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Patriarchal Hegemony in the Enforcement of Domestic Violence Law in Indonesia: A Gramscian Analysis of the Gap between Law and Implementation

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Abstrak

Penelitian ini mengkaji secara normatif kesenjangan antara hak perlindungan korban menurut Undang-Undang Nomor 23 Tahun 2004 dan berbagai hambatan pelaksanaannya melalui kerangka hegemoni Antonio Gramsci. Analisis berfokus pada kewajiban perlindungan sementara polisi, kedudukan perintah perlindungan pengadilan, serta perbedaan antara budaya patriarki, paksaan, ketergantungan ekonomi, dan kelemahan institusional. Data CATAHU 2025 dipakai sebagai konteks kekerasan berbasis gender, bukan sebagai ukuran prevalensi khusus KDRT. Kajian perbandingan atas Filipina dan Konvensi Istanbul terbatas pada desain norma. Penelitian menyimpulkan bahwa internalisasi nilai patriarkal dapat memperlemah akses perlindungan, tetapi keterkaitan tersebut memerlukan pembuktian melalui tindakan dan keputusan institusional yang konkret. Prioritas reformasi ialah pemenuhan kewajiban perlindungan dalam 24 jam, dokumentasi penilaian risiko, koordinasi layanan, dan pemisahan langkah administratif dari perubahan undang-undang.

Kata Kunci: hegemoni patriarki; kekerasan dalam rumah tangga; Gramsci; perlindungan sementara; hak korban

Abstract

This normative legal study examines the gap between statutory protection of domestic-violence victims under Law Number 23 of 2004 and obstacles to implementation through Antonio Gramsci's concept of hegemony. It distinguishes normalized patriarchal assumptions from coercion, economic dependence, and institutional weakness; analyzes the police duty of temporary protection and judicial protection orders; and compares the design of selected foreign protection mechanisms. CATAHU 2025 reporting statistics are used solely as contextual data on gender-based violence, not a measure of domestic-violence prevalence. The study finds that culturally legitimized subordination may contribute to barriers in accessing protection, but institution-specific claims require separate evidence. It prioritizes the twenty-four-hour police protection workflow, documented risk assessment, coordinated services, and a clear separation of administrative reform from legislative amendment.

Keywords: *patriarchal hegemony; domestic violence; Gramsci's hegemony; Domestic Violence Law; gender-based violence.*

Introduction

Domestic violence in Indonesia challenges the separation between the private sphere and the public duty to protect fundamental rights. Law Number 23 of 2004 on the Elimination of Domestic Violence (the Domestic Violence Law) recognizes that abuse within a household is neither merely a family disagreement nor a matter that the state can leave to informal reconciliation. Yet formal recognition does not by itself ensure that victims obtain immediate safety, appropriate evidence collection, meaningful prosecution, or economic recovery. The central problem is how legally mandated protection is mediated by social expectations concerning gender, obedience, and family continuity.[1]

Komnas Perempuan's CATAHU 2025, published in 2026, records 376,529 cases of gender-based violence against women, including 337,961 in the personal sphere. These are administrative records compiled from several institutional channels, not a population prevalence survey. The personal sphere includes intimate and interpersonal relationships beyond the statutory household. The totals therefore cannot be treated as the number of prosecutions under Law No. 23 of 2004, a domestic-violence prevalence estimate, or a measure of police compliance with protective duties.[2]

Prior studies of domestic-violence enforcement have considered court judgments, police practice, victim services, and patriarchal social norms. The present research offers a more limited theoretical contribution: it asks when a barrier to implementation can properly be described as patriarchal hegemony rather than as coercion, lack of resources, poor training, or institutional fragmentation. Antonio Gramsci's theory describes how domination can be stabilized through accepted cultural assumptions even when formal coercive power remains available. Applying that theory to gender requires a qualified extension, because Gramsci initially theorized class relations rather than all family structures.[3]

The research therefore examines three questions. First, which observable mechanisms would indicate that patriarchal assumptions have been normalized by victims, families, or institutions? Second, which obligations under the Domestic Violence Law are relevant to reported failures of protection and enforcement? Third, what reforms follow at the levels of legislation, implementing regulation, police procedure, and victim-service coordination? The argument is that social and institutional attitudes may explain some resistance to legal protection, but this explanatory claim must remain conditional until evidence about specific actors and decisions is available.[4]

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[1] Indonesia, Law No. 23 of 2004 concerning the Elimination of Domestic Violence, art. 1.

