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Legal Review of the Criminal Act of Neglecting Wife and Children

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ABSTRACT

This study examines the crime of wife and child neglect within the household, focusing on the legal consequences for husbands and prevention efforts within the jurisdiction of the Boalemo Police. This issue is important because neglect not only causes economic losses but also psychological suffering, uncertainty about family status, and obstacles to the fulfillment of children's rights. The study used an empirical legal method with a descriptive-qualitative approach through literature studies, observations, and interviews at the Women and Children Protection Unit of the Boalemo Police. The results show that the Boalemo Police UPPA data recorded 26 cases of wife and child neglect between 2018 and October 2022. Husbands who neglect their wives and children can be held criminally responsible under Article 9 in conjunction with Article 49 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence with the threat of a maximum prison sentence of three years or a maximum fine of IDR 15,000,000. In practice, the police attempt mediation and victim assistance, but cases can proceed to the investigation stage and be handed over to the prosecutor's office if the elements of a crime are met. This research emphasizes the need for proportional law enforcement, increased family law literacy, and strengthened protection for wives and children who are victims of neglect.

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1. Introduction

The family is the most basic social unit that has the function of protection, care, education, and fulfillment of basic needs for each member. In the context of a state based on law, family relationships are not only understood as private relationships, but also as legal relationships that give rise to rights and obligations. Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia emphasizes that Indonesia is a state based on law, so that every social relationship, including the relationship between husband, wife, and child, must be placed within the framework of legal norms that guarantee the protection of human dignity [1].

The phenomenon of wife and child neglect demonstrates that the household is not always a safe space for family members. In social practice, neglect often occurs when a husband no longer fulfills his obligations to provide for, care for, maintain, or protect his wife and children. Neglect can manifest as neglecting economic needs, leaving children without adequate support, abandoning a wife in economic dependence, or leaving the family without certainty of responsibility. This situation aligns with studies on family function and child protection, which emphasize that the family should be the initial space for the growth of child protection and well-being [2].

The problem of domestic neglect is also directly related to the protection of human rights and child protection. Children as legal subjects who are under 18 years of age, including children who are still in the womb, have the right to live, grow, develop, and receive protection from violence and discrimination [3]. In addition, the Law on Child Welfare emphasizes that children have the right to receive care and protection from the womb and after birth [4]. Therefore, child neglect cannot be seen solely as an internal family problem, but also as a violation of the parents' legal obligations.

Normatively, Law Number 23 of 2004 concerning the Elimination of Domestic Violence prohibits anyone from neglecting a person within their household, even though according to law, agreement, or contract they are obliged to provide life, care, or maintenance to that person [5]. This norm shows that neglect is a form of domestic violence, especially economic and psychological violence. Previous studies also confirm that domestic neglect is a form of violence that is often hidden because victims tend to feel ashamed, afraid, or consider the problem a private matter [6].

The specific problem examined in this article is the crime of wife and child neglect occurring within the jurisdiction of the Boalemo Police. Initial data from the Women and Children Protection Unit (UPPA) of the Boalemo Police shows that cases of neglect continue to occur repeatedly. In 2018, there were 2 cases recorded, 5 cases in 2019, 5 cases in 2020, 7 cases in 2021, and 7 cases as of October 2022. Thus, in the last five years, there have been 26 cases recorded by the UPPA of the Boalemo Police [7]. These data demonstrate that the existence of legal norms has not been fully able to prevent the practice of neglect in the household.

In detail, data on cases of wife and child neglect at the Boalemo Police UPPA shows 2 cases in 2018, 5 cases in 2019, 5 cases in 2020, 7 cases in 2021, and 7 cases until October 2022, so that a total of 26 cases were recorded in that period [7].

The urgency of this research lies in the need to explain the relationship between criminal law norms, police case handling practices, and the protection of wives and children as victims. Neglect of wives and children can have legal consequences for the perpetrator, but criminal penalties do not always automatically address the victims' needs. In some cases, victims require certainty of livelihood, assistance, protection, and psychological recovery. Therefore, this research is crucial in demonstrating how criminal sanctions, mediation, assistance, and legal outreach can be positioned proportionally in handling cases of domestic neglect.

