

## The Urgency of Restorative Justice Implementation in Addressing Domestic Violence Cases to Realize Justice Oriented Towards Victim Recovery

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### ABSTRACT

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The study is to examine, from the standpoint of legal advantages, the regulation and application of restorative justice in addressing domestic violence (DV) cases. In order to achieve a fair and beneficial conclusion, restorative justice places a strong emphasis on victim recovery, offender accountability, and community involvement. This study examines laws that support the implementation of restorative justice, such as Police Regulation Number 8 of 2021 and Prosecutor's Regulation Number 15 of 2020, and their applicability to the protection of domestic violence victims using a normative legal method that combines a statute approach and a conceptual approach. The study's findings suggest that a different approach to DV case resolution may be restorative justice, especially in ongoing social relationships, such as husband-wife or parent-child, so that it can reduce the negative impact of conventional criminalization on families, including social and economic aspects. However, its application must be carried out selectively, considering the risk of pressure on victims to reconcile and the potential for the recurrence of violence. From the perspective of legal benefits, restorative justice implementation can provide broader benefits compared to the retributive punishment system, provided that there is strict supervision and a mechanism that ensures that justice for victims remains a top priority. Therefore, evaluation and strengthening of regulations are needed to ensure that the implementation of restorative justice in domestic violence cases truly provides legal protection and benefits for all parties involved.



### INTRODUCTION

Law enforcement against domestic violence (KDRT) in Indonesia is still oriented towards a retributive or punitive approach, as regulated in Law Number 23 of 2004 concerning the Elimination of Domestic Violence (UU PKDRT) (Abdurrachman, 2010; Dilla & Athalarif, 2020; Manumpahi et al., 2016; WAHYUNI, 2022). Article 1 number 1 of the PKDRT Law defines KDRT as any act within the scope of the home that neglects the household, including through illegal threats and pressure, or that results in bodily,

sexual, or psychological pain (Agus Harjito & Ade Oktaviandi, 2015; Fathul Jannah Fachrudin, 2019; Wardhani, 2021; Yuniarti, 2020). Despite the fact that this law attempts to protect victims, Indonesia's criminal justice system still emphasizes punishment for perpetrators more often than finding solutions that can address the root of the problem in household relationships.

The criminal approach to domestic violence cases often does not provide long-term solutions for both victims and perpetrators (Junior, 2024). A long, complicated, and imprisonment-oriented judicial process can worsen the victim's psychological condition, especially if the victim is still economically or emotionally dependent on the perpetrator. In many cases, victims experience a dilemma between continuing the legal process or maintaining a household relationship for reasons of family and children. This poses a challenge in the implementation of the law, where victims who should receive protection are actually trapped in an unfavorable situation due to a system that is less flexible in handling domestic violence cases holistically (Ramadhatsani, 2024).

Therefore, an alternative approach is needed in resolving domestic violence cases that are more oriented towards recovery, one of which is through restorative justice (Aziz, 2023). This approach allows for a fairer and more comprehensive resolution, taking into account the victim's requirements, the offender's accountability, and the viability of family ties. In order to lessen the likelihood that domestic violence would recur, restorative justice emphasizes not only punishment but also the victim's recovery and the offender's rehabilitation (Telaumbanua, 2024). Because of this, it is becoming more and more crucial for the Indonesian criminal justice system to implement regulations that support restorative justice when handling instances involving domestic abuse.

The restorative justice approach offers an alternative to resolving criminal acts of Domestic Violence (KDRT) by emphasizing the restoration of the relationship between the victim and the perpetrator (Pane, 2023). In contrast to the retributive approach that is oriented toward punishment, restorative justice focuses on resolving conflicts through mediation, and reconciliation, and providing opportunities for victims to voice their needs (Pramita, 2025). In this process, perpetrators are given space to take responsibility for their actions in a more constructive way, such as undergoing counseling or a rehabilitation program, so that they can avoid sanctions that are too repressive but still provide a deterrent effect.

