

## LEGAL LIABILITY OF PERPETRATORS OF DOMESTIC VIOLENCE: AN INTEGRATED PERSPECTIVE OF CRIMINAL AND CIVIL LAW IN THE PROTECTION OF VICTIMS

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### Abstract

Domestic violence is a form of legal and human rights violation that causes physical, psychological, sexual and economic harm to victims within the household. Law No. 23 of 2004 emphasises that the elimination of domestic violence is aimed at preventing violence, prosecuting perpetrators and protecting victims; consequently, its handling cannot be limited solely to private family matters. This study aims to analyse the legal liability of perpetrators of domestic violence through an integrated perspective of criminal and civil law in the protection of victims. The method used is a literature review, examining legislation, legal literature, and relevant academic sources regarding domestic violence, victim protection, restitution, and the restoration of victims' rights. The findings indicate that criminal legal liability serves to affirm prohibitions, establish the perpetrator's guilt, and impose sanctions as a form of accountability for acts of domestic violence. However, a criminal approach alone is insufficient, as victims often suffer multiple layers of harm requiring concrete redress through civil mechanisms, including claims for damages and restitution. Perma No. 1 of 2022 strengthens victim recovery by stipulating that restitution may take the form of compensation for loss of wealth or income, material and immaterial losses, medical and psychological care costs, as well as other losses directly related to the criminal offence. Thus, the protection of victims of domestic violence demands an integrated approach between criminal and civil law so that justice does not merely end with the punishment of the perpetrator, but also provides effective redress, ongoing protection, and a guarantee of dignity for the victim.

**Keywords:** domestic violence, legal liability, criminal law, civil law, victim protection, restitution.

### Introduction

Domestic violence is one of the most complex forms of human rights violations because it occurs in the private sphere, yet has far-reaching public implications. In many cases, victims endure prolonged physical, psychological, social, and economic suffering, whilst perpetrators often remain within power dynamics that are difficult to break free from quickly. Consequently, the issue of domestic violence cannot be understood merely as a domestic conflict, but rather as a legal and victim protection issue requiring a firm and comprehensive approach (Jannah, 2017).

Normatively, the law in Indonesia has recognised that domestic violence is not a private matter immune to state intervention. The enactment of Law No. 23 of 2004 on

the Elimination of Domestic Violence demonstrates that the state prioritises victim protection, whilst also establishing a legal basis for holding perpetrators accountable. However, the implementation of these provisions still faces challenges, both in terms of criminal law enforcement and the restoration of victims' rights through civil mechanisms (Karini, 2023).

In practice, victims of domestic violence often face barriers to reporting, proving the incident of violence, and obtaining adequate protection. These barriers are influenced by economic dependence, fear of retaliation by the perpetrator, family pressure, and a social culture that tends to normalise violence within intimate relationships. This situation demonstrates that the issue of domestic violence cannot be resolved merely by punishing the perpetrator, but must be accompanied by effective mechanisms for the protection and recovery of victims (Firdaus, 2014).

From a criminal law perspective, holding perpetrators accountable aims to enforce prohibitions against acts of violence and to serve as a deterrent. Criminal sanctions are considered important because the state must demonstrate its support for victims through fair processes of investigation, prosecution, and sentencing. However, the criminal approach is often more focused on punishing the perpetrator than on the victim's recovery; thus, if applied in isolation, it may not fully address the victim's needs (Kango, 2009).

On the other hand, civil law offers a broader scope for redressing victims' losses through damages, restitution, and compensation. This approach is important because domestic violence leaves not only physical wounds but also long-lasting economic and psychological burdens. Within the framework of victim protection, civil mechanisms can complement criminal law by providing access to more concrete remedies for the losses suffered by victims (Susanta & Putra, 2022). The integration of criminal and civil law is relevant because domestic violence has a dual dimension: as a criminal offence to be prosecuted by the state, and simultaneously as a tortious act causing harm to the victim. An integrated approach enables victims to receive more comprehensive protection, ranging from the cessation of violence, temporary protection, psychological recovery, to the recovery of material losses. Thus, the legal system does not stop at punishing the perpetrator, but also focuses on restoring the victim's dignity (Nugraha & Subaidi, 2022).

