

Reconstruction of The Enforcement of Domestic Violence Law In Divorce Cases: Towards An Integrated Framework For Legal Certainty and Victim Protection In Indonesia

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Abstract

Domestic violence remains a pervasive legal and social problem in Indonesia, particularly when it intersects with divorce proceedings. This study argues that law enforcement remains fragmented between the criminal justice system and the religious court system, producing significant uncertainty for victims who must navigate parallel legal processes. Using a normative-empirical methodological design, this research examines statutory frameworks, judicial decisions, and institutional practices to identify the structural, procedural, and cultural factors contributing to the disjunction between criminal adjudication and divorce litigation. The findings reveal systemic weaknesses, including the absence of integrated evidentiary mechanisms, limited inter-agency coordination, and persistent patriarchal biases that hinder victim-centered protection. These deficiencies not only undermine the effectiveness of domestic violence regulation but also restrict victims' access to meaningful legal remedies. Building on these findings, the study proposes an integrated enforcement model that harmonizes evidentiary use, strengthens institutional coordination, and embeds victim protection into both criminal and family court processes. This reconstructed framework aims to enhance legal certainty, improve procedural coherence, and align national practices with international standards on state due diligence in addressing domestic violence. The study contributes to advancing theoretical discourse on legal harmonization and offers practical policy recommendations for reforming Indonesia's domestic violence and family justice systems.

Keywords: Domestic Violence; Divorce Proceedings; Legal Certainty; Evidence Integration; Gender-Responsive Justice

Introduction

In the construction of a modern legal state, certain spaces within the domestic sphere—which should guarantee security and well-being—have paradoxically become arenas where the dignity and fundamental rights of family members are systematically eroded (Lubis et al., 2023; Musyarofah, 2021; Rosyada, 2023; Suhaeny, 2020). Domestic violence (KDRT) is not merely a private matter but represents a systemic failure in protecting the constitutional rights of citizens. This phenomenon challenges the state to enforce law fairly and effectively (Azzahra, 2017; Putri et al., 2025; Windani et al., 2024). Consequently, discussions surrounding domestic violence law enforcement extend beyond juridical necessity to encompass a critical understanding of the relationships

among power, justice, and humanity within the family domain (Aziz et al., 2023; Mentari, 2024; Rabbani, 2021).

Empirical data show that the problem of domestic violence continues increase and become issue crucial in Indonesian legal system . Notes Annual The National Commission on Violence Against Women (Komnas Perempuan) recorded 459,378 reports in 2023. case violence to women , where the proportion the biggest originate from personal sphere , including domestic violence. Moreover, 2022 data from the Religious Court reveal over 516,000 divorce cases, approximately 70% of which were related to household conflicts containing elements of violence—including physical, psychological, and economic abuse. In the construction of a modern legal state (Lubis et al., 2023; Musyarofah, 2021; Rosyada, 2023; Suhaeny, 2020), certain spaces, such as the domestic sphere, which should guarantee a sense of security and well-being, have instead become arenas where the dignity and basic rights of family members are eroded. Domestic violence (KDRT) is not just a private problem but rather a reflection of systemic failure in protecting the constitutional rights of citizens. This phenomenon challenges the state to enforce the law fairly (Azzahra, 2017; Putri et al., 2025; Windani et al., 2024). Thus, the discussion surrounding domestic violence law enforcement is not only based on legal needs but also on an effort to understand the relationship between power, justice, and humanity within the family domain (Aziz et al., 2023; Mentari, 2024; Rabbani, 2021).

Empirical data show that the problem of domestic violence continues to increase and has become a crucial issue in the Indonesian legal system. The National Commission on Violence Against Women (Komnas Perempuan) recorded 459,378 reports of violence against women in 2023, with the largest proportion originating from the private sphere, including domestic violence. In addition, 2022 data from the Religious Court shows that there were over 516,000 divorce cases, approximately 70% of which were related to household conflicts that contained elements of violence, including physical, psychological, and economic violence. This high figure underscores the structural nature of domestic violence, requiring serious attention, as it directly impacts the continuity of households and legal protection for victims. However, despite the existence of regulations, domestic violence law enforcement remains ineffective, especially when cases intersect with divorce proceedings.

