



## Resolution of Domestic Violence Criminal Cases at the Police Level Through Restorative Justice

Achmad David Firmansyah <sup>1\*</sup>, Dr. Umi Enggarsasi SHM Hum <sup>2</sup>, Dr. Titik Suharti SHM Hum <sup>3</sup>

<sup>1, 3</sup> Fakultas Hukum, Universitas Wijaya Kusuma, Surabaya, Indonesia

\* Corresponding Author: Achmad David Firmansyah

---

### Article Info

**ISSN (online):** 2583-6536

**Volume:** 04

**Issue:** 04

**July - August 2025**

**Received:** 16-05-2025

**Accepted:** 10-06-2025

**Published:** 08-07-2025

**Page No:** 35-37

### Abstract

Domestic violence (DV) refers to any act that causes pain or distress, including physical, sexual, and psychological abuse against women within a household environment. The resolution of such cases can be approached using restorative justice, as it aims to restore the well-being of the victim, the perpetrator, and the community harmed by the crime, as well as to prevent further violations or criminal acts. Restorative justice at the police level is regulated by Perpol (Police Regulation) Number 8 of 2021 concerning the handling of criminal acts based on restorative justice. Essentially, resolving domestic violence criminal cases through restorative justice at the police level is permissible, provided that certain material and formal requirements outlined in the regulation are fulfilled.

This study employs a normative legal research methodology that focuses on the verification of the application of legal rules and norms, particularly within positive law. The approach includes legislative examination encompassing the analysis of laws and regulations related to the legal issue. The type of research involves the collection of data and information from literature, including official documents, regulations and norms, books, articles, academic publications, and documents related to the object of study.

The conclusion of this study is that the legal basis for resolving cases through restorative justice includes the Regulation of the Chief of the Indonesian National Police Number 8 of 2021 on the handling of criminal acts based on restorative justice, the Chief of Police's Letter No. Pol: B/3022/XII/2009/SDEOPS dated December 14, 2009, concerning case handling through Alternative Dispute Resolution (ADR), the Prosecutor's Regulation Number 15 of 2020 on termination of prosecution based on restorative justice, and the Supreme Court Regulation Number 1 of 2024 on guidelines for adjudicating criminal cases based on restorative justice. The forms and characteristics of domestic violence criminal acts that can be resolved through restorative justice include physical violence, psychological violence, sexual violence, and household neglect. The eligibility of such cases for restorative justice depends on whether the offense is categorized as mild, moderate, or severe, and not solely on the investigator's discretion.

**Keywords:** Criminal Act, Domestic Violence, Restorative Justice, Investigation Process

---

### 1. Introduction

Marriage is a spiritual bond between a man and a woman, built upon mutual agreement to live together and form a harmonious family, both physically and emotionally. However, in practice, this relationship does not always go as expected. One of the serious issues frequently occurring in households is Domestic Violence (DV), which includes not only physical violence but also psychological, sexual, and economic abuse.

In a legal context, DV is a violation of human rights and dignity, reflecting discriminatory actions within the family. Indonesian law, through Law No. 23 of 2004 on the Elimination of Domestic Violence, asserts that the state is responsible for providing protection to DV victims, both physically and psychologically. This protection may be provided by law enforcement agencies, social institutions, or the judiciary.

DV often arises due to various factors, such as economic pressure, low education, and environmental influences. Furthermore, law enforcement officers frequently view DV as a private family matter rather than a criminal offense requiring legal action. In fact, DV is clearly a legal violation subject to criminal sanctions. Unfortunately, since DV is classified as a complaint-based offense, legal proceedings only commence when there is a report from the victim. In practice, many victims are reluctant to report due to social pressure, economic dependence, or fear of societal stigma.

As an alternative to the often lengthy and insensitive formal legal process, a restorative justice approach has begun to be applied in resolving DV cases at the police level. Restorative justice is a peaceful settlement mechanism that prioritizes recovery and agreement between the perpetrator and the victim. This approach emphasizes the offender's responsibility to repair the harm caused, provides the offender with an understanding of the impact of their actions, and restores the social relationship damaged by the crime. It is considered a more humane and responsive approach to the needs of victims.

The Indonesian National Police, through Chief of Police Letter No. Pol: B/3022/XII/2009/SDEOPS, emphasizes the importance of resolving cases peacefully through Alternative Dispute Resolution (ADR), as long as there is agreement between the offender and the victim. However, this circular is internal and does not carry binding legal force in general. Therefore, the application of restorative justice in criminal cases, especially DV, still faces various challenges, particularly in terms of formal legal aspects. Nevertheless, restorative justice offers a quicker, fairer, and more mutually beneficial resolution, provided that the material and formal requirements outlined in Police Regulation No. 8 of 2021 are met.

