



Reconstruction of Absolute Competence of Religious Courts in Criminal Cases of Domestic Violence in Indonesia

Ahmad Izzuddin^{1*}, Ahmad Faiz Shobir Alfikri²

^{1,2}Universitas Islam Negeri Maulana Malik Ibrahim Malang, Indonesia

*email: azharzudin@uin-malang.ac.id

*Corresponding Author

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Abstract

The authority of the religious courts in Indonesia in cases of domestic violence is limited to the civil sphere as grounds for divorce. Conversely, the District Court is responsible for resolving cases with criminal elements. This legal fragmentation prevents victims from obtaining comprehensive justice due to the lengthy and complex legal process. This research highlights the legal gap by analyzing the need for reconstruction of the absolute authority of the religious court to handle the criminal aspects of domestic violence cases. This research is a normative legal statutory and conceptual approach. Analysis of legal materials is done by qualitative methods. The results of this research are legal reconstruction offered in the form of expansion of the absolute competence of the religious court in handling the criminal aspects of domestic violence with the authority to provide protection orders to victims during the judicial process and impose criminal sanctions on perpetrators of domestic violence. The success of this reconstruction, based on the analysis of Soerjono Soekanto's theory of legal effectiveness, depends on harmonizing regulations, increasing law enforcement's competence, providing adequate facilities, increasing public legal literacy, and cultural transformation that supports justice and equality. This legal reconstruction contributes to the efficient resolution of domestic violence cases in line with the principles of judicial power, namely the achievement of simple, fast, and low-cost justice.

Keywords: Absolute Competence, Domestic Violence, Legal Reconstruction, Religious Court

Abstrak

Kewenangan Pengadilan Agama di Indonesia dalam perkara Kekerasan Dalam Rumah Tangga (KDRT) terbatas pada ranah perdata, sebagai alasan perceraian, sementara kasus yang melibatkan aspek pidana harus diselesaikan di Pengadilan Negeri. Fragmentasi hukum ini menghambat korban dalam memperoleh keadilan secara menyeluruh karena proses hukum yang panjang dan kompleks. Penelitian ini menyoroti kesenjangan hukum tersebut dengan menganalisis perlunya rekonstruksi kewenangan absolut Pengadilan Agama agar dapat menangani aspek pidana dalam kasus KDRT. Penelitian ini merupakan penelitian hukum normatif dengan pendekatan perundang-undangan dan konseptual. Analisis bahan hukum dilakukan dengan metode kualitatif. Hasil penelitian ini yaitu rekonstruksi hukum yang ditawarkan berupa perluasan kompetensi absolut Pengadilan Agama dalam menangani aspek pidana KDRT dengan kewenangan memberikan perintah perlindungan kepada korban selama proses peradilan berlangsung dan menjatuhkan sanksi pidana kepada



pelaku KDRT. Keberhasilan rekonstruksi ini, berdasarkan analisis teori efektivitas hukum Soerjono Soekanto, bergantung pada harmonisasi regulasi, peningkatan kompetensi penegak hukum, penyediaan sarana yang memadai, peningkatan literasi hukum masyarakat, serta transformasi budaya yang mendukung keadilan dan kesetaraan. Rekonstruksi hukum ini berkontribusi dalam efisiensi penyelesaian kasus KDRT yang sejalan dengan asas dalam kekuasaan kehakiman yaitu tercapainya peradilan yang sederhana, cepat, dan biaya ringan.

Kata Kunci: Kompetensi Absolut, Kekerasan Dalam Rumah Tangga, Rekonstruksi Hukum, Pengadilan Agama

Introduction

The phenomenon of domestic violence in Indonesia is a persistent and widespread issue in Indonesia.¹ Victims of domestic violence, the majority of whom are women and children, are in a cycle of violence that is difficult to end due to various factors, such as economic dependence, social pressure, or the patriarchal culture that prevails in society.² Domestic violence has severe consequences for both individuals and society. Psychologically, victims of domestic violence often experience deep trauma, loss of self-confidence, and severe depression that affects their quality of life.³ Socially, domestic violence can destroy family harmony as the smallest unit of society, create instability, and even affect the development of children who grow up in a violent environment.⁴

The importance of comprehensive legal handling of domestic violence cases is not only related to efforts to provide justice for victims but also as part of the protection of human rights. Domestic violence is a form of human rights violation that threatens the right to life, security, and human dignity.⁵ Firm and comprehensive legal handling must include protection of victims, law enforcement against perpetrators, and rehabilitation efforts to prevent similar violence in the future.⁶ In this context, the state ensures that the existing legal system can effectively respond to society's needs.

Domestic violence is an act that violates human rights and is a form of gender-based violence. Based on Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law), domestic violence is defined as any act against a person, especially women, which results in physical, psychological, or sexual suffering or domestic neglect, including threats to commit

¹ Hasanudin Hasanudin et al., "Phenomena of Domestic Violence Against Women and Divorce in 2020-2022 in Indonesia: An Islamic Perspective," *Al-Manahij: Jurnal Kajian Hukum Islam* 17, no. 2 (2023): 137-152, <https://doi.org/10.24090/mnh.v17i2.7686>.

² Nanci Yosepin Simbolon et al., "Factors Affecting The Relationship Of Domestic Violence Perpetrators," in *Proceedings of the 1st International Conference on Social Science (ICSS)*, 2024, 170-176, <https://woc.greenpublisher.id/index.php/woc/article/view/103>.

³ Guevara Julius Sabirin Putra, "Dampak Kekerasan Dalam Rumah Tangga Terhadap Kesehatan Mental Korban," *Verdict: Journal of Law Science* 1, no. 2 (2024): 96-107, <https://doi.org/10.59011/vjlaws.1.2.2024.96-107>.

⁴ Debi Cahya Damayanti et al., "Dampak Kekerasan Dalam Rumah Tangga Terhadap Permasalahan Perkembangan Sosial Anak Usia Dini," *Jurnal Kajian Gender Dan Anak* 7, no. 1 (2023): 25-31, <https://doi.org/http://dx.doi.org/10.24952/gender.v7i1.7887>.

⁵ Hendrina Riupassa, Rambu Susanti Mila Maramba, and Rambu Hada Indah, "Kajian Hak Asasi Manusia Dalam Perlindungan Hukum Terhadap Korban Kekerasan Dalam Rumah Tangga," *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 2, no. 2 (2024): 58-66.

