

CRIMES OF PHYSICAL DOMESTIC VIOLENCE AND NEGLIGENCE IN THE HOUSEHOLD

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Abstract

Study This aim for do study to influencing variables happen violence in House stairs (domestic violence) in family, that is form violence physical and neglect. Additionally, research this is also purposeful for know action preventing and dealing with domestic violence carried out by husbands to wife, as Decision South Jakarta District Court Number 995/ Pid.Sus /2021/PN Jak.Sel. and Verdict South Jakarta District Court Number 130/ Pid.Sus /2022/PN Bks. Second decision the made with objective For discuss domestic violence problems. The data collection process was carried out using several research methodologies, namely library research and field research. Primary data collection can be done by conducting interviews with relevant sources. Apart from that, secondary data was also obtained in the form of papers, books and research reports which were directly related to the topic of domestic violence in the form of physical violence and neglect in the household. This data was collected as additional primary data. To uncover the root causes of domestic violence in the form of physical violence and neglect in families in the South Jakarta and Bekasi City areas, the data obtained was then analyzed descriptively and qualitatively. This is done to find out what actions can be taken to reduce the impact of domestic violence. Based on the research results, the main factors that cause domestic violence crimes committed by husbands against their wives are internal factors, especially those related to the personality characteristics (temperament) of the perpetrator. In conditions that trigger uncontrolled anger, such as lack of communication and intense jealousy, these characteristics make it easier for individuals to commit criminal acts. This is because they are more easily affected by these events. It should be noted that education and economic factors are one of the external factors that cause domestic violence.

Keywords: Crime, Domestic Violence), Physical and Neglect

INTRODUCTION

Married people often want to achieve harmonious living conditions. However, the fact is that not everyone has a comfortable and peaceful home life. It is not uncommon for people to use immoral methods, namely violence, to resolve conflicts that arise in the household. People who are both perpetrators and victims are often involved in domestic violence, which often occurs within the household. Physical and verbal violence, which includes threats of violence, are examples of forms of violence that are considered normal. People from various social strata with different living conditions, levels of education and ethnicity can be affected by domestic violence, both as perpetrators and as victims of partner violence (Putri, 2004).

The Indonesian government has taken action to tackle various criminal acts of domestic violence (KDRT) by enacting Law Number 23 of 2004. This law places special emphasis on eliminating criminal acts of domestic violence and provides firm and severe sanctions for perpetrator of the crime. On the other hand, it cannot be said that these actions have produced good results because malicious behavior often arises as a result of a number of different problems, such as economic, social, and political obstacles, as well as a large number of other elements. This incident not only occurred in Indonesia, but also occurred in most countries throughout the world. The crime of domestic violence has developed into a widespread problem throughout the world, ignoring human rights. Various acts of violence or use of threats (including physical, psychological, emotional, sexual and negligent behavior) with the aim of exerting control over a partner, child, family member or other individual living in the same household are included in the definition of domestic violence (Moerti, 2006).

The decision handed down by the South Jakarta District Court in Case Number 995/Pid.Sus/2021/PN Jkt.Sel. Based on a single indictment stated that the defendant had been proven guilty of committing the crime of "Domestic Physical Violence" which had permanent legal force. The criminal threat for this criminal act is imprisonment for a maximum of two months from the date of the crime. Regarding the elimination of domestic violence, the defendant has violated Article 44 paragraph (4) of Law Number 23 of 2004. In addition, the defendant has violated other applicable laws and regulations. Another decision, in the same case at the Bekasi City District Court Number 130/Pid.Sus/2022/PN Bks. Based on this single indictment, the defendant was found guilty of committing the crime of "Domestic Physical Violence" which was proven legally and convincingly. This criminal offense is punishable by imprisonment for a maximum of two months from the date of the commission of the criminal act. The defendant has violated Article 44 paragraph (4) of Law Number 23 of 2004.

This research examines the legal evidence for criminal acts of domestic violence in the form of physical violence and domestic neglect and the application of criminal law to perpetrators of criminal acts of physical violence and domestic neglect in Decision Number 995/Pid.Sus/ 2021/PN Jkt.Sel. and Decision Number 130/Pid.Sus /2022/PN Bks.

