



**PROBLEMS IN THE ARRANGEMENT OF HOUSEHOLD
ABANDONMENT CRIMES IN THE PKDRT LAW AND ITS
RELEVANCE IN COURT DECISIONS**

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ABSTRACT

Abstract: Domestic neglect is a form of domestic violence that is often encountered in the community, but statistics show this violence is the least violent compared to other forms of violence stipulated in Law number 23 of 2004 on the Elimination of Domestic Violence. The number of household neglects both recorded in the data of women's comnas and in the police is very small, the real number is never known. It can go unreported because it is not considered a form of domestic violence. This research will explore the problem of regulating the regulation of economic neglect violence in Law No. 23 of 2004 on the Elimination of Domestic Violence and what impact the arrangement has on the execution of court decisions. The method used in this study is normative research, using literature studies with primary legal materials of Law 23/2004 and comparing 3 district court rulings that break free cases of domestic neglect violence. The results of this study are known that the regulation of household neglect articles still causes differences in interpretation in its implementation, such as the absence of a deadline for household neglect and the definition of the phrase abandonment in the law.

Keyword: *Neglect of Households. Women. Domestic Violenc*

1. Introduction

Based on Komnas Perempuan's year-end records from 2017 to 2020, most violence against women occurred in the personal sphere in the form of domestic violence/boyfriend violence (KtP). Domestic violence increases every year, in 2017 there were 10,205 cases of domestic violence or occupied 75% of all violence against women in that year². In 2018, Komnas Perempuan noted that the number of domestic violence still dominated violence against women, with 9,609 cases of domestic violence³. In 2019 there were 9,637 cases of domestic violence which is equivalent to 71% of the total cases of

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² Komnas perempuan catahu 2017, <https://www.komnasperempuan.go.id/reads-catatan-tahunan-kekerasan-terhadap-perempuan-2017>, accessed on September 11th, 2022, st. 20.30 WIB

³ Komnas perempuan, Tergerusnya Ruang Aman Perempuan Dalam Pusaran Politik Populisme, <https://www.komnasperempuan.go.id/reads-catatan-tahunan-kekerasan-terhadap-perempuan-2018>, accessed on July 23th, 2022, st. 01.30 WIB

violence against women⁴. In 2020, Komnas Perempuan succeeded in recording 9,637 cases of domestic violence or occupying 72% of all types of violence against women⁵.

Domestic violence itself is divided into 4 types of violence, first physical violence, psycho violence, sexual violence and finally economic neglect. Economic violence occupies the lowest position in year-end records, for example in 2017 there were 908 cases⁶, in 2018 there was an increase of 1,244 cases⁷, in 2019 there were 1,064 cases⁸, finally in 2020 economic violence was reported to have increased to 1,459 cases⁹. Cases of economic neglect, even though the smallest cases are reported, do not mean that they do not exist. The number of cases of economic neglect is small for several reasons, including that victims can still be mentored as a result of criminal acts of economic neglect, victims have a way to survive by helping to generate household income.

Household neglect is regulated in Article 9 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence. This article is an instrument of legal protection for victims in the household who are left without a living even though the victim is under their dependents, or for victims whose partner prohibits them from working. Based on BPS data for 5 consecutive years, the poverty rate for women is higher than the poverty rate for men. In 2016, the number of female missionaries was 11.14% while the number of male missiles was 10.59%¹⁰. In 2017, the poverty rate for women was 10.89% compared to

⁴ Komnas perempuan, Korban Bersuara, Data Bicara, Sahkan RUU Penghapusan Kekerasan Seksual Sebagai Wujud Komitmen Negara, <https://www.komnasperempuan.go.id/reads-catatan-tahunan-kekerasan-terhadap-perempuan-2019>, accessed on August 3th, 2022, st. 10.30 WIB

⁵ Komnas Perempuan, Kekerasan Meningkat: Kebijakan Peghapusan Kekerasan Seksual untuk Membangun Ruang Aman Bagi Perempuan dan Anak Perempuan, <https://www.komnasperempuan.go.id/reads-catatan-tahunan-kekerasan-terhadap-perempuan-2020>, accessed on September 11th, 2022, st. 20.30 WIB