⁶ Rahma Mentari, "Mewujudkan Keadilan: Perlindungan Hukum Bagi Perempuan Korban KDRT Dalam Sistem Peradilan Pidana Indonesia," *Spectrum: Journal of Gender and Children Studies* 4, no. 1 (2024): 32-45, <https://doi.org/10.30984/spectrum.v4i1.1019>.

such acts. Physical violence includes actions that cause pain or injury to the victim's body, such as hitting, slapping, or injuring with sharp objects. Psychological violence refers to actions that result in mental distress, such as insults, threats, or degrading treatment. Sexual violence includes forced sexual intercourse without consent, sexual exploitation, and sexual harassment in the household. In addition, domestic neglect is also recognized as a form of domestic violence, which includes failure to meet the basic needs of family members, such as food, education, or health.⁷

This definition emphasizes that domestic violence is not only a domestic issue but also a public issue that requires serious attention from society and the state to protect the rights of victims. The PKDRT Law also expands the definition of domestic violence by not only focusing on violence against spouses but also includes other family members living in the same household. This includes children, domestic helpers, and other parties who are related or economically dependent under the same roof.⁸ Several factors contribute to domestic violence, including economic conditions, social media influences, family interference, and early marriage.⁹

Statistics on domestic violence cases in Indonesia show alarming figures. The National Commission on Violence against Women (*Komnas Perempuan*) noted that for 17 years, from 2004 to 2021, there were 544,452 cases of domestic violence or the personal sphere.¹⁰ Based on data from the Central Statistics Agency (BPS), there were 5,526 cases of domestic violence in Indonesia in 2022. Although this number decreased by 25.68% compared to the previous year, which amounted to 7,435 cases, the figure is still relatively high.¹¹ This figure is believed to be only a fraction of the reality, given that many cases go unreported due to social stigma, economic dependence, or fear of the perpetrator. This fact highlights the need for more effective prevention efforts and stronger legal protection for victims.

The PKDRT Law provides a strong foundation for handling domestic violence cases. This law not only regulates criminal sanctions for perpetrators, but also protection mechanisms for victims, such as providing a safe place, psychological assistance, and legal aid.¹² However, the implementation of this law still faces many challenges. One of the

⁷ Adi Pratama, Suwarno Abadi, and Nur Hidayatul Fithri, "Keadilan Hukum Bagi Perempuan Sebagai Korban Kekerasan Dalam Rumah Tangga (KDRT)," *Jurnal Ilmu Hukum Wijaya Putra* 1, no. 2 (2023): 148-159, <https://doi.org/10.38156/jihwp.v1i2.105>.

⁸ Ihsan Nasrudiansyah and Adudin Alijaya, "Kajian Yuridis Undang-Undang No. 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga Ditinjau Berdasarkan Hukum Islam," *MIM: Jurnal Kajian Hukum Islam* 1, no. 1 (2023): 39-64, <https://ejournal.stai-mifda.ac.id/index.php/jmkhi/article/view/139>.

⁹ Hasanudin et al., "Phenomena of Domestic Violence Against Women and Divorce in 2020-2022 in Indonesia: An Islamic Perspective."

¹⁰ Tsarina Maharani and Bayu Galih, "Sepanjang 2004-2021, Komnas Perempuan Catat 544.452 Kekerasan Dalam Rumah Tangga," *Kompas.com*, 2021, diakses 25 November 2024, <https://nasional.kompas.com/read/2021/09/28/10181941/sepanjang-2004-2021-komnas-perempuan-catat-544452-kekerasan-dalam-rumah>.

¹¹ Febriana Sulistya Pratiwi, "Data Jumlah Kasus KDRT Di Indonesia Pada 2022," *DataIndonesia.id*, 2023, diakses 25 November 2024, <https://dataindonesia.id/varia/detail/data-jumlah-kasus-kdrt-di-indonesia-pada-2022>.

¹² Zainudin Hasan et al., "Perlindungan Hukum Terhadap Perempuan Korban Kekerasan Dalam Rumah Tangga," *Jurnal Hukum, Politik Dan Ilmu Sosial* 2, no. 2 (2023): 103-113.

obstacles is the lack of public understanding of victims' rights under the PKDRT Law. Many victims do not realize that they can report the violence they have experienced and get protection.¹³ In the context of Indonesian society, especially the Muslim majority, domestic violence is not only seen from a criminal law perspective but also relates to family law issues, such as divorce, child custody, and division of joint property.¹⁴ This family law dimension makes domestic violence a multidisciplinary issue that requires a comprehensive legal solution.

In the Indonesian justice system, handling domestic violence cases faces major challenges, particularly concerning the limited jurisdiction of the Religious Courts. As an institution that specifically handles Islamic family law cases, the Religious Courts have absolute competence in civil matters such as divorce, alimony, and child custody. However, they cannot hear criminal cases, including domestic violence. As a result, domestic violence cases involving physical or sexual violence must be resolved in the general courts. At the same time, related civil aspects, such as divorce or maintenance claims, are processed in the Religious Courts. This separation of jurisdictions creates multiple legal procedures, complicates access to justice for victims, and delays the overall resolution of cases.

Previous research has explored various aspects of domestic violence resolution in Indonesia, particularly the role of Religious Courts. Sukendar et al. found that most women victims of domestic violence avoid the criminal justice system and prefer mediation in Religious Courts or other institutions outside the court.¹⁵ Similarly, Maula and Ariyanti highlighted that Religious Courts are the primary legal avenue for Muslim women seeking justice to stop domestic violence.¹⁶ However, these studies focus primarily on mediation and divorce proceedings rather than the criminal prosecution of domestic violence cases.

Sumanto et al. further explained that while Religious Courts have played an active role in applying the PKDRT Law, their involvement is limited to using domestic violence as a justification for divorce without addressing its criminal dimensions. This limitation raises concerns about legal accountability, as domestic violence cases often go unresolved in the criminal justice system.¹⁷ Additionally, Lubis et al. pointed out that court proceedings in domestic violence cases often face obstacles due to judges' formalistic considerations, making

¹³ Sri Narti Endang, Anis and Indria Indria, "Sosialisasi Mengenai Bentuk-Bentuk Kekerasan Dalam Rumah Tangga Di Kelurahan Lubuk Durian," *Jurnal Dehasen Untuk Negeri* 2, no. 2 (2023): 215–220, <https://doi.org/10.37676/jdun.v2i2.4299>.

¹⁴ Nurazki Aslamiah, Sherina Ramadhianisha, and Siski Jasmine Azahra, "Kekerasan Dalam Rumah Tangga Sebagai Alasan Pemicu Perceraian Di Pengadilan Agama Bandung Kelas 1A," *Al-Mashilah Jurnal Hukum Islam Dan Pranata Sosial* 11, no. 2 (2023): 223–238, <https://doi.org/10.30868/am.v11i02.5350>.

