

LEGAL SOCIOLOGY STUDY OF PREVENTION EFFORTS AND OVERCOMING DOMESTIC VIOLENCE (DOM) AGAINST WOMEN

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Abstract

Indonesia is a country based on law, as enshrined in the 1945 Constitution. The concept of a state based on law states that the necessities of life within the state must be based on applicable legal rules in policy decision-making. According to Jimly Asshiddiqie, one of Indonesia's characteristics as a country based on law is the regulation of human rights. This regulation aims to protect humans from degrading their dignity. One form of degrading dignity is domestic violence (KDRT). Domestic violence, including physical, psychological, sexual, and economic violence, is a criminal act that occurs within a household where the perpetrator and victim are from the same household. The government has regulated sanctions for criminal acts of domestic violence in Law Number 23 of 2004 concerning the Elimination of Domestic Violence. This regulation demonstrates the government's attention to human rights, gender, non-discrimination, and protection. Victims of domestic violence. Although there is a law regulating domestic violence, cases of domestic violence continue to increase. The results of this study indicate that domestic violence occurs due to internal and external factors. In an effort to address the problem of domestic violence, the author provides two solutions using legal media and coordination between the community, social institutions, and law enforcement.

Keywords: *Human Rights, Domestic Violence, Sociology of Law, Law Enforcement.*

Introduction

Indonesia is a state of law, as enshrined in the 1945 Constitution. The concept of a state of law dictates that the necessities of life within the state must be based on applicable legal rules in decision-making, including political, economic, social, and cultural policies. In the principle of a state of law, this is called a state of law, not a state of people. Therefore, in the implementation of a government system or state system in the form of policies, whether political, economic, social, economic, or cultural policies, the law must be used as a guideline for consideration. Considering that a state of law is formed by prioritizing all legal instruments themselves as a functioning and just system and used as a basis for creating, regulating, and developing everything within a state, it is necessary to build a legal system (lawmaking) and enforce it (law enforcement).¹ Law is a set of rules containing norms and sanctions created to regulate human behavior, create public order and justice. Utrecht defines law as a guide to life containing commands and prohibitions that must be obeyed by humans.² Because the law regulates human life, every individual must be guaranteed by law to obtain equal access to the law.³ This is in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia, Article 28D paragraph (1), which stipulates that:

"Everyone has the right to recognition, guarantees, protection, and certainty of fair law, as well as equal treatment before the law." By ensuring that every individual has equal access to the law, it is certain that justice will be created in the life of the nation."

Law enforcement is a crucial aspect to ensure the benefits of the law are felt by individuals and the wider community, according to Soejono Soekanto.⁴ Law enforcement is activities to harmonize the relationship between

¹Jeffrey Alexander Ch. Likadja, Understanding the State (Law Through State) within the Framework of the Legal State (Rechtsstaat), Hasanuddin Law Review Vol. 3 No. 2, 2021, p. 4.

²Azhari, A. F, The Indonesian Legal State: Decolonization and Reconstruction of Tradition. Ius Quia Iustum Law Journal, 2012, p. 1

³Rans Maramais, S, General and Written Criminal Law in Indonesia, (Jakarta: Rajawali Pers), 2016, pp. 15-17

⁴Latipulhayat, A., Roscoe Pound. Padjajaran Journal of Legal Studies Vol 4 No.2, 2016 413 - 14.

values outlined in established rules and attitudes as a series of final stage value explanations. Jimly Asshiddiqie also has the opinion that law enforcement is the process of making efforts to uphold or function legal norms in real terms as a guideline for behavior in traffic or legal relations in social and state life.⁵ Jimly further explained that law enforcement can be viewed from both a broad and a narrow or limited perspective. Broad law enforcement involves all existing subjects, with every legal subject in the state complying with applicable legal rules and norms. Meanwhile, in the narrow sense, it is seen only as the efforts of law enforcement officials to ensure the law is enforced in accordance with applicable legal norms.⁶

Law enforcement is one of the important pillars in law enforcement, Soejorno Soekanto said there are 5 factors that influence law enforcement, namely⁷:

- a. The law itself;
- b. law enforcers, both those who create and implement them;
- c. means and facilities that support law enforcement;
- d. society; and
- e. culture.

Law enforcement is the most important factor in law enforcement efforts, because law enforcement is authorized by laws and regulations to carry out efforts or a series of law enforcement activities, for example, investigators are authorized by the Criminal Procedure Code to find the perpetrator or prosecutors are authorized to indict the defendant for the criminal act he committed. Law enforcement officers in carrying out their authority must be based on high integrity by making the law the highest commander.⁸ Indonesia as a state based on law has at least 13 elements, namely belief in one God, the supremacy of law, equality in legal standing, the principle of legality, limitations on the power of an independent and impartial judiciary, independent mixed organs of state administrative courts, state constitutional courts, protection of human rights, democracy, transparency and social control, functioning as a means of realizing the goals of the state. With these 13 elements of a state based on law, Indonesia aims to protect all Indonesian citizens, advance public welfare, educate the nation's life and participate in maintaining world order.⁹

The existence of regulations related to human rights has two fundamental implications. First, the protection, enforcement, advancement, and fulfillment of human rights are the responsibility of the state, especially the government. Second, to uphold and protect human rights in accordance with the principles of a democratic state based on law, the implementation of human rights is regulated, guaranteed, and outlined in the 1945 Constitution of the Republic of Indonesia. The regulation of human rights is contained in Chapter XA of the 1945 Constitution of the Republic of Indonesia, namely the right to receive a sense of security and protection from threats and freedom from torture or treatment that degrades human dignity as stated in Article 28 G of the 1945 Constitution of the Republic of Indonesia.¹⁰ From this research, the author raises the problem, namely regarding the study of legal sociology in preventing and overcoming domestic violence against women.