⁶ *Ibid.*, Catatan Akhir Tahun Komnas Perempuan tahun 2017

⁷ *Ibid.*, Catatan Akhir Tahun Komnas Perempuan tahun 2018

⁸ *Ibid.*, Catatan Akhir Tahun Komnas Perempuan tahun 2019

⁹ *Ibid.*, Catatan Akhir Tahun Komnas Perempuan tahun 2020

¹⁰ Badan Pusat Statistika, Persentase Penduduk yang Hidup di Bawah Garis Kemiskinan Nasional, Menurut Jenis Kelamin 2015-2016, <https://www.bps.go.id/indicator/23/1538/3/persentase-penduduk-yang-hidup-di-bawah-garis->

10.39% for men¹¹. In 2018, the increase in the poverty rate for women rose to 10.06%, ironically the poverty rate for men fell to 9.59%¹². In 2019 the female poverty rate was 9.63%, higher than the male poverty rate of 9.18%. In 2020, the poverty rate for women is still above men, which is 9.96%, while for men it is 9.59%. The data above shows that women are a group that is more vulnerable to poverty than men.

There are 2 groups of women who are vulnerable to poverty, first is women who are not working, second is women heads of households. Poverty of women is caused by several factors, women do not have a share in the distribution of welfare in the family, in other words women do not have the power to determine the use of assets in the family, the second factor is the loss of work skills after a long absence from work, the husband as a partner can leave the woman, whether due to death, divorce or just being left alone. The facts show that several victims who experience neglect at home do not take legal action to protect themselves by reporting the violence they experience to the police station for processing and follow-up to court¹³. More often than not, the victim is afraid to report what happened, especially if the victim is under pressure or threats from her husband. It has been embedded in the victim that there will be separate consequences that threaten the victim if the victim is determined to report the case to court. Victims have the perception that taking cases to court will have a negative impact on victims and children, for example reporting cases of domestic violence that they experience will reduce the bad image of women, because victims have an obligation to maintain the good name of their families. The victim felt ashamed if she reported her own

[kemiskinan-nasional-menurut-jenis-kelamin.html](#), accessed on December 10th, 2022, st. 11.00 WIB

¹¹ Badan Pusat Statistika, *Persentase Penduduk yang Hidup di Bawah Garis Kemiskinan Nasional, Menurut Jenis Kelamin 2017-2018*, <https://www.bps.go.id/indicator/23/1538/2/persentase-penduduk-yang-hidup-di-bawah-garis-kemiskinan-nasional-menurut-jenis-kelamin.html>, accessed on September 11th, 2022, st. 20.30 WIB

¹² *Ibid.*

¹³ Iit Rahmatin, *Penafsiran Sanksi Penelantaran Dalam Rumah Tangga*, dalam Lidwina Inge Nur Tjahyo dan Choky R, Ramadhan, "Terhadap Perempuan dalam Peradilan Pidana: Analisis Konsistensi Putusan (Jakarta: Badan Penerbit Fakultas Hukum Universitas Indonesia, 2016), p. 92-100

husband, because she exposed her husband's disgrace and her own family's disgrace. In the end, the victim prefers to let the problem drag on, which is assumed to be fate that cannot be chosen again, or the victim goes to a complaint service agency which, according to her, can handle the case through mediation, and does not need to be brought up to law enforcement officials.

The crime of domestic neglect is indeed the least reported violence by victims, not because the number is the least compared to other violence, but because victims have a different perspective on this crime. Victims choose not to take legal action and focus on earning income due to no more income, or also because of the difficulty in reporting perpetrators of family neglect due to ignorance of the location of the perpetrators, also possibly because of criminal factors that cannot help answer the needs of victims of family abandonment.

This research will explore regulatory problems regarding criminal acts of economic neglect as a form of domestic violence and their relevance in the implementation of court decisions. With the following formulation of the problem, first, what are the problems of setting up criminal acts of economic neglect regulated in the PKDRT law. Second, what is the impact of this regulation on the implementation of the court's decision from the 3 district court decisions.

2. Reseach Method

This research is normative legal research with a comparative law approach, namely comparing 3 District Court decisions on cases of household neglect. The primary legal material used in this research is Law Number 23 of 2004 concerning the Elimination of Domestic Violence, Decision of the Kepanjen District Court Number 575/Pid.sus/2017/PN. KPN, Semarang District Court Decision Number 795/Pid.sus/2017/PN.SMG and Military Court Decision Number 107-K/PM III-16/AD/VIII/2016.