[2] Komnas Perempuan, *CATAHU 2025: Menguatkan Data, Mengatasi Kerentanan, Mendesak Negara Bersikap untuk Keadilan Korban* (Jakarta: Komnas Perempuan, 2026), https://komnasperempuan.go.id/catatan-tahunan-detail/catahu-2025-menguatkan-data-mengatasi-kerentanan-mendesak-negara-bersikap-untuk-keadilan-korban.

[3] Ifan Hanafi, "Agama Sebagai Alat Hegemoni Dalam Kekerasan Domestik Perspektif Antonio Gramsci," *Jurnal Harkat : Media Komunikasi Gender* 19, no. 1 (2023): 1–14, https://doi.org/10.15408/harkat.v19i1.25445.

[4] Ifan Hanafi, "Agama Sebagai Alat Hegemoni Dalam Kekerasan Domestik Perspektif Antonio Gramsci," *Jurnal Harkat : Media Komunikasi Gender* 19, no. 1 (2023): 1–14, https://doi.org/10.15408/harkat.v19i1.25445.

Research Method

This normative legal study combines statutory interpretation, conceptual analysis of hegemony, and a limited comparison of protection-order designs. The Indonesian legal materials include Law No. 23 of 2004, Law No. 12 of 2022 on Sexual Violence Crimes, and Supreme Court Regulation No. 3 of 2017 on Guidelines for Adjudicating Cases Involving Women. Gramsci's writings and gender scholarship provide the conceptual framework. Institutional reports and earlier empirical studies supply context; this article does not report original interviews or field observations.[5]

The analytical protocol proceeds from legal duty to operational indicator and then to the available evidentiary source. Statutory rights are identified by article and responsible institution. Claims of hegemony are tested through three distinct indicators: normalization of violence as a private or acceptable matter, acquiescence to discriminatory treatment through internalized expectations, and institutional reinforcement of those expectations in reporting or decision-making processes. Evidence of a lack of resources or an isolated administrative mistake does not, without additional material, establish ideological consent. The analysis also considers evidence that would contradict a proposed hegemonic interpretation.[6]

Comparison with the Philippine Anti-Violence Against Women and Their Children Act (Republic Act No. 9262) and the Council of Europe Istanbul Convention is limited to normative design. The criteria are the protected persons, the authority issuing emergency measures, duration, enforceability, review, and available services. This method does not measure either jurisdiction's actual effectiveness, and it does not assume that a barangay-level institution or a European treaty mechanism can simply be replicated within Indonesia's administrative and judicial arrangements.[7]

Results and Discussion

1. Patriarchal Hegemony and Its Evidentiary Limits

Gramscian hegemony involves the social production of consent, not just the use of force. In a domestic-violence setting, a claim of hegemony is strongest where identifiable communications and practices portray violence as ordinary discipline, blame a victim for disclosure, or place family reputation above physical safety, and where these ideas are accepted or repeated by persons who would otherwise be entitled to challenge them. A victim's silence cannot itself prove consent: silence may equally result from threats, fear of retaliation, disability, financial dependence, or lack of a safe reporting channel. Each mechanism must be distinguished before a legal or sociological conclusion can be drawn.[8]

The extension from class hegemony to patriarchal norms is an interpretive choice grounded in gender scholarship. Its purpose is not to classify all men as a single dominant class or all forms of domestic violence as products of deliberate

[5] Peter Mahmud Marzuki, *Penelitian Hukum*, rev. ed. (Jakarta: Kencana, 2017), 35.

