

## The Urgency of Changing the Status of Complaint Offences in Domestic Violence Criminal Acts Based on the Values of Justice

Denata Suryaningrat<sup>1)</sup> & Andri Winjaya Laksana<sup>2)</sup>

<sup>1)</sup>Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Email: [denadeva1980@gmail.com](mailto:denadeva1980@gmail.com)

<sup>2)</sup>Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Email: [andri.w@unissula.ac.id](mailto:andri.w@unissula.ac.id)

**Abstract.** Domestic violence (KDRT) is a human rights violation that has serious impacts on victims, but the regulation of complaint offenses in the PKDRT Law often hinders the legal process because investigators cannot act without a victim's report, while many victims are in vulnerable situations and are reluctant to report. A revision of the provisions of complaint offenses is needed so that the state can act more proactively in protecting victims of domestic violence in order to ensure a sense of security and justice as guaranteed by the 1945 Constitution. The purpose of this study is to find out and analyze the ideal concept of changing the status of complaint offenses in criminal acts of Domestic Violence based on the value of justice. The approach used in compiling this thesis is normative juridical research. The specifics of this research are descriptive analysis. The theories used include Wirjono Prodjodikoro's Theory of Punishment and Hans Kelsen's Theory of Justice. The results of this study are: (1) The regulation of domestic violence as a complaint offence, which was originally intended to protect the privacy of victims, actually weakens protection because victims are often in unequal relationships, dependency, and social pressure, so that the complaint requirement results in many cases not being processed and creates a culture of silence. This condition shows that the complaint offense model is not in accordance with the character of domestic violence as a crime with public impact, so it needs to be reconstructed to be more pro-victim and in line with the objectives of criminalization. (2) Changing the status of domestic violence from a complaint offense to an ordinary crime is a major step to realizing the ideal concept of victim protection, because the complaint requirement has so far actually hindered victims who are trapped in unequal power relations, dependency, and social pressure from obtaining access to justice. There is a need for a revision of Articles 51-53 of the Domestic Violence Law and must be accompanied by strengthening the role of the state through proactive intervention by officials, emergency protection mechanisms, increasing the capacity of law enforcement, and

*integrating victim assistance services so that the legal system is in line with the constitutional mandate and provides protection and justice.*

**Keyword:** *Complaint; Domestic; Justice; Violence.*

## 1. Introduction

Indonesia is a country based on the rule of law, placing law as the primary foundation for all governmental activities and social life. In a country based on the rule of law, the government aspires to ensure that all levels of society adhere to, obey, and respect the law, ensuring that every aspect of life can proceed in an orderly and orderly manner.<sup>1</sup> However, the existence of law does not guarantee complete freedom from violations in society. If a violation of the law occurs, the law must be strictly enforced to maintain order and justice. Article 28 B Paragraph (1) of the 1945 Constitution of the Republic of Indonesia affirms that every person has the right to form a family and continue their lineage through legal marriage and has the right to the survival and development of children. This constitutional provision guarantees that the state is obliged to be present in protecting and promoting the welfare of the family as the smallest unit of society.<sup>2</sup>

Domestic violence (DV) is a form of human rights violation that often occurs in the most private sphere, namely the family. In fact, the family should be a safe and comfortable place for each member. In the context of Indonesian law, the crime of domestic violence is regulated in Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT), which aims to provide protection to victims, generally women and children, and uphold the values of justice in the household. The problem of domestic violence is not only related to the aspect of law enforcement alone, but also concerns the protection of the constitutional rights of every person to feel safe and free from the threat of violence, thus requiring a legal approach based on the values of justice that protect victims and prevent the recurrence of violence. The emergence of this law has shifted the realm of private issues into a public issue. There are great hopes from the implementation of this law, including ending the culture of violence that exists in society, starting from the most crucial area, namely the home.<sup>3</sup>

According to Article 1 of the Domestic Violence Law, the definition of Domestic Violence (DV) is any act against a person, especially a woman, which results in

---

<sup>1</sup>Nur Iftitah Isnantiana, Law and the Legal System as Pillars of the State, Journal of Islamic Economic Law, Vol. 2, No. 1, 2019, pp. 19-35.

<sup>2</sup>Milati Fatma Sari and Yunanto Mulyadi, Analysis of the Constitutional Court's Judicial Review Decision No. 68/puu-xii/2014 on Article 2 Paragraph (1) of Law No. 1 of 1974 Concerning Interfaith Marriages, Diponegoro Law Journal, Vol. 5, No. 3, 2016, pp. 1-13.

<sup>3</sup>Damara Wibowo, Legal Protection for Victims of Domestic Violence According to Human Rights During the Investigation Process, USM Law Review Journal, Vol. 4, No. 2, 2021, pp. 818-827.

sexual, physical, psychological misery or suffering or neglect of the household, including threats to commit acts, coercion, or unlawful deprivation of liberty within the household. Article 5 of the Domestic Violence Law also mentions prohibitions that include acts of domestic violence (DV), namely: Everyone is prohibited from committing domestic violence against people within the scope of their household, by means of physical violence, psychological violence, sexual violence, or neglect of the household.