The theory used to examine this research problem is the Theory of Legal Application. Lili Rasjidi and Wyasa Putra argue that the theory of legal application is an extension of the law-making process, which includes institutions, equipment, proposals and the process of implementing law . When people talk about the implementation of laws, they are talking about the actual way in which the laws intended to be enforced are actually implemented (Ishaq, 2018). It is impossible to maintain the legitimacy of the phrase "law" if it is not enforced. Next, Theory of Criminal Evidence. The theory of criminal evidence, as stated in the Criminal Procedure Code (KUHP), aims to provide

the certainty needed in assessing certain facts which form the basis of the assessment. The word "proof" (*bewijs*) in Dutch can be understood in two different ways. It may be that this word refers to the process of providing assurance, or it may refer to the actual existence of certainty that can be associated with that process. Furthermore, as *an applied theory*, the theory of violence is used. In Yesmil Anwar's opinion, violence can be defined as follows (Nasution, 1976): "Using physical force, power, or engaging in actions that pose a threat or injury to oneself, another person, a group, or society is what we mean when we talk about violence. Manifestations of these injuries may include physical injury, death, psychological trauma, developmental disabilities, or the prohibition of basic rights (Fakhruzzy, 2019)."

RESEARCH METHODS

This research is included in normative juridical research. Research is carried out using a document examination process that combines analysis of various secondary data sources such as laws, regulations, court decisions, and legal theory, which is also known as library research. The opinions of legal experts can also be included in this form of research. Through the use of words instead of numerical data, normative legal research authors use qualitative analysis to explain existing realities.

The research source used by the author in this research is secondary data which was conducted by reviewing documents and literature in the library as well as field research at the Bekasi City District Court and the South Jakarta District Court.

RESEARCH RESULT

Position of Domestic Violence (KDRT) Cases

In Decision Number 995/Pid.Sus/2021/PN Jkt.Sel., the Defendant was charged by the Public Prosecutor with certain criminal acts as intended in Article 49 letter a of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (UUKDRT), the parts of which are as follows: every person, neglecting other people within the household (as intended in Article 9 paragraph (1)). First, every person, in this case, the BRT Defendant, who has been named as a defendant by the Public Prosecutor, is the person who is the target of all references in this case. The Defendant has fully admitted the allegations of the indictment regarding the Defendant's identity as a whole, which means there is no room for any error regarding the person in question. Based on these considerations, it has been proven that this element is valid. Second, the act of being negligent in providing proper care or attention to other people in the house, using the meaning contained in UUKDRT. Regarding the actions included in this phrase, there is ambiguity because the meaning of "negligent" is not mentioned in the explanation of the law. According to the Big Indonesian Dictionary, neglect is defined as completely inadequate, unkempt, and not paid attention to due to lack of attention or inability or failure to take care of oneself. This is in view of the fact that neglect is generally understood as the act of ignoring or not providing proper attention or care to someone or something.

The panelists argued that it is important to broaden the definition of neglect to include the act of "allowing" or "not providing appropriate care" to those for whom a person is responsible, such as a parent or head of household towards all members of their family. This is because the Paneliti believes that activities included in the waiver category are necessary.

Given the fact that witness H and her young children, who were abandoned by the Defendant, were the subject of neglect in this scenario, witness H asserted that the Defendant did not have the capacity to care for them. The evidence presented throughout the trial made it clear that the Defendant abandoned witness H and her two children without explanation. One of the children was adopted by H, while the other was a child for whom the Defendant was biologically responsible. The disharmonious relationship between the Defendant and his wife, H, was the driving factor for the Defendant to leave his apartment. After H moved out of the shared apartment for two years, the Defendant filed a divorce suit against H. Because the divorce process was still in the cassation stage, the Defendant was still waiting for the final decision regarding the divorce. Article 45 of Law Number 1 of 1974 as amended by Law Number 16 of 2019 concerning Marriage regulates that both parents are obliged to "provide a living and education to their children as best as possible" until the child is able to support himself. . "Parents", which is meant specifically is the father and mother of the children they have. In this case, if one parent does not fulfill his obligations, then the other parent is obliged to fulfill these obligations. "maintain" is defined as "looking after and looking after something or someone in an appropriate manner," as stated in the Big Indonesian Dictionary. Based on these circumstances, it can be concluded that the Defendant, even though he does not live with his wife and children, still provides financial support to his wife and children through the assistance provided by the Defendant's parents. However, the amount of financial support provided is not commensurate with the Defendant's ability to meet their financial needs.