In domestic violence, restorative justice can be a more effective solution because it not only resolves the case legally but also repairs family relationships that have been damaged by violence (Rahmawati, 2025). Often, criminalizing perpetrators of domestic violence has a negative impact on victims, especially if they still have emotional attachments or economic dependence on the perpetrators. With a mediation mechanism that involves various parties, including facilitators or mediators, the resulting solution can better accommodate the interests of victims without having to sacrifice family stability. This also has the potential to reduce the negative psychological impacts that often arise from long and tiring legal processes.

The restorative justice approach is in line with the principle of *legal benefit*, which assesses justice not only from the application of rigid legal rules but also from its positive impact on the wider community (Siregar, 2024). The application of this model can help reduce the rate of recidivism or repetition of domestic violence because perpetrators who go through the recovery process tend to better understand the impact of their actions and try not to repeat them. Therefore, it is important for the criminal justice system in Indonesia to accommodate this approach as an alternative to handling domestic violence cases, while still paying attention to the interests of victims and the principles of more holistic justice (Machmud, 2024).

The evolution of Indonesian laws demonstrates that the idea of restorative justice has been included into the country's criminal justice system. The Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice is one of several laws that encourage the use of this strategy, which provides guidelines for police officers in handling criminal acts with restorative justice mechanisms (Sulung, 2023). Furthermore, if an agreement has been reached between the victim and the offender that takes into account the restoration of their social circumstances, criminal prosecution may be terminated in accordance with Prosecutor's Office Regulation Number 15 of 2020 on Termination of Prosecution Based on Restorative Justice. Judges are given guidelines for implementing restorative justice in the general judicial process by the Decree of the Director General of the General Courts Number 1691/DJU/SK/PS.00/12/2020 concerning the Implementation of Guidelines for the Implementation of Restorative Justice, so that this approach can be part of a more humane and solution-oriented justice system (Kristiyawan, 2023).

When domestic abuse occurs, the use of restorative justice is still a matter of debate, especially regarding the protection of victims' rights (Rabbani, 2021). Domestic violence often occurs in situations of unequal power relations, where victims, especially women, are in a more vulnerable position than the perpetrators. Therefore, although the restorative justice mechanism can be a more humane alternative than criminalization, a strict supervision mechanism is still needed so that there is no pressure or coercion in the mediation process (Risal, 2023). Existing regulations must ensure that decisions taken in the restorative justice process favor the interests of the victim and do not become a tool to avoid legal accountability for perpetrators of violence.

The effectiveness of restorative justice in preventing repeated violence in domestic violence needs to be studied further. This approach emphasizes the restoration of social relationships, but in cases of repeated violence, mediation without decisive intervention may not be enough to stop the cycle of violence (Parasdika, 2022). Therefore, the implementation of restorative justice in domestic violence cases needs to be supported by comprehensive victim protection policies, such as the provision of safe houses, counseling services, and strict supervision of perpetrators' compliance in undergoing rehabilitation programs. Thus, the implementation of restorative justice in domestic violence cases can truly be a fair and effective solution without ignoring protection for victims.

The research has strong relevance in efforts to realize a more just and recovery-oriented criminal justice system for victims and perpetrators of domestic violence (KDRT). With the increasing development of regulations related to restorative justice in Indonesia, this study can contribute to analyzing the effectiveness of the implementation of this approach in domestic violence cases, both in terms of law and its impact on victims and perpetrators. In addition, this study can be used as evaluation material for policymakers to ensure that the implementation of restorative justice in domestic violence cases continues to provide optimal protection for victims, prevent repeated violence, and maintain a balance between punishment and recovery in the Indonesian criminal justice system.

## METHOD

This study uses a normative legal method, which focuses on normative legal studies by examining various laws and regulations, legal concepts, and other legal documents related to *restorative justice* in resolving criminal acts of *Domestic Violence* (KDRT). The methods employed in this study include a legislative approach that looks at laws like Law Number 23 of 2004 concerning the Elimination of Domestic Violence, Prosecutor's Regulation Number 15 of 2020, and Police Regulation Number 8 of 2021; a conceptual approach that seeks to comprehend the theory and principles of *restorative justice* in the criminal justice system; and a historical approach, which examines the development of *restorative justice* regulations in Indonesia. The data sources used in this study come from legal literature, laws and regulations, and other legal documents to provide a comprehensive analysis of the urgency and implementation of *restorative justice* in the Indonesian criminal justice system, especially in cases of *domestic violence*.

