



Penal Mediation in Handling Domestic Violence Cases: An Indonesian and Bangladeshi Criminal Law Perspective

*** Agus Dimas Saputra¹, Ifadah Pratama Hapsari²**

^{1,2}Universitas Muhammadiyah Gresik, Indonesia

***agusdimas@umg.ac.id**

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Abstract

This study aims to analyze the application of penal mediation in handling domestic violence cases through a comparison between Indonesian and Bangladeshi criminal law. The focus is to assess the effectiveness of penal mediation as an instrument of restorative justice and to identify obstacles and opportunities for its strengthening. The method used is normative juridical with a legislative and conceptual approach. Data was obtained through a literature study of relevant legal regulations, doctrines, and scientific literature to examine the legal basis and application of penal mediation in domestic violence cases in both countries. The novelty of this research lies in its cross-country comparative analysis between Indonesia and Bangladesh in the context of penal mediation in domestic violence cases. This approach enriches the perspective of restorative justice and provides concrete recommendations for the reform of the Indonesian legal system. The results of the study show that Indonesia does not yet have a strong legal basis because penal mediation is only regulated through a Circular Letter from the National Police Chief and a Regulation from the Attorney General's Office, while Bangladesh has established it in the Domestic Violence Act 2010 and the Village Courts system. Both countries face similar obstacles in the form of gender bias, power imbalances, and weak victim protection. The Conclusion Criminal mediation has the potential to be an effective mechanism for resolving domestic violence cases when implemented based on the principles of restorative justice. However, regulatory strengthening, capacity building for mediators, and post-mediation supervision are needed to ensure substantive justice and comprehensive protection for victims.

Keywords: **Criminal Mediation, Domestic Violence, Restorative Justice.**



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INTRODUCTION

Domestic violence is one of the social problems that continues to be a serious concern in Indonesia. This phenomenon does not only occur among people with low levels of education and economic status, but also affects various segments of society regardless of socioeconomic status (Arrasyid et al., 2025). Domestic violence, often abbreviated as KDRT, includes various forms of actions that harm victims physically, psychologically, sexually, or economically. This problem becomes even more complex because it occurs in the private sphere of the family, which is often considered an area that should not be interfered with by outside parties, including law enforcement officials. (Rusdiana et al., 2024)

In response to this problem, the Indonesian government has issued Law Number 23 of 2004 concerning the Elimination of Domestic Violence, which regulates the prevention, protection of victims, and prosecution of perpetrators of domestic violence. This law is an important breakthrough because it raises the issue of domestic violence from the private sphere to the public sphere, which is the responsibility of the state to handle. In its implementation, the

resolution of domestic violence cases through the conventional criminal justice system often creates new problems, especially those related to the integrity and harmony of the household itself (Fadah et al., 2025).

The retributive approach to punishment, which has dominated the Indonesian criminal justice system, is considered ineffective in resolving domestic violence cases. A punishment system that focuses on imprisoning perpetrators does not necessarily solve the root causes of violence and can even worsen the family's economic situation if the perpetrator is the main breadwinner. Furthermore, conventional punishment often ignores the interests and rights of victims to obtain psychological and material recovery.

The paradigm of restorative justice then emerged as an alternative to criminal case resolution that prioritizes recovery over retribution (Arrasyid et al., 2024). This concept emphasizes the importance of the involvement of victims, perpetrators, and the community in finding the best solution to restore the damage caused by criminal acts (Asnawi et al., 2024). One form of implementing restorative justice in the criminal justice system is through penal mediation, which is the resolution of criminal cases outside of court through a mediation process involving the victim and perpetrator, facilitated by a mediator.(Rabbani, 2021)

In the context of domestic violence, penal mediation is particularly relevant given the special relationship between the perpetrator and the victim, who are still bound by family ties. Resolution through mediation can provide an opportunity for both parties to understand each other, repair their relationship, and find the best solution without having to go through a long and exhausting judicial process. The Indonesian National Police, through the Chief of Police Circular Letter Number SE/08/VII/2018 concerning the Application of Restorative Justice in the Settlement of Criminal Cases, has provided a basis for law enforcement officials to apply a restorative approach in handling criminal cases, including domestic violence.(Wahyudhi & Liyus, 2020)

However, the application of penal mediation in domestic violence cases still raises various debates and challenges. On the one hand, penal mediation is seen as a more humane solution that can preserve family integrity. On the other hand, there are concerns that penal mediation may neglect the rights of victims and potentially lead to revictimization, especially given the power imbalance between victims and perpetrators within the household. In addition, the absence of formal regulations specifically governing penal mediation in the Criminal Procedure Code creates legal uncertainty in its application.(Santy, 2020)

Based on these issues, it is important to conduct an in-depth study on the effectiveness of penal mediation in handling domestic violence cases. This study aims to analyze the extent to which penal mediation can be an effective alternative solution in domestic violence cases, identify factors that influence the success of penal mediation, and formulate recommendations to improve its effectiveness. This study was conducted from the perspective of Indonesian criminal law, considering that penal mediation is essentially a deviation from the principle of legality in criminal law, which emphasizes that every criminal act must be processed in accordance with the applicable criminal procedure law.