Discussion

Domestic violence

As a concrete form of protection for women against domestic violence, several laws have been enacted to address domestic violence. These include the Criminal Code (KUHP), or the Criminal Code, and Law No. 23 of 2004 concerning the Elimination of Domestic Violence, which provides various legal protections related to domestic violence. According to Erna Sofyan Syukrie¹¹ Whether in the West or the East, the development of human civilization has grown within the framework of patriarchal culture and ideology. In Western countries, such as the United States and Western Europe, this culture was first eroded along with the development of technology and democracy, which places equality and justice as central values. In third world countries, including Indonesia, this culture and ideology remain very strong, influencing various aspects of life and societal structures, creating gender inequalities. Culture and ideology are not simply things that descend from the sky, but are shaped by humans and socialized from one

⁵Ali, Zainuddin Ali, *Philosophy of Law*, (Jakarta: Sinar Grafika), 2013. p. 74.

⁶Soerjono, *Factors Influencing Law Enforcement*, (Jakarta: PT. Raja Grafindo Persada), 2011, p. 12

⁷Satjipto, Rahardjo, *Legal Science*, (Bandung: Citra Aditya Bakti), 2006, p. 13

⁸Genta Publisher Wahyono, *Indonesia: A State Based on Law*, (Jakarta: Ghalia Indonesia), 1986, p. 19

⁹Ibid., pp. 5-6.

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¹¹Erna Sofyan Syukrie, "Women's Empowerment in Sustainable Development", paper presented at the 8th National Legal Development Workshop Seminar held by the National Legal Development Agency, Ministry of Law and Human Rights of the Republic of Indonesia, July 14-18, 2003 at the Kartika Plaza Hotel, Denpasar, Bali, 2003

generation to the next. Cultural values are mental factors that determine the actions of an individual or society. In our culture, patriarchy remains very strong. In social, political, economic, and especially cultural life, the state of inequality, asymmetry, and subordination of women is very apparent. In such conditions, women are marginalized, leading to a loss of autonomy. Exploitation and violence against women occur, both in the domestic and public spheres. In such situations, gender differences, discrimination, and injustice thrive. This is ironic because, formally, the 1945 Constitution does not differentiate between men's and women's rights (equal rights), but empirically, they differ significantly.

In traditional societies, patriarchy is seen as unquestionable, as it is always associated with undeniable nature and power. The belief that God has ordained differences between men and women dictates that differences in human life are also governed by these differences. Religious factors have also been used to strengthen men's positions. Biological determinism has further reinforced this view. This means that because men and women are biologically different, their social and work functions within society are also created differently. Education, a crucial process for a person's intellectual development, remains deeply patriarchal. Families typically prioritize sons as the successors to the family, while daughters move on to other families. Family education also socializes the centrality of the father, thus unconsciously diminishing the role of women within the family. Girls are rarely involved in discussions about family policy, so socialization of such norms can impact the formation of their personalities and attitudes, which tend to be less open.

Domestic violence, particularly violence against wives, generally occurs because many societies still believe in and are dominated by patriarchal culture. Literally, patriarchy means a system that places the father (man) as the ruler of the family. This term is then used to describe a society where men have power over women and children. This can be interpreted as meaning that men are superior and women are inferior, so that men are justified in dominating and controlling women and the position of women is subordinate. The embodiment of patriarchy as a cultural value system is practiced in various institutions of social life, both in the economic and political fields, as well as within the family institution. According to Kate Millet in her book *Sexual Politics*, as quoted by Suparno, patriarchy initially grew and developed in a stable manner in family life where basically the family was the main part of the power structure of society which directly or indirectly helped to preserve patriarchal power.¹²

Domestic Violence According to Law No. 23 of 2004 concerning the Elimination of Domestic Violence

After the ratification of Law No. 23 of 2004 concerning the Elimination of Domestic Violence, the rights of victims are contained in Article 10:¹³

1. Protection from family, police, prosecutors, courts, advocates, social institutions, or other parties, either temporarily or based on a court order. Guarantees of protection are essential to ensure that the victim is treated sympathetically and carefully by law enforcement, that their safety is guaranteed, and that the testimony provided will be obtained to convict the perpetrator.
2. Healthcare services according to medical needs. The right to medical recovery, which includes healing the physical injuries suffered by the victim, is provided through referral to a hospital that provides integrated psychological, legal, and social services for victims of domestic violence, particularly to restore their self-confidence and enable them to undergo legal procedures after receiving information about the procedures to be followed in the criminal justice process.
3. Handling specifically relates to the confidentiality of the victim. The victim's right to obtain compensation for the losses suffered, both from the government as an organization that is obliged to provide protection to him, and from the perpetrator of the crime who has caused extraordinary losses to the victim. The provisions that allow victims to receive compensation are very lacking, especially because the compensation permitted is related to the reimbursement of costs incurred by the injured party, such as in cases of domestic violence because the losses experienced are difficult to measure in material terms.
4. Assistance by social workers and legal assistance at every level of the examination process in accordance with statutory provisions.
5. The victim's right to receive information regarding the progress of the case and the judge's decision. Spiritual guidance services. Spiritual guidance is provided by a spiritual guide by providing an explanation of their rights and obligations.
6. Strengthening faith and piety in accordance with the religion and beliefs that one adheres to.

In addition to the above article, which regulates the fulfillment of the rights of victims of domestic violence,

¹²Suparno, translation of Kate Millet's *Sexual Politics*, Perception of Knowledge, p. 8

¹³Law Number 23 of 2004 concerning the Elimination of Domestic Violence, Article 10.

the government and society also have an obligation to provide protection for victims of domestic violence, as stipulated in the following chapters and articles. The obligations of the government and society to provide protection against domestic violence are contained in Chapter V, Articles 13 and 14 of Law No. 23 of 2004.

