Customary criminal law policy on domestic violence settlement through restorative justice

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Abstract: The work of law enforcement has always been appreciated differently by the community they serve. Where the sense of expediency and justice, as well as the pursuit of legal certainty, has resulted in community members seeking alternative ways to solve their problems as it is often believed that criminal cases are settled in a way that reflects injustice. Likewise, the settlement of Domestic Violence has been considered problematic in law enforcement due to the public's lack of its understanding as many believe it needs not to be settled in court as prescribed by Law No. 23/2004 on the Elimination of Domestic Violence. To address this issue, the Minangkabau people rely on an ancestral philosophy known as “Basandi Syarar, Syarar Basandi Kitabullah, Sarak mangato adat mamakai” which means that custom is based on Islam, which, in turn, is based on the Qur'an. Under a restorative justice approach, this paper discusses the role of the Minangkabau Customary Criminal Law policy in the settlement of domestic violence. This is a socio-legal study drawing on primary data consisting of interviews with West Sumatran religious and traditional leaders. The study also relies on secondary sources consisting of publications, laws, and regulations dealing with the research issue. The study found that the Minangkabau customary criminal law policy is more focused on a non-judicial approach in the settlement of domestic violence.

Subjects: Cultural Criminology; Dispute Resolution; Family, Child & Social Welfare Law

Keywords: criminal law policy; customary criminal law; domestic violence; restorative justice; Minangkabau ethnic group

1. Introduction

Beginning from the Reformation Era or Era Reformasi, Indonesia has served as a sort of vast laboratory for new policies focused on the fight against impunity, the quest for truth and justice, and the success of unity in fractured societies. While the results of these accountability efforts have been mixed and diverse, both religious and traditional experiences have helped advance a transitional justice initiated at the national level. Indonesia’s response to injustice reflects the problems of many developing countries that suffered from a wrong colonial legacy and political manipulation before building a system of their own. Approaches to addressing domestic violence known to the Indonesians as Kekerasan Dalam Rumah Tangga (KRD) range from criminal law, Islamic law, and customary law, especially customary criminal law. The present study is mainly concerned with how violence against women within a household is dealt with by the Minangkabau Customary Criminal Law as shown in the following tables 1, 2, 3, 4, 5, and 6.

Although Law No. 23/2004 on Domestic Violence says that domestic violence must be processed in criminal justice, victims often have recourse to non-penal processes or outside of court.
| No | Police District | Jan. | Feb. | Mar. | Apr. | May. | Jun. | Jul. | Aug. | Sep. | Oct. | Nov. | Dec. |
|----|----------------|------|------|------|------|------|------|------|------|------|------|------|------|
| 1  | S.Pes.         | 0    | 0    | 2    | 0    | 0    | 2    | 4    | 0    | 2    | 1    | 1    | 0    |
| 2  | Padang         | 3    | 9    | 6    | 9    | 9    | 6    | 10   | 8    | 6    | 5    | 5    | 5    |
| 3  | B.Ting.        | 1    | 1    | 2    | 0    | 0    | 3    | 3    | 0    | 0    | 4    | 4    |      |
| 4  | P.Panj.        | 3    | 2    | 3    | 0    | 0    | 0    | 2    | 1    | 1    | 1    |      |      |
| 5  | Posam.         | 2    | 1    | 1    | 2    | 1    | 2    | 2    | 0    | 1    | 2    | 1    | 0    |
| 6  | Payak.         | 1    | 2    | 0    | 2    | 2    | 1    | 2    | 3    | 2    | 1    | 0    | 0    |

Source: West Sumatra Police report.
mechanisms to seek justice. As stated at the outset of this paper, West Sumatra, home to Minangkabau ethnic group, strongly believe in their traditional philosophy that custom is based on religion, which in turn, is based on Al-Qur’an. This shows how intertwined customs and religion are in the eyes of the people of West Sumatra Province, Indonesia. This also shows the important role played by the Minangkabau customary criminal law policy in resolving crimes including domestic violence from a restorative justice approach. This study aims at examining how the non-penal approach can be effective in criminal case settlement by involving customary institutions that exist and develop in the Minangkabau society. The term domestic violence in this study refers to violence against housewives. The term domestic violence in western literature is generally used in various ways, for example, domestic violence, family violence, and wife abuse (Apriani & Yenni, 2020). However, the term domestic violence does not always describe the actual situation (Marta, 2001, p. 31). Finition this study argues that when different justice systems coexist, legislation should explicitly grant supremacy to laws that promote gender equality and uphold women’s human rights, to prevent court decisions that would discriminate against them.