The urgency of this research becomes apparent when examining the connection between the criminal process of domestic violence and divorce case settlements. In practice, both processes often proceed separately, without an integrative mechanism that allows for the consideration of domestic violence evidence in divorce decisions. This fragmentation creates uncertainty, particularly for victims who must navigate two legal paths simultaneously, with the risk of revictimization. Moreover, the status of the criminal process, which is not legally binding, often does not have significant implications for judges' considerations in divorce cases. This situation reveals the disharmony in law enforcement, resulting in inadequate protection for victims.

Within the scholarly literature, numerous studies have addressed normative aspects of the Domestic Violence Law, victim protection effectiveness, and structural

legal obstacles (Lukman et al., 2025; Oktadiana & Sambas, 2025; Permata et al., 2025; Susantin, 2023). For instance, Susantin (2023) examined implementation challenges of victim protection policies in Indonesia, while Oktadiana and Sambas (2025) analyzed restitution mechanisms in preventing recurrent domestic violence from a criminal law perspective. Similarly, Permata et al. (2025) conducted a juridical-empirical investigation of law enforcement practices by police in protecting domestic violence victims. However, these studies have predominantly focused on isolated aspects—either criminal law enforcement or family law procedures—without addressing the critical intersection between both systems.

There remains a conspicuous research gap regarding comprehensive reconstruction of domestic violence law enforcement specifically concerning divorce cases, particularly regarding evidence integration, institutional coordination, and procedural synchronization. Previous research has tended toward partial analyses, thus failing to present a holistic conceptual framework capable of addressing substantive issues related to legal certainty for victims during concurrent criminal and civil proceedings. This represents a significant research gap and forms the principal justification for this study.

Scientifically, this research contributes to strengthening theoretical frameworks on law enforcement, victim protection, and harmonization of criminal law with family law. Practically, this research offers actionable recommendations for policymakers and law enforcement institutions to develop systematic, integrative mechanisms for handling domestic violence with a focus on victim rights recovery.

Method

This research methodology is designed to provide an analytical framework that allows for an in-depth exploration of the problematic enforcement of domestic violence (DV) laws in relation to divorce settlements. Adopting a legal approach commonly used in international studies of justice systems, this research combines a normative juridical approach with limited empirical research to generate a holistic understanding of how the law operates in a complex social and institutional context.

Epistemologically, this research begins with a juridical-normative approach to examine the construction of positive law governing the handling of domestic violence and divorce, including fundamental principles inherent in the Indonesian legal system, such as legal certainty, victim protection, and the principles of criminal justice and family justice (Kharisma, 2025; Permata et al., 2025; Umi, 2020). This approach is carried out through an analysis of laws and regulations, jurisprudence, technical guidelines for judicial institutions, and relevant international legal instruments for the protection of victims of violence. This normative analysis allows for the identification of disharmony, gaps, and asynchronous regulations that become obstacles to implementation.

However, to understand how these norms are applied in practice, this study employed a limited empirical approach, primarily to observe patterns of law enforcement and institutional interactions in handling domestic violence cases related to divorce.

Empirical data were obtained through document review, including criminal court decisions and religious court decisions in cases indicating violence as a motive for divorce. Cases were selected purposively during the 2018–2024 period to ensure relevance to recent developments in domestic violence law enforcement. In several cases, structured interviews were conducted with law enforcement officials and victim advocates to obtain insights into procedural implementation, practical obstacles, and professional perceptions of the integration of criminal and civil processes. The interview procedures used standardized guidelines for replication by other researchers.

