

## Criminal Sanctions for Domestic Violence: Analysis of Effectiveness and Victim Protection

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**Abstract:** *This study analyzes the effectiveness of criminal sanctions against perpetrators of domestic violence and the level of legal protection provided to victims based on Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law). The approach used is a normative juridical method by examining relevant laws and regulations, doctrines, and judicial practices. The results of the study show that although the PKDRT Law has provided a strong legal basis in cracking down on perpetrators, its effectiveness is still weak due to structural constraints, patriarchal culture, and lack of victim perspective among law enforcement officials. Legal protection for victims is still formalistic and has not touched on the aspects of psychological and social recovery. Therefore, it is necessary to reconstruct the criminal law paradigm through a restorative justice approach that prioritizes the restoration of the dignity of victims, social reconciliation, and the prevention of repeated violence. Reformulation of norms and strengthening the capacity of law enforcement agencies is also an urgent need for the law to function as an instrument of substantive justice, not just a tool of punishment. This research emphasizes that justice in domestic violence cases must be realized through a balance between legal certainty, victim protection, and universal human values.*

**Keywords:** *Effectiveness of Sanctions: Domestic Violence: Victim Protection*

## INTRODUCTION

Domestic violence is one of the most often hidden forms of human rights violations in the private sphere of the family, but it has a broad public impact on the social order and legal system. This phenomenon shows a contradiction between ideal legal norms and social realities that still contain power bias and gender inequality. The existence of positive laws that affirm the prohibition of domestic violence has not been fully able to build public legal awareness to reject all forms of domestic violence as a violation of human dignity. When violence occurs within the family, the unbalanced power relationship between perpetrator and victim often closes the space for substantive justice to be upheld.<sup>1</sup> This shows that legal protection, which is intended as a last resort for victims, is often only formalistic. The state through criminal law instruments is expected not only to provide a deterrent effect to the perpetrator, but also to ensure the fulfillment of the

<sup>1</sup> Cordier, R., Chung, D., Wilkes-Gillan, S., & Speyer, R. (2021). The effectiveness of protection orders in reducing recidivism in domestic violence: A systematic review and meta-analysis. *Trauma, Violence, & Abuse*, 22(4), 804-828.

victims' rights to a sense of security and justice.<sup>2</sup> The failure of the law in reducing the number of domestic violence indicates a structural gap that hinders the effectiveness of law enforcement. Therefore, the study of criminal sanctions and victim protection mechanisms is an urgent need to ensure that the law does not stop as a declarative norm without real coercion.

The application of criminal sanctions against domestic violence perpetrators in practice still faces various obstacles stemming from social structures, weaknesses in the law enforcement system, and the legal culture of the community. Law enforcers are often trapped in the perception that domestic violence is a domestic affair that should be resolved in a family way, so formal legal approaches are often ignored. This attitude has the potential to weaken the legal position of the victim and cause impunity for the perpetrators of violence. Indecisiveness in the application of criminal sanctions also causes the law to lose its preventive function as a tool of social control.<sup>3</sup> Law Number 23 of 2004 concerning the Elimination of Domestic Violence has actually provided a strong legal basis, but weak implementation makes the norm unable to provide maximum protection.<sup>4</sup> Law enforcement officials need a sensitive understanding of gender issues so that the legal process is not just an administrative procedure, but oriented towards substantive justice. The lack of adequate training and supervision for law enforcement officials contributes to the low effectiveness of criminal sanctions. As a result, the perpetrator does not feel significant legal consequences, while the victim loses trust in the justice system.

The effectiveness of criminal sanctions is not only determined by the severity of the punishment imposed, but also by the ability of the legal system to create a deterrent effect for other potential perpetrators. Criminal sanctions should function as a repressive as well as educational mechanism that instills the values of justice and respect for human rights. When the sanctions are applied without consistency, the public will judge that the law is negotiable, thus eroding the public's sense of justice. This phenomenon shows that the success of criminal law is not only measured by the number of perpetrators who are punished, but also by the extent to which legal norms are able to change social behavior towards respect for family integrity. The ineffectiveness of criminal sanctions creates a paradox between normative justice and empirical justice, where the law appears to be firm in writing but weak in application. Law enforcement officials need to build synergy across institutions, including women and child protection institutions, to ensure that the legal process runs in accordance with the principles of due process of law. An approach that is too procedural without paying attention to the social aspects of the victim can actually aggravate the psychological suffering experienced. Therefore, criminal law reform against domestic violence must be directed at the integration of repressive and protective aspects.