2. Methods and materials
This is a socio-legal study drawing on primary data consisting of interviews with West Sumatran religious and traditional organizations such as the Nagari Customary Meeting or Kerapatan Adat Nagari (KAN), and Minangkabau Natural Kinship Institution or Lembaga Kerapatan Adat Alam Minangkabau (LKAAM), women victim of domestic violence and leaders of Non-Government Organizations (NGOs) fighting against domestic violence such as WCC Nurani Perempuan Padang, West Sumatra Women Care Network or Jaringan Peduli Perempuan Sumbar, and National Commission on Violence Against Women or Komisi Nasional Perempuan (Komnas). Data were collected through face-to-face formal and informal interviews as well as focus group discussions (FGDs). This is in line with the people-based research approach (McKinnon, 2014). Sometimes, data were also gathered through open-ended questionnaires given the nature of the research issue. This study involves 150 respondents consisting of 100 victims, 25 heads of women’s defense/protection organizations, and 25 religious/community leaders. Primary data also is comprised of notes taken through formal and informal courtroom trial observations. The study also relies on secondary sources consisting of publications (legal opinions, books, scientific journals, magazines, newspapers), laws and regulations dealing with domestic violence against women in Indonesia in general and in West Sumatra in particular. The approach used to deal with secondary is the text-based approach which allows for not only a better selection of the relevant texts dealing with the topic but also and more importantly to better understand and interpret them.
### Table 4. Handling of domestic violence by South Pesisir Police in 2016

| No | Victim Names                        | Case Handling               |
|----|-------------------------------------|-----------------------------|
| 1  | Syfrinal, 39-year-old (Minang)      | Non-Judicial Settlement     |
| 2  | Yunilda, 18-year-old                | Non-Judicial Settlement     |
| 3  | Rita Susasanti, 30-year-old (Minang)| Non-Judicial Settlement     |
| 4  | Nursafika, 15-year-old (Melayu)     | Non-Judicial Settlement     |
| 5  | Yani, 20-year-old                   | Non-Judicial Settlement     |
| 6  | Resti, 17-year-old (Minang)         | Non-Judicial Settlement     |
| 7  | Efrita, 42-year-old (Caniago)       | Judicial Settlement         |

Source: South Pesisir Selatan police Report (2016).

### Table 5. Handling of domestic violence cases in Pesisir Selatan in 2017

| No | Victim Names                        | Case Handling               |
|----|-------------------------------------|-----------------------------|
| 1  | Marda Leni, 29-year-old (Minang ethnic) | Lack of Evidence          |
| 2  | Fitri Yandra, 47-year-old (Melayu ethnic) | Investigation             |
| 3  | Nurhayeni, 44-year-old (Melayu ethnic) | investigation             |
| 4  | Noni Nofrianti, 38-year-old (Minang ethnic) | Non-Judicial Settlement |
| 5  | Yesi Devita, 30-year-old (Minang ethnic) | Non-Judicial Settlement |
| 6  | Endronayeni, 32-year-old (Minang ethnic) | Investigation             |
| 7  | Peni Suriati, 29-year-old (Minang ethnic) | Non-Judicial Settlement |
| 8  | Meri Trisna, 27-year-old (Minang ethnic) | Non-Judicial Settlement |
| 9  | Nurtia Juliana, 23-year-old (Minang) | Court Settlement           |
| 10 | Popi Dewitasari, 34-year-old (Minang) | Court Settlement           |
| 11 | Sri Wahyu Ningsih, 30 y.o (Jawanese) | Court Settlement           |
| 12 | Siska Neri, 36-year-old             | Court Settlement           |

Source: South Pesisir Police Report, 2017.