In legal protection theory, the state has a positive obligation to prevent violence, prosecute perpetrators, and ensure victims have access to justice. This obligation includes the provision of accessible legal procedures, support services, and recovery mechanisms responsive to victims' needs. If these elements are not available, the law functions merely formally, not substantively, as victims remain in a vulnerable position despite the existence of written rules (Santo et al., 2024). Furthermore, the victimological perspective emphasises that victims are not merely objects of criminal acts, but legal subjects who must be placed at the centre of the justice system's

attention. This approach shifts the focus from merely punishing the perpetrator towards the protection, recovery, and empowerment of the victim. In cases of domestic violence, a victim-centred approach is particularly crucial because the relationship between the perpetrator and the victim often continues after the violent incident has occurred (Khasanah et al., 2023).

Another issue worthy of attention is the tendency to resolve domestic violence through informal compromises that do not always favour the victim. In some situations, victims are encouraged to reconcile in order to preserve family unity, even though such reconciliation may mask patterns of recurring violence. Therefore, legal accountability must be designed so that it is not easily undermined by social pressure, whilst still allowing victims the space to determine what is in their best interests (Karisma et al., 2024).

From a legal policy perspective, the integration of criminal sanctions and civil mechanisms also reflects the development of modern judicial systems that increasingly prioritise restorative justice and victim protection. However, restorative justice must not be interpreted as the removal of the perpetrator's liability, but rather as an effort to balance punishment, rehabilitation, and prevention. In the context of domestic violence, this approach must be applied with care so as not to inadvertently weaken the victim's position (Tantimin, 2021).

Based on the above, it is clear that the legal liability of perpetrators of domestic violence cannot be viewed in isolation. Criminal law is necessary to enforce prohibitions and impose sanctions, whilst civil law is required to compensate victims for their losses and ensure the restoration of their rights. Both must be interpreted in an integrated manner so that victim protection does not stop at formal aspects, but is truly realised in the form of substantive justice (Panjaitan, 2018).

Therefore, this article is important for examining how the legal liability of perpetrators of domestic violence can be established through an integrated perspective of criminal and civil law. This study is expected to demonstrate that victim protection requires a legal system that not only punishes, but also restores, prevents, and ensures a lasting sense of security for victims.

## **Research Methodology**

This study employs a literature review method, which involves examining various relevant written sources such as books, academic journals, legislation, and other supporting documents relating to the legal liability of perpetrators of domestic violence. Through this method, the researcher collects, reads, compares, and analyses various literature to gain a comprehensive understanding of the concept of legal liability from both criminal and civil perspectives, whilst formulating an academic argument regarding the integrated protection of victims (Walliman & Walliman, 2021); (Elijah & Aslan, 2025).

## **Results and Discussion**

### **Criminal Liability in Cases of Domestic Violence**

Domestic violence, from a criminal law perspective, constitutes an unlawful act that infringes upon the physical, psychological, sexual integrity and well-being of family members within the domestic sphere. In the Indonesian legal system, the primary normative basis is found in Law No. 23 of 2004 on the Elimination of Domestic Violence, which affirms that the state has a duty to prevent, prosecute, and protect victims from various forms of domestic violence (Law No. 23 of 2004, 2004).

This regulation is significant because, previously, domestic violence was often understood as a private matter in which the state should not interfere. With the enactment of the Law on the Elimination of Domestic Violence, this paradigm shifted fundamentally, as violence occurring within domestic relationships is now positioned as a public issue that may result in criminal consequences for the perpetrator. In this context, criminal law serves to affirm that family relationships cannot be used as a justification for acts of violence (Panjaitan, 2018).

Legally speaking, the perpetrator's criminal liability arises when an act fulfils the elements of a criminal offence and is committed by a person capable of being held legally responsible. In cases of domestic violence, this liability is not merely assessed based on visible physical acts, but also on the suffering inflicted upon the victim, including psychological distress and economic neglect. Consequently, criminal law in domestic violence cases has a broader scope than the common understanding, which typically associates it solely with physical abuse (Saffira, 2025).

The forms of domestic violence regulated under the Domestic Violence Act include physical violence, psychological violence, sexual violence, and domestic neglect. Physical violence is understood as an act that causes pain, illness, or serious injury, whilst psychological violence encompasses actions that cause fear, a loss of self-confidence, a loss of the ability to act, a sense of helplessness, or severe psychological suffering. This classification indicates that the perpetrator's criminal liability is not based solely on visible injuries, but also on the genuine psychological suffering experienced by the victim (WICAKSONO, 2025).