3. Results and Discussion

3.1. Factors in the Occurrence of Domestic Violence

Domestic violence has different characteristics from criminal acts in general, domestic violence is a hidden crime, and perpetrators and victims have a close/intimate relationship or can be interdependent. Intimate relationships in domestic violence make it difficult for victims to break away from abusive and abusive relationships. A number of theories in criminological studies can be used to explain the factors that cause this crime and how it happened, the theory includes:

3.1.1. Biological positivism theory, explaining crime or deviant behavior is influenced by biological factors. Aggressiveness is a trait that is brought by the individual from birth (internal factors). The violence that occurs as a result of these characteristics is seen as an individual pathology. However, with a bio-social approach, this view is corrected so that later it is stated that aggressive behavior alone will not give birth to violence/crime without pressure from outside the perpetrator. In other words, individuals who have aggressive genes or aggressive tendencies will not commit violence without pressure from their environment, such as conflict, social pressure, economic pressure, victim provocation, and so on. From this perspective, it is proposed that more appropriate treatment for perpetrators and avoidance of external pressures could be a solution or an effort to prevent domestic violence from occurring.

3.1.2. Control Theory, explaining that domestic violence is a form of behavioral deviation that occurs mainly due to weak individual control (perpetrators) and the absence of external control (community)¹⁴. Weak individual control alone will

¹⁴ George B. Vold, *Theoretical Criminology*, (Oxfordshire: Oxford University Press, 2002), p. 177-195.

not result in crime if there is no chance or opportunity for it. Domestic violence like this can be prevented by increasing individual control through internalizing values (For example: not using violence to solve problems, respecting each other, etc.), as well as empowering external controls to eliminate opportunities as described above.

3.1.3. Learning Theory, explains crime or deviant behavior as a result of the learning process in an intimate relationship¹⁵. From this perspective, the use of violence in domestic relationships can be explained as the result of a learning process. In other words, the perpetrator imitates the behavior of others (usually inferior imitating superior). There are not a few cases where people who have been victims of domestic violence tend to have a tendency to become perpetrators of domestic violence or other acts of violence. Statistics show that a person who is raised in a family environment that uses violence (such as witnessing both parents living in a violent relationship) has twice the tendency to be violent towards his wife, compared to children who are not raised in an abusive environment. Therefore, actors with roots like this must be resocialized to a different value. This means that parenting in the family is important to prevent domestic violence.

3.2. Arrangements for the Crime of Domestic Neglect in Law Number 23 of 2004 concerning the Elimination of Domestic Violence

The PKDRT Law was passed in 2004, before the existence of this law domestic violence was not recognized in the criminal law system in Indonesia. The Criminal Code only regulates offenses or criminal acts in the public domain, while the household is a private domain. Before the

¹⁵ Tim Newburn, *Criminology*, (New York: Willian Publishing, 2007), p. 34-39

PKDRT Law was passed, the state does not have the authority to investigate domestic violence cases if there are no reports from the victim or the family. The state only sees the occurrence of cases from outside the door.

Even though Indonesia has ratified the convention against discrimination against women (CEDAW) through Law Number 7 of 1984 concerning Ratification of the Convention Against Violence against Women, however, this law has no implementing regulations nor is there any sanction if there is a violation, practically it cannot be used. law enforcement agencies to take action against the perpetrators.

Before the PKDRT Law was introduced, the definition of domestic violence was adopted by the 1993 UN Declaration on the Elimination of Violence Against Women, along with its definition in Article 1:

“Violence against women is any act based on gender (gender-based violence) that results in or is likely to result in physical, sexual or psychological misery or suffering for women, including threats of certain actions, coercion or arbitrary deprivation of liberty, whether occurring in front of the public or in private life”

Article 2 of the Declaration states:

“Violence against women must be understood to include, but not only be limited to, acts of physical, sexual and psychological violence that occur in the family and in society, including beatings, sexual abuse of child girls, violence related to dowry, rape in marital rape, female genital mutilation and traditional practices against women, non-spousal violence and violence related to the exploitation of women, rape, sexual abuse, sexual harassment and threats in the workplace, in educational institutions and so on, trafficking in women and forced prostitution, including violence perpetrated and justified by the state wherever it occurs.”

The crime of family neglect starts from the definition and scope of the household, Article 6 of the PKDRT Law states that what is included in this law is:

- a. Husband, wife, children

- b. People who have a family relationship with the person referred to in letter a, because of blood relations, marriage, breastfeeding, parenting, and guardianship who live in the household and or
- c. People who work to help the household and live in the household.

