



# Legal Protection for Victims of Domestic Violence from a Victimological Perspective (A Study of Decision No. 661/PID.SUS/2023/PN SMN)

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**Abstract:** Domestic violence remains a critical issue in Indonesia despite comprehensive legal frameworks established through Law Number 23 of 2004 on the Elimination of Domestic Violence. This study examines the legal protection afforded to victims of domestic violence from a victimological perspective, with a focus on Decision Number 661/Pid.Sus/2023/PN Smn. The research employs a normative legal approach, utilizing statutory analysis and case study methodology to evaluate the implementation of victim protection principles in judicial practice. Primary legal materials include relevant legislation and the court decision, analyzed through descriptive qualitative methods within a victimological framework. The findings reveal significant gaps between normative standards and practical implementation. While the legal framework comprehensively regulates victim rights including protection, restitution, and recovery, the examined court decision demonstrates fundamental deficiencies: absence of restitution orders, lack of protection orders to prevent repeat victimization, imposition of a suspended sentence that inadequately deters recidivism, and insufficient consideration of victims' psychological and economic vulnerabilities. The decision prioritizes the perpetrator's interests over victim protection, neglecting structural inequalities and power imbalances inherent in domestic violence cases. This study concludes that judicial practice requires substantial reform to fully integrate victimological principles, ensuring victims receive comprehensive protection, justice, and recovery while preventing secondary victimization.

**Keywords:** Domestic violence; legal protection; victim protection.

## 1. Introduction

Domestic violence constitutes a social phenomenon that has become a universal problem worldwide, including in Indonesia. This phenomenon is not merely a private family matter; rather, it has evolved into a human rights issue that requires serious attention from both the state and the international community. The World Health Organization (WHO) reports that one in three women worldwide experiences physical or sexual violence in her lifetime, and the majority of such violence occurs within the domestic (Organization, 2021).

In Indonesia, the situation of domestic violence shows an increasingly alarming trend. Data from the National Commission on Violence Against Women (Komnas Perempuan) in 2024 indicate that Violence Against Wives (KTI) constitutes the most prevalent form of violence, with 5,950 reported cases. Cases within the scope of domestic violence account for 83.70% of total reports in the personal domain (Perempuan, 2025). This high incidence reflects a persistent imbalance in gender relations, indicated by the subordinate position of wives within marriage, demonstrating that after 20 years of implementing the Law on the Elimination of Domestic Violence (UU PKDRT), significant obstacles remain.

The recorded data reflect only officially reported cases. The phenomenon of the "dark number" unreported cases is estimated to be far greater, given persistent stigma and the strong influence of patriarchal culture. Based on Komnas Perempuan data, only 132 cases (19.6%) of victims reported to police. Even those who reported faced obstacles,

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with seven KTI cases experiencing delayed justice and 17 cases undergoing criminalization (Perempuan, 2025). This indicates structural problems within Indonesia's victim protection system.

The complexity of domestic violence lies not solely in its quantitative dimension but also in its multidimensional impacts on victims. Domestic violence may take the form of physical, psychological, sexual, or economic abuse, often occurring repeatedly and systematically over prolonged periods. Impacts include not only short-term physical injuries and psychological trauma but also long-term consequences such as mental health disorders, decreased productivity, and disturbances in children's development (Zahra, 2023). Domestic violence also contributes to an intergenerational cycle of violence affecting social stability.

Although Indonesia has a comprehensive legal framework through Law Number 23 of 2004 on the Elimination of Domestic Violence and Law Number 31 of 2014 on the Protection of Witnesses and Victims, there are indications of a gap between normative standards and judicial practice. Specifically, critical gaps in victim protection norms manifest in several dimensions: first, the absence of clear operational guidelines for implementing victims' rights to restitution and compensation, leading to inconsistent application across different courts; second, insufficient legal provisions addressing the psychological and economic recovery needs of victims post-trial; and third, the lack of mechanisms to prevent and sanction secondary victimization during judicial proceedings. Legal problems include: first, suboptimal judicial consideration in integrating a victimological perspective into *ratio decidendi*; second, minimal attention to victims' rights such as restitution, compensation, and recovery; and third, potential secondary victimization from insensitive judicial processes. Furthermore, an offender-centered bias pervades the criminal justice system, evident in judicial decisions that prioritize the defendant's circumstances—such as family responsibilities, employment status, and remorseful demeanor—over the severity of harm inflicted upon victims. This bias is reflected in lenient sentencing patterns that fail to adequately consider the long-term physical and psychological impacts on victims, as well as the power imbalances inherent in domestic relationships. The predominant focus on punitive measures against perpetrators, without corresponding emphasis on victim restoration and protection, reveals a fundamental imbalance in the justice system's approach to domestic violence cases. This is crucial because court decisions must serve not merely as instruments for punishing perpetrators but also as means of protection and recovery for victims.