## RESULTS AND DISCUSSION

### Restorative Justice Arrangement in the Process of Resolving Domestic Violence Crimes

In the criminal court system, restorative justice is a strategy that emphasizes recovery for victims, accountability of perpetrators, and community participation in resolving conflicts. This approach focuses on creating justice that is more oriented towards restoring conditions than simply punishing perpetrators. In practice, restorative justice allows victims to voice their wishes in resolving cases, while perpetrators are allowed to atone for their mistakes more constructively, such as compensation or a direct apology (Arief, 2018). In addition, the involvement of the community, family, and authorities is also a major factor in creating a fair agreement that benefits all parties involved.

The restorative justice approach is fundamentally different from the conventional retributive or criminal system. In the retributive approach, justice is upheld by giving appropriate punishment to the perpetrator, to create a deterrent effect and as a form of retribution for the criminal act committed (Putra, 2022). Meanwhile, the restorative approach focuses more on restoring social and psychological relationships between

victims and perpetrators, as well as preventing the recurrence of crimes more humanely. In other words, restorative justice not only views crime as a violation of state law but also as a violation of social relationships that must be repaired.

In criminal justice instances involving complicated emotional interactions, such as domestic violence (DV), the benefits of restorative justice are evident. The victim-perpetrator relationship in domestic violence cases often continues, especially if there is a marriage bond or children in the family (Merung, 2016). Overly repressive punishment, such as imprisonment, often does not resolve the root of the problem and can even worsen the socio-economic conditions of the family. Therefore, restorative justice can be a more effective solution in dealing with cases of DV by providing an opportunity for victims to obtain justice directly, and for perpetrators to be responsible in a way that is more oriented towards changing behavior and improving relationships (Sopacua, 2024).

The application of restorative justice is increasingly recognized through various regulations that support out-of-court criminal settlement mechanisms. However, the implementation of restorative justice in domestic violence cases still faces various challenges, especially in ensuring that this approach does not weaken protection for victims and still guarantees justice that does not harm the weaker party. Therefore, a more in-depth study of the limitations, mechanisms, and effectiveness of the application of restorative justice in resolving domestic violence crimes is very important to ensure that the justice achieved truly benefits all parties involved.

A number of significant laws provide a legal foundation for the use of restorative justice in Indonesia's criminal justice system. The police are authorized to treat criminal actions using a restorative justice approach under Regulation Number 8 of 2021 of the Republic of Indonesia National Police about the Handling of Criminal actions Based on Restorative Justice. There are material requirements in this rule that need to be fulfilled, such as no rejection from the community, no potential for social conflict, and not being a serious crime such as terrorism or corruption. Domestic Violence (KDRT) cases, this regulation allows for settlement at the police level if the case is deemed to meet the requirements, for example, it does not cause a wide impact and there is a peace agreement between the victim and the perpetrator.

Prosecution Termination Based on Restorative Justice Regulation Number 15 of 2020 of the Attorney General of the Republic of Indonesia governs the process of ending prosecutions based on the restorative justice principle. This regulation emphasizes the importance of victim recovery, avoiding negative stigma against the perpetrator, and social harmony. If the crime carries a maximum five-year criminal sentence, the suspect is a first-time offender, and the victim and suspect are at peace, the prosecutor may decide not to press charges. When domestic abuse occurs, although violence against people is usually included in the category of exceptions, this regulation still opens up opportunities for the application of restorative justice if it meets certain elements, such as a low level of reprehensibility and a voluntary peace agreement.

Judges are given rules for applying the restorative justice principles at the court level by the Decree of the Director General of the General Courts Number

1691/DJU/SK/PS.00/12/2020 about rules for the Implementation of Restorative Justice in the General Courts. This rule highlights that while managing situations involving women who are in legal trouble, including as victims of domestic violence, a more humanistic approach must be prioritized. This reflects the efforts of the justice system to be more adaptive to the needs of victims and minimize the negative impacts of conventional justice processes that often worsen the condition of victims.