As is known, some forms of domestic violence are classified as complaint-based offenses, while others are not. To determine whether a form of domestic violence is a complaint-based offense or not, you can refer to the provisions stipulated in the Domestic Violence Law, namely:<sup>4</sup>

- a. Article 51, "The crime of physical violence as referred to in Article 44 Paragraph (4) is a complaint-based crime."
- b. Article 52, "Criminal acts of psychological violence as referred to in Article 45 Paragraph (2) are complaint-based offenses."
- c. Article 53, "Criminal acts of sexual violence as referred to in Article 46 committed by a husband against his wife or vice versa constitute a complaint offense."

Meanwhile, types of domestic violence other than those mentioned above are not included in the complaint offenses or are categorized as ordinary crimes.

Unlike ordinary crimes, complaint-based crimes are crimes that can only be prosecuted if there is an official complaint or report from the victim. This means that without a complaint from the victim, law enforcement cannot initiate the investigation and prosecution process.<sup>5</sup>This provision is based on the consideration that the crime concerns the victim's highly sensitive personal interests and does not always require legal intervention if the victim chooses to resolve the matter privately. The complaint offense grants the victim full authority to determine whether or not to pursue the case, allowing law enforcement to prioritize confidentiality and the protection of the victim's rights.<sup>6</sup>

Domestic violence (DV) cases in Indonesia remained alarming in 2024 and a serious concern for the government and the public. According to data released by the Ministry of Women's Empowerment and Child Protection (Kemen PPPA), 28,789 cases of domestic violence were recorded, with 24,973 female victims and

---

<sup>4</sup>George Mayor, *Offenses for Complaints Against Domestic Sexual Violence Cases*, *Lex Crimen*, Vol. 4, no. 6, 2015, p. 56

<sup>5</sup>Doni Anggara, *Analysis of Criminal Actions for Attempted Crimes in Complaint Offenses*, *AL-DALIL: Journal of Social, Political, and Legal Sciences*, Vol. 2, No. 3, 2024, pp. 38-43.

<sup>6</sup>Yasser Arafat, *Settlement of Complaint Offense Cases Using a Restorative Justice Perspective*, *Borneo Law Review*, Vol. 1, No. 2, 2017, p. 127-145.

3,816 male victims. Of these, gender-based violence against women dominated, accounting for 21,990 cases, while violence against men accounted for 5,540 cases.<sup>7</sup> This data shows that domestic violence victims are not only women and children, but also men, who in many cases experience repeated violence and require legal protection and psychological support. This phenomenon confirms that domestic violence is a serious problem that can affect anyone, and therefore victims have the right to report their experiences of violence to the police or relevant protection agencies for proper treatment and justice.

One real-life example occurred in Baubau City in January 2025, where the victim was reluctant to report to the police because she did not receive support from her community and was afraid of the social stigma that considered domestic problems a family disgrace.<sup>8</sup> In fact, the violence experienced by the victim occurred repeatedly and falls under the category of complaint-based offenses as stipulated in Articles 51 to 53 of the Law on the Elimination of Domestic Violence (PKDRT). Because there was no official complaint, the police had no legal basis to investigate or arrest the perpetrator, so the case stalled without resolution. The main factors that made the victim reluctant to report included fear, economic dependence on the perpetrator, and concern about social stigma. This condition reflects the weakness of the complaint-based offense regulation, where victims in vulnerable situations must bear the burden of reporting themselves so that the case can be processed. As a result, the perpetrator remains free and has the potential to repeat the violence, so that a revision of the complaint-based offense provisions in the PKDRT Law is needed so that the state can be more proactive in protecting victims without having to wait for the victim to have the courage to report.<sup>9</sup>

Domestic violence (KDRT) and the issue of complaint offenses in Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT) are closely related to the provisions stipulated in the Criminal Code (KUHP), both the old KUHP (*Wetboek van Strafrecht/WvS*) and the new KUHP (Law Number 1 of 2023). In the old KUHP, the regulation regarding complaint offenses was regulated in Article 72, while in the new KUHP it is regulated in Article 24. Both articles state that a complaint is an absolute requirement in prosecuting certain offenses that are private in nature and concern the victim's personal interests, so that law enforcement officers cannot begin an investigation without an official report from the victim. This is in line with the provisions in the PKDRT Law, which stipulates

---

<sup>7</sup>Imanudin Abdurrohman, "List of Domestic Violence Cases in Indonesia 2024, Most Victims Are Women", <https://tirto.id/daftar-kasus-kdrt-diindonesia-2024-g62T>, accessed on July 15, 2025 at 14.30

<sup>8</sup>Sitti Nurhardianti Hadmar, "Shame, the Reason Domestic Violence Victims in Baubau Are Reluctant to Report", RRI, <https://rri.co.id/daerah/1266381/malu-jadi-alasan-korban-kdrt-di-baubau-enggan-melapor?>, accessed on July 15, 2025 at 15.00

<sup>9</sup>Fatah Rafi Ardiansyah et al., *Domestic Violence as a Trigger for Other Criminal Acts*, NEM Publisher, Pekalongan, 2024, p. 22

that several forms of minor violence in the household, such as psychological violence and sexual violence in marital relations, are complaint offenses that can only be processed if there is a complaint from the victim.<sup>10</sup>

## **2. Research Methods**

The type of research used in this study is normative legal research or library legal research, namely legal research conducted by examining library materials that refer to the implementation of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT). According to Soerjono Soekanto, normative research is legal research conducted by examining library materials or secondary data alone. This research can also be called normative legal research or library legal research.<sup>11</sup> This research is descriptive and analytical in nature, aiming to describe relevant statutory provisions, linked to legal theories and the practice of implementing positive law related to the issue under study. The data used for this research is secondary data obtained from library research. The data analysis method used is descriptive qualitative, namely the breakdown of data analysis based on the information obtained, which will then be reviewed and analyzed to achieve clarity on the issues to be discussed.

