



Judicial Strategies in Addressing Domestic Violence: Gender-Responsive Legal Analysis from the Religious Court of Malang Regency, Indonesia

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DOI: <https://doi.org/10.21154/justicia.v23i2.11804>

Received: August 9, 2025

Revised: Jan 20, 2026

Accepted: June 1, 2026

Abstract: This study aims to analyze judicial efforts to enhance protection for women and children in cases of domestic violence, particularly in the Malang region of East Java, where the number of cases has been increasing annually. The methodology employed is legal research using a case study approach, involving data collection through interviews with judges and analysis of court rulings. The results of the study indicate that judges at the Malang Regency Religious Court have developed various strategies to provide more effective protection, particularly in cases involving gender discrimination and DV. These strategies include the fair and prudent application of the law, consideration of the interests of victims and children, and a holistic, comprehensive approach to adjudication. In adjudicating cases, judges refer to various legal instruments, including Law No. 23 of 2004 concerning the Elimination of Domestic Violence and the Compilation of Islamic Law. Practically, this study serves as a reference for policymakers and judicial officials, particularly judges within the Religious Courts, to enhance sensitivity toward gender issues and improve the effectiveness of handling domestic violence cases, thereby further strengthening legal protection for women and children.

Keywords: Domestic violence; protection of women and children; religious courts

Abstrak: Penelitian ini bertujuan untuk menganalisis supaya peradilan dalam meningkatkan perlindungan terhadap perempuan dan anak dalam kasus kekerasan dalam rumah tangga (KDRT), khususnya di wilayah Malang, Jawa Timur, yang menunjukkan tren peningkatan kasus setiap tahun. Metode yang digunakan adalah penelitian hukum dengan pendekatan studi kasus, melalui

pengumpulan data berupa wawancara dengan hakim serta analisis terhadap putusan pengadilan. Hasil penelitian menunjukkan bahwa hakim di Pengadilan Agama Kabupaten Malang telah mengembangkan berbagai strategi untuk memberikan perlindungan yang lebih optimal, terutama dalam perkara yang mengandung unsur diskriminasi gender dan KDRT. Strategi tersebut mencakup penerapan hukum secara adil dan bijaksana, pertimbangan terhadap kepentingan korban dan anak, serta penggunaan pendekatan yang holistik dan komprehensif dalam proses adjudikasi. Dalam memutus perkara, hakim merujuk pada berbagai instrumen hukum, termasuk Undang-Undang Nomor 23 Tahun 2004 tentang Penghapusan KDRT dan Kompilasi Hukum Islam. Secara praktis, penelitian ini berkontribusi sebagai rujukan bagi pembuat kebijakan dan aparat peradilan, khususnya hakim di lingkungan Pengadilan Agama, dalam meningkatkan sensitivitas terhadap isu gender dan efektivitas penanganan kasus kekerasan dalam keluarga, sehingga perlindungan hukum bagi perempuan dan anak dapat semakin diperkuat.

Kata Kunci: Kekerasan dalam rumah tangga; perlindungan perempuan dan anak; pengadilan agama



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Introduction

Many people hope for harmony and unity within their households.¹ An ideal family should be able to sustain its members emotionally, socially, and physically.² Ideally, the family should be a comfortable, safe, and loving environment. However, not all families experience such happiness.³ Some are subjected to domestic violence, which causes serious impacts both mentally and physically. Domestic violence can result in various adverse effects, which

¹ Iffaty Nasyiah, "Urgency of Fatwa on Domestic Psychological Violence in Indonesia as an Effort to Protect Women's Rights," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 1 (June 2024): 118-40, <https://doi.org/10.18860/j-fsh.v16i1.26403>.

² Dewi Karya, "Tindak Pidana Kekerasan Dalam Rumah Tangga Yang Dilakukan Suami Terhadap Istri (Studi Kasus Di Pengadilan Negeri Gresik)," *DiH: Jurnal Ilmu Hukum*, February 1, 2013, <https://doi.org/10.30996/dih.v9i17.248>; Riko Andriko, Bahrul Fawaid, and Adityo Puro Prakoso, "Legal Reform for Gender Equality: The Role of State Institutions and Society in Protecting Domestic Violence Victims in Indonesia," *Jurnal Akta* 12, no. 4 (January 2026): 1377-94, <https://doi.org/10.30659/akta.v12i4.49600>.

³ Fadil Fadil, Zidna Mazidah, and Zaenul Mahmudi, "Fulfillment of Women's Rights After Divorce: Dynamics and Transformation in the Legal Journey," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 1 (June 2024): 1-20, <https://doi.org/10.18860/j-fsh.v16i1.25713>; Fernenda Purdiantika and Lukman Santoso, "Pengaturan Marital Rape Di Indonesia Perspektif Fiqh Jinayah Tentang Keluarga," *Jurnal Antologi Hukum* 4, no. 2 (October 2024): 340-64, <https://doi.org/10.21154/antologihukum.v4i2.3965>.

are clearly prohibited by Law Number 23 of 2004 on the Elimination of Domestic Violence.⁴

Gender-based discrimination and violence within the household are serious problems faced by many women in Indonesia. According to data from the Ministry of Women's Empowerment and Child Protection (KPPPA), in 2020, there were 406,178 cases of violence against women, with domestic violence accounting for 59% of those.⁵

Domestic violence may take the form of physical, emotional, sexual, and economic abuse.⁶ These forms of violence can cause significant effects on the victim's physical and mental health. According to data from the Central Bureau of Statistics (BPS), in 2019, 1 in 5 Indonesian women had experienced physical or sexual violence by their partners. Furthermore, data from the 2021 National Women's Life Experience Survey conducted by the Ministry of KPPPA, BPS, and the Demographic Institute of the University of Indonesia, showed that 1 in 19 women (aged 15–64 years) had experienced sexual violence by someone other than their partner.⁷

Data from *Komnas Perempuan* (National Commission on Violence Against Women) shows an increase in violence against families, especially women, in 2022, reaching 32,000 victims, compared to 27,000 in 2021. The most prevalent types of violence were sexual violence (14,174 victims), psychological violence (11,230 victims), and physical violence (9,271 victims). Despite growing awareness and efforts to address this issue, discrimination and violence within the family environment continue to be challenging problems to overcome. Creating a safe family environment is a major challenge.⁸

⁴ Law No. 23 of 2004 concerning the Elimination of Domestic Violence.

⁵ KemenPPPA, "Komitmen Pemerintah Tekan Angka Kekerasan Terhadap Perempuan," accessed May 3, 2026, <https://kemenpppa.go.id/index.php/siaran-pers/komitmen-pemerintah-tekan-angka-kekerasan-terhadap-perempuan->.

⁶ Ahmad Muhtadi Anshor and Muhammad Ngizzul Muttaqin, "The Implementation of Gender-Responsive Fiqh: A Study of Model Application of Women-Friendly and Child Care Village in Post-Covid-19 Pandemic," *Justicia Islamica* 19, no. 1 (June 2022): 1, <https://doi.org/10.21154/justicia.v19i1.3705>.

⁷ M. Chaerul Risal, "Perlindungan Hukum Terhadap Korban Kekerasan Seksual Pasca Pengesahan Undang-Undang Tindak Pidana Kekerasan Seksual: Penerapan dan Efektivitas," *Al-Daulah: Jurnal Hukum Pidana dan Ketatanegaraan* 11, no. 1 (June 2022): 75–93, <https://doi.org/10.24252/ad.v1i2.34207>.

⁸ Rinaldy Amrullah, Diah Gustiniati, and Tri Andrisman, "Restorative Justice as an Effort to Resolve Excise Crimes Against Cigarettes," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 22, no. 2 (December 2022): 188–200, <https://doi.org/10.30631/alrisalah.v22i2.1249>; Arianna Barbin et al.,

Religious Courts play a crucial role in handling domestic violence cases.⁹ Judges, as law enforcers, are responsible for adjudicating domestic violence cases fairly and wisely.¹⁰ According to data from the Directorate General of the Religious Court Agency (*Ditjen Badilag*), in 2020, 12,456 divorce cases involving domestic violence were processed in the Religious Courts.

However, in practice, judges have numerous problems when judging domestic violence cases.¹¹ One of the major challenges is the lack of understanding of gender issues and domestic violence. According to data from the Supreme Court, in 2019, only 30% of Religious Court judges had received training on gender issues and domestic violence.

This lack of understanding may prevent judges from making fair and wise decisions in domestic violence cases. Therefore, it is necessary to conduct research on judges' strategies in deciding cases of gender-based discrimination and domestic violence in the household.

The Religious Court of Malang Regency was chosen as the research location due to the significant number of domestic violence cases it handles. Based on data from the Religious Court of Malang Regency, 150 divorce cases involving domestic abuse were conducted in 2020. By conducting research at the Religious Court of Malang Regency, this study aims to gain more specific insights into the strategies used by judges in deciding cases of gender-based discrimination and domestic violence.

