



Legal Review of the Implementation of Human Rights in Handling Cases of Violence Against Women

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ABSTRACT

Violence against women constitutes a violation of human rights and reflects entrenched structural gender inequality. In Indonesia, despite the existence of Law No. 23/2004 on the Elimination of Domestic Violence and the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), significant challenges persist in the implementation of legal protections. This study aims to evaluate the effectiveness of existing legal frameworks in addressing violence against women and to identify necessary regulatory reforms. Utilizing a normative juridical method with statutory and conceptual approaches, the study analyzes the alignment of national laws with international human rights standards. It also assesses policy implementation by examining court rulings, institutional reports, and empirical data on victim protection outcomes. The findings reveal pervasive gender bias in both regulatory provisions and law enforcement practices, which undermines victims' access to justice. Key obstacles include the absence of a gender-sensitive legal perspective, inadequate protection mechanisms, and the limited capacity of law enforcement personnel. The study concludes that comprehensive legal reform, capacity building, and integrating a human rights-based approach are essential to establishing a more inclusive and effective legal protection system for women in Indonesia.

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1. Introduction

Violence against women is a complex issue that reflects gender inequality as well as deep human rights violations. This phenomenon continues to be a serious concern in Indonesia, given the high number of cases recorded each year. Based on real-time data from the Ministry of Women's Empowerment and Child Protection (KemenPPPA), until August 11, 2024, there were 15,173 cases of violence, with women as victims accounting for 80.1%.¹ This figure shows that women are still the most vulnerable group to various forms of violence, whether physical, sexual, psychological, or economic, which occur in the domestic and public spheres. Not only does it harm individual victims, this gender-based violence also perpetuates structural injustice in society.²

Violence against women is a form of human rights violation that is often overlooked and not seen as a pressing issue in the legal and social systems.³ In fact, women as part of vulnerable groups have the fundamental right to live safely, free from all forms of violence, whether physical, psychological, sexual, or economic. The principles of equality and freedom from discrimination, which are at the core of human rights, emphasize that gender-based violence not only violates women's individual rights, but also hinders the creation of a just and inclusive society.⁴ From a legal perspective, a human rights-based approach is very important because it not only emphasizes the punishment of perpetrators, but also ensures that victims' rights are restored through comprehensive protection mechanisms. Moreover, eradicating violence against women requires a paradigm shift, both in legal structures that are more responsive to gender justice, as well as in social awareness that rejects patriarchal culture and victim-blaming stigma.

Unfortunately, many people still consider violence against women as a private or domestic matter, not a human rights violation. This is exacerbated by a strong patriarchal culture, where victims are often blamed for the violence they experience. Gender injustices such as marginalization, negative stereotypes and subordination play a major role in

¹ Susi Setiawati, "Kekerasan Terhadap Perempuan Melonjak, Paling Banyak Dilakukan Pacar," *CNBC Indonesia*, Agustus 2024, <https://www.cnbcindonesia.com/research/20240812072035-128-562153/kekerasan-terhadap-perempuan-melonjak-paling-banyak-dilakukan-pacar>.

² Mohsi, "Analisis Perkawinan Paksa Sebagai Tindak Pidana Kekerasan Seksual Dalam Rancangan Undang-undang Penghapusan Kekerasan Seksual," *Al-Adalah: Jurnal Hukum dan Politik Islam* 5, no. 1 (2020): 1–19.

³ Siti Rofiah, "Harmonisasi Hukum Sebagai Upaya Meningkatkan Perlindungan Hukum Bagi Perempuan Penyandang Disabilitas Korban Kekerasan Seksual," *Qawwam: Journal for Gender Mainstreaming* 11, no. 2 (2017): 133–50.

⁴ Indra Kurniawan, Indah Rosewika Khoirunnisa, and Amrie Firmansyah, "Penerapan Prinsip Non-Diskriminasi Dalam Dunia Kerja Di Indonesia," *Journal of Law Administration and Social Science* 4, no. 6 (2024): 1258–126, <https://doi.org/DOI:10.54957/jolas.v4i6.643>.

perpetuating violence against women.⁵ These views not only restrict women from accessing justice, but also marginalize victims' needs for fair treatment and their rights as human beings.

To overcome this phenomenon, a legal approach based on gender justice is very important. This approach not only emphasizes formal law enforcement, but also considers the social structures that cause systemic injustice against women. In this case, the concept of Structural Gender Legal Aid (BHGS) plays an important role, where the handling of cases of violence against women does not only focus on the aspect of punishing the perpetrator, but also includes empowering victims and dismantling legal and social systems that are still gender biased.