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<sup>2</sup> Zlate, N. (2023). Criminal procedural measures to protect victims of domestic violence. *International Journal of Legal and Social Order*, 3(1), 580-592.

<sup>3</sup> Garner, J. H., Maxwell, C. D., & Lee, J. (2021). The specific deterrent effects of criminal sanctions for intimate partner violence: A meta-analysis. *J. Crim. L. & Criminology*, 111, 227.

<sup>4</sup> PUTRA, S. W. (2025). *Analisis Yuridis Kewenangan Kepolisian Pada Penerapan Penyelesaian Tindak Pidana Kekerasan Dalam Rumah Tangga (Kdr) Melalui Pendekatan Restorative Justice* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

Legal protection for victims of domestic violence is a key component of the criminal justice system that is oriented towards a balance between the interests of the state, perpetrators, and victims.<sup>5</sup> Victims often experience multiple injustices, both as aggrieved legal subjects and as individuals who are discriminated against by the legal system itself. When the legal process is not friendly to the victim, the purpose of the law is to provide a sense of security and justice is distorted. Many victims choose not to pursue litigation cases for fear of social stigma or economic dependence on perpetrators. This condition underscores the need for a new paradigm in legal protection that puts victims at the center of attention, not just objects in the justice system. The law already regulates victims' rights to protection and assistance, but their effectiveness depends on the capacity of implementing institutions to ensure that these rights are fully met. Limited facilities, human resources, and inter-agency coordination are challenges in the implementation of legal protection for victims. Therefore, institutional reform and strengthening social support are absolute requirements to realize justice oriented to victim recovery.

Protection of victims of domestic violence must also include a rehabilitative dimension that provides space for physical, psychological, and social recovery. Victims not only need justice in the form of punishment for the perpetrators, but also guarantees to return to a dignified life without the threat of repeated violence. This effort requires synergy between law enforcement and social policies so that victim protection does not stop at the criminal justice stage. Community service institutions and non-governmental organizations can play an important role as state partners in providing ongoing mentoring and counseling. The absence of a sustainable protection mechanism poses a risk of victimization, which is a situation when the victim experiences new suffering due to legal processes that are insensitive to his psychological condition. States have a positive obligation to ensure that every victim has the right to a sense of security, as guaranteed in the constitution and international human rights instruments. Failure to fulfill these obligations can be considered a form of negligence by the state in protecting its citizens from gender-based violence. Comprehensive victim recovery is also an indicator of the success of the criminal law system in carrying out its functions in a fair manner.

Expanding perspectives on the handling of domestic violence requires a more progressive and restorative justice approach to modern criminal law. The principle of restorative justice places the social relationship between the perpetrator and the victim as an aspect that must be restored, not simply destroyed through punishment.<sup>6</sup> This approach can open up space for more humane settlements while upholding the principle of criminal accountability. However, the application of this concept must be done carefully so as not to create a permissive impression of domestic violence. States must still ensure that any act of violence is sanctioned commensurate with the offense committed, while providing an opportunity for victims to obtain a full recovery. Restorative justice can also be a means to change the paradigm of society from a tolerance

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<sup>5</sup> Prabowo, M. (2021). *Rekontruksi Kebijakan Hukum Pidana Dalam Upaya Menanggulangi Tindak Pidana Kekerasan Dalam Rumah Tangga Yang Berbasis Nilai Keadilan* (Doctoral dissertation, Universitas Islam Sultan Agung (Indonesia)).

<sup>6</sup> Lukman, L., Moonti, R. M., Kadir, Y., & Kasim, M. A. (2025). Analisis Penegakan Hukum Terhadap Tindak Pidana Kekerasan dalam Rumah Tangga. *Politika Progresif: Jurnal Hukum, Politik Dan Humaniora*, 2(2), 229-245.

of violence to an appreciation for equality and respect between family members. The integration of this principle into criminal law policy requires regulatory support and a change in the mindset of law enforcement officials. Legal reforms that prioritize a restorative approach can strengthen the victim protection system without ignoring legal certainty for perpetrators.