According to the PKDRT Law, there are 4 types of domestic violence that can be reported and prosecuted, namely:

- a. Physical violence, an act that results in pain, falling ill, or serious injury¹⁶.
- b. Psychological violence, acts that cause fear, loss of self-confidence, loss of ability to act, feelings of helplessness, and/or severe psychological suffering to someone¹⁷.
- c. Sexual violence, is any act in the form of coercion of sexual intercourse, coercion of sexual intercourse in an unnatural and/or undesirable way, or coercion of relations with other people for commercial purposes and/or for certain purposes¹⁸.
- d. Household neglect includes 2 actions, namely:
 - 1) People who have legal obligations because of an agreement or agreement to provide living, care, and maintenance to that person within the scope of the household but do not carry out these obligations.
 - 2) Any person who results in economic dependence by limiting and/or prohibiting what is appropriate inside and outside the home so that the victim is under the control of that person¹⁹.

¹⁶Pasal 6 UU PKDRT

¹⁷Pasal 7 UU PKDRT

¹⁸Pasal 8 UU PKDRT

¹⁹Pasal 9 UU PKDRT

This research is limited to discussing Article 9 of the PKDRT Law, namely the crime of neglecting a household. As for criminal sanctions if someone commits an act that is prohibited by article 9 of the PKDRT Law, namely:

“Sentenced with a maximum imprisonment of 3 years or a maximum fine of Rp. 15,000,000 rupiah for each person who a) neglects other people within the scope of his household, b) neglects other people as referred to in Article 9 paragraph (2)”²⁰.

In addition to criminal sanctions and fines as stipulated in the articles described above, there are other sanctions stipulated in the PKDRT Law, namely:

- 3.1.1. Restrictions on the movement of the perpetrators, both those aimed at keeping the perpetrators away from the victims within a certain period of time, as well as restrictions on certain rights of the perpetrators.
- 3.1.2. Determination of perpetrators to follow a counseling program under the supervision of a certain institution.

3.3. Problems in Setting the Crime of Economic Neglect in the PKDRT Law

Marriage is one way to get a happy life with the partner you have chosen. Marriage in society, customs, and religion is seen as something sacred and because of that, various kinds of regulations are attached to individuals who will carry out marriages. For example, before marriage, a pair of bride and groom must not meet for at least 7 days or suppose a recitation of the Koran is held before *midodareni* night. Various kinds of rituals, both traditional and religious, are aimed at making a happy and lasting marriage for the bride and groom.

²⁰Pasal 49 huruf (a) UU PKDRT

By state, marriage is regulated in Law Number 1 of 1974 concerning Marriage. Article 2 states that a marriage is legal if it is carried out according to the religious law and beliefs of the bride and groom, from there one can see the close relationship between religious law and state law in the field of marriage law. The state cannot register marriages if the laws of religion and belief do not allow it. Religion and belief cannot be separated from Law Number 1/PNPS/1965 concerning the Prevention and Blasphemy of Religion and Law Number 23 of 2006 concerning Population Administration, as well as Constitutional Court Decision Number 140/PUU-VII/2009, there are 6 religions that recognized by the government and religious beliefs. Therefore, only those who are recognized and able to register marriages in a state manner are adherents of religions and beliefs that have been regulated in the laws and regulations above.

In this paper, we will only discuss how marriage requirements are regulated in only 2 religions, namely Islam and Christianity. This limitation is motivated by the cases that were sampled in this study. But before going there, it will be explained in advance how to regulate the article on household neglect in the PKDRT Law. Household neglect is regulated in Article 9 Paragraphs (1) and (2), as well as Article 49 Paragraphs (1) and (2) of the PKDRT Law. The following reads Article 9 of the PKDRT Law:

- (1). Everyone is prohibited from abandoning people within the scope of his household, even though according to the law that applies to him or because of an agreement or agreement he is obliged to provide life, care, or care for that person.
- (2). Neglect as referred to in paragraph (1) also applies to anyone who causes economic dependence by limiting and/or prohibiting proper work inside or outside the home so that the victim is under the control of that person.”²¹

²¹ Pasal 9 UU PKDRT

Based on the article above, there are 2 arrangements that mean family abandonment. First, a person is considered to fulfill the formulation of the family abandonment article if due to applicable law or because of an agreement or agreement, he is obliged to provide life, care, or maintenance. The phrase "because of the applicable law, because of agreement or agreement" means that the perpetrator and the victim are in a marital relationship. The definition of family in the PKDRT Law is included in the scope of the family. This phrase also refers to legal marriage events both according to religion and according to country. The two articles above prohibit a person from restricting the movement of the family in the realm of meeting their needs so as to make them completely dependent on the perpetrator of the restriction. These restrictions are for example the prohibition to work both outside the home and inside the home.