Previous research on domestic neglect has generally focused on normative provisions in the Law on the Elimination of Domestic Violence, forms of economic violence, and victims' rights [6], [8]. However, there is still a research gap related to how the legal consequences for husbands who neglect their wives and children are implemented in the context of case handling at the regional police level, particularly at the Boalemo Police. This gap is important because the implementation of the law depends not only on the text of the law, but also on the processes of reporting, evidence, mediation, inquiry, and investigation.

The novelty of this article lies in its placement of wife and child neglect as both a criminal law issue and a family protection issue, based on empirical data from the Boalemo Police. This article not only explains the norms of Articles 9 and 49 of the Law on the Elimination of Domestic Violence, but also outlines how victims' reports are processed, how the police mediate and provide assistance, and how preventative measures can be formulated through family law socialization and increased public awareness. Thus, this article contributes to strengthening the discourse on family criminal law and victim protection in the local context.

Based on this background, the following research problems can be formulated: a. What are the legal consequences for husbands who neglect their wives and children in the jurisdiction of the Boalemo Police? b. What are the efforts to prevent neglect of wives and children in the household? The purpose of this research is to analyze the legal consequences for husbands who neglect their wives and children and to analyze prevention efforts so that neglect in the household does not continue to occur.

2. Research Methods

This study employs empirical legal research. Empirical legal research is employed because this article not only examines laws and regulations but also examines the implementation of legal norms in the practice of handling cases of wife and child neglect at the Boalemo Police. This approach is relevant because the object of study, the crime of neglect, cannot be sufficiently explained through normative provisions; it must be viewed through the reporting, mediation, investigation, and prevention efforts undertaken by the police.

The research location was the Boalemo Police Department, specifically the Women and Children Protection Unit (UPPA), which handles reports of wife and child neglect. The data used consisted of primary and secondary data. Primary data were obtained through interviews with police officers handling domestic neglect cases. Secondary data were obtained from laws and regulations, books, journal articles, case documents, and case data from the Boalemo Police Department's UPPA.

Data collection techniques were conducted through observation, interviews, and literature review. Interviews were

used to obtain information regarding the process of handling cases of wife and child neglect, including the stages of mediation, investigation, inquiry, and transfer of cases. Literature review was used to examine primary legal materials in the form of the 1945 Constitution of the Republic of Indonesia, the Law on the Elimination of Domestic Violence, the Child Protection Law, the Child Welfare Law, as well as secondary legal materials in the form of books and legal journal articles.

The data were analyzed descriptively and qualitatively. The analysis was conducted by linking empirical data obtained from the Boalemo Police Department with applicable legal norms. The results were then compiled to address two main research focuses: the legal consequences for husbands who neglect their wives and children and efforts to prevent neglect in the household.

3. Results and Discussion

3.1. Legal consequences for a husband who neglects his wife and children

Neglecting one's wife and children is an act that can result in criminal consequences because it violates legal obligations within the household. Under family law, a husband is obligated to provide support, protection, and care for his wife and children in accordance with legal, religious, and marital agreement provisions. When this obligation is intentionally ignored and results in suffering or economic dependence on the victim, the act can be classified as domestic neglect.

Article 9 paragraph (1) of the Law on the Elimination of Domestic Violence states that every person is prohibited from neglecting a person within the scope of his household, even though according to the law that applies to him or because of an agreement or contract he is obliged to provide life, care or maintenance to that person [5]. Article 9 paragraph (2) also expands the form of neglect by mentioning acts that result in economic dependence through restrictions or prohibitions on work so that the victim is under the control of the perpetrator [5]. Thus, neglect can occur either through neglect of basic needs or through economic control.