This study is expected to contribute theoretically to the development of the concept of penal mediation as part of the Indonesian criminal justice system, while also providing practical recommendations for law enforcement officials in implementing effective penal mediation that

upholds the protection of the rights of victims of domestic violence. Thus, the ultimate goal of the Law on the Elimination of Domestic Violence to prevent violence, protect victims, prosecute perpetrators, and maintain the integrity of the household can be optimally achieved. Domestic violence is a complex social problem that requires a comprehensive approach. In Indonesia, Law No. 23 of 2004 on the Elimination of Domestic Violence is the main basis for handling these cases. However, despite the existence of a specific law, the legal approach to perpetrators of domestic violence is still dominated by a retributive pattern, namely punishment through formal judicial proceedings. This model of resolution often creates new problems, especially for victims who still have emotional, economic, and social ties with the perpetrator.(Khoirunisa, 2022)

Unlike Indonesia, Bangladesh has regulated a mediation-based dispute resolution mechanism through the Domestic Violence (Prevention and Protection) Act, 2010 and the Village Courts and Family Courts system, which handles family disputes, including domestic violence cases. This system allows for local dispute resolution by involving the community and religious leaders as mediators. However, in practice, Bangladesh also faces challenges in the form of gender bias and patriarchal domination that can hinder substantive justice for female victims.(Maheen Sultan, 2024)

This comparative study is important to understand how both countries incorporate penal mediation into their criminal justice systems, assess its effectiveness in handling domestic violence, and identify gaps that still need to be addressed so that penal mediation truly becomes a means of justice that favors victims without neglecting family social values.

RESEARCH METHOD

This study uses a normative legal method with a comparative approach. The main data sources are primary legal materials such as Law No. 23 of 2004 on the Elimination of Domestic Violence, the Criminal Procedure Code, National Police Chief Circular Letter No. SE/08/VII/2018, Attorney General Regulation No. 15 of 2020, and the Domestic Violence (Prevention and Protection) Act, 2010, which is applicable in Bangladesh. Secondary legal materials include scientific journals, research results, books, and legal documents related to penal mediation and restorative justice. The analysis technique used is qualitative-descriptive analysis, by interpreting the content of laws and regulations and comparing their application in both countries. This analysis focuses on identifying similarities, differences, and normative and practical gaps that arise in the application of penal mediation in domestic violence cases in Indonesia and Bangladesh.

RESULTS AND DISCUSSION

Concepts and Legal Foundations of Penal Mediation in the Settlement of Domestic Violence

Criminal mediation is a form of alternative criminal case resolution outside of court based on the paradigm of restorative justice. The concept of penal mediation basically adopts the principles of restorative justice, which emphasizes the restoration of the situation and relationships between the perpetrator, victim, and community. In the context of domestic violence, penal mediation is relevant because it considers the specific characteristics of this

crime, which occurs within the family with a personal relationship between the perpetrator and the victim. (Busroh, 2021)

The philosophical basis of penal mediation lies in the understanding that not all criminal cases must be resolved through formal judicial proceedings that result in punishment. There are certain situations where resolution through mediation is more effective in achieving the objectives of criminal law, namely to provide a deterrent effect, rehabilitate the perpetrator, and protect the community. In cases of domestic violence, the mediation approach can provide space for perpetrators to realize their mistakes, apologize, and commit to reforming their behavior, while victims are given the opportunity to express their suffering and actively participate in determining the desired form of recovery.(Agung Fakhruzy, 2022)

In the context of domestic violence, Law No. 23 of 2004 on the Elimination of Domestic Violence does not specifically regulate penal mediation as an alternative resolution. However, the objectives of this law, which include preventing violence, protecting victims, prosecuting perpetrators, and maintaining the integrity of the family, are in line with the principles of restorative mediation. Therefore, the application of penal mediation in cases of domestic violence can be seen as a means of achieving the objectives of the law, particularly in terms of maintaining a harmonious family unit.

Penal mediation is essentially a legal instrument that provides space for the settlement of criminal cases through a dialogical and restorative approach, not merely punishment. In the Indonesian context, its philosophical basis is rooted in the understanding that criminal law does not only function as a means of retribution, but also as a means of reforming the behavior of perpetrators and restoring social relationships that have been disrupted as a result of criminal acts. In cases of domestic violence (KDRT), the penal mediation approach is considered relevant because it takes into account the emotional, economic, and social dimensions that surround the relationship between the perpetrator and the victim.(Ashady, 2020)

In Indonesia, although the Criminal Procedure Code (KUHAP) does not explicitly regulate the mechanism of penal mediation, its implementation has a legal basis through several legal instruments, including the National Police Chief Circular Letter Number SE/08/VII/2018 concerning the Application of Restorative Justice in the Settlement of Criminal Cases and Attorney General Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice. These two regulations provide guidelines for law enforcement officials both the police and the attorney general's office to resolve cases outside of court if certain conditions are met, such as an agreement to settle, compensation for the victim's losses, and a guarantee that the perpetrator will not repeat the crime.