Indifference to household obligations, especially failure to provide attention and affection to children, can have a negative impact on children's psychological development. This is because the lack of a parental figure, such as a father, can result in a child's psychological development not being optimal. As a result, the action was considered an example of neglect. Throughout his defense, the Defendant did not mention the name of his son, HMA, also known as U. This is an important fact that needs to be considered. Therefore, the question arises whether the Defendant forgot about the existence of his child, which caused the child not to recognize the Defendant as their father when they were in court. Based on these circumstances, the Panel realized that there was important information: The defendant had never communicated directly or indirectly, such as by telephone, with his own biological children. As a result, the child did not know the identity of the Defendant.

In addition, the panel obtained information indicating the defendant's lack of attention towards his wife and, in particular, his child. To be more specific, the defendant did not physically transfer the monthly living allowance; rather, he entrusted the money to his parents, who were responsible for sending it to H, his wife's own account. Based on these facts, the Panel concluded that the Defendant had neglected his child in a very serious way. Based on these considerations, it is proven that the Defendant has fulfilled the elements of abandoning a child or neglecting a child.

The decision of the Panel of Judges stated that specifically, in accordance with Article 49 letter a of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, Law Number 1 of 1974 concerning Marriage, Law Number 8 of 1981 concerning Criminal Procedure Law, and other related laws and regulations, then legally and convincingly, Defendant BRT has been declared guilty of the crime of "domestic neglect". The researcher agrees with the considerations of the panel of judges in the decision, but regarding the definition of neglect, the researcher does not agree, because neglect is an action without paying attention or without attention, meanwhile, in BRT's

actions, neglect does not occur because BRT continues to send money, even though the money is sent to the BRT's parents and then passed on to their wives and children, it is not enough to support the lives of their wives and children.

Legal Evidence in the Crime of Domestic Violence (KDRT)

The term "domestic violence" (KDRT) is used to refer to acts of physical aggression and neglect that occur within the family. In the context of this discussion, this term specifically refers to violence experienced by children, regardless of whether the violence is intentional or not, which results in the failure of people in authority over the child to fulfill the child's basic needs for physical, intellectual, emotional, growth and development, social, and spiritual.

Any action directed towards a person, especially a woman, that results in physical, sexual or psychological harm, as well as disrespect for family-related duties, is considered domestic violence. Among the behaviors that fall into this category are those that include issuing threats, using violence, influencing or dominating others, and unlawfully restricting their freedom. The fact that this occurs makes it clear that neglect is defined as a failure to fulfill one's obligations and responsibilities within the home, as legally defined as a person responsible for the well-being of those within their family environment. The term "domestic violence" does not only refer to physical crimes, but also includes psychological trauma and sexual violence. Victims of this crime are not only at risk of experiencing physical violence, but are also at risk of experiencing mental health problems and even death.

One of the most common and easily recognized forms of violence is violence that involves physical violence. While it is true that women are more likely to be victims of this kind of violence, it is important to remember that men can also be victims of physical violence in the context of their own families. Although people of any gender can be affected by domestic violence issues, women are more likely to be victims of this kind of violence. Manifestations of violence can occur in a variety of relationships, including romantic relationships and family ties, among others.

There are several actions that constitute physical violence in domestic violence, such as:

1. Kicking, hitting, pushing, choking, and injuring.
2. Throwing objects at your partner.
3. Using sharp weapons as a threat
4. Murder.

People who commit physical violence in the domestic environment as referred to in Article 5 letter a of Law Number 23 of 2004 concerning the Elimination of Domestic Violence shall be punished with imprisonment for a maximum of 5 (five) years or a fine of a maximum of IDR. 15,000,000.00 (fifteen million rupiah). Law Number 23 of 2004 concerning the Elimination of Domestic Violence regulates the use of the term "domestic neglect" which is considered a form of domestic violence and is often referred to as "domestic violence". This law was created with the aim of ending the widespread problem of domestic violence. Both the act of ignoring others and allowing others to be ignored are both considered forms of neglect. Meanwhile, neglect refers to the process or technique of neglect. The terms "swallow" and "swallow" are often used interchangeably. For example, domestic violence, a partner who intentionally causes neglect or puts financial stress on their partner is considered the perpetrator of the situation. To be more specific, it refers to the act of providing no assistance to the victim, other than taking