This approach is in line with John Rawls' Theory of Justice, which emphasizes the principles of equality and fair treatment for the most vulnerable groups in society. In Rawls' perspective, justice must be realized through distributive justice, by ensuring that vulnerable groups such as women victims of violence have access to adequate legal resources and effective protection mechanisms. The "veil of ignorance" principle put forward by Rawls is also relevant in legal policy reform, where laws must be designed without gender bias, so that they can provide equal protection for all individuals without being influenced by social norms that place women in a subordinate position.⁶ In addition, Critical Legal Studies (CLS) provides a foundation for understanding that law is not a neutral entity, but often reproduces patriarchal power structures that reinforce gender inequality. This perspective criticizes how seemingly objective laws are often used to perpetuate male dominance in society, so legal reform must be carried out by considering the experiences and perspectives of women as legal subjects.

This approach also aligns with Feminist Legal Theory, which focuses on how the law often ignores women's experiences and fails to provide adequate protection to victims of gender-based violence.⁷ Feminist legal scholars such as Catharine MacKinnon and Martha Fineman emphasize that the law must consider women's experiences as victims of violence, rather than only seeing it in the context of formal law which often promotes pseudo-

⁵ Akhmad Mukhibun and Nugraheni Eko Wardani, "Ketidakadilan Gender Pada Tokoh Perempuan Dalam Novel Terusir Karya Buya Hamka: Kajian Kritik Sastra Feminis," *GERAM* 11, no. 2 (December 29, 2023): 114–23, [https://doi.org/10.25299/geram.2023.vol11\(2\).15485](https://doi.org/10.25299/geram.2023.vol11(2).15485).

⁶ Hudiman Waruwu and Minggu Minarto Pranoto, "KOLABORASI TEORI KEADILAN JOHN RAWLS DAN DIAKONIA TRANSFORMATIF JOSEF PURNAMA WIDYATMADJA UNTUK KOMUNITAS YANG MEMPERJUANGKAN KEADILAN," *Jurnal Abdiel: Khazanah Pemikiran Teologi, Pendidikan Agama Kristen, Dan Musik Gereja* 4, no. 1 (May 17, 2020): 1–24, <https://doi.org/10.37368/ja.v4i1.133>.

⁷ Iin Aulia Mahardini and Siti Aisyah, "Feminist Legal Theory Dalam Peraturan Mahkamah Agung; Studi Analisis Hukum Islam," *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab Dan Hukum*, March 1, 2022, 96–107, <https://doi.org/10.24252/shautuna.vi.23856>.

neutrality.⁸ In the Indonesian context, feminist law and human rights approaches are highly relevant to address the challenges in implementing women's protection policies.

Human rights provide a legal and moral foundation to protect women from various forms of violence, both in the domestic and public spheres. This protection includes the rights to equality, fair treatment, and freedom from discrimination. International instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) are the main guidelines that bind member states, including Indonesia, to eliminate all forms of discrimination against women.⁹ In addition, the Universal Declaration of Human Rights (UDHR) stipulates that rights and freedoms should belong to everyone without exclusion based on sex, thus creating a basic framework for upholding gender justice.

At the national level, women's rights are guaranteed through Law No. 39/1999 on Human Rights, which explicitly provides for the protection of women from gender-based violence. This law recognizes women as a vulnerable group that requires special treatment to ensure they can enjoy their human rights.¹⁰ However, implementation challenges remain. Based on data from Komnas Perempuan and other studies, violations of women's rights, such as discrimination in the workplace, sexual violence, and restrictions in the political sphere, remain a significant problem.¹¹ This suggests that while there has been progress in regulation, implementation requires greater strengthening through comprehensive policies and programs.

The implementation of legal protection for women often faces significant obstacles, both in legal and socio-cultural aspects. One of the main challenges is discrimination in legal regulations that still exist today. Although Indonesia has various regulations to protect women, many of them are considered discriminatory.¹² For example, the Criminal Procedure Code (KUHAP) does not explicitly recognize sexual violence, which often hampers its resolution. In addition, applicable laws still tend to lack a gender equality perspective, which has an impact on the limited rights of women as victims of violence.

⁸ Keith E Whittington, R Daniel Kelemen, and Gregory A Caldeira, *Teori Feminis Dan Hukum Serta Tentang Subyek RAsial Dalam Teori Hukum: Handbook Hukum Dan Politik* (Nusamedia, 2021).

⁹ Iva Kasuma and Sulistyowati Irianto, "CEDAW Convention and Engendering Faculty of Law's Curriculum Reinforcement: A Lesson Learnt from Indonesia," *Indonesian Journal of International Law* 20, no. 2 (February 3, 2023), <https://doi.org/10.17304/ijil.vol20.2.1>.