Substantively, both regulations emphasize that the settlement of cases through penal mediation does not completely eliminate criminal responsibility, but rather postpones or replaces it with a mutually agreed form of restitution. This approach is important in cases of domestic violence, because there are close personal relationships involved that depend on the emotional balance between family members. However, its application must still take into account the principle of non-revictimization, which means not putting victims in a position where they feel pressured or forced to reconcile due to an unequal power relationship between the victim and the perpetrator. (Firdaus, 2024)

Unlike Indonesia, Bangladesh has a more institutionalized legal system for regulating penal mediation, including in cases of domestic violence. The country has enacted the Domestic Violence (Prevention and Protection) Act, 2010, which comprehensively regulates the prevention, protection, and resolution of domestic violence cases. This law is an important milestone in providing a legal basis for the resolution of cases through mediation while still placing the protection of victims as the top priority.

More specifically, provisions regarding the mediation mechanism can be found in Article 10 paragraph (1) of the law, which states that "the court may, at any stage of the proceeding, if it is satisfied that the parties have agreed to a settlement, direct the protection officer to facilitate mediation between the parties." This means that the court has the authority to order mediation if the parties agree to pursue an amicable settlement. This article provides formal legitimacy to the practice of penal mediation in Bangladesh by placing the mediation process under the supervision of the judiciary, rather than based solely on informal agreements. In addition, Articles 3 and 5 of the law also stipulate the establishment of a Protection Officer institution tasked with facilitating the mediation process, supervising the implementation of agreements, and ensuring that the rights of victims remain protected during and after the mediation process. This mechanism ensures that peaceful settlements do not put pressure on victims and continue to refer to the principle of substantive justice. Furthermore, the judicial system in Bangladesh is also supported by the Village Courts Act, 2006 and the Family Courts Ordinance, 1985.

When compared, the differences between Indonesia and Bangladesh lie in normative and institutional aspects. Indonesia has internal policy instruments that encourage the application of restorative justice but does not yet have an explicit legal basis in law, while Bangladesh already has formal regulations in the form of national laws that legitimize the practice of penal mediation. On the other hand, Indonesia is relatively more advanced in terms of legal protection for victims through Law Number 23 of 2004 concerning the Elimination of Domestic Violence, while Bangladesh still faces obstacles in enforcing these norms due to socio-cultural factors.(Asadullah & Morrison, 2021)

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Thus, it can be concluded that penal mediation in the context of domestic violence, both in Indonesia and Bangladesh, reflects the efforts of each country's legal system to integrate the principles of restorative justice into criminal justice practices. However, its effectiveness is highly dependent on the balance between formal legal power, the integrity of law enforcement officials, and public awareness of the importance of victim protection. The ideal application of penal mediation in both countries must ensure that peace is not used as a tool to cover up violence, but rather as a means to restore relationships while upholding the dignity and rights of victims. With strengthened regulations, professional mediator training, and strict oversight

mechanisms, penal mediation has the potential to become a model for resolving cases that is humane, fair, and in line with universal human values.

Tabel 1. Comparison of aspects of penal mediation in Indonesia and Bangladesh

Aspect	Indonesia	Bangladesh
Legal Basis	There is no specific law that explicitly regulates penal mediation. Its implementation is based on the National Police Chief Circular Letter No. SE/08/VII/2018 on the Application of Restorative Justice and Attorney General Regulation No. 15 of 2020 on the Termination of Prosecution Based on Restorative Justice. In addition, the principle of restoration in Law No. 23 of 2004 on the Elimination of Domestic Violence provides the moral basis for its implementation.	It has a formal legal basis through the Domestic Violence (Prevention and Protection) Act, 2010, which regulates in detail the mechanisms for protecting victims and resolving cases through mediation. It is also supported by the Village Courts Act, 2006 and the Family Courts Ordinance, 1985, which legalize the resolution of domestic disputes through community based mediation institutions.
Legal Orientation	Oriented towards restoring family relationships and resolving cases peacefully while still considering the interests of victims. Its implementation is limited and selective because it is still a matter of a discretionary policy of law enforcement officials.	Emphasizes social restoration and community balance, with mediation viewed as an instrument of social reconciliation. This approach is more community-based and rooted in local cultural values that uphold family harmony.
The Role of Mediators	Mediators usually come from law enforcement agencies (investigators, prosecutors, or police officers) facilitated by community leaders or women's protection agencies. However, not all officials have received special training in restorative justice, so the quality of mediation is often inconsistent across regions.	Mediators come from Protection Officers, community leaders, religious leaders, or local government representatives. In Village Courts, mediation is carried out by a panel of five people consisting of village representatives and community leaders who have high social legitimacy.
Process or Implementation	The process begins at the investigation stage. Investigators assess whether the case is suitable for criminal mediation based on the severity of the offender's crime, the victim's losses, and the agreement of both parties. After that, a	The mediation process begins with a request submitted by the victim or perpetrator to the Protection Officer or family court. Based on Article 10 of the Domestic Violence Act 2010,

