence really occurred in the context of domestic conflicts that had taken place repeatedly before.

However, from the perspective of sentencing policy, this decision can be criticized as not fully reflecting the principle of victim protection. Although the Defendant was sentenced to imprisonment for 2 (two) months and 15 (fifteen) days, the length of the sentence was relatively light when compared to the nature of the act that reflected the pattern of repeated violence and had a direct impact on the psychological of the victim's children. The fact that the biological child witnessed the act of violence directly should be used as a more significant weighting factor in the judge's consideration.

The Panel of Judges proportionately also considered mitigating factors, including the Defendant's confession and remorse, the absence of a previous criminal history, and the existence of peace efforts on the part of the Defendant's family, even though it was not accepted by the victim. This consideration shows that judges seek to maintain a balance between the goals of punishment, namely retribution, prevention, and rehabilitation of the perpetrator, as reflected in modern criminal theory.<sup>23</sup>

Overall, this decision has met the formal and material requirements as a valid decision according to the law, and shows the consistency of the application of the norms of Article 44 paragraph (4) of the PKDRT Law. However, from the perspective of victim protection and crime prevention, the sentence handed down still leaves room for criticism, especially regarding the effectiveness of the deterrent effect and long-term protection for victims. This decision reflects the classic dilemma of criminal justice in domestic violence cases between maintaining family integrity and enforcing the principle of zero tolerance for domestic violence.

## **CONCLUSION**

The results of the study found that the implications of the enactment of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) as a *lex specialis* to the Criminal Code (KUHP) show that there is a significant strengthening in the legal protection system for victims of domestic violence in Indonesia. The presence of this regulation not only expands the scope of legally recognized types of violence including physical, psychological, sexual, and neglect violence but also emphasizes the state's obligation to provide a comprehensive protection mechanism. Thus, the PKDRT Law has implications for a shift in the paradigm of law enforcement from offender-oriented to more victim-oriented justice.

The findings of this study show that judges at the Demak District Court and the Gunungsitoli District Court consistently use the PKDRT Law as the main legal basis in deciding domestic violence cases. However, there are variations in the juridical and

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<sup>23</sup> Bale Bandung District Court, "Bale Bandung Court Decision Number 783/Pid.Sus/2025/PN Blb." (2025).

sociological considerations used, which reflect the existence of interpretive space in the application of legal norms. These differences are influenced by the characteristics of the case, the social background of the parties, and the construction of legal arguments built by the judge. This confirms that although legal norms have become uniform, judicial practice remains dynamic and contextual.

Based on these findings, this study recommends the need to strengthen more standardized judicial guidelines in the implementation of the PKDRT Law to minimize disparity in decisions between courts. In addition, it is necessary to increase the capacity of law enforcement officials through continuous training with a victim perspective and gender sensitivity. On the other hand, the optimization of victim protection services must continue to be improved through synergy between institutions, both government and non-government, so that the main goal of the PKDRT Law in providing justice and effective protection for victims can be realized to the maximum.

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