The criminal consequences for neglect are regulated in Article 49 of the Law on the Elimination of Domestic Violence. This provision threatens the perpetrator with a maximum prison sentence of three years or a maximum fine of IDR 15,000,000 if they neglect another person within the household as referred to in Article 9 [5]. This criminal threat shows that the state considers neglect as a serious act because it harms the victim economically, psychologically, and socially.

In the context of wives, the legal consequences of neglect begin with the victim's right to report her husband to the police. Article 26 paragraph (1) of the Law on the Elimination of Domestic Violence gives victims the right to report domestic violence directly to the police, either at the victim's location or at the scene of the crime [5]. This report can be supported by evidence in the form of witness statements, documents, communications, or statements showing that the husband has neglected his obligations for a certain period of time.

The legal consequences for children have broader dimensions because children are subjects who require special protection. Neglecting children can hinder the fulfillment of their rights to survival, growth, development, education, and health. The Child Protection Law emphasizes that children have the right to protection from violence and discrimination [3]. Thus, child neglect in the household is not only economically detrimental, but can also disrupt the child's physical and psychological development.

Research at the Boalemo Police Department shows that when a wife reports her husband for alleged neglect, the police first examine the substance of the report and attempt mediation. According to members of the Boalemo Police Women and Children Protection Unit, cases are often resolved through mediation up to three times. If mediation is unsuccessful or the victim is unwilling to reconcile, and the criminal elements are deemed to have been met, the case proceeds to the investigation and inquiry stage [9]. This practice demonstrates that the police are not only carrying out a repressive function, but also attempting to find a resolution that takes the interests of the victim into account.

In the investigation process, the victim or reporter can be questioned as a witness, while the reported party can be summoned to provide information. If the evidence is sufficient, the investigator can raise the status of the case and submit the file to the prosecutor's office. In field statements, after the case file is declared complete or P-21 by the prosecutor's office, the suspect is handed over to the prosecutor's office for the prosecution process [9]. This stage shows that legal consequences do not stop at reporting, but can develop into a criminal process that ends in punishment if the elements of the crime are proven.

However, the use of imprisonment in cases of wife and child neglect needs to be understood proportionally. On the one hand, punishment is necessary to emphasize that neglect is a crime and provide a deterrent effect. On the other hand, imposing a prison sentence on a husband can create new problems if the victim still needs to fulfill a living. Therefore, Article 50 of the Law on the Elimination of Domestic Violence, which allows for additional penalties such as restrictions on the perpetrator's movement or mandatory counseling, needs to be considered as part of a more recovery-oriented solution. [5]

Neglect can also be seen as a form of economic violence. Economic violence occurs when a husband fails to meet household needs, limits a wife's access to economic resources, or leaves the victim dependent without adequate support. Legal studies on domestic neglect emphasize that this form of economic violence is often hidden because it does not always leave physical wounds, but can cause psychological suffering and loss of independence for the victim [6], [8].

Thus, the legal consequences for a husband who neglects his wife and children include the possibility of reporting to the police, a case hearing, mediation, an investigation, a prosecution, the transfer of files to the prosecutor's office, and criminal prosecution under Article 49 of the Law on the Elimination of Domestic Violence. In addition to criminal consequences, neglect also has social and civil consequences, such as marital breakdown, divorce, disruption of childcare, and a loss of security within the family.

3.2. Efforts to prevent neglect of wives and children

Efforts to prevent wife and child neglect must be carried out in an integrated manner, as the causes of neglect stem not only from weak legal sanctions but also from low legal awareness, economic problems, gender inequality, a lack of understanding of marital rights and obligations, and the perception that domestic issues are private matters that do not need to be

reported. Therefore, prevention must encompass legal, social, family, and institutional approaches.

First, prevention is achieved through building public legal awareness. The public needs to understand that neglecting one's wife and children is not simply a moral violation, but a criminal offense regulated by the Law on the Elimination of Domestic Violence. This legal awareness is crucial because many victims do not report the incident due to shame, fear, economic dependence on the perpetrator, or ignorance that neglect can be prosecuted. In this context, legal awareness is a crucial step in changing public understanding.

