

Criminal Law Enforcement on Domestic Violence Offenses Involving Religious Leader: A Juridical Analysis

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ABSTRACT

This study examines the legal suitability of Restorative Justice (RJ) as a resolution mechanism for domestic violence cases committed by religious leaders, drawing on the case of pastor Hendryanto Udjari or Moses Henry in Surabaya, East Java. Employing a normative juridical method through statutory, case, and conceptual approaches, the analysis is grounded in Satjipto Rahardjo's law enforcement theory, John Rawls' substantive justice theory, and criminal liability theory. The study identifies layered enforcement barriers, including evidentiary difficulties arising from the hidden nature of domestic violence, religious community intervention pressuring victims into reconciliation, and inadequate institutional protection against revictimization. The findings indicate that domestic violence perpetrated by religious leaders is unsuitable for resolution through RJ, as the deeply asymmetric power relationship between perpetrator and victim risks reducing the mechanism into an instrument of social coercion and concealed impunity. Where RJ is nonetheless considered, its application can only be legally justified when cumulative preconditions are satisfied, including the victim's free and informed consent, genuine acknowledgment of wrongdoing by the perpetrator, an independent facilitator, and rigorous oversight, while maintaining RJ strictly as a complementary mechanism rather than a substitute for formal criminal proceedings. This study recommends consistent law enforcement grounded in the principle of equality before the law and substantive justice, irrespective of the perpetrator's social standing.

Keywords: *Domestic Violence, Restorative Justice, Religious Leader*

Kajian Yuridis Terhadap Penegakan Hukum Tindak Pidana Kekerasan Dalam Rumah Tangga Yang Melibatkan Tokoh Agama

ABSTRAK

Penelitian ini mengkaji secara yuridis normatif kelayakan penerapan Restorative Justice (RJ) dalam penanganan kasus Kekerasan Dalam Rumah Tangga (KDRT) yang dilakukan oleh tokoh agama, dengan mengambil studi kasus pendeta Hendryanto Udjari alias Moses Henry di Surabaya, Jawa Timur. Penelitian menggunakan tiga pendekatan sinergis; perundang-undangan, kasus, dan konseptual yang dianalisis melalui teori penegakan hukum Satjipto Rahardjo, teori keadilan substantif John Rawls, serta teori pertanggungjawaban pidana. Hambatan penegakan hukum yang ditemukan bersifat berlapis, meliputi kesulitan pengumpulan alat bukti akibat karakter KDRT sebagai hidden crime, intervensi komunitas keagamaan yang menekan korban untuk berdamai, serta lemahnya perlindungan aparat terhadap reviktimisasi. Hasil penelitian menunjukkan bahwa KDRT yang dilakukan oleh tokoh agama tidak ideal diselesaikan melalui RJ karena relasi kuasa yang asimetris antara pelaku dan korban berpotensi mereduksi mekanisme tersebut menjadi instrumen tekanan sosial dan impunitas terselubung. Apabila RJ tetap dipertimbangkan, penerapannya hanya dapat dibenarkan secara yuridis apabila seluruh prasyarat terpenuhi secara kumulatif, yakni persetujuan bebas korban, pengakuan tulus pelaku, fasilitator independen, dan pengawasan ketat, dengan tetap menempatkan RJ sebagai mekanisme komplementer dan bukan pengganti peradilan pidana formal. Penelitian ini merekomendasikan penegakan hukum yang konsisten berpijak pada asas equality before the law dan keadilan substantif tanpa memandang status sosial pelaku.

Kata kunci: KDRT, Restorative Justice, Tokoh Agama

INTRODUCTION

Domestic violence, referred to in Indonesian law as *Kekerasan Dalam Rumah Tangga* (KDRT), constitutes a serious violation of human rights with far-reaching consequences across physical, psychological, and social dimensions. In Indonesia, this phenomenon is not confined to ordinary households; it also involves public figures, including religious leaders who are widely regarded as moral exemplars within their communities.¹ Marriage, which under Law Number 1 of 1974 is intended to establish a prosperous family unit, has paradoxically become a site of violence in many cases, driven by gender power imbalances, economic conflict, and the absence of constructive conflict resolution within the domestic sphere.²

Violence against women in the household is frequently characterized as a hidden crime, given that cases rarely surface publicly. Victims often remain silent out of fear, shame, or social pressure to protect family honour. This silence is further entrenched by Indonesia's prevailing patriarchal social structure, in which women are positioned as subordinate parties. As a consequence, women's voices are frequently suppressed, and victims face the additional burden of re-victimization.³ Domestic matters continue to be treated as a private sphere into which outside parties, including law enforcement, are considered inappropriate to intervene. The result is that many victims are left without adequate protection or access to justice.⁴

Data published by the National Commission on Violence Against Women (*Komnas Perempuan*) in 2022 recorded a 50 percent increase in gender-based violence (GBV) cases compared to the previous year, totalling 339,782 reported cases. East Java Province ranked second nationally, with 53,861 cases reported.⁵ These figures, however, are widely considered to represent only the visible portion of a much larger problem, as a substantial number of cases go unreported due to social pressure and the stigma attached to victims who come forward.

¹ Hani Nafi'ah Rachmawati and Muhammad Jadid Khadavi, "PERAN TOKOH AGAMA DALAM MENANAMKAN AKHLAKUL KARIMAH PADA MASYARAKAT NELAYAN DI KABUPATEN PROBOLINGGO," *IMTIYAZ: Jurnal Ilmu Keislaman* 7, no. 1 (March 25, 2023): 69–80, <https://doi.org/10.46773/IMTIYAZ.V7I1.1020>.

² Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan

³ Nurnaningsih Nurnaningsih, "Patriarchal Culture, Sexual Violence, and Legal Protection for Women in Indonesia," *Veteran Law Review* 6, no. SpecialIssues (April 18, 2023): 85–103, <https://doi.org/10.35586/VELREV.V6ISPECIALISSUES.5758>.

⁴ Marisca Lian Beatrix, Haris Irawan, and Januarius Rizky Ohoiledyaan, "LEGAL PROTECTION FOR VICTIMS OF DOMESTIC VIOLENCE REVIEWED FROM THE LEGAL SYSTEM IN INDONESIA," *Jurnal Hukum Khaira Ummah* 19, no. 3 (January 14, 2024): 321–26, <https://doi.org/10.30659/JHKU.V19I3.35481>.

⁵ Komnas Perempuan, "Momentum Perubahan: Peluang Penguatan Sistem Penyidikan Di Tengah Peningkatan Kompleksitas Kekerasan Terhadap Perempuan (CATAHU 2023: CATATAN TAHUNAN KEKERASAN TERHADAP PEREMPUAN TAHUN 2023)," *Catahu: Catatan Tahunan Tentang Kekerasan Terhadap Perempuan*, 2023, <https://komnasperempuan.go.id/>.

One case that illustrates the complexity of prosecuting domestic violence committed by a religious figure involves a pastor known as Moses Henry, whose full name is Hendryanto Udjari (67), based in Surabaya, East Java. As a public figure with considerable social standing and an extensive network of influence, Moses Henry is alleged to have committed domestic violence against his wife. The legal proceedings, however, encountered numerous obstacles, including difficulties in securing witness testimony, interference from influential parties, and a recurring tendency among investigators to pursue family-based or restorative resolution rather than formal criminal prosecution, partly attributable to the perpetrator's status as a religious leader.⁶⁷

Broader systemic constraints within the criminal justice system have further complicated this case. Law enforcement officers frequently face difficulties in gathering evidence, particularly when victims delay reporting and no direct witnesses are available. Moreover, familiarity with the provisions of the Domestic Violence Protection Law (UU PKDRT) among officers remains limited, and there is a pronounced preference for family mediation over strict legal enforcement. This practice produces an unequal application of the law, particularly when the alleged perpetrator holds a prominent social position.⁸

The consequence of weak enforcement in cases involving religiously prominent perpetrators is the emergence of *de facto impunity*. When perpetrators are not processed through fair and transparent legal mechanisms, victims lose confidence in the justice system, and the broader public begins to question the credibility of legal institutions. Such conditions simultaneously reinforce patriarchal cultural dominance and deepen existing gender inequalities, both within households and in society at large.

Several prior studies have examined domestic violence and its legal enforcement in Indonesia from various analytical perspectives. Researchers have analysed the implementation of victim protection under Law No. 23 of 2004 and found that, despite the regulatory framework providing multiple protective mechanisms, systemic obstacles at the level of legal practice remain significant, largely due to entrenched patriarchal norms and insufficient understanding of the substantive content

⁶ Rira Nuradhawati and Arinto Nurcahyono, "Perlindungan Hukum Terhadap Perempuan Dan Anak Korban Kekerasan Dalam Rumah Tangga (Studi Kasus Pada Lembaga Konsultasi Kesejahteraan Keluarga Kota Cimahi)," *Wajah Hukum* 9, no. 1 (April 28, 2025): 387–97, <https://doi.org/10.33087/WJH.V9I1.1800>.

⁷ Aria Zurnetti and Nani Muliati, "Customary Criminal Law Policy on Domestic Violence Settlement through Restorative Justice," *Cogent Social Sciences* 8, no. 1 (December 31, 2022): 1–12, <https://doi.org/10.1080/23311886.2022.2090083>.

⁸ Pemerintah Pusat Indonesia, "Undang-Undang (UU) Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga" (Jakarta, September 22, 2004), <https://peraturan.bpk.go.id/Details/40597/uu-no-23-tahun-2004>.

of the PKDRT Law among enforcement personnel.⁹ Understanding of the substantive content of the PKDRT Law among enforcement personnel. Consistent with these findings, Gesa Bimantara et al., in a study conducted at the Bojonegoro Police precinct, concluded that legal enforcement against domestic violence perpetrators has not been carried out optimally, with the primary constraints being a tendency toward peaceful settlement and limited evidentiary material resulting from delayed victim reporting.¹⁰ Separately, Alam, drawing on a socio-legal framework, examined a case of psychological domestic violence at the Karawang District Court and argued that Indonesia's enforcement system still requires fundamental reform, one that moves beyond formal legal certainty toward substantive justice that is genuinely responsive to the circumstances of victims.¹¹

From the prior research outlined above, a significant gap remains. Existing studies have generally addressed enforcement challenges in cases where perpetrators are drawn from the general public or from civilian and military backgrounds, and none has specifically or thoroughly examined the dynamics of legal enforcement when the perpetrator holds the status of a religious leader. This dimension carries particular complexity, as religious figures bear moral authority and a high degree of public trust, meaning that legal proceedings in such cases are potentially subject to institutional protection, intervention from religious communities, and forms of social resistance that are not typically encountered in cases involving ordinary perpetrators. This study aims to fill that gap by examining, from a juridical standpoint, the handling of domestic violence cases in which the perpetrator is a religious figure, with specific reference to a case study in Surabaya.

A juridical review of domestic violence cases involving religious leaders is therefore necessary. Evaluation of the implementation of the PKDRT Law is needed to identify both normative and practical barriers to enforcement. Legal proceedings must be applied fairly and consistently, regardless of the social status of the perpetrator. Victim protection must be treated as a primary obligation, and law enforcement personnel must be equipped with gender sensitivity and a thorough understanding of the dynamics that characterize domestic violence.