The normative and empirical data collected were analyzed using a qualitative-descriptive model that allows for integration between legal texts, judicial practices, and institutional perspectives. The analysis began with a thematic categorization of key issues such as evidentiary integration, institutional coordination, victim protection, and structural barriers. The next stage involved a systematic comparison between normative provisions and practical realities to identify implementation gaps. Finally, the analysis focused on formulating a legal reconstruction model using a prescriptive approach, developing normative and structural recommendations deemed most capable of addressing the identified weaknesses.

This methodological approach was chosen to ensure that the research not only provides a description of positive law but also captures the operational dynamics of domestic violence law enforcement. Thus, this methodology allows the research to contribute not only to theoretical studies on the harmonization of criminal and family law but also to the development of evidence-based legal reform that aligns with comparative law enforcement practices and international victim protection standards. The methodological rigor and emphasis on reproducibility of the analysis are expected to make this research compatible with the academic standards of reputable international law journals.

Results and Discussion

The analysis shows a significant normative fragmentation between the criminal law framework, which regulates domestic violence crimes, and the civil legal framework, which governs divorce (Fadlian, 2020; Lukman et al., 2025; Mansari & Dahlan, 2018). Although the Law on the Elimination of Domestic Violence (PKDRT Law) mandates the state to provide comprehensive protection for victims, these norms are not explicitly synchronized with provisions in the Religious Courts Law, especially regarding the use of violence as evidence in divorce cases.

This fragmentation is evident when criminal decisions and proceedings are separated from the divorce process. In several cases analyzed, even though the victim has attached evidence such as a *visum et repertum* or police report, religious courts do not automatically accept this evidence as a determinant in divorce decisions. In practice, violence is treated as an "indication" rather than "confirmation" of abuse unless a final criminal decision with permanent legal force has been reached. This creates a significant

gap, considering that the criminal process is often lengthy, while the victim requires swift legal certainty through divorce.

These findings support Lawrence Friedman's theory of legal systems, which emphasizes that legal substance cannot be effective without support from harmonious legal institutions and culture (Jamilah & Adicahya, 2014; Rofifah et al., 2024; Wahyuni & Yuni, 2024). In other words, even if norms exist, without procedural harmonization between the justice systems, victim protection remains inadequate.

Lack of Evidence Integration as an Obstacle to Legal Certainty

Court decisions show that the absence of an integrative mechanism to connect evidence from criminal cases and divorce proceedings is a major obstacle to legal certainty. In the current Indonesian legal framework, evidence of domestic violence processed in the criminal justice system is not automatically linked to the religious courts. Civil procedure law in the religious court environment places more emphasis on verbal evidence and family testimony, often resulting in medical and investigative evidence related to domestic violence receiving inadequate legal weight (Gofar, 2013; Husni Thamrin et al., 2021; Kosasi & Aritonang, 2023; Sari & Yudowibowo, 2017; Zaifudin, 2018).

This situation has serious implications. First, the victim must prove violence in two different legal processes, with proof standards that are not always compatible. Second, the lack of synchronization may weaken the victim's position, as failure to integrate evidence could be seen by the perpetrator as a form of impunity. Third, the court's inability to consistently present a legal picture of the violence creates legal uncertainty, which impacts the rights of child custody, asset division, and victim recovery.

These findings align with international literature on victim-centered justice, which emphasizes that a responsive legal system must integrate evidence across processes to avoid revictimization and ensure judicial acknowledgment of the victim's experience (P & Panjaitan, 2025; Ramadianto et al., 2025). The inability of the justice system to integrate evidence highlights the need for more progressive procedural reconstruction.

Structural and Institutional Barriers in Domestic Violence Law Enforcement

The research also identifies various structural obstacles in the practice of domestic violence law enforcement, particularly related to inter-institutional coordination. Police, prosecutors, victim advocacy institutions, and religious courts often work within separate procedural frameworks, without a coordinating mechanism for operational cooperation (Gesa Bimantara et al., 2024; Nasution et al., 2025; Simpan Edy Saputra et al., 2025). This results in delays in legal processes, inconsistencies in documentation, and a lack of sustainable protection mechanisms for victims.