## **3. Results and Discussion**

### **3.3. Status of Complaint Offenses in Domestic Violence Crimes**

A complaint-based offense is a form of criminal offense recognized in the Indonesian criminal law system, where law enforcement can only begin upon an official complaint or report from the victim or person directly harmed. This concept has long been recognized in the national legal system and is regulated in the old Criminal Code (KUHP), specifically Article 72 of the Criminal Code (WvS).<sup>12</sup>

And maintained in Law Number 1 of 2023 concerning the new Criminal Code through the provisions of Article 24,

These two provisions emphasize that for certain offenses involving personal gain, prosecution cannot be initiated without a complaint from the victim. A complaint is an absolute requirement for initiating legal proceedings in complaint-based offenses, unlike ordinary offenses, which can be processed without waiting for a victim's report.

---

<sup>10</sup>Emei Dwinanarhati Setiamandani and Agung Suprojo, Legal Review of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, *Reformasi*, Vol. 8, No. 1, 2018, pp. 37-46.

<sup>11</sup>Ahamad Rosidi et al., Methods in Normative and Sociological Legal Research (Field Research), *Journal of Law and Government*, Vol. 2, No. 1, 2024, pp. 46-58.

<sup>12</sup>Sirajuddin et al., The Offense of Adultery in the Perspective of Criminal Law and Islamic Law, *BUSTANUL FUQAHA: Journal of Islamic Law*, Vol. 5, No. 2, 2024, pp. 359-372.

Complaint crimes consist of two forms, namely absolute (absolute) complaint crimes and relative (non-permanent) complaint crimes, namely:<sup>13</sup>

1) Absolute Complaint Offense

This is a criminal offense that can only be prosecuted if a complaint is filed. A complaint is filed to prosecute the incident, so every party involved must be held accountable. Due to its nature as an absolute complaint offense, this type of offense cannot be separated from others.

2) Relative Complaint Offense

This is a criminal incident that is generally not a complaint-based offense, but can become one under certain circumstances, such as those stipulated in Article 367 of the Criminal Code concerning theft within the family. A complaint is filed not to prosecute the crime itself, but rather to prosecute a specific perpetrator deemed guilty. This type of complaint-based offense can be separated or broken down according to the party being reported.

The existence of complaint-based offenses is rooted in the principle of protecting the private rights of individuals, who are deemed to have the autonomy to determine whether an act that violates their personal interests deserves legal action. This principle embodies the principle of *ultimum remedium*, where criminal law is positioned as a last resort in conflict resolution. If it is still possible to resolve the matter amicably or peacefully, the state does not need to directly intervene in the criminal process. In crimes classified as complaint-based offenses, the state only acts after the victim has expressed a desire to pursue legal action. This also demonstrates that complaint-based offenses prioritize the victim's personal interests over the public interest.<sup>14</sup>

Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) specifically regulates the types of violence that fall under the category of complaint-based offenses and those that do not. This provision demonstrates the law's efforts to balance victim protection with respect for the privacy of the household, a sensitive area. Not all forms of domestic violence are treated as complaint-based offenses. Only certain forms of violence, the impact of which is considered minor or very personal, require a complaint from the victim to initiate legal proceedings.<sup>15</sup>

---

<sup>13</sup>Louisa Yesami Krisnalita and Dinda Wigrhalia, Termination of Investigation of Ordinary Crimes or Reports Based on Progressive Legal Theory, *Binamulia Hukum*, Vol. 9, No. 2, 2020, pp. 93-106.

<sup>14</sup>Rocky Marbun et al., *Selected Chapters on Criminal Law Enforcement (Procedure): Uncovering Speech Acts and Instrumental Communication of Law Enforcement Officials in Criminal Justice Practice*, Publica Indonesia Utama, Jakarta, 2021, p. 27

<sup>15</sup>I. Made Agus Mahendra Iswara and Arya Agung Iswara, *Settlement of Domestic Violence (Kdrt) Cases Through Penal Mediation Mechanisms*, Adab Publisher, Indramayu, 2023, p. 8

Domestic violence falls under the category of absolute complaint offenses, meaning that a criminal incident can only be prosecuted if a party first files a complaint. A complaint is filed to prosecute the criminal incident, not just a specific individual. Because the incident is the object of the prosecution, every individual involved in the incident must be held accountable and prosecuted according to the law.<sup>16</sup>

Complaints against domestic violence offenses can only be filed within six months of the victim becoming aware of the crime or identifying the perpetrator. If this timeframe is exceeded, the right to file a complaint is deemed lost. This provision is restrictive and often disadvantageous to victims of domestic violence, who often need a long time to recover psychologically and take legal action. This strict time limit is considered irrelevant because trauma, fear, and social pressure prevent victims from always reporting immediately. This demonstrates that the nature of domestic violence offenses is not always compatible with the psychological well-being of domestic violence victims.<sup>17</sup>