	<p>mediation meeting is held between the offender and the victim, facilitated by the investigator with the presence of family members or community leaders. If an agreement is reached, the investigator draws up a mediation report and terminates the investigation through a Letter of Termination of Investigation (SP3). At the prosecution stage, the prosecutor may apply Attorney General Regulation No. 15/2020 to terminate the prosecution on the basis of restorative justice, after a written peace agreement has been approved by the victim and the perpetrator.</p>	<p>the court may order mediation if the parties are willing to reconcile. The Protection Officer is responsible for facilitating meetings between the perpetrator and victim under the supervision of the court. The agreement reached is set out in a written agreement, and its implementation is directly supervised by the victim protection officer. If the perpetrator violates the agreement, the case can be returned to formal criminal proceedings.</p>
Key Risks	<p>There is a high potential for revictimization because power relations within the household are often unbalanced. Victims, especially women, are sometimes forced to reconcile in order to maintain family harmony or due to social pressure. In addition, because there is no clear legal framework, mediation is sometimes misused to avoid criminal responsibility.</p>	<p>The main risks are gender bias and social pressure on female victims. In practice, mediation is often used to pressure victims into reconciliation in order to maintain the family's reputation. The absence of professional mediators and the dominance of patriarchal culture means that the results of mediation are often not in favor of the victim.</p>
Victim Protection	<p>Victim protection is regulated in Law No. 23 of 2004 on the Elimination of Domestic Violence and reinforced by the role of the Regional Technical Implementation Unit for the Protection of Women and Children (UPTD PPA). However, the implementation of protection still depends heavily on the awareness of officials and the availability of legal or psychological assistance.</p>	<p>There is explicit legal protection in Articles 5–9 of the Domestic Violence Act 2010, which regulates the issuance of Protection Orders and Residence Orders for victims. Nevertheless, the effectiveness of protection remains low due to limited resources and weak enforcement at the local level.</p>

Mechanisms and Evolution of Penal Mediation in Handling Domestic Violence in Indonesia-Bangladesh

The mechanism for applying penal mediation in domestic violence cases generally begins at the investigation stage at the police station. When receiving reports or complaints about domestic violence, investigators have the authority to offer a settlement through mediation to the parties involved. This offer of mediation is usually made after investigators conduct an initial examination and assess that the case is eligible for resolution through a restorative approach.(Wardiman et al., 2023)

Based on field practice, the criminal mediation procedure in domestic violence cases involves several stages. First, the perpetrator or reported party submits a written request to the local police chief for mediation or restorative resolution. Second, the investigator will bring both parties, namely the perpetrator and the victim, along with their respective families, together in a mediation forum that is also attended by religious or community leaders as witnesses. Third, during the mediation meeting, both parties are given the opportunity to express their views, feelings, and expectations regarding the incident of violence that has occurred..(Anintya, 2023)

If an agreement is reached between the perpetrator and the victim during the mediation process, the perpetrator will make a written statement containing a commitment not to repeat their actions, witnessed by witnesses from the family and community leaders. This agreement is then recorded in the mediation report signed by all parties present. Next, the investigator will hold a case hearing to decide on the termination of the investigation. If the case is still under investigation, a Notice of Investigation Progress with code A5 will be issued, indicating that the investigation has been terminated. However, if the case has entered the investigation stage, a Investigation Termination Order will be issued along with the minutes..(Sitorus & Maysarah, 2023)

The practice of penal mediation at the prosecution stage has also begun to be implemented by public prosecutors based on Attorney General Regulation Number 15 of 2020. At this stage, public prosecutors can terminate the prosecution based on restorative justice if certain conditions are met, including an agreement between the victim and the perpetrator, compensation for damages or restoration to the original condition, and the case does not cause public unrest. This mechanism provides a second chance for cases that have not been successfully mediated at the investigation stage to be resolved restoratively at the prosecution stage. (Sihombing et al., 2023)

It should be noted that in the application of penal mediation, there are principles that must be observed to ensure that the mediation process is fair and does not harm the interests of the victim. The first principle is the principle of voluntariness, namely that mediation must be carried out on the basis of a voluntary agreement between both parties without coercion or pressure from any party. The second principle is the principle of balance, which states that in the mediation process, a balance must be maintained between the perpetrator and the victim so that one party does not dominate the other. The third principle is the principle of victim protection, which states that mediation must not override the victim's rights to protection and recovery.(Dadang Firdiyanto &, 2016)

The development of modern criminal law shows a shift from a paradigm that is solely oriented towards punishment to a more humane and restorative system. This approach is known

as restorative justice, which emphasizes the restoration of social relationships between perpetrators, victims, and the community. One concrete form of restorative justice is penal mediation, which is a mechanism for resolving criminal cases through direct dialogue between perpetrators and victims, with the assistance of authorities or community leaders, to reach an amicable agreement. In the context of domestic violence, the application of penal mediation is a rather complex issue because it involves an unequal power relationship between the perpetrator and the victim, as well as social pressure that often influences the victim's decision to reconcile.(Ginting et al., 2019)