¹⁵ Sukendar Sukendar et al., "Women's Access To Justice: Mediation For The Victims of Domestic Violence In Central Java, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 602–628, <http://dx.doi.org/10.22373/sjhk.v7i1.9471>.

¹⁶ Bani Syarif Maula and Vivi Ariyanti, "Justice Negotiations for Women: Divorce Cases Due to Domestic Violence in Religious Courts," *Jurnal Hukum Islam* 20, no. 1 (2022): 155–180, <https://doi.org/10.28918/jhi.v20i1.6024>.

¹⁷ Dedi Sumanto, Titin Samsudin, and Fikri Hi Asnawi Amirudin, "The Existence of the Religious Court in Handling Divorce Cases on the Reason of Domestic Violence," *Jambura Law Review* 3, no. 2 (2021): 214–230, <https://doi.org/10.33756/jlr.v3i2.11651>.

it difficult for victims to obtain justice.¹⁸ In response to these challenges, Alfitri called for family law reform, arguing that the PKDRT Law alone is insufficient to eliminate domestic violence in society.¹⁹ These previous studies only focused on explaining the legal limitations in domestic violence cases.

Despite these extensive discussions, previous research has not specifically examined the possibility of expanding the authority of Religious Courts to handle the criminal aspects of domestic violence. Existing studies primarily focus on mediation, divorce proceedings, and the limitations of the current legal framework. However, none propose a reconstruction of the absolute competence of Religious Courts to adjudicate criminal domestic violence cases. This research fills that gap by offering a legal framework for granting Religious Courts the authority to handle domestic violence not only as a family dispute but also as a criminal offense.

By addressing this issue, the study aims to contribute to the development of a more effective and victim-oriented legal system, ensuring that perpetrators are held accountable and victims receive proper justice. The research will analyze this reconstruction's legal and institutional challenges, providing a novel perspective on the role of Religious Courts in the criminal justice system. The complexity of domestic violence settlement procedures means that many domestic violence cases are not criminally resolved, leaving perpetrators free without legal accountability and victims without proper justice. This imbalance shows that the current legal system is not in favor of victims, so legal reconstruction is needed by expanding the authority of the Religious Courts so that they can handle the criminal aspects of domestic violence directly. This research can be a scientific reference for the development of legal studies related to the absolute competence of Religious Courts in handling domestic violence cases.

This normative legal research focuses on the law as a norm (law in a book) contained in the legislation.²⁰ The approaches used are the statute approach and the conceptual approach. The statutory approach analyzes relevant regulations related to the absolute competence of Religious Courts and the issue of Domestic Violence. In the conceptual approach, Soerjono Soekanto's theory of legal effectiveness is used as an analytical tool.²¹ The choice of this theory compared to other theories is because Soekanto's theory is more specific in analyzing legal effectiveness in the Indonesian context. The data sources in this study consist of primary legal materials, namely legislation, namely Law Number 7 of 1989 concerning Religious Courts (along with its amendments) and Law Number 23 of 2004 concerning the Elimination of Domestic Violence, and secondary legal materials, such as books, journal articles, and other scientific works relevant to the competence of the Religious

¹⁸ Andi Hakim Lubis et al., "Seeking Justice: Criticizing the Decision of the Tapak Tuan District Court Number 37/Pid. Sus/2020/PN. Ttn Regarding Domestic Violence," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 11, no. 1 (2024): 86–100, <https://doi.org/10.32505/qadha.v11i1.8591>.

¹⁹ Alfitri Alfitri, "Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia," *Studia Islamika* 27, no. 2 (2020): 273–307., <https://doi.org/10.36712/sdi.v27i2.9408>.

²⁰ Amiruddin and Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: PT Raja Grafindo Persada, 2004), 118.

²¹ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2005), 93.

Courts and the issue of domestic violence.²² Data was collected through the documentation method or document study to collect, analyze, and interpret legal documents and related literature.²³ The data obtained was then analyzed through four stages: data collection, data reduction, data presentation, and conclusion drawing/verification.²⁴

Absolute Competence of Religious Courts in Domestic Violence

The Religious Courts in Indonesia are one of the special courts under the Supreme Court tasked with resolving certain cases for the Muslim community. This court plays an important role in accommodating the Muslim community's need for legal settlements following *sharia* principles.²⁵ The existence of Religious Courts has strong historical roots. The religious justice system has existed since the time of the Islamic kingdoms in the archipelago.²⁶ The existence of this court is an important means of realizing justice and legal certainty for Muslims, especially in civil law. Along with the times, the Religious Courts have also experienced an expansion of authority, including in the settlement of *sharia* economic disputes, which reflects adaptation to the dynamics of community legal needs.²⁷

The Religious Courts are central to family law, especially in regulating and resolving marriage-related disputes. Cases such as divorce, maintenance claims, child custody, marriage annulment, and polygamy fall within the scope of its absolute authority. This authority is by the principles of Islamic law that guide decision-making in this institution.²⁸ The Religious Court is the main forum for resolving family law disputes religiously and juridically for Muslims in Indonesia. The Religious Courts are law enforcers and important instruments in maintaining *sharia* values in the lives of Islamic communities in Indonesia.

The Religious Courts have some absolute competence that refers to the special authority expressly provided for in Law No. 7 of 1989 concerning Religious Courts, as amended by Law No. 3 of 2006 and Law No. 50 of 2009.²⁹ This absolute competence covers certain family law cases, especially for Muslims. Religious Courts are authorized to examine, hear, and decide cases relating to marriage, inheritance, grants, *waqf*, *zakat*, *infaq*, *sadaqah*, and the *sharia* economy. This authority is part of Indonesia's judicial system, which is organized hierarchically and segmented by case type.

²² Dyah Ochtorina Susanti and A'an Efendi, *Penelitian Hukum (Legal Research)* (Jakarta: Sinar Grafika, 2014), 48.

²³ Bahtiar Bahtiar, *Metode Penelitian Hukum* (Tangerang Selatan: UNPAM Press, 2018), 137.

²⁴ Bahtiar, 167.

²⁵ Andi Intan Cahyani, "Peradilan Agama Sebagai Penegak Hukum Islam Di Indonesia," *Jurnal Al-Qadau: Peradilan Dan Hukum Keluarga Islam* 6, no. 1 (2019): 119–32, <https://doi.org/10.24252/al-qadau.v6i1.9483>.

²⁶ Nursalam Nursalam, Muhammad Shuhufi, and Lomba Sultan, "Peradilan Agama Di Indonesia Pasca UU Nomor 50 Tahun 2009 Tentang Perubahan Kedua Atas UU Nomor 7 Tahun 1989," *Ahkam: Jurnal Hukum Islam Dan Humaniora* 3, no. 2 (2024): 503–516., <https://doi.org/10.58578/ahkam.v3i2.3030>.