The analysis of the effectiveness of criminal sanctions and the protection of victims of domestic violence cannot be separated from the social and cultural dynamics that shape public perceptions of domestic violence. Social norms that still place women in subordinate positions often prevent victims from reporting or demanding justice. Even the positive law that has advanced will lose its strength if it is not accompanied by a change in the legal culture of society. Therefore, law enforcement against domestic violence must be accompanied by educational and preventive strategies that internalize the values of equality and respect for human rights. The involvement of civil society, educational institutions, and mass media is key in building a collective awareness that domestic violence is an intolerable crime. Preventive efforts through legal education and victim economic empowerment can also reduce the rate of repeated violence. Thus, the effectiveness of the law is not only determined by the performance of the judiciary, but also by the active participation of the community in upholding the values of social justice.<sup>7</sup> This multi-sector collaboration is a prerequisite for the creation of a fair and sustainable legal system.

The success of the criminal law system in dealing with domestic violence ultimately depends on the extent to which the law can be operationalized as an effective and just protection instrument. Legal policy reform must be directed at the establishment of a system that is responsive to the needs of victims, firm towards perpetrators, and oriented towards social recovery. The effectiveness of criminal sanctions needs to be studied empirically so that the policies implemented are not only repressive but also transformative. Evaluation of the implementation of sanctions and victim protection should produce concrete recommendations for policymakers to strengthen the function of law as a means of social engineering. Equitable law enforcement must ensure a balance between legal certainty, utility, and substantive justice. When the law is able to integrate these three values, the main goal of the criminal law system is to create a sense of security and social order can be realized. This study is expected to make a theoretical contribution to the development of national criminal law and offer a more humanistic and effective law enforcement model. Thus, efforts to overcome domestic violence can be realized systematically, fairly, and oriented towards restoring human dignity.

## METHOD

The research method used is a normative juridical method, which is a legal research approach that focuses on the study of the applicable positive legal norms, both those written in laws and regulations and those developed through doctrine and court decisions. This approach aims to examine the consistency, suitability, and effectiveness of the legal provisions that regulate domestic violence as stipulated in Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law). Normative juridical research is carried out by analyzing primary legal materials in the form of laws and regulations, secondary legal materials in the form of literature and results of previous research, and tertiary legal materials in the form

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<sup>7</sup> Albab, S. U. (2024). Analisis Yuridis Tentang Perlindungan Hukum Bagi Korban Tindak Pidana Kekerasan Dalam Pernikahan. *Ethics and Law Journal: Business and Notary*, 2(1), 120-126.

of legal dictionaries and legal encyclopedias. Through this method, law is seen not just as a collection of norms, but as a living system that functions to regulate human behavior in order to create justice and social order.

Normative research aims to examine and understand how the law should apply (*das sollen*), not how the law is practiced in empirical reality (*das sein*), so that the entire analysis process relies on primary and secondary legal materials that are textual and conceptual.<sup>8</sup>

As explained by Peter Mahmud Marzuki, normative legal research is a method that focuses on the study of legal materials as the main object of study, by interpreting and constructing applicable laws to answer certain legal issues.<sup>9</sup> According to Marzuki, this approach is prescriptive because it aims not only to describe the law, but also to provide normative arguments for the validity of a legal action or act in the legal system adopted.<sup>10</sup> Meanwhile, Soerjono Soekanto and Sri Mamudji stated that normative legal research includes research on legal principles, legal systematics, legal synchronization, legal history, and comparative law.<sup>11</sup>

The normative juridical approach in this study is directed to assess the extent to which the PKDRT Law has comprehensively regulated the mechanism of law enforcement and protection for victims of domestic violence. The analysis focused on the norms that govern the types of violence, criminal sanctions for perpetrators, and the rights of victims to protection and recovery as stated in Articles 44 to 50 of the PKDRT Law. A study was also carried out on the legal principles underlying the formation of the law, such as the principle of non-discrimination, the principle of gender justice, and the principle of respect for human rights. This approach allows researchers to identify gaps between the ideal legal norms listed in the law and their implementation in the field. Through this analysis, it is hoped that it can be known to what extent positive law has functioned effectively as an instrument for victim protection and substantive justice enforcement.

In addition, the normative juridical method is used to test the effectiveness of criminal sanctions in the PKDRT Law as a preventive and repressive means of domestic violence. Criminal sanctions in the law, although they pose a firm threat to the perpetrator, need to be analyzed from the perspective of the purpose of criminal law, which is to provide a deterrent effect, restore social balance, and protect victims from the threat of repeated violence. This normative analysis of criminal provisions will show the extent to which the PKDRT Law is in line with modern criminal law principles that emphasize the balance between legal certainty and social justice. Thus, the normative juridical approach not only serves to examine the legal text dogmatically, but also to assess the effectiveness of the application of the law in a social reality colored by gender inequality and unequal power relations between perpetrators and victims.