¹⁰ Dela Az Zahara and Gustiya Sunarti, "Analisi Peran Hukum Dalam Mengatasi Kekerasan Berbasis Gender Ditinjau Dari Sudut Pandang HAM Dalam Politik Islam," *Al-Imarah* 10, no. 1 (2025), <https://doi.org/DOI: http://dx.doi.org/10.29300/imr.v10i1.6010>.

¹¹ A. A. Sagung Poetri Paraniti and I Wayan Wiryawan, "Perlindungan Hukum Terhadap Perempuan Sebagai Korban Kekerasan Dan Diskriminasi," *Jurnal Ilmiah Raad Kertha* 3, no. 1 (July 9, 2020): 1–16, <https://doi.org/10.47532/jirk.v3i1.165>.

¹² Anisatul Hamidah, "URGensi PRINSIP NON-DISKRIMINASI DALAM REGULASI UNTUK PENGARUS-UTAMAAN KESETARAAN GENDER," *Jurnal Hukum Dan Pembangunan* 51, no. 3 (2021): 677–97, <https://doi.org/DOI: 10.21143/jhp.vol51.no3.3129>.

Another obstacle is the patriarchal culture that is still strong in Indonesian society. The concept of gender that has been socially and culturally constructed often makes violence against women seen as a domestic issue, not a violation of human rights.¹³ As a result, many cases of violence against women go unreported because victims fear blame or feel ashamed.¹⁴ This is exacerbated by the stigma of a society that tends to blame victims based on their clothing or behavior. This situation shows that in addition to improving legal regulations, a deeper social paradigm shift is needed to address gender-based injustice. Therefore, it is important to adopt a human rights-based approach that not only focuses on the legal aspects, but also empowers victims and addresses the social stigma that exacerbates gender-based injustice. This approach can be a strategic step to ensure more effective protection for women, while encouraging a more inclusive legal and social paradigm shift.¹⁵

A human rights-based approach in handling cases of violence against women is in line with the constitutional mandate contained in Article 28I paragraph (4) of the 1945 Constitution, where the government has the responsibility to protect, promote, uphold, and fulfill human rights for all citizens, including women as vulnerable groups. This principle emphasizes the state's obligation to provide comprehensive legal protection to victims of gender-based violence, not only in the form of punishing perpetrators but also restoring victims' rights.¹⁶ Furthermore, Article 28J of the 1945 Constitution stipulates that every individual has the right and obligation to respect the human rights of others, which means that violence against women must be seen as a violation of the fundamental right to live safely and with dignity. However, the implementation of human rights in handling cases of violence against women is still constrained by ineffective regulations and strong social stigma. This shows that although the constitutional legal framework has recognized the state's obligation to protect human rights, practices in the field still need strengthening so that every woman gets the right to rehabilitation, compensation and fair treatment as guaranteed by the constitution.¹⁷

The issue of sexual violence has long been a concern in various legal studies. Lubis (2017) highlighted that although regulations related to the protection of child victims of

¹³ Mia Amalia, "Kekerasan Perempuan Dalam Perspektif Hukum Dan Sosiokultural," *Wawasan Yuridika* 25, no. 2 (2011): 399–411, <https://doi.org/10.25072/jwy.v25i2.25>.

¹⁴ Gloria Moku, "PERLINDUNGAN HUKUM BAGI PEREMPUAN DAN ANAK KORBAN TINDAK PIDANA KEKERASAN SEKSUAL," *Lex Privatum* 10, no. 6 (2022).

¹⁵ Tiara Okta Yanti and Mella Kartika Putri, "PERLINDUNGAN HUKUM BAGI PEREMPUAN KORBAN PERDAGANGAN ORANG DI INDONESIA DALAM PERSPEKTIF HAK ASASI MANUSIA," *Causa: Jurnal Hukum Dan Kewarganegaraan* 6, no. 5 (2024): 91–100.

¹⁶ Ibrahim Fika Edrisy, Ni Putu Paramita Dewi, and Edelweisia Cristiana, "Memerangi Tindak Pidana Kekerasan Seksual," *Satya Dharma* 6, no. 2 (2023): 141–60, <https://doi.org/10.33363/sd.v6i2.1126>.

