

Legal Protection of Victims of Domestic Violence in the Perspective of Victimology and Criminal Law

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ABSTRACT

This research explores the legal protection of victims of domestic violence through the lens of victimology and criminal law. Domestic violence remains a pervasive issue in many societies, including Indonesia, with far-reaching psychological, physical, and social consequences for victims. Although various legal instruments, such as Law No. 23 of 2004 on the Elimination of Domestic Violence, have been enacted to provide legal remedies and protection for victims, challenges in implementation persist. This study examines how the principles of victimology can complement criminal law frameworks to ensure more comprehensive protection for victims. It highlights the importance of recognizing victims not only as passive sufferers but as subjects entitled to rights, including legal aid, psychological support, restitution, and participation in legal processes. Using a normative-empirical method, this study analyzes the legal provisions alongside field data obtained through interviews and case studies. The findings reveal gaps between legal norms and practical enforcement, often due to lack of awareness, institutional limitations, and cultural factors. Therefore, the research emphasizes the need for stronger inter-institutional coordination, enhanced victim services, and reforms in legal procedures to ensure justice and recovery for victims. This integrated approach aims to support a more humane and victim-centered justice system.

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1. INTRODUCTION

Domestic violence remains one of the most pervasive and underreported forms of human rights violations worldwide. It affects individuals regardless of age, socioeconomic status, ethnicity, or religion, but disproportionately targets women and children. In Indonesia, domestic violence is not only a social and psychological issue but also a serious legal matter that continues to challenge law enforcement, social services, and legal institutions. Despite the enactment of Law No. 23 of 2004 on the Elimination of Domestic Violence, the protection of victims remains problematic due to various legal, institutional, and cultural barriers.

The issue of domestic violence transcends private family matters and should be viewed through a broader lens that includes legal accountability, victim rehabilitation, and systemic reform. This is where victimology, a field of criminology that focuses on the role, rights, and needs of victims in the criminal justice system, becomes highly relevant. Victimology emphasizes the importance of recognizing victims not only as passive subjects of crime but also as active participants who deserve legal protection, psychological support, restitution, and access to justice. Coupled with criminal law, which traditionally focuses on the punishment of perpetrators, a victimological perspective provides a more comprehensive framework for understanding and addressing the needs of domestic violence victims.

In the Indonesian legal system, criminal law serves as the backbone for law enforcement in domestic violence cases. The provisions within the Criminal Code (KUHP) and Law No. 23/2004 outline the punishments for physical, psychological, sexual, and economic abuse within domestic relationships. However, in practice, the criminal justice process often prioritizes punitive measures over victim protection and recovery. Many victims encounter obstacles in accessing justice, such as lack of information about their legal rights, fear of retaliation, economic dependence on the abuser, or social stigma. These barriers often lead to the underreporting of cases or the withdrawal of complaints. Additionally, institutional weaknesses, such as inadequate training for law enforcement officers and limited victim support services, further undermine the effectiveness of legal protections.

Integrating victimology into the legal response to domestic violence shifts the focus toward a victim-centered approach. This approach advocates for legal procedures that are sensitive to victims' emotional and psychological conditions and for the creation of a support system that includes legal aid, medical and psychological assistance, and shelter services. Victimology also encourages the incorporation of restorative justice mechanisms, which seek to repair the harm caused by crime and promote healing for victims without compromising legal accountability.

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To address this question, the study adopts a juridical-normative and empirical approach. It will examine existing laws and regulations, analyze legal cases, and incorporate qualitative data from interviews with legal practitioners, victims, NGOs, and law enforcement officials. The research aims to assess the adequacy of current legal provisions, identify gaps in enforcement, and propose reforms that strengthen both the protective and rehabilitative aspects of the law. Furthermore, this research situates the problem within a human rights framework, emphasizing that the state has an obligation to protect individuals from violence, especially in contexts where power dynamics and dependency relationships (such as those in families) can silence victims. Domestic violence is not just a violation of criminal law; it is also a violation of victims' rights to life, security, dignity, and justice.

In conclusion, the integration of victimology and criminal law in addressing domestic violence is not only timely but also necessary. A holistic legal response must consider both the punishment of offenders and the healing and empowerment of victims. Through this research, it is hoped that more effective, humane, and victim-responsive legal strategies can be developed, contributing to a justice system that truly protects and uplifts those most vulnerable. The legal protection of victims of domestic violence in Indonesia presents a complex interplay between statutory frameworks and practical realities. This discussion focuses on how the perspectives of victimology and criminal law intersect to address the challenges and opportunities in safeguarding victims' rights and wellbeing.