### Table 6. Data on handling domestic violence cases in South Pesisir (2018)

| No | Victim Names                        | Case Handling               |
|----|-------------------------------------|-----------------------------|
| 1  | Helin Fefen, 34-year-old            | Non-Judicial Settlement     |
| 2  | Juslina, 21-year-old (Melayu)       | Non-Judicial Settlement     |
| 3  | Ellen, 39-year-old (Melayu)         | Investigation               |

Source: South Pesisir Police Report, 2018.
3. Results and discussion

3.1. Overview of domestic violence in West Sumatra

The description of criminal acts of domestic violence is not only in the national scope. The description of criminal acts of domestic violence can also be found in the scope at the regional level, one of which is in the province of West Sumatra. There are data sourced from several agencies/institutions that describe the facts of criminal acts of domestic violence that occurred in the Province of West Sumatra. The data obtained is based on the last 4 years, 2016, 2017, 2018, and 2019 (from January to October). Based on data on cases of domestic violence obtained from the Directorate of General Criminal Investigation of the West Sumatra Police, there are data on case reports that have completed the legal process (see tables 1-7). In 2019 (starting from January to October) there were 186 case reports. However, from the incoming case reports that were processed to completion by the police, there were 167 cases. Furthermore, in 2018 there were 290 case reports. However, 197 cases were processed to completion by the police. Through the data above, it can be seen that there were also 19 unfinished cases in the police force in 2019 and 93 cases in 2018. The implementation of this philosophy is contained in the customary law known as undang undang nan duo puluah (the 20th law) which consists of two sets of other laws i.e., undang Undang nan duo baleh (the 12th law) and undang undang nan salapan (the 8th law). These laws mainly revolve around the idea of the resolution of domestic violence through deliberation and consensus or musyawarah mufakat, a core principle in the Minangkabau society (Beckmann, 1984).

3.2. Customary criminal law and local wisdom

The term customary criminal law comes from the Dutch word delichten Recht or customary law violations. It was not until the arrival of the Dutch on the archipelago that the term customary law made it to the Indonesian legal discourse. Until then, indigenous communities in Indonesia did not refer to their law as criminal law but as customary law (Amran, 1981, p. 221). This is because the Indonesian understanding of customary criminal law is different from western criminal law. Customary criminal law is a set of customary rules or procedures prescribing or punishing the violation of customs or any actions disturbing the balance and peace of a traditional community (masyarakat adat). These customs include past and present customs, living customs, customs that can develop, and rhythmic customs (Rashid, 2021). Custom Law is not recorded or codified, hence referred to as unwritten law or non-statutory law (Soekanto, 1980, p. 2).

Customary laws are an essential aspect of the very identity of indigenous peoples and local communities. They define the rights, obligations, and responsibilities of members on important aspects of their life, culture, and worldview: use of and access to natural resources; rights and obligations to land, inheritance, and goods, spiritual life; maintenance of cultural heritage and knowledge systems, and many other issues. Preserving customary laws can be essential in ensuring the vitality of the intellectual, cultural, and spiritual life and heritage of indigenous peoples. Customary law consists of a set of customs, norms, and beliefs which are accepted as binding rules of conduct by indigenous peoples and local communities. It is an integral part of their socioeconomic systems and their way of life. Customary criminal law, according to Hadikusuma (1992), is a living law that will always exist as long as there is human culture, it cannot be abolished by legislation. Similarly, I Made Widnyana (2013) argues that customary criminal law is the living law that is continuously followed by indigenous people from one generation to the next. Violation of customary rules of conduct may shock and disturb the cosmic balance of the community. Authors of such a violation are punishable under customary criminal sanctions through a customary mechanism (Mulyadi, 2015, p. 43).