There are several problems with the article above which will be explained in more detail in the following discussion.

3.3.1. There is no standard definition of the term household neglect

Unlike the other 3 forms of domestic violence (physical violence, psychological violence, and sexual violence), there is no standard definition of domestic neglect explained in the law. Even though it contains 2 acts of neglect, household neglect itself is not defined with certainty. This becomes unclear when there is a need for proof, it is important to formulate the consequences of neglect in order to make it easier to determine whether there was an act of neglect that resulted in a "neglected victim". Apart from being regulated in the PKDRT Law, household neglect has also previously been regulated in Article 304 of the Criminal Code, with the following article reading:

“Whoever deliberately allows or places or allows someone to be in a state of misery, even though according to the law

applicable to him or because of an agreement, he is obliged to provide life, care or care for that person, shall be punished by a maximum imprisonment of two years and eight months or a maximum fine of three hundred rupiahs”

The above article is no longer valid since the 2004 PKDRT Law was ratified. Article 304 is transformed into Article 9 of the PKDRT Law with the term household neglect. The formulation of the act is not followed by the formulation of the definition of the household, which has a very narrow meaning, this results in multiple interpretations when the article must be proven in court. The formulation of Article 9 only regulates acts. The meaning of the phrase "Every person is prohibited from abandoning people within the scope of his household, even though according to the law that applies to him or because of an agreement or agreement he is obliged to provide life, care, or maintenance..." is also not explained in detail. The boundaries of giving life, nurturing, and nurturing are still blurred. Whereas an article must contain 3 main elements namely *lex scripta* (the law must be written), *lex certa* (the formulation of the offense must be clear), and *lex stricta* (criminal law must be interpreted strictly without any analogy).

Article 9 Paragraph (1) is punishable by imprisonment for a maximum of 3 years or a fine of up to fifteen million rupiahs, which will backfire if applied strictly. It could be that there are victims who are economically dependent entirely on the perpetrators, then the victims report and the perpetrators are proven to have committed the crime, so the perpetrators as the main income earners also will not be able to carry out their obligations to provide life, care, and protection as expected in the article above. The formulation of the article is contradictory to the sentence to be imposed.

3.3.2. Who is the perpetrator of household neglect?

In Islam, after pronouncing the marriage contract or consent qabul in front of the prince, it is always followed by the pronouncement of Sighat Taklik. Sighat taklik is an agreement made by a husband to his wife which contains obligations, where if these obligations are not fulfilled, the wife can sue for divorce. Sighat taklik talak only contains the husband's obligations and the wife's rights, even so in state law it is legally considered an agreement that binds both parties. Sighat taqlid talak is a statement by the husband in front of witnesses during an Islamic marriage, sighat taqlid talak is not said by the wife. The legal consequence of saying sighat taklik is that the husband must fulfill all the contents of the promise contained in the sighat talak.²² The following are the contents of the sighat taqlid divorce:

"After the marriage contract, I (the groom) promised with all my heart that I would have good intercourse with my wife (the bride) (*mu'asyarah bil ma'ruf*) according to Islamic teachings. To my wife, I declare a sign of taklik as follows, if I:

- 1) Left my wife for 2 (two) consecutive years;
- 2) Not giving him the obligatory maintenance of 3 (three) months;
- 3) Hurt my wife's body/physically, or
- 4) Leaving (not caring about) my wife for 6 (six) months or more; and because of my actions my wife was not pleased and filed a lawsuit with the Religious Court, so if the lawsuit is accepted by the Court, then my wife will pay Rp. 10. 000, - (ten thousand rupiahs) as *iwadh* (substitute) to me, my divorce fell one to him. I authorize the Court to receive the *iwadh* money and hand it over to the local

²² Unggul Sulistiawan dan Abdul Ghofur Anshori, 2021, Janji Suami Dalam Sighat Taklik dan Akibat Hukumnya Terhadap Suami/Istri, http://etd.repository.ugm.ac.id/home/detail_pencarian/52845, accessed on May 23th, 2022, st. 20.30 WIB

National Amil Zakat Agency for social worship purposes."