The text of Article 13 of Law No. 23 of 2004 reads:

"To provide services to the government and regional governments in accordance with their respective functions and duties in carrying out efforts:

1. Provision of service space;
2. Especially at police stations;
3. Provision of personnel, health workers, social workers, and spiritual considerations;
4. Actions and development of work systems and mechanisms in service programs that involve parties that are easily accessible to victims; and
5. Providing protection for companions, witnesses, families, and victims. Article 14 states that in carrying out efforts as referred to in Article 13, the government and regional governments, in accordance with their respective functions and duties, may collaborate with the community or other social institutions.

However, in reality, even though the rights of victims of domestic violence have been regulated in the regulations on the elimination of domestic violence contained in Law No. 24 of 2014, it is still not enough to be able to overcome problems that occur related to violence within the scope of the household. Victims who have the right to protection of rights regulated in Law No. 24 of 2014 concerning the Elimination of Domestic Violence are only victims who have a legal bond within the scope of the household, besides those who do not have a legal bond in the household do not have these rights, such as wives or children born from an illegitimate marriage according to applicable law. Usually those who experience acts of domestic violence, but they do not have the rights as explained in Articles 13 and 14 of Law No. 24 of 2014 concerning the Elimination of Domestic Violence will choose to report acts of violence to the National Commission on Human Rights or the National Commission for Child Protection. Not receiving protection of rights by the Law does not mean that the act of violence cannot be punished. However, the scope of the violence is no longer domestic violence but rather violence and/or abuse against women which is also protected by other laws and regulations, such as Law No. 39 of 1999 concerning Human Rights, Presidential Decree No. 181 of 1998 concerning the Establishment of the National Commission on Violence Against Women or Komnas Perempuan which was amended by Presidential Decree No. 65 of 2005. Thus, women's rights not covered by the Domestic Violence Law are still protected by other regulations. Although the Domestic Violence Law already regulates the rights of victims of domestic violence, law enforcement still faces obstacles in protecting victims' rights as stipulated in the Domestic Violence Law. These include:¹⁴

1. Lack of Police Budget

Protecting the rights of victims of domestic violence requires significant costs, fully borne by the state, and this has not yet been realized as mandated by the Domestic Violence Law. Police law enforcement in various sectors requires substantial costs, so if this budget is allocated for external purposes, it could disrupt police operations. Therefore, an increase in the police budget is necessary.

2. There is rejection from the victim

Refusal here refers to a refusal to be assisted by a professional. This occurs due to the victim's lack of trust in others due to trauma or other factors. Victims prefer to be assisted by family and close friends rather than professionals trained in handling domestic violence cases.

3. Protecting Victims' Confidentiality is Difficult

Protecting the confidentiality of victims of domestic violence is crucial to protect them from unpleasant conversations that could disrupt their mental health. However, such information often spreads rapidly before authorities can intervene. This is extremely difficult to address with today's advances in information technology.

Protection of Victims of Domestic Violence According to Law No. 23 of 2004 concerning the Elimination of Domestic Violence

Domestic violence (DV) is a serious violation of human rights and a social problem faced by many countries, including Indonesia. This act not only causes physical harm to victims but can also lead to psychological trauma, emotional distress, and significant economic losses. Violence (particularly within the home) is a form of crime that

¹⁴Oni Suryono, Domestic Violence: Legal Dimensions and Justice for Indonesian Women, Vol 7 No. 1, 2022, p. 72.

violates and tarnishes human dignity and should be categorized as a crime against humanity.¹⁵ However, not all crimes contain elements of violence, and not all acts of violence can be said to be components of crime, even though the government has enacted Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) as a legal basis for protecting victims and prosecuting perpetrators, its implementation still faces various obstacles. Legal protection for victims of crime has received less attention under the law, both in substantive criminal law and criminal procedure (formal criminal law), compared with legal protection for suspects and defendants. This is influenced by several factors, including:

1. Legal factors;
2. Legal awareness of victims;
3. Supporting facilities;
4. Human resources.

The existence of legislation within a legal system is crucial to the establishment of legal order, as it is the primary source of law. Therefore, despite the existence of Law Number 23 of 2004, many victims still do not report their cases to the police, citing reasons such as shame, embarrassment from extended family, and the perceived disgrace of public knowledge. These reasons stem from the perception of some members of society that:¹⁶

1. The violence experienced by the wife is the result of the wife's own mistakes.
2. Great economic dependence on the perpetrator (husband).

Domestic violence has specific characteristics. To implement the Domestic Violence Law, the government, through relevant ministries, has established various implementing regulations. One of these is Regulation No. 1 of 2010 of the Minister of Women's Empowerment and Child Protection of the Republic of Indonesia, which stipulates Minimum Service Standards in Integrated Services for Women and Children Victims of Violence. This regulation aims to ensure that victims of domestic violence receive comprehensive services, including legal assistance, health care, and social rehabilitation. Domestic violence is any act against a person, especially a woman, which results in physical, sexual, psychological misery or suffering and/or neglect of the household, including threats to commit acts, coercion or unlawful deprivation of liberty within the household.¹⁷ The government has issued Regulation No. 1 of 2009 of the Minister of State for Women's Empowerment and Child Protection, which establishes Guidelines for Handling Victims of Domestic Violence for Law Enforcement Officials and Related Institutions. These guidelines serve as a reference for law enforcement officials in handling domestic violence cases, ensuring effective law enforcement and a more responsive approach to victims' needs.