Long before Western law was introduced to Indonesia, and long before the formation of the national law, the Indonesian people already had their customary laws (Zurnetti, 2019). The indigenous people had their local wisdom and also rules related to law enforcement, and conflict resolution mechanisms. In Minangkabau society, for example, there is a problem-solving mechanism based on the following local wisdom: “kalau bulu kusuik paruh yang manyalasian,” which means that the
chicken uses its own beak to arrange its tangled feathers. Another problem-solving mechanism is based on the proverb that says “bajanjang naiak batanggo turun”, which implies that disputes must be resolved in orderly through stages (Bahar, 2021). Meanwhile, institutionally, there are also clan leader meetings known as rapek niniak mamak, religious leader meetings known as rapek penghulu, and the kinship meeting also known as Kerapatan Adat Nagari (KAN; Beckmann et al., 2001; Warman, 2010; Zurnetti, 2016).

Local wisdom is considered efficient in maintaining peace and harmony in society. Echols and Shadily (1975) in their work titled “An English-Indonesian Dictionary” argue that local wisdom can be interpreted as local views/ideas that contain wisdom and that are followed by the community. Local wisdom is a long-existing explicit knowledge that evolves together with the community and the environment in a local system (Tiezzy et al., 2018). Local wisdom itself serves as (Sumarni, 2016, p. 727):

(1) a marker of the identity of a community,
(2) an adhesive element (cohesive aspect) across citizens, religions, and beliefs,
(3) a tool to change the mindset and to improve reciprocal relationships of individuals by placing them on the common ground,
(4) a means to encourage the establishment of togetherness, appreciation, and a common mechanism to protect communal solidarity.

3.3. International legal instruments on domestic violence

Domestic violence is both a global and local phenomenon. The Vienna Declaration and Program of Action on Human Rights has affirmed that gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person and should forthwith be eliminated (World Conference on Human Rights, June 14–25, 1993). The international women’s movement and the international human rights conventions have confirmed that violence in the home is neither a private issue nor a cultural practice. The World Bank argues that domestic violence accounts for one in five lost years in women aged 15–44 (De Silva de Alwis, 2012). In 2005, the World Health Organization (WHO) established that violence against women caused more death and disabilities among women aged fifteen to forty-four than cancer, malaria, traffic accidents, and war combined (The World Health Report, 2005). International law and policy on domestic violence have developed in the United Nations especially the U.N. Convention on the Elimination of Discrimination against Women (CEDAW) and the Declaration on the Elimination of Violence against Women (DEVAW), the Special Rapporteur on Violence Against Women and in regional organizations such as the 2016–2025 ASEAN Regional Plan of Action on Violence Against Women and the ASEAN Declarations on Violence Against Women, which 10 ASEAN Member States have twice ratified.

Most Southeast Asian countries have made considerable progress in reducing gender gaps in education, health, and employment, but women’s participation in decision-making and politics lags. Countries that have made the most progress in adopting the Violence Against Women policy instruments include Cambodia, Lao, the Philippines, and Vietnam. They all show similar results: they have all completed national action plans on violence against Women, and collect violence against women prevalence data in line with international standards. They are also in the process of establishing national multi-sectoral and inter-agency coordination mechanisms and sub-national mechanisms with adequate resources, gender-responsive legal frameworks to penalize all forms of violence against women, preventive measures, and standard operating procedures and guidelines (Hyun, 2022).

Despite these declarations, Asia is the only region without a legally binding convention on violence against women, such as those found in the Americas (the Belem Convention), Africa
(the Maputo Convention), and the EU (the Istanbul Convention). Unlike conventions, declarations are not legally binding, and lack enforcement mechanisms. ASEAN has ratified the “Convention on Trafficking in Persons, Especially Women and Children,” which addresses one specific aspect of VAW, but is reluctant to turn the Declaration on violence against women into a legally binding Convention (Hyun, 2022).