In Indonesia, penal mediation has begun to be formally accommodated in the criminal justice system through restorative justice policies regulated in Regulation of the Attorney General's Office of the Republic of Indonesia Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice. Through this regulation, public prosecutors are given the authority to terminate criminal proceedings if the perpetrator and victim have reached a settlement, the perpetrator has compensated the victim, and the case does not cause public unrest. In practice, the criminal mediation process in Indonesia generally begins at the investigation stage at the police station.(Februani, 2022)

When receiving a report of domestic violence, investigators have the authority to offer mediation to the parties if the case meets the criteria for restorative resolution, such as good faith on the part of the perpetrator and the victim's willingness to reconcile. After an initial investigation, the investigator then brings the perpetrator and victim together with their respective families in a mediation forum, which is usually also attended by community or religious leaders as moral witnesses. In this forum, both parties are given the opportunity to express their views and feelings regarding the violent incident. If an agreement is reached, a mediation report is drawn up and signed by all parties, which then becomes the basis for the investigator to terminate the investigation.

In addition to the investigation stage, penal mediation can also be applied at the prosecution stage by the public prosecutor. If mediation is not successful at the investigation stage, the prosecutor can still terminate the prosecution based on the principle of restorative justice, as long as all requirements are met. Thus, the Indonesian legal system provides two main opportunities for the application of penal mediation, namely at the police and prosecutor levels. However, the effectiveness of the application of penal mediation in cases of domestic violence is still often questioned. On the one hand, mediation is considered to promote peace and maintain the integrity of the household. On the other hand, there are concerns that mediation may actually neglect the rights of victims, especially if the process is carried out without strict supervision or adequate legal assistance. Therefore, the principles of voluntariness, balance between perpetrators and victims, and protection of victims are fundamental aspects that must be maintained in every criminal mediation process.(Putra et al., 2022)

Meanwhile, the situation in Bangladesh shows a different condition. This country does not yet have formal legal regulations that explicitly regulate penal mediation in the settlement of criminal cases, including in cases of domestic violence. The criminal justice system in Bangladesh is still oriented towards a retributive approach, namely the punishment of perpetrators. However, in social practice, informal dispute resolution through a traditional mechanism called shalish is still widely practiced. Shalish is a community based mediation

forum involving community leaders, where perpetrators and victims are brought together to seek a peaceful solution. This process often involves negotiations that result in some form of compensation or a promise by the perpetrator not to repeat the offense. However, because it is conducted outside the formal legal system and in a context where society is still very patriarchal, shalish often does not provide adequate protection for victims, especially women. Many victims of domestic violence in Bangladesh are forced to reconcile in order to maintain family honor, so this type of resolution risks reinforcing gender inequality and repeating similar violence in the future.

In comparison, Indonesia can be said to be more advanced normatively in regulating penal mediation mechanisms through clear and measurable legal policies, while Bangladesh still relies on traditional systems that do not yet have formal legal legitimacy. However, both countries face almost the same problem, namely how to ensure that mediation does not become a tool for perpetrators to avoid criminal responsibility. In societies that are still steeped in patriarchal values, both in Indonesia and Bangladesh, female victims are often in a socially and economically weak position, making them vulnerable to pressure to forgive the perpetrator. Therefore, the effectiveness of penal mediation in the context of domestic violence depends not only on legal regulations, but also on the social and cultural awareness of the community implementing it.

Overall, the application of penal mediation in handling domestic violence cases is a form of transformation of the criminal law paradigm towards a system that is more oriented towards recovery and humanity. Indonesia has shown progress by integrating the principles of restorative justice into official regulations, although the challenges of implementation in the field are still considerable. On the other hand, Bangladesh needs to strengthen its legal framework so that community-based resolutions such as shalish can be implemented while still guaranteeing the rights of victims. Ultimately, the success of penal mediation in domestic violence cases should be measured not only by the achievement of peace, but also by the extent to which the process is truly capable of restoring the dignity of victims, fostering perpetrator responsibility, and preventing the recurrence of violence in the future.(Machmud et al., 2022)

Obstacles and Challenges in the Application of Penal Mediation for Domestic Violence Cases

The application of penal mediation in domestic violence cases faces various obstacles and challenges that need serious attention. The first obstacle is related to regulatory aspects. To date, there is no law that comprehensively regulates penal mediation in the Indonesian criminal justice system. This regulatory vacuum creates legal uncertainty in the application of penal mediation, particularly regarding the legal force of the resulting agreement and the mechanism for monitoring the implementation of the agreement. (Arief & Ambarsari, 2021)

The second obstacle is the limited understanding of the public regarding the concept and mechanism of penal mediation. Many people are unaware that cases of domestic violence can be resolved outside of court through mediation. The lack of public awareness about criminal mediation has led people to believe that the only way to resolve criminal cases is through a court process that ends with the punishment of the perpetrator. The strong paradigm of retribution in society often leads to criminal mediation being viewed as a form of leniency towards the perpetrator and a disregard for justice.

The third obstacle is the power imbalance between perpetrators and victims in the context of the household. Domestic violence often occurs in an unequal relationship, where the perpetrator has greater economic, social, and psychological power over the victim. This imbalance can affect the mediation process, where the victim may feel pressured or forced to accept a mediation agreement even though they do not actually want it. The risk of revictimization is very high if mediation is carried out without considering the dynamics of this power relationship.