In the case of sexual violence, the Domestic Violence Act emphasises that the coercion of sexual relations within the domestic sphere also constitutes a criminal offence. This provision is important because, in social practice, sexual violence by a partner is often not recognised as a crime due to the mistaken belief that a marital relationship negates the element of coercion. In fact, from a criminal law perspective, any coercion that violates the victim's will and dignity can still result in criminal liability for the perpetrator (Firdaus, 2014).

Domestic neglect is also a form of violence that carries criminal consequences, particularly when a person who is legally obliged to provide for, care for, or maintain the victim fails to fulfil these obligations. Furthermore, neglect may also occur when the

perpetrator deliberately creates economic dependence by restricting or prohibiting the victim from working in a decent manner. This demonstrates that criminal liability in domestic violence extends not only to direct aggressive acts but also to passive behaviour that causes the victim's suffering and helplessness (Jannah, 2017) .

Criminal liability for perpetrators of domestic violence must also be understood through the element of fault, particularly intent. In many cases, domestic violence is not merely a spontaneous event, but part of a pattern of domination, control, threats and intimidation carried out repeatedly by the perpetrator. Therefore, law enforcement officials need to consider the context of power relations within the household so that the evidence is not confined to a single incident, but is able to interpret the violence as a systematic pattern of behaviour (Rosyadi & Zumrotun, 2025) .

From the perspective of the criminal justice system, the Domestic Violence Act can be viewed as a special provision or *lex specialis* that specifically regulates acts of violence within the domestic sphere. Although certain forms of conduct may also be linked to general provisions in the Criminal Code, the existence of the Domestic Violence Act provides a more appropriate legal instrument as it takes into account the nature of domestic relationships, which are characterised by dependency, emotional pressure, and power imbalances. Consequently, the application of this special criminal law strengthens victim protection and clarifies the legal position of the perpetrator (Karini, 2023) .

Criminal sanctions in domestic violence cases essentially serve as an affirmation that every act of violence carries serious legal consequences. The criminal penalties under the Domestic Violence Act are formulated to act as a deterrent whilst reaffirming the state's protection of victims, particularly women and children who are often in vulnerable positions. Within this framework, criminalisation is understood not only as retribution for the perpetrator's actions, but also as an instrument to maintain social order and prevent the recurrence of domestic violence (Law No. 23 of 2004, 2004). However, the effectiveness of criminal liability is determined not only by the severity of the sanctions, but also by the law enforcement process. Many victims of domestic violence face barriers to reporting due to fear, economic dependence, family pressure, or concerns about social stigma. In such situations, the criminal liability of the perpetrator is significantly influenced by the state's ability to provide safe reporting channels, trauma-sensitive evidence-gathering, and tangible protection throughout the legal process (Rosyadi & Zumrotun, 2025) .

The role of victim protection agencies is crucial in supporting criminal proceedings against perpetrators of domestic violence. The LPSK states that these agencies have a mandate to provide protection to witnesses and victims, including women who are victims of gender-based violence, and in 2024 received 2,966 requests for protection from victims of gender-based violence, the majority of which involved victims of sexual violence, domestic violence, exploitation, and human trafficking. This

data indicates that the need for victim protection within the criminal justice process remains significant and requires strong institutional support (Dinda, 2026).

In addition to security protection, victims also require medical assistance and psychological rehabilitation to enable them to navigate the legal process effectively. The LPSK's 2024 policy document outlines a scheme for providing medical assistance and/or psychological rehabilitation to witnesses and/or victims of criminal offences, including the possibility of emergency protection in certain circumstances. This demonstrates that criminal accountability for perpetrators of domestic violence in modern practice cannot be separated from the victim support system, as without adequate recovery, victims often struggle to maintain their reports or provide consistent testimony (Sudarty et al., 2019).

Although criminal law plays a vital role as an instrument of enforcement, this approach also has its limitations. A criminal conviction may punish the perpetrator, but it does not necessarily erase the trauma, improve the victim's economic circumstances, or guarantee a sense of safety once the judicial process has concluded. Consequently, in academic studies, criminal liability is viewed as a key element but not the sole means of achieving comprehensive victim protection in cases of domestic violence (Rosyadi & Zumrotun, 2025).