On the other hand, perpetrators of Domestic Violence (KDRT) in the application of criminal sanctions still often experience dualism in the application of criminal provisions. This dualism occurs, namely with the enactment of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT), it turns out that the rules in the Criminal Code are still in effect, containing Article 351 concerning abuse, Article 285 concerning rape, and Article 289 concerning molestation, which can be applied to ensnare perpetrators of domestic violence (KDRT) in certain conditions. Violence against women according to the United Nations in the declaration of the elimination of violence against women, violence against women is any form of gender-based violence that results or will result in pain or suffering to women whether physical, sexual, psychological, including threats, restrictions on freedom, coercion, whether occurring in public or domestic areas. Violence against women is an action or attitude carried out with a specific purpose so that it can harm women both physically and psychologically. Another important thing is that an incident that is coincidental is not categorized as violence even though it causes harm to women.¹⁸

Domestic Violence (KDRT) has received a serious response from various women's organizations, both governmental and non-governmental, leading to the enactment of Law Number 23 of 2004 concerning the Elimination of Domestic Violence. Furthermore, the police have established a Women and Children's Service Unit (PPA) tasked with providing services and protection for women and children, including victims of domestic violence (KDRT). This unit plays a role in handling domestic violence cases with a gender- and child-responsive approach and ensuring that victims receive the necessary protection. The establishment of this PPA Unit is regulated in Regulation of the Chief of the Republic of Indonesia National Police Number 10 of 2007 concerning the Organization and Work Procedures of the Women and Children's Service Unit within the Republic of Indonesia National Police.

¹⁵ Wardah, Legal Protection for Victims of Domestic Violence Based on Law Number 23 of 2004 concerning the Elimination of Domestic Violence, (Semarang; Unisula), 2024, p. 24.

¹⁶ Ibid., p. 73.

¹⁷ Loc.Cit., Law Number 23 of 2004 concerning the Elimination of Domestic Violence

¹⁸ Herkutanto, Violence Against Women in the Criminal Law System, in the book Eliminating Discrimination Against Women, (Bandung; PT.Alumni), 2000, p. 25.

Domestic Violence is any act against a person, especially a woman, that results in physical, sexual, psychological misery or suffering, or neglect of the household, including things that cause fear, loss of self-confidence, loss of ability to act, distrust, or severe psychological suffering in a person. Law Number 23 of 2004 does not aim to encourage divorce, as is often alleged. The Law on the Elimination of Domestic Violence actually aims to maintain the integrity of a (truly) harmonious and prosperous household by preventing all forms of violence while protecting victims and prosecuting perpetrators of domestic violence. Domestic violence is a violation of human rights and a crime against human dignity and a form of discrimination that must be eliminated. This law is a guarantee provided by the state to prevent domestic violence, prosecute perpetrators of Domestic Violence (KDRT), and protect victims of Domestic Violence (KDRT).¹⁹

According to Herkutanto, forms of violence can include psychological violence, a form of violence that is difficult to define because emotional sensitivity varies greatly. In a household, this can include not providing a wife with affection to meet her emotional needs.²⁰ This is important for the development of a person's soul. Identification of what arises from psychological violence is more difficult to measure than physical violence, such as:

1. Neglect of Women: Neglect is negligence in providing the necessities of life to someone who is dependent on another party, especially in the household environment.
2. Physical Violence: When a woman is found to have been sexually assaulted, it is not an accident. This violence can result from a single or repeated act of violence, ranging from mild to fatal.
3. Sexual Violation: Any sexual activity committed by an adult or a woman. This sexual violation can be committed with or without coercion. Sexual violations involving coercion can result in deep trauma-related injuries for women.

Broadly speaking, the factors that cause domestic violence can be formulated into two, namely external factors and internal factors. One indication of social problems that negatively impact families is violence that occurs within the family institution. Almost all forms of domestic violence by men, for example, wife beatings, rape in the family and so on, all of these are rarely the subject of public news because they are considered not a problem, something taboo or inappropriate for victims to talk about. Of the various forms of violence that are generally women, more specifically wives tend to remain silent because they feel useless. Victims are usually embarrassed or do not dare to tell others about their situation. The impact of violence experienced by wives can cause psychological consequences such as anxiety, depression, stress, inferiority, loss of trust in their husbands, self-blame and so on. Physical consequences include bruises, broken bones, physical disabilities, menstrual disorders, uterine damage, miscarriage, contracting infectious diseases, psychotic illnesses and even death.

The performance of law enforcement in handling cases is a consideration for women to report violence that occurs to them. The lack of public trust, including victims of domestic violence, in the legal system in Indonesia is due to the fact that before the enactment of Law Number 23 of 2004, many reports of domestic violence were not followed up to the investigation stage against the perpetrator. This also strengthens the belief of victims that even if someone reports, they will not receive special protection from law enforcement, especially the police. After the enactment of Law Number 23 of 2004, it is hoped that there will be an increase in awareness among victims to report to the authorities if an act of domestic violence occurs. Victims according to this law are socially weak victims, namely those with a weak social position that causes someone to become a victim, especially women and children. In this study, victims of domestic violence are limited to wives who experience violence from their husbands. According to this law, the parameters for eliminating domestic violence are based on four principles, namely:²¹

- a. Respect for human rights;
- b. Gender justice and equality;
- c. Non-discrimination; and
- d. Protection of victims.

Article 4 of the law explains that one of the aims of eliminating domestic violence is to prevent all forms of domestic violence. Thus, it is hoped that the various acts of domestic violence that have been rampant in Indonesia can be minimized and, if possible, eliminated from society. Relevant to the principles and goals of eliminating domestic violence, the law specifically regulates how to resolve domestic violence, culminating in efforts to protect the victim. In this regard, the methods for resolving domestic violence consist of five parts:²²

¹⁹ <https://peraturan.bpk.go.id/Details/40597/uu-no-23-tahun-2004>. Accessed October 28, 2025, at 14:38 WIB

²⁰ Op.Cit., Herkutanto, Violence Against Women in the Criminal Law System, in the book Elimination of Discrimination Against Women, Bandung, PT. Alumni, 2000. Page 25

²¹ Loc.Cit., Law Number 23 of 2004 concerning the Elimination of Domestic Violence, Article 4.