The fourth obstacle relates to the capacity and competence of mediators. In current practice, penal mediation is conducted by police investigators who may not have an adequate understanding of the dynamics of domestic violence and appropriate mediation techniques. Mediation in domestic violence cases requires special skills to ensure that the mediation process is fair, safe for victims, and does not perpetuate the cycle of violence. The lack of specific training on mediation in domestic violence cases for law enforcement officials is an obstacle in ensuring the quality of the mediation process.

The fifth obstacle is the lack of post-mediation monitoring and evaluation mechanisms. Once a mediation agreement has been reached and the case has been closed, there is no formal mechanism to monitor whether the perpetrator is actually fulfilling their commitments and whether the victim truly feels safe and protected. Without adequate monitoring mechanisms, there is a risk that the violence will be repeated without any effective prevention and protection measures for the victim. This has the potential to make penal mediation counterproductive and actually endanger the victim's safety.

The sixth obstacle is the influence of cultural factors and public perceptions of domestic violence. In many cases, the public still considers domestic violence to be a private family matter that should not be interfered with by outside parties, including law enforcement officials. This view causes many victims to be reluctant to report the violence they experience because they feel ashamed or afraid of being stigmatized by the community. On the other hand, pressure from family and society often encourages victims to accept mediation and reconcile with the perpetrator in order to maintain the family's good name, even though this is contrary to the interests of the victim.

The seventh obstacle relates to the inconsistency of criminal mediation standard operating procedures across different regions. In practice, the procedures and criteria for applying criminal mediation vary from one police force to another due to the lack of standard and binding guidelines. This inconsistency leads to injustice because the treatment received by victims and perpetrators can vary depending on the policies of each police jurisdiction. This also makes it difficult to conduct a comprehensive evaluation of the effectiveness of penal mediation at the national level.(Bere et al., 2023)

Another more serious obstacle is the power imbalance between perpetrators and victims. In many cases of domestic violence, perpetrators have a stronger economic, social, or psychological position than victims. This imbalance can affect the dynamics of mediation, where victims feel pressured to forgive perpetrators in order to maintain family honor or because of economic dependence. Under such conditions, mediation, which should be voluntary, can turn into a form of subtle coercion, leading to revictimization, or the recurrence of suffering for the victim. Therefore, the application of penal mediation in domestic violence

cases must be carried out with great care, involving legal and psychological assistance, and ensuring the safety and freedom of victims in making decisions.

In addition to power imbalances, the issue of mediator capacity is also a significant obstacle. Currently, penal mediation is generally carried out by police officers or public prosecutors who may not have a deep understanding of the dynamics of domestic violence or gender-sensitive mediation techniques. Domestic violence has complex patterns, involving emotional trauma, psychological dependence, and social pressure that require professional handling. Therefore, without special training, there is a risk that the mediation process will actually strengthen the position of the perpetrator and weaken the victim. The lack of training on gender-sensitive mediation is a major challenge for law enforcement officials in Indonesia in carrying out their role as fair and victim-oriented mediators.

The next challenge is the absence of a post-mediation monitoring and evaluation mechanism. Once a mediation agreement has been reached and the case has been closed, there is no formal system in place to ensure that the perpetrator actually fulfills their promises and that the victim truly feels safe. This lack of oversight opens up the possibility of repeated violence without further intervention. In the Indonesian social context, which still emphasizes family harmony and domestic "shame," victims often choose to remain silent when violence recurs. Therefore, the implementation of effective penal mediation should not stop at a peace agreement, but should also be followed by a monitoring system that ensures the perpetrator's commitment and long-term protection for the victim.(S & Usman, 2023)

Meanwhile, in the challenges of implementing penal mediation in Bangladesh, the approach to resolving domestic violence cases is still heavily influenced by patriarchal social and cultural structures. The country does not yet have a formal legal basis that explicitly regulates the mechanism of penal mediation in its judicial system. However, Bangladeshi society has long been familiar with a community-based dispute resolution system called shalish, which is a traditional deliberative forum involving community leaders and religious leaders to reconcile disputing parties. In cases of domestic violence, this forum is often used as a means to achieve peace between husband and wife. However, the shalish system often does not favor female victims because it is carried out within a framework of social values that place men in a dominant position. In many cases, victims are pressured to forgive the perpetrator in order to maintain the family's honor, while the safety and rights of the victim are neglected.(Mahfud, 2025)

This situation shows that although Bangladesh has a restorative social resolution mechanism, this approach does not yet fulfill the basic principles of restorative justice, which places victims as the main subjects of recovery. Shalish in Bangladesh and penal mediation in Indonesia both face challenges in terms of victim protection, even though their legal contexts are different. Indonesia is more advanced in terms of regulation, but still weak in implementation and oversight, while Bangladesh remains stuck in a traditional approach that often normalizes domestic violence as an internal family matter.