¹⁷ Sri Fadliati dan Sukiati Sukiati, "Eksplotasi Pekerja Perempuan Melalui Modus Staycation dalam Perpanjangan Kontrak Kerja," *Al-Adalah: Jurnal Hukum dan Politik Islam* 8, no. 2 (2023): 235–54, <https://doi.org/10.30863/ajmpi.v8i2.5476>.

sexual violence already exist, their implementation is still constrained by the absence of clear implementing regulations, so advocacy agencies often face obstacles in providing optimal protection, especially in remote areas.¹⁸ Safrina, Iman, and Arif (2010) found that in practice, law enforcement officials often lack an understanding of the gender perspective, which results in difficulties for victims to obtain justice.¹⁹ In addition, Marlina and Elvi Zahara (2008) revealed that social stigma against victims is still a major barrier, which causes many cases to go unreported and victims are reluctant to seek legal protection. However, this study was conducted more than a decade ago, so its relevance to current legal developments needs to be reviewed. Laws continue to evolve with social dynamics, and regulatory changes in Indonesia, such as the passing of Law No. 12 of 2022 on Criminal Acts of Sexual Violence (UU TPKS), are evidence that approaches to gender-based violence continue to be updated.

This study focuses on analyzing the effectiveness of existing legal policies in handling cases of violence against women based on human rights principles, especially in the context of recent regulations such as the TPKS Law. This study also aims to identify structural obstacles in the implementation of legal protection for victims, both in terms of regulations that are still gender-biased, limited capacity of law enforcement officials, and the influence of patriarchal culture that still hinders access to justice for women. In addition, this study seeks to develop concrete recommendations for policy reform to strengthen a more equitable and human rights-based legal protection system. Thus, this study not only assesses the extent to which existing policies have been effective, but also provides solutions that can improve women's access to justice and more comprehensive legal protection.

The relevance of this study is very important considering the high number of cases of violence against women, which in 2024 alone reached more than 15,000 cases, the majority of victims being women.²⁰ By examining existing policies through a human rights perspective, this study is expected to provide concrete recommendations to strengthen legal protection for women, both through revising gender-biased regulations and through strengthening social awareness about the importance of equal treatment of victims of violence. A human rights-based approach also requires a change in the legal paradigm that does not only emphasize punishment for perpetrators, but also creates mechanisms that empower victims as legal subjects.

¹⁸ Elvi Zahara Lubis, "Upaya Perlindungan Hukum Terhadap Anak Korban Kekerasan Seksual," *JUPIIS: JURNAL PENDIDIKAN ILMU-ILMU SOSIAL* 9, no. 2 (December 28, 2017): 141, <https://doi.org/10.24114/jupiis.v9i2.8242>.

¹⁹ Safrina Rahmi, Iman Jauhari, and Arif Arif, "Perlindungan Hukum Terhadap Anak Korban Kekerasan Dalam Rumah Tangga," *Jurnal Mercatoria* 3, no. 1 (2010): 34–44.

²⁰ Ica Karina et al., *Hukum Pidana : Tindak Pidana Tertentu Dalam KUHP* (PT. Sonpedia Publishing Indonesia, 2024).

2. Legal Material and Methods

This research uses a normative juridical method, which is an approach that focuses on analyzing primary legal materials such as theories, concepts, legal principles, and laws and regulations relevant to the issue of violence against women.²¹ This method adopts a statute approach, which includes an in-depth study of various regulations, both international and national. Primary legal documents used in this research include Law No. 12 of 2022 on the Crime of Sexual Violence (TPKS Law), which is the latest legal instrument in providing protection for victims of sexual violence; Law No. 39 of 1999 on Human Rights, which guarantees women's basic rights from all forms of discrimination and violence; and Law No. 7 of 1984 on the Ratification of CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women), which binds Indonesia to eliminate all forms of discrimination against women. In addition, this research also examines the Criminal Code (KUHP) related to articles that regulate criminal acts of violence against women and Law No. 23 of 2004 on the Elimination of Domestic Violence (PKDRT Law) as the legal basis for handling cases of domestic violence.

Secondary data sources in this research consist of secondary legal materials, such as law books, academic journals, research articles, and reports from government agencies and international organizations that focus on the issue of gender-based violence. Secondary data was categorized based on the hierarchy of legal norms, relevance to the protection of women, and compatibility with human rights principles and international standards. In analyzing the data, this research uses a descriptive qualitative analysis method, with systematic interpretation techniques of legal texts and secondary documents. The analysis was conducted by comparing existing legal norms with their implementation practices, highlighting the gap between regulations and the reality of law enforcement. In addition, a comparative approach is used, which compares legal policies in Indonesia with international standards as well as best practices from other countries that have been successful in handling cases of gender-based violence. With this method, the research aims to provide a deeper understanding of the effectiveness of existing laws and identify reform measures needed to strengthen protection for women victims of violence.