The complaint-based offense limits the police, prosecutors, and courts' latitude. They cannot act proactively in the absence of a formal complaint from the victim, even if there is evidence or witnesses indicating the violence occurred. Law enforcement in such cases becomes passive and wait-and-see, thus underperforming the law's function as a means of protecting victims. Law enforcement officials are often faced with a dilemma between enforcing formal procedural law and upholding humanitarian values to protect victims who are clearly suffering.<sup>18</sup>

According to the 2024 Annual Report (CATAHU) of the National Commission on Violence Against Women, based on the forms of violence, the most frequently reported cases were sexual violence (36.43%), psychological violence (26.94%), physical violence (26.78%), and economic violence (9.84%). In CATAHU partner reporting data, sexual violence showed the highest number of 17,305 cases, physical violence 12,626, psychological violence 11,479, and economic violence 4,565. Meanwhile, data from the National Commission on Violence Against Women shows that psychological violence still dominates with a total of 3,660

---

<sup>16</sup>Yandi Manoppo, Criminal Law Policy in Imposing Sanctions for Handling Domestic Violence, *Lex Administratum*, Vol. 10, No. 4, 2022, p. 102

<sup>17</sup>Hidayat Bastanta Sitepu et al., Juridical Analysis of Supreme Court Judges' Considerations Regarding the Withdrawal of Complaints That Exceed the Time Limit by Applying the Restorative Justice Approach (Jurisprudential Analysis of Supreme Court Decision No. 1600 K/Pid/2009 and Decision No. 2238 K/Pid. Sus/2013), *Iuris Studia: Jurnal Kajian Hukum*, Vol. 2, No. 2, 2021, pp. 144-155.

<sup>18</sup>Yasser Arafat, Settlement of Complaint Offense Cases Using a Restorative Justice Perspective, *Borneo Law Review*, Vol. 1, No. 2, 2017, p. 127-145.



cases, followed by sexual violence 3,166, physical violence 2,418, and economic violence 966.<sup>19</sup>

The number of cases of violence against women reported to the National Commission on Violence Against Women and its CATAHU partners in 2024 was 445,502. This number represents an increase of 43,527 cases, or approximately 10.76%, compared to 2023 (401,975). The number of complaints received by the National Commission on Violence Against Women in 2024 was 4,178 cases, a decrease of 4.48% from the previous year. Despite the decrease in the number of cases reported, the average number of complaints to the National Commission on Violence Against Women is 16 cases per day.<sup>20</sup>

Several factors that prevent victims from making complaints or reports include:<sup>21</sup>

#### 1) Psychological Barriers

Victims of domestic violence generally experience deep trauma, fear, and emotional dependence on the perpetrator, especially if the perpetrator is a husband or close family member. Fear of retaliation, threats, and loss of family support make victims tend to choose silence to avoid further conflict. According to Harkristuti Harkrisnowo, many victims of domestic violence experience psychological dependency syndrome (battered woman syndrome), where the victim feels guilty and views the violence they experienced as a consequence of personal mistakes. The provisions of the complaint offense that require victims to have the courage to report are unrealistic, because the state seems to demand actions that are difficult for someone in a situation of trauma and fear to carry out.

#### 2) Economic Dependence

Most victims of domestic violence, especially women, are economically dependent on their perpetrators. This dependency makes victims fear losing their livelihood and that of their children if the case is reported to the authorities. The provisions of the complaint offense in this case exacerbate the situation by requiring victims to report without considering the economic risks involved. Many victims choose to remain in abusive relationships because they feel they have no other alternative.

---

<sup>19</sup>National Commission on Violence Against Women, CATAHU 2024: Organizing Data, Sharpening Direction: Reflections on Documentation and Trends in Cases of Violence Against Women, <https://komnasperempuan.go.id/catatan-tahunan-detail/catahu-2024-menata-data-menajamkan-arrah-refleksi-pendokumentasian-dan-tren-kasus-kekerasan-terhadap-perempuan>, accessed on October 15, 2025

<sup>20</sup>Ibid

<sup>21</sup>Muhammad Iqbal Noer Faizi et al., Inhibiting Factors in the Role of North Lampung Police Investigators in Violent Crimes Perpetrated by Husbands Against Wives, *Innovative Law: Journal of Social Law and Humanities*, Vol. 2, No. 4, 2025, pp. 1-16.



### 3) Social and Cultural Pressures of Patriarchy

Indonesian society, particularly in areas with strong traditional values, where men hold primary power, dominate leadership roles in politics, moral authority, social rights, and control. Domestic issues are often considered private matters that should not be brought into the public sphere. Social stigma against victims of domestic violence remains high, with victims often blamed for failing to maintain family harmony or cover up the shame of the household. According to a report by UN Women Indonesia, most female victims of violence choose not to report the incident due to fear of social stigma. This social value further isolates victims and discourages them from seeking legal assistance, thus reinforcing the culture of silence within society.

### 4) The Role of Law Enforcement Officers in Providing Early Protection to Victims.

Because criminal law can only act upon a report, police cannot act even after they are aware of domestic violence unless the victim formally files a complaint. This situation creates a gap between legal ideals and social reality, where victims who should be protected are left under constant threat. Many victims of domestic violence (DV) struggle with issues of trust in law enforcement. This fear can stem from a broader mistrust in the system, where victims may worry that their experiences will be ignored or inadequately addressed. This widespread concern highlights the importance of law enforcement taking the time to ensure victims feel heard, believed, and supported when responding to domestic violence calls.