Given this complexity, a holistic approach is required, including through a victimological perspective. Victimology, as a branch of criminology studying crime victims, offers a new paradigm for understanding victims' position and role within the criminal justice system. The victimological perspective emphasizes special attention to victims, from understanding victimization factors and impacts to recovery and protection efforts (Ufran, Rodliyah, & Parman, 2022). In domestic violence contexts, this approach is highly relevant given that victims are often in vulnerable positions with emotional, economic, and social dependence on perpetrators. Awareness of protecting domestic violence victims has encouraged adoption of international legal instruments such as CEDAW and the Declaration on the Elimination of Violence Against Women, both ratified by Indonesia. Nationally, Indonesia's commitment manifests through Law Number 23 of 2004, which explicitly regulates domestic violence definition, forms, victim protection mechanisms, and criminal sanctions for perpetrators (Mentari, 2024). Nevertheless, implementation in judicial practice faces various challenges: lack of understanding among law enforcement officials regarding victim-centered perspectives, limited victim protection facilities, weak inter-institutional coordination, and persistent social stigma discouraging victims from reporting (Mumu, 2025). This indicates that despite existing legal frameworks, legal protection requires comprehensive evaluation to identify gaps between normative standards and implementation.

In the Special Region of Yogyakarta, data indicate relatively significant domestic violence levels. The Gender and Child Information System shows 1,062 cases in 2021,

increasing to 1,144 in 2022, then slightly decreasing to 1,031 in 2023. Sleman Regency consistently recorded the highest numbers: 228 cases in 2021, 324 in 2022, and 283 in 2023 (Anak, 2025). These data demonstrate that domestic violence remains a serious regional problem requiring special attention. One important indicator in evaluating legal protection is court decision analysis. Court judgments reflect not only substantive and procedural law application but also the extent to which victimological perspectives have been integrated into judicial processes. From a victimological perspective, victim protection is not limited to judicial processes alone but includes preventing secondary and tertiary victimization. Secondary victimization refers to additional suffering within the criminal justice system, while tertiary victimization relates to negative societal reactions including stigmatization and discrimination (Munir & Siregar, 2024). In domestic violence contexts, both forms are highly likely given the private nature of cases and complex relational dynamics between victims and perpetrators.

The importance of a victimological approach in handling domestic violence cases is also in line with the development of the restorative justice paradigm within the Indonesian criminal justice system, which has been regulated in various statutory instruments. This paradigm emphasizes efforts to restore relationships damaged by criminal acts, rather than focusing solely on the imposition of sanctions on perpetrators (Aji, 2021). Nevertheless, in the context of domestic violence, the application of restorative justice must take into account the specific provisions stipulated in Supreme Court Regulation Number 3 of 2017 concerning Guidelines for Adjudicating Cases Involving Women in Conflict with the Law, particularly with regard to identifying power imbalances and histories of violence that may affect the victim's bargaining position in the recovery process.

Studies on the legal protection of victims of domestic violence from a victimological perspective also cannot be separated from the socio-cultural context of Indonesian society. The patriarchal culture that remains deeply rooted in Indonesian society often places women in a subordinate position and makes them vulnerable to becoming victims of violence. In addition, the concepts of "family honor" and "family shame," which remain strong in Indonesian culture, often discourage victims of domestic violence from reporting the cases they experience or seeking legal assistance (Ramadhan, Nur, & Husna, 2024). This condition calls for a culturally sensitive approach in providing legal protection to victims of domestic violence, one that considers not only formal legal aspects but also the socio-cultural realities surrounding the victims.

Against this backdrop of systemic gaps and biases, empirical examination of judicial decisions becomes imperative to reveal how these deficiencies manifest in actual case outcomes and to identify concrete pathways for reform. In this context, an analysis of Decision Number 661/Pid.Sus/2023/PN Smn becomes relevant, as the decision represents one example of how domestic violence cases are handled within the Indonesian criminal justice system. This decision was selected as a representative case for several reasons: first, it encompasses multiple dimensions of domestic violence (physical violence, economic triggers, and gambling addiction) that reflect broader national patterns; second, it originates from Sleman District, which consistently records the highest domestic violence cases in Yogyakarta, indicating systemic challenges in victim protection; third, it demonstrates typical barriers to victim protection identified at the national level, including power imbalances and delayed reporting; and fourth, it provides complete documentation suitable for analyzing gaps between normative standards and judicial implementation. This decision was selected as the object of the study based on its relevance to the ongoing issue of domestic violence in Indonesia and the complexity of its contributing factors. The case not only demonstrates the form of physical violence suffered by the victim, but also reveals the interconnection between economic problems and online gambling as triggers of domestic conflict. Moreover, this decision is particularly interesting to examine because it involves power relations within the household that culminated in acts of violence, while at the same time providing a concrete illustration of how the criminal justice system—especially within the

jurisdiction of the Sleman District Court—applies legal provisions concerning the protection of victims of domestic violence.