Through the application of normative juridical methods associated with the PKDRT Law, this research is expected to be able to provide a strong legal argument about the urgency of criminal law reform in handling

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<sup>8</sup> Novea Elysa Wardhani, Sepriano, and Reni Sinta Yani, *Metodologi Penelitian Bidang Hukum* (Jambi: PT. Sonpedia Publishing Indonesia., 2025).

<sup>9</sup> Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2011).

<sup>10</sup> Mahlil Adriaman et al., *Pengantar Metode Penelitian Ilmu Hukum* (Padang: Yayasan Tri Edukasi Ilmiah, 2024).

<sup>11</sup> Rangga Suganda, "Metode Pendekatan Yuridis Dalam Memahami Sistem Penyelesaian Sengketa Ekonomi Syariah," *Jurnal Ilmiah Ekonomi Islam* 8, no. 3 (2022): 2859, <https://doi.org/10.29040/jiei.v8i3.6485>.

domestic violence. This research also seeks to emphasize that the existence of the PKDRT Law must continue to be strengthened, both in terms of legal substance and in terms of implementation, in order to provide real and effective legal protection for victims. The results of this normative study will be the basis for formulating recommendations for strengthening regulations, improving law enforcement mechanisms, and increasing the capacity of law enforcement officials to be in line with the spirit of restorative justice and human rights protection. Thus, normative juridical methods not only produce theoretical analysis, but also contribute to the formation of a criminal law system that is more responsive, humanistic, and victim-friendly

## DISCUSSION

### 1. Effectiveness of the Implementation of Criminal Sanctions against Perpetrators of Domestic Violence Based on Law Number 23 of 2004

Criminal sanctions against perpetrators of domestic violence are one of the legal instruments designed to protect victims and prevent the recurrence of the same crimes. The criminal provisions in Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) show the state's commitment to upholding the principles of justice and protection of human dignity and dignity, especially women and children who are vulnerable to becoming victims. This legal norm reflects that domestic violence is no longer considered a private matter, but has been recognized as a criminal offense that can be sanctioned by the state. However, in practice, the effectiveness of the implementation of criminal sanctions is often hampered by various structural, cultural, and juridical factors. Many law enforcement officials still place domestic violence as a purely moral or family matter, not as a violation of the criminal law. As a result, many cases end in a pseudo-peace that does not erase the trauma of the victim. This condition reflects the weak internalization of the values of justice and gender equality in the law enforcement process. Therefore, the effectiveness of the law cannot be measured only from the text of the law, but also from the extent to which it is able to shape the behavior of the apparatus and society in a fair and civilized manner.<sup>12</sup>

The effectiveness of criminal sanctions must also be analyzed from the aspect of legal certainty and the usefulness of the law itself. The PKDRT Law provides various criminal threats based on forms of violence, both physical, psychological, sexual, and economic neglect, in the hope of providing a deterrent effect for perpetrators. However, inconsistent law enforcement can reduce the authority of the law and undermine public trust in the justice system. Many cases show that the perpetrator received a light sentence or even escaped the law due to social intervention or patriarchal cultural compromise. This shows that the effectiveness of criminal law does not only depend on the severity of the sanctions, but also on the consistency of their application. Therefore, it is important to strengthen coordination between law enforcement agencies, improve the professionalism of the authorities, and ensure that the judicial process is objective and free from social pressure.

From the point of view of criminal law theory, the effectiveness of sanctions cannot be separated from the main purpose of criminal law itself, which is to maintain social order, provide a deterrent effect, and protect

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<sup>12</sup> Monica, D. R. (2024). APPLICATION OF CRIMINAL SANCTIONS AGAINST PERPETRATORS OF PSYCHOLOGICAL DOMESTIC VIOLENCE IN HOUSEHOLDS. *Progressive Law Review*, 6(2), 129-138.

the legal interests of the community. If sanctions are not able to fulfill these three functions, then the law loses its functional power as a means of social control. In the context of domestic violence, the ineffectiveness of criminal sanctions is often caused by an imbalance in the power relationship between the perpetrator and the victim that prevents the victim from reporting. The low legal awareness of victims and the community is a challenge for the implementation of the PKDRT Law. In addition, the lengthy judicial system, high costs, and complicated procedures are also inhibiting factors. As a result, many victims end up choosing to remain silent or retract their reports because they are tired of facing the legal bureaucracy. This shows that the effectiveness of the law is not only a matter of norms, but also a matter of access to justice that should be guaranteed by the state.