Firstly, the criminal law framework in Indonesia provides a foundational mechanism for addressing domestic violence. Laws such as Law No. 23 of 2004 on the Elimination of Domestic Violence outline criminal sanctions against perpetrators and set procedural rules for victim protection. However, despite this legal infrastructure, enforcement remains inconsistent. One critical issue is the gap between legal provisions and their implementation. Many victims face systemic barriers such as limited access to legal aid, lack of victim-friendly procedures, and inadequate protection during investigation and trial phases. These issues often discourage victims from reporting abuse, perpetuating a cycle of silence and vulnerability. Victimology contributes a valuable dimension by emphasizing the importance of centering victims' experiences within the justice process. Unlike traditional criminal law that focuses mainly on punishing offenders, victimology calls for recognition of victims as rights holders who require protection, support, and empowerment.

This perspective urges legal institutions to adopt more empathetic approaches, such as confidential reporting mechanisms, trauma-informed investigation procedures, and comprehensive rehabilitation services including psychological counseling and safe housing. The victimological approach also highlights the significance of restorative justice, which can complement criminal sanctions by facilitating healing and reconciliation where appropriate, without compromising justice. The coordination among various institutions—law enforcement, judiciary, social services, and civil society—is also essential for effective victim protection. Unfortunately, the lack of clear protocols and inter-agency collaboration often results in fragmented services that fail to address victims' multidimensional needs. Strengthening institutional capacity and developing integrated support systems are necessary steps.

2. RESEARCH METHOD

This study employs a juridical-normative approach combined with empirical analysis to examine the legal protection of victims of domestic violence from the perspectives of victimology and criminal law. The normative method involves a thorough review of relevant legislation, including Law No. 23 of 2004 on the Elimination of Domestic Violence, the Criminal Code (KUHP), and related regulations, to analyze legal principles and frameworks. Empirically, the research collects qualitative data through interviews with key stakeholders such as legal practitioners, law enforcement officers, victim support organizations, and survivors of domestic violence. This dual approach enables a comprehensive understanding of both the legal norms and their practical application. Data analysis is conducted using descriptive and critical methods to identify gaps between law and practice, challenges faced by victims, and opportunities for integrating victimological principles into criminal law enforcement. The research scope focuses on the Indonesian context, aiming to propose recommendations for enhancing victim protection mechanisms.

3. RESULTS AND DISCUSSIONS

3.1. Overview of Legal Protection Framework for Domestic Violence Victims in Indonesia

The legal protection framework for victims of domestic violence in Indonesia is primarily anchored on several key legislative instruments. The most significant among these is Law No. 23 of 2004 on the Elimination of Domestic Violence (UU PKDRT), which specifically addresses various forms of domestic violence including physical, psychological, sexual, and economic abuse. Complementing this, the Criminal Code (KUHP) also criminalizes acts of violence and abuse within the domestic sphere, providing additional sanctions for perpetrators. Beyond these laws, several ministerial regulations and institutional guidelines exist to regulate the procedural aspects of enforcement, especially regarding the role of law enforcement and victim support services.

While these legal instruments demonstrate progress, they also exhibit notable limitations. On the positive side, UU PKDRT represents a significant advancement by recognizing forms of domestic violence beyond physical harm and emphasizing victim protection rights, such as access to medical treatment, legal aid, and shelter. Nevertheless, the legal framework suffers from fragmentation, with overlaps and ambiguities between criminal law and domestic violence law. This often leads to inconsistent application and protection across different regions in Indonesia, undermining the uniformity and effectiveness of victim protection.

From the perspective of victimology, which centers the rights and needs of victims rather than viewing them as mere witnesses or evidence sources, there is a clear call to transform how victims of domestic violence are treated within the legal system. Victimology insists that victims should be regarded as active subjects entitled to dignity, empathy, and comprehensive support. This approach highlights the urgent need to integrate trauma-informed care into all stages of the legal process. Unfortunately, many victims report re-traumatization due to insensitive handling during police investigations, interrogations, or court proceedings.