3.4. Fighting domestic violence through judicial process

As discussed earlier, the policy for overcoming domestic violence in West Sumatra is backed by positive law and the Minangkabau customary. The policy is implemented using a penal and non-penal approach. The fight against domestic violence through criminal law is spearheaded by Law No. 23/2004 on the Elimination of Domestic Violence while the non-penal approach is carried out through the customary criminal law based on local wisdom such as musyawarah mafakat (deliberation through consensus; Citra Anggita and Tsuyoshi Hatori, 2020). Article 1 section 1 of the Elimination of Domestic Violence Law defines domestic violence as “any action against a person, especially a woman, which results in physical, sexual, psychological misery or suffering, and/or neglect of the household including threats to commit violence, coercion or unlawful deprivation of liberty in a domestic environment.” This provision implies that the above-mentioned law mainly focuses on women as victims of domestic violence. According to Article 5 of the Domestic Violence Law, domestic violence against women involves several acts including physical violence, psychological violence, sexual violence, and domestic neglect.

Article 6 of the same law says defines physical violence as an act that causes pain, illness, or severe injury. Whereas what is meant by psychological violence according to Article 7 of the Domestic Violence Law is an act that results in fear, loss of self-confidence, loss of ability to act, and feeling helpless. Furthermore, sexual violence according to the same law when either partner sexually abuses the other party in their household or anyone within such place (Article 8). This article also defines domestic violence as the abandonment or neglect of the household by either partner. Under the Indonesian Criminal Law, perpetrators of such acts can be prosecuted and criminally punished as regulated in Articles 44, 45, 46, 47, 48, 49, and Article 50 of the Domestic Violence Law. Based on data from the Women and Children Service Unit (PPA) of the Padang City Police, as of January 2018, there have been as many as 103 cases of domestic violence experienced by women and children (Padang Ekspres, 2018, p. 4).

3.5. Fighting domestic violence through restorative justice

Countermeasures through a restorative justice approach in West Sumatra can be explained based on data obtained in several areas, including:

The tables (tables 1–7) above show that the handling of domestic violence cases in 6 regions out of 20 police stations (Polres) in West Sumatra shows that violence against women still occurs in West Sumatra. Based on this data, it can be seen that the Padang Police Legal Area occupies the first position with the highest level of domestic violence in 2017 with a total of 81 cases of domestic violence. Followed by the Bukittinggi Police with several cases of domestic violence as many as 18 cases. Of the 6 regions, Pesisir Selatan occupies the lowest position with 12 cases of domestic violence. The following describes the handling of domestic violence at the Padang Police:

Based on the tables 1–7 above, it can be seen that from 2015 to 2017 there was a constant increase in cases of domestic violence. The data on domestic violence during 2015 were 50 cases of domestic violence, in 2016 it increased to 91 cases, and in 217 the data on domestic violence cases showed a slight decrease to 81 cases. In handling cases against domestic violence, it can be seen that investigators at the Padang Police put more priority on handling cases legally. Meanwhile, from 2015 to 2017, only a few numbers of non-juridical cases were handled as can be seen below:
The table above shows that the handling of domestic violence cases in the jurisdiction of the Pesisir Selatan Police in 2015 was carried out by mostly seeking non-juridical settlements. Of the three cases that occurred, 2 cases were resolved non-juridically.

Based on the table above, it can be seen that there were 8 cases of domestic violence in the jurisdiction of the Pesisir Selatan Police in 2016 where 7 of the 8 cases were resolved through a non-juridical approach. In 2016, it can be seen that the age of victims ranges from 15 to 42.

Based on the table above, it can be seen that the number of domestic violence cases in the jurisdiction of the Pesisir Selatan Police in 2017 was 12 cases, one of which was dismissed due to insufficient evidence. Of the 11 cases processed, 4 were resolved through a non-juridical channel, while the rest were resolved through court.