Several previous studies have investigated the issues of domestic violence (DV) and gender-based violence from various legal and judicial perspectives. Hertanto et al. highlight the criminal provisions on domestic violence in

“Understanding Domestic Violence and Abuse: Victim, Suspect and Crime Predictors of Police Outcomes,” *Journal of Family Violence*, ahead of print, January 6, 2025, <https://doi.org/10.1007/s10896-024-00802-z>.

⁹ Muhammad Ishar Helmi, “Pengadilan Khusus KDRT ‘Implementasi Gagasan Sistem Peradilan Pidana Terpadu Penanganan Kasus-Kasus Kekerasan Terhadap Perempuan (SPPT-PKKTP),” *Jurnal Cita Hukum* 2, no. 2 (December 2014), <https://doi.org/10.15408/jch.vli2.1471>.

¹⁰ Ariefulloh Ariefulloh et al., “Restorative justice-based criminal case resolution in Salatiga, Indonesia: Islamic law perspective and legal objectives,” *Ijtihad : Jurnal Wacana Hukum Islam dan Kemanusiaan* 23, no. 1 (May 2023): 19–36, <https://doi.org/10.18326/ijtihad.v23i1.19-36>.

¹¹ Sabelinah Tshoane et al., “Domestic Violence against Men: Unmuting the Reality of the Forgotten Gender,” *Cogent Social Sciences* 10, no. 1 (December 2024): 2304990, <https://doi.org/10.1080/23311886.2024.2304990>; Dian Ekawaty Ismail and Mohamad Taufiq Zulfikar Sarson, “Criminology Analysis of Women as Perpetrators of Domestic Violence Crimes,” *Jambura Law Review* 3, no. 0 (April 2021): 57–76, <https://doi.org/10.33756/jlr.v3i0.10984>.

Indonesian criminal law, as well as judges' considerations in court when rendering decisions, emphasizing the importance of consistent application of legal norms.¹² Wahyuni et al., Putri,¹³ and Khalid et al.¹⁴ expanded the discourse by examining the protection of victims of online gender-based violence, including the challenges of victim-blaming and strategies for supporting victims within the national legal framework.

Meanwhile, Messing and Heeren, as well as Suryani et al., examined legal protections for women within Indonesia's criminal justice system, with an emphasis on the causes of domestic violence, its impact on victims, and the effectiveness of criminal sanctions as a deterrent.¹⁵ Their findings indicated that while a legal framework existed, its implementation remains largely formalistic and is not yet fully victim-centered. In line with this, Mahfiana et al. asserted that the weakness of protection, justice, and recovery for child victims was caused by a procedural approach within the judicial system, a lack of psychosocial support, and low public awareness, which ultimately reinforces stigma and hinders victims' recovery.¹⁶ This study also emphasizes the importance of cross-sectoral coordination, capacity-building for child-sensitive law enforcement officials, regulatory simplification, and strengthening community-based services.

¹² Iwan Hertanto et al., "Police and Law Enforcement of Domestic Violence Crimes Based on Human Rights in Indonesia," *Khazanah Hukum* 6, no. 2 (August 2024): 134-44, <https://doi.org/10.15575/kh.v6i2.34357>.

¹³ Sri Wahyuni et al., "Korban Dan/Atau Pelaku: Atribusi Victim Blaming Pada Korban Kekerasan Seksual Berbasis Gender Di Lingkungan Kampus," *Brawijaya Journal of Social Science* 2, no. 1 (December 2022): 1-17, <https://doi.org/10.21776/ub.bjss.2022.002.011>; Anggreany Haryani Putri, "Legal Protection for Children as Victims of Sexual Violence Reviewed in Terms of Benefits for the Victims," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 24, no. 1 (June 2025): 3164, <https://doi.org/10.31941/pj.v24i2.6700>.

¹⁴ Hasbuddin Khalid et al., "Legal Reasoning Judge's Decision in Civil Cases," *Journal of Law and Sustainable Development* 12, no. 1 (January 2024): e2544-e2544, <https://doi.org/10.55908/sdgs.v12i1.2544>; Muhammad Ikhlas Supardin et al., "Legal reasoning by judges in the decision of the religious court in the dki jakarta area regarding sharia financing," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 1 (April 2025): 1-29, <https://doi.org/10.29240/jhi.v10i1.10917>.

¹⁵ Jill Theresa Messing and John W. Heeren, "Gendered Justice: Domestic Homicide and the Death Penalty," *Feminist Criminology* 4, no. 2 (April 2009): 170-88, <https://doi.org/10.1177/1557085108327657>; Irma Suryani et al., "Between Culture and Safety: The Paradox of Protecting Domestic Violence Victims in Mediation at the Batusangkar Religious Court, Indonesia," *Nusantara: Journal of Law Studies* 5, no. 1 (April 2026): 331-58, <https://doi.org/10.66325/nusantaralaw.v5i1.168>.

¹⁶ Layyin Mahfiana et al., "The Structure and Culture of Negotiating Child Victims' Rights in Cases of Sexual Violence," *Legality: Jurnal Ilmiah Hukum* 34, no. 1 (February 2026): 22, <https://doi.org/10.22219/ljih.v34i1.42348>.

Unlike these studies, this research specifically focused on the local context in Malang Regency by analyzing factors influencing judges' considerations in adjudicating cases of domestic violence and gender discrimination, and by identifying more effective, victim-protection-oriented judicial strategies, thereby providing a more contextually grounded empirical contribution to strengthening religious court practices.

This research is expected to help improve the effectiveness of handling domestic violence cases in the Religious Courts. Moreover, it aims to provide policymakers with recommendations to enhance judges' and other law enforcers' awareness and understanding of gender and domestic violence issues. The study also seeks to raise public awareness of the importance of addressing domestic violence cases seriously and effectively.

This study employed a juridical research method with a descriptive, qualitative approach, applied directly in the field. The research examined how legal rules were implemented in real-world settings. The data used consisted of primary data obtained directly from research subjects, secondary data derived from legal documents, regulations, and literature, and tertiary data used as supporting references. Data were collected through practical field activities, including direct interviews with relevant stakeholders, on-site observations to understand actual practices, and documentation review to support factual findings. Data analysis was conducted qualitatively through an interactive process that involved organizing and summarizing field data, presenting the data in a structured manner, and drawing conclusions based on patterns and findings identified during the research.

The Dynamics of Gender-Based Discrimination and Domestic Violence in Religious Courts

Sexual violence against women and children has become one of the most discussed crimes today.¹⁷ The more limited physical, mental, and social conditions that women and children have compared to men logically result in

¹⁷ Günnur Karakurt et al., "Treatments for Female Victims of Intimate Partner Violence: Systematic Review and Meta-Analysis," *Frontiers in Psychology* 13 (February 2022), <https://doi.org/10.3389/fpsyg.2022.793021>.

their greater dependence on others, especially family members, particularly men who actively play a role in protecting the family.¹⁸

From the perspective of Islamic Law, Violence against women and children is strictly prohibited.¹⁹ However, this is quite the opposite in Indonesia, which is home to the world's largest Muslim population. Nahar presented data from the Deputy for Child Protection at the Ministry of Women's Empowerment and Child Protection (Kemen PPA) from January to July 31, 2020, which showed 4,116 cases of violence against children in Indonesia, with sexual violence being the most common form of violence experienced by children. Data from the Deputy for Child Protection also aligned with data from the Online System for the Protection of Women and Children (Simfoni PPA).²⁰ The low level of education, which leads to a lack of awareness, is one of the factors contributing to the continuous rise in sexual violence.²¹ In essence, community support in fostering vigilance and collective concern toward violence issues is very important and should not solely rely on parents' responsibility toward their children.²² Therefore, grassroots activities, beginning with parents and progressing to the larger community, are likely to contribute to the prevention of sexual violence against children.²³ As a result, a proactive approach is needed to encourage parents to provide proper sexual

¹⁸ Hasyim Hasanah, "Kekerasan Terhadap Perempuan dan Anak Dalam Rumah Tangga Perspektif Pemberitaan Media," *Sawwa: Jurnal Studi Gender* 9, no. 1 (October 2013): 159–78, <https://doi.org/10.21580/sa.v9i1.671>; Syarifah Nuzulliah Ihsani, "Kekerasan Berbasis Gender Dalam Victim-Blaming Pada Kasus Pelecehan Yang Dipublikasi Media Online," *Jurnal Wanita Dan Keluarga* 2, no. 1 (July 2021): 12–21, <https://doi.org/10.22146/jwk.2239>.