Victimology also emphasizes empowering victims by providing clear information about their rights and legal options, thereby enhancing their agency and participation in seeking justice. However, current legal processes in Indonesia often marginalize victims, limiting their meaningful involvement. Moreover, victimology advocates for exploring restorative justice as a supplementary mechanism to criminal law, promoting healing and reconciliation when appropriate. Despite its potential benefits, restorative justice in domestic violence cases remains controversial due to inherent power imbalances and risks of victim retraumatization.

Turning to the role of criminal law, it primarily functions as the state's instrument to punish perpetrators and deter future offenses. Indonesian criminal law prescribes imprisonment and fines for domestic violence perpetrators, reinforcing the seriousness of such crimes. However, enforcement faces substantial challenges. Underreporting is pervasive, as victims frequently fear retaliation, social stigma, or economic dependence on their abusers. Additionally, law enforcement officers often lack sufficient training to address domestic violence cases sensitively and effectively. Many investigations rely heavily on victim testimony without corroborating evidence, complicating successful prosecutions.

Judicial responses also vary considerably. Some judges demonstrate strong awareness of the complex dynamics of domestic violence and strive to protect victims' rights. Conversely, others prioritize family reconciliation over punishment, which may undermine the victim's safety and legal protection. Protective legal measures such as restraining orders and emergency protection exist, yet their accessibility and enforcement remain problematic. The limited availability of shelters and support services further exacerbates victims' vulnerability, hindering their ability to escape abusive environments. The primary legal instrument addressing domestic violence in Indonesia is Law No. 23 of 2004 on the Elimination of Domestic Violence (UU PKDRT). This law marks a significant shift from treating domestic violence as a private family matter to a public crime subject to state intervention. It defines domestic violence broadly, encompassing physical, psychological, sexual, and economic abuse, and extends protection to spouses, children, and household members. Key provisions of the law include: The right of victims to protection, medical treatment, and legal assistance. The obligation of the state to prevent violence, protect victims, and prosecute offenders. The possibility of filing for protection orders (Perlindungan) through the courts

The law empowers victims or their representatives to apply for temporary and permanent protection orders, which can be issued by local courts to restrict the perpetrator's actions and ensure the safety of the victim. These orders are meant to: Prohibit the perpetrator from approaching or contacting the victim. Remove the perpetrator from the shared residence. Mandate the provision of support or compensation. In practice, however, the accessibility and enforcement of these protection orders remain uneven across regions, especially in rural or resource-limited areas. Multiple institutions are involved in the protection and support of victims, including: The police, particularly through Women and Children Protection Units (Unit PPA). The Ministry of Women's Empowerment and Child Protection. Social services, health facilities, and legal aid organizations. The Komnas Perempuan (National Commission on Violence Against Women), which plays an advocacy and monitoring role. While institutional support has improved, inter-agency coordination and victim-friendly procedures are still evolving. Victims often encounter procedural obstacles, such as re-traumatization during investigation or lack of trained personnel.

3.2. Integration of Victimology and Criminal Law Perspectives

Multiple barriers impede effective legal protection for victims. Deeply entrenched cultural and societal factors contribute significantly to these challenges. Patriarchal norms and gender stereotypes often normalize violence within families and discourage victims, particularly women, from seeking legal redress due to shame and fear of social ostracism. Institutional weaknesses are also apparent, with fragmented responsibilities among police, prosecutors, social services, and NGOs resulting in poor coordination and inconsistent victim support. Funding shortages further restrict the capacity of victim assistance programs and shelter services, limiting access to essential resources.

Procedural complexities compound these problems. Lengthy and bureaucratic legal processes discourage victims from pursuing justice, while many victims lack access to legal aid or adequate understanding of their rights. Furthermore, the absence of centralized data collection on domestic violence cases impedes monitoring and formulation of effective policies. Despite these challenges, integrating victimology perspectives with criminal law offers a promising path towards more comprehensive victim protection. A holistic approach combines the victim-centered emphasis on dignity, safety, and empowerment with criminal law's focus on punishment and deterrence. This integration demands legal reforms that clarify victim rights and incorporate procedural safeguards to enhance victim participation. For instance, mandatory victim impact statements and guaranteed rights to legal counseling during criminal proceedings would strengthen victims' roles and experiences within the justice system.