²⁷ Safrin Salam and Andi Marlina, "Menguji Eksistensi Pengadilan Agama Dalam Menyelesaikan Sengketa Ekonomi Syariah," *Indonesian Journal of Criminal Law* 3, no. 1 (2021): 24–32, <https://journal.ilinstitute.com/index.php/IJoCL/article/view/955>.

²⁸ Erfaniah Zuhriah, *Peradilan Agama Di Indonesia: Sejarah, Konsep, Dan Praktik Di Pengadilan Agama* (Malang: Setara Press, 2016), 132.

²⁹ Rinrin Warisni, "Dinamika Eksistensi Peradilan Agama Di Indonesia," *Jurnal At-Tadbir: Media Hukum Dan Pendidikan* 31, no. 2 (2021): 153–160, <https://ejournal.inkhas.ac.id/index.php/attadbir/article/view/104>.

The absolute competence of the Religious Courts also has limits determined by law. Religious Courts do not have jurisdiction to handle criminal cases, including crimes that occur in a domestic context, such as domestic violence.³⁰ This raises legal issues, particularly in cases where the civil and criminal aspects are intertwined. As a result of this limitation, there are challenges in dealing with complex cases, especially those involving civil and criminal elements. For example, in a domestic violence case involving a divorce petition in the Religious Court.³¹ The elements of physical, psychological, sexual violence, and domestic neglect cannot be adjudicated in this court as they fall within the realm of criminal law.³²

Domestic violence is an issue that falls within the scope of family law, given that its impact is not only felt by the spouse but also by other family members, including children.³³ In the context of family law, domestic violence can be a reason for filing a divorce case at the Religious Court. Victims of domestic violence, especially women, may file for divorce because they feel unsafe or unable to continue their domestic life. The position of the Religious Court in handling marriage cases related to domestic violence as a reason for divorce is regulated by its absolute authority. In the divorce process, victims of domestic violence can submit evidence of the violence they have experienced as the basis for a lawsuit. In this case, it is the function of the Religious Court to verify the facts presented, such as medical reports or witnesses, and decide whether the act of violence can be a valid reason to end the marriage.³⁴

However, the limited jurisdiction of the Religious Courts is an obstacle in dealing with domestic violence cases as a whole. The limitation of competence of the Religious Courts to exclude the criminal aspect of domestic violence cases has been one of the main criticisms of the religious justice system in Indonesia. Religious Courts are only authorized to hear civil matters such as divorce, child custody, or maintenance but cannot impose criminal sanctions on perpetrators of violence. As a result, victims of domestic violence must face the complexity of the legal process by filing cases with two different institutions: Religious Courts for civil aspects and District Courts for criminal aspects.

Data shows that victims of domestic violence in Indonesia tend to prefer to use domestic violence as a reason for divorce in the Religious Court rather than continuing it as a criminal case to the District Court. In 2020, there were 3,271 cases of divorce on the grounds of domestic violence in the Religious Court, while domestic violence criminal cases filed in

³⁰ Zulham Wahyudani, Oyo S. Mukhlas, and Atang Abdul Hakim, "Aspek Pidana Dalam Hukum Keluarga Dan Penyelesaiannya Pada Lembaga Hukum Di Indonesia," *Legalite: Jurnal Perundang Undangan Dan Hukum Pidana Islam* 8, no. 1 (2023): 75–90, <https://doi.org/10.32505/legalite.v8i1.6197>.

³¹ Aslamiah, Ramadhianisha, and Azahra, "Kekerasan Dalam Rumah Tangga Sebagai Alasan Pemicu Perceraian Di Pengadilan Agama Bandung Kelas 1A."

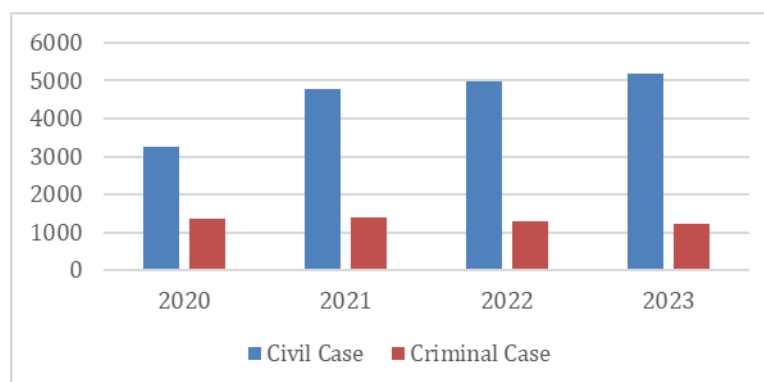
³² Muhammad Darwis, Iswandy Rani Saputra, and Ali Ichsan Kiramang, "Kekerasan Dalam Rumah Tangga Dalam Perspektif Hukum Pidana," *Jurnal Litigasi Amsir* 10, no. 2 (2023): 275–291, <https://journalstih.amsir.ac.id/index.php/julia/article/view/243>.

³³ Iva Nurfaizah, "Dampak Kekerasan Dalam Rumah Tangga (KDRT) Terhadap Kesehatan Mental Anak," in *Gunung Djati Conference Series*, 2023, 65–103, <https://www.conferences.uinsgd.ac.id/index.php/gdcs/article/view/1177>.

³⁴ Sri Ayu Andari Putri Alwaris and Qadir Gassing, "Kekerasan Dalam Rumah Tangga Sebagai Alasan Cerai Gugat Di Pengadilan Agama Sungguminasa," *Al-Ubudiyah: Jurnal Pendidikan Dan Studi Islam* 5, no. 1 (2024): 103–116, <https://doi.org/10.55623/au.v5i1.261>.

the District Court only reached 1,376 cases. A similar pattern occurred in the following years: in 2021, there were 4,779 grounds for divorce related to domestic violence compared to 1,390 criminal cases; in 2022, there were 4,972 grounds for divorce compared to 1,309 criminal cases; and in 2023, the divorce rate reached 5,174 cases on the grounds of domestic violence, while criminal cases dropped to 1,216.³⁵ This significant difference reflects that victims of domestic violence prefer a civil approach to ending a marriage rather than pursuing criminal proceedings against the perpetrator.

Figure 1. Comparison of Domestic Violence as a Civil and Criminal Case



Source: Central Bureau of Statistics (BPS) and Directory of Supreme Court Decisions.