¹⁹ Nurul Putri Awaliah Nasution, Fathul Hamdani, and Ana Fauzia, "The Concept of Restorative Justice in Handling Crimes in the Criminal Justice System," *European Journal of Law and Political Science* 1, no. 5 (November 2022): 32–41, <https://doi.org/10.24018/ejpolitics.2022.15.37>; Lukman Santoso and Bustanul Arifin, "Perlindungan Perempuan Korban Kekerasan Perspektif Hukum Islam," *De Jure: Jurnal Hukum dan Syariah* 8, no. 2 (2016): 2, <https://doi.org/10.18860/j-fsh.v8i2.3732>.

²⁰ "Violence Against Women," accessed May 3, 2026, <https://kemenppa.go.id/index.php/buku/violence-against-women>.

²¹ Herli Antoni, Asmak Ul Hosnah, and Angelica Clara Anasztasia Simanjuntak, "Perlindungan Hukum Bagi Korban Kekerasan Seksual Pada Anak Berdasarkan Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual," *Logika: Journal of Multidisciplinary Studies* 15, no. 02 (October 2024): 235–47, <https://doi.org/10.25134/logika.v15i02.10471>.

²² Putri, "Legal Protection for Children as Victims of Sexual Violence Reviewed in Terms of Benefits for the Victims"; Achmad Arifulloh, "Legal Protection for Children as Perpetrators of Sexual Violence," *KnE Social Sciences*, November 3, 2025, 289–301, <https://doi.org/10.18502/kss.v10i28.20124>.

²³ Yayan Agus Siswanto, Fajar Rachmad Dwi Miarsa, and Sudjiono, "Upaya Preventif Sebagai Bentuk Perlindungan Hukum Dari Kejahatan Kekerasan Seksual Pada Anak," *Jurnal Kolaboratif Sains* 7, no. 5 (May 2024): 1651–67, <https://doi.org/10.56338/jks.v7i5.5313>.

education to their children to raise awareness of the importance of protecting children from sexual violence.

Sexual violence against children occurs unexpectedly, in various situations, conditions, and locations, and can be committed by anyone. According to Pramastri in 2010, most perpetrators are persons the victim knows (66%), and sexual violence is often committed by their own parents (7.2%). This finding confirmed that threats often come from the child's immediate circle rather than from strangers. Huraerah in 2012 added that such cases often occur at home (48%), followed by public spaces (6.1%), schools (4.1%), workplaces (3.0%), and other locations (0.4%). This data showed that homes, which should be safe spaces, often become the primary place where sexual violence against children occurs.²⁴ If this issue is not addressed immediately, cases of sexual violence against children may continue to rise, with increasingly serious consequences. The tangible impact can include injuries to sensitive body organs, while the psychological effects include deep trauma, fear, feelings of shame, anxiety, and even suicidal thoughts or attempts. Socially, children who are victims often suffer adverse treatment from their surroundings, making them reluctant to interact with others. Sexual violence causes long-term trauma that can last into adulthood and lead to various ongoing health problems in the future.²⁵

The data confirmed that violence against women and children still occurs with high intensity. Since childhood, we have been subjected to various forms of violence, affecting both children and women.²⁶ This violence can take the form of verbal, physical, or sexual abuse. This phenomenon appears to be a lifelong occurrence. Violence can happen to anyone, at any time, and in any

²⁴ Dudi Badruzaman, "Keadilan dan kesetaraan gender untuk para perempuan korban kekerasan dalam rumah tangga (KDRT)," *Tahkim (Jurnal Peradaban Dan Hukum Islam)* 3, no. 1 (March 2020): 103–24, <https://doi.org/10.29313/tahkim.v3i1.5558>; Hendro Widodo et al., "Restitution as an Instrument of Justice for Victims of Domestic Sexual Violence: A Study of Positive and Islamic Law in the Contemporary Era," *MILRev: Metro Islamic Law Review* 4, no. 1 (June 2025): 676–99, <https://doi.org/10.32332/milrev.v4i1.10436>.

²⁵ Muhammad Faisol et al., "Sexual Exploitation in Marriage Tourism: Justice and Legal Protection for Victims in Cianjur and Jember," *Justicia Islamica* 21, no. 1 (June 2024): 43–62, <https://doi.org/10.21154/justicia.v21i1.7338>; Alfitri Alfitri, "Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia," *Studia Islamika* 27, no. 2 (August 2020): 273–307, <https://doi.org/10.36712/sdi.v27i2.9408>.

²⁶ Erick D. A. Yonfa et al., "Intimate Partner Violence: A Literature Review," *The Open Psychology Journal* 14, no. 1 (February 2021): 11–16, <https://doi.org/10.2174/1874350102114010011>.

location. Such actions include not only deliberate physical attacks, but also threats or other behaviors that have the potential to cause injury, depression, psychological disorders, or even death.²⁷

Violence against children refers to any act that causes suffering and hardship, whether physically, mentally, sexually, or psychologically, including treatment that demeans a child's dignity.²⁸ According to the World Health Organization (WHO), child abuse includes all forms of physical and/or emotional maltreatment, sexual abuse, neglect, and exploitation that result in or have the potential to result in harm to the child's health, development, or dignity within the context of a relationship of responsibility. Based on this definition, violence against children is categorized as physical abuse, sexual abuse, or emotional/psychological abuse. Among these, physical violence is most likely to occur. It includes situations in which a person uses their body or objects to harm a child or to control their behavior or actions. Physical violence may involve pushing, pulling hair, kicking, biting, punching, burning, injuring with objects, and other acts—including murder.

UNICEF²⁹ defines “child protection” as the set of measures designed to prevent and respond to violence, exploitation, and abuse against children, including commercial sexual exploitation, child trafficking, child labor, and harmful traditional practices such as female genital mutilation and child marriage. In this discussion, violence against children encompasses several aspects that align with the definition of child protection as formulated by UNICEF.

The next forms of child violence include sexual and psychological abuse. Sexual violence against children involves acts such as inappropriate touching with sexual intent, forcing sexual intercourse, coercing a child into sexual acts,

²⁷ Layyin Mahfiana et al., “The Structure and Culture of Negotiating Child Victims’ Rights in Cases of Sexual Violence,” *Legality: Jurnal Ilmiah Hukum* 34, no. 1 (February 2026): 22–45, <https://doi.org/10.22219/ljih.v34i1.42348>; Ben Mathews et al., “Improving Measurement of Child Abuse and Neglect: A Systematic Review and Analysis of National Prevalence Studies,” *PLOS ONE* 15, no. 1 (January 2020): e0227884, <https://doi.org/10.1371/journal.pone.0227884>.

²⁸ Joko Sriwododo, *Pengantar Hukum Kekerasan Dalam Rumah Tangga* (Yogyakarta: Kepel Press, 2020); James Chambers, *Domestic Violence Sourcebook*, 7th Ed. (Infobase Holdings, Inc, 2022).

²⁹ Guntur Gusti Nugraha, “Konsep Sosiologis Kekerasan Dalam Rumah Tangga Serta Praktikanya Dalam Kehidupan Masyarakat Indonesia,” *Jurnal Studi Gender Dan Anak* 8, no. 02 (2021): 195, <https://doi.org/10.32678/jsga.v8i02.5509>; Desmond Ellis, *Domestic Violence Death Reviews and Femicide: Theory, Research, Practice, Policy* (Bloomsbury Publishing USA, 2025).

exposing genitalia, engaging in child prostitution, and sexual exploitation, among others.³⁰ Psychological abuse occurs when someone uses threats or intimidation to scare a child, including isolating them from family and friends. Emotional abuse is closely tied to psychological abuse and consists of words or behaviors that make a child feel worthless or dumb. Emotional abuse can take the form of constant criticism, blaming the child for all family problems, humiliating the child in front of others, intimidation, and more.³¹

Based on these data, the researchers compiled several statistics on cases of violence against women and children in Malang Regency. According to Ayu Atika Rahmi, a Legal Affairs Officer at the Religious Court of Malang Regency, “Number of Violence Cases: In 2023, there were 289,111 recorded cases of violence against women in Indonesia, indicating a 12% decrease compared to 2022.³² As for the characteristics of victims and perpetrators, victims of violence against women tend to be younger and have lower educational attainment compared to the perpetrators. Over the past three years, the number of perpetrators—who should ideally serve as role models, protectors, and symbols of state presence—has increased by 9%. Domestic Violence: Domestic violence remains the most reported type of complaint, with significant data contributions coming from the Religious Courts (*Badilag*) concerning cases in marital and family relationships.” As for the data that the author has obtained in the past few months, it is as follows:

Table 1. Causes of Divorce at the Religious Court of Malang Regency, November 2024-January 2025

Cause of Divorce	Nov	Dec	Jan
Adultery	2	3	4
Alcohol Abuse	1	1	2
Drug Abuse	0	0	0
Gambling	1	2	4

³⁰ Günnur Karakurt et al., “Treatments for Female Victims of Intimate Partner Violence: Systematic Review and Meta-Analysis,” *Frontiers in Psychology* 13 (February 2022), <https://doi.org/10.3389/fpsyg.2022.793021>.