The above describes the agreement in marriage according to Islamic law, in marriage even though it is only said by one party with details only one party gets the rights and one party gets the obligation, still, the *sighat taklik* above can be included in "... because of the agreement or agreement, he is obliged to..." what is meant by Article 9 of the PKDRT Law.

Promises in a Christian marriage also contain bonds. . because of the agreement or agreement, he is obliged to give life, care...", the following is the promise/oath in a Christian religious marriage:

"... I take you as a (wife/husband) to belong to each other and also to protect from now until forever. In times of sorrow and joy, in times of abundance and shortage, and in times of health and sickness always love and respect one another, until death do us part, according to God's holy law and this is my very sincere promise of allegiance."

The two marriage vows above are further explained that the marriage bond has legal consequences as an agreement to provide for each other, provide livelihood, care for and protect, in this case, the one who has all these roles is the male party, as stipulated in Law Number 1 of 1974 about marriage about the obligations of husband and wife. For followers of the Islamic religion, the above laws and regulations are still reaffirmed in Article 77 of the Compilation of Islamic Law which cannot be separated from the Marriage Law, namely as follows:

"(1) Husband and wife bear a noble obligation to uphold a household that is *sakinah, mawaddah, and wa rahmah* which is the basis of the structure of society,

(2) Husband and wife are obliged to love, respect, be loyal to provide one physical and spiritual assistance to the other. others, (3) Husband and wife bear the obligation to care for and care for their children, both regarding physical, spiritual growth and intelligence and religious education, (4) Husband and wife are obliged to maintain their honor (5) If husband or wife neglects their respective obligations can file a lawsuit with the Religious Courts "²³

From the articles stated above, it can be concluded that household neglect can only be carried out by the husband because it is only the husband who should provide livelihood, care, and protection according to the Marriage Law. Wives cannot be charged with neglecting the household if only the husband is neglected, but the wife can be charged with Article 9 of the PKDRT Law if what is left behind is a child from the marriage, in addition to Article 9, the wife can also be charged with the Child Protection Act. In Article 9 of the PKDRT Law, there is an element of a relationship between the perpetrator or person who places or allows other people to be in a miserable state and the victim, that is, a person who is placed in a miserable condition. The element of this relationship is in the form of a legal obligation for the perpetrator to the person who is left in a miserable condition in the form of an obligation to give life, care, or maintenance to her husband. On the other hand, it is the husband who bears the legal obligation towards his wife and children.²⁴

²³Pasal 77 Kompilasi Hukum Islam

²⁴Iit Rahmatin, *Op. Cit.* 127-129

3.3.3. Period of household abandonment

The substance of the PKDRT Law itself does not clearly state when someone can be said to have committed household neglect. If a husband doesn't work for 3 months in a row and can't support his wife, can it be said to neglect the household? Or if the husband earns very little but still gives but rarely can it be said as neglect of the household? Scholars and law enforcement officers have different perspectives - different related to when someone can be said to have committed neglect of the household. Someone can be said to have abandoned the household if:

- 1) Unfulfilled needs in a reasonable manner, whether physical, mental, spiritual, or social. This criterion is contained in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. This criterion only applies if the victim of domestic neglect is the child of the perpetrator.
- 2) Not giving obligatory maintenance to his wife for three months or letting (ignoring) his wife for six months. This criterion is contained in the *sighat taklik* which the husband reads to his wife when the marriage ceremony takes place according to the Islamic religion. This means that this criterion only applies if the victim of neglect is a wife who is a Muslim, and does not apply if the one left behind is a wife with a religion other than Islam.
- 3) Leaving the other party for 2 consecutive years without the other party's permission. This criterion is contained in Article 19 of Government Regulation Number 9 of 1975 concerning

Regulations for Implementing Law Number 1 of 1974 concerning Marriage²⁵.

Based on research conducted by Rifka Annisa's Women Crisis Center, perspectives on the neglect of households also vary among law enforcement officers. In the Sleman DIY Resort Police, for example, a person can be said to have committed neglect of the household when a person has not provided a living for three months. A husband who is unemployed and does not have a steady income or has income but is under the UMR is still obliged to provide as much living as he can. A husband who from the aspect of financial capacity is actually capable but does not provide a living can be categorized as neglect and can be subject to household neglect articles²⁶.