The policy of overcoming violence against women victims of domestic violence that occurred in the Regional Police of West Sumatra shows that the policy model for dealing with domestic violence is being pursued by the police through a non-juridical approach. The non-juridical approach is carried out through restorative justice efforts by restoring balance before the occurrence of a crime. In other words, law enforcers are trying to prevent this domestic violence case from entering the criminal justice machine, so that the objectives of the PKDRT Law can be achieved more optimally. Looking at the data on handling domestic violence cases that occurred in the jurisdiction of the Pesisir Selatan Police, it can be seen that in handling domestic violence cases, especially women as victims of domestic violence, the investigators of the Pesisir Selatan Police prioritize and seek to handle cases in a non-juridical manner. Fifteen of the 22 cases at the Pesisir Selatan Police were resolved non-juridically. According to investigators, this step is carried out under the PKDRT Law. Investigators claim that non-juridical settlements will minimize the negative effects of handling domestic violence cases through court (South Pesisir Police, Interview, 9 August 2018). Based on the data above, we can see a more appropriate policy model to be applied in handling domestic violence against women. Resolving domestic violence cases through court can minimize its social impact.

3.6. Fighting domestic violence through customary law and local wisdom

Given the fact that Minangkabau ethnic group strongly relies on their tradition and Islam, it is very common for the community to seek justice through a non-penal approach using their customary law which relies very much on local wisdom. When domestic violence is reported, steps are taken to resolve it through deliberation within the family. However, if this is unsuccessful, then it will be brought before the clan leaders (ninjak mamak) for deliberation and consensus (Zurnetti, 2016). To tackle crimes and maintain security, order, and peace in the community, a mutual agreement was made during a joint between LKAAM and the West Sumatra Police through joint agreements No. B/2618/VII/2017 and No. 158/LKAAM-SB/VII/2017 on the Synergy between the West Sumatra Police and LKAAM to achieve community policing or Polisi Masyarakat (Polmas) in West Sumatra (Suardi, 2018).

Customary sanctions are meant to restore the social equilibrium disturbed by the act. Because Customary law exists and develops within the society, it is said to be a tool for social control that serves the community. Customary law is a pattern of community behavior that is sanctioned if violated. Minangkabau customary law applies to Minangkabau ethnic group who regard their tradition as intertwined with Islam. This is reflected in the following well-known proverb: “adat basandi syara’, syara’ basandi Kitabullah, syara’ mangato adat mamakai” which means that the Minangkabau tradition is rooted in Islam, which in turn, is rooted in the Qur’an. As argued earlier, to solve a dispute, the Minangkabau criminal law relies on local wisdom and norms such as undang undang nan dua puluh (the 20th law) which consists of two sets of other laws i.e., undang Undang nan dua baleh (the 12th law) and undang undang nan salapan (the 8th law). These norms not only prohibit certain actions but also specify criminal sanctions when these actions are carried out. Furthermore, the matrilineal kinship that exists in West Sumatra places women in a respectable position in the family and society. This position is revealed in the title of women with honor,
namely bundo kanduang. This expression shows that the woman is considered a natural mother who must be respected by everyone (Azbir, Interview, 1 September 2018).

In Minangkabau society, even though conflicts and crimes ought to be resolved through peaceful means. Domestic violence can result in the imposition of customary sanctions on the perpetrator. These sanctions are mainly social sanctions to compensate the community and the victim. These social sanctions range from the lightest to the heaviest, namely expelling the perpetrator from the nagari (village). The perpetrator is often asked to pay customary obligations by performing traditional ceremonies or by building a traditional building. Since this type of settlement consists of restoring social peace and equilibrium, it may be considered a form of restorative justice and penal mediation. Restorative justice implies that the settlement process and results can improve the existing condition, not the other way around. This concept is not formally available in Indonesia, but in certain cases, it has been implemented by the police in the community policing program (the concept has been implemented by the National Police in the letter of the National Police Chief No. Pol: B/3022/XII/2009/SPDOPS dated 14 December 2009, regarding the handling of cases through ADR). The concept of penal mediation developed in line with the concept of alternative dispute resolution (ADR) that developed in civil law. The concept of penal mediation developed with the idea that the issue of criminal acts must pay attention to the interests of the victim.