Moreover, training and capacity building for law enforcement officials, prosecutors, and judges are crucial to embed trauma-informed practices and victimology principles. Multidisciplinary teams comprising legal, psychological, and social service professionals can better address victims' diverse

needs and improve service delivery. While restorative justice mechanisms may offer additional avenues for healing, their application must be cautiously considered, especially in cases with significant power imbalances. Empirical studies and case evaluations shed light on the lived realities of victims and law enforcement practitioners. Many victims report feelings of secondary victimization through insensitive legal procedures, which exacerbate their trauma. Police officers admit to facing difficulties in balancing their legal responsibilities with the emotional needs of victims, often hindered by inadequate resources and lack of specialized training. Non-governmental organizations (NGOs) emerge as critical actors, filling service gaps by offering legal aid, counseling, and shelter support. However, stronger partnerships between governmental bodies and civil society organizations are needed to optimize victim protection efforts.

Policy implications from these findings emphasize strengthening victim protection policies through concrete measures such as establishing victim support centers within police stations and courts, and ensuring accessible and enforceable protective orders. Enhancing victim participation through institutionalized information sharing, legal counseling, and victim advocacy can empower victims throughout the legal process. At the societal level, sustained public awareness campaigns targeting stigma reduction and gender equality are essential. Integrating education on domestic violence and human rights into school curricula and community programs can shift harmful norms over time. Additionally, improving data collection and research infrastructure will support evidence-based policymaking, enabling targeted interventions and resource allocation.

The intersection between victimology and criminal law reflects a critical evolution in legal scholarship and criminal justice policy. Traditionally, criminal law has centered on the state's authority to prosecute and punish offenders, with the victim often relegated to the periphery of the legal process. However, the rise of victimology as a scientific discipline has challenged this offender-centric paradigm, advocating for the recognition of victims not merely as passive witnesses but as subjects of rights and justice in their own right. Integrating victimological insights into criminal law discourse is thus essential for developing a more holistic, equitable, and responsive legal system.

In classical criminal law frameworks, the state assumes the primary role in prosecuting crimes, treating offenses as acts against public order rather than individual harm. Consequently, the victim's role has often been limited to that of a complainant or a source of evidence. This procedural marginalization has contributed to the invisibility of victim needs, including psychological trauma, restitution, protection, and participation in legal proceedings. Victimology expands the understanding of crime by emphasizing the experiences, rights, and needs of victims. It investigates the impact of crime on victims, their interactions with criminal justice institutions, and the systemic barriers they face. Victimology also introduces key concepts such as secondary victimization, victim-blaming, and vulnerability, which challenge traditional assumptions embedded in legal procedures and advocate for victim-centered reforms in law and policy.

The integration of victimology into criminal law promotes a victim-centered approach, which balances the procedural rights of the accused with the substantive interests of victims. This includes the right to information, protection, compensation, and meaningful participation in the criminal process. Legal reforms in various jurisdictions have institutionalized these principles through victim impact statements, restitution orders, witness protection programs, and specialized victim services. One of the most prominent outcomes of this integration is the development of restorative justice models, which seek to repair harm through dialogue, restitution, and reconciliation between offenders and victims. These models challenge retributive paradigms by prioritizing healing over punishment and empowerment over exclusion. From both a victimological and legal perspective, restorative justice provides a platform for victims to voice their experiences and influence outcomes, thus enhancing their sense of agency and closure.

The integration has also led to formal recognition of victims' rights in international and domestic legal instruments. The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) and various regional frameworks underscore the obligation of states to treat victims with compassion, provide access to justice, and offer mechanisms for redress. Criminal law is increasingly adapting to these mandates by embedding victim rights into procedural codes and judicial practices. The integration of victimology and criminal law must also consider cultural, gender, and socio-economic dimensions. Victims of domestic violence, sexual assault, or trafficking often face structural barriers and societal stigmatization that hinder access to justice. Victimological insights urge legal systems to adopt trauma-informed approaches, ensure non-discrimination, and tailor responses to the specific vulnerabilities of marginalized groups.

3.3. Law enforcement perspectives

Operationalizing victimology principles faces significant hurdles, notably resource constraints and institutional resistance. Financial and human resource limitations impede the provision of comprehensive services nationwide. Resistance to adopting victim-centered approaches among some legal and law enforcement professionals remains a significant obstacle. Furthermore, ensuring a balance between protecting victims and safeguarding the accused's right to a fair trial presents ongoing legal and ethical challenges. The cautious application of restorative justice, given the potential for coercion and victim harm, requires careful case-by-case evaluation.