²² Loc.Cit., Oni Suryono, Domestic Violence: Legal Dimensions and Justice for Indonesian Women, Vol 7 No.1, 2022, pp. 74-

1. Domestic violence is often considered a normal or normal occurrence in families. Consequently, victims often ignore it or fail to report it to the authorities for further action. Victims typically report domestic violence only after the violence has resulted in a serious injury, death, or even death.
2. Lack of socialization by relevant parties regarding domestic violence, so that data on cases of domestic violence are often ignored or considered trivial, especially for small domestic violence problems.
3. There is a very clear division of power within the household, between the man (husband) and the woman (wife), as well as between children and parents. The husband, as head of the household, has greater power than the wife and children. Therefore, in such households, household matters are usually private and should not involve other parties, including law enforcement. This is also referred to as a cultural factor within the household.
4. Domestic factors are similar to cultural factors. However, they are more about the victim's feelings. Domestic violence is considered a disgrace that should not be revealed to others, as it would cause shame for the household. Therefore, victims often choose to keep their feelings to themselves.
5. Environmental factors: In reducing the high incidence of domestic violence, a responsive and caring environment is crucial. This will encourage victims to be more open and courageous in disclosing issues within their household that are no longer legally permissible.

Protection for victims of domestic violence has not been fully addressed by Law No. 23 of 2004 concerning the Elimination of Domestic Violence. Therefore, strong cooperation between relevant parties is needed to address domestic violence. According to Law No. 23 of 2004 concerning the Elimination of Domestic Violence, acts of domestic violence are as follows:

1. Overt violence is physical violence that can be seen, such as fighting, punching, kicking, pulling hair, pushing, and even killing.
2. Covert violence is usually known as psychological or emotional violence.
3. This violence is hidden in nature, such as threats, insults, or ridicule which then causes the victim to have difficulty sleeping, lack self-confidence, feel helpless, terrorized, and have suicidal thoughts.²³
4. Sexual violence is violence committed to satisfy sexual desires (physical) and verbal (physical). Physical violence includes sexual harassment (groping, touching sexual organs, forced kissing, forcing sex with the perpetrator or a third party, forcing intimate relations).²⁴
5. Meanwhile, verbal acts include making comments, nicknames, or pornographic jokes that are mocking in nature, as well as making facial expressions, body movements, or other sexual acts that are harassing and/or insulting to the victim.²⁵
6. Financial abuse, or the definition of abuse, involves exploitation, manipulation, and control of the victim for financial gain, including forcing the victim to work, forbidding the victim from working but neglecting them, or taking the partner's assets without their consent.

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Domestic violence is any act against a person, especially a woman, which results in physical, sexual, psychological misery or suffering and/or neglect of the household, including threats to commit acts, coercion or unlawful deprivation of liberty within the household.²⁶ Article 5 of Law Number 23 of 2004 states that:

“Everyone is prohibited from committing domestic violence against people within the household by:

- 1) Physical violence;
- 2) Psychological violence;
- 3) Sexual violence;
- 4) Domestic neglect”.

Furthermore, Article 10 of Law Number 23 of 2004 states that:

KThe victim has the right to receive:

75.

²³ <https://www.nusabali.com/berita/110950/kenapa-kekerasan-yang-dipilih>. Accessed October 28, 2025, at 6:05 PM WIB

²⁴ <https://lifestyle.kompas.com/read/2014/10/12/230000220/4-jenis-kekerasan-yang-masuk-kdrt>.

Accessed October 28, 18.05 WIB

²⁵ <https://www.limapagi.id/30449/kenali-empat-jenis-domestic-agar-tidak-menjadi-korbannya>. Accessed October 28, 6:05 PM WIB

²⁶ Farha Ciciek, *Efforts to Overcome Domestic Violence* (Jakarta: The Asian Foundation), 1999, p. 22

1. Protection from the family, police, prosecutors, courts, advocates, social institutions or other parties, either temporarily or based on a protection order from the court;
2. Health services according to medical needs;
3. Special handling relates to victim confidentiality;
4. Assistance by social workers and legal aid at every level of the examination process in accordance with statutory provisions; and
5. Spiritual guidance services.

In order to realize all the rights of victims of domestic violence as mentioned above, the government and regional governments, in accordance with their respective duties and functions, can work together with the community and institutions. relevant law enforcers, by making efforts:

1. Provision of special service rooms in police offices;
2. Provision of personnel, health workers, social workers and spiritual guides;
3. Creation and development of systems and mechanisms for cooperation in service programs involving parties that are easily accessible to victims; and
4. Providing protection for companions, witnesses, families and friends of victims

Guaranteeing women's rights in the legal and policy fields, as well as guarantees to women. The state is not only obliged to guarantee equal rights *de jure*/legal substance but also *de facto*, namely by encouraging the realization of women's rights. The state's obligations include preventing discrimination against women, prohibiting discrimination against women, identifying the existence of discrimination against women and taking steps to address it, implementing sanctions for discriminatory acts against women, providing support for the enforcement of women's rights and promoting equality, equity, and justice through proactive measures, and increasing *de facto* equality between women and men. In addition, efforts to combat crime through updating criminal law is also essentially is an integral part of social protection efforts for the community *welfare*. Therefore, it is natural that criminal law policy or politics is also an integral part of social policy or legal policy. Social policy can also be defined as all rational efforts to achieve public welfare while simultaneously protecting it. Thus, the definition of social policy encompasses both social welfare policy and social defense policy.²⁷

Penal policy or criminal law policy, is essentially how criminal law is formulated properly and provides guidance to lawmakers (legislative policy), and application policy (judicial policy). Legislative policy is a crucial stage for subsequent stages because when criminal legislation is to be created, the direction to be taken by the creation of the law is already determined. In this context, the intended direction is the formation of a law on the elimination of domestic violence. The policy for creating good criminal law regulations is essentially inseparable from the goal of crime prevention. Therefore, criminal law policy or policy (penal policy) is also part of criminal policy, so criminal law policy is identical to the concept of "crime prevention policy with criminal law." Criminal law in Indonesia as a means to combat crime does not seem to be a problem. This is evident from the practice of legislation so far, which shows that the use of criminal law is part of the policy or legal policy adopted in Indonesia. The use of criminal law is considered normal and natural, as if its existence is no longer questioned.²⁸