The case contained in Decision Number 661/Pid.Sus/2023/PN Smn concerns an incident of domestic violence between a legally married husband and wife who have been married since 15 July 2004. The root of the domestic problem began with the defendant's habit of frequently engaging in online number-guessing gambling since early 2022. This gambling habit not only changed the defendant's behavior but also triggered ongoing conflict with his wife, who objected to the activity. The domestic situation further deteriorated when, in January 2023, the wife asked the husband to temporarily stay in a boarding house in order to avoid conflict while the extended family was planning to visit; however, the defendant instead left the house and did not return until the violent incident occurred. The violent acts committed by the defendant caused serious physical impacts on the victim, including pain in the thumb ligament, swelling of both hands, bruises on the back of the right foot, and the inability to bend the fingers of the left hand accompanied by pressure pain. This condition required the victim to undergo multiple medical examinations and to be referred to a neurological specialist, and it also disrupted the victim's daily activities for approximately two week.

The analysis of the court decision in this domestic violence case from a victimological perspective is conducted by first examining the provisions on victim protection as stipulated in Law Number 23 of 2004 on the Elimination of Domestic Violence and Law Number 31 of 2014 concerning the Amendment to Law Number 13 of 2006 on the Protection of Witnesses and Victims, particularly with regard to the victim's right to be heard, the right to restitution, and the right to recovery. Subsequently, an assessment is carried out of the application of these victim protection norms in the legal reasoning (*ratio decidendi*) of the panel of judges in the decision under study, including an evaluation of whether the judges have taken into account the impacts of victimization on the victim, provided adequate protection, and rendered a decision that fulfills the sense of justice for the victim while at the same time producing a deterrent effect for the perpetrator.

## 2. Materials and Methods

This study employs a normative legal research design, conducted by examining legal materials consisting of statutory regulations, legal doctrines or scholarly opinions, and court decisions relevant to the research focus, with primary emphasis on written legal norms through a doctrinal approach that analyzes law as a system of norms (*law in the books*) (Efendi & Ibrahim, 2021). The approaches used in this research are the statute approach, which examines relevant legislation including Law Number 23 of 2004 on the Elimination of Domestic Violence and the Criminal Code (KUHP), and the case approach, which is carried out by comprehensively analyzing Decision Number 661/Pid.Sus/2023/PN Smn in order to obtain a deeper understanding of the concrete application of legal norms through a final and legally binding (*in kracht*) court decision. This approach makes it possible to observe how judicial reasoning is applied in practice and to provide a concrete picture of the consistency between written legal rules and their implementation in court (Ali, 2021).

This study uses secondary data sources, namely data obtained from legal materials consisting of primary legal materials, including the Criminal Code (KUHP), Law Number 23 of 2004 on the Elimination of Domestic Violence, Law Number 12 of 2022 on Sexual Violence Crimes, and Decision Number 661/Pid.Sus/2023/PN Smn. Secondary legal materials include legal doctrines or scholarly opinions, law textbooks, scientific journals, academic articles, and relevant previous research to strengthen legal arguments and support the analysis of the primary legal materials (Marzuki, 2021). The data collection technique employed is library research, conducted by thoroughly examining various legal materials, with all data obtained through the review of official documents, statutory regulations, and academic literature relevant to the research topic (Widiarty, 2024).

The data collected in this study are analyzed using a descriptive qualitative analysis method, which is employed to describe and explain the content of legal norms related to the protection of victims of domestic violence and to examine how these norms are applied in judicial practice based on court decisions, by systematically organizing the legal materials and relating them to victimology theory as a conceptual framework (Widiarty, 2024). In the analytical process, the researcher elaborates the relevant regulations, compares normative provisions with actual practice, and draws conclusions regarding the available legal protection for victims, with the aim of providing an objective and structured overview of the current condition of legal protection and formulating legally grounded recommendations for improving the protection of victims of domestic violence (Sonata, 2024).

### 3. Results and Discussion

#### 3.1. Legal Regulation of Domestic Violence Crimes from a Victimological Perspective in Indonesian Legislation

The legal regulation of domestic violence in Indonesia has undergone significant development with the enactment of Law Number 23 of 2004 on the Elimination of Domestic Violence (UU PKDRT). This law represents the state's response to the widespread occurrence of violence within the domestic sphere, which had long been regarded as a private family matter (Saraswati, 2021). From a victimological perspective, the UU PKDRT marks a paradigm shift from an offender-centered approach to a victim-centered approach (Sunarso, 2022). Article 1 point 1 of the UU PKDRT defines domestic violence as any act committed against a person, particularly a woman, which results in physical, sexual, psychological suffering, and/or household neglect, including threats to commit such acts, coercion, or unlawful deprivation of liberty within the household sphere. This definition reflects a comprehensive understanding of victimization in the domestic context, as it is not limited solely to physical violence but also encompasses psychological, sexual, and economic dimensions.