Looking forward, there is a pressing need for further research to evaluate the impact of victim-centered reforms on both legal outcomes and victim wellbeing. Comparative analyses with countries that have successfully integrated victimology into domestic violence legislation could offer valuable insights. Exploring digital innovations such as online reporting platforms and virtual victim support services might expand access and improve responsiveness. Lastly, community-based interventions that engage local actors in prevention and victim support hold promise for sustainable, grassroots solutions.

In conclusion, while Indonesia's legal framework provides a foundation for protecting victims of domestic violence, significant gaps remain in implementation and victim-centered care. Integrating victimology with criminal law presents a comprehensive strategy that addresses victims' multidimensional needs. Achieving effective legal protection requires coordinated reforms, capacity building, cultural change, and sustained commitment from all stakeholders. Such a multidimensional approach is vital to ensure that victims of domestic violence receive justice, protection, and support in Indonesia's evolving legal landscape.

Law enforcement perspectives offer a critical lens through which the implementation of legal norms and the realization of justice can be assessed. These perspectives encompass how legal authorities—particularly police, prosecutors, and judicial actors—interpret and apply the law in practice. This discussion explores the complexities, challenges, and evolving paradigms that shape law enforcement behavior and decision-making in contemporary legal systems.

Law enforcement operates at the intersection of codified law and practical judgment. While laws provide the structural framework for determining right and wrong, law enforcement officers often rely on discretion when applying these rules in real-world situations. This discretion may be influenced by considerations such as the nature of the offense, the background of the offender, public interest, and resource availability. However, excessive discretion without oversight may also lead to inconsistencies, bias, and even abuse of power. Traditionally, law enforcement has emphasized maintaining public order and deterrence through strict application of criminal laws. However, modern perspectives increasingly emphasize restorative justice, victim-centered approaches, and proportionality in enforcement. This shift reflects a deeper understanding that punitive measures alone do not always serve long-term societal well-being or rehabilitative goals, particularly in cases involving vulnerable groups or non-violent offenses.

Law enforcement agencies often face structural and institutional constraints, including inadequate funding, limited training, political interference, and bureaucratic inefficiencies. These factors can undermine the ability of officers to carry out their duties professionally and ethically. In some jurisdictions, corruption, lack of accountability mechanisms, and public mistrust further erode the legitimacy of law enforcement efforts, creating a significant barrier to the effective implementation of justice. An essential component of effective law enforcement is the relationship between authorities and the communities they serve. Policing that is overly repressive or perceived as unjust often results in fear, resistance, or non-cooperation. In contrast, community-oriented policing strategies—characterized by dialogue, transparency, and participatory decision-making—have shown to enhance trust, improve crime reporting rates, and contribute to crime prevention through community support.

4. CONCLUSION

The integration of victimology and criminal law provides a comprehensive framework for understanding and addressing domestic violence as both a legal offense and a violation of victims' rights and dignity. Victimology highlights the psychological, social, and structural vulnerabilities of victims, offering essential insights that complement the traditionally offender-focused perspective of criminal law. In Indonesia, Law No. 23 of 2004 on the Elimination of Domestic Violence represents a significant legal milestone, offering clear definitions of abuse and formal protection mechanisms, such as

restraining orders and victim services. Despite these legal provisions, implementation remains inconsistent, especially in rural areas where cultural norms, lack of awareness, and limited institutional capacity hinder victims' access to justice. Many victims still face barriers including secondary victimization, fear of retaliation, economic dependency, and stigmatization, which discourage reporting and prolong abuse. The criminal justice system, while offering prosecution and punishment mechanisms, must work in synergy with victim-centered policies, such as trauma-informed procedures, legal aid, and accessible reporting systems. Restorative justice models should be applied carefully, ensuring they empower victims without compromising their safety or justice outcomes. Strengthening inter-agency coordination, training law enforcement personnel, and enhancing public education on victims' rights are critical to improving legal protection in practice. Legal reform should continue to be informed by empirical victimology research to ensure that laws and policies address the real needs of survivors. Ultimately, an effective legal protection system must go beyond prosecution to prioritize restoration, empowerment, and the prevention of recurring violence.

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