The material requirements include the absence of public unrest, no social conflict, no relation to radicalism or separatism, the offender not being a recidivist, and the case not involving serious crimes such as terrorism or corruption. Meanwhile, the formal requirements include mutual agreement for reconciliation and the fulfillment of the victim's rights. This means restorative justice can only be applied if both victim and perpetrator agree to reconcile, and the perpetrator is willing to take moral and material responsibility for their actions. In practice, victims receive compensation and psychological recovery, while perpetrators gain legal leniency as part of the mutual agreement.

The case study in this thesis highlights decision number 150/Pid.Sus/2024/PN.Gsk, which reveals an injustice against a perpetrator of minor psychological DV who was still brought to trial, even though the case could have been resolved through restorative justice. This indicates that law enforcement officials, particularly investigators, still do not fully understand the concept of restorative justice and its relevance in DV cases. In fact, by prioritizing this approach, law enforcement can better reflect substantive justice, not merely retribution. Therefore, this thesis is titled "*Resolution*

*of Domestic Violence Criminal Cases at the Police Level through Restorative Justice*", in response to the need for a reformed legal approach in handling DV cases more wisely, humanely, and with social justice.

## 2. Research Method

This study is a normative legal research that focuses on data collection through literature review by examining official documents, legislation, books, academic articles, and other relevant sources. This research does not use empirical data but emphasizes legal analysis based on existing legal norms and regulations. The approaches used are the statutory approach and the case approach. The statutory approach involves analyzing laws and regulations related to the legal issue under investigation, while the case approach is conducted by analyzing court decisions or legal practices related to the application of restorative justice within the context of criminal law.

The legal materials in this study are divided into two categories: primary and secondary legal materials. Primary legal materials are the main and binding sources, such as the Indonesian Criminal Code (KUHP), the Criminal Procedure Code (KUHAP), Law No. 1 of 1974 on Marriage, Law No. 23 of 2004 on the Elimination of Domestic Violence, and various regulations from law enforcement institutions, such as Indonesian National Police Regulation No. 8 of 2021 on the Handling of Criminal Acts Based on Restorative Justice, Prosecutor's Regulation No. 15 of 2020 on Termination of Prosecution Based on Restorative Justice, and Supreme Court Regulation No. 1 of 2024. In addition, the study also refers to the Chief of Police Letter on resolving disputes through Alternative Dispute Resolution (ADR). Secondary legal materials consist of legal literature, previous research, journal articles, and other scholarly publications that provide interpretation or analysis of primary legal materials and enrich the legal arguments in this study.

## 3. Results and Analysis

Domestic Violence (DV) is a form of violence within the household that can be triggered by various factors, including economic, psychological, physical, and sexual causes. The negative impact of DV on victims is significant, both physically and psychologically, which necessitates effective legal protection from the state. Law No. 23 of 2004 on the Elimination of Domestic Violence emphasizes that DV is a serious violation that must be legally processed. However, implementation in the field is often hindered by victims' limited access to legal protection and the lack of responsiveness from law enforcement in handling DV reports. Since DV is a complaint-based offense, legal proceedings can only be initiated if the victim is willing to report. Often, victims are reluctant to report due to psychological pressure, unequal power relations, or social stigma. Even more concerning, some investigators perceive DV as merely a domestic issue, not a legal violation, whereas in fact, it is a criminal act that must be handled professionally and responsively.

Philosophically, the Domestic Violence Elimination Law aligns with the values of Pancasila, particularly the second and fifth principles, and upholds the principle of "the personal is political," which highlights that personal experiences—including domestic violence—are part of broader social-political inequalities that require state attention. This law aims not only to protect victims,

especially women, but also to challenge the patriarchal culture that normalizes domestic violence. However, the implementation of this law continues to face challenges, such as law enforcement bias and social norms that suppress victims.

Amid such conditions, the restorative justice approach emerges as an alternative resolution to criminal cases that focuses on healing rather than mere punishment. Restorative justice seeks to repair relationships between the perpetrator, the victim, and society, and to encourage offender accountability. This approach is seen as relevant to DV cases because it provides space for victims to express their experiences and needs. However, its implementation also raises concerns, such as the risk of overlooking the unequal power dynamics between the perpetrator and the victim, as well as the possibility of re-victimization. Therefore, the application of restorative justice in DV cases must be conducted with great caution, upholding the rights and protection of victims as guaranteed in Article 28G(1) of the 1945 Constitution, which affirms every person's right to feel secure from threats of violence.