The enforcement of criminal sanctions against domestic violence also has a sociological dimension that is closely related to the formation of a community legal culture. When society still considers violence as a form of discipline or fairness in the household, the effectiveness of the PKDRT Law is limited. The law cannot run well if it is not supported by high public legal awareness. Therefore, law enforcement efforts must be accompanied by social education strategies and the cultivation of gender equality values. Governments and law enforcement agencies need to engage community leaders, educational institutions, and women's organizations to build a new perspective that domestic violence is a crime that goes against human values. Through an integrated cultural approach, the effectiveness of the law can be increased because it is supported by changes in the collective consciousness of the community.

Evaluation of the effectiveness of criminal sanctions must also consider the aspect of substantive justice for victims. The sentencing of the perpetrator should not stop at the retributive aspect alone, but must include the psychological and social dimensions of the victim's recovery.<sup>13</sup> Many victims remain in fear even though the perpetrators have been sentenced, as the legal system has not provided adequate post-conviction protection mechanisms. Therefore, the effectiveness of sanctions must be broadly understood as part of the victim protection ecosystem. The application of strict, transparent, and fair criminal sanctions will foster a sense of trust in the law and strengthen the legitimacy of the judicial system.

Thus, the effectiveness of criminal sanctions against perpetrators of domestic violence is not only measured through punishment indicators, but also the extent to which the law is able to uphold human values, equality, and protection of victims. The PKDRT Law has provided a progressive normative foundation, but its implementation still requires structural, cultural, and moral reforms. Without a comprehensive change in legal perspectives and practices, criminal sanctions will only become a legal symbol that loses its substantive meaning. Therefore, the effectiveness of the law must be interpreted as the success of the law in creating social justice and real protection for victims of domestic violence.

## 2. Reconstruction of Legal Protection for Victims of Domestic Violence in the Perspective of Criminal Law and Human Rights

Legal protection for victims of domestic violence is a concrete form of the state's obligation to guarantee human rights, especially the right to a sense of security and freedom from torture. The PKDRT Law explicitly regulates the rights of victims, ranging from physical and psychological protection, to the right

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<sup>13</sup> Herawati, D. S. (2024). The Dynamics and Effectiveness of Domestic Violence Law in Indonesia: (Law No. 23 of 2004 on the elimination of domestic violence). *Dauliyah: Journal of Islam and International Affairs*, 9(2).

to legal assistance and assistance during the judicial process. However, the implementation of these provisions often does not go as it should. Many victims experience discrimination, intimidation, and pressure to reconcile with the perpetrators, resulting in a loss of sense of justice. This phenomenon shows that the legal protection system is still formalistic and has not touched the true substance of protection. Legal protection should not only be in the form of normative protection in the text of the law, but also real protection that guarantees the safety and recovery of victims as a whole.<sup>14</sup>

The reconstruction of legal protection for victims of domestic violence requires a paradigm shift from a perpetrator-oriented legal system to a victim-oriented legal system. In the traditional paradigm, criminal law emphasizes more on punishing perpetrators without paying attention to the condition of the victim after the crime. In fact, victims are legal subjects who have constitutional rights to a sense of security, humane treatment, and access to justice. This reconstruction must place the victim at the center of the judicial system's attention, so that the legal process not only results in a criminal verdict, but also restores the dignity and life of the victim. The principle of restorative justice can be the foundation for this reconstruction, where the law not only punishes but also heals the social wounds of violence.

The human rights approach is important in efforts to reconstruct legal protection for victims. States have an international legal responsibility to protect their citizens from all forms of violence, including those that occur in the domestic sphere. 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, affirms the state's obligation to protect women from gender-based violence. Therefore, the implementation of the PKDRT Law must be seen as part of the implementation of Indonesia's international commitment to human rights. Law enforcement that is unresponsive to victims means a denial of the principle of universal justice. Thus, legal reconstruction not only aims to improve norms, but also ensures the fulfillment of state obligations at the international level.