## **3.2. The Ideal Concept of Changing the Status of Complaint Offenses in Domestic Violence Crimes Based on Justice Values**

The term crime comes from the Latin word *delictum*. In German it is called *delict*, in French *delit*, and in Dutch it is known as *delict*. In the Great Dictionary of the Indonesian Language, a crime is defined as "an act that can be punished because it is a violation of criminal law." Several authors have argued that a crime is a unified whole. Simons defines *strafbaar feit* as an act that is punishable by law, is unlawful, has an element of guilt, and is committed by someone who is capable of being held accountable for their actions.<sup>22</sup>

A complaint offense is an offense that can only be prosecuted if there is a complaint from the party who suffered the loss. The term offense, also known as *delict*, *delikt*, *strafbaar feit*, offense, or criminal act, is commonly referred to in Indonesia as "criminal act." However, this term is actually inaccurate because offenses can occur not only through active actions, but also through the attitude of not doing something that should be done (in Dutch, called *nalaten*, in English, known as negligence). For this reason, Dutch law uses the term *strafbaar feit*,

---

<sup>22</sup>Padrisan Jamba, Chapter Terms and Definitions of Criminal Acts Introduction to Criminal Law, Gita Lentera, Padang, 2023, p. 12.

which literally means "criminal event." The use of the word *feit* is intended to encompass both actions and omissions.<sup>23</sup>

According to Muladi, the development of modern criminal law must consider the rights and needs of victims, not just focus on the perpetrator. In domestic violence, victims are generally in a very weak position physically, psychologically, and economically, so making the courage to report a condition for sentencing is a form of injustice. Criminal policy must be able to provide maximum protection for victims, ensure their safety from repeated threats, and prevent re-victimization due to legal processes that are insensitive to the victim's psychological condition. When the provision of the complaint offense is maintained for various types of domestic violence, the state loses the ability to carry out this function, resulting in a gap between the principles of victim protection in modern criminal law. Such an approach contradicts the new orientation of criminal law, which places the victim at the center of protection and the primary goal of law enforcement.<sup>24</sup>

The high rate of unreported domestic violence demonstrates a significant gap between legal norms and social reality. Data from the National Commission on Violence Against Women (Komnas Perempuan) in 2024 noted that most cases of domestic violence, particularly psychological and sexual violence, do not reach the legal process because victims are reluctant or afraid to report the incident. Psychological trauma, fear of retaliation, and emotional dependence on the perpetrator make it difficult for victims to make a rational decision to report the incident. The phenomenon of battered woman syndrome, as explained by Harkristuti Harkrisnowo, shows that victims often internalize violence as a personal mistake, thus hindering the reporting process. This situation demonstrates that requiring a victim's complaint as a gateway to criminal proceedings actually puts legal protection out of reach of those who need it most.<sup>25</sup>

The need to change the status of the complaint offense can also be seen from the inconsistency between the systemic and repetitive nature of domestic violence and the logic of the complaint offense, which prioritizes a private approach. Domestic violence is not simply a violation of an individual, but a violation of humanitarian values. Article 28G of the 1945 Constitution of the Republic of Indonesia affirms the right of every person to feel safe and protected from violence, thus obliging the state to take active steps to protect its citizens. If the

---

<sup>23</sup>Muhammad Yusuf Siregar, Analysis of Criminal Court Judges' Decisions on the Withdrawal of Complaint-Based Offense Cases (Study of Supreme Court Decision No. 1600 K/PID/2009), *USU Law Journal*, Vol. 11, No. 1, 2014, pp. 186-199.

<sup>24</sup>Arvita Hastarini and Dista Amelia Sontana, Protection of Victims of Domestic Violence (Victimology and New Criminal Code Perspective), *Rampai Jurnal Hukum (RJH)*, Vol. 2, No. 1, 2023, pp. 1-11.

<sup>25</sup>Harkristuti Harkrisnowo, Acts of Violence Against Women in a Socio-Legal Perspective, *Ius Quia Iustum Law Journal*, Vol. 7, No. 14, 2000, pp. 157-170.

state continues to maintain the complaint offense mechanism in the Domestic Violence Law, it will be deemed to have failed to fulfill its constitutional obligations. Changing the status of the complaint offense is an important instrument to ensure that law enforcement against domestic violence is in line with the constitutional mandate that upholds humanity and justice.<sup>26</sup>

Handling of domestic violence varies across countries, but generally involves legal aspects, victim protection, and rehabilitation.