3. Results and Discussion

3.1. Implementation of Human Rights in Legal Policies Handling Violence Against Women

The implementation of human rights in legal policies to address violence against women in Indonesia is based on several key regulations, both national and international. Law

²¹ David Tan, "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 8, no. 8 (2021): 2463–78, <http://dx.doi.org/10.31604/jips.v8i8.2021.2463-2478>.

No. 39/1999 on Human Rights states that women's right to live safely and free from violence is an integral part of human rights that must be protected by the state. However, in reality there is still a gap between existing regulations and the practice of implementation. Based on real-time data from the Ministry of Women's Empowerment and Child Protection (KemenPPPA), until August 11, 2024, there were 15,173 cases of violence, with women as victims accounting for 80.1%.²² This data shows that violence against women is still rampant and reflects the failure of the state to provide effective protection for women. Although various legal instruments have been created, such as Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT), their implementation is often hampered by structural factors and an entrenched patriarchal culture.

In international law, Indonesia has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) through Law No. 7 of 1984. This convention emphasizes the state's obligation to eliminate all forms of discrimination against women, including gender-based violence. This commitment is in line with initiatives taken by the UN Commission on the Status of Women, a body established in 1947 to consider and develop policies that can improve the position of women globally.²³ Through reports such as *Assessing the Status of Women: A Guide to Reporting Under the CEDAW*, it provides guidance to member states, including Indonesia, to develop policies that are more responsive to women's needs, particularly in addressing discrimination and gender-based violence.²⁴ With international legal frameworks such as CEDAW and encouragement from UN agencies, Indonesia is expected to strengthen its national policies and ensure more effective implementation of the protection of women's human rights, both through legal reforms and increased social awareness. Despite existing regulations, violence against women is still often considered a private matter. KUHAP as a procedural law tool does not provide special arrangements related to sexual violence, so victims often do not get maximum protection in the legal process.²⁵ In fact, in practice, victims are still faced with social stigma that blames them for the violence experienced. The inability of current regulations to accommodate the reality of gender-based violence further exacerbates the injustices experienced by women.

The challenges of implementing this legal policy are also influenced by the lack of coordination between law enforcement agencies, limited recovery services, and the lack of understanding of legal officers about the gender perspective. The existence of institutions such as Komnas Perempuan through Presidential Regulation No. 65/2005 is an important step in guarding the protection of women's rights. Komnas Perempuan plays a role in

²² Setiawati, "Kekerasan Terhadap Perempuan Melonjak, Paling Banyak Dilakukan Pacar."

²³ Sri Marmoah, *Manajemen Pemberdayaan Perempuan Rimba* (Sleman: Deepublish, 2014).

²⁴ Robyn Iredale, *Standar internasional migrasi ketenagakerjaan berbasis HAM* (Jakarta: IMR, 2011).

²⁵ Putu Eva Ditayani Antari, "Pemenuhan Hak Anak Yang Mengalami Kekerasan Seksual Berbasis Restorative Justice Pada Masyarakat Tenganan Pegringsingan, Karangasem, Bali," *Jurnal HAM* 12, no. 1 (April 22, 2021): 75, <https://doi.org/10.30641/ham.2021.12.75-94>.

documenting violence, providing policy recommendations, and facilitating advocacy to realize justice for victims.²⁶ However, the agency is still faced with limited resources and authority to ensure comprehensive protection.

To overcome these obstacles, a human rights-based approach must be implemented holistically, involving the revision of gender-biased regulations, increasing the capacity of law enforcement, and changing social paradigms. Human rights principles stipulated in the 1945 Constitution, Human Rights Law, and international conventions must be the basis for every policy related to handling violence against women.²⁷ This step not only aims to provide justice for victims, but also to create a legal system that is responsive, fair and inclusive. Therefore, collaboration between the government, law enforcement agencies and civil society is key in ensuring effective implementation of women's human rights protection.

In addition to the problem of regulations that are not fully in favor of victims, the implementation of human rights in handling violence against women also faces other structural obstacles, such as the lack of access to legal services and assistance for victims. Many victims of violence do not receive proper legal assistance, especially women in remote areas and from vulnerable groups, such as poor women, people with disabilities, and informal workers.²⁸ This is due to the lack of access to legal aid institutions and low legal literacy among the community. In fact, Law No. 16/2011 on Legal Aid expressly regulates that the poor are entitled to legal aid from the state.²⁹ However, implementation is still far from expected due to budgetary constraints and supporting infrastructure, so many victims of violence are forced to face a legal process that is not in their favor.