³¹ Thathit Manon Andini, “Identifikasi kejadian kekerasan pada anak di kota Malang,” *Jurnal Perempuan Dan Anak* 2, no. 1 (April 2019): 13–28, <https://doi.org/10.22219/jpa.v2i1.5636>; Oman Sukmana et al., “Analyzing Social Services for Child Victims of Violence: A Case from Malang, Indonesia,” *International Journal of Law and Society* 4, no. 1 (May 2025): 67–83, <https://doi.org/10.59683/ijls.v4i1.135>.

³² Ayu Atika Rahmi, Legal Affairs Officer at the Religious Court of Malang Regency, *Interview*, 25 February 2025.

Abandonment ³³	46	41	55
Imprisonment	0	0	2
Polygamy	0	0	0
Domestic Violence	2	4	4
Disability	0	0	0
Constant Conflict ³⁴	113	147	204
Forced Marriage	0	0	0
Apostasy	0	0	1
Economic Issues ³⁵	312	306	407
Total Cases	477	504	683

Source: Report of the Religious Court of Malang Regency, 2025

Table 1 shows that domestic violence remains one of the recurring issues mentioned in divorce lawsuits filed by the parties, appearing every month. Judge Eni from the Malang Regency Religious Court also shared her views on the prevalence of violence against women and children in the area. She emphasized that the judges at the local court are deeply worried about the high number of violence cases occurring within their jurisdiction. According to records from the Women and Children Service Unit (PPA) of the Malang Police Criminal Investigation Directorate, from January to September 2023, 22 cases of sexual violence against women were reported in Malang Regency between January and September 2023, with the majority of perpetrators being members of the victims' close circles. Meanwhile, cases of violence against children often occur in Islamic Boarding Schools environments and take various forms, ranging from physical and emotional abuse, neglect, to sexual harassment. In response to this issue, the judges of the Religious Court of Malang Regency have established several measures to strengthen protection for women and children. One form of this effort is the legal determination of a child's origin.

³³ *Abandonment* refers to “one party leaving the other.”

³⁴ *Constant Conflict* reflects “constant disputes and arguments.”

³⁵ *Economic Issues* were the dominant factor in both months.

Judicial Strategies for Handling Cases of Domestic Violence and Gender Discrimination

Judges, as representatives of the judiciary in resolving cases, are required not only to have intellectual competence but also to uphold moral integrity.³⁶ Thus, they can reflect a sense of justice, benefit society, and ensure legal certainty. Meanwhile, the high rates of gender-based discrimination and violence that continue to occur in Indonesia, particularly in Malang Regency, remain a serious issue that requires a strategic approach for more effective handling.³⁷

Looking back at historical developments, in 1967, the United Nations (UN) issued a Declaration on the Elimination of Discrimination against Women as part of a global effort to combat gender-based discrimination and violence. The Declaration emphasized the importance of equal rights for men and women and sought to protect women from discrimination across various aspects of life. Although it lacked binding legal force, the declaration served as the foundation for the Convention on the Elimination of All Forms of Discrimination against Women,³⁸ which the UN General Assembly later ratified on December 18, 1979. Indonesia ratified the convention by signing it at the UN Conference in Copenhagen, which was subsequently enacted as Law No. 7 of 1984.

The Indonesian government enacted Law No. 23 of 2004 on the Elimination of Domestic Violence (PKDRT) as a fresh step after the ratification strategy failed to reduce gender-based violence and discrimination, as evidenced by the high incidence of instances.³⁹ However, in reality, this policy has not been able to reduce violence or discrimination in the domestic sphere

³⁶ Ori Katz and Eyal Zamir, "Law, Justice and Reason-Giving," *Journal of Empirical Legal Studies* 22, no. 2 (2025): 243–66, <https://doi.org/10.1111/jels.12412>; Meida Anggi Fahira and Syawaludin Nur A. Fahmi, "Professional Ethics of Judges in Court," *MILRev: Metro Islamic Law Review* 1, no. 2 (December 2022): 176–87, <https://doi.org/10.32332/milrev.v1i2.6207>.

³⁷ Izzudin, Mediating Judge, Religious Court of Malang Regency, *Interview*, 23 February 2025.

³⁸ Suji Prasad and Rangasami Periyar, "Factors Influencing Intimate Partner Violence," *Indian Journal of Community Health* 31, no. 1 (March 2019): 4–9, <https://doi.org/10.47203/IJCH.2019.v31i01.002>.

³⁹ Dudi Badruzaman, "Keadilan Dan Kesetaraan Gender Untuk Para Perempuan Korban Kekerasan Dalam Rumah Tangga (KDRT)," *TAHKIM, Jurnal Peradaban Dan Hukum Islam* 3, no. 1 (2020): 107; Sukardi Sukardi and Hadi Rahmat Purnama, "Restorative Justice Principles in Law Enforcement and Democracy in Indonesia," *Journal of Indonesian Legal Studies* 7, no. 1 (June 2022): 155–90, <https://doi.org/10.15294/jils.v7i1.53057>.

significantly.⁴⁰ Data from the National Commission on Violence against Women (*Komnas Perempuan*) showed that cases of domestic violence, particularly against women, actually increased in 2022 to 32,000 victims, up from 27,000 cases in 2021. The most prevalent form of violence was sexual violence with 14,174 victims, followed by psychological violence with 11,230 victims, and physical violence with 9,271 victims. Although public awareness and handling efforts have increasingly developed, discrimination and violence within families persist and remain difficult to eradicate, thus becoming a major challenge in creating a safe household environment.⁴¹

Several strategies that have previously been attempted but failed to solve the problem serve as encouragement to develop new approaches necessary to curb gender-based discrimination and violence in domestic settings.⁴²

Based on the interviews conducted with a judge at the Religious Court of Malang Regency, several strategies can be implemented to improve the effectiveness of handling gender-based discrimination and violence in domestic cases. First, judges must take an active role.⁴³ This strategy aims to uncover cases, especially divorce cases suspected to involve gender-based discrimination and violence in the household. In reality, one of the indicators of divorce is the presence of such discrimination and violence, although both parties often conceal this during court proceedings. Thus, the strategy of having “judges take an active role” serves as a viable solution to expose and ultimately reduce the high number of domestic gender-based discrimination and violence cases.

Judges who take an active role strive to obtain concrete data during trials so that evidence, witness statements, presumptions, confessions, or oaths revealed in court (see Article 164 HIR) can be considered in the decision-

⁴⁰ Musleh Harry et al., “Examining the Provision of Legal and Religious Education to Islamic Families to Safeguard the Rights and Well-Being of Women and Children: A Case Study Conducted in Malang Regency, East Java,” *Samarah* 8, no. 3 (2024): 1526–46, <https://doi.org/10.22373/sjhc.v8i3.19566>; Mahmudha Nurkhovivah and Khaidarulloh, “Perspektif Qira’ah Mubadalah Terhadap Sikap Posesif Istri Kepada Suami,” *Al-Syakhsyiyah: Journal of Law and Family Studies* 6, no. 1 (July 2024), <https://doi.org/10.21154/syakhsyiyah.v6i1.9022>.

⁴¹ Hasyim Hasanah, “Kekerasan Terhadap Perempuan Dan Anak Dalam Rumah Tangga Perspektif Pemberitaan Media,” *Sawwa: Jurnal Studi Gender* 9, no. 1 (2018): 159–78.

⁴² Mohamad Revaldy Fairuzzen, Asmak UI Hosnah, and Abil Arya Putra, “Menelusuri Akar Masalah: Faktor Penyebab Angka Kriminalitas Anak Di Bawah Umur,” *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 2, no. 4 (2024): 1947–57, <https://doi.org/10.62976/ijjel.v2i4.737>.

⁴³ Enik Faridaturrohmah, Judge of the Religious Court of Malang Regency, *Interview*, February 2025.

making process, particularly in cases suspected of involving gender-based violence and discrimination in the household. In other words, judges must be able to assess whether a case falls within the category of domestic gender-based violence or discrimination.

In addition, the active roles do not end with gathering hidden information, particularly that indicating violence and discrimination as explained above. Judges are also expected to explore values, follow and understand legal norms, and understand the sense of justice that exists within society. Moreover, gathering such information and values is important to provide certainty about the legal basis for deciding the case, thereby having a positive impact, particularly in reducing domestic gender-based violence and discrimination, in line with Gustav Radbruch's theory of the purpose of law.⁴⁴

Second, the case was referred to the District Court. To eliminate domestic gender-based discrimination and violence, judges are supposed to not only rule on the civil case filed but also investigate the indicators that are generating the issue. For example, in divorce cases triggered by gender-based violence and discrimination, the Religious Court judges are expected not merely to resolve the civil case but also to push for and monitor the referral of those indicators (violence and discrimination) to the District Court for proper legal treatment.⁴⁵ This referral is aimed at ensuring accurate and appropriate legal handling in accordance with jurisdiction, so that it contributes to reducing domestic gender-based violence and discrimination.