This jurisdictional fragmentation not only prolongs the legal process but also can potentially increase the burden on victims, both emotionally and financially. Victims must file reports with two legal institutions, prepare different case files, and prepare more case fees. This not only increases the emotional and financial burden on victims but also makes access to justice more difficult. This contradicts one of the most important principles of judicial power: the achievement of simple, speedy, and low-cost justice.³⁶

Another criticism is the lack of synergy between the Religious Courts and District Courts in handling domestic violence cases. Coordination between the two institutions is minimal, resulting in overlapping and inefficient legal processes. For example, evidence submitted in the Religious Court is not always accepted or considered by the District Court, so victims have to collect and submit the same evidence in two different courts.³⁷ This points to the need for better integration mechanisms to ensure that victims of domestic violence receive holistic protection and justice. In addition, this limitation of competence also reflects the inequality of legal protection afforded to victims of domestic violence in the Indonesian

³⁵ Badan Pusat Statistik Indonesia, "Jumlah Perceraian Menurut Provinsi Dan Faktor," Badan Pusat Statistik Indonesia, 2024, <https://www.bps.go.id/id/statistics-table/3/YVdoU1IwVmlTM2h4YzFoV1psWkViRXhqTlZwRFVUMDkjMw==/number-of-divorces-by-province-and-factors--2022.html?year=2021>; Mahkamah Agung Republik Indonesia, "Putusan KDRT," Direktori Putusan Mahkamah Agung Republik Indonesia, 2024, <https://putusan3.mahkamahagung.go.id/direktori/index/kategori/kdrt-1.html>.

³⁶ Article 4 paragraph (2) of Law of the Republic of Indonesia Number 48 of 2009 Concerning Judicial Power.

³⁷ In many cases, women as victims of domestic violence prefer to settle their cases in the Religious Courts only as a reason for divorce and not to pursue criminal prosecution. See: Sukendar et al., "Women's Access To Justice: Mediation For The Victims of Domestic Violence In Central Java, Indonesia"; Maula and Ariyanti, "Justice Negotiations for Women: Divorce Cases Due to Domestic Violence in Religious Courts."

justice system. The Religious Courts, which are supposed to be the main institutions in resolving domestic disputes for Muslims, do not have adequate legal tools to provide a sense of security for victims of domestic violence. In fact, as a court that handles violent divorce cases, the Religious Courts have great potential to provide direct protection.

Legal Reconstruction of the Absolute Competence of Religious Courts to Prosecute Crimes of Domestic Violence

The expansion of the authority of the Religious Courts has become increasingly urgent in the face of the complex dynamics of family law, especially in cases of domestic violence. From a legal perspective, the limitation of the authority of the Religious Courts, which only covers civil aspects, is considered inadequate to provide comprehensive justice for victims of domestic violence.³⁸ Religious Courts, as institutions that handle Muslim family cases, are at the forefront of receiving divorce claims due to domestic violence.³⁹ However, the lack of authority to deal with the criminal aspect means that victims must seek justice through other channels, namely the District Court.⁴⁰ This creates complexity and prolongs the legal process, potentially harming the victim.

The legal reconstruction needed to respond to this problem is the expansion of the absolute authority of the Religious Court in handling domestic violence criminal cases. The form of reconstruction proposed is to give the Religious Courts the authority to issue protection orders for victims of domestic violence during the civil justice process. This order could include a prohibition on the perpetrator approaching the victim, an obligation to leave a shared residence, or temporary security for the victim. The next proposal is to authorize Religious Courts to impose criminal sanctions on perpetrators of domestic violence after a series of legal proceedings have been conducted and a domestic violence crime has been proven.

This authority, which was originally the domain of the District Court, is integrated into the absolute competence of the Religious Court because it is within the scope of family law. This expansion of authority can reduce the burden on victims of domestic violence who must go through a long and fragmented legal process. Victims must file a lawsuit with two different institutions, the Religious Court for civil aspects and the District Court for criminal aspects. By authorizing the Religious Courts to handle certain aspects of criminal offenses, such as issuing temporary protection orders and imposing sanctions on perpetrators of domestic violence, the legal process would be more efficient and provide a sense of security for victims.

The urgency of reconstructing this authority is also in line with the Indonesian government's efforts to increase legal protection for women and children as groups most vulnerable to domestic violence.⁴¹ This will require revising the laws governing the Religious

³⁸ Wahyudani, Mukhlas, and Hakim, "Aspek Pidana Dalam Hukum Keluarga Dan Penyelesaiannya Pada Lembaga Hukum Di Indonesia."

³⁹ Nahariah Nahariah, "Cerai Gugat Akibat Kekerasan Dalam Rumah Tangga," *Jurnal Tana Mana* 3, no. 1 (2022): 24–32, <https://doi.org/10.33648/jtm.v3i1.224>.

⁴⁰ Darwis, Saputra, and Kiramang, "Kekerasan Dalam Rumah Tangga Dalam Perspektif Hukum Pidana."

⁴¹ Dona Fitriani, Haryadi Haryadi, and Dessy Rakhmawati, "Peranan Pusat Pelayanan Terpadu Pemberdayaan Perempuan Dan Anak (P2TP2A) Dalam Memberikan Perlindungan Hukum

Courts, such as Law No. 7/1989 so that these courts can integrate civil jurisdiction and certain aspects of criminal protection. With these reforms, the Religious Courts can play a greater role in creating justice that is effective and responsive to the needs of victims of domestic violence in Indonesia. A model for reconstructing the authority of the Religious Courts could be designed that integrates civil functions and aspects of criminal protection in the family context, particularly for domestic violence cases. This does not mean that the Religious Courts become full criminal courts, but rather that they are given additional authority to deal with certain aspects of criminal offenses directly related to family law.

Significant changes to the Religious Courts regulations are required to realize this proposal. The revision of Law No. 7 of 1989 on Religious Courts, most recently amended by Law No. 50 of 2009, should include an expansion of the authority of the Religious Courts to deal with criminal offenses relating to domestic violence. In addition, harmonization with Law No. 23 of 2004 on the Elimination of Domestic Violence is required to provide a clear legal basis for the Religious Courts to issue protection orders⁴² and impose criminal sanctions. By expanding the authority of the Religious Courts to deal with this aspect of protection, victims of domestic violence can feel safer and more protected during the judicial process. This harmonization also requires coordination between law enforcement agencies, such as the police and prosecutors, to support the implementation of protection orders.