advantage of them, manipulating them, and attempting to control them to achieve certain monetary goals. In the context of children, the phrase “neglect” refers to the failure of a person who has authority over a child to meet the child's vital needs for physical, intellectual, emotional, social, and spiritual growth and development. This failure may be intentional or unintentional. It is possible that this failure was a form of violence. When a child's basic needs, such as his or her spiritual, physical, and social well-being, are not met at the level they should be, the child has been neglected. The act of wrongfully disengaging from the obligations and duties one is responsible for towards one's children is what the phrase “child neglect” denotes. Children are the responsibility of their parents. Domestic neglect is defined as the act of not providing necessary care and assistance to someone living in the family, as stated in Article 9 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence. Sanctions for those responsible for neglect are detailed in Article 49 of Law Number 23 of 2004. One of these penalties is a maximum prison sentence of three years or a maximum fine of Rp. 15,000,000,- (fifteen million rupiah).

Application of the Criminal Law for Domestic Violence in Decision Number 995/Pid.Sus/ 2021/PN Jkt.Sel. And Decision Number 130/Pid.Sus /2022/PN Bks.

In the South Jakarta District Court Decision Number 995/Pid.Sus/2021/PN Jkt.Sel. The defendant was sentenced to a crime based on the provisions of Article 44 paragraph (1) and Article 49 letter a of Law Number 23 of 2004 concerning the Elimination of Domestic Violence. The defendant was found guilty of committing the crime of domestic violence, especially physical violence.

Researchers are of the opinion that the application of the law is appropriate and correct. Regarding criminal acts of domestic violence, the criminal provisions applied in the South Jakarta District Court Decision Number 995/Pid.Sus/2021/PN Jkt.Sel., are in accordance with Law Number 23 of 2004 concerning the Elimination of Domestic Violence. Because the perpetrator and victim are both husband/wife, the act can be classified as a crime of domestic violence.

The defendant as referred to above has been legally and convincingly declared guilty of committing the crime of "domestic physical violence" as stated in the single indictment of the South Jakarta District Court which handed down Decision Number 995/Pid.Sus/2021/PN Jkt.Sel. Because the defendant had violated Article 44 paragraph (4) of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, the defendant was sentenced to prison for two months. In the decision handed down by the Bekasi City District Court (PN) Decision Number 130/Pid.Sus/2022/PN Bks. Accordingly, it was decided that the defendant BRT was also legally and convincingly proven guilty of the charge of "domestic neglect". Temporary that , Defendant A was sentenced criminal prison during six month . Defendant A has do violation against Article 49 letter a of the Law Number 23 of 2004 concerning Removal Violence in the Household , in cases Decision Number 995/ Pid.Sus /2021/PN Jkt.Sel ., Defendant on Saturday , May 8 2021 approx. at 15.55 WIB or at other times in May 2021 on Jl. Agung Raya II Gg. Saidi 1 No. 77 Rt. 001/004 Ex. Lenteng Agung, District. Jagakarsa, South Jakarta or in a place that falls within the jurisdiction of the South Jakarta District Court, has committed a criminal act of domestic physical violence. This criminal act of violence was committed by A against B, his wife, which resulted in disruption of daily activities, or obstruction of work or other livelihoods. Defendant A was legally and convincingly proven guilty of

committing the crime of physical violence in the household. Researchers agree with the decision.

CONCLUSION

Indifference to household obligations, especially failure to provide attention and affection to children, can have a negative impact on children's psychological development. This is because the lack of a parental figure, such as a father, can result in a child's psychological development not being optimal. As a result, the action was considered an example of neglect. The decision of the Panel of Judges is in accordance with Article 49 letter a of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, Law Number 1 of 1974 concerning Marriage, Law Number 8 of 1981 concerning Criminal Procedure Law, and statutory regulations. other related invitations, then legally and convincingly, Defendant BRT has been declared guilty of the crime of "domestic neglect". The researcher agrees with the considerations of the panel of judges in the decision, but regarding the definition of neglect, the researcher does not agree, because neglect is an action without paying attention or without attention, meanwhile, in BRT's actions, neglect does not occur because BRT continues to send money, even though the money is sent to the BRT's parents and then passed on to their wives and children, it is not enough to support the lives of their wives and children.

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