Thus, it can be emphasized that criminal law reform, including the enactment of Law Number 23 of 2004, is part of criminal law policy. The meaning and essence of criminal law reform are closely related to the background and urgency of criminal law reform itself. The background and urgency of criminal law reform can be viewed from socio-political, socio-philosophical, and socio-cultural aspects, or from various policy aspects (especially social policy, criminal policy, and law enforcement). This means that the meaning and essence of criminal law reform are also closely related to these various aspects. This means that criminal law reform must also essentially be a manifestation of change and renewal of the various aspects and policies that underlie it. Thus, criminal law reform essentially implies an effort to "reorient and reform" criminal law in accordance with the central socio-political, socio-philosophical, and socio-cultural values of Indonesian society that underlie social policy, criminal policy, and law enforcement policy in Indonesia. In short, it can be said that criminal law reform must essentially be pursued with a policy-oriented approach and simultaneously a value-oriented approach.²⁹

Character of Law Number 23 of 2004

Law Number 23 of 2004 concerning the Elimination of Domestic Violence, enacted in Jakarta on September

²⁷Barda Nawawi Arief, *Anthology of Criminal Law Policy* (Bandung: Citra Aditya Bakti) 1996, p. 30

²⁸M. Hamdan, *Criminal Law Politics* (Jakarta: RajaGrafindo), 1997, p. 21

²⁹Arief, *Anthology*, pp. 30 – 32.

22, 2004, is a transitional legal product. The enactment of Law Number 23 of 2004 can be said to be as a responsive legal product born from a politically responsive institution or agency amidst the shift of legislative rights to the legislature following the amendment to the 1945 Constitution. Responsive law can be defined as serving the social needs and interests experienced and discovered, not by officials but by the people. Responsiveness implies a commitment to the legal subject or something subject to legal regulations. In this article, it is Law Number 23 of 2004. In the context of responsive law, the law has responded to all the needs of society through authorized institutions. In the Indonesian context, it is the House of Representatives (DPR), the institution that holds legislative power. A responsive institution strongly maintains things that are essential to its integrity while still paying attention to or taking into account the existence of new forces within its environment. To do so, responsive law implements ways in which openness and integrity can support each other even though there are conflicts between the two. This responsive institution views social pressures as a source of knowledge and an opportunity for self-correction.³⁰

The concept of responsive law envisions a solution to this dilemma that attempts to combine openness with integrity. Responsive law's answer is selective adaptation to new demands and pressures. Responsive legal products are characterized by power based on the law, which is now no longer defined as formal procedural appropriateness, but rather as the progressive reduction of arbitrariness and abuse of power in political, social, and economic life. Thus, responsive law does not discard the concept of justice, but rather expands it to encompass substantive justice. In general, the characteristics of responsive legal products are as follows:³¹

1. Shifting emphasis from rules to principles and sovereignty of purpose;
2. The importance of the obligations and politeness of society in welcoming legal regulations both as one of the aims of law and as the final goal to be achieved by responsive legal products; and
3. Legal participation and political participation, as the legal system expands its critical resources, it delegates more discretion to decide authoritative matters.

Legal participation has expanded to encompass the creation and interpretation of legal policy. The enactment of Law No. 23 of 2004 has addressed all domestic violence issues that were previously not specifically regulated. Therefore, within the context of the Indonesian legal system, Law No. 23 of 2004 is able to fulfill substantive justice within the domestic sphere. In relation to progressive law, as Satjipto Rahardjo views it, progressive law was born to affirm that law is for humans, and not the other way around.³² He further stated that law is not merely a structure of regulations, but also a structure of ideas, culture, and ideals. Because the purpose of law is to make people happy, the legal problem lies with the people.

Factors Influencing Law Enforcement

According to Satjipto Rahardjo, law enforcement is a process of realizing legal desires, namely the thoughts of the law-making body formulated in legal regulations, into reality.³³ However, the law enforcement process does not always proceed as envisioned in legislation. In its implementation, several factors influence the law enforcement process. According to Lawrence M. Friedman, the effectiveness of law enforcement is influenced by legal structure, legal substance, and legal culture. The legal structure is the state apparatus that carries out the law enforcement process, such as the police, prosecutors, and judges. Legal substance is the content of applicable laws and regulations.³⁴ Meanwhile, legal culture is the customs that exist in society and are adhered to by the community. In line with this, Soerjono Soekanto stated that there are five factors that influence law enforcement, namely:³⁵

1. The legal factor itself (law)
2. Law enforcement factors
3. Factors of facilities that support law enforcement
4. Community factors
5. Cultural factors.

³⁰Philippe Nonet and Philip Selznick, *Responsive Law, Choices in Times of Transition*, trans. (Jakarta: Elsam and Huma), 2003, p. 62

³¹*Ibid.*, pp. 62-67.

³²Satjipto Rahardjo, "Progressive Law: Law that Liberates", *Journal of Law Progressive*, Vol. 1 Number 1, 2005.

³³Satjipto Rahardjo, *Ibid.*, Legal Science, (Bandung: Citra Aditya Bakti), 2006, p. 18

³⁴*Ibid.*, pp. 19-20.

³⁵*Ibid.*, p. 22.

