

RESEARCH ARTICLE



GENDER INEQUALITY IN THE CRIMINAL JUSTICE SYSTEM: A CASE STUDY OF HANDLING CASES OF VIOLENCE AGAINST WOMEN

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ABSTRACT

This study aims to analyze gender inequality in the criminal justice system, particularly in the handling of cases of violence against women. The research method used is a case study with a qualitative approach, involving the analysis of legal documents, court decisions, and in-depth interviews with various related parties such as victims, law enforcement officials, and legal experts. The results of the study show various forms of gender inequality, ranging from bias in legal interpretation, lack of victim perspective, to stigma and discrimination against women in the judicial process. The implementation of Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS) is expected to be a progressive step in providing more comprehensive legal protection for victims, but challenges in law enforcement remain a major concern. This study also highlights the importance of reconstructing the model of judicial decisions with a progressive legal approach as well as strengthening the criminal justice system specifically for women victims of violence. The study's conclusions emphasize the need for fundamental changes in the criminal justice system to ensure gender justice, including enhancing the capacity of law enforcement officials, changing legal culture, and ensuring active victim participation in the judicial process.

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1. Introduction

Violence against women remains one of the most serious global human rights issues and continues to pose significant challenges to social justice, gender equality, and legal protection in many countries. The phenomenon occurs across all social classes, cultures, religions, and economic groups, making it a universal problem that requires comprehensive legal and institutional responses. The United Nations (UN) defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual, psychological, or economic harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life ([Razavi, 2016](#)). This definition demonstrates that violence against women is not merely an individual or domestic problem but a structural issue closely related to gender inequality and discrimination embedded in society. Violence against women manifests in various forms, including domestic violence, sexual harassment, rape, trafficking, intimidation, psychological abuse, and economic exploitation, all of which negatively affect the dignity, security, and well-being of women ([Desai & Mandal, 2021](#)).

Globally, reports regarding violence against women continue to show alarming trends. According to data from the World Health Organization (WHO), approximately one in three women worldwide has experienced physical or sexual violence during her lifetime, mostly perpetrated by intimate partners. These statistics indicate that violence against women has become a persistent social crisis that transcends national boundaries. In many countries, legal reforms and institutional mechanisms have been introduced to protect women's rights; however, the implementation of these measures often remains ineffective due to cultural, social, and institutional barriers. Patriarchal norms, gender stereotypes, and discriminatory legal practices continue to reinforce unequal power relations between men and women, making women more vulnerable to violence and limiting their access to justice ([Walby et al., 2022](#)).

In Indonesia, violence against women remains a pressing legal and social issue. Data released by the National Commission on Violence Against Women, indicate a continuous increase in reported cases of violence against women each year. Cases of domestic violence, sexual violence, online gender-based violence, and harassment dominate these reports. The increase in reported cases may reflect growing public awareness and willingness among victims to report incidents. However, it also highlights the persistent inability of legal and social systems to effectively prevent violence and protect victims ([Hanifah et al., 2025](#)). Although the Indonesian government has enacted several legal instruments, such as Law Number 23 of 2004 concerning the Elimination of Domestic Violence and Law Number 12 of 2022 concerning Sexual Violence Crimes, the implementation of these regulations remains problematic. Many victims still encounter barriers when seeking justice through the criminal justice system, including difficulties in reporting cases, inadequate victim protection, and discriminatory treatment by law enforcement officials ([Nurnaningsih, 2023](#)).

The criminal justice system plays a crucial role in ensuring justice for victims of violence against women. Ideally, the system should provide legal certainty, protection, and fair treatment for victims while holding perpetrators accountable. However, in practice, women victims often experience secondary victimization within the justice process itself. Gender inequality within the criminal justice system is reflected in the existence of gender bias among police officers, prosecutors, judges, and other legal actors ([Helfgott et al., 2018](#)). Victims are frequently questioned in ways that imply blame, disbelief, or moral judgment. For instance, victims of domestic violence are sometimes asked why they did not obey their husbands or why they remained in abusive relationships. Similarly, victims of sexual violence may be questioned about their clothing, behavior, or sexual history, as if these factors justify the violence committed against them. Such attitudes demonstrate the persistence of patriarchal perspectives that position women as responsible for the violence they experience ([Shammas & Sandberg, 2016](#)).