Although this regulation provides an opportunity for resolving domestic violence cases through a restorative justice approach, there are still limitations that must be considered. Not all cases can be resolved with this mechanism, especially if they involve serious violence or repeated threats from the perpetrator against the victim. Therefore, the application of restorative justice in domestic violence cases must be carried out selectively by considering the safety of the victim and the possibility of restoring a healthy relationship without pressure or coercion.

Law Number 11 of 2012 Concerning the Juvenile Criminal Justice System regulates the use of restorative justice in the juvenile criminal justice system. By taking into account the child's best interests, this method seeks to put recovery above punishment. In this system, the diversion process allows children in conflict with the law to resolve cases through deliberations involving victims, perpetrators, families, and law enforcement officers. The success of this approach shows that restorative justice can be an effective mechanism in reducing the negative impacts of the conventional criminal justice system, especially in social relationships that can be improved.

In comparing the application of restorative justice between juvenile criminal justice and cases of Domestic Violence (DV), several aspects can be adopted. Just like in the case of children, DV often occurs in the scope of ongoing relationships, such as in husband-wife or parent-child relationships. Therefore, restorative justice-based solutions can help maintain a balance between the interests of victims and the restoration of family relationships. However, challenges in its implementation include legal and social aspects, such as the risk of pressure on victims to reconcile, the potential for recurrence of violence, and the need for strict supervision so that the principle of justice is not abused.

The application of restorative justice in domestic violence cases can be a solution to reduce the negative impact of criminalization, especially for families who still have social and economic ties. In some cases, imprisoning the perpetrator exacerbates the family's economic condition, especially if the perpetrator is the main breadwinner. With a restorative justice approach, victims can obtain faster psychological and material recovery, while perpetrators are allowed to improve their behavior without losing their role in the family. However, this implementation must be carried out carefully, ensuring that the interests and safety of the victim remain the main priority and that there is an effective monitoring mechanism.

### **Application of the Perspective of Legal Utilization to the Settlement of Domestic Violence Crimes Based on Restorative Justice**

The principle of legal utilitarianism in legal theory refers to the extent to which the law can provide benefits to individuals and society. In the perspective of the theory of legal utilitarianism, developed by Jeremy Bentham, good law is a law that can create happiness and welfare for as many people as possible. The law not only functions as a tool for enforcing justice but also as an instrument for achieving results that are beneficial to the wider community. Thus, the law must be designed and implemented in such a way as to reduce suffering and improve social welfare.

In the application of criminal law, three main aspects must be considered, namely legal certainty, justice, and utility. Legal certainty protects society with clear and enforceable rules, while justice seeks to ensure that the law is applied fairly to all individuals. However, the law must also consider the utility aspects, like how the application of the law can have a more positive impact than a negative one. In the criminal justice system, the retributive approach that focuses on punishment often does not provide optimal benefits, especially in certain cases such as Domestic Violence (DV), where social and psychological factors play a major role in resolving cases.

The concept of legal benefit is the main basis for the application of restorative justice, which is oriented towards restoring relations between victims, perpetrators, and the community. With this approach, case resolution does not only focus on punishment but also seeks the best solution that provides long-term benefits for all parties. In cases of domestic violence, for example, restorative justice allows for mediation that considers the interests of the victim and the rehabilitation of the perpetrator, so that it not only reduces the negative impact of punishment on the family but also prevents the recurrence of violence. Therefore, the application of restorative justice in criminal law can be a more effective alternative in achieving a balance between legal certainty, justice, and legal benefits for the community.

Restorative justice is an approach in the criminal justice system that is more oriented towards victim recovery and perpetrator rehabilitation compared to the retributive justice approach that focuses on punishment. In a retributive system, punishment is given as a form of retribution against the perpetrator for his/her actions, to create a deterrent effect. In contrast, restorative justice emphasizes dialogue and reconciliation between the victim, the perpetrator, and the community to achieve a fairer solution for all parties. This approach is considered more humane because it considers the psychological and social impacts of the crime and seeks to repair relationships damaged by the crime.

In preventing the recurrence of criminal acts, the restorative approach is considered more effective than the retributive approach, especially in cases of Domestic Violence (DV). Conventional punishments, such as imprisonment, often do not resolve the root causes of domestic violence, which often involve social, economic, and psychological factors. In contrast, restorative justice allows for dialogue involving the perpetrator, victim, and community to find a more comprehensive solution, such as a rehabilitation program for the perpetrator or psychological assistance for the victim. In this way, the

restorative approach not only avoids the negative impacts of conventional punishment but also prevents the cycle of violence in the family from recurring.