[6] Antonio Gramsci, *Selections from the Prison Notebooks*, ed. and trans. Quintin Hoare and Geoffrey Nowell Smith (New York: International Publishers, 1971), 12, 263.

[7] Philippines, Republic Act No. 9262, Anti-Violence Against Women and Their Children Act of 2004, secs. 14–16.

[8] Endah Siswati, "Anatomi Teori Hegemoni Antonio Gramsci," *Translitera : Jurnal Kajian Komunikasi dan Studi Media* 5, no. 1 (2018): 11–33, https://doi.org/10.35457/translitera.v5i1.355.

male strategy. Rather, it isolates cultural expectations that naturalize unequal authority in a household and may make protective law appear socially illegitimate. A meaningful analysis should identify an institutional practice, the cultural justification invoked, the resulting response to the victim, and the alternative explanations for that response. Without this chain, a general claim about patriarchy remains a broad hypothesis rather than a supported finding about particular police officers, prosecutors, or judges.[9]

Statutory Rights and Protective Duties

The Domestic Violence Law must first be read according to its distinct regulatory functions. Article 2 defines the household and thus the persons within the statutory scope. Article 5 prohibits physical, psychological, and sexual violence as well as neglect, while the offences and their sanctions must be assessed under the relevant penal provisions rather than treated as interchangeable wrongs. Article 10 establishes victim rights, including protection and assistance, and the legislation separately imposes obligations on state institutions. The fact that an incident occurs within a domestic relationship cannot remove criminal responsibility, although its specific elements must still be proven under applicable procedural standards.[10]

Article 4 includes maintaining a harmonious and prosperous household among the law's objectives. The words do not require a victim to reconcile with an abuser or to remain in danger. Reading them as a command to preserve the family regardless of violence would conflict with the same article's objectives of prevention, protection, and prosecution, as well as the law's human-rights principles. Where reconciliation is offered, the process must not be used to suppress disclosure, displace non-waivable duties, or substitute informal pressure for an assessment of immediate risk. The legality of any particular mediation must be evaluated in light of the alleged offence, procedural status, and victim protection.[11]

Article 16 establishes an operational duty: the police must provide temporary protection within twenty-four hours after learning of or receiving a report of domestic violence. The protection may last no longer than seven days, and the police must request a court protection order within twenty-four hours after providing temporary protection. Article 17 permits cooperation with healthcare personnel, social workers, volunteers, and religious counsellors; Article 18 requires information about services; Article 19 requires prompt investigation. These provisions assign distinct responsibilities, and a shortage of more detailed implementing rules does not itself extinguish a statutory duty already imposed.[12]

The protective sequence should be evaluated by verifiable administrative indicators: time the report was received, date and time of risk assessment, protective measures actually taken, whether a court order was requested, whether the victim was informed of services, and whether follow-up occurred. The complaint pathway may include internal police supervision, victim-service institutions, legal

[9] Israpil, "Budaya Patriarki dan Kekerasan Terhadap Perempuan (Sejarah dan Perkembangannya)," *Pusaka* 5, no. 2 (2017): 141–150, https://doi.org/10.31969/pusaka.v5i2.176.

[10] Indonesia, Law No. 23 of 2004 concerning the Elimination of Domestic Violence, arts. 2, 5, and 10.

[11] Indonesia, Law No. 23 of 2004 concerning the Elimination of Domestic Violence, art. 4.