Thus, criminal liability in cases of domestic violence is a legal mechanism that places the perpetrator as the subject who must bear the consequences of their actions based on the elements of the criminal offence, fault, and the harm caused to the victim. The existence of the Domestic Violence Act (UU PKDRT) affirms that domestic violence is a criminal offence that must be dealt with seriously, whilst support from victim protection agencies strengthens the effectiveness of such law enforcement. Within the framework of victim protection, criminal law serves as a vital foundation, but its effectiveness is further enhanced when linked to broader and integrated recovery efforts.

### **Civil Liability and an Integrated Approach to Victim Protection**

Civil liability in cases of domestic violence stems from the principle that any unlawful act causing harm to another person obliges the perpetrator to compensate for that harm. Within the Indonesian legal framework, this principle is primarily grounded in Article 1365 of the Civil Code, which forms the basis for claims arising from unlawful acts; consequently, victims of domestic violence essentially have the right to seek compensation for both material and immaterial losses resulting from the perpetrator's actions (Asafari & Hakim, 2023a).

Unlike criminal law, which focuses on punishing perpetrators for breaches of public order, civil law places greater emphasis on the concrete restoration of the victim's rights. In cases of domestic violence, a civil law approach is crucial because the victim's suffering often does not end when the violence occurs, but continues in the

form of medical costs, loss of income, instability in life, and prolonged psychological trauma. Therefore, civil claims can be viewed as an instrument to restore the balance of the victim's rights that have been violated by the perpetrator's actions (Saputra & Nugraha, 2022).

In the construction of a tort, the victim must prove the existence of an unlawful act, the perpetrator's fault, the existence of loss, and a causal link between the act and the resulting loss. These elements are highly relevant in cases of domestic violence as victims generally suffer multiple layers of harm, ranging from physical injuries, psychological distress, medical costs, to damage to social and economic relationships. Consequently, civil law provides scope for victims to seek broader accountability from the perpetrator than merely imprisonment or a fine (Yahman, 2017).

The damages that may be claimed in a civil lawsuit essentially cover both material and immaterial losses. Material losses may include medical expenses, rehabilitation costs, loss of income, or other tangible, quantifiable expenses, whilst immaterial losses relate to mental anguish, fear, trauma, loss of a sense of security, and a reduction in the victim's quality of life. Developments in judicial practice also indicate that non-material damages are increasingly recognised as an important part of redress, particularly when the perpetrator's actions affect the victim's dignity and psychological condition (Setiawan, 2024).

In the context of domestic violence, civil claims should not be understood merely as a separate avenue from criminal proceedings, but also as a complementary instrument. Whilst criminal proceedings focus on proving guilt and imposing sanctions, civil proceedings are more closely aligned with the victim's need to obtain tangible compensation for their losses. Therefore, civil legal liability provides a reparative dimension that is not always achieved through criminal judgments alone (Asafari & Hakim, 2023a). In addition to ordinary civil claims based on unlawful acts, the Indonesian legal system also recognises restitution mechanisms for victims of criminal offences. Restitution is compensation provided to the victim or their family by the perpetrator of the criminal act or a third party, and may take the form of compensation for loss of property or income, material or immaterial damages resulting from suffering, medical and psychological care costs, as well as other losses arising from the criminal act. This provision places victim recovery as an increasingly important part of the modern judicial system (Wijaya & Purwadi, 2018).

The strength of restitution lies in its ability to bridge criminal and civil law. A claim for restitution may be submitted directly to the court or via the LPSK, the investigating officer, or the public prosecutor, and may be sought both before a final and binding judgment is issued and afterwards under certain conditions. Through this mechanism, victims do not always have to start a civil lawsuit from scratch, as claims for compensation can be integrated into the criminal proceedings (Asafari & Hakim, 2023b). However, restitution does not preclude the victim's right to pursue a civil lawsuit.

According to the provisions explained by the Supreme Court, victims may still file a civil claim if the application for restitution is rejected because the defendant is acquitted or discharged from legal proceedings, or when there are still losses that have not been claimed or considered by the court. This provision is important as it demonstrates that Indonesian law provides more than one avenue of redress for victims, ensuring that protection does not rely on a single mechanism alone (Setiawan, 2024).