Furthermore, when referring to Article 178(2) HIR / Article 189(2) RBG and Article 50 RV, it is mandated that decisions must thoroughly examine and rule on all claims submitted—not just partially and ignoring the rest. In other words, if a case contains both civil and criminal elements—such as divorce caused by domestic violence or discrimination—the Religious Court can only grant claims within its jurisdiction. Therefore, the Religious Court is expected to refer the

⁴⁴ Gustav Radbruch, "Five Minutes of Legal Philosophy (1945)," *Oxford Journal of Legal Studies* 26, no. 1 (2006): 13–15, <https://doi.org/10.1093/ojls/gqi042>; Isman Isman, "Legal Reasoning Comparative Model of Asy Syatibi And Gustav Radbruch," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 20, no. 1 (June 2020): 49–56, <https://doi.org/10.19109/nurani.v20i1.6089>.

⁴⁵ Nazaret Martínez-Heredia et al., "Dating Violence: A Bibliometric Review of the Literature in Web of Science and Scopus," *Social Sciences* 10, no. 11 (November 2021): 445, <https://doi.org/10.3390/socsci10110445>.

criminal aspects of the case (gender-based violence/discrimination) to the District Court for further legal resolution within the criminal domain.

Third, have a strong intellectual understanding. Judges are the main element of the judiciary and are strongly associated with the court itself. Judicial independence is often associated with judicial freedom, and judicial rulings with court decisions. This means that achieving justice and effective legal enforcement is dependent on judges' intellectual and moral capabilities in formulating their decisions. Judges must consequently have both moral integrity and excellent intellectual ability to make decisions that reflect justice, ensure legal certainty, and benefit society.

In the context of this study, if judges are required to possess strong intellect, they must also have gender sensitivity as an effort to reduce domestic gender-based violence and discrimination. One proposed strategy is requiring judges to undergo gender-sensitivity training.⁴⁶

Reconstructing Judicial Reasoning in Cases of Gender-Based Domestic Violence

Based on interviews with informants, several factors influence judges in deciding cases of domestic gender-based violence and discrimination. One aspect to consider is whether the act constitutes a repeated offense (recidivism), meaning the defendant has previously committed a similar offense. The effectiveness of a criminal sentence lies in its ability to prevent the recurrence of criminal acts.⁴⁷ Punishment has two main dimensions that influence the offender: deterrence and rehabilitation (reformatory).

The first is the deterrent aspect, which is typically measured by the recidivism rate. As R.M. Jackson stated, punishment is considered effective if the offender does not reoffend within a specified period. The second is the reformatory aspect, which concerns behavioral change—how much the sentence alters the offender's attitude.

⁴⁶ Enik Faridaturrohmah, Judge of the Religious Court of Malang Regency, *Interview*, February 2025.

⁴⁷ Ratno Lukito, "Religious ADR: Mediation in Islamic Family Law Tradition," *Al-Jami'ah: Journal of Islamic Studies* 44, no. 2 (December 2006): 2, <https://doi.org/10.14421/ajis.2006.44.2.325-346>; Fahira and Fahmi, "Professional Ethics of Judges in Court."

Recidivism⁴⁸ is thus one factor that influences judges when sentencing in gender-based domestic violence or discrimination cases. This factor also affects the severity of the sentence, taking into account the deterrent and reformative aspects mentioned above.

The second consideration is whether the defendant has a history of criminal acts. The judge considers the defendant's track record—whether they have committed crimes on multiple occasions and have not been punished, or whether they are repeating offenses after completing a sentence.⁴⁹

These two conditions carry different sentencing consequences. A recidivist (one who repeats crimes after being convicted) differs from someone who commits multiple offenses without being sentenced for each act (a continuous crime). In the latter, Articles 64 and 71 of the Penal Code (KUHP) apply, meaning the acts are considered collectively. However, recidivists are subject to new sentences for each offense, regardless of previous punishments. Article 71 of the Penal Code does not apply to recidivists because it only regulates crimes committed before a conviction. A recidivist refers to an individual who, after completing a sentence, repeats the same crime or commits another.

The third consideration relevant to criminal proceedings concerns the defendant's cooperative attitude and respect during the trial. In judicial practice, judges commonly assess whether the defendant demonstrates proper behavior, admits fault, cooperates with the investigation, and refrains from actions that could obstruct the course of justice. Such manifestations of attitude are interpreted as an indication of the defendant's good faith and, within the framework of criminal procedure law, can be used as a mitigating factor in sentencing.

Article 197 paragraph (1) letter f of the Indonesian Criminal Procedure Code (KUHAP) provides judges with the opportunity to consider factors that are either aggravating or mitigating when imposing a sentence. The

⁴⁸ “Profesionalisme Hakim: Studi Tentang Putusan Pengadilan Tingkat Pertama Dalam Perkara Perdata Dan Pidana Di Indonesia,” *Riset: Komisi Yudisial*, 6 (2009); A. S. Romanova, “Moral and Ethical Aspects in the Professional Activity of a Judge,” *Analytical and Comparative Jurisprudence*, no. 6 (December 2024): 953–57, <https://doi.org/10.24144/2788-6018.2024.06.160>.

⁴⁹ Andy Fefta Wijaya et al., *Analysis of the Divorce Service System in Malang City Religious Courts: A Comprehensive Study on the Process, Cost, Time, Additional Services, and User Perception*, 2025, <https://doi.org/10.4108/eai.30-10-2024.2354724>.

defendant's cooperative attitude can be considered a mitigating factor that reflects moral responsibility. However, applying such considerations raises a normative dilemma, especially in cases categorized as serious. Granting sentence reductions solely based on a defendant's courtroom behavior can distort perceptions of justice, and even create opportunities for recidivism if offenders believe that good behavior during trial will always result in leniency. Thus, such practices risk exacerbating discrepancies in the processing of similar cases, rather than serving as an effective instrument to prevent gender-based domestic violence or discrimination.

The findings of this study demonstrated that judicial decision-making in cases of domestic gender-based violence and discrimination was not solely determined by formal legal provisions, but was also significantly influenced by structural and subjective dimensions within the judiciary. From the perspective of legal theory, law ideally embodies three fundamental values: justice, legal certainty, and utility.⁵⁰ However, in practice, judicial decisions in such cases often emphasize procedural legal certainty rather than substantive justice, particularly for victims. This condition reflects a gap between normative expectations and empirical realities, in which the application of law has not fully protected vulnerable groups, especially women in domestic relations.⁵¹

Furthermore, the dualism of judicial authority between the Religious Court and the District Court creates a structural weakness in handling cases that involve both civil and criminal elements. Divorce cases processed in the Religious Court frequently involve underlying issues of violence and discrimination, yet the resolution remains fragmented due to jurisdictional limitations. As a result, victims may obtain legal status through divorce, but the criminal aspects of violence are not adequately addressed.⁵² This fragmented mechanism indicates that the current legal system has not yet adopted an

⁵⁰ Ana Rita Ferreira and Ana Isabel Sani, "Domestic Violence and Custody Proceedings: An Analysis of Judicial Decisions in Portugal," *Journal of Family Violence* 41, no. 1 (January 2026): 195-207, <https://doi.org/10.1007/s10896-024-00739-3>.

⁵¹ Katarzyna Sękowska-Kozłowska, "Proving Domestic Violence as Gender Structural Discrimination before the European Court of Human Rights," *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique* 37, no. 6 (October 2024): 1725-37, <https://doi.org/10.1007/s11196-024-10148-w>.

⁵² Maimun Maimun, "The Women's Rights in Divorce and Gender Equality Discourse in The Dynamics of Divorce in Madura," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (June 2022): 468-92, <https://doi.org/10.22373/sjkh.v6i1.12804>.

integrated justice approach, reducing its effectiveness in addressing and preventing recurring gender-based violence in domestic settings.⁵³

In addition, the broad discretion that judges exercise in assessing factors such as recidivism, criminal history, and the defendant's attitude during trial raises the potential for bias in decision-making. The consideration of cooperative behavior or politeness in court as a mitigating factor, although normatively justified, raises critical concerns when applied to serious cases such as domestic violence.⁵⁴ Such considerations may inadvertently weaken the deterrent effect of punishment and create a perception that accountability can be negotiated through courtroom demeanor. This condition also risks reinforcing implicit biases, including the tendency to trivialize domestic violence as a private matter rather than a serious violation of human rights.⁵⁵

From a critical perspective, judges should not be limited to passive adjudicators but should be active agents of justice sensitive to gender issues. This involves the ability to identify hidden forms of violence, understand the socio-cultural context of victims, and apply legal reasoning that prioritizes substantive justice. Therefore, strengthening judges' intellectual capacity must go hand in hand with institutionalizing gender sensitivity as a core component of judicial competence. Without such transformation, judicial decisions risk perpetuating systemic injustice rather than resolving it.