[12] Indonesia, Law No. 23 of 2004 concerning the Elimination of Domestic Violence, arts. 16–19.

assistance, and review by competent authorities; the appropriate remedy depends on the legal character of the omission. No dataset in the present study establishes a national rate of police non-compliance with the twenty-four-hour requirement. The appropriate conclusion is that the legal duty is identifiable and its implementation merits case-specific auditing.[13]

Law Number 12 of 2022 on Sexual Violence Crimes (the Sexual Violence Crimes Law) intersects with domestic violence when the conduct meets the relevant statutory elements. It does not turn every physical assault, instance of psychological abuse, or episode of economic neglect into a sexual-violence offence. Likewise, its compensation and recovery mechanisms cannot be assumed to apply automatically to all cases prosecuted under the Domestic Violence Law. Legal analysis must identify the offence category, victim entitlement, responsible institution, procedural vehicle for recovery, and risks of cumulative or inconsistent treatment. Reform proposals concerning restitution should therefore begin with a map of existing remedies and their gaps rather than the assumption that no compensation route currently exists.[14]

Reported pressure to settle disputes within the family can be an indication of internalized gender hierarchy when the stated reason is that a woman must preserve household harmony irrespective of danger. It may also reflect economic dependence or a realistic fear of retaliation. These explanations are not mutually exclusive, but they require different policy responses. A study seeking to establish ideological consent should rely on documented victim accounts or institutional records rather than infer a victim's agreement from withdrawal of a complaint. A victim who withdraws under threat is not thereby demonstrating voluntary acceptance of an abusive norm.[15]

Some scholarship describes gender stereotyping, victim blaming, and inadequate institutional coordination. Those findings provide reasons for further inquiry, not evidence that every officer, judge, or prosecutor reproduces a patriarchal ideology. A reliable assessment would select judgments or interviews, code the actor's words and actions, compare them with the statutory duty, and record contrary examples of gender-sensitive handling. Supreme Court Regulation Number 3 of 2017 provides relevant procedural guidance for judicial treatment of women, but the reach of that regulation and its implementation should be judged through actual adjudicative records rather than assumption.[16]

Underreporting presents a separate empirical challenge. The number of recorded complaints measures the performance of reporting systems and the willingness and ability to seek help; it is not a denominator for estimating unreported victimization. Increased reporting may reflect increasing violence, improving access, better recording, or several of those effects at once. This article therefore relies on Komnas Perempuan data as a signal of the scale and diversity of

[13] Indonesia, Law No. 23 of 2004 concerning the Elimination of Domestic Violence, art. 16.

[14] Indonesia, Law No. 12 of 2022 concerning Sexual Violence Crimes.

[15] Ifan Hanafi, "Agama Sebagai Alat Hegemoni Dalam Kekerasan Domestik Perspektif Antonio Gramsci," *Jurnal Harkat : Media Komunikasi Gender* 19, no. 1 (2023): 1–14, https://doi.org/10.15408/harkat.v19i1.25445.

[16] Supreme Court of Indonesia, Regulation No. 3 of 2017 concerning Guidelines for Adjudicating Cases Involving Women.

reported gender-based violence. It does not calculate prevalence, police success rates, or the number of hidden domestic-violence incidents from administrative totals.[17]

2. Comparative Protection Orders and Institutional Design

The Philippine Republic Act No. 9262 makes available barangay protection orders for short periods alongside judicial protection mechanisms. The comparison is relevant because it presents a way to provide accessible, urgent protection near a victim's community. Yet a barangay has legal authority defined by Philippine law, which does not automatically correspond to the powers of an Indonesian village or urban ward. Any proposal to decentralize protective authority in Indonesia would require express domestic legal authorization, training, remedies for abuse of power, and a mechanism of judicial control.[18]

The Istanbul Convention similarly provides a comparative framework for shelters, emergency barring measures, longer-term protection orders, and coordinated services. These mechanisms can be compared with the Indonesian framework by responsible authority, eligibility, duration, binding effect, and review. Their presence in a foreign treaty does not demonstrate that they work in every context, nor does it make the treaty directly binding on Indonesia. The defensible inference is narrower: foreign models expose design questions that Indonesian lawmakers and administrative institutions may wish to evaluate through domestic evidence and pilot programs.[19]