In the context of domestic violence, women often face additional obstacles that prevent them from reporting abuse. Domestic violence is frequently perceived as a private family matter rather than a criminal act requiring legal intervention. Victims may choose to remain silent because of fear, shame, social stigma, economic dependence, or concern for their children's future. Many women rely financially on their husbands and fear losing economic support if they pursue legal action. Cultural values emphasizing family harmony and obedience to husbands further pressure women to tolerate abusive relationships ([Fulu & Miedema, 2016](#)). Consequently, many cases of domestic violence remain unreported, while victims continue to suffer in silence. When victims eventually decide to report the abuse, they are often confronted with lengthy legal procedures, insufficient legal assistance, and unsympathetic responses from law enforcement authorities. These experiences discourage victims from pursuing justice and reinforce distrust toward legal institutions ([Childress et al., 2024](#)).

The issue of gender inequality within the criminal justice system can be analyzed through feminist legal theory and victimology theory. Feminist legal theory argues that law is not neutral but is shaped by patriarchal social structures that historically privilege male perspectives and interests (MacKinnon, 1989). As a result, legal systems often fail to adequately address women's experiences and needs. Feminist scholars argue that the criminal justice system frequently reproduces gender inequality by ignoring structural discrimination and perpetuating stereotypes about women. In cases of violence against women, the law may formally recognize women's rights while still being implemented in discriminatory ways. Victimology theory further explains that victims of crime often experience repeated suffering due to insensitive treatment by institutions responsible for delivering justice ([Jaggar, 2018](#)). Secondary victimization occurs when victims are blamed, ignored, or traumatized again during legal proceedings. These theories are relevant in understanding how institutional practices within the criminal justice system contribute to the marginalization of women victims and hinder their access to justice ([Nelund, 2017](#)).

Several previous studies have examined the issue of violence against women and gender inequality in Indonesia's criminal justice system. [Mestika \(2022\)](#), found that law enforcement mechanisms in cases of violence against women still lack a gender-sensitive perspective, resulting in inadequate protection for victims. Their study emphasized that many legal actors prioritize formal legal procedures over victims' psychological and social conditions. The existence of gender bias among law enforcement officers, particularly in the handling of domestic violence and sexual violence cases. According to the study, discriminatory attitudes and patriarchal assumptions continue to influence legal decision-making processes. Other studies have highlighted the limited availability of victim support services, including shelters, psychological counseling, and legal aid ([Sipahutar, 2022](#)). Despite these important findings, most previous studies focus only on specific forms of violence or particular stages of the criminal justice process. There is still limited research comprehensively examining gender inequality throughout the entire criminal justice process, from investigation and prosecution to trial and judicial decision-making.

The research gap in this study lies in the lack of comprehensive analysis regarding how gender inequality operates systematically within all stages of the criminal justice system in handling violence against women cases. The limited attention has been given to the interaction between patriarchal culture, institutional practices, and legal frameworks in shaping unequal treatment toward women victims. Therefore, this study seeks to fill this gap by providing a broader and more integrated analysis of gender inequality within the criminal justice system. The novelty of this research lies in its comprehensive approach to examining violence against women cases through the perspective of gender inequality across all stages of criminal justice administration. Additionally, this research aims to combine feminist legal theory and victimology theory to provide a deeper understanding of the structural and institutional factors contributing to injustice against women victims. By integrating these perspectives, the study is expected to offer a more holistic analysis compared to previous research.

The urgency of this study is closely related to the need for a criminal justice system that is more responsive, inclusive, and gender-sensitive. Gender inequality within the justice system not only prevents women from obtaining justice but also perpetuates cycles of violence and discrimination in society. When victims lose trust in legal institutions, they may choose not to report violence, allowing perpetrators to escape accountability and continue abusive behavior. Moreover, ineffective legal protection undermines broader efforts to achieve gender equality and human rights protection in Indonesia. Therefore, improving the criminal justice system is essential to ensuring that women victims receive fair treatment, legal protection, and access to justice without discrimination.

Based on the explanations above, this study aims to identify and analyze the forms of gender inequality that occur within the criminal justice system in handling cases of violence against women. The study also seeks to examine the factors contributing to discriminatory practices against women victims and to formulate recommendations for improving a more equitable and gender-sensitive criminal justice system. Through this research, it is expected that both theoretical and practical contributions can be made toward strengthening legal protection for women and promoting a justice system that respects human rights and gender equality.

2. Methodology

This study employs a qualitative research method with a case study approach to analyze gender inequality within the criminal justice system in handling cases of violence against women. The case study design focuses on a specific area where cases of violence against women are prevalent, allowing for a comprehensive examination of the legal process from investigation and prosecution to court proceeding. The research location was selected purposively based on the availability of data, accessibility to relevant institutions, and the significance of violence against women cases in the area studied ([Yin, 2018](#)). The participants in this research consist of women victims of violence, police investigators, public prosecutors, judges, lawyers, and non-governmental organizations (NGOs) involved in women's

protection and victim advocacy. Participants were selected using purposive sampling because they possess relevant knowledge, experiences, and information related to the research topic. This sampling technique allows the researcher to obtain detailed and meaningful data concerning the existence of gender bias and discriminatory practices within the criminal justice system (Patton, 2015).