Meanwhile, according to the Prosecutor in Nganjuk Regency, it is said that it is not neglect if the husband does not provide for his wife because he does not have the ability to do so, or if the husband supports his wife only a little and not of course it is also not neglect, because the husband still has the goodwill to provide for her.²⁷

In contrast to law enforcement officers at the North Sumatra Regional Police, the police only consider the time period for giving them without looking at the amount of income given. If the husband in a year gives money as little as possible or only gives it four times a year with an inadequate amount which can be proven by receipts, the police will not follow up²⁸.

²⁵*Ibid.*

²⁶*Ibid.*

²⁷*Ibid.*

²⁸*Ibid.*

3.4. The Impact of Ruling on the Household Abandonment Article on Decision 3 of the District Court Decision

The problems in setting up the household neglect article as described above affect the implementation of court decisions regarding the crime of neglect in the household. In the following, 3 cases that have permanent legal force will be presented which will portray the problems of the household neglect article regulation.

The First Case of the Decision of the Kepanjen District Court Number 575/Pid. sus/2017/PN. WHEN. Saiful Atali the Defendant) and Uswatun Khasanah were married in 1997 and since 2013 they have often had quarrels. Uswatun Khasanah was supported by Saiful Atali in the amount of Rp. 700. 000, -, but Rp. 200. 000,- to pay the salary of a clothes iron at their home so that Uswatun Khasanah fulfills the household needs by sewing at home. In June 2016 the Witness invited Saiful Atali to come to Uswatun Khasanah's sister, to ask for an alternative treatment because Saiful Atali admitted that he was sick which caused Saiful Atali to not want to have husband and wife relations with Uswatun Khasanah. But when he met with Uswatun Khasanah's brother, Saiful Atali handed over Uswatun Khasanah because he was no longer able to provide a living both physically and mentally, and instead of talking about alternative medicine for healing Saiful Atali's illness. Since then Saiful Atali has not returned home and left Uswatun Khasanah and his son. Since then, Saiful Atali has not given money for Uswatun Khasanah's daily needs. Saiful Atali had not supported Uswatun Khasanah since July 2016 until the verdict was handed down, while Uswatun Khasanah had never had a husband and wife relationship with Saiful Atali since 2013 because Saiful Atali had high blood pressure and high cholesterol. In November 2016 Saiful Atali sued Uswatun Khasanah for divorce at the Religious Court. At that time Uswatun Khasanah lived at home with his son in the shared residence that Saiful Atali and Uswatun Khasanah had previously occupied. Saiful Atali has since

separated from his house with Uswatun Khasanah, namely, in July 2016 he has never provided a living for Uswatun Khasanah and only provided school fees for his son, Nabila Maula Kholi, which amounts to between IDR 100,000 and IDR 200,000 each Sunday. Saiful was declared legally and convincingly proven to have abandoned the household as stipulated in Article 9 of the PKDRT Law and was sentenced to 6 months probation.

The second case is the Decision of the Semarang District Court Number 795/Pid. sus/2017/PN. SMG and the defendant Suriana were accused of neglecting her husband, Aswan. Suriana and Aswan were married in 1997, in 2004 Aswan had a psychiatric disorder, often angry, and the Aswan and Suriana families gave him sedatives between 2004 and 2011. When Aswan's schizophrenia got worse, Defendant Suriana put Aswan in the Pulih Foundation for intensive care from 2011-2014, the Defendant Suriana paid for all of Aswan's treatment. In 2014, Aswan was rushed to the hospital because of a stomach ailment. Since that year, Aswan has been sent home from the Pulih Foundation and taken care of by his older sibling. Aswan got worse for 1 year until 2015 he finally died. While in the care of the family, Suriana only visited 1 time, after Aswan died, the Aswan family reported Defendant Suriana with the article of household neglect for not taking care of Aswan. The defendant Suriana was not legally and convincingly proven to have violated the article on neglect in the household, Suriana was released and restored to her dignity.

