

Juridical Analysis of the Crime of Wife Neglect by Husband in the Perspective of Indonesian Criminal Law

Aliftha Rozakiya, Mhd Azhali Siregar, Henry Aspan

Abstract

This study discusses the criminal act of wives abandonment by husbands in the household from the perspective of Indonesian criminal law. The focus of this research is to analyze the criminal liability of husbands based on Articles 304 and 330 of the Criminal Code and Law No. 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law), as well as identify obstacles and challenges in law enforcement against neglect cases. The research uses a normative juridical approach with the method of analyzing legal documents and literature. The results of the study show that the abandonment of wives has an impact not only economically, but also psychologically, and law enforcement still faces obstacles such as difficulties of proof, lack of understanding of law enforcement towards non-physical violence, and the gap between formal law and social conditions. For this reason, legal protection for victims can be optimized through professional legal assistance, capacity building of the apparatus, and public education, so that perpetrators can be held accountable and neglect practices can be suppressed. This research provides recommendations to strengthen legal protection and realize justice for victims.

Keywords: Wife Neglect, Indonesian Criminal Law, Criminal Code, PKDRT

Aliftha Rozakiya¹

¹Law, Universitas Pembangunan Panca Budi, Indonesia

e-mail: aleprzy26@gmail.com¹

Mhd Azhali Siregar², Henry Aspan³

^{2,3}Law, Universitas Pembangunan Panca Budi, Indonesia

e-mail: azhalisiregar@dosen.pancabudi.ac.id², henryaspan@yahoo.com³

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Introduction

The household is the smallest unit in society that unites husbands, wives, and children in moral, social, and legal bonds. The husband as the head of the family has a moral, social, and legal responsibility for the fulfillment of the basic needs of his wife and children. The inability or refusal of the husband to fulfill this obligation in practice can lead to the phenomenon of *neglect*. Domestic neglect refers to the actions of the husband who consciously abandons his responsibilities so that it has an impact on the welfare of the wife. In the context of Indonesian society, social and legal norms mutually reinforce the importance of husband's responsibilities in the household. Household disharmony and neglect not only impact victims psychologically, but also economically and socially. This phenomenon needs to be analyzed juridically so that a clear legal solution emerges. The perspective of Indonesian criminal law provides a regulatory basis for the violation of certain family obligations.

Neglect of wives by husbands can occur in various forms, including the absence of the fulfillment of livelihood needs and delays in the fulfillment of alimony. In Indonesian criminal law terminology, such acts can be qualified as a criminal act. The Criminal Code (KUHP) provides a legal umbrella through the provisions of Article 304 on domestic abuse which expands the scope of physical and psychological violence, as well as Article 330 on family negligence that deliberately endangers other family members. This regulation is the basis for ensnaring husbands who commit acts of neglect consciously and repeatedly. In addition, Law No. 23 of 2004 concerning the Elimination of Domestic Violence (*PKDRT Law*) expressly includes forms of psychological and economic violence as part of domestic violence. This criminal law mechanism is needed so that there are concrete sanctions against repeated neglect practices.

The household is a fundamental social institution in people's lives, where husband and wife have balanced rights and obligations to realize a harmonious and prosperous family life. However, in practice, there are not a few problems that lead to violations of the law, one of which is the abandonment of wives by husbands. Domestic neglect, especially against wives, can have significant psychological, economic, and social impacts on victims, as well as damage the family order as a basic social unit.

In the context of Indonesian criminal law, the act of abandoning the wife by the husband can be categorized as a criminal act in accordance with the provisions of the Criminal Code (KUHP), especially Article 304 of the Criminal Code concerning domestic abuse and Article 330 of the Criminal Code concerning negligence that causes danger to family members. In addition, Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) provides a special legal umbrella to protect victims, including wives who experience neglect, with strict criminal sanctions for perpetrators.

This phenomenon of neglect is not only related to formal legal aspects, but also requires an in-depth juridical analysis to understand the factors that encourage the occurrence of the violation, the implementation of applicable laws, and the obstacles in law enforcement against the husband who commits neglect. In addition, legal protection for victims must be carried out consistently so that the rights of wives as family members are not ignored.

Based on this, this study aims to analyze the criminal act of wives abandonment by husbands from the perspective of Indonesian criminal law, including the criminal liability of the husband, legal protection for the victim, and the implementation of existing legal provisions.