##### a. Forms of Domestic Violence

The Law on the Elimination of Domestic Violence (UU PKDRT) regulates four forms of domestic violence as stipulated in Articles 5 to 9, namely physical violence, psychological violence, sexual violence, and household neglect.

##### b. Physical Violence

Physical violence is defined as any act that results in pain, illness, or serious injury. Article 44 paragraph (1) stipulates that perpetrators of physical violence may be punished with imprisonment for a maximum of five years or a fine of up to IDR 15,000,000.00. From a victimological perspective, this regulation acknowledges that victims of physical violence experience primary victimization that directly affects their bodily integrity and health (Ufran, Rodliyah, & Parman, 2022). Physical violence in the context of domestic violence encompasses a broad spectrum, ranging from minor acts of violence to severe violence that threatens the victim's life. According to Article 44 of the UU PKDRT, physical violence is classified into three levels based on the consequences it causes: violence resulting in pain; violence resulting in illness or serious injury; and violence resulting in death. This gradation is important because it determines different levels of criminal sanctions, namely: minor physical violence is punishable by a maximum of five years' imprisonment; violence resulting in serious injury is punishable by a maximum of ten years' imprisonment; and violence resulting in death is punishable by a maximum of fifteen years' imprisonment. Research conducted by the Rifka Annisa Women's Crisis Center shows that 78% of victims of physical domestic violence also experience psychological violence simultaneously, and 43% of them also suffer economic violence (Center, 2021). This overlapping phenomenon indicates that victimization in

domestic violence cases is multidimensional in nature and therefore requires a holistic approach to protection.

#### c. Psychological Violence

The criminalization of psychological violence constitutes an important breakthrough in Indonesian criminal law, as previously the Criminal Code (KUHP) did not recognize the concept of psychological abuse (Labibah, 2021). Article 7 of the Law on the Elimination of Domestic Violence (UU PKDRT) defines psychological violence as any act that results in fear, loss of self-confidence, loss of the ability to act, feelings of helplessness, and/or severe psychological suffering. This is in line with victimological principles, which recognize that the psychological impact of violence can be as serious as physical injury.

A study conducted by the Center for Women's and Gender Studies of the University of Indonesia shows that victims of psychological domestic violence suffer from anxiety disorders (87%), depression (73%), and post-traumatic stress disorder (64%) (Poerwandari, 2021). These psychological impacts not only affect the victim's mental health, but also their ability to work, socialize, and perform daily life functions. In practice, forms of psychological violence vary widely, ranging from verbal insults that demean the victim's dignity, threats of violence or murder, social isolation by prohibiting the victim from meeting family or friends, to gaslighting, namely psychological manipulation that causes the victim to doubt their own perceptions and memories (Hayati, 2022). Psychological violence may also take the form of excessive surveillance of the victim's activities, including obsessively checking the victim's mobile phone, email, or social media accounts (Suharsyah, 2021).

The evidentiary process for psychological violence in court presents particular challenges because it does not leave visible physical marks. Proof of psychological violence often requires expert testimony from psychologists or psychiatrists who can explain the psychological impacts suffered by the victim (Dewi, 2022). In this context, the role of *visum et repertum psikiatrikum* becomes very important as a legally valid piece of evidence in court (Mulyadi, 2023).

#### d. Sexual Violence

Sexual violence within the household is one of the most taboo forms of violence to discuss in Indonesian society due to the persistence of stigma and cultural norms that regard sexual relations within marriage as the absolute right of the husband (Irianto, 2021). In fact, Article 8 of the UU PKDRT expressly prohibits the coercion of sexual relations against a person residing within the household, which means that marriage does not confer an absolute right upon the husband to force sexual relations upon his wife. This regulation is consistent with human rights principles that guarantee the right to bodily integrity and sexual autonomy of every person, including women within marriage (Katjasungkana, 2021). From a feminist victimology perspective, the recognition of marital rape as a criminal offense constitutes a progressive step in protecting women's sexual rights, which have long been neglected in the name of the institution of marriage (Yulia, 2021). Sexual violence in the household is not limited to forced sexual intercourse, but also includes various other forms, such as forcing the victim to perform unwanted sexual acts, coercing the victim to watch pornographic material, forcing the victim to engage in sexual relations with other persons for commercial purposes, as well as sexual violence committed in a manner that humiliates or degrades the victim sexually. Law Number 12 of 2022 on Sexual Violence Crimes has further expanded the definition of sexual violence by including various forms of non-contact violence, such as sexually based verbal harassment and the dissemination of intimate content without consent. The impact of sexual violence on victims is highly complex. It not only affects physical health in the form of genital injuries or sexually transmitted diseases, but also causes profound psychological impacts, including trauma, shame, loss of self-esteem, and long-term sexual dysfunction (Wijaya, 2021). Research

shows that victims of sexual violence in domestic settings have a suicide risk five times higher than victims of other forms of violence (Yentriyani, 2022).

e. Household Neglect

Household neglect is regulated in Article 9 of the UU PKDRT as a form of violence that is often not recognized as a crime because it does not cause visible physical injuries. Article 9 paragraph (1) prohibits any person from neglecting a person within their household, even though under the applicable law or due to an agreement or contract they are obliged to provide life necessities, care, or maintenance to that person.