### 1) Japan

The 2001 Act on the Prevention of Spousal Violence and the Protection of Victims (DV Prevention Act) positions domestic violence as a public issue requiring direct state intervention. This law does not place the burden of legal proceedings on the victim, as in the complaint mechanism, but rather emphasizes that law enforcement officers have the authority to act even if the victim has not filed an official report. Japan implements a system of protection orders that can be issued very quickly by the Family Court, including prohibitions on approaching the victim, prohibitions on contacting the victim through any media, and orders to expel the perpetrator from the home (eviction order) for a specified period. In emergency situations, the police can even provide temporary protection before the court makes a decision, making the victim's safety a top priority without complicated procedures. Japan also provides Spousal Violence Counseling and Support Centers (SVCs) throughout the prefectures. These institutions offer psychological counseling, legal aid, safe shelter, economic assistance, and long-term support to help victims achieve independence. This comprehensive support system ensures that victims are protected not only legally but also socially and economically. Japan's approach emphasizes that the state must take an active and preventive role in preventing recurrence of violence, while providing comprehensive protection to victims through an integral and effective combination of penal and non-penal mechanisms.<sup>27</sup>

### 2) English

The commitment to addressing domestic violence is evident through the Domestic Abuse Act 2021, which defines domestic violence as a public offense that does not depend on the victim's courage to report it. This law empowers police to issue Domestic Abuse Protection Notices (DAPNs), emergency protection orders that take effect immediately to prevent the perpetrator from approaching or contacting the victim, even without the victim's consent, if there is a perceived

---

<sup>26</sup>Wiwik Afifah, Law and the Constitution: Legal Protection Against Discrimination Against Women's Human Rights in the Constitution, *DiH: Jurnal Ilmu Hukum*, Vol. 13, No. 26, 2018, p. 201

<sup>27</sup>Nanda Putri Maharani and Imam Mahdi: Japan's Commitment to Reducing Violence Against Women, Especially During the Covid-19 Pandemic with United Nations Women (UN Women), *Ganaya: Journal of Social Sciences and Humanities*, Vol. 6, No. 4, 2023, pp. 1044-1058.

safety risk. Furthermore, the court can issue broader and more flexible Domestic Abuse Protection Orders (DAPOs), which include contact restrictions, restrictions on the perpetrator's movement, mandatory rehabilitation programs, and restrictions on access to children for their safety. The UK also integrates the roles of welfare agencies, social services, and community organizations in providing psychological support, legal aid, and shelter for victims. This system places victim protection at the center of public policy, with the state taking proactive action to prevent recurrence of violence, rather than simply responding to victims' reports. These mechanisms demonstrate that the UK has moved away from a reactive, complaint-based approach and replaced it with a holistic protection system that leverages the synergy between law enforcement, social services, and the judiciary to ensure safety and justice for victims of domestic violence.<sup>28</sup>

### 3) Australia

Police in Australia have the authority to issue Family Violence Intervention Orders (FVIO) after assessing that the victim is in danger, even if the victim does not request protection or even refuses such action. States such as Victoria, New South Wales, and Queensland adopt a zero-tolerance approach to abuse, meaning police are required to act when there are indications of abuse or violence, and the perpetrator can be detained to prevent recurrence of the violence. Courts can then issue long-term Family Violence Intervention Orders that include restraints, no-contact orders, eviction orders, child protection orders, and financial restrictions to prevent financial control over the victim. Australia also provides integrated psychological services, legal aid, and economic support, so victims do not face the legal process alone. Australia's approach demonstrates that the state must act preventatively and not passively wait for victims to report, as the victim's safety is a greater public interest than the private boundaries of a domestic relationship.<sup>29</sup>

Japan's approach to addressing domestic violence through the Act on the Prevention of Spousal Violence and the Protection of Victims is the most relevant and realistic model to implement in Indonesia because the social structures, family culture, and legal systems of both countries share several similarities, particularly in the strong family values that have traditionally made domestic violence a private matter. Japan has successfully overcome this barrier by shifting domestic violence from the private sphere to a public issue through proactive, rapid, and integrated protection mechanisms. Indonesia can implement a similar approach because the Domestic Violence Law already has a foundation for victim protection,

---

<sup>28</sup>Mohammad Khoerul Khusna, Protection of Women's Rights in the Framework of the Welfare State (Comparative Study of Indonesia and the UK), *Asian Journal of Law and Humanity*, Vol. 3, no. 2, 2023, p. 132

<sup>29</sup>Ellen Reeves, The Potential Introduction of Police-Issued Family Violence Intervention Orders in Victoria, Australia: Considering the Unintended Consequences, *Current issues in criminal justice*, Vol. 34, no. 2, 2022, p. 207-218

but is still hampered by the classification of complaints as an offense that prevents the state from acting without a victim's report. By adopting the Japanese model, Indonesia can enable law enforcement officials to act when there are indications of violence, so that victims' safety no longer depends on their courage to report, which is often hindered by trauma, economic dependence, and social pressure.

Japan's protection order mechanism, which can be issued quickly by the courts and even supported by emergency police protection measures, is well-suited to address the ongoing emergency protection gap in Indonesia. When violence occurs, victims in Indonesia often lack safe havens or quick support, leaving the risk of recurrence high. By implementing such a mechanism, Indonesia can strengthen the police's role in providing temporary protection and establish procedures for protection orders that can be issued within hours, rather than days. Such a system is crucial given that many domestic violence cases in Indonesia are recurrent and escalate in severity each time a victim fails to report or the case is dropped.