Selain aspek normatif, rekonstruksi perlindungan hukum juga harus menyentuh dimensi kelembagaan. Lembaga penegak hukum seperti kepolisian, kejaksaan, dan pengadilan harus memiliki unit khusus yang berorientasi pada perlindungan korban dengan perspektif gender. Law enforcement officials need to be provided with training and certification that emphasizes empathy, justice, and psychosocial understanding of victims. Without strong institutional support, legal protection will only stop at the normative level. Synergy between institutions must also be strengthened so that the protection of victims is not fragmented and overlaps. The state must ensure that any reports of violence are responded to promptly, professionally, and without bias.

Legal reconstruction must also be directed at improving access to justice for victims from vulnerable groups. Many victims of violence come from lower socioeconomic strata who do not have the ability to access legal services. Therefore, the state should provide free legal aid mechanisms and safe housing facilities that are easily accessible. Victim protection also includes social and economic recovery so that

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<sup>14</sup> Yustisianto, A. I., Wahyuningsih, S. E., & Mashdurohatun, A. (2022). Reconstruction of Legal Protection Regulations against Victims of Crime of Household Violence Based on Justice Value. *Scholars International Journal of Law, Crime and Justice*, 5(12), 513-519.

victims can return to living independently without dependence on the perpetrator. This is in line with the concept of substantive justice that places victim recovery as an integral part of the legal process.

Thus, the reconstruction of legal protection for victims of domestic violence is a moral and juridical imperative for a civilized state of law. This reconstruction is not just a renewal of the law, but a paradigm transformation towards a legal system oriented towards human justice and gender equality.<sup>15</sup> The PKDRT Law must continue to be developed to be more adaptive to social, technological, and cultural dynamics. A fair criminal law must be able to be an instrument of protection, not a tool of oppression. With a humanistic approach, the law will function as a means of emancipation and empowerment for victims of domestic violence.

### 3. Strengthening the Modern Criminal Law Paradigm through a Restorative Approach in Domestic Violence Prevention

Modern criminal law demands a new approach to handling domestic violence to strike a better balance between legal certainty, justice, and utility. A retributive paradigm that only focusing on punishment, perpetrators often fail to provide rehabilitation for victims and do not solve the root of the problem of domestic violence. Therefore, the application of a restorative approach is a more humanistic and social justice-oriented alternative. Restorative justice focuses on restoring social relations between perpetrators, victims, and society while maintaining the criminal responsibility of the perpetrators.<sup>16</sup> This principle can be applied carefully in domestic violence cases, by ensuring that there is no pressure on the victim to reconcile. The restorative-oriented paradigm of criminal law emphasizes that the goal of law is not only to avenge crime, but also to restore the moral and social balance disturbed by violence.<sup>17</sup>

The implementation of a restorative approach in domestic violence cases requires a strict legal framework and strong oversight so that it is not abused to avoid legal liability.<sup>18</sup> Restorative must be interpreted as a process of recovery, not a compromise to violence. In this case, law enforcement officials must be facilitators of justice that ensure that the restorative process is carried out voluntarily, transparently, and in favor of the interests of the victim. The mechanism of criminal mediation or *victim-offender dialogue* can be used under the supervision of official institutions such as courts or women's protection institutions. This model must also be integrated with the perpetrator's rehabilitation program so that behavior change can be realized in a sustainable manner. Thus, criminal law can be an instrument of social reform, not just a means of oppression.

The restorative approach is also in line with the goals of national criminal law which is based on the principles of humanity, justice, and balance. Article 5 of Law Number 48 of 2009 concerning Judicial Power

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<sup>15</sup> Gunarto, J., & Mashdurohatun, A. (2023). Legal Reconstruction Of Trafficking Victim Protection Based On Justice Value. *Scholars International Journal Of Law, Crime And Justice*, 6.

<sup>16</sup> Harsono, W., & Dewanto, W. A. (2025). Pendekatan Teoritis Dan Praktis Keadilan Restoratif Dalam Sistem Hukum Modern. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 3(4), 5815-5824.

<sup>17</sup> Karjono, A., Malau, P., & Ciptono, C. (2024). Penerapan Keadilan Restoratif Justice Dalam Hukum Pidana Berbasis Kearifan Lokal. *Jurnal Usm Law Review*, 7(2), 1035-1050.