According to Soerjono Soekanto³⁶Existing laws can influence the law enforcement process. This is because laws are the product of political agreements tailored to the interests of the government and legislative institutions in power at the time. Consequently, many laws in force in Indonesia do not reflect a sense of justice. According to Soerjono Soekanto, the second factor influencing the law enforcement process is law enforcement officials. On the one hand, law enforcement officials are individuals entrusted with enforcing the law. On the other hand, law enforcement officials are also part of society with families and various material needs to meet.³⁷Furthermore, facilities that support law enforcement can influence the law enforcement process. These facilities include education and salaries for law enforcement officers, as well as the operational equipment used by law enforcement officers. The community can also influence the law enforcement process because laws are created to regulate various aspects of community life. According to Soerjono Soekanto, the final factor that can influence the law enforcement process is culture. The law enforcement process can run smoothly if the applicable laws do not conflict with existing customs in society. Furthermore, another factor that can influence law enforcement is political intervention.³⁸

Law enforcement is the activity of harmonizing the relationships between values outlined in good principles, where embodiment and actions are a series of values embodied in order to maintain and preserve peaceful social interactions. Law enforcement will be fulfilled if the five pillars are implemented properly. These five pillars are:³⁹

1. Good legal instruments
2. Tough law enforcement officers
3. Adequate equipment
4. A legally aware society
5. Supporting bureaucracy

Sociological Analysis of Problems in Law Enforcement

To discuss the problems inherent in law enforcement, we must first understand legal instruments and law enforcement officials. Legal instruments are tools or means that serve as the legal basis for law protection and enforcement. Law enforcement officials, including judges, prosecutors, police, and even lawyers, are among those involved in law enforcement. Adequate equipment, a legally aware public, and a supportive bureaucracy are the five pillars that support effective law enforcement.

The general problems that occur in law enforcement consist of:⁴⁰

1. The gap between normative law (das sollen) and sociological law (das sein). Das sein is the reality that has occurred (Ius Constitutum). Meanwhile, das sollen is the rules and norms, as well as the reality of what should be done (Ius Constituendum). Both mean the gap between reality and hope, as well as between reality and expectations. Das sein is the implementation of all events whose occurrences are regulated by das sollen.
2. The gap between the legal behavior of society that should be and what actually happens
3. The difference between law on the books and law in action. Law on the books refers to all interpreted rules, regulations, and legal customs as written. Law in action is a legal theory that examines how the law is actually applied and enforced in society. These differences include several things, including:
 - a. Covering the question of whether the law in the form of regulations that have been promulgated reveals the patterns of social behavior that exist at that time means that when we create legal products, we must describe what exists in society.
 - b. Is what the court said the same as what was done?
 - c. Is the purpose expressly desired by a regulation the same as the effect of the regulation in reality?

Furthermore, the primary function of law is as a means of social control, while the purpose of law is to maintain order, social inequality, and the public interest. According to Soerjono Soekanto, in his book "Faktor-Faktor Yang Mempengaruhi Penejakan Hukum" (Factors Affecting Law Enforcement), published by Radja Grafindo in 2011, the factors influencing law enforcement are as follows:⁴¹

³⁶Soerjono, Ibid., Factors Influencing Law Enforcement, (Jakarta: PT. Raja Grafindo Persada), 2011, p. 35.

³⁷Ibid., p. 37.

³⁸Ibid., p. 38.

³⁹Ibid., pp. 48-49.

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⁴¹Soerjono, Factors Influencing Law Enforcement, (Jakarta: PT. Raja Grafindo Persada), 2011.

A. Legal Factors and Law Enforcement Factors

1. Legal Factors

Legal factors relate to legal regulations. These regulations are the starting point in the law enforcement process. They can be said to serve as guidelines for law enforcement officers and the public.

2. Law Enforcement Factors

Law enforcement factors encompass the role of law enforcement officers in enforcing applicable laws. These factors also encompass how officers enforce the law in accordance with their duties and appropriate use of authority. Factors influencing law enforcement in enforcing the law can be outlined as follows:

3. Quality of Law Enforcement

The quality of law enforcement is a crucial factor in law enforcement. Good quality involves morality, professionalism, and the proper use of authority. The quality of law enforcement can be summarized as follows:

- a) Weak insight into thinking
- b) Lack of work skills
- c) Lack of physical facilities, equipment, operational and financial, for example, the operational car uses its own money for petrol so that there are efforts by the police to find money which results in people being ticketed.
- d) Low work motivation
- e) The damage to the personal morality of officers, for example cases of bribery where money colors law enforcement, makes law enforcement discriminatory.
- f) Low education levels (Police), for example, low legal education for police, police cannot differentiate between criminal cases and civil cases, for example, embezzlement is considered a civil case, so that people who report criminal acts of embezzlement are rejected because they are considered civil matters. Police competence as the gateway to the law enforcement process is the mainstay for realizing a law enforcement process that upholds legal certainty, justice, and benefit. Inadequate work competence encourages corrupt actions by police personnel, so that in addition to focusing on improving welfare standards
- g) There are very few human resource development programs among

B. Facilities and Infrastructure Factors

Furthermore, factors influencing law enforcement, in addition to legal factors and law enforcement, include facilities and infrastructure. Facilities and infrastructure refer to the availability of supporting resources in the law enforcement process. These facilities and infrastructure must be further examined, particularly regarding their quality and quantity.

C. From outside the legal system

Then there are several factors which are factors outside the legal system which have an impact on law enforcement, namely as follows:

- a) **Legal Awareness:** Legal awareness is the understanding and awareness held by individuals or communities regarding the law and its role in social life. Legal awareness involves an understanding of the rule of law, its underlying values, and the expected consistency between the rule of law and the desired or expected sense of security in society. Legal awareness involves recognizing that law is a framework that regulates individual behavior and social interactions. It encompasses an understanding that law is a means to achieve justice, maintain order, protect human rights, and promote social welfare. Legal awareness also encompasses an understanding of the consequences of breaking the law, both personally and as members of society. Indicators of legal awareness provide clues to the level of legal awareness possessed by an individual or community. The indicators of legal awareness consist of:
 - a. **Legal Knowledge:** This indicator refers to an individual's or society's general understanding of the law. It encompasses knowledge of various types of law, applicable legal systems, legal processes, legal institutions, legal rights and obligations, and human rights. A good level of legal knowledge indicates a strong legal awareness.
 - b. **Legal Understanding:** In addition to legal knowledge, legal understanding encompasses the

ability of individuals or communities to describe and explain legal principles, legal norms, and their relationship to everyday life. Legal understanding enables individuals or communities to see the law as a relevant and important framework in their lives.