Based on these considerations, this study offers a conceptual reconstruction in the form of an integrated and gender-responsive judicial approach. This includes the need for mandatory case referral mechanisms for cases involving criminal elements, the development of gender-based sentencing guidelines to reduce disparities, and the transformation of judicial roles into more proactive, investigative actors. Such innovations are expected

⁵³ Michael Jerrett et al., "Particulate Air Pollution, Social Confounders, and Mortality in Small Areas of an Industrial City," *Social Science & Medicine* 60, no. 12 (June 2005): 2845–63, <https://doi.org/10.1016/j.socscimed.2004.11.006>.

⁵⁴ Mufidah Cholil et al., "Domestic Violence and Women's Legal Awareness: The Family Corner Programmes Interventions through the Perspective of Maqāṣid al-Uṣrah," *De Jure: Jurnal Hukum Dan Syar'iah* 17, no. 2 (December 2025): 649–74, <https://doi.org/10.18860/j-fsh.v17i2.30101>; Tanya Frances, *Narratives of Childhood Domestic Violence: Epistemic Justice, Young Women and Transitions to Young Adulthood* (Taylor & Francis, 2025).

⁵⁵ Ahmad Izzuddin and Ahmad Faiz Shobir Alfikri, "Reconstruction of Absolute Competence of Religious Courts in Criminal Cases of Domestic Violence in Indonesia," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 12, no. 1 (April 2025): 62–81, <https://doi.org/10.32505/qadha.v12i1.10874>.

to bridge the gap between legal norms and social realities, making the legal system more effective in addressing domestic gender-based violence and discrimination.

Table 2. Factors Influencing Judges’ Decisions in Gender-Based Domestic Violence Cases

	Key Points	Implications
Recidivism	Judges consider whether the offender has repeated similar crimes.	It influences the severity of punishment; it is linked to deterrence and rehabilitation.
Criminal History	Assessment of prior offenses, whether punished or not.	Distinguishes recidivism vs continuous crime; affects legal application.
Defendant’s Attitude	Cooperation, politeness, and admission of guilt during trial.	Can mitigate sentence but risks reducing deterrence in serious cases.
Legal Framework	Application of KUHP and KUHAP provisions.	Often prioritizes legal certainty over substantive justice.
Judicial Discretion	Wide authority in evaluating factors like behavior and history.	Potential bias and disparity in sentencing.
Structural Issues	Dualism between the Religious Court and the District Court.	Fragmented handling of civil and criminal aspects.
Gender Sensitivity	Limited integration of gender perspective in judicial reasoning.	Risk of trivializing domestic violence cases.
Justice Gap	Mismatch between legal norms and real victim protection.	Victims may not receive full justice.
Proposed Reform	Integrated, gender-responsive judicial approach.	Improves consistency, fairness, and case handling effectiveness.

Source: Authors, 2025

The analysis indicates that the current case management model still faces several structural and substantive limitations, requiring more integrated and

responsive improvements in the future. Factors such as recidivism, criminal history, and the defendant's attitude have indeed been considered by judges; however, their application has not yet fully balanced the objectives of deterrence and rehabilitation and may even weaken deterrence in serious cases. On the other hand, the dominance of the formal legal framework (the Criminal Code and the Criminal Procedure Code) tends to prioritize legal certainty over substantive justice. At the same time, the broad scope of judicial discretion creates room for disparity in rulings. The issue becomes even more complex due to the dualism of jurisdiction between Religious Courts and District Courts, which leads to fragmented case handling, as well as the lack of integration of a gender perspective, which risks downplaying the substance of domestic violence.

These conditions contribute to the emergence of a justice gap in which victim protection is suboptimal. Therefore, future improvements must focus on strengthening a gender-sensitive, integrated judicial approach, standardizing sentencing guidelines to minimize disparities, enhancing judges' capacity to understand victim issues, and harmonizing institutional coordination across judicial systems. These efforts can be implemented by developing victim-centered technical guidelines, providing ongoing training for law enforcement officials, and strengthening inter-agency coordination to ensure a more just, consistent, and effective judicial process.

Conclusion

The findings of this study confirm that judges at the Malang Regency Religious Court play a strategic role in handling cases of gender-based discrimination and domestic violence, with a significant impact on the effectiveness of case resolution as well as the protection of women's rights. Judicial practice indicates that judges do not merely act as passive adjudicators but also adopt an active approach through responsive trial management, the exercise of authority to refer cases involving criminal elements to the District Court, and the application of intellectual capacity in formulating more comprehensive legal reasoning. In the decision-making process, judges consider key variables such as recidivism, the perpetrator's history of involvement in similar criminal acts, and the cooperative attitudes of the parties during the trial, which directly influence the weight and direction of the ruling. However, the effectiveness of

these judicial strategies still requires ongoing improvement, particularly in integrating a gender perspective more substantively and ensuring consistency in the application of judicial discretion. Therefore, the findings of this study have important implications as a reference for policymakers and judicial officials in terms of enhancing sensitivity toward issues of gender-based violence, strengthening judges' capacity, and developing more integrated, fair, and victim-centered case management mechanisms, thereby bridging the gap between legal norms and social realities in the domestic context.

Acknowledgements

The author expresses sincere gratitude for the completion of this article and the support received from various parties, particularly the Malang Regency Religious Court. The author further asserts that the use of artificial intelligence-based language tools was intended solely to improve writing style and enhance linguistic clarity during the editing process. All substantive elements of this work—including the conceptual framework, legal analysis, data interpretation, and academic arguments—are entirely the result of the author's independent scholarly efforts and remain the author's sole responsibility. No artificial intelligence tools were used to generate original ideas, legal reasoning, or references. Furthermore, all sources cited in this article have been carefully verified by the author in accordance with the principles of academic integrity and applicable standards of scientific publication ethics.

Disclosure Statement

In the writing of this article, Meisy Fajarani served as the lead author and bore primary responsibility for the entire academic process, including the conceptual research design, theoretical framework development, analysis integration, and manuscript drafting. She also managed all scientific correspondence during the peer review and revision stages. Musleh Harry and Muhammad Jihadil Akbar contributed through academic discussions, refinement of the research structure, and critical feedback on legal arguments. Nur Jannani assisted with data organization, alignment of the literature, and linguistic clarity, while Mikdar Rusdi provided general academic input and helped review the manuscript for consistency. All authors have read and

approved the final version of the manuscript; however, responsibility for the accuracy, originality, and scientific integrity of the core content remains with the corresponding author.

References

- Alfitri, Alfitri. "Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia." *Studia Islamika* 27, no. 2 (August 2020): 273–307. <https://doi.org/10.36712/sdi.v27i2.9408>.
- Amrullah, Rinaldy, Diah Gustiniati, and Tri Andrisman. "Restorative Justice as an Effort to Resolve Excessive Crimes Against Cigarettes." *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 22, no. 2 (December 2022): 188–200. <https://doi.org/10.30631/alrisalah.v22i2.1249>.
- Andini, Thathit Manon. "identifikasi kejadian kekerasan pada anak di kota malang." *Jurnal Perempuan Dan Anak* 2, no. 1 (April 2019): 13–28. <https://doi.org/10.22219/jpa.v2i1.5636>.
- Andriko, Riko, Bahrul Fawaid, and Adityo Puro Prakoso. "Legal Reform for Gender Equality: The Role of State Institutions and Society in Protecting Domestic Violence Victims in Indonesia." *JURNAL AKTA* 12, no. 4 (January 2026): 1377–94. <https://doi.org/10.30659/akta.v12i4.49600>.
- Anshor, Ahmad Muhtadi, and Muhammad Ngizzul Muttaqin. "The Implementation of Gender-Responsive Fiqh: A Study of Model Application of Women-Friendly and Child Care Village in Post-COVID-19 Pandemic." *Justicia Islamica* 19, no. 1 (June 2022): 1. <https://doi.org/10.21154/justicia.v19i1.3705>.
- Antoni, Herli, Asmak Ul Hosnah, and Angelica Clara Anasztasia Simanjuntak. "Perlindungan Hukum Bagi Korban Kekerasan Seksual Pada Anak Berdasarkan Undang-Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual." *Logika : Journal of Multidisciplinary Studies* 15, no. 02 (October 2024): 235–47. <https://doi.org/10.25134/logika.v15i02.10471>.
- Ariefulloh, Ariefulloh, Hibnu Nugroho, Angkasa Angkasa, and Riris Ardhanariswari. "Restorative justice-based criminal case resolution in Salatiga, Indonesia: Islamic law perspective and legal objectives." *Ijtihad : Jurnal Wacana Hukum Islam dan Kemanusiaan* 23, no. 1 (May 2023): 19–36. <https://doi.org/10.18326/ijtihad.v23i1.19-36>.
- Arifulloh, Achmad. "Legal Protection for Children as Perpetrators of Sexual Violence." *KnE Social Sciences*, November 3, 2025, 289–301. <https://doi.org/10.18502/kss.v10i28.20124>.