⁹ Sindi Aulia and Ismaidar Ismaidar, "Perlindungan Hukum Terhadap Korban Tindak Pidana Kekerasan Dalam Rumah Tangga (KDRT) Di Kota Binjai," *Innovative: Journal Of Social Science Research* 5, no. 2 (April 22, 2025): 3232–45, <https://doi.org/10.31004/INNOVATIVE.V5I2.18771>.

¹⁰ Gesa Bimantara, Atik Abawaiki, and Cindy Swastika Rahmania, "Penegakan Hukum Terhadap Pelaku Tindak Pidana Kekerasan Dalam Rumah Tangga (Studi Kasus Di Polres Bojonegoro)," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 4, no. 6 (September 22, 2024): 2627–38, <https://doi.org/10.38035/JIHHP.V4I6.2794>.

¹¹ Faris Satria Alam, "Tinjauan Penegakan Hukum Atas Kasus Tuduhan KDRT Psikis Melalui Teori Sosial: Studi Kasus Karawang," *SALAM: Jurnal Sosial Dan Budaya Syar-I* 9, no. 1 (January 25, 2022): 71–86, <https://doi.org/10.15408/SJSBS.V9I1.24121>.

Based on the foregoing discussion, this study formulates two central research questions. First, whether domestic violence offenses committed by a religious figure may be resolved through a restorative justice approach and second, what resolution framework should be applied if such an approach is still to be considered in cases where the perpetrator holds the status of a religious leader.

LITERATURE REVIEW

Legislative Theory

Legislative theory, or legalism, is founded on the premise that written law enacted by a legislative body constitutes the primary and highest source of legal authority. Within this framework, all legal actions must be grounded in and consistent with applicable statutory provisions. In Indonesia, Law Number 23 of 2004 on the Elimination of Domestic Violence (UU PKDRT) serves as the principal legal basis for handling domestic violence cases, including those in which the perpetrator is a religious leader.¹²

This theoretical perspective emphasizes the centrality of legal certainty. In the context of domestic violence, the law has explicitly defined the categories of violence, namely physical, psychological, sexual, and economic, as well as the rights of victims to receive protection.¹³ Legislative theory further demands that legal certainty must not remain confined to the normative level alone. When law enforcement officers set aside the formal provisions of the PKDRT Law in favor of family-based resolution, the consequence is not merely a procedural deviation but a fundamental repudiation of the legality principle itself.¹⁴

Legislative theory also requires that law enforcement be applied without discrimination. In practice, however, the social status of a perpetrator, such as that of a religious leader, can influence the course of legal proceedings, which stands in direct conflict with the principle of legality.¹⁵ It is therefore necessary to conduct ongoing evaluation of how the law is implemented in practice, ensuring that statutory provisions

¹² Muhammad Annas, Ika Darmika, and Hidayat Rumatiga, "Perlindungan Hukum Bagi Korban Tindak Pidana Kekerasan Dalam Rumah Tangga Menurut Undang-Undang No 23 Tahun 2004 (Analisis Putusan Nomor 618/Pid.Sus/2020/Pn.Plg Dan 1535/Pid.Sus/2020/Pn Plg)," *Karimah Tauhid* 3, no. 6 (June 14, 2024): 6594–6607, <https://doi.org/10.30997/KARIMAHTAUHID.V3I6.13604>.

¹³ Hana Fairuz Mestika, "Perlindungan Hukum Pada Perempuan Korban Kekerasan Dalam Rumah Tangga Di Indonesia," *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 2, no. 1 (February 2, 2022): 118–30, <https://doi.org/10.15294/IPMHI.V2I1.53743>.

¹⁴ Imam Sukadi and Mila Rahayu Ningsih, "PERLINDUNGAN HUKUM TERHADAP PEREMPUAN KORBAN KEKERASAN DALAM RUMAH TANGGA," *Egalita : Jurnal Kesetaraan Dan Keadilan Gender* 16, no. 1 (June 7, 2021): 56–68, <https://doi.org/10.18860/EGALITA.V16I1.12125>.

¹⁵ Andi Suhartini, Patahillah Asba, and Herman Balla, "Peran Penyidik Kepolisian Dalam Penanganan Tindak Pidana Kekerasan Dalam Rumah Tangga," *Jurnal Litigasi Amsir* 10, no. 2 (2023): 158–66, <https://journalstih.amsir.ac.id/index.php/julia/article/view/237>.

translate into meaningful outcomes for victims rather than remaining effective only on paper.

Law Enforcement Theory

According to Satjipto Rahardjo's theory of law enforcement, law cannot be viewed solely as a body of written rules; it must be understood as a process involving three essential components: legal structure, referring to institutions; legal substance, referring to the content of rules; and legal culture, referring to the behavior and attitudes of society.¹⁶ In domestic violence cases, these three components frequently operate without coherence. Although the legal substance in this area is relatively robust, both the structural and cultural dimensions of law have not yet developed to the point where they fully support effective enforcement.

The legal structure in this context encompasses the police, the public prosecution service, the courts, and victim protection agencies. Where law enforcement officers lack adequate understanding of the PKDRT Law or act with bias due to social pressure from religious communities, the capacity for enforcement is significantly diminished.¹⁷ Rahardjo further contends that legal culture is the most difficult element to reform, precisely because it is rooted in social values that have accumulated and solidified over long periods. In the context of domestic violence, it is this cultural dimension that proves most decisive in explaining why a strong legal framework does not automatically produce effective enforcement outcomes.