More progressively, Article 9 paragraph (2) explicitly recognizes economic violence by prohibiting acts that cause economic dependence by restricting and/or prohibiting a person from engaging in decent work inside or outside the home, thereby placing the victim under the control of the perpetrator. This regulation demonstrates an understanding that economic control is one of the most effective instruments for perpetuating domestic violence. From a victimological perspective, economic neglect creates systematic victimization because it places the victim in a position of total dependence on the perpetrator, making it difficult for the victim to escape the cycle of violence (Sunarso, 2022). In practice, forms of economic neglect vary widely, including failure to provide financial support despite having the economic capacity, providing inadequate financial support, prohibiting the wife from working and earning her own income, forcibly taking the victim's income or assets, and neglecting children by failing to provide for their education or healthcare expenses.

f. Victims' Right from a Victimological Perspective

The Law on the Elimination of Domestic Violence (UU PKDRT) provides specific regulations regarding victims' rights that reflect the principles of modern victimology. Article 10 of the UU PKDRT guarantees the victim's right to obtain protection from family members, the police, the public prosecutor's office, the courts, advocates, social institutions, or other parties; to receive health services in accordance with medical needs; to obtain special treatment related to the confidentiality of the victim; to receive assistance from social workers and legal aid at every stage of the examination process; and to receive spiritual guidance services. According to Siswanto Sunarso, the regulation of these victims' rights constitutes an implementation of victimological principles that place victims as subjects entitled to protection, recovery, and justice, rather than merely as objects of proof within the criminal justice system (Sunarso, 2022). This approach is in line with the radical approach in victimology, which emphasizes structural injustice and power imbalances within society.

g. Mechanisms for Victim Protection

The UU PKDRT regulates victim protection mechanisms through two main channels. First, temporary protection as stipulated in Article 16 of the UU PKDRT, which obliges the police to immediately provide temporary protection to the victim within 1 x 24 hours after becoming aware of or receiving a report of domestic violence. This temporary protection is granted for a maximum of seven days, and within 1 x 24 hours after providing such protection, the police are required to request a court order for a protection order.

Second, protection orders, which are regulated in Articles 28 to 38 of the UU PKDRT. A protection order may include prohibiting the perpetrator from committing acts of violence, ordering the perpetrator to leave the residence, prohibiting the perpetrator from approaching the victim, and ordering the police to take certain measures for the purpose of protecting the victim. According to Philipus M. Hadjon, this protection mechanism reflects preventive legal protection aimed at preventing repeated victimization (Hadjon, 2021). From a victimological perspective, preventive protection is crucial because victims of domestic violence are in a highly vulnerable position to

experience repeated violence due to their emotional, economic, and social dependence on the perpetrator (Dewi, 2022).

h. Restitution, Compensation, and Assistance for Victims

In addition to the Law on the Elimination of Domestic Violence (UU PKDRT), the protection of victims of domestic violence is also regulated under Law Number 31 of 2014 concerning the Amendment to Law Number 13 of 2006 on the Protection of Witnesses and Victims. Article 7A stipulates that victims, through the Witness and Victim Protection Agency, are entitled to submit a claim for restitution to the court in the form of compensation for the loss of property or income, compensation for losses arising from suffering directly related to the criminal act, and/or reimbursement of medical and/or psychological treatment costs. Article 7 paragraph (1) letter c provides that victims are entitled to receive compensation in cases where they suffer serious injury or permanent disability, severe mental health disorders, or economic loss. Furthermore, Article 5 stipulates that witnesses and victims are entitled to receive medical assistance and psycho-social rehabilitation assistance. According to Rena Yulia, the regulation of restitution and compensation reflects the principles of victimology, which recognize that victims are entitled to material and immaterial recovery for the suffering they have endured (Yulia, 2021). Restitution and compensation are not merely forms of financial reparation, but also represent a form of state recognition of the victim's suffering and an effort to restore the victim's dignity.