In general, both countries show that the application of penal mediation in cases of domestic violence depends not only on legal aspects, but also on the legal culture of society. The effectiveness of penal mediation is largely determined by the extent to which law enforcement officials, the community, and social structures are able to understand the meaning

of restorative justice as a fair recovery process. If carried out based on the principles of voluntariness, balance, and protection of victims, penal mediation can be an effective and humane alternative solution. However, if implemented without control and without considering social inequality, mediation has the potential to become a tool for justifying repeated violence.

Therefore, both Indonesia and Bangladesh need to strengthen the legal and social foundations for the application of penal mediation in cases of domestic violence. Indonesia needs to immediately establish comprehensive regulations, provide special training for mediators, and create clear post-mediation monitoring mechanisms. Meanwhile, Bangladesh needs to carry out social and legal reforms so that the traditional shalish practice can be developed into a more modern, legal, and victim-oriented mediation system. Ultimately, the success of penal mediation in both countries is not only measured by the achievement of formal peace, but by the extent to which the process is able to deliver justice that truly restores, protects, and humanizes victims of violence.

Efforts to Optimize the Application of Penal Mediation in Cases of Domestic Violence in Indonesia and Bangladesh

To optimize the application of penal mediation in handling domestic violence cases, comprehensive strategic efforts are needed. The first effort is to strengthen the legal basis by establishing regulations that specifically govern penal mediation in the Indonesian criminal justice system. These regulations need to specify in detail the conditions for cases that can be mediated, mediation procedures, mediator qualifications, monitoring mechanisms, and sanctions for parties who violate mediation agreements. The establishment of a law on penal mediation will provide legal certainty and strengthen the legitimacy of the application of penal mediation in the criminal justice system.

The second effort is to increase the capacity and competence of mediators through intensive and continuous training. Law enforcement officials who serve as mediators need to be equipped with a deep understanding of the dynamics of domestic violence, the psychology of victims and perpetrators, effective communication techniques, and mediation skills that are sensitive to gender issues and victim protection. This training should not only involve the police, but also prosecutors, judges, and other parties involved in handling domestic violence cases.(Agustina, 2023)

The third effort is to conduct outreach and education to the public about the concept of penal mediation and its benefits in resolving domestic violence cases. This outreach is important to change the paradigm of a society that is still oriented towards retribution to one that is more open to a restorative approach that emphasizes recovery. Socialization can be carried out through various media, including mass media, social media, religious gatherings, community leader meetings, and other community activities. Education also needs to be provided to victims about their rights in the mediation process and when mediation should not be carried out for the safety of the victim.

The fourth effort is the establishment of a comprehensive monitoring and evaluation system to monitor the implementation of mediation agreements and their impact on victims and perpetrators. This monitoring system can involve various parties, including the police, non governmental organizations working in the field of women's and children's protection, community leaders, and families. Post-mediation monitoring is important to ensure that

perpetrators truly fulfill their commitments, victims feel safe and protected, and there is no repeat violence. If monitoring reveals indications of repeat violence, appropriate intervention must be carried out immediately to protect the victim.

The fifth effort is the development of uniform standard operating procedures for the implementation of penal mediation throughout Indonesia. These standard operating procedures must include criteria for cases that can be mediated, stages of the mediation process, the rights and obligations of the parties, victim protection mechanisms, and procedures for terminating mediation if necessary. With uniform standard operating procedures, the consistency and quality of the implementation of penal mediation in various regions will be guaranteed, so that there is no discrimination in the treatment of victims and perpetrators. (Samsiar Arief, 2021)

The sixth effort is to strengthen victim protection mechanisms in the mediation process. This includes providing legal and psychological assistance to victims during the mediation process, providing a safe space for victims to express their aspirations without pressure, and providing clear information to victims about the available options and the consequences of each option. Victim protection also includes ensuring that victims will not experience intimidation or threats from perpetrators or their families during and after the mediation process. In certain cases, it is necessary to consider providing special protection such as safe houses or temporary protection orders.

The seventh effort is the development of inter-agency cooperation in handling cases of domestic violence through penal mediation. This cooperation involves the police, prosecutors, courts, social service agencies, health agencies, non-governmental organizations, and other relevant parties. Inter-agency cooperation is important to ensure that victims receive comprehensive services, not only legal resolution but also psychological recovery, economic assistance, and the necessary social support. With a holistic and integrated approach, penal mediation can truly provide optimal benefits for victims and contribute to the prevention of domestic violence. (Hartini et al., 2022)

Efforts to optimize the application of penal mediation in domestic violence cases in Bangladesh show significant progress in the context of a modern legal system that prioritizes restorative justice. Bangladesh, as a country with a socio-cultural background that is still steeped in patriarchal values, is striving to adapt the penal mediation approach as an instrument for resolving cases that not only focuses on punishment but also on restoring social relationships and protecting victims. The Bangladeshi government recognizes that resolving domestic violence cases through litigation often fails to provide substantive justice for victims, instead exacerbating psychological trauma and widening the social divide between family members. Therefore, various strategic steps have been taken to strengthen the effectiveness of penal mediation in their criminal justice system.