This theory also draws attention to the importance of integrity and independence among legal officers. Where officers are unable to insulate themselves from outside influence, whether from community leaders or religious authorities, the legal process is rendered ineffective and its authority undermined.¹⁸

Theory of Justice

The theory of justice proceeds from the principle that law must be enforced in pursuit of substantive justice, rather than merely formal compliance. Justice is not measured by whether the law has technically been applied, but by whether all parties, both victims and perpetrators, are treated with equal standing before the law. In domestic violence cases involving religious figures, this theoretical perspective is particularly relevant, as the social status of the perpetrator frequently affects legal outcomes.

¹⁶ Satjipto Rahardjo, *Sosiologi Hukum: Perkembangan Metode Dan Pilihan Masalah* (Yogyakarta: Genta, 2010).

¹⁷ Darania Anisa and Kholifatun Nur Mustofa, "PROBLEMATIKA TINDAK PIDANA KEKERASAN DALAM RUMAH TANGGA (KDRT) PERSPEKTIF SOSIOLOGI HUKUM," *Jurnal Kajian Gender Dan Anak* 5, no. 2 (December 1, 2021): 115–28, <https://doi.org/10.24952/GENDER.V5I2.4553>.

¹⁸ John Rawls, *A Theory of Justice*, Revised (Massachusetts: Harvard University Press, 1971).

In John Rawls's conception, justice is understood as fairness, meaning that both social arrangements and legal systems must provide protection to those who are most vulnerable. Victims of domestic violence, and women in particular, belong to this vulnerable category and require a heightened degree of institutional protection.¹⁹ Rawls argues that the principle of fairness requires that legal rules be designed as though their authors had no prior knowledge of the social position they would later occupy, whether as victim or perpetrator. From this position behind the so-called veil of ignorance, the protection of domestic violence victims is not a matter of discretion but a structural obligation.

Justice also requires that perpetrators face consequences sufficient to deter repetition of the offense and to prevent similar cases in the future. When a domestic violence perpetrator who holds religious authority escapes accountability due to social influence, the result is systemic injustice that progressively erodes public confidence in the legal system.²⁰ Legal enforcement must therefore guarantee equality and remain oriented toward the protection of victims, as a prerequisite for achieving substantive justice.

Theory of Legal Accountability

The theory of legal accountability in criminal law holds that a person may only be held criminally responsible where their conduct satisfies the constituent elements of a criminal offense and was carried out with awareness and free will.²¹ In domestic violence cases, where it has been legally established that violence occurred, the perpetrator must be held accountable regardless of their social or religious standing.

Legal accountability also encompasses the principle of equality before the law, which holds that all citizens stand in equal relation to legal authority. In the case of Moses Henry, notwithstanding his status as a religious leader, legal accountability must be enforced if it is established that he committed violence against his wife. Claims to religious authority or social pressure exerted by a community cannot serve as justification for conduct that constitutes a criminal offense under existing law.

¹⁹ Yoseph Koverino Gedu Blareq and Fabrizio Olie Valdo Metodius, "MENYOAL KASUS PELECEHAN SEKSUAL TERHADAP SANTRIWATI DI BANDUNG :," *JURNAL ILMIAH FALSAFAH: Jurnal Kajian Filsafat, Teologi Dan Humaniora* 8, no. 2 (February 2, 2022): 33–41, <https://doi.org/10.37567/JIF.V8I2.1194>.

²⁰ Syahrul Ramadhon and AAA. Ngr. Tini Rusmini Gorda, "LEGAL PROTECTION OF WOMEN AS A VICTIM OF VIOLENCE IN THE HOME LADDER PREVENTIVE AND REPRESIVE," *Jurnal Analisis Hukum* 3, no. 2 (November 10, 2020): 205–17, <https://doi.org/10.38043/JAH.V3I2.2698>.

²¹ Ivanda Wizaldi, Umami Kalsum, and Yusrizal Yusrizal, "Tinjauan Yuridis Perempuan Sebagai Korban Kekerasan Dalam Rumah Tangga Menurut Undang-Undang Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga," *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Malikussaleh* 6, no. 4 (January 25, 2023), <https://doi.org/10.29103/JIMFH.V6I4.13703>.

In practice, however, accountability is frequently not applied proportionately, as a result of external interference, intimidation, or non-objective mediation processes. This produces outcomes in which perpetrators do not receive penalties commensurate with their conduct, and victims are denied the justice to which they are entitled. The theory of legal accountability therefore serves as a reminder that legal enforcement must remain focused on the act committed and its legal consequences, rather than on the identity or social position of the person who committed it.

RESEARCH METHODOLOGY

This study employs a normative legal research method, commonly referred to as the juridical-normative approach, which directs analytical attention toward positive legal norms, legal principles, doctrines, and applicable statutory provisions. This method was selected because the central problem of the study is doctrinal in nature, specifically examining how the existing legal framework ought to be applied in handling domestic violence cases where the perpetrator is a religious figure, while simultaneously identifying the gap between legal norms as they are prescribed (*das sollen*) and the reality of their application in practice (*das sein*), as reflected in available legal documents and judicial records.

The study employs three approaches in an integrated manner. First, the statute approach is used to examine relevant legislation, including the PKDRT Law, the Marriage Law, the Criminal Code (KUHP), and the Code of Criminal Procedure (KUHAP). Second, the case approach is applied to analyze a domestic violence case involving a religious figure, specifically the case of Moses Henry in Surabaya, drawing on documents and written sources that meet standards of academic accountability. Third, the conceptual approach is adopted by reference to legislative theory, law enforcement theory, substantive justice theory, and the theory of criminal accountability, each of which serves as an analytical framework through which the legal issues under examination are interpreted and assessed.