Reconstructing the authority of the Religious Courts to cover certain aspects of the handling of domestic violence could provide significant strengthening of legal protection for victims. With the power to issue protection orders or similar decisions, Religious Courts could respond quickly to the needs of victims who require a sense of security, particularly during divorce proceedings. Such protection can reduce the risk of repeated violence and provide psychological reassurance to victims, particularly women and children, who are the most vulnerable parties in domestic violence cases. In addition, another positive impact is the creation of efficiency in the justice system. By granting additional authority to the Religious Courts, victims of domestic violence no longer need to undergo a fragmented legal process between the Religious Court and the District Court. This will save victims time, money, and energy, speeding up the case resolution process.

Comparisons with courts in other countries show that a more integrative approach to handling family and violence cases can provide better legal protection. In other countries, such as Australia, the family court is not only authorized to deal with divorce matters but also has the authority to make decisions regarding the punishment of perpetrators of domestic violence and provide aspects of protection for victims of violence in the domestic context. These courts can issue protection orders to protect the victim from the perpetrator

Terhadap Perempuan Dan Anak Korban KDRT," *PAMPAS: Journal of Criminal Law* 2, no. 1 (2021): 104–122.

⁴² Protection orders granted by the Religious Courts may later be modeled on the Malaysian provision of protection orders in the form of Interim Protection Orders that apply during litigation and Protection Orders that apply after litigation. See: Siti Marshita Mahyut et al., "Breaking the Silence: Seeking Help and Justice for Domestic Violence Survivors," in *3rd International Conference on Law and Digitalization 2023 (ICLD 2023)* (Atlantis Press, 2023), 157–190, https://doi.org/10.2991/978-2-38476-154-8_10.

during the legal process.⁴³ Although Australia's family courts are not faith-based, the concept of jurisdictional integration can inspire the reconstruction of the authority of Religious Courts in Indonesia. By adopting similar principles, Religious Courts can provide more comprehensive legal protection for victims without violating sharia principles.

Several other countries, such as the United States and Canada, have also adopted the Integrated Domestic Violence Court (IDVC) model, which combines criminal and civil justice jurisdictions in handling domestic violence cases. This model aims to provide more effective protection for victims and ensure consistency in case handling. In the United States, for example, IDVC allows one judge to handle all legal aspects of a domestic violence case, including protection orders, child custody, divorce, as well as criminal charges against the perpetrator. Canada has taken a similar approach by authorizing family courts to issue protection orders and deal comprehensively with the legal aspects of domestic violence.⁴⁴

These models show that combining civil and criminal jurisdictions in one court can not only increase the effectiveness of protection for victims of domestic violence but can also ensure a more integrated, coherent, and comprehensive approach to handling cases. With a system that brings together civil and criminal aspects, victims do not need to face fragmented legal procedures in different courts so that the judicial process becomes faster, more efficient, and oriented toward the interests of victims. Looking at international practices implemented in various countries, this approach has proven to provide more optimal protection and close legal loopholes that perpetrators often utilize to avoid accountability. Therefore, the reconstruction of the absolute authority of the Religious Courts in Indonesia in handling domestic violence cases can be directed at granting broader authority, not only in civil aspects such as divorce and child custody but also in the issuance of binding protection orders and criminal sanctions for perpetrators. Thus, this effort can ensure that justice for victims is truly realized and provide a deterrent effect for perpetrators so that the objectives of legal protection in domestic violence cases can be maximally achieved.

Challenges in Reconstructing the Absolute Competence of Religious Courts in Indonesia

Efforts to reconstruct the absolute authority of the Religious Court in handling criminal acts of domestic violence will face several challenges. Analysis of these challenges can be done through the theory of legal effectiveness put forward by Soerjono Soekanto. This theory states that five main factors influence the successful implementation of the law: first, the legal factor itself, namely the applicable law; second, the law enforcement factor, including all parties involved in the formation and implementation of the law; third, the

⁴³ Federal Circuit and Family Court of Australia, "Family Violence," www.fcfcoa.gov.au, 2024, diakses 28 November 2024, <https://www.fcfcoa.gov.au/fl/fv/overview>; Hermansyah Hermansyah, "Hakim Family Court of Australia Berbagi Pengalaman Di Badilag," Direktorat Jenderal Badan Peradilan Agama Mahkamah Agung Republik Indonesia, 2015, diakses 28 November 2024, <https://badilag.mahkamahagung.go.id/seputar-ditjen-badilag/seputar-ditjen-badilag/hakim-family-court-of-australia-berbagi-pengalaman-di-badilag>.

⁴⁴ Jennifer Koshan, "Investigating Integrated Domestic Violence Courts: Lessons from New York," *Osgoode Hall Law Journal* 51, no. 3 (2014): 989–1036, <https://doi.org/10.60082/2817-5069.2762>; Rachel Birnbaum, Michael Saini, and Nicholas Bala, "Canada's First Integrated Domestic Violence Court: Examining Family and Criminal Court Outcomes at the Toronto IDVC," *Journal of Family Violence* 32 (2017): 621–631, <https://doi.org/10.1007/s10896-016-9886-z>.

facilities and infrastructure factors that support law enforcement; fourth, the community factor, namely the level of awareness, attitude, and acceptance of the community towards the law; and fifth, the cultural factor, which includes values, norms, and traditions that develop in society and influence the implementation of law in everyday life.⁴⁵ This analysis enabled the identification of specific barriers and needs to support the reconstruction of the authority.

The first factor is the law. The main challenge in reconstructing the absolute authority of the Religious Courts to try domestic violence crimes is the legal fragmentation that separates criminal and civil jurisdictions. Law No. 23/2004 on the Elimination of Domestic Violence (PKDRT Law) authorizes General Courts to handle domestic violence criminal cases,⁴⁶ While Religious Courts focus on specialized civil cases (as grounds for divorce).⁴⁷ A fundamental revision of existing regulations is required to enable religious courts to handle criminal cases, resulting in more cohesive and integrated legal arrangements.

This regulatory gap is a major obstacle, particularly as the Religious Courts Law (Law No. 7 of 1989) does not provide a legal basis for Religious Courts to handle criminal cases. In this context, legislative amendments are essential to ensure this authority is legally recognized. These amendments should include harmonization between the PKDRT Law, the Criminal Procedure Code (KUHAP), and the Religious Courts Law to avoid overlaps or legal gaps that could hamper the judicial process. In addition, the potential for legal conflicts is also a crucial challenge. With the transfer of authority to try domestic violence criminal cases to the Religious Courts, there could be a conflict of competence between the Religious Courts and the General Courts. This requires clear legal harmonization through implementing regulations or government regulations. Without proper harmonization, differences in legal interpretation by the two judicial institutions could prolong the case settlement process and create legal uncertainty for victims of domestic violence.