Restorative justice is based on three core principles: first, restoration for the victim as the main form of justice; second, active involvement of all parties affected by the crime in the resolution process; and third, the state's vital role in maintaining public order, while the community plays a role in sustaining it. This approach reflects a shift from a retributive justice system to a more humane system focused on social recovery and balancing relationships among the involved parties. In the context of DV, these principles can only be successfully implemented if applied fairly, with gender sensitivity, and without neglecting the vulnerability of victims. Restorative justice is believed to reduce recidivism, enhance victim recovery, and provide long-term solutions that address the root causes of familial social issues. Thus, restorative justice is not merely a technical alternative but part of a more inclusive, sustainable, and socially just legal strategy.

Domestic violence is often referred to as a hidden crime because both the perpetrator and the victim may try to conceal it to protect the family's reputation. According to Article 28 of the 1945 Constitution and Law No. 23 of 2004, DV is a violation of human rights that threatens human dignity and represents a form of discrimination that must be eliminated. Since DV is classified as a complaint-based offense, it can be withdrawn if reconciliation occurs and may be resolved through a restorative justice approach. DV consists of various forms of violence, including physical, psychological, sexual, and neglect.

Physical violence, as defined in Article 6 of the DV Law, refers to acts causing pain or injury, categorized as minor or severe. Only minor and moderate physical violence may be resolved through restorative justice. Psychological violence, according to Article 7, includes actions that cause mental suffering, such as fear and loss of self-confidence. Mild or severe psychological abuse can be resolved restoratively if the victim consents. Sexual violence, as stated in Article 8, includes coerced sexual relations within the household and may not be resolved through restorative justice, except when the perpetrator is a child. Meanwhile, domestic neglect, based on Article 9, includes failure to fulfill economic obligations, caregiving, and employment restrictions of the spouse. This type of violence can be resolved through restorative justice if the victim agrees.

DV is caused by a variety of internal and external factors, such as patriarchal culture, biased religious interpretations, power dominance, and capitalist economic systems. In this context, restorative justice becomes an alternative solution for resolving minor DV cases that involve mutual agreement between the perpetrator and the victim.

#### 4. Conclusion

The concept of restorative justice in Indonesia has developed through regulations such as Police Regulation No. 8 of 2021 and Prosecutor's Regulation No. 15 of 2020. The police apply two approaches in resolving DV cases: penal mediation and legal proceedings. Obstacles faced include regulatory limitations, challenges from victims and perpetrators, family dynamics, and the role of the state. DV encompasses physical, psychological, sexual violence, and neglect, with characteristics determined by the severity of the crime, not based on investigator discretion. The restorative justice approach aims to avoid imprisonment and resolve cases in a peaceful and humane manner.

#### 5. References

1. Laurika AL. *Perlindungan hukum terhadap korban tindak pidana kekerasan dalam rumah tangga*. Jakarta: [Publisher not specified]; 2016.
2. Riyanto B. *Rekonstruksi model penyelesaian sengketa perdata melalui mediasi yang diintegrasikan pada pengadilan*. Semarang: Pidato Pengukuhan Guru Besar dalam Ilmu Hukum pada Fakultas Hukum Universitas Diponegoro; 2010.
3. Mansur DMA, Gultom E. *Urgensi perlindungan korban kejahatan antara norma dan realita*. 1st ed. Jakarta: PT Raja Grafindo Persada; 2007.
4. Saleh KW. *Hukum perkawinan Indonesia*. 4th ed. Jakarta: Ghalia Indonesia; 1976.
5. Kanter, Sianturi. *Asas-asas hukum pidana di Indonesia dan penerapannya*. Jakarta: Stora Grafika; 2002.
6. Lasmadi S. *Mediasi penal dalam sistem peradilan pidana Indonesia*. *Inovatif: Jurnal Ilmu Hukum*. 2011;4(2):1-12.
7. Muladi. *Demokrasi, hak asasi manusia, dan reformasi hukum di Indonesia*. Jakarta: The Habibie Center; 2002.
8. Soeroso MH. *Kekerasan dalam rumah tangga dalam perspektif yuridis-viktimologis*. Jakarta: Sinar Grafika; 2006.
9. Ekotama S, Pudjianto SH, Wiratana G. *Abortus provocatus bagi korban pemerkosaan perspektif viktimologi, kriminologi dan hukum pidana*. 1st ed. Yogyakarta: Universitas Atmajaya; 2001.
10. Rahardjo S. *Biarkan hukum mengalir: catatan kritis tentang pergulatan manusia dengan hukum*. Jakarta: [Publisher not specified]; 2007.
11. Amdani Y. *Konsep restorative justice dalam penyelesaian perkara tindak pidana pencurian oleh anak berbasis hukum Islam dan adat Aceh*. [Place not specified]: [Publisher not specified]; [Year not specified].