The data used in this study consists of secondary legal materials, which are organized into three categories. Primary legal materials comprise statutory regulations and court decisions. Secondary legal materials include academic literature, legal journals, and prior research findings relevant to the subject matter. Tertiary legal materials consist of legal dictionaries and other supporting reference works. The collection of legal materials was conducted through library research, while the analysis was carried out using a qualitative-prescriptive approach. This involves describing, interpreting, and evaluating the applicable legal norms, before proceeding to formulate juridical recommendations directed at the protection of victims and the strengthening of law enforcement grounded in substantive justice.

RESULTS AND DISCUSSION

Drawing on the statute approach, case approach, and conceptual approach outlined in the methodology, the following analysis examines two principal juridical questions in an integrated manner: first, the appropriateness of restorative justice as a resolution mechanism for domestic violence committed by a religious figure, assessed against the applicable regulatory framework; and second, the systemic standards that ought to govern any such mechanism if it remains under consideration. The case of Hendryanto Udjari, known as Moses Henry, in Surabaya serves as a concrete empirical reference point for testing the gap between legal norms and enforcement practice.

Obstacles to Legal Enforcement in Domestic Violence Cases Involving Religious Figures

The structural obstacles to legal enforcement when a domestic violence perpetrator holds the status of a religious leader are layered and mutually reinforcing, and therefore cannot be adequately understood in isolation from one another.

The first obstacle is procedural in character and concerns the difficulty of gathering evidence. Domestic violence is widely recognized as a latent crime, in which power dynamics within the household, economic dependency, and the normalization of violence collectively reinforce the dominant position of the perpetrator.²² Because domestic violence typically occurs within the closed and private space of the home, many victims find it difficult to seek assistance and to collect sufficient evidence to substantiate their reports before a court.²³ In the case of Moses Henry, this obstacle was compounded by the perpetrator's standing as a public figure with an extensive social network, which made potential witnesses reluctant to provide testimony that could be used against him.

The second obstacle is social-institutional in nature and involves the intervention of religious communities in legal proceedings. Pressure from family members or the broader community to forgive the perpetrator creates additional space for the perpetrator to influence and intimidate the victim, making adequate protection increasingly difficult to secure.²⁴ The implementation of the PKDRT Law confronts both structural and cultural challenges, including deeply entrenched patriarchal norms and insufficient gender sensitivity among law enforcement personnel. This makes a progressive legal paradigm that prioritizes substantive justice and empathetic

²² Andi Rifki Gunawan and Dara Pustika Sukma, "PENINJAUAN KASUS KDRT MELALUI ASPEK HUKUM PIDANA DAN KRIMINOLOGI DI POLRES PASER KALIMANTAN TIMUR," *Journal of Innovation Research and Knowledge* 5, no. 1 (June 1, 2025): 307–16, <https://doi.org/10.53625/JIRK.V5I1.10325>.

²³ Riadi Asra Rahmad et al., "Perspektif Hukum Pidana Terhadap Kasus Kekerasan Dalam Rumah Tangga:," *Jurnal Kolaboratif Sains* 7, no. 11 (November 30, 2024): 4079–84, <https://doi.org/10.56338/JKS.V7I11.6362>.

²⁴ Friderika Friska Telaumbanua and Helfira Citra, "Perlindungan Hukum Terhadap Perempuan Korban KDRT(Kajian Terhadap Implementasi Keadilan Restoratif)," *Jurnal Kajian Hukum Dan Kebijakan Publik / E-ISSN : 3031-8882* 1, no. 2 (May 7, 2024): 121–31, <https://doi.org/10.62379/7V5ZZN11>.

enforcement all the more necessary.²⁵ This observation aligns with Satjipto Rahardjo's argument that a legal culture in which certain figures are placed above formal legal authority constitutes the most decisive factor in weakening the effectiveness of enforcement.

The third obstacle pertains to victim protection. Although the Domestic Violence Law (*Undang-Undang Pemberantasan Kekerasan Dalam Rumah Tangga/UU PKDRT*) mandates protective mechanisms, including court-issued protection orders and the Special Service Unit (*Ruang Pelayanan Khusus/RPK*), victims' access to these provisions remains substantially constrained in practice. A primary contributing factor is the insufficient competency among relevant law enforcement bodies, particularly the National Police and the Witness and Victim Protection Agency (*Lembaga Perlindungan Saksi dan Korban/LPSK*), in managing domestic violence cases with the degree of sensitivity and procedural effectiveness that such cases demand.²⁶ This causing inappropriate security for the victims or even experiencing re-victimization. This limitation illustrated by findings from a study conducted in Gowa Regency Police, which revealed that the Women and Children Service Unit (*Unit Pelayanan Perempuan dan Anak/PPA*) operated suboptimally in handling domestic violence cases. This inadequacy shown by unit's tendency to prioritize Alternative Dispute Resolution (ADR) mechanisms, commonly referred to as reconciliation settlements, without ensuring any structured or adequate recovery process for the victims concerned.²⁷ Taken together, these three obstacles produce structural conditions that systematically favor perpetrators who hold the status of religious figures, and they constitute an important backdrop for understanding why the question of restorative justice in such cases warrants serious scrutiny.

Can Domestic Violence Committed by a Religious Figure Be Resolved Through Restorative Justice?

Domestic violence is a criminal offense specifically regulated under Law Number 23 of 2004 on the Elimination of Domestic Violence (PKDRT Law). From a juridical standpoint, the law comprehensively defines the prohibited forms of violence, encompassing physical, psychological, sexual, and economic abuse, and establishes victim protection mechanisms through judicial protection orders, dedicated victim service units at police stations, and inter-agency coordination among law enforcement

²⁵ Siti Nurliyah, "Perlindungan Hukum Korban Kekerasan Dalam Rumah Tangga Di Indonesia: Analisis Undang-Undang Nomor 23 Tahun 2004," *Depositi: Jurnal Publikasi Ilmu Hukum* 2, no. 4 (December 6, 2024): 296–309, <https://doi.org/10.59581/DEPOSISI.V2I4.4366>.