i. Prevention of Secondary Victimization

From a victimological perspective, secondary victimization refers to the additional suffering experienced by victims as a result of the response of the criminal justice system itself (Munir & Siregar, 2024). The UU PKDRT and the Law on the Protection of Witnesses and Victims regulate several mechanisms to prevent secondary victimization. First, the confidentiality of the victim's identity. Article 10 letter c of the UU PKDRT guarantees the victim's right to special treatment related to the confidentiality of the victim. This is important to protect victims from social stigmatization that may lead to tertiary victimization. Second, legal and psychological assistance. Article 10 letter d of the UU PKDRT guarantees the victim's right to receive assistance from social workers and legal aid at every stage of the examination process. Such assistance is crucial to prevent secondary victimization that may occur during the judicial process, such as victim-blaming questions or repetitive and traumatizing interrogations. Third, closed hearings. Article 54 of the UU PKDRT stipulates that, for the purpose of examination, the judge shall examine the victim in a closed courtroom. This provision aims to protect the victim's privacy and to prevent additional trauma resulting from examinations conducted in open court sessions accessible to the public.

j. Restorative Justice in Domestic Violence Cases

Recent developments in the Indonesian criminal justice system indicate the adoption of the restorative justice paradigm, as regulated in Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Using a Restorative Justice Approach. However, in the context of domestic violence, the application of restorative justice must be carried out with great caution. Supreme Court Regulation Number 3 of 2017 concerning Guidelines for Adjudicating Cases Involving Women in Conflict with the Law provides specific guidance for domestic violence cases. This regulation emphasizes the importance of identifying power imbalances and histories of violence that may affect the victim's bargaining position in the recovery process. According to Luthfi Trikusuma Aji, the application of restorative justice in domestic violence cases must take into account the existence of a balance of power between the perpetrator and the victim, the absence of a history of repeated violence, the fact that any peace agreement truly reflects the victim's free will without coercion, and the

availability of monitoring mechanisms to ensure that the perpetrator does not repeat the violence (Aji, 2021).

### ***3.2 Legal Protection of Victims of Domestic Violence in Decision Number 661/Pid.Sus/2023/PN Smn from a Victimological Perspective***

Decision Number 661/Pid.Sus/2023/PN Smn concerns a case of domestic violence between a husband and wife who have been legally married since 15 July 2004. The conflict began with the defendant's habit of engaging in online gambling since early 2022, which triggered continuous disputes (Sleman, 2023). In January 2023, when the victim asked the defendant to temporarily stay in a boarding house because the extended family was going to visit, the defendant instead left the house and did not return (Sleman, 2023). The violent incident occurred on 8 February 2023 at approximately 2:00 p.m. at the terrace of Witness 2's house. When the victim asked the defendant to return home in order to reconcile and repair their marriage, the defendant refused. The victim then held the collar of the defendant's shirt, but the defendant broke free by twisting the victim's right thumb and fingers until a cracking sound was heard and the victim felt pain. The victim then used her left hand to hold the defendant, but the defendant again twisted the victim's left thumb and fingers. The defendant subsequently pushed the victim's body, causing her to fall and sit on a terrace chair, and stepped on the back of the victim's right foot before leaving her behind (Sleman, 2023). Based on the Medical Resume and the Visum et Repertum, the victim suffered pain in the thumb ligaments, swelling of both hands, bruises on the back of the right foot caused by blunt force trauma, inability to bend the fingers of the left hand accompanied by pressure pain, was referred to a neurological specialist, and experienced disruption of daily activities for approximately two weeks (Sleman, 2023). The Panel of Judges considered alternative charges, namely Article 44 paragraph (1) of the Law on the Elimination of Domestic Violence concerning physical violence within the household, and Article 44 paragraph (4) of the same Law concerning physical violence that does not cause illness or impediment to carrying out one's work. The Panel chose the first charge by finding proven the elements of "any person," "committing an act of physical violence," and "within the household sphere" (Sleman, 2023). The defendant was proven to have committed physical violence in the form of twisting the victim's thumbs and fingers, pushing the victim's body until she fell, and stepping on the back of the victim's right foot, which resulted in injuries as stated in the visum et repertum (Sleman, 2023). The existence of a lawful marriage since 15 July 2004 fulfilled the element of "within the household sphere" (Sleman, 2023). The Panel of Judges sentenced the defendant to three months' imprisonment, with the stipulation that the sentence need not be served (a suspended sentence), subject to a probation period of six months, unless in the future there is a final and binding court decision because the convicted person commits another criminal offense before the probation period expires (Sleman, 2023).

#### **a. Recognition of Victim Status from a Victimological Perspective**

In victimology, the first step of protection is the recognition of a person's status as a victim of crime (Sunarso, 2022). This judgment has implicitly recognized the victim's status by establishing that the defendant committed physical violence causing injuries and suffering. Such recognition is essential because it constitutes the initial stage of the victim's psychological recovery and the prevention of secondary victimization (Yulia, 2021). However, the judgment does not explicitly state that "the witness-victim is a victim of domestic violence," but merely refers to her as a "witness-victim." This indicates a lack of judicial attention to the victimological dimension of the case.