This study is expected to contribute to strengthening legal protection for wives and increase public awareness of the importance of husband's responsibilities in the household. The PKDRT Law is a special legal instrument that strengthens the protection of victims of domestic crimes, including abandoned wives. This law not only regulates criminal sanctions but also procedures for reporting and rehabilitating victims. In Article 5 of the PKDRT Law, actions that cause physical, psychological, or economic suffering include violations of human rights in the

household. As a result, the husband who commits neglect can be subject to criminal sanctions based on this provision if the act meets the elements of domestic violence. Legal protection through the PKDRT Law aims to provide a safe space for victims to report without fear of social stigma. The application of this legal norm is expected to reduce the number of incidents of neglect which are often considered "internal family affairs."

In addition to the obstacles to proof, questions often arise as to the subjective element of neglect; whether the husband's actions were done intentionally or solely because of objective economic incapacity. This difference is very decisive in determining criminal sanctions according to *the principle of mens rea* in criminal law. The Criminal Code requires the existence of certain elements of intentionality or negligence to be punishable. Therefore, juridical analysis needs to distinguish between negligence that can be punished and the objective condition of inability to provide for sustenance due to economic factors. The provisions of Article 330 of the Criminal Code regulate negligence that causes danger to the safety of family members, but the distinction of this element often does not get a clear space in the practice of trials. This study will examine the interpretation of criminal law on these subjective elements. (Muladi 2018)

The impact of neglect on wives is not only legal, but also socio-cultural. In many communities, social stigma against victims and families often makes wives reluctant to report. This is exacerbated by the lack of access to protection institutions and legal aid. The PKDRT Law itself provides a mechanism for legal assistance and protection of witnesses and victims, but its implementation has not been evenly distributed throughout Indonesia. This juridical analysis will also consider aspects of human rights and access to justice for victims. Thus, this study focuses not only on normative aspects, but also on social externalities that affect the effectiveness of legal protection.

Law enforcement against husbands who commit neglect is not only the domain of law enforcement officials, but also involves legal aid agencies, civil society organizations, and communities. Legal education to the wider community is very important to increase awareness of rights and obligations in the household. Existing laws and regulations must be accompanied by socialization so that the public understands the legal consequences of acts of neglect. Initiatives such as strengthening the role of *the post office* in the courts or free legal consultation services at the village/sub-district level can encourage more effective reporting. This research will also assess the role of non-state institutions in supporting criminal law enforcement against acts of neglect.

Based on this description, it is clear that the crime of abandoning a wife by a husband is a complex phenomenon that needs to be analyzed comprehensively from the perspective of Indonesian criminal law. This juridical analysis is expected to provide a sharper understanding of the applicable legal provisions, challenges in law enforcement, and normative recommendations for legal reform. The ultimate goal is to strengthen legal protection for wives as victims of violations of rights in the household and ensure legal certainty for violators. This study also makes an academic and practical contribution in the field of criminal law and family law in Indonesia. (Andihamzah, 2020)

Research Methodology

This study uses a normative juridical research approach that aims to analyze the crime of wives abandonment by husbands from the perspective of Indonesian criminal law. The normative juridical approach was chosen because of the research that focuses on the analysis of laws and regulations, legal doctrines, and court decisions as the basis for the study. This study examines the provisions of the Criminal Code related to Article 304 and Article 330, as well as Law No. 23 of 2004 concerning the Elimination of Domestic Violence, with the aim of understanding the juridical aspects, criminal liability, and legal protection for victims. This analysis also considers relevant legal literature to strengthen the theoretical basis and interpretation of the law.

The data used in this study are primary and secondary. Primary data was obtained from laws, the Criminal Code, and official court documents containing cases of wives abandonment by husbands. Secondary data were obtained from books, scientific journals, articles, and legal literature relevant to the research topic. Data analysis was carried out through documentary research, with content analysis techniques to interpret legal norms, criminal liability principles, and law enforcement practices in cases of domestic neglect. Data analysis was carried out in a qualitative descriptive manner, namely describing and explaining the phenomenon of wife abandonment by husbands based on legal provisions and legal literature. Each article of the Criminal Code and the PKDRT Law is systematically analyzed to assess legal certainty, criminal liability, and victim protection. The validity of the data is maintained through source triangulation, which is comparing data from laws and regulations, legal literature, and court decisions. This approach aims to ensure that the research has a strong legal basis and can be accounted for academically and juridically.