²⁶ Petrus Kanisius Eko Kristanto and Kristiyadi Kristiyadi, "PERLINDUNGAN SAKSI DALAM PROSES PENYIDIKAN BERDASARKAN UNDANG-UNDANG PERLINDUNGAN SAKSI DAN KORBAN," *Verstek* 11, no. 1 (February 28, 2023): 78–87, <https://doi.org/10.20961/JV.V11I1.71424>.

²⁷ Muh. Rizal, Hambali Thalib, and Agussalim A. Gadjong, "Perlindungan Hukum Terhadap Korban Kekerasan Dalam Rumah Tangga Di Unit Pelayanan Perempuan Dan Anak Satuan Reserse Kriminal Kepolisian Resor Gowa," *Journal of Lex Philosophy (JLP)* 4, no. 1 (June 30, 2023): 101–16, <https://doi.org/10.52103/JLP.V4I1.1491>.

bodies.²⁸ Legally, domestic violence is classified as a complaint-based offense for minor forms of violence under Articles 51, 52, and 53 of the PKDRT Law, and as a general offense for serious or grievous violence.²⁹ In practice, however, this classification as a complaint-based offense has itself become an obstacle, as victims are vulnerable to pressure to withdraw their reports, while social stigma reinforces the perception that domestic violence is a private matter best kept outside the reach of formal law.³⁰

In this context, the question of whether domestic violence can be resolved through a restorative justice approach warrants careful examination, particularly where the perpetrator is a religious figure with considerable social standing. From the standpoint of legislative theory, both the Supreme Court and the Attorney General's Office of Indonesia have issued regulatory guidelines, including Attorney General Regulation Number 15 of 2020, which restricts the application of restorative justice in cases of violence against women and children, particularly where grievous bodily harm or sexual violence is involved. This reflects the *das sollen*, the normative ideal intended by lawmakers, namely that victim protection must not be sacrificed in exchange for formal reconciliation. Theoretically, restorative justice is an approach that focus on restoring relationships among the victim, the perpetrator, and the community through structured dialogue and mutual agreement.³¹ In the context of domestic violence, however, its application is deeply problematic, given the systemic, repetitive, and structurally asymmetric nature of power in abusive domestic relationships.

In domestic violence cases involving a religious figure, the application of restorative justice encounters ethical and structural challenges that are considerably more serious than in ordinary cases. Examined through the lens of Satjipto Rahardjo's law enforcement theory, the problem manifests simultaneously across all three elements of the framework. From the standpoint of legal substance, existing regulation is adequate. From the standpoint of legal structure, however, law enforcement officers frequently fail to apply that regulation consistently. Research has shown that officers

²⁸ Sindi Aulia and Ismaidar Ismaidar, "Perlindungan Hukum Terhadap Korban Tindak Pidana Kekerasan Dalam Rumah Tangga (KDRT) Di Kota Binjai," *Innovative: Journal Of Social Science Research* 5, no. 2 (April 22, 2025): 3232–45, <https://doi.org/10.31004/INNOVATIVE.V5I2.18771>.

²⁹ Muhammad Rezfah Omar, "KDRT Ringan Harus Menjadi Delik Biasa: Analisis Yuridis Dan Sosiologis UU PKDRT," *Rechtsregel: Jurnal Ilmu Hukum* 8, no. 2 (December 27, 2025): 278–88, <https://doi.org/10.32493/RJIH.V8I2.55551>.

³⁰ Ridwan Mansyur, "TINDAK PIDANA KEKERASAN DALAM RUMAH TANGGA MENURUT SISTEM PERADILAN PIDANA DALAM PERSPEKTIF RESTORATIVE JUSTICE," *Jurnal Hukum Dan Peradilan* 5, no. 3 (November 30, 2016): 431–46, <https://doi.org/10.25216/JHP.5.3.2016.431-446>.

³¹ M.Chalid M.Chalid and Idul Adnan, "EFEKTIVITAS MEDIASI SEBAGAI ALTERNATIF PENYELESAIAN KASUS KEKERASAN DALAM RUMAH TANGGA," *AL-BALAD : Jurnal Hukum Tata Negara Dan Politik Islam* 4, no. 2 (December 27, 2024): 1–15, <https://doi.org/10.59259/AB.V4I2.188>.

continue to treat domestic violence as a private matter suitable for family-based resolution, and that police-led mediation can actually strengthen the perpetrator's position while placing the victim at greater risk.³² From the standpoint of legal culture, communities tend to place the authority of religious figures above formal legal considerations, such that the community itself frequently becomes an instrument of pressure on victims to seek reconciliation. The case of Hendryanto Udjari or Moses Henry, in Surabaya provides a concrete illustration of these dynamics: as a religious leader with a solid social and politics network, his legal proceedings were beset by structural obstacles, including difficulty obtaining witness testimony, pressure from religious community members, and a tendency among officers to favour family-based settlement.

Academically, a substantial body of international research has documented that the application of restorative justice in cases of intimate partner violence carries inherent risks, including the possibility of uncontrolled power imbalances between victim and perpetrator, the secondary victimization of the complainant, and opportunities for perpetrators to manipulate the process in order to avoid legal consequences.³³ These risks are multiplied when the perpetrator is a religious figure who exercises spiritual authority, because the victim faces moral and social pressures that are simply not present in cases involving ordinary perpetrators. The perpetrator's spiritual authority and social influence may compel the victim to offer forgiveness or agree to reconciliation even when that does not reflect her genuine wishes, thereby distorting the foundational principle of restorative justice, which is that the victim must occupy a central and empowered position throughout the process.