3. Priorities for Administrative and Legislative Reform

The most immediate administrative priority is to operationalize Article 16 through a documented twenty-four-hour workflow. Police units should use a common safety-assessment form, keep time-stamped records of protection and court-order requests, specify an emergency contact and referral route, and audit failures. Victim-service units should coordinate temporary shelter, medical assistance, legal advice, and case follow-up. Such steps can be formulated through existing administrative authority where the legal duty already exists, subject to clear rules on confidentiality, institutional roles, and protection of personal information.[20]

Implementing regulations may specify referral standards, interagency notifications, minimum service documentation, coordination with local protection units, and oversight procedures within delegated authority. Legislative amendment is a separate pathway for creating new substantive rights or powers not already authorized by statute, including any broadly applicable new restitution entitlement or local emergency-order regime. The distinction matters because a police standard operating procedure cannot validly create a new criminal offence or confer judicial

[17] Dedi Rismayadi, Alimuddin, dan Riza Afrian Mustaqim, "Patriarchal Dominance as a Contributor to Domestic Violence," al-Rasīkh: Jurnal Hukum Islam 14, no. 2 (November 2025): 208–22, https://doi.org/10.38073/rasikh.2995.

[18] Philippines, Republic Act No. 9262, Anti-Violence Against Women and Their Children Act of 2004, secs. 14–16.

[19] Council of Europe, Convention on Preventing and Combating Violence against Women and Domestic Violence, CETS No. 210 (2011), arts. 18, 23, 52, and 53.

[20] Indonesia, Law No. 23 of 2004 concerning the Elimination of Domestic Violence, art. 16.

powers on village officials. Conversely, a need for eventual legislative reform should not postpone execution of protection duties the law already imposes.[21]

Capacity building should examine legal knowledge and decision processes rather than provide only ceremonial training. Indicators should include prompt protective action, documented victim information, use of appropriate evidence, proportionate handling of reconciliation requests, access to assistance, and the quality of judicial reasons. Public education may work through community and religious leaders, but the success of such interventions requires independent evaluation. The legal and cultural dimensions therefore operate together: formal protection makes exit from coercion possible, while changes in social assumptions make access to that protection more likely.[22]

Conclusion

The Domestic Violence Law contains identifiable victim rights, offences, and urgent protective obligations. Its implementation challenges cannot be established merely by comparing the statute's progressive language with aggregate violence statistics. A Gramscian account offers a useful hypothesis where coercion has been culturally normalized and institutional practice reproduces the norm, but the hypothesis must be distinguished from economic vulnerability, bureaucratic deficiency, and direct threats. The source materials examined do not permit generalization about the conduct of all law-enforcement personnel or a national estimate of underreporting.[23]

The strongest immediate recommendation is an auditable protection sequence under Article 16, supported by victim-centered referrals and independent scrutiny of failures. Legislative and regulatory initiatives should clarify the boundaries of existing recovery mechanisms and should not assume that the Sexual Violence Crimes Law applies to every form of domestic abuse. Comparative instruments from the Philippines and Europe are useful as design options, not proof of effectiveness. Further research should test the proposed indicators against actual case files, judicial decisions, victim accounts, and administrative service records.[24]

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[21] Indonesia, Presidential Regulation No. 55 of 2024 concerning Regional Technical Implementation Units for the Protection of Women and Children.

[22] Margie Gladies Sopacua, "Konsep Ideal Pencegahan Kekerasan Dalam Rumah Tangga Terhadap Perempuan," *Jurnal Pembangunan Hukum Indonesia* 4, no. 2 (2022): 213–226, https://doi.org/10.14710/jphi.v4i2.213-226.

[23] Indonesia, Presidential Regulation No. 55 of 2024 concerning Regional Technical Implementation Units for the Protection of Women and Children.

[24] Trias Palupi Kurnianingrum, "Urgensi Pelindungan terhadap Korban Kekerasan dalam Rumah Tangga," *Info Singkat* 17, no. 1 (2025): 1–5, https://berkas.dpr.go.id/pusaka/files/info_singkat/Info%20Singkat-XVII-1-I-P3DI-Januari-2025-214.pdf.

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