The second factor is law enforcement. Law enforcers play a key role in the success of reconstructing the absolute authority of the Religious Courts to try domestic violence crimes. One of the biggest challenges is the competence and capacity of Religious Court judges. These judges have been more focused on Islamic law and civil law,⁴⁸ So, they require intensive training to understand aspects of criminal law, including the principles of evidence in criminal cases and criminal procedural law procedures. This competency is important because handling criminal cases requires a different approach, especially ensuring that the evidentiary process runs by the principles of due process of law and that victims' rights are protected.

⁴⁵ Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum* (Jakarta: PT Raja Grafindo Persada, 2008), 8.

⁴⁶ Michael Mauliutus Silitonga, Aartje Tehupeiory, and Andree Washington Hasiholan, "Penegakan Hukum Tindak Pidana Kekerasan Dalam Rumah Tangga Berdasarkan Undang-Undang Nomor 23 Tahun 2004 Di Pengadilan Negeri Brebes," *Honeste Vivere* 33, no. 2 (2023): 161-184, <https://doi.org/10.55809/hv.v33i2.256>.

⁴⁷ Windi Asmarianti, Elwidarifa Marwenny, and Yulia Risa, "Kekerasan Dalam Rumah Tangga (KDRT) Sebagai Salah Satu Alasan Terjadinya Cerai Gugat Di Pengadilan Agama Kelas 1A Padang," *Jurnal Penelitian Dan Pengkajian Ilmiah Sosial Budaya* 1, no. 1 (2022): 93-105, <https://doi.org/10.47233/jppisb.v1i1.395>.

⁴⁸ Salam and Marlina, "Menguji Eksistensi Pengadilan Agama Dalam Menyelesaikan Sengketa Ekonomi Syariah."

In addition to improving competence, inter-institutional coordination is another challenge. This reconstruction of authority requires close cooperation between the Religious Courts, police, prosecutor's offices, and other law enforcement agencies. Without good coordination, the process of resolving domestic violence criminal cases can be hampered by bureaucracy or communication gaps between institutions. Challenges for law enforcement also include aligning vision and mission in law enforcement. This reconstruction process must be based on a shared commitment to provide better access to justice for victims of domestic violence. Without this commitment, reforms may be hampered by resistance from individuals or institutions that feel disadvantaged by changes in authority. Therefore, a strategic approach is needed in socializing the benefits of this reconstruction to all stakeholders and preparing clear standard operating procedures (SOPs) so that law enforcers have guidance in carrying out their duties optimally.

The third factor is legal facilities. The effectiveness of the law is highly dependent on the availability of facilities and infrastructure that support the implementation of the duties of judicial institutions.⁴⁹ In the context of reconstructing the authority of the Religious Courts to handle criminal cases of domestic violence, limited infrastructure is a major challenge. Religious Courts are more focused on resolving civil cases, so they are not equipped with facilities relevant to criminal cases. Another challenge is the lack of budget allocation required to support this change. The reconstruction of authority will require significant investment, including training judges and staff, constructing or renovating physical infrastructure, and procuring information technology facilities to support the digitization of criminal justice processes.

In addition to physical infrastructure, legal data, and information access will also need to be improved. Religious Courts need to have an information system integrated with other agencies such as the police, prosecutor's office, and relevant ministries to accelerate the processing of criminal cases. However, the development of this system requires competent human resources in the field of information technology as well as adequate funding. This shows that the challenge regarding facilities is not only a physical matter but also involves building an ecosystem that supports the optimal implementation of the new authority of the Religious Courts.

The fourth factor is the community. The social environment is a very important aspect in the success of the reconstruction of the authority of the Religious Courts to handle criminal domestic violence cases. One of the main challenges is the inherent public understanding of the Religious Courts.⁵⁰ So far, people know that the Religious Courts are only authorized to handle religious and civil cases, such as divorce, child custody, and inheritance. This understanding has the potential to create resistance, especially from people who do not understand why criminal matters such as domestic violence have been delegated to the Religious Courts. This could also result in a lack of confidence in the ability of the

⁴⁹ Lalu M. Alwin Ahadi, "Efektivitas Hukum Dalam Perspektif Filsafat Hukum: Relasi Urgensi Sosialisasi Terhadap Eksistensi Produk Hukum," *Jurnal Usm Law Review* 5, no. 1 (2022): 110-127, <http://dx.doi.org/10.26623/julr.v5i1.4965>.

⁵⁰ Azizah Yasmin, Hurriyah Aqilah Ramadhoifah, and Aura Rista Afifah, "Peradilan Agama Sebagai Lembaga Penegak Hukum Islam Di Indonesia," *Sriwijaya Journal of Private Law* 1, no. 1 (2024): 83-90, <http://dx.doi.org/10.28946/sjpl.v1i1.3373>.

Religious Courts to handle criminal cases, potentially slowing down acceptance of the legal reform.

The community's low level of legal literacy is also a major challenge in this reconstruction effort.⁵¹ Many people do not understand the rights of domestic violence victims and the legal procedures available.⁵² This lack of understanding can result in victims of domestic violence being reluctant to report or choosing the wrong legal path.⁵³ Massive efforts are needed to improve legal literacy through community-based legal education, mass media, and information technology. In addition, the community also needs to be given an understanding of the importance of the role of the Religious Courts in handling domestic violence criminal cases from the perspective of relevant Islamic and civil law. This approach can increase community acceptance of changes in authority. This education also needs to be combined with empowering victims and families to understand that domestic violence is not just a domestic issue but also a serious violation of the law. The implication is that the community will be better informed and actively support law enforcement efforts undertaken by the Religious Courts.

The fifth factor is culture. The patriarchal culture that is still strong in many parts of Indonesia is one of the biggest challenges in efforts to reconstruct the authority of the Religious Courts to handle criminal acts of domestic violence. Patriarchy that places men as the dominant figure causes arbitrary actions and leads to domestic violence.⁵⁴ The existence of this culture also implies that men's actions are internal household problems that do not deserve to be brought into the realm of law.⁵⁵ This perception not only inhibits the reporting of domestic violence cases but also creates powerlessness in victims, especially women, who find it difficult to resist social pressure. This culture reinforces structural barriers to law implementation, so effective interventions are needed to change people's mindsets.

To overcome the problem of the patriarchal culture that reinforces structural barriers in the implementation of laws related to domestic violence, a comprehensive and sustainable solution is needed. Public education should be conducted widely through public awareness campaigns emphasizing gender equality and respect for human rights, especially in family institutions. The government and related institutions need to provide training programs for law enforcement officers and religious courts to understand the dynamics of domestic violence influenced by patriarchal culture and how to handle such cases effectively. Empowering victims through psychological, social, and economic support should also be a priority to help them deal with social pressure and break the cycle of violence. With

⁵¹ Achmad Irwan Hamzani et al., "Peningkatan Kapasitas Sumber Daya Manusia Dengan Pemahaman Literasi Hukum," *Masyarakat Berdaya Dan Inovasi* 1, no. 2 (2020): 56–61, <https://doi.org/10.33292/mayadani.v1i2.3>.