The third case is the Decision of the Military Court Number 107-K/PM III-16/AD/VIII/2016, Defendant Rusdi has been married to Siti Syahriani since 2006, and after marriage the two of them did not live in the same house. Rusdi lives in a military barracks and Siti Syahriani lives in her parent's house, but they are still in the same town. Siti Syahriani was given Rusdi's savings book for daily finances, but Rusdi took the money back, so Siti Syahriani felt that the money was not for her, but

Rusdi was just keeping it. It's been 10 years and I haven't been given a child. Since not being given birth support, Siti Syahriani refused to have Rusdi have sex, but Rusdi still insisted on his will. Finally, Defendant Rusdi took Siti's motorcycle and chained the door of the house he shared. Siti contracts. Rusdi accused Siti of having an affair with several men. In 2016, Siti Syahriani and Rusdi were officially divorced. Rusdi did not give birth to Siti Syahriani, from 2011 to 2015. Siti Syahriani was able to forgive Rusdi, but Siti Syahriani wanted Rusdi to no longer ask Siti Syahriani, to return the house renovation money of Rp. 100,000,000,- (one hundred million rupiah) because Rusdi has also lived in the house for approximately 1 (one) year. Rusdi was declared not legally and convincingly proven guilty of committing a crime: "Abandoning other people within the scope of the household". Rusdi was acquitted of all charges and Rusdi's dignity and position were returned to their original state.

Of the three court decisions that held cases of household abandonment above, there are several impacts from the problematic regulation of Article 9 of the PKDRT Law, namely:

3.4.1. Defendant Suriana pays for her husband's treatment but never visits her while doing the treatment? Can Defendant Suriana be prosecuted by the victim's family after the victim's death? Economic neglect is not a complaint offense, nor is the victim dead. Can the victim's family complain about the PKDRT case?

3.4.2. In all of the cases above, it is possible that both the husband and wife were accused of neglecting the household, in the first case the husband was the defendant, in the second case the wife was the defendant, in the third case the husband was the defendant. So in practice, both men and women can become accused of household neglect, including if there is a woman who abandoned her husband

when he was sick. Meanwhile, according to Islamic law and the Compilation of Islamic Law, only men can neglect women. Women who leave their husbands cannot be called neglected because the obligation to provide livelihood, care, and protection is only attached to the men.

- 3.4.3. Cases of economic neglect are always accompanied by cases of domestic violence in other forms. For example, in case number one, before the occurrence of household neglect, it was preceded by psychological violence. In the second case, cases of household neglect were also preceded by psychological violence which can be seen from the occurrence of fights every day. In the third case, household neglect was preceded by psychological violence and sexual violence in the form of forced sexual intercourse without the victim's consent.
- 3.4.4. Reporting of neglected housing is not intended to put the defendant in jail, sometimes it is only to frighten the defendant or sometimes to force the defendant to carry out his obligations to provide a living, protection, and care. In case number 1 the victim only wanted the defendant to fulfill his obligations as a husband and father of his children by providing a living. Whereas in case number 3 the victim reported that her husband was also not to give a deterrent in the form of imprisonment, but so that the defendant did not charge the victim 100 million house renovation money.
- 3.4.5. In the third case, even though a lot of domestic violence was perpetrated by the defendant against the victim, the legal apparatus was only able to resolve cases of domestic neglect. Two other cases of violence, namely cases of psychological violence and sexual violence, were not

processed until court. It could be that the case was not processed because the victim did not want to be processed (because of the complaint), or it could be because of the difficulty of evidence that could be dug up by law enforcement officials.

4. Conclusion

The problem with the formulation of the article on household neglect (Article 9) of the PKDRT Law is found in the definition of neglect which is not explained in the explanation of the law, the article on household neglect is only limited by certain actions which are categorized in 2 forms, namely abandoning people who because of ties or promises obligated to provide life, care for and protect, the second form of the household neglect formula is to restrict or prohibit family members from working either outside the home or at home, with the aim that these family members become economically dependent on the perpetrators of family neglect. The second problem is that there is no time limit for neglect in the household. The third problem is that the perpetrator of household neglect is determined by what religion is adhered to in the household, this is the impact on the validity of marriage according to Law Number 1 of 1974 concerning Marriage.

Problems have an impact on the implementation of law enforcement Article 9, Article 49 of the PKDRT Law, which can be seen from a comparison of 3 cases that decided cases of household neglect. Cases of domestic neglect are always preceded by other forms of violence such as physical violence, psychological violence, or sexual violence. Victims do not want the perpetrators to be punished for committing household neglect, because financially the victim also depends on the perpetrators of household neglect.

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