- c. **Legal Attitude:** Legal attitude refers to an individual's or society's views, beliefs, and values toward the law. Legal attitude encompasses whether an individual or society has positive trust in the law, respects legal authority, and believes in the importance of justice and compliance with the law. A positive legal attitude indicates a strong legal awareness.
- d. **Legal Behavior:** Legal behavior is the concrete actions of individuals or communities that comply with applicable laws and regulations. This includes compliance with the law, participation in legal processes, and the use of legal means to resolve conflicts or problems. Good legal behavior demonstrates legal awareness manifested in concrete actions.

Legal awareness is important in society because it plays a crucial role in maintaining order, justice, and stability in a society. Here are several reasons why legal awareness is essential for society:

1. Regulate behavior

Laws provide a clear framework for what is considered right and wrong in society. With legal awareness, people are more likely to follow the rules and avoid unlawful behavior. This helps prevent crime and social disorder.

2. Protection of rights and freedoms

The law protects individual human rights and provides every citizen with the freedoms they deserve. Legal awareness ensures that people understand their rights and respect the rights of others. This helps maintain a balance between individual freedom and the public interest.

3. Resolving conflicts

The law provides a fair and objective dispute resolution mechanism. With legal awareness, people are more likely to seek resolution through the legal process rather than resorting to violence or unilateral action. This helps prevent retaliation and escalating conflict.

4. Building trust and stability

Legal awareness creates trust within society. When people perceive that the law is enforced fairly and consistently, they are more likely to rely on the legal system and refrain from unlawful behavior. This creates social stability and strengthens social bonds between individuals and groups.

5. Respect authority and government

Legal awareness helps build respect for authority and government. When people understand the importance of law and respect legal institutions, they are more likely to cooperate with authorities, comply with regulations, and support democratic processes. This strengthens good governance and political stability. Legal awareness is a strong foundation for a well-functioning society. By understanding and respecting the law, society can create a safer, fairer, and more harmonious environment.

- b) **Community Development:** Social development is one aspect that influences law enforcement.
- c) **Culture:** Culture or the culture that exists in society is one aspect that influences law enforcement.
- d) **Politics and Rulers**⁴² According to Moh. Mahfud MD, the political configuration of a regime significantly influences the legal products it produces. In countries with an authoritarian political configuration, the resulting legal products are orthodox in character, while in countries with a democratic political configuration, the resulting legal products are responsive in character. There are three types of relationships between law and politics: law as a political determinant, politics as a legal determinant, or law and politics being balanced. The various definitions above have the same substantive meaning: legal politics is a policy regarding laws that will be enforced or not enforced to achieve state goals. Therefore, law is positioned as a 'tool' to achieve state goals. The basis of this thinking lies in the fact that the state has goals that must be achieved and efforts to achieve these goals are carried out by using law as a tool through the enforcement or non-enforcement of law. The core problem in law enforcement actually lies in the factors that influence it. One factor that influences the law enforcement process is political influence. First, law is a product of the political process. The process of law formation is carried out by political 'actors', whether they have balanced power or the dominance of certain political forces. Furthermore, the relationship between politics and law is demonstrated in the formation of legal institutions, the appointment of law enforcement leaders, and the law enforcement process in Indonesia.

⁴²Rai, Journal of Criminology and Justice Volume 2, Number 1, October 2022, Pages 1-3

Second, the intersection of politics and law presents two possibilities: politics that strengthens the law or politics that weakens the law. The political journey of the Indonesian nation has created a gap between the political elite (those in power) and the public, which then impacts the implementation of various laws and regulations in society. The political configuration of a regime significantly influences legal products and the law enforcement process.

Closing

As a concrete form of protection for women from domestic violence, several laws have been enacted to address domestic violence. These laws include the Criminal Code (KUHP) and Law No. 23 of 2004 concerning the Elimination of Domestic Violence (KDRT), which provides various legal protections related to protecting women from domestic violence. In an effort to prevent and reduce domestic violence crimes, the author in this case provides two ways, first using the law as a tool of social control by referring to Law Number 23 of 2004 concerning the elimination of domestic violence or KDRT and taking action against all forms of domestic violence that occur to provide a deterrent punishment for perpetrators of domestic violence. Second, by means of cooperation between the community, social institutions, and law enforcement must synergize in carrying out this preventive action. The efforts referred to are as a preventive measure, the three components should conduct socialization and education, and empowerment of the importance of public awareness of protection and gender equality in community life and these components should always provide mentoring for the protection of women by forming an organization in the regions to accommodate related to domestic violence against women. Then, the system must also have easy, fast, and responsive services. Another influencing factor is the factor of law enforcement officers in carrying out their authority, which needs to be based on high integrity by making the law the highest commander. One of the impacts of poor law enforcement officers is the decline in public trust in law enforcement officers. Therefore, the quality of good law enforcement, which involves morality, professionalism, and the proper use of authority, must be improved. One way to improve the integrity of law enforcement officers is through enforcement of laws that lack integrity. Furthermore, education or human resource development programs are needed for law enforcement, which is expected to improve their integrity.

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LEGAL SOCIOLOGY STUDY OF PREVENTION EFFORTS AND OVERCOMING DOMESTIC VIOLENCE (DOM) AGAINST WOMEN

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yang-kini-jadi-putra-mahkota-kelantan-21zpJZhag6n/1.

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