⁵² Dakwatul Chairah, "Perlindungan Hukum Terhadap Perempuan Dan Anak Korban Kekerasan Dalam Rumah Tangga Di Kabupaten Sidoarjo," *Al-Jinayah: Jurnal Hukum Pidana Islam* 5, no. 1 (2019): 153–175, <https://doi.org/10.15642/aj.2019.5.1.153-175>.

⁵³ Dwi Ayu Rahmadani and Suartini Suartini, "Peningkatan Kesadaran Masyarakat Terhadap Kekerasan Dalam Rumah Tangga (KDRT)," *Jurnal Pemberdayaan Masyarakat Universitas Al Azhar Indonesia* 4, no. 2 (2022): 70–74, <https://doi.org/10.36722/jpm.v4i2.960>.

⁵⁴ Jovanka Yves Modiano, "Pengaruh Budaya Patriarki Dan Kaitannya Dengan Kekerasan Dalam Rumah Tangga," *Sapientia Et Virtus* 6, no. 2 (2021): 129–140, <https://doi.org/10.37477/sev.v6i2.335>.

⁵⁵ Endang, Anis and Indria, "Sosialisasi Mengenai Bentuk-Bentuk Kekerasan Dalam Rumah Tangga Di Kelurahan Lubuk Durian."

integrated interventions, it is hoped that patriarchal mindsets can be eroded, resulting in more effective implementation of the law in domestic violence cases.

Reconstructing the absolute authority of the Religious Courts to handle domestic violence crimes is a strategic step that requires a comprehensive approach to various challenges. Analysis based on Soerjono Soekanto's theory of legal effectiveness shows that the success of this reconstruction is highly dependent on harmonizing regulations, increasing law enforcers' competence, providing adequate facilities, increasing people's legal literacy, and cultural transformation that supports justice and equality. This effort requires not only legal and institutional reform but also a collective commitment from all stakeholders to create a justice system that is more inclusive and responsive to the needs of victims of domestic violence.

Table 1. Challenges and Solutions in Reconstructing the Absolute Competence of Religious Courts in Domestic Violence Cases

No.	Aspect	Challenges	Solutions
1.	Law	Legal fragmentation between criminal and civil jurisdictions, regulatory gaps in the Religious Courts Law that do not include criminal authority, and potential conflicts of competence with the General Courts.	Revision of laws that harmonize the PKDRT Law, Religious Courts Law, and KUHP; creation of clear implementing regulations for legal harmonization.
2.	Law Enforcement	Religious Court judges lack competence in criminal law and inter-institutional coordination, such as between Religious Courts, police, and prosecutors.	Intensive training for Religious Court judges in criminal law; drafting rules related to inter-institutional coordination.
3.	Legal infrastructure	Limited criminal infrastructure such as detention rooms and additional budget for training, facility development, and supporting facility procurement.	Additional budget allocation for facility upgrades and infrastructure development relevant to criminal cases.
4.	Society	Understanding that Religious Courts only handle religious and civil cases, low legal literacy of the community, and ignorance of the rights of domestic violence victims.	Legal awareness campaigns in handling domestic violence; education to improve legal literacy; and empowerment of victims to understand the importance of formal legal processes in handling domestic violence.
5.	Legal Culture	The patriarchal culture considers domestic violence as a domestic issue, social norms that support informal settlements.	Education to change people's mindset about domestic violence as a serious legal offense; campaigns to increase acceptance of formal legal mechanisms.

Source: Results of Researcher Analysis, 2025.

The proposed reconstruction outlined in Table 1 has the potential to bring significant improvements in the management of domestic violence cases in Indonesia. One of the primary obstacles in handling domestic violence cases is the legal fragmentation between the Religious Courts and the General Courts, which complicates the legal process for victims. By revising the existing laws to integrate the authority of the Religious Courts in handling criminal aspects of domestic violence, the legal process could become more accessible and efficient. This harmonization would eliminate the jurisdictional confusion that often prevents victims from seeking justice and ensure that cases are handled within a system that victims are already familiar with. The success of this reconstruction depends heavily on its implementation, particularly in terms of judge competence and legal infrastructure. More than just changes in the legal system, these reforms must also be accompanied by social and cultural changes to be effective. By addressing legal and social factors simultaneously, this reconstruction has the potential to transform the justice system, making it more accessible, responsive, and effective in protecting victims of domestic violence.

To ensure the effectiveness of the reconstruction of the authority of the Religious Courts in handling domestic violence cases, a comparative study with countries that have implemented the Integrated Domestic Violence Court (IDVC), such as the United States, Canada, and Australia, is required. This comparative study aims to understand how a court system that integrates civil and criminal jurisdiction can improve protection for victims and accelerate case resolution. Through analyzing the working mechanisms, legal procedures, and inter-agency coordination implemented in these countries, Indonesia can identify best practices that can be adopted following the applicable legal system and socio-cultural conditions. In addition, this comparative study can also assist in formulating strategies to overcome potential challenges, such as the limited competence of judges in criminal law and the need for adequate infrastructure. By learning from the experiences of other countries, the reconstruction of the authority of the Religious Courts can be designed more carefully, realistically, and following the needs of legal protection for victims of domestic violence in Indonesia.

Conclusion

The results of this study found that the Religious Courts in handling cases of Domestic Violence are only authorized to decide them as grounds for divorce. The competence to handle criminal cases of domestic violence is the authority of the General Courts. Legal fragmentation does not align with the principles of judicial power, namely the achievement of simple, fast, and low-cost justice. Legal reconstruction is needed so that victims of domestic violence receive comprehensive justice. The proposed form of reconstruction is to give the Religious Court the authority to issue protection orders to victims of domestic violence during the judicial process and the authority to impose criminal sanctions on perpetrators of domestic violence. The success of this reconstruction, based on the analysis of Soerjono Soekanto's theory of legal effectiveness, depends on harmonizing regulations, increasing law enforcers' competence, providing adequate facilities, increasing public legal literacy, and cultural transformation that supports justice and equality. This reconstruction will contribute to the effective handling of domestic violence cases in Indonesian courts. However, this research has limitations from an empirical perspective, both within the courts and the community. Therefore, it is recommended for future

researchers to examine the empirical aspects of this reconstruction effort to obtain comprehensive results.

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