<sup>18</sup> Wibowo, D. (2021). Perlindungan Hukum Terhadap Korban Kekerasan Dalam Rumah Tangga Menurut Hak Asasi Manusia Selama Proses Penyidikan. *Jurnal USM Law Review*, 4(2), 818-827.

emphasizes that judges are obliged to explore, follow, and understand the legal values that live in society.<sup>19</sup> The values of restorative justice are a form of actualization of this principle. In its application to domestic violence cases, local values such as deliberation and mutual cooperation can be accommodated, as long as they do not conflict with the principles of non-discrimination and human rights. Thus, national criminal law is not only normative, but also contextual to the social reality of pluralistic Indonesian society.

Strengthening the criminal law paradigm through a restorative approach requires comprehensive policy support. The government needs to issue technical guidelines for the application of restorative justice for domestic violence cases so that irregularities do not occur. In addition, law enforcement officials need to be equipped with legal education that instills the values of empathy, gender equality, and sensitivity to victims' rights. This paradigm shift must also be accompanied by an update of the legal education curriculum so that prospective law enforcement understands the importance of a balance between sentencing and rehabilitation. Through institutional reform and legal education, restorative justice values can become an integral part of the national criminal justice system.

The restorative approach does not mean removing the criminal responsibility of the perpetrator, but rather balancing legal and humanitarian certainty. In the case of minor violence that does not cause serious injury, for example, the perpetrator can undergo social rehabilitation with the obligation to provide compensation and an open apology to the victim.<sup>20</sup> However, for cases of severe violence, the state must still impose strict criminal sanctions as a form of protection for victims and the community. With such a balance, the legal system can achieve comprehensive justice: upholding norms, restoring social relations, and removing the roots of violence.

Thus, strengthening the modern criminal law paradigm through a restorative approach is a strategic step in building a more just, personality, and humane legal system. This paradigm shifts the orientation of law from mere punishing to restoration, from power to humanity, and from revenge to social balance. By integrating the values of restorative justice into the national legal system, law enforcement against domestic violence not only produces formal justice, but also substantive justice that restores the dignity of victims and the harmony of society.

## CONCLUSIONS

The overall discussion on the effectiveness of criminal sanctions against domestic violence shows that positive laws in Indonesia, especially Law Number 23 of 2004 concerning the Elimination of Domestic Violence, have provided a fairly comprehensive normative framework, but have not been fully effective in their implementation. The provisions of the regulated criminal sanctions still face serious challenges in the realm of practice, especially due to the influence of patriarchal social structures and the limited capacity of law enforcement officials to understand the victim's perspective. Legal protection for victims is still partial and does not accommodate the psychological, social, and economic needs that are an integral part of post-violence recovery. Law enforcement is also often more oriented towards proving the perpetrator's guilt than

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<sup>19</sup> Irawan, Z. A., & Arifin, T. (2025). Prinsip Keadilan UU No. 48 Tahun 2009 Kekuasaan Kehakiman dan HR Abu Dawud No. 3573. *Journal of Literature Review*, 1(1), 218-226.

<sup>20</sup> WICAKSONO, A. A. (2025). *PERLINDUNGAN HUKUM TERHADAP PEREMPUAN SEBAGAI KORBAN TINDAK PIDANA KEKERASAN DALAM RUMAH TANGGA DENGAN PENYELESAIAN RESTORATIVE JUSTICE* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

on protecting and empowering victims. Therefore, the reconstruction of the law enforcement paradigm needs to be directed towards a more humanistic approach, namely through the application of the principles of restorative justice that prioritize the restoration of social relations and the dignity of victims. National criminal law reform in the field of domestic violence must emphasize a balance between legal certainty, utility, and substantive justice. The state has a constitutional responsibility to ensure that every victim of domestic violence has access to prompt, safe, and dignified justice. Criminal law enforcement should not stop at punishing perpetrators, but also create social conditions that prevent the recurrence of violence in the domestic sphere. Strengthening the role of judicial institutions, law enforcement officials, and victim assistance institutions is the key to realizing a legal system that is responsive to the suffering of victims. Thus, the effectiveness of criminal sanctions and victim protection is measured not only by the severity of the punishment, but also by the ability of the law to restore a true sense of justice. The application of normative juridical methods in this study shows that the strengthening of legal norms must be accompanied by the internalization of the values of social justice and gender equality in legal practice. In conclusion, the enforcement of the PKDRT Law must be continuously updated in order to transform from a repressive instrument to a protection mechanism that is just and oriented towards the restoration of human dignity.

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