Discussion

1. Criminal liability of husbands who neglect their wives in the household according to the provisions of the Criminal Code and the PKDRT Law

The formulation of the first problem highlights the criminal liability of the husband who neglects his wife in the household. The household is legally recognized as a social institution that has rights and obligations between husband and wife, as stipulated in Law No. 1 of 1974 concerning Marriage. The husband as the head of the family is obliged to meet the needs of the family, provide protection, and maintain the welfare of family members, especially the wife. Intentional neglect or negligence can result in criminal sanctions. (Sudikno Mertokusumo, 2017)

From the perspective of Indonesian criminal law, the neglect of the wife by the husband can be categorized as a criminal act. Article 304 of the Criminal Code explains domestic abuse that does not only involve physical but also psychological violence, including neglect of alimony. Article 330 of the Criminal Code emphasizes that negligence that causes danger to family members can be subject to criminal sanctions. Thus, the criminal liability of the husband is determined by the element of intentionality or negligence.

In addition to the Criminal Code, Law No. 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) provides a special legal umbrella. Article 5 of the PKDRT Law stipulates that actions that cause physical, psychological, or economic suffering are included in the category of domestic violence. Wife abandonment is included in the form of psychological and economic violence. Therefore, the husband who commits neglect can be convicted based on this provision, thus providing legal certainty for the victim. (Andi Hamzah, 2020)

Criminal liability is also influenced by subjective elements, namely whether the husband committed an act of neglect intentionally or due to objective incapacity, such as economic factors. In criminal law, the principle of *mens rea* is known, namely awareness or intention to commit a criminal act. Proving this element of intentionality is important in determining the criminal sanctions imposed. The formulation of the second problem highlights the obstacles and legal challenges in law enforcement against the crime of wives abandonment. One of the main obstacles is the difficulty of proof, especially if written evidence or documentation is less available. Cases of neglect that are based solely on verbal testimony are often difficult to accept in court. This requires in-depth juridical analysis in order for the law to be applied effectively. Another obstacle is the lack of understanding by law enforcement officials of the psychological and economic impacts of neglect. Law enforcement tends to focus on physical or material aspects only. Therefore, the interpretation of the law needs to be broadened to include psychological violence and

economic neglect as part of the criminal act. (Andreas N. Sianturi, 2019)

Obstacles also arise from social and cultural factors. Many victims are reluctant to report for fear of social stigma or perceived as an internal family problem. This is reinforced by the lack of access for victims to legal protection institutions in certain areas. The PKDRT Law provides a reporting and protection mechanism, but its implementation is not evenly distributed. Juridical analysis needs to consider law enforcement practices in court. The court's decision must take into account social facts, valid evidence, and applicable legal provisions. It is important that the punishment imposed is in accordance with the principles of justice and legal certainty.

Another obstacle is the public's understanding of rights and obligations in the household. Public legal education is important so that husbands understand the legal consequences of neglect and wives know their rights as victims. Educational interventions can strengthen legal protections and suppress neglect practices. A multidimensional approach is needed, that is, a combination of normative, social, and psychological laws. Law enforcement should be supported by legal aid agencies, counseling, and the community to ensure victims receive optimal protection. In addition, there needs to be a complementary regulation or practical guidelines for law enforcement officials so that the handling of cases of wife abandonment is more consistent. These guidelines can include evidentiary standards, reporting procedures, and victim rehabilitation mechanisms. The formulation of the second problem also emphasizes the importance of access to justice for victims. Data triangulation, documentation, and legal assistance must be carried out to ensure that victims are not harmed. Thus, legal protection becomes effective and has a deterrent effect for perpetrators. (Bob Tarigan, 2021)

2. The legal obstacles and challenges faced in law enforcement against the crime of wives abandonment in Indonesia, as well as how legal protection for victims can be optimized.

One of the main obstacles in law enforcement against the crime of wives abandonment is the difficulty of proof. Cases of neglect are often non-physical, such as neglect of support or psychological violence, making it difficult to obtain objective evidence. Law enforcement officials usually require clear written evidence, documents, or witnesses, but in many cases such evidence is rare. This results in the legal process being hampered or the court decision is not in accordance with the victim's rights. The next obstacle is the lack of understanding of law enforcement officials on the psychological and economic dimensions of neglect. Law enforcement officers tend to emphasize physical violence only, while psychological or economic forms of neglect are often not taken into account in the trial process. As a result, victims do not get optimal legal protection despite experiencing serious suffering. (Sudikno Mertokusumo, 2017).