The first step taken by Bangladesh was to strengthen the legal and policy foundations that support the application of penal mediation. The Bangladeshi government has progressively integrated the concept of Alternative Dispute Resolution (ADR) into the criminal and civil legal systems through various regulations, including the Code of Criminal Procedure (Amendment) Act and the Domestic Violence (Prevention and Protection) Act 2010. These laws provide a legal basis for the application of mediation in certain cases, including domestic violence, while still guaranteeing the rights of victims. Through these legal instruments, Bangladesh seeks to

provide space for out-of-court settlements without neglecting the principles of justice and protection for women.

The second step is the establishment of mediation institutions and mechanisms at the community level. The Bangladeshi government has established local mediation institutions known as Village Courts and Union Parishad Mediation Centers, which serve as forums for dispute resolution at the village or community level. These institutions enable the resolution of domestic violence cases to be carried out quickly, cheaply, and participatively. Mediators in these institutions usually consist of community leaders, local officials, and women's representatives who are specially trained in handling domestic violence. This community-based approach has proven effective in reaching rural communities that previously had difficulty accessing the formal justice system.

The third step is to increase the capacity of mediators and law enforcement officials. Bangladesh continuously conducts mediation training involving judges, prosecutors, police officers, and social activists. This training focuses not only on mediation techniques, but also on a deep understanding of gender issues, human rights, and the psychology of victims of violence. Through this approach, mediators are expected to have high social sensitivity and empathy towards the victims' conditions. These capacity building efforts are carried out by government agencies in collaboration with international organizations such as UN Women and UNDP, which also support restorative justice programs in Bangladesh.

The fourth step is to strengthen the protection of victims at every stage of mediation. The Bangladeshi government emphasizes that penal mediation should not be conducted if there are indications of severe violence or if the victim's safety is at risk. During the mediation process, victims are given the right to be accompanied by a legal advisor or social worker, and the confidentiality of their identity and personal safety are guaranteed. In addition, Bangladesh also provides shelter homes for victims of domestic violence who need temporary protection. This protection is a form of state responsibility to ensure that mediation does not become a means of compromise that harms victims.

The fifth step is to establish a system for monitoring and evaluating the implementation of mediation. The Government of Bangladesh, through the Ministry of Women and Children Affairs, monitors the results of mediation and its follow-up. This monitoring aims to ensure that the agreements reached are implemented consistently and that there is no repeat violence. In addition, non-governmental organizations are involved in the evaluation process to provide feedback on the effectiveness of the implementation of penal mediation, particularly in protecting the interests of women and children victims.

The sixth step is to conduct public outreach and education on penal mediation and restorative justice. The government and non-governmental organizations actively organize public awareness campaigns on the benefits of mediation in resolving domestic conflicts. This socialization is carried out through the mass media, seminars, religious activities, and community programs in rural areas. The goal is to change the community's mindset from one of punishment to one of restoration. In this way, the community is encouraged to understand that conflict resolution through mediation can provide a more just and humane solution. The seventh step, which is no less important, is to strengthen cooperation between institutions, both at the national and international levels. The Bangladeshi government has established

collaboration with international institutions, non-governmental organizations, and women's organizations in developing policies, training, and victim assistance. This collaborative approach allows for the exchange of experiences and best practices between legal and social institutions, making the implementation of penal mediation more focused and effective. Through these various efforts, Bangladesh has succeeded in creating a more structured penal mediation system that is integrated with its national legal system. Although there are still challenges such as cultural resistance and limited resources, the steps taken demonstrate the country's strong commitment to strengthening the application of restorative justice in the field of domestic violence.(Ludfi et al., 2020)

Thus, the optimization of the implementation of penal mediation in Bangladesh serves as an important example for other developing countries, including Indonesia. Through synergy between legal, social, and institutional aspects, penal mediation can function not only as an alternative means of dispute resolution, but also as an instrument for victim protection and social recovery. This approach demonstrates that the law does not only serve as a tool for punishment, but also as a humanitarian means to restore social balance that has been disrupted by acts of violence.

CONCLUSION

Criminal mediation in the settlement of domestic violence cases in Indonesia and Bangladesh shows the development of the application of a restorative justice paradigm that is oriented towards restoring social relations between perpetrators and victims. In Indonesia, although there is no explicit legal basis in law, the application of penal mediation has gained legitimacy through the National Police Chief Circular Letter No. SE/08/VII/2018 and Attorney General Regulation No. 15 of 2020, while Bangladesh already has a more comprehensive legal basis through the Domestic Violence (Prevention and Protection) Act 2010*, which provides formal legal protection for victims. The implementation mechanisms in both countries show similarities in the implementation stage, which begins from the investigation to the prosecution, taking into account the principles of voluntariness, balance, and victim protection. However, both face challenges in the form of power imbalances, weak mediator capacity, and the potential for revictimization of victims due to social and patriarchal cultural pressures. Therefore, the optimization of penal mediation requires comprehensive regulatory strengthening, capacity building for mediators through gender-sensitive training, the establishment of post-mediation monitoring mechanisms, and inter-agency collaboration in ensuring the protection and recovery of victims. With these steps, penal mediation has the potential to become an instrument for resolving domestic violence cases that is fair, humane, and in line with universal human values.

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