The mismatch between legal policy and social reality exacerbates the injustices experienced by women victims of violence. The formal and rigid legal system often fails to understand the socio-cultural context behind gender-based violence. For example, in cases of sexual violence, victims often experience revictimization in the legal process. Victims must prove the violence experienced through a series of grueling examinations, and it is not uncommon for the victim's sexual history to be taken into consideration, which is detrimental

²⁶ Sofia Lulu Azmi and Nulaili Rahmawati, "PERAN KOMNAS PEREMPUAN DALAM MENANGANI KEKERASAN SEKSUAL TERHADAP PEREMPUAN," *Legacy* 4, no. 1 (2024): 43–59, <https://doi.org/10.21274/legacy.2024.4.1.43-59>.

²⁷ Reza Fahlevi, "Aspek Hukum Perlindungan Anak Dalam Perspektif Hukum Nasional," *Lex Jurnalica* 12, no. 3 (2015): 147255.

²⁸ Nunung Unayah, "Manfaat Program Kesejahteraan Sosial Daerah Tertinggal Di Kabupaten Lebak Provinsi Banten," *Sosio Konsepsia*, 2016, 93–112.

²⁹ Fachrizal Afandi, "IMPLEMENTASI PENGABDIAN MASYARAKAT BERBASIS ACCESS TO JUSTICE PADA LEMBAGA BANTUAN HUKUM KAMPUS NEGERI PASCA PEMBERLAKUAN UNDANG-UNDANG BANTUAN HUKUM," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 2, no. 1 (April 30, 2013): 31, <https://doi.org/10.33331/rechtsvinding.v2i1.80>.

to them.³⁰ This perspective is contrary to the principles of feminist legal theory, which criticizes the neutrality of the law and advocates for a more pro-women approach. Therefore, changes in the legal system are not only limited to revising regulations, but also require reforms in law enforcement mechanisms that favor victims.

On the other hand, a comprehensive approach to handling violence against women must involve synergy between the government, law enforcement officials, and civil society institutions. Recovery programs for victims must include physical, psychological, social, and economic aspects so that victims can fully recover.³¹ In addition to the right to legal justice, women victims of violence also have the right to comprehensive recovery, as stipulated in Article 11 of Law No. 13/2006 on Witness and Victim Protection. However, until now, recovery services are still limited, especially in areas with inadequate infrastructure. This shows the need to strengthen victim protection policies that are more inclusive and responsive, as well as increasing the role of service institutions, such as the Integrated Service Center for the Protection of Women and Children (P2TP2A) in all regions of Indonesia.

A human rights-based approach also demands preventive measures through public education and the elimination of victim-blaming stigma. Education on gender-based violence must be prioritized, both through formal education curricula and social campaigns involving various stakeholders. Collective awareness of the importance of gender equality and the protection of women's rights must be instilled from an early age to break the cycle of violence that continues to recur. In addition, the role of the media in conveying narratives that support women's human rights is also very important to encourage a more inclusive social paradigm shift. Thus, handling violence against women is not only reactive through law enforcement, but also proactive through prevention efforts and empowering women as legal subjects who have full rights to justice and equality.

3.2. Implementation Challenges and Gaps in Handling Cases of Violence Against Women

Johan Galtung defines violence as “any avoidable impediment to self realization.” This means that violence includes anything that prevents an individual from developing his or her potential in a reasonable manner. This concept clearly contradicts the principles of human rights, especially those related to personal rights, in which every individual has the

³⁰ Mies Grijns, ed., *Menikah muda di Indonesia: suara, hukum, dan praktik*, Cetakan pertama (Jakarta, Indonesia: Yayasan Pustaka Obor Indonesia, 2018).

³¹ Khairul Riza, “Hak Restitusi Bagi Korban Perdagangan Orang: Sebuah Langkah Penting Menuju Keadilan Di Indonesia,” *Kajian Ilmiah Hukum Dan Kenegaraan* 2, no. 1 (August 28, 2023): 37–44, <https://doi.org/10.35912/kihan.v2i1.2359>.

right to live freely and have the opportunity to fully realize themselves.³² One of the main challenges in the implementation of Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law) is the regulatory aspect which is still ambiguous and not in favor of victims. Although the PKDRT Law is an important achievement of the feminist movement in Indonesia, its implementation has not been optimal due to the existence of articles that implicitly contain gender discrimination. For example, Article 2 paragraph (1) limits protection only to nuclear families living in one house, making it difficult for other vulnerable groups such as domestic workers or family members living separately to get the same legal protection. In addition, Article 44 paragraph (4) only provides light sanctions for cases of physical violence that are deemed to have “no serious impact,” such as a maximum imprisonment of 4 months or a fine of IDR 5 million. This rule underestimates the psychological impact experienced by victims, even though physical violence is often followed by deeper emotional trauma. Both articles reflect weaknesses in the legal system that are still biased towards a gender perspective and not fully oriented towards justice for victims. This exacerbates the difficulty in providing fair and comprehensive legal protection for women as the most vulnerable group to gender-based violence.