- Badruzaman, Dudi. "keadilan dan kesetaraan gender untuk para perempuan korban kekerasan dalam rumah tangga (KDRT)." *Tahkim (Jurnal Peradaban Dan Hukum Islam)* 3, no. 1 (March 2020): 103–24. <https://doi.org/10.29313/tahkim.v3i1.5558>.
- Barbin, Arianna, Ioana Crivatu, Kari Davies, Miranda A. H. Horvath, and Ruth Spence. "Understanding Domestic Violence and Abuse: Victim, Suspect and Crime Predictors of Police Outcomes." *Journal of Family Violence*, ahead of print, January 6, 2025. <https://doi.org/10.1007/s10896-024-00802-z>.
- Chambers, James. *Domestic Violence Sourcebook, 7th Ed.* Infobase Holdings, Inc, 2022.
- Cholil, Mufidah, Abd Rouf, Prayudi Rahmatullah, and Mohammad Fauzan Ni'ami. "Domestic Violence and Women's Legal Awareness: The Family Corner Programs Interventions through the Perspective of Maqāṣid al-Ushrah." *De Jure: Jurnal Hukum Dan Syar'iah* 17, no. 2 (December 2025): 649–74. <https://doi.org/10.18860/j-fsh.v17i2.30101>.
- Ellis, Desmond. *Domestic Violence Death Reviews and Femicide: Theory, Research, Practice, Policy.* Bloomsbury Publishing USA, 2025.
- Faridaturrohmah, Enik. Judge of the Religious Court of Malang Regency, *Interview*, 23 February 2025.
- Fadil, Fadil, Zidna Mazidah, and Zaenul Mahmudi. "Fulfillment of Women's Rights After Divorce: Dynamics and Transformation in the Legal Journey." *De Jure: Jurnal Hukum dan Syar'iah* 16, no. 1 (June 2024): 1–20. <https://doi.org/10.18860/j-fsh.v16i1.25713>.
- Fahira, Meida Anggi, and Syawaludin Nur A. Fahmi. "Professional Ethics of Judges in Court." *MILRev: Metro Islamic Law Review* 1, no. 2 (December 2022): 176–87. <https://doi.org/10.32332/milrev.v1i2.6207>.
- Fairuzzen, Mohamad Revaldy, Asmak Ul Hosnah, and Abil Arya Putra. "Menelusuri Akar Masalah: Faktor Penyebab Angka Kriminalitas Anak Di Bawah Umur." *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 2, no. 4 (2024): 1947–57. <https://doi.org/10.62976/ijjel.v2i4.737>.
- Faisol, Muhammad, Sri Lumatus Saadah, Martha Eri Safira, and Lailatul Mufidah. "Sexual Exploitation in Marriage Tourism: Justice and Legal Protection for Victims in Cianjur and Jember." *Justicia Islamica* 21, no. 1 (June 2024): 43–62. <https://doi.org/10.21154/justicia.v21i1.7338>.
- Ferreira, Ana Rita, and Ana Isabel Sani. "Domestic Violence and Custody Proceedings: An Analysis of Judicial Decisions in Portugal." *Journal of*

- Family Violence* 41, no. 1 (January 2026): 195–207. <https://doi.org/10.1007/s10896-024-00739-3>.
- Frances, Tanya. *Narratives of Childhood Domestic Violence: Epistemic Justice, Young Women and Transitions to Young Adulthood*. Taylor & Francis, 2025.
- Harry, Musleh, Saifullah, Jundiani, and Meisy Fajarani. “Examining the Provision of Legal and Religious Education to Islamic Families to Safeguard the Rights and Well-Being of Women and Children: A Case Study Conducted in Malang Regency, East Java.” *Samarah* 8, no. 3 (2024): 1526–46. <https://doi.org/10.22373/sjkh.v8i3.19566>.
- Hasanah, Hasyim. “kekerasan terhadap perempuan dan anak dalam rumah tangga perspektif pemberitaan media.” *Sawwa: Jurnal Studi Gender* 9, no. 1 (October 2013): 159–78. <https://doi.org/10.21580/sa.v9i1.671>.
- Helmi, Muhammad Ishar. “Pengadilan Khusus KDRT ‘Implementasi Gagasan Sistem Peradilan Pidana Terpadu Penanganan Kasus-Kasus Kekerasan Terhadap Perempuan (SPPT-PKKTP).” *Jurnal Cita Hukum* 2, no. 2 (December 2014). <https://doi.org/10.15408/jch.v1i2.1471>.
- Hertanto, Iwan, Supanto Suparto, Muhammad Rustamaji, and Yusuf Saefudin. “Police and Law Enforcement of Domestic Violence Crimes Based on Human Rights in Indonesia.” *Khazanah Hukum* 6, no. 2 (August 2024): 134–44. <https://doi.org/10.15575/kh.v6i2.34357>.
- Ihsani, Syarifah Nuzulliah. “Kekerasan Berbasis Gender Dalam Victim-Blaming Pada Kasus Pelecehan Yang Dipublikasi Media Online.” *Jurnal Wanita Dan Keluarga* 2, no. 1 (July 2021): 12–21. <https://doi.org/10.22146/jwk.2239>.
- Ismail, Dian Ekawaty, and Mohamad Taufiq Zulfikar Sarson. “Criminology Analysis of Women as Perpetrators of Domestic Violence Crimes.” *Jambura Law Review* 3, no. 0 (April 2021): 57–76. <https://doi.org/10.33756/jlr.v3i0.10984>.
- Isman, Isman. “Legal Reasoning Comparative Model of Asy Syatibi And Gustav Radbruch.” *Nurani: Jurnal Kajian Syari’ah Dan Masyarakat* 20, no. 1 (June 2020): 49–56. <https://doi.org/10.19109/nurani.v20i1.6089>.
- Izzuddin, Ahmad, and Ahmad Faiz Shobir Alfikri. “Reconstruction of Absolute Competence of Religious Courts in Criminal Cases of Domestic Violence in Indonesia.” *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 12, no. 1 (April 2025): 62–81. <https://doi.org/10.32505/qadha.v12i1.10874>.
- Izzudin, Mediating Judge, Religious Court of Malang Regency, *Interview*, 23 February 2025.
- Jerrett, Michael, Michael Buzzelli, Richard T. Burnett, and Patrick F. DeLuca. “Particulate Air Pollution, Social Confounders, and Mortality in Small

- Areas of an Industrial City.” *Social Science & Medicine* 60, no. 12 (June 2005): 2845–63. <https://doi.org/10.1016/j.socscimed.2004.11.006>.
- Karakurt, Günnur, Esin Koç, Pranaya Katta, Nicole Jones, and Shari D. Bolen. “Treatments for Female Victims of Intimate Partner Violence: Systematic Review and Meta-Analysis.” *Frontiers in Psychology* 13 (February 2022). <https://doi.org/10.3389/fpsyg.2022.793021>.
- Karya, Dewi. “tindak pidana kekerasan dalam rumah tangga yang dilakukan suami terhadap istri (Studi Kasus Di Pengadilan Negeri Gresik).” *DiH: Jurnal Ilmu Hukum*, ahead of print, February 1, 2013. <https://doi.org/10.30996/dih.v9i17.248>.
- Katz, Ori, and Eyal Zamir. “Law, Justice and Reason-Giving.” *Journal of Empirical Legal Studies* 22, no. 2 (2025): 243–66. <https://doi.org/10.1111/jels.12412>.
- Khalid, Hasbuddin, Humaera, Sufirman Rahman, and Hardianto Djanggih. “Legal Reasoning Judge’s Decision in Civil Cases.” *Journal of Law and Sustainable Development* 12, no. 1 (January 2024): e2544–e2544. <https://doi.org/10.55908/sdgs.v12i1.2544>.
- Komisi Yudisial. “Profesionalisme Hakim: Studi Tentang Putusan Pengadilan Tingkat Pertama Dalam Perkara Perdata Dan Pidana Di Indonesia,” Research Reports, Jakarta: Komisi Yudisial, 6 (2009).
- Law No. 23 of 2004 concerning the Elimination of Domestic Violence.
- Lukito, Ratno. “Religious ADR: Mediation in Islamic Family Law Tradition.” *Al-Jami’ah: Journal of Islamic Studies* 44, no. 2 (December 2006): 2. <https://doi.org/10.14421/ajis.2006.442.325-346>.
- Mahfiana, Layyin, Masrukin Masrukin, Diana Zahro, and Lukman Santoso. “The Structure and Culture of Negotiating Child Victims’ Rights in Cases of Sexual Violence.” *Legality: Jurnal Ilmiah Hukum* 34, no. 1 (February 2026): 22–45. <https://doi.org/10.22219/ljih.v34i1.42348>.
- Maimun, Maimun. “The Women’s Rights in Divorce and Gender Equality Discourse in The Dynamics of Divorce in Madura.” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (June 2022): 468–92. <https://doi.org/10.22373/sjkh.v6i1.12804>.
- Martínez-Heredia, Nazaret, Gracia González-Gijón, Andrés Soriano Díaz, and Ana Amaro Agudo. “Dating Violence: A Bibliometric Review of the Literature in Web of Science and Scopus.” *Social Sciences* 10, no. 11 (November 2021): 445. <https://doi.org/10.3390/socsci10110445>.
- Mathews, Ben, Rosana Pacella, Michael P. Dunne, Marko Simunovic, and Cicely Marston. “Improving Measurement of Child Abuse and Neglect: A Systematic Review and Analysis of National Prevalence Studies.” *PLOS*