3.7. Domestic violence in some Muslim countries: The case of Pakistan
Indian and Pakistani women are all too often the victims of having been burned and doused with acid, and the crime of stove burning is all too common in Pakistan (Waheed, 2004). In 2004 Pakistan amended its penal code, where new provisions were introduced to address crimes against women and girls. They refer to these crimes as “honor crimes” (De Silva de Alwis, 2012). However, the criminal legal system in Pakistan still retains the concepts of Qisas and Diyat, which are customary processes by which legal heirs can enter into a compromise with the perpetrator (De Silva de Alwis, 2012). Therefore, although the law attempts to address honor crimes against women and girls, which are most often committed by male family members, under Qisas and Diyat, legal heirs have the right to accept compensation for the crime and in effect nullify the crime against the woman or girls (De Silva de Alwis, 2012). Other significant laws seeking to change or abolish harmful cultural practices include the reform of Pakistan’s Hudood Ordinance of Shariah Law. This provided for the elimination of the four-witnesses requirement in cases relating to rape (Penal Code, Act 45 of 1860). Like in West Sumatra, cases of violence continue to be dealt with through customary or religious law procedures in Pakistan. As its constitution specifies that no law shall violate Islamic Law.

3.8. Challenges in the fight against domestic violence in West Sumatra
As for the perpetrators, data suggest that most of them are categorized as public officials: civil servants (PNS), military personnel (TNI), police officers (Polri), members of the House of Representatives (DPR/D members), teachers, religious public figures, and state ministers. These public official perpetrators were likely to have impunity—free of legal consequences because the legal system tends to be too lenient (National Commission on Violence against Women, 2011). In addition to the leniency of the criminal justice system, victims of domestic violence also face a lack of support from their community wherein the society is dominated by males given the fact that Minangkabau, like many other ethnic groups in Indonesia, is a patriarchal society. A patriarchal society consists of a male-dominated power structure throughout organized society and in individual relationships. Power is related to privileges. In a system in which men have more power than women, men have some level of privilege to which women are not entitled. It should also be added that many cases of sexual violence have not been investigated or prosecuted due to various other obstacles, including the limited efforts of certain authorities and organizations to prosecute crimes of sexual violence, infrastructure problems and difficulties in prosecuting crimes committed by armed groups. The number of procedures remains low compared to the scale of the problem. Very few high-ranking officials have been held accountable for domestic violence they
have committed. Overall deficiencies within the justice system itself, including lack of resources and capacity, contribute to impunity for sexual violence.

4. Conclusion
A global scourge of unknown magnitude, violence against women and girls knows no geographical or cultural borders. However, the risk is higher for poor or marginalized women, who are frequently exposed to intimate partner violence. Violence against women and girls takes very diverse forms: domestic violence, harassment or sexual assault, early and forced marriage, sexual exploitation, etc. They are rooted in the inequalities that women and girls face. Sadly, West Sumatra is no exception to this reality. Policy to address domestic violence in West Sumatra refer to both positive law and Minangkabau Customary Law. Domestic violence is regulated in Law No. 23/2004 on the Elimination of Domestic Violence while the non-penal approach is carried out through the customary criminal law approach and local wisdom namely deliberation and consensus. Domestic violence can result in the imposition of customary sanctions on the perpetrator. However, these sanctions are mainly social sanctions to compensate the community and the victim. The lightest of these sanctions consists of fines (performing traditional ceremonies or building a traditional building) while the heaviest sanction includes expelling the perpetrator from the community. Since this type of settlement consists of restoring social peace and equilibrium, it is viewed as a form of restorative justice and penal mediation.

5. Recommendations
Given the results of this study, the authors call on the government of Indonesia in general and the authorities of West Sumatra to address the root causes of domestic violence, including by eliminating stereotypes and harmful practices that discriminate against women, and by the organization of specific training on gender issues and the adoption of codes of good conduct for the attention of the police and certain state officials who enjoy impunity. Restorative justice must be sought by empowering customary institutions and customary law to strengthen the non-judicial mechanism to address all types of violence including domestic violence. Domestic violence laws alone are not effective to combat forms of domestic violence. Although domestic violence lawmaking can be used to cover such acts, separate laws must be drafted. Legal reform must be based on the reconciliation of both the CEDAW and Islamic law.

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