#### **b. Consideration of the Impact of Violence of the Victim**

The Panel of Judges considered the physical consequences of the violence, namely pain in the thumb ligaments, swelling of both hands, bruising on the instep of the right

foot, inability to bend the left fingers accompanied by pressure pain, and disruption of daily activities for approximately two weeks (Sleman, 2023). However, the court's consideration was limited solely to the physical injuries recorded in the *visum et repertum*, without taking into account the long-term psychological impacts such as trauma, fear, loss of self-confidence, or other mental health disturbances. From a victimological perspective, judges should consider not only the physical impacts but also the psychological, social, and economic consequences of victimization (Sunarso, 2022). In this case, the victim also experienced economic neglect because the defendant reduced financial support from IDR 6,000,000 to only IDR 2,000,000 starting in April 2023 (Sleman, 2023) nevertheless, this fact was not taken into account in determining the sentence.

#### c. Victim Participation in the Criminal Justice Process

The right of victims to be heard in criminal proceedings is a fundamental principle in victimology. In this case, the victim was given the opportunity to provide testimony, which became the primary evidentiary basis of the judgment. However, the decision does not indicate whether the victim was given an opportunity to express her views regarding the type and severity of punishment, the need for restitution or compensation, the form of recovery desired, or her opinion regarding reconciliation or mediation. The absence of such information demonstrates that although the victim was heard as a witness, her participation remained limited to an evidentiary function and did not reach the level of substantive participation in determining a decision that fulfills the victim's sense of justice.

#### d. The Absence of a Restitution Order

The most fundamental criticism from a victimological perspective is the absence of a restitution order requiring the defendant to compensate the victim. Article 7A of the Law on the Protection of Witnesses and Victims provides that victims have the right to claim restitution in the form of compensation for loss of property or income, compensation for suffering, and reimbursement of medical and/or psychological treatment expenses. In this case, the victim clearly incurred medical expenses for examinations at a primary clinic and Bhayangkara Hospital, referrals to a neurological specialist, X-ray examinations, and also suffered a loss of working capacity for approximately two weeks. The court's failure to order restitution constitutes a form of secondary victimization because the victim did not obtain the material recovery to which she is legally entitled (Yulia, 2021). Restitution is not merely a matter of financial compensation, but also a form of state recognition of the victim's suffering and an effort to restore the victim's dignity.

#### e. The Absence of a Protection Order

The judgment does not contain any protection order as mandated by Articles 28 to 38 of the Law on the Elimination of Domestic Violence. This is particularly problematic because there are strong indications that the victim requires protection from the risk of repeated violence: the defendant has a history of committing violence since the early years of the marriage, the victim had previously reported violence to the police but the case was merely mediated, the victim had once suffered violence resulting in a bleeding nose in front of the defendant's sibling, and the defendant continued to display an uncooperative and irresponsible attitude toward the family (Sleman, 2023). Preventive legal protection is crucial to prevent repeat victimization, especially in domestic violence cases where the perpetrator and the victim maintain a close personal relationship (Hadjon, 2021). The absence of a protection order in this judgment places the victim in a highly vulnerable position to experience further violence in the future.

f. The Imposition of a Suspend Sentence and Its Implications for the Victim

The judgment imposed a sentence of three months' imprisonment with a suspended execution (probation) for a probationary period of six months. The judges based their decision on several considerations: the defendant still bears responsibility as the family's breadwinner, must financially support children who are still pursuing their education, must preserve a marriage that is currently in conflict, has expressed remorse, the defendant and his wife have mutually forgiven each other (reconciled) in court, and according to expert opinion, mediation should be prioritized in domestic violence cases (Sleman, 2023). From a victimological perspective, the imposition of a suspended sentence raises several fundamental issues. First, it fails to provide an adequate deterrent effect. One of the core functions of criminal punishment is to deter the perpetrator from repeating the offense and to provide a sense of justice to the victim (Arief, 2021). A suspended sentence that does not require actual incarceration may create the impression that domestic violence is a minor offense that does not warrant firm sanctions. This situation potentially increases the risk of repeat victimization, as the perpetrator does not experience any real and tangible consequences for his actions. Second, it ignores the history of repeated violence. The facts established at trial show that the defendant had a history of committing repeated acts of violence against the victim since the early years of the marriage (Sleman, 2023). In victimological theory, a pattern of repeated violence is a crucial factor that must be taken into account because it indicates a systematic behavioral pattern that is likely to continue (Ufran, Rodliyah, & Parman, 2022). Supreme Court Regulation No. 3 of 2017 on Guidelines for Adjudicating Cases Involving Women in Conflict with the Law explicitly requires judges to consider the history of violence and power imbalances between the perpetrator and the victim in domestic violence cases. However, in this judgment, the court's considerations appear to prioritize the interests of the defendant (as the family breadwinner) rather than the victim's need for protection and justice. Third, the questionable voluntariness of the reconciliation. The judgment states that the defendant and the victim had reconciled in court. However, in the context of domestic violence, such reconciliation must be critically assessed, given that the victim is in a position of strong economic dependence on the defendant, has two children who still require financial support, and is situated within a relationship marked by significant power imbalance. Reconciliation in domestic violence cases can only be considered legitimate if it truly reflects the free will of the victim, without economic, social, or psychological pressure (Aji, 2021). The judgment does not explain how the mediation process was conducted nor whether there were any safeguards to ensure that the reconciliation genuinely represented the victim's autonomous choice.