- ONE 15, no. 1 (January 2020): e0227884.
<https://doi.org/10.1371/journal.pone.0227884>.
- Messing, Jill Theresa, and John W. Heeren. "Gendered Justice: Domestic Homicide and the Death Penalty." *Feminist Criminology* 4, no. 2 (April 2009): 170–88. <https://doi.org/10.1177/1557085108327657>.
- Nasution, Nurul Putri Awaliah, Fathul Hamdani, and Ana Fauzia. "The Concept of Restorative Justice in Handling Crimes in the Criminal Justice System." *European Journal of Law and Political Science* 1, no. 5 (November 2022): 32–41. <https://doi.org/10.24018/ejpolitics.2022.1.5.37>.
- Nasyiah, Iffaty. "Urgency of Fatwa on Domestic Psychological Violence in Indonesia as an Effort to Protect Women's Rights." *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 1 (June 2024): 118–40. <https://doi.org/10.18860/j-fsh.v16i1.26403>.
- Nugraha, Guntur Gusti. "Konsep Sosiologis Kekerasan Dalam Rumah Tangga Serta Praktiknya Dalam Kehidupan Masyarakat Indonesia." *Jurnal Studi Gender Dan Anak* 8, no. 02 (2021): 195. <https://doi.org/10.32678/jsga.v8i02.5509>.
- Nurkhovich, Mahmudha, and Khaidarulloh. "Perspektif Qira'Ah Mubadalah Terhadap Sikap Posesif Istri Kepada Suami." *Al-Syakhsiyyah: Journal of Law and Family Studies* 6, no. 1 (July 2024). <https://doi.org/10.21154/syakhsiyyah.v6i1.9022>.
- Prasad, Suji, and Rangasami Periyar. "Factors Influencing Intimate Partner Violence." *Indian Journal of Community Health* 31, no. 1 (March 2019): 4–9. <https://doi.org/10.47203/IJCH.2019.v31i01.002>.
- Purdiantika, Fernanda, and Lukman Santoso. "Pengaturan Marital Rape Di Indonesia Perspektif Fiqh Jinayah Tentang Keluarga." *Jurnal Antologi Hukum* 4, no. 2 (October 2024): 340–64. <https://doi.org/10.21154/antologihukum.v4i2.3965>.
- Putri, Anggreany Haryani. "Legal Protection for Children as Victims of Sexual Violence Reviewed in Terms of Benefits for the Victims." *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 24, no. 1 (June 2025): 3164–70. <https://doi.org/10.31941/pj.v24i2.6700>.
- Radbruch, Gustav. "Five Minutes of Legal Philosophy (1945)." *Oxford Journal of Legal Studies* 26, no. 1 (2006): 13–15. <https://doi.org/10.1093/ojls/gqi042>.
- Rahmi, Ayu Atika, Legal Affairs Officer of the Religious Court of Malang Regency, Interview, 23 Februari 2025
- Risal, M. Chaerul. "Perlindungan Hukum Terhadap Korban Kekerasan Seksual Pasca Pengesahan Undang-Undang Tindak Pidana Kekerasan Seksual: Penerapan dan Efektivitas." *Al-Daulah: Jurnal Hukum Pidana dan*

- Ketatanegaraan* 11, no. 1 (June 2022): 75–93.
<https://doi.org/10.24252/ad.v1i2.34207>.
- Romanova, A. S. “Moral and Ethical Aspects in the Professional Activity of a Judge.” *Analytical and Comparative Jurisprudence*, no. 6 (December 2024): 953–57. <https://doi.org/10.24144/2788-6018.2024.06.160>.
- Santoso, Lukman, and Bustanul Arifin. “Perlindungan Perempuan Korban Kekerasan Perspektif Hukum Islam.” *De Jure: Jurnal Hukum dan Syar’iah* 8, no. 2 (2016): 2. <https://doi.org/10.18860/j-fsh.v8i2.3732>.
- Sękowska-Kozłowska, Katarzyna. “Proving Domestic Violence as Gender Structural Discrimination before the European Court of Human Rights.” *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique* 37, no. 6 (October 2024): 1725–37. <https://doi.org/10.1007/s11196-024-10148-w>.
- Siswanto, Yayan Agus, Fajar Rachmad Dwi Miarsa, and Sudjiono. “Upaya Preventif Sebagai Bentuk Perlindungan Hukum Dari Kejahatan Kekerasan Seksual Pada Anak.” *Jurnal Kolaboratif Sains* 7, no. 5 (May 2024): 1651–67. <https://doi.org/10.56338/jks.v7i5.5313>.
- Sriwododo, Joko. , *Pengantar Hukum Kekerasan Dalam Rumah Tangga*. Yogyakarta: Kepel Press, 2020.
- Sukardi, Sukardi, and Hadi Rahmat Purnama. “Restorative Justice Principles in Law Enforcement and Democracy in Indonesia.” *Journal of Indonesian Legal Studies* 7, no. 1 (June 2022): 155–90. <https://doi.org/10.15294/jils.v7i1.53057>.
- Sukmana, Oman, Fadli Erwan Ibrahim, Agung Nugroho, Sulatsri, Erinda Dwimagistri Sukmana, and Wahyudi. “Analyzing Social Services for Child Victims of Violence: A Case from Malang, Indonesia.” *International Journal of Law and Society* 4, no. 1 (May 2025): 67–83. <https://doi.org/10.59683/ijls.v4i1.135>.
- Supardin, Muhammad Ikhlas, Jaih Mubarak, J. M. Muslimin, Muhammad Nasril, and Rahma Amir. “legal reasoning by judges in the decision of the religious court in the dki jakarta area regarding sharia financing.” *Al-Istinbath: Jurnal Hukum Islam* 10, no. 1 (April 2025): 1–29. <https://doi.org/10.29240/jhi.v10i1.10917>.
- Suryani, Irma, Arifki Budia Warman, Alfi Husni, Andiko, and Revalina Fathiya Azzahra. “Between Culture and Safety: The Paradox of Protecting Domestic Violence Victims in Mediation at the Batusangkar Religious Court, Indonesia.” *Nusantara: Journal of Law Studies* 5, no. 1 (April 2026): 331–58. <https://doi.org/10.66325/nusantaralaw.v5i1.168>.

- Tshoane, Sabelinah, Adewale A. Olutola, Paul O. Bello, and Jacob T. Mofokeng. "Domestic Violence against Men: Unmuting the Reality of the Forgotten Gender." *Cogent Social Sciences* 10, no. 1 (December 2024): 2304990. <https://doi.org/10.1080/23311886.2024.2304990>.
- "Violence Against Women." Accessed May 3, 2026. <https://kemenpppa.go.id/index.php/buku/violence-against-women>.
- Wahyuni, Sri, Siti Nurbayani, Ilma Kesumaningsih, and Dinar Hargono. "Korban Dan/Atau Pelaku: Atribusi Victim Blaming Pada Korban Kekerasan Seksual Berbasis Gender Di Lingkungan Kampus." *Brawijaya Journal of Social Science* 2, no. 1 (December 2022): 1–17. <https://doi.org/10.21776/ub.bjss.2022.002.01.1>.
- Widodo, Hendro, Anis Mashdurohatun, Kristiawanto, Andrianto Budi Santoso, and Derick Yunanda. "Restitution as an Instrument of Justice for Victims of Domestic Sexual Violence: A Study of Positive and Islamic Law in the Contemporary Era." *MILRev: Metro Islamic Law Review* 4, no. 1 (June 2025): 676–99. <https://doi.org/10.32332/milrev.v4i1.10436>.
- Wijaya, Andy Fefta, Salma Tarek, Eid Esmael, and Mohammad Nuh. *Analysis of the Divorce Service System in Malang City Religious Courts: A Comprehensive Study on the Process, Cost, Time, Additional Services, and User Perception*. 2025. <https://doi.org/10.4108/eai.30-10-2024.2354724>.
- Yonfa, Erick D. A., Malinda Fasol, Camila M. Cueva, and Anna C. Zavgorodniaya. "Intimate Partner Violence: A Literature Review." *The Open Psychology Journal* 14, no. 1 (February 2021): 11–16. <https://doi.org/10.2174/1874350102114010011>.