Social and cultural aspects are also a challenge. Many victims are reluctant to report because of social stigma or family pressure. In patriarchal cultures, neglect is often considered an "internal affair of the household" that does not need to be interfered with by outsiders. This kind of perception makes it difficult for law enforcement to obtain evidence and testimony from victims publicly. Another obstacle is the lack of victims' access to legal aid institutions and protection services. In many areas, legal aid posts (*posbakum*) or legal consultation services are not available or limited, so victims do not have legal assistance when reporting. This has an impact on the low level of reporting of neglect cases to law enforcement officials. Obstacles in the application of normative law also arise from the interpretation of different legal articles. For example, Article 304 of the Criminal Code and Article 330 of the Criminal Code require the existence of an element of willfulness or negligence, but law enforcement often finds it difficult to distinguish between negligence

due to economic incompetence and willful negligence. This leads to inconsistencies in court rulings.

Another challenge is the gap between formal law and social reality. Legal regulations exist, but their implementation is uneven throughout Indonesia. In remote areas, law enforcement officials may not understand the PKDRT Law or are not trained to handle cases of neglect. This makes legal protection for victims not optimal. Efforts to optimize legal protection can be done through professional legal assistance for victims. Legal aid agencies, advocates, and civil society organizations can provide consultations, assist with reporting, and assist with the trial process. This assistance also helps victims gain access to their rights, including psychological and economic rehabilitation. (Muladi & Soedjono Dirdjosisworo, 2018).

A significant challenge in law enforcement against the crime of wives neglect is the gap between formal law and social realities on the ground. Although legal regulations, such as Articles 304 and 330 of the Criminal Code, as well as Law No. 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) have existed as a clear legal umbrella, their implementation is still uneven throughout Indonesia. In remote areas, law enforcement officials often experience limited knowledge and skills in handling cases of neglect, including a lack of understanding of reporting procedures, evidentiary standards, and victim protection mechanisms. This causes victims to not get optimal legal protection, because reported neglect cases can be delayed, decided inconsistently, or even not processed at all. This condition shows that the existence of regulations is not enough, but rather the need for synergy between formal law and social practices that understand the local context of the victim.

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Legal socialization is also an important step. The public needs to be educated about the rights of wives and the legal consequences for abandoned husbands. This education can be done through campaigns, seminars, and legal counseling in communities and educational institutions. With a better understanding, victims dare to report and people are more aware of their responsibilities in the household. Overall, optimizing legal protection requires synergy between regulations, law enforcement agencies, companion institutions, and the community. This multidimensional approach ensures that victims receive maximum protection, perpetrators are held legally accountable, and the practice of wives abandonment can be significantly suppressed in Indonesia. (AndiHamzah, 2020)

Overall, optimizing legal protection for victims of wives abandonment cannot be achieved by relying on just one party. Synergy is needed between strong regulations, professional law enforcement officials, legal assistance institutions, and public awareness. Clear legal regulations, such as Articles 304 and 330 of the Criminal Code and Law No. 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law), are the main foundations. This regulation determines the rights of the victim, the obligations of the husband, and criminal sanctions for the perpetrator, thus providing a firm legal basis for law enforcement. Furthermore, the role of law enforcement officials is very crucial. Police, prosecutors, and judges must have an adequate understanding of the forms of neglect, both physical, psychological, and economic. They must also be trained in non-physical evidentiary techniques, such as witness evidence, administrative documents, and communication recordings, to ensure

that neglect cases can be brought to court and decided fairly. Without the professionalism of law enforcement, existing regulations can become ineffective because practices in the field are inconsistent.

To overcome this gap, professional legal assistance for victims is a strategic and effective step. Legal aid agencies, advocates, and civil society organizations can play a dual role: providing adequate legal consultation and accompanying victims during the reporting process and trial. This assistance not only ensures that victims understand their rights, but also facilitates access to psychological and economic rehabilitation, so that victims receive holistic protection, not just a formal legal aspect. In addition, the presence of professional companions increases the accuracy and success of proving cases in court, as well as preventing the risk of revictimization. In other words, professional legal assistance becomes a bridge between existing formal laws and the real social conditions of victims, so that the implementation of legal protection can run more effectively and evenly.