g. The Absence of Rehabilitation Programs for the Perpetrator and Recovery Measures for the Victim

The judgment does not contain any order requiring the defendant to undergo rehabilitation or counseling to address his violent behavior and gambling addiction. In modern victimological perspectives, recovery should not focus solely on the victim but should also involve interventions directed at the perpetrator in order to change his behavior and prevent the recurrence of violence (Sunarso, 2022). Likewise, the judgment does not include any referral or recommendation for the psychological recovery of the victim, even though the facts established at trial indicate that the victim suffered significant trauma and psychological distress. Psychological recovery of the victim is an integral part of victim protection within the framework of victimology (Sunarso, 2022).

h. The Prevention of Secondary Victimization

With regard to the prevention of secondary victimization, the judgment demonstrates several positive aspects. The testimonies of the witnesses, including the victim, were heard under oath, which strengthens their legal evidentiary value and is important to prevent questioning that undermines the victim's credibility (Sleman,

2023). The judgment also does not disclose the full identity of the victim and other witnesses, in accordance with Article 10 letter (c) of the Law on the Elimination of Domestic Violence, which guarantees the victim's right to confidentiality. This is essential to protect the victim from social stigmatization. However, the judgment does not indicate whether the examination of the victim was conducted in a closed session as mandated by Article 54 of the Law on the Elimination of Domestic Violence. The absence of such information raises concerns as to whether the victim was adequately protected from additional trauma that could arise from being examined in an open court session.

#### 4. Conclusions

The legal regulation of domestic violence offences in Indonesia has shown significant development with the enactment of Law Number 23 of 2004 on the Elimination of Domestic Violence, which reflects a paradigm shift from an offender-centered approach to a victim-centered approach. The existing legal framework has comprehensively regulated four forms of domestic violence—namely physical, psychological, sexual violence, and household neglect—and has guaranteed victims' rights, including the right to protection, health services, special treatment concerning confidentiality, legal and social assistance, and spiritual guidance services. This regulatory framework is further complemented by victim protection mechanisms in the form of temporary protection and court-issued protection orders, as well as by the guarantee of the right to restitution and compensation under the Law on the Protection of Witnesses and Victims. Nevertheless, the existing legal framework still suffers from several weaknesses, particularly the lack of adequate regulation concerning long-term recovery, the weak implementation of restitution in judicial practice, and the limited access of victims to justice due to social stigma, economic dependence, and victims' insufficient awareness of their rights.

An analysis of Decision Number 661/Pid.Sus/2023/PN Smn demonstrates that the implementation of protection for victims of domestic violence in judicial practice remains far from optimal and has not yet fully reflected victimological principles. Although the decision has acknowledged the victim's status and proven the occurrence of physical violence within the household, there are several fundamental deficiencies in victim protection, namely the absence of an order for restitution to compensate for the material and immaterial losses suffered by the victim, the absence of a protection order to prevent repeat victimization, the imposition of a suspended sentence that fails to provide an adequate deterrent effect and ignores the history of repeated violence, as well as the absence of recovery programs for both the victim and the perpetrator. The judges' considerations in this decision remain heavily centered on the interests of the perpetrator as the family's breadwinner, while neglecting the victim's need for protection, recovery, and justice. Furthermore, the decision fails to adequately take into account the dimensions of structural inequality, unequal power relations, and the victim's economic dependence on the perpetrator, which creates a high risk of repeated victimization and places the victim in a highly vulnerable position in the future. Given these findings, future research should expand the scope of analysis through several strategic directions: first, conducting a comparative analysis of multiple domestic violence verdicts across different district courts in Indonesia to identify systematic patterns in judicial reasoning and victim protection implementation; second, examining the patterns and determinants of restitution orders in domestic violence cases to understand why restitution remains rarely granted despite legal provisions; third, investigating variations in probationary sentences and suspended sentence practices to determine whether lenient sentencing correlates with repeat offending rates; and fourth, analyzing the effectiveness of protection orders and rehabilitation programs where they have been implemented. Such research would provide empirical evidence necessary for developing policy recommendations to strengthen victim protection mechanisms and ensure more consistent application of victimological principles across Indonesia's criminal justice system.

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