*Spousal Violence Counseling and Support Centers (SVCs)* in Japan, which provide comprehensive protection, including psychological, legal, mentoring, and economic support. Indonesia already has Integrated Service Centers for the Protection of Women and Children (P2TP2A) and Regional Technical Implementation Units for the Protection of Women and Children (UPTD PPA), but their capacity is inadequate and they are not yet systematically integrated with law enforcement. The Japanese model exemplifies that victim protection cannot be effective if it relies solely on law enforcement without adequate socio-economic support. By adopting the SVCs model, Indonesia can expand and strengthen victim service institutions, ensuring every victim has easy access to protection, counseling, and legal assistance, while simultaneously reducing the economic dependency that often causes victims to remain in situations of violence.

The scope for reporting crimes should be significantly narrowed or even eliminated, as acts of violence, whether physical, psychological, or sexual, are no longer appropriately considered private matters that depend on the victim's courage to report. All forms of physical, psychological, or sexual violence, including those considered "minor," are not worthy of being considered reporting crimes because they often lead to recurrent violence. This change aligns with justice and the protection of the basic right to security, while the principle of *ultimum remedium* cannot be used as a justification for imposing the burden of reporting on victims in unequal relationships. Victims of domestic violence face obstacles such as trauma, economic dependence, intimidation, and cultural stigma, thus placing a requirement for reporting on the victim creates injustice. Making domestic violence a common crime would shift responsibility to a more

empowered state and encourage a shift from a culture of silence to a culture of protection and reporting.

This ideal concept can be harmonized with the new Criminal Code and the Domestic Violence Law by conducting a normative reconstruction of the articles that make domestic violence a complaint offense. Article 24 of the 2023 Criminal Code, which states that a complaint offense must be expressly defined in law, can be an entry point for reviewing whether domestic violence should indeed be maintained as a complaint offense. The Domestic Violence Law, as *lex specialis* to the Criminal Code, can be revised by revoking the provisions of Articles 51, 52, and 53 that make minor physical violence, minor psychological violence, and sexual violence in marital relations as complaint offenses, and returning them to ordinary crimes that can be prosecuted without a complaint. This harmonization still respects the framework of the 2023 Criminal Code, but simultaneously strengthens the *lex specialis* character of the Domestic Violence Law as a special protection instrument for victims of domestic violence.

#### **4. Conclusion**

The regulation of domestic violence as a complaint offense in the old Criminal Code, the new Criminal Code, and the Domestic Violence Law, which is intended to protect the privacy of victims, actually weakens this protection because victims are in unequal relationships, economic dependence, trauma, and cultural pressures. Therefore, the complaint requirements and deadlines lead to many cases going unreported. Data from the National Commission on Violence Against Women's 2024 CATAHU (Catahu) shows that the high number of domestic violence cases is disproportionate to the number of complaints, so that the criminal process is not running, the deterrent effect is not achieved, and the prevention function is not achieved. This condition proves that the complaint offense is not in accordance with the character of domestic violence which has a public and systemic impact, so the regulation needs to be revised towards a model that is more pro-victim and in line with the objectives of criminalization and the protection of human dignity. The ideal concept of changing the status of the complaint offense in domestic violence requires a reconstruction of how criminal law views the relationship between victims, perpetrators, and the state because provisions originally intended to protect privacy have become obstacles due to the victim's position which is not free from trauma, economic dependence, patriarchal culture, and unequal power relations. The change in status to an ordinary crime, revision of Articles 51-53 of the Domestic Violence Law, strengthening of the apparatus, and integration of victim assistance services are steps to align national law with the constitutional mandate, values of justice, and the need for real protection for victims.

## 5. References

### Journals:

- Ahamad Rosidi et al., Metode Dalam Penelitian Hukum Normatif dan Sosiologis (Field Research), *Journal Law and Government*, Vol. 2, No. 1, 2024
- Arvita Hastarini dan Dista Amelia Sontana, Perlindungan Korban Tindak Kekerasan Dalam Rumah Tangga (Perspektif Viktimologi Dan Kuhp Baru), *Rampai Jurnal Hukum (RJH)*, Vol. 2, No. 1, 2023, hlm
- Damara Wibowo, Perlindungan Hukum Terhadap Korban Kekerasan Dalam Rumah Tangga Menurut Hak Asasi Manusia Selama Proses Penyidikan, *Jurnal USM Law Review*, Vol. 4, No. 2, 2021
- Doni Anggara, Analisis Tindakan Pidana Percobaan Kejahatan Dalam Delik Aduan, *AL-DALIL: Jurnal Ilmu Sosial, Politik, Dan Hukum*, Vol. 2, No. 3, 2024, hlm. 38-43.
- Ellen Reeves, The Potential Introduction of Police-Issued Family Violence Intervention Orders in Victoria, Australia: Considering the Unintended Consequences, *Current issues in criminal justice*, Vol. 34, No. 2, 2022
- Emei Dwinanarhati Setiamandani dan Agung Suprojo, Tinjauan Yuridis Terhadap UU Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga, *Reformasi*, Vol. 8, No. 1, 2018
- George Mayor, Delik Aduan Terhadap Perkara Kekerasan Seksual Dalam Rumah Tangga, *Lex Crimen*, Vol. 4, No. 6, 2015
- Harkristuti Harkrisnowo, Tindakan Kekerasan Terhadap Perempuan dalam Perspektif Sosio-Yuridis, *Jurnal Hukum Ius Quia Iustum*, Vol. 7, No. 14, 2000
- Hidayat Bastanta Sitepu et al., Analisis Yuridis Pertimbangan Hakim Mahkamah Agung Terhadap Pencabutan Pengaduan Yang Melewati Batas Waktu Dengan Menerapkan Pendekatan Restorative Justice (Analisis Yurisprudensi Mahkamah Agung No. 1600 K/Pid/2009 dan Putusan No. 2238 K/Pid. Sus/2013), *Iuris Studia: Jurnal Kajian Hukum*, Vol. 2, No. 2, 2021
- I. Made Agus Mahendra Iswara dan Arya Agung Iswara, *Penyelesaian Perkara Tindak Pidana Kekerasan Dalam Rumah Tangga (Kdrt) Melalui Mekanisme Mediasi Penal*, Penerbit Adab, Indramayu, 2023
- Louisa Yesami Krisnalita dan Dinda Wigrhalia, Penghentian Penyidikan Terhadap Delik Biasa atau Laporan Berdasarkan Teori Hukum Progresif, *Binamulia Hukum*, Vol. 9, No. 2, 2020