Gender bias in the legal system is another significant barrier. Law enforcement officials such as police, prosecutors, and judges often bring a patriarchal perspective in handling cases of violence against women.³³ This is evident in their lack of understanding of the concept of gender-based violence and their victim blaming approach. For example, victims are often asked about their “clothes” or “behavior” at the time of the incident, which ignores the core problem of the violence itself. In fact, gender-perspective handling should be the standard in every law enforcement.

Victim-blaming social stigma exacerbates the ineffectiveness of policy implementation. Women who report violence are often perceived as tarnishing the good name of the family or community, so many victims choose to remain silent and not pursue the legal process.³⁴ In the context of patriarchal culture, women are often forced to “tolerate” the violence that occurs, especially in marital relationships. This is contrary to the spirit of the PKDRT Law, which explicitly recognizes domestic violence as a crime and protects the

³² Aulia Rosa Nasution, “Penyelesaian Kasus Pelanggaran HAM Berat Melalui Pengadilan Nasional Dan Internasional Serta Komisi Kebenaran Dan Rekonsiliasi,” *Jurnal Mercatoria* 11, no. 1 (2018): 90–126, <https://doi.org/DOI: 10.31289/mercatoria.v11i1.1509>.

³³ Bella Sandiata, “Women Facing Legal Cases: Reflection on the Use of Articles 284 and 285 of the Indonesian Criminal Code from the Experiences Their Legal Counselor,” *Jurnal Perempuan* 23, no. 2 (May 16, 2018): 117, <https://doi.org/10.34309/jp.v23i2.235>.

³⁴ Usfiyatul Marfu’ah, Siti Rofi’ah, and Maksun Maksun, “Sistem Pencegahan Dan Penanganan Kekerasan Seksual Di Kampus UIN Walisongo Semarang,” *Kafaah: Journal of Gender Studies* 11, no. 1 (2021): 95–106.

rights of victims. This stigma points to the need for broader social transformation to build collective awareness about gender-based violence.³⁵

The ineffectiveness of law enforcement officials is also a major obstacle in handling cases of violence. Many officers lack the capacity and sensitivity to cases of gender-based violence. In addition, the convoluted and slow legal process often adds to the suffering of victims. In some cases, settlements are made through kinship or mediation that do not consider the interests of the victim and only strengthen the position of the perpetrator³⁶. This practice contradicts the principle of human rights protection that guarantees justice and recovery for victims of violence.

Regulatory constraints include the absence of comprehensive legal tools to address all types of gender-based violence. Although the PKDRT Law already exists, there is still a legal vacuum in regulating other types of violence such as sexual violence outside the domestic context. The Draft Law on Sexual Violence (RUU TPKS), which has been delayed for years, reflects the state's slow commitment to responding to this urgent need. The delay in passing this law also indicates the weak political will of policy makers to provide maximum protection for women.³⁷

The implementation of human rights principles in the national legal system still faces various challenges, especially in the implementation of Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law). Although the PKDRT Law is an important achievement in the struggle for women's rights in Indonesia, the regulation still has legal ambiguities that hamper the effectiveness of protection for victims. Article 2 paragraph (1), for example, limits protection to nuclear families living in the same house, leaving vulnerable groups such as domestic workers or family members living separately without access to the same protection. In addition, Article 44 paragraph (1) states that perpetrators of physical violence can be punished with a maximum imprisonment of 5 years or a maximum fine of IDR 15 million. Although these provisions appear to provide strict sanctions, in practice, many cases of domestic violence remain unaddressed due to cultural factors, social stigma, and bias in the justice system.

Komnas Perempuan's report (2023) shows that cases of gender-based violence continue to increase. Based on Komnas Perempuan's Annual Report, the number of reported

³⁵ Jumadi, Indrajaya, and M Novrianto, "Optimalisasi Peran Masyarakat Dalam Pencegahan Dan Penanganan Kekerasan Berbasis Gender Melalui Edukasi Hukum Di Desa Menang Raya Kabupaten Ogan Komering Ilir," *'Asabiyah: Jurnal Pengabdian Hukum* 2, no. 2 (October 7, 2024): 82–90, <https://doi.org/10.32502/asabiyah.v2i2.311>.