A major prerequisite for the implementation of restorative justice in cases of domestic violence (DV) is an agreement between the victim and the perpetrator. This agreement must be voluntary and based on the victim's desire to resolve the case without going through a formal judicial process. In addition, there needs to be a guarantee that restorative resolution does not place the victim in a position that is vulnerable to pressure or intimidation from the perpetrator. Therefore, in practice, the mediation and negotiation process in restorative justice must be carried out under the supervision of the authorities, such as the police or women's and children's protection institutions.

Legally, restorative justice can be applied at the stages of investigation, inquiry, or prosecution. At the investigation and inquiry stages, the police can facilitate meetings between the perpetrator and the victim to seek solutions based on restorative justice, such as peace or compensation. If the case has entered the prosecution stage, the prosecutor has the authority to stop the prosecution based on the principles of restorative justice, especially if the case of domestic violence that occurred was more light and the perpetrator shows good faith to take responsibility. In addition, termination of prosecution can also be done based on the principle of opportunity, which allows the prosecutor to use legal discretion in choosing a settlement that is more beneficial to all parties, especially considering the psychological and social impact of the formal justice process on the victim and their family.

However, the application of restorative justice in domestic violence cases also has legal and ethical limitations that must be considered so as not to harm the victim or conflict with the principles of justice. Not all domestic violence cases can be resolved through this approach, especially if the violence committed is severe or repeated. In addition, in some cases, there is a risk that the victim agrees to a restorative settlement due to emotional pressure or economic dependence on the perpetrator. Therefore, in its application, there must be a strict monitoring mechanism to ensure that justice is truly achieved and the victim does not experience re-victimization in the process of resolving domestic violence cases restoratively.

The comparison between restorative justice and litigation settlement in cases of Domestic Violence (DV) can be seen from various aspects, especially its impact on the victim and perpetrator. In the litigation system, victims often experience greater emotional stress because they have to go through a long and confrontational legal process. In addition, if the perpetrator is the family breadwinner, criminal penalties can damage the victim's economy, especially if they still have financial ties. On the other hand, in restorative justice, the victim's psychological recovery is prioritized through mediation and agreement, so that the victim can obtain compensation or guarantees of changes in the perpetrator's behavior without having to go through a tiring legal process. For perpetrators, the restorative approach focuses more on rehabilitation than simply providing a deterrent effect, allowing them to change and not repeat similar actions in the future.



In terms of effectiveness in reducing the number of repeat criminal acts (recidivism), the restorative approach is often more effective in preventing perpetrators from committing violence again, especially if followed by a coaching and therapy program. In addition, compared to litigation which is quite costly and time-consuming, restorative justice is more efficient because it can be completed in a shorter time, and without the need for a long trial process. However, its effectiveness still depends on certain conditions, such as the willingness of the victim and perpetrator to reconcile and the monitoring mechanism so that the perpetrator carries out the agreement made. Therefore, restorative justice can be a more beneficial alternative resolution than litigation, especially in cases of minor domestic violence and where there is a fair opportunity for reconciliation for both parties.

## CONCLUSION

*Restorative justice* presents an alternative approach in the criminal justice system for *Domestic Violence* (DV) cases, focusing on victim recovery, perpetrator accountability, and community involvement rather than punitive measures. In Indonesia, regulations like Police Regulation No. 8/2021 and Prosecutor's Regulation No. 15/2020 provide a framework for its application, though caution is needed to ensure victim protection isn't compromised. This approach proves effective in maintaining ongoing relationships—similar to its success in juvenile justice—and can reduce psychological and economic impacts on victims while lowering recidivism through mediation and rehabilitation. It also offers cost and time efficiency compared to formal litigation. However, challenges such as implementation oversight, potential victim coercion, and ensuring justice must be carefully addressed. When properly supervised and applied to suitable cases, *restorative justice* can serve as a humane and beneficial resolution, balancing legal fairness for all parties while preventing recurring violence.

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