Milati Fatma Sari dan Yunanto Mulyadi, Analisis Putusan Judicial Review Mahkamah Konstitusi No. 68/puu-xii/2014 Atas Pasal 2 Ayat (1) Undang-undang No. 1 Tahun 1974 Terhadap Perkawinan Beda Agama, *Diponegoro Law Journal*, Vol. 5, No. 3, 2016

Mohammad Khoerul Khusna, Protection of Women's Rights in the Framework of the Welfare State (Comparative Study of Indonesia and the UK), *Asian Journal of Law and Humanity*, Vol. 3, No. 2, 2023

Muhammad Iqbal Noer Faizi et al., Faktor Penghambat Peran Penyidik Polres Lampung Utara Terhadap Tindak Pidana Kekerasan yang Dilakukan Suami Terhadap Istri, *Hukum Inovatif: Jurnal Ilmu Hukum Sosial dan Humaniora*, Vol. 2, No. 4, 2025

Muhammad Yusuf Siregar, Analisis Putusan Hakim Peradilan Pidana terhadap Pencabutan Perkara Delik Aduan (Studi Putusan Mahkamah Agung No. 1600 K/PID/2009), *USU Law Journal*, Vol. 11, No. 1, 2014

Nanda Putri Maharani dan Imam Mahdi, Komitmen Jepang dalam Meredam Kekerasan pada Perempuan Khususnya saat Pandemi Covid-19 bersama United Nations Women (UN Women), *Ganaya: Jurnal Ilmu Sosial dan Humaniora*, Vol. 6, No. 4, 2023

Nur Iftitah Isnantiana, Hukum Dan Sistem Hukum Sebagai Pilar Negara, *Jurnal Hukum Ekonomi Syariah*, Vol. 2, No. 1, 2019

Wiwik Afifah, Hukum dan Konstitusi: Perlindungan Hukum Atas Diskriminasi Pada Hak Asasi Perempuan Di Dalam Konstitusi, *DiH: Jurnal Ilmu Hukum*, Vol. 13, No. 26, 2018

Yandi Manoppo, Kebijakan Hukum Pidana Dalam Pemberian Sanksi Terhadap Penanggulangan Tindak Pidana Kekerasan Dalam Rumah Tangga, *Lex Administratum*, Vol. 10, No. 4, 2022

Yasser Arafat, Penyelesaian Perkara Delik Aduan Dengan Perspektif Restorative Justice, *Borneo Law Review*, Vol. 1, No. 2, 2017

#### **Books:**

Fatah Rafi Ardiansyah et al., *Kekerasan dalam Rumah Tangga sebagai Pemicu Tindak Pidana Lainnya*, Penerbit NEM, Pekalongan, 2024

Padrisan Jamba, *Istilah Chapter Dan Pengertian Tindak Pidana Pengantar Hukum Pidana*, Gita Lentera, Padang, 2023

Rocky Marbun et al., *Kapita Selekta Penegakan Hukum (Acara) Pidana: Membongkar Tindak Tuturan dan Komunikasi Instrumental Aparat*

*Penegak Hukum dalam Praktik Peradilan Pidana*, Publica Indonesia Utama, Jakarta, 2021

Sirajuddin et al., Delik Aduan Tindak Pidana Perzinahan dalam Pandangan Hukum Pidana dan Hukum Islam, *BUSTANUL FUQAHA: Jurnal Bidang Hukum Islam*, Vol. 5, No. 2, 2024

**Internet:**

Imanudin Abdurrohman, “Daftar kasus KDRT di Indonesia 2024, Korban Mayoritas Perempuan”, <https://tirto.id/daftar-kasus-kdrt-diindonesia-2024-g62T>

Komnas Perempuan, CATAHU 2024: Menata Data, Menajamkan Arah: Refleksi Pendokumentasian Dan Tren Kasus Kekerasan Terhadap Perempuan, <https://komnasperempuan.go.id/catatan-tahunan-detail/catahu-2024-menata-data-menajamkan-arrah-refleksi-pendokumentasian-dan-tren-kasus-kekerasan-terhadap-perempuan>

Sitti Nurhardianti Hadmar, “Malu, Jadi Alasan Korban KDRT di Baubau Enggan Melapor”, RRI, <https://rri.co.id/daerah/1266381/malu-jadi-alasan-korban-kdrt-di-baubau-enggan-melapor>