³⁶ Csa Teddy Lesmana, "Mediasi Penal Sebagai Alternatif Penyelesaian Perkara Pidana Dalam Perspektif Pembaharuan Sistem Peradilan Pidana Indonesia," *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia* 1, no. 1 (June 25, 2019): 1–23, <https://doi.org/10.52005/rechten.v1i1.1>.

³⁷ Asmaul Khusna, Ni Putu Dyana, and Lukman Arif, "Persepsi Siswa Terhadap Sistem Pembelajaran Daring Di SMP Muhammadiyah 1 Sidoarjo," *Prosiding Konferensi Nasional Administrasi Negara Sinagara* 2 (2020).

cases of violence against women increased from 338,496 cases in 2021 to 457,895 cases in 2022, with domestic violence (KDRT) as the largest category.

Year	Number of Cases of Violence Against	Domestic Violence
	Women	(KDRT)
2021	338.496	79.3% of the total cases
2022	457.895	81.2% of the total cases

Source: Komnas Perempuan Annual Report 2023

This data indicates that although regulations such as the PKDRT Law have been implemented, the level of violence remains high, indicating that the implementation of the law is still not effective in preventing and handling cases of gender-based violence. In addition to regulations that are not fully in favor of victims, gender bias in the legal system is another significant obstacle. Law enforcement officials such as police, prosecutors, and judges often bring a patriarchal perspective in handling cases of violence against women. For example, in a report by LBH APIK Jakarta (2022) it was found that more than 50% of victims of sexual violence experienced victim blaming when reporting, such as being asked about their clothes or behavior at the time of the incident. This shows the apparatus' lack of understanding of the concept of gender-based violence, which should be the standard in every law enforcement.

Social stigma against victims also worsens the effectiveness of policy implementation. Many women who report violence are perceived as tarnishing the good name of the family or community, so they choose to remain silent and not pursue the legal process. In the context of patriarchal culture, women are often forced to “tolerate” the violence that occurs, especially in marital relationships. This is contrary to the spirit of the PKDRT Law, which explicitly recognizes domestic violence as a crime that must be dealt with firmly. In addition to legal and social barriers, weaknesses in the capacity of law enforcement officials are also a major factor that exacerbates this condition. Many officials do not have special training in handling cases of gender-based violence, so they often suggest settlement through family mediation. In fact, this approach contradicts the principle of human rights protection, which emphasizes that justice for victims must be prioritized, not just maintaining social harmony that normalizes violence.

In this critical analysis, it appears that a paradigm shift in the legal and social systems is an urgent need. The legal system must be reformed to be more inclusive and gender-perspective. This includes comprehensive training for law enforcement officials to increase their capacity to handle cases of gender-based violence. In addition, affirmative policies also need to be implemented to prevent discrimination against women in the legal process. Not only that, efforts to revise discriminatory regulations must also be a priority. For example, articles in the Criminal Code that are often used as the legal basis in cases of sexual violence are counterproductive because they do not reflect the protection of victims. Revision and

harmonization of existing laws, accompanied by the enactment of new regulations such as the TPKS Bill, are essential to ensure a comprehensive and effective legal policy.

Finally, addressing cases of violence against women depends not only on legal reform, but also requires deep social change. Society must be educated to understand that gender-based violence is a serious human rights violation. Collaboration between the government, civil society and the private sector is key to building an ecosystem that supports the protection of women. Thus, efforts to protect and empower women can be sustainable and provide the justice they deserve.

3. Conclusion

This approach also aligns with Feminist Legal Theory, which focuses on how the law often ignores women's experiences and fails to provide adequate protection to victims of gender-based violence. Feminist legal scholars such as Catharine MacKinnon and Martha Fineman emphasize that the law must consider women's experiences as victims of violence, rather than only seeing it in the context of formal law which often promotes pseudo-neutrality. In the Indonesian context, feminist law and human rights approaches are highly relevant to address the challenges in implementing women's protection policies.

In addition to legal reforms and stricter enforcement of regulations, social change through education and empowerment of women should be prioritized in long-term efforts. Social stigma that blames the victim (victim blaming) and patriarchal culture are still the main barriers for victims to report their cases. Therefore, public awareness campaigns, gender equality-based education, and economic empowerment for women victims of violence need to be strengthened. Concrete recommendations include gender-perspective training for law enforcement officers, increasing victims' access to recovery services, and reforming the education curriculum to instill equality values from an early age. With a comprehensive approach that includes legal reform, institutional strengthening, and social transformation, violence against women can be minimized and eventually eliminated from society.

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