From the perspective of John Rawls's theory of substantive justice, the legal system must direct its protective function precisely toward the most vulnerable party. Victims of domestic violence, particularly women in structurally unequal relationships with perpetrators who hold religious authority, constitute the group most in need of that protection. Applying restorative justice without adequate safeguards places the victim in a position of greater vulnerability. A normative review of restorative justice in cases of moral and domestic offenses in Indonesia reveals that this approach has often failed to deliver justice for victims, largely due to legal inconsistencies arising from regulatory gaps. Also, restorative justice application frequently departs from the purposes of criminal punishment by disregarding the interests of victims and failing to

³² Alice Ollino and Marco Pertile, "Restorative Justice as a Tool to Address Violence Against Women? An Assessment of the Italian Case in Light of the Practice of International Monitoring Bodies," *The Italian Yearbook of International Law Online* 33, no. 1 (November 22, 2024): 349–75, <https://doi.org/10.1163/22116133-03301018>.

³³ Samantha Jeffries, William R. Wood, and Tristan Russell, "Adult Restorative Justice and Gendered Violence: Practitioner and Service Provider Viewpoints from Queensland, Australia," *Laws* 2021, Vol. 10, Page 13 10, no. 1 (February 17, 2021): 1–26, <https://doi.org/10.3390/LAWS10010013>.

produce a deterrent effect on perpetrators, thereby creating openings for impunity and weakening the legal protection available to victims. Additional research examining restorative justice practice in domestic violence cases at the prosecution stage confirms that, while the approach can accelerate the resolution of cases, its success depends heavily on the voluntary participation of all parties, the presence of a professionally trained mediator, and rigorous oversight, conditions that are difficult to satisfy when the perpetrator occupies a position of social prominence.³⁴

In conclusion, domestic violence committed by a religious figure is not appropriately resolved through restorative justice, particularly in cases involving serious physical, psychological, or sexual violence. Formal criminal proceedings remain necessary in order to produce a meaningful deterrent effect and to provide the highest degree of protection for the victim. Restorative justice may only be considered within very limited circumstances, and only on the absolute condition that the victim's consent is genuinely free and uncoerced, and that any such process does not replace but rather accompanies formal judicial proceedings.

The Resolution Framework for Domestic Violence Committed by a Religious Figure Through Restorative Justice

Where restorative justice remains under consideration in particular circumstances involving a religious figure, the framework applied must meet standards considerably more stringent than those applicable to ordinary criminal cases. Conceptually, restorative justice in the context of domestic violence is understood as a resolution mechanism focused on restoring the relationship among the victim, the perpetrator, and the community through structured and mutually agreed dialogue, with the primary aim of restoring the victim's condition while actively promoting the perpetrator's accountability, rather than simply transferring the conflict from formal to informal settings without adequate supervision.³⁵ In cases involving religious figures, however, this conceptual framework faces a far more demanding test, as the asymmetric power relationship between perpetrator and victim risks reducing restorative justice from an instrument of justice into an instrument of social pressure.

From the standpoint of criminal accountability theory, the principle of equality before the law requires that a religious figure such as Moses Henry be treated on equal

³⁴ Heather Hensman Kettrey and Noah Samuel Reynolds, "Is Restorative Justice Appropriate for Sexual Assault and Domestic Violence? A Systematic Review and Meta-Analysis of the 'Empirical Vacuum': Restorative Justice and Violence," *Journal of Experimental Criminology* 22, no. 1 (March 1, 2024): 229–47, <https://doi.org/10.1007/S11292-024-09651-8/TABLES/3>.

³⁵ Andro Giovanni Ginting, Vici Utomo Simatupang, and Sonya Arini Batubara, "RESTORATIVE JUSTICE SEBAGAI MEKANISME PENYELESAIAN TINDAK PIDANA KEKERASAN DALAM RUMAH TANGGA," *Jurnal Rectum* 1, no. 2 (July 9, 2019): 180–87, <https://doi.org/10.46930/JURNALRECTUM.V1I2.225>.

terms with any other perpetrator in legal proceedings, without exception on the basis of social status or religious authority. That accountability cannot be reduced through a restorative justice process that fails to meet the minimum standards for victim protection. Where a perpetrator escapes legal consequences solely by virtue of religious identity, the result is systemic impunity that corrodes the legitimacy of the law. Restorative justice can therefore only function as a legally justifiable mechanism insofar as it does not extinguish the perpetrator's criminal accountability but supplements it.

Within Satjipto Rahardjo's law enforcement framework, the application of restorative justice in domestic violence cases involving a religious figure must be examined across all three elements simultaneously. From the standpoint of legal structure, studies of restorative justice at the investigation stage demonstrate that the success of this mechanism depends heavily on institutional readiness, including investigators' understanding of domestic violence relational dynamics, the availability of neutral facilitators, and the existence of oversight mechanisms that prevent the process from being exploited by the more powerful party to suppress the victim.³⁶ In cases involving religious figures, these conditions are nearly impossible to achieve organically, as both the community and officers are often already predisposed toward protecting the perpetrator.

From the standpoint of legal substance, studies of restorative justice effectiveness at the police level indicate that, while the approach can expedite the resolution of cases, its capacity to deliver substantive protection for domestic violence victims remains severely limited, primarily because proceedings frequently proceed without standardized protocols to protect the victim's position from being dominated by the perpetrator during mediation.³⁷ This condition deteriorates further when the perpetrator is a religious figure whose social network and moral authority extend well beyond the procedural boundaries of formal law.