Data collection techniques in this study include in-depth interviews, document analysis, and literature review. In-depth semi-structured interviews were conducted to explore participants' experiences and perspectives regarding the handling of violence against women cases. In addition, document analysis was carried out on court decisions, police investigation reports, legislation, and institutional reports to examine how legal provisions are implemented in practice and to identify possible gender bias in legal procedures. A literature review was also conducted using academic journals, books, and previous studies related to violence against women, gender inequality, victimology, and criminal justice systems to strengthen the theoretical framework of the research.

The collected data were analyzed using the interactive analysis model proposed by Miles and Huberman, which includes data reduction, data presentation, and conclusion drawing. To ensure the validity and credibility of the findings, this study applies source triangulation and method triangulation by comparing information obtained from interviews, documents, and literature sources (Miles & Huberman, 2016). Through these methods, the study aims to provide a comprehensive understanding of gender inequality within the criminal justice system and to offer recommendations for developing a more equitable and gender-sensitive legal system in handling cases of violence against women.

3. Results and discussion

3.1 Gender inequality and violence against women take various forms, along with the factors that contribute to gender disparity.

Violence against women refers to any act committed against a person because she is a woman that results in or is likely to result in physical, psychological, or sexual suffering or harm, including threats, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life (Article 1, Declaration on the Elimination of Violence against Women, 1993). Such violence constitutes a violation of human rights (HR), as it has wide-ranging impacts on victims, including reduced self-confidence, impaired mental and physical health, and limitations on women's participation in social, economic, and cultural life. Indonesia has demonstrated its commitment to eliminating discrimination against women through the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which was enacted under Law No. 7 of 1984. However, the high rate of violence against women indicates that the implementation of legal protection still faces significant challenges, particularly within the criminal justice system, which has not yet been fully gender-responsive.

Violence against women cannot be separated from persistent gender inequality in society. Gender refers to the socially constructed roles of men and women shaped through culture, customs, education, and social norms. Gender inequality occurs when women and men are not granted equal roles and positions, with women often being placed in a subordinate position compared to men. This condition is one of the main factors contributing to women's vulnerability to violence and injustice. In law enforcement practice, inequality is also evident in the evidentiary process. Physical violence is relatively easier to prove through medical evidence such as forensic reports (*visum et repertum*), while psychological violence is more difficult to prove because it is not physically visible and is only experienced emotionally by the victim. Therefore, proving psychological violence requires expert assistance from psychologists or psychiatrists to assess the victim's mental condition (Paradias & Soponyono, 2022). This demonstrates that the criminal justice system still faces challenges in fully accommodating victims' experiences.

Gender inequality within the criminal justice system can occur at all stages of the legal process, from investigation to prosecution and trial. Forms of inequality include bias in legal interpretation by

law enforcement officers influenced by unequal gender perspectives. In addition, the lack of a victim-centered perspective often results in victims' rights not being fully fulfilled during legal proceedings. Victims also frequently experience stigma and discrimination, which worsens their psychological condition and hinders recovery. Furthermore, limited understanding of victimology among law enforcement officials leads to insensitive handling of cases that fails to address victims' needs. Research findings indicate that the criminal justice system has not yet fully succeeded in delivering justice for victims of violence against women ([Walker et al., 2021](#)). This is consistent with the focus of this study, which uses a qualitative case study approach to deeply analyze gender inequality practices in the handling of violence against women cases from the initial stage to court decisions.

Such gender inequality is influenced by several key factors. First, the strong patriarchal culture embedded in social structures and legal institutions, which shapes law enforcement officers' perspectives toward women victims. Second, the limited training and understanding of law enforcement officials regarding gender issues, victimology, and victim protection. Third, resource limitations, including personnel, facilities, and funding, which hinder effective case handling. Fourth, weak coordination among law enforcement institutions such as the police, prosecutors, and courts, which reduces the effectiveness of the criminal justice process. In terms of regulation, the enactment of the Law on Sexual Violence Crimes (UU TPKS) represents an important step in strengthening legal protection for victims of sexual violence ([Kim, 2022](#)). However, its implementation still faces challenges, particularly in terms of public and institutional awareness, capacity building for law enforcement officers, provision of victim protection services, and consistent and firm law enforcement. Overall, these factors show that gender inequality within the criminal justice system is a complex and interconnected issue. Therefore, a deeper analysis is needed to understand how such inequality occurs in the practice of handling violence against women cases and how improvements can be made in a more comprehensive and gender-just manner.