In some of the cases analyzed, for example, reports of domestic violence that have reached the investigation stage are not formally communicated to the religious courts, meaning civil judges do not receive a comprehensive description of the factual situation at home. Similarly, investigators do not always prioritize domestic violence cases in the

context of divorce, resulting in delays in processing victim reports. These structural obstacles reveal an institutional disjuncture that hinders the formation of an integrated law enforcement process.

Reconstructing the Law Enforcement System: Towards an Integrative and Ideal Model

Further analysis indicates that these structural obstacles are not only technical but also reflect a patriarchal legal culture, influencing the perception of the urgency of domestic violence cases by authorities. This points to feminist legal theory, which asserts that legal structures often reflect gender bias, leading to minimal responses to domestic violence.

Based on the findings, a comprehensive reconstruction of the domestic violence law enforcement system, particularly in relation to divorce cases, is necessary. This reconstruction should be multidimensional, addressing normative, structural, and cultural aspects in a synergistic manner to overcome the identified systemic dysfunctions. Normatively, reconstruction requires the affirmation and harmonization of both substantive and procedural legal rules, particularly regarding evidence. Explicit provisions should recognize and regulate the use of criminal evidence—such as *visum et repertum*, investigation reports, and victim statements—as valid and relevant in divorce adjudication (Gesa Bimantara et al., 2024; Nasution et al., 2025). This precise normative arrangement is crucial to bridging the gap between criminal and civil proceedings and preventing conflicting verdicts.

Structurally, the reconstruction requires the improvement of institutions to focus on integration and efficiency. The research highlights the imperative to establish permanent coordination mechanisms and effective inter-institutional cooperation, supported by an integrated electronic information exchange system between law enforcement agencies (police, prosecutors, courts) and victim advocacy institutions. Such an initiative is critical for ensuring smooth information flow, removing duplication, and overcoming the bureaucratic obstacles that have led to fragmented, protracted, and contradictory case handling. Without this structural transformation, normative reforms will lose their operational effectiveness.

Finally, the cultural dimension is a key pillar for the sustainability of this reconstruction. A paradigm shift among law enforcement authorities is required, viewing domestic violence not merely as a private family matter but as a serious violation of basic human rights. This cultural reconstruction aims to build gender sensitivity, an understanding of victim trauma (trauma-informed approach), and a commitment to the principle of state due diligence. Only with this paradigm can normative and structural changes be implemented meaningfully and sustainably.

Synthesis from these three dimensions leads to the proposal of an ideal model for domestic violence law enforcement in the context of divorce. This integrative model is built on four main pillars: (1) integration of evidence across legal processes (criminal and civil), (2) hierarchical and institutionalized coordination, (3) mechanisms for accelerating

administrative and judicial procedures for cases impacting divorce, and (4) continuous victim protection and recovery schemes centered on victim rights. This model is designed not only to address the identified systemic gaps but also to align with international legal standards, including victim protection principles, restorative justice approaches, and the state's obligation to exercise due diligence in preventing, investigating, and addressing gender-based violence.

Thus, the findings and proposed models from this study provide a strong conceptual and operational framework for legislative policy formulation and future justice practices. The proposed framework aims to realize a more coherent, consistent, and adaptive law enforcement system that fulfills the needs of victims and the state's obligations under international law.

Conclusion

This research highlights structural, normative, and cultural challenges in enforcing domestic violence (DV) law within Indonesia's divorce proceedings, including fragmentation between criminal and family justice systems that disrupts evidentiary integration, victim legal status, and inter-institutional coordination, compounded by patriarchal biases and regulatory gaps that undermine protection and substantive justice. It proposes a reconstructed, integrative model emphasizing evidence harmonization, institutional mechanisms for information exchange, accelerated processes, and victim-centered values to foster legal certainty and align with human rights standards, offering theoretical advancements in legal harmonization and practical policy reforms. For future research, scholars could empirically test this model's implementation through longitudinal case studies in religious courts, assessing its impact on victim outcomes and exploring digital tools for real-time evidence sharing across jurisdictions.

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