From the standpoint of legal culture, the application of restorative justice at the prosecution stage presents its own distinct difficulties. Studies of prosecutorial practice in this area show that prosecutors are frequently pressured to issue discontinuation orders even where the substantive requirements have not been fully met, particularly when the perpetrator exercises significant social influence. In cases involving religious

³⁶ Dino Febriansyah Sitorus and Andi Maysarah, "PENYELESAIAN PERKARA KEKERASAN DALAM RUMAH TANGGA (KDRT) MELALUI RESTORATIVE JUSTICE DI TINGKAT PENYIDIKAN," *Warta Dharmawangsa* 17, no. 1 (February 8, 2023): 9–17, <https://doi.org/10.46576/WDW.V17I1.2918>.

³⁷ Halim Wardiman, Atin Meriati Isnaini, and Ahmad Rifai, "Efektifitas Penyelesaian Perkara Kekerasan Dalam Rumah Tangga Melalui Restorative Justice (Studi Di Polres Lombok Tengah)," *Unizar Recht Journal (URJ)* 2, no. 2 (July 29, 2023), <https://doi.org/10.36679/URJ.V2I2.117>.

figures, this pressure operates at multiple levels simultaneously.³⁸ From the religious community, from the victim's family who have been coerced into seeking peace, and at times from within the institutional hierarchy of the religious body itself.

For a restorative justice framework to be juridically defensible in such cases, a set of procedural preconditions must be satisfied cumulatively rather than alternatively. Studies of restorative justice implementation in domestic violence cases indicate that, at a minimum, the following conditions are required: a genuine acknowledgment of wrongdoing by the perpetrator, the victim's wholly uncoerced willingness to participate, an independent and professionally trained facilitator, and a concrete and monitorable plan for victim recovery.³⁹ Where any one of these preconditions is absent, which in cases involving perpetrators of religious standing is almost invariably the case, the restorative justice process loses its legitimacy and is transformed into a mechanism of concealed impunity.

From the perspective of Rawls's substantive justice, a restorative justice framework can only be considered fair if it genuinely places the victim at the center of the process and ensures that every decision reflects the victim's free and uncoerced will rather than relational or social pressure. A victim-centered restorative approach requires that psychological, legal, and social protection mechanisms for the victim be in place before the process begins, not offered as compensation after an agreement has already been reached.⁴⁰ In the case of Moses Henry, the absence of these guarantees constitutes a structural factor that systematically advantages the perpetrator and places the victim in a position of greater vulnerability than she occupied before the restorative process commenced.

Taken as a whole, a restorative justice framework in domestic violence cases involving a religious figure can only be juridically justified where all of the foregoing preconditions are satisfied cumulatively. Restorative justice must not be used as a mechanism for bypassing formal criminal proceedings; it may only serve as a complementary mechanism that remains fully subject to the principles of substantive justice, criminal accountability, and the victim protection standards mandated by the PKDRT Law. Where these conditions cannot be met, formal criminal proceedings

³⁸ M. Nur Eka Firdaus, "RESTORATIVE JUSTICE DALAM KEKERASAN DALAM RUMAH TANGGA PADA TINGKAT PENUNTUTAN," *Jurnal Ilmu Hukum: ALETHEA* 7, no. 2 (August 30, 2024): 79–96, <https://doi.org/10.24246/ALETHEA.VOL7.NO2.P79-96>.

³⁹ Fatimah Zahra, Muharuddin Abu, and Wahab Aznul Hidayat, "Pelaksanaan Restorative Justice Dalam Perkara Tindak Pidana Kekerasan Dalam Rumah Tangga (Studi Kasus Kejaksaan Negeri Sorong)," *Judge: Jurnal Hukum* 5, no. 02 (August 25, 2024): 193–206, <https://doi.org/10.54209/JUDGE.V5I02.695>.

⁴⁰ Suartini Suartini and Maslihati Nur Hidayati, "Pendekatan Restorative Justice Dalam Rangka Perlindungan Hukum Bagi Perempuan Dan Anak Sebagai Korban KDRT," *Binamulia Hukum* 12, no. 1 (August 28, 2023): 161–75, <https://doi.org/10.37893/KBH.V12I1.598>.

remain the only pathway capable of guaranteeing justice for victims and producing a proportionate deterrent effect on perpetrators.

CONCLUSION

The application of restorative justice in domestic violence cases involving religious figures gives rise to a range of challenges that are juridical, social, and ethical in character. Although restorative justice is premised on the goal of restoring the relationship between victim and perpetrator through dialogue and mutually agreed resolution, this approach is not appropriate for domestic violence cases that involve serious physical harm or structurally unequal power relations. In the context of a religious figure, the perpetrator's elevated moral and social authority carries a substantial risk of compelling the victim to accept reconciliation against her genuine wishes, such that restorative justice may in practice weaken legal protection and deepen, rather than remedy, the injustice experienced by the victim.

Under Indonesian positive law, case resolution through restorative justice is only permissible for minor offenses and does not extend to serious crimes involving grievous bodily harm or sexual violence. This position is consistent with the principle of protection for vulnerable groups, particularly women as victims of domestic violence. Accordingly, domestic violence cases involving religious figures should be processed through formal legal channels in order to secure substantive justice and to prevent the entrenchment of impunity.

A restorative justice resolution framework may only be applied where strict conditions are met; a genuine acknowledgment of wrongdoing by the perpetrator, the victim's freely given and uncoerced consent, professional assistance and legal support for the victim throughout the process, and continuous monitoring of compliance with any agreement reached. In practice, restorative justice must function as a complement to, and never as a substitute for, formal legal proceedings. The state retains an unqualified obligation to enforce the law fairly and consistently, regardless of the social or religious status of the perpetrator. Strengthening the capacity of law enforcement personnel and raising public awareness are therefore essential measures to ensure that the resolution of domestic violence cases does not ultimately prejudice victims under the guise of a restorative process that is, in substance, illusory.

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