Legal assistance agencies and civil society also play an important role. This institution provides psychological and legal assistance, assists victims from reporting to the trial process, and helps victims understand their rights. In addition, the accompanying institution can be a supervisor of the legal process so that the perpetrator is truly accountable and the victim does not experience rehabilitation. Community involvement through legal education, awareness campaigns, and social support also helps build an environment that rejects neglectful practices. This multidimensional approach means that each element works in an integrated manner: regulation provides a legal basis, law enforcement officials apply the law effectively, companion agencies provide additional protection, and society strengthens social norms that support family well-being.

This synergy allows for maximum legal protection for victims, by preventing the abandonment of their rights, while suppressing the practice of neglect because the perpetrator knows the legal consequences. Thus, optimizing legal protection not only emphasizes the enforcement of criminal sanctions, but also prevention, education, and rehabilitation of victims. This is in line with modern criminal law principles that emphasize victim protection, legal certainty, and restorative justice in the household. This strategy will strengthen the position of the victim, enforce the responsibility of the perpetrator, and significantly reduce the practice of wives abandonment in Indonesia. (I Made, 2023)

Conclusion

Based on juridical analysis, the criminal act of abandoning the wife by the husband is a form of domestic violence that can be subject to criminal sanctions based on Articles 304 and 330 of the Criminal Code and Law No. 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law). This neglect not only has an impact on the economic aspect, but also has a serious psychological impact on the victim. Law enforcement still faces obstacles such as the difficulty of proof, the lack of understanding of law enforcement officers of non-physical violence, and the gap between formal law and social realities on the ground. Therefore, legal protection for victims has not been fully optimal, even though regulations and legal mechanisms are in place. Optimizing legal protection for victims of wives abandonment requires multidimensional synergy, namely strengthening regulations, increasing the capacity of law enforcement officers, assistance by legal aid institutions and advocates, and public awareness. Law enforcement officers need to be trained to understand psychological and economic violence, while companion agencies can assist victims in legal and rehabilitation processes. In addition, legal socialization to the community is very important to increase awareness of rights and obligations in the household, so that the practice of neglect can be significantly suppressed and victims get comprehensive

and fair protection.

References

- [1] Andi Hamzah, *Hukum Acara Pidana Indonesia*, Rajawali Pers, 2020.
- [2] Bob Tarigan, *Hukum Pidana Indonesia: KUHP dan KUHP Perubahan*, Sinar Grafika, 2021.
- [3] UU No. 23 Tahun 2004 tentang Penghapusan Kekerasan Dalam Rumah Tangga.
- [4] Mirjam Koomans & C. van Bemmelen, *Victimology: Victims, Crime and Society*, Kencana, 2018
- [5] I Made Agus Mahendra Iswara & Arya Agung Iswara, *Penyelesaian Perkara Tindak Pidana Kekerasan dalam Rumah Tangga (KDRT) melalui Mekanisme Mediasi Penal*, Penerbit Adab, 2023.
- [6] Fitriani. *Penjatuhan Pidana Penjara bagi Penelantaran Rumah Tangga*. Jurnal Yudisial, Vol. 14 No. 3, 2020
- [7] Kusumawati, Zulfah Putri. *Perlindungan Hukum bagi Perempuan sebagai Korban Tindak Pidana Kekerasan dalam Rumah Tangga*. Kultura: Jurnal Ilmu Hukum, Sosial, dan Humaniora, 2022.
- [8] Suryantoro, Dwi Dasa. *Pertanggungjawaban Pidana dalam Tindak Pidana Kekerasan dalam Rumah Tangga*. SAMAWA: Jurnal Hukum Keluarga Islam, Vol. 3 No. 2, 2023
- [9] Hidayati. & Dr. H. KMS Herman, *Buku Referensi Perlindungan Hukum Korban Tindak Pidana Kekerasan dalam Rumah Tangga*, Penerbit CV Megapress Nusantara, 2024.
- [10] Khaira, Ulfi Ana, Ferdy Saputra & T. Saifullah. *Penelantaran Rumah Tangga oleh Suami sebagai Bentuk Kekerasan dalam Rumah Tangga Ditinjau dari UU No. 23 Tahun 2004*. Jurnal Ilmiah Mahasiswa FH Universitas Malikussaleh, Vol. 5 No. 1, 2022.
- [11] *Application of Law by Judges to Family Neglect Reviewed from a Criminal Law Perspective*. Jurnal Ilmiah Ekotrans & Erudisi, 2024.