In cases of domestic violence, victims' needs extend beyond financial compensation to include safeguarding their continued well-being. Consequently, an integrated approach to victim protection must encompass access to medical care, psychological rehabilitation, legal aid, social support, and guarantees of safety from the perpetrator's threats. Studies on the fulfilment of domestic violence victims' rights indicate that effective protection requires inter-agency cooperation so that victims are not left to face legal proceedings alone (Sibarani, 2016).

An integrated approach also means viewing the victim as the centre of the legal protection system. In this model, criminal prosecution of the perpetrator remains important, but must be accompanied by concrete efforts to restore the victim's physical, psychological, social, and economic well-being. Legal-empirical studies on victims of domestic violence confirm that a progressive legal response requires coordination between law enforcement agencies, protection agencies, medical staff, and social workers so that the system truly prioritises the victim (Saputra & Nugraha, 2022).

From a practical perspective, an integrated approach is essential because victims of domestic violence are often in a relationship of dependency with the perpetrator. If the law provides only criminal punishment without economic and psychological recovery, victims risk returning to dangerous situations due to a lack of safe living options. Therefore, civil liability, restitution, and protection services must be positioned as part of a single, mutually complementary protection ecosystem, rather than as mutually exclusive options (Wijaya & Purwadi, 2018).

The main challenges in enforcing civil liability against perpetrators of domestic violence are proving damages, the length of proceedings, litigation costs, and victims' limited access to legal representation. Not all victims possess medical records, evidence of expenses, or the ability to assess the non-material harm they have suffered in detail. Consequently, the existence of more responsive mechanisms, including support from the LPSK and integration with criminal proceedings, is crucial to ensure that victims' rights to recovery are not merely normative but can be realised in practice (Asafari & Hakim, 2023a). Furthermore, an integrated approach must be underpinned by a policy orientation that prioritises victim protection as the primary objective. When judicial institutions, health services, social agencies, and victim-witness protection operate in isolation, victims may face revictimisation as they are forced to repeatedly recount their trauma and navigate complex administrative procedures. Conversely, the integration of



services will accelerate recovery, strengthen victims' courage to seek justice, and enhance the effectiveness of holding perpetrators accountable both criminally and civilly (Sibarani, 2016).

Thus, civil legal liability in cases of domestic violence plays a crucial role in ensuring that victims receive tangible redress for the harm they have suffered. Through actions for tort, restitution mechanisms, and an integrated protection approach, the legal system can move beyond the logic of punishment towards a more reparative and victim-oriented justice. In this context, effective victim protection can only be achieved if criminal and civil law are implemented synergistically within a comprehensive protection framework.

## **Conclusion**

The legal liability of perpetrators of domestic violence must be understood as a responsibility that does not end with punishment, but also encompasses the full restoration of the victim's rights. Law No. 23 of 2004 emphasises that the elimination of domestic violence is aimed at preventing violence, prosecuting perpetrators, and protecting victims; thus, the legal approach to domestic violence was designed from the outset not merely to be repressive, but also protective. In this context, criminal law plays a vital role in establishing prohibitions, proving the perpetrator's guilt, and imposing sanctions as a form of accountability for violence committed within the domestic sphere.

However, the protection of victims will not be fully achieved if the legal system focuses solely on punishing perpetrators. Victims of domestic violence often suffer multiple forms of harm, ranging from physical injuries, psychological trauma, and a loss of security, to economic losses that require concrete redress through civil mechanisms and restitution. In this regard, Perma No. 1 of 2022 strengthens the position of victims by establishing procedures for applying for restitution and compensation, and by affirming that restitution does not preclude the victim's right to still file a civil claim if the required redress has not been adequately fulfilled.

Therefore, an integrated perspective between criminal and civil law is the most relevant approach to protecting victims of domestic violence. Criminal law is needed to punish perpetrators and provide a deterrent effect, whilst civil law and restitution mechanisms are required to restore the victim's losses in a tangible, ' ' manner, while institutions such as the LPSK play a vital role in ensuring protection, legal aid, and psychological recovery for victims throughout the process. Thus, justice in cases of domestic violence can only be considered substantive if the legal system is able to deliver punishment for perpetrators whilst simultaneously providing effective protection and recovery for victims.

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