3.2 Legal Protection for Victims of Violence Against Women

Legal protection for victims of violence against women in Indonesia is regulated under various laws and regulations, including Law No. 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) and Law No. 12 of 2022 concerning Sexual Violence Crimes (TPKS Law). The TPKS Law represents a significant legal breakthrough aimed at providing more comprehensive protection for victims of sexual violence. In addition, there are also internal policies within law enforcement institutions designed to improve the effectiveness of handling cases of violence against women ([Agustanti & Waluyo, 2023](#)).

One of the key legal frameworks is Law No. 23 of 2004 on the Elimination of Domestic Violence, which aims to protect and rescue victims of domestic violence. This law is considered an important legal advancement, as it enables victims to seek justice through legal proceedings and ensures a sense of security because they are protected by law. The existence of legislation plays a crucial role in establishing legal order, as laws are the primary source of legal authority. However, despite the existence of this regulation, many victims still hesitate or refuse to report cases of domestic violence. This is influenced by several factors, including shame and the perception that domestic violence is a private family matter that should not be disclosed, as well as the fear of social stigma and family dishonor ([Onyemelukwe, 2018](#)).

Legal protection itself refers to all efforts undertaken by law enforcement institutions to safeguard the rights of legal subjects so that those rights are not violated. Law enforcement must be implemented to ensure compliance with applicable legal norms. Therefore, victim recovery is an important effort to restore the victim's condition, especially when they experience physical, psychological, or social disturbances. In Indonesian criminal law practice, victim protection tends to be abstract or indirect, meaning that the legal system focuses more on punishing offenders than on restoring victims' conditions. In the concept of legal protection for crime victims, several legal principles must be considered because these principles should influence substantive criminal law, procedural criminal law, and the execution

of criminal law. Theoretically, forms of victim protection vary depending on the type of suffering or loss experienced. For psychological or mental harm, financial compensation alone is insufficient if it is not accompanied by psychological recovery efforts. Conversely, if the victim suffers only material loss, psychological services alone may be excessive if not aligned with the actual needs of the victim ([Khan & Arendse, 2022](#)).

Furthermore, Article 28G of the Indonesian Constitution guarantees that every person has the right to protection of themselves, their family, honor, dignity, and property, and the right to feel safe and protected from fear in doing or not doing something that constitutes a human right. This is further reinforced in Article 28I paragraph (1), which states that the rights to life, freedom from torture, freedom of thought and conscience, freedom of religion, freedom from slavery, recognition as a legal subject, and protection from retroactive prosecution are human rights that cannot be reduced under any circumstances. These constitutional provisions clearly demonstrate that the Indonesian legal system guarantees fundamental human rights protection ([Husen et al., 2023](#)). Despite these legal guarantees, the implementation of victim protection in cases of violence against women still faces various challenges. This indicates that although the normative legal framework is relatively strong, its implementation within the criminal justice system remains inconsistent, particularly in ensuring effective and comprehensive protection for victims.

4. Conclusion

This study concludes that there is significant gender inequality within the criminal justice system, particularly in the handling of cases involving violence against women. This inequality is caused by several factors, including bias in legal interpretation, the lack of a victim-centered perspective, stigma and discrimination against victims, and insufficient understanding of victimology among law enforcement officers. Although the implementation of the Law on Sexual Violence Crimes (UU TPKS) represents a progressive legal development, its enforcement still faces various practical challenges. To address these issues, several important measures are required. The reconstruction of judicial decision-making models through a progressive legal approach, the application of victimology principles, and the strengthening of a specialized criminal justice system for women victims of violence are essential steps to reduce gender inequality and enhance justice for victims. In addition, improving the capacity of law enforcement officers is crucial, particularly through training on gender issues, victimology, women's rights, and victim-sensitive investigation techniques.

Furthermore, there is a need for a transformation of legal culture toward a more victim-oriented and gender-sensitive approach that respects women's rights. Victims should also be actively involved in the judicial process, and their rights must be fully guaranteed throughout legal proceedings. Strengthening coordination among law enforcement institutions is equally important to accelerate case handling and improve the effectiveness of the criminal justice process. Moreover, broad public and institutional dissemination of the UU TPKS is necessary to ensure a shared and accurate understanding among both society and law enforcement officials. Through these reforms, the criminal justice system is expected to become more gender-just and provide more effective protection for women victims of violence.

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