Second, ongoing outreach regarding marriage and household responsibilities is essential. Outreach should not only be aimed at married couples, but also prospective couples, students, community leaders, religious leaders, and village officials. Outreach materials should cover the rights and obligations of husbands and wives, children's rights, the prohibition of domestic violence, reporting mechanisms, and legal consequences for perpetrators of neglect. This effort aligns with the goal of the Law on the Elimination of Domestic Violence to prevent all forms of domestic violence and protect victims [5].

Third, strengthening the role of the police, particularly the Women and Children Protection Unit, is essential. The police hold a strategic position as the initial point of contact for victims. In practice, the Boalemo Police Department provides mediation, assistance, and explanations to victims regarding the legal process [9]. This approach needs to be strengthened with technical guidelines so that mediation is not interpreted as an attempt to pressure victims into reconciliation, but rather as a mechanism that truly considers the safety, wishes, and interests of victims.

Fourth, society has an obligation to participate in preventing domestic violence. Article 15 of the Law on the Elimination of Domestic Violence states that anyone who hears, sees, or knows about the occurrence of domestic violence is obliged to take steps within their means to prevent the crime from occurring, provide protection to the victim, provide emergency assistance, and assist in the process of submitting applications for protection orders. [5] This provision is important because neglect often occurs in secret and requires social environmental awareness.

Fifth, child protection must be a priority in every case handling. When children are victims of neglect, the legal approach must not only focus on punishing the perpetrator, but must also ensure that the child receives basic needs, education, care, and psychological protection. The state, family, and society have a shared responsibility to ensure that children do not lose their rights due to parental domestic conflict [3], [4].

Sixth, preventive efforts also need to be directed at strengthening family counseling. Article 50 of the Law on the Elimination of Domestic Violence opens the opportunity for judges to impose additional penalties in the form of ordering perpetrators to participate in counseling programs under the supervision of certain institutions [5]. In the context of prevention, family counseling can be used before cases develop further, as long as it does not neglect the safety of the victim. Counseling is important for building an understanding of responsibility, family communication, household financial management, and non-violent conflict resolution.

Seventh, law enforcement must remain firm if the neglect meets the elements of a crime. Mediation should not be used as a justification for eliminating criminal liability if the victim has suffered serious harm, the perpetrator has repeatedly neglected his obligations, or there are indications of economic control that is detrimental to the victim. In this case, legal certainty and victim protection must be balanced. Strict law enforcement can send a message to the public that neglect of a wife and children is intolerable.

Based on this description, efforts to prevent neglect of wives and children in the household can be formulated into three main strategies. First, an educational strategy through legal outreach, marriage education, and anti-domestic violence campaigns. Second, an institutional strategy through strengthening the UPPA (Regional Protection Unit for Women), victim assistance, and coordination with women's and children's protection agencies. Third, a law enforcement strategy through the process of investigation, prosecution, and prosecution of perpetrators if the elements of a crime are met. These three strategies need to be implemented simultaneously so that protection for wives and children does not stop at legal norms but is truly effective in community life.

4. Conclusion

Neglecting a wife and children in a household is a criminal act that has legal consequences for the husband as the perpetrator. Based on Article 9 in conjunction with Article 49 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence, a husband who neglects his wife and children can be punished with a maximum of three years' imprisonment or a maximum fine of IDR 15,000,000 if proven guilty through a court decision that has permanent legal force. In the jurisdiction of the Boalemo Police, these legal consequences begin with the victim's report, initial examination, mediation, investigation, and the transfer of files to the prosecutor's office if the criminal elements are met. Neglect not only impacts the wife economically and psychologically, but also hinders the fulfillment of children's rights to proper care, protection, and development.

Efforts to prevent wife and child neglect require an integrated approach. These efforts include raising awareness about the law on marriage and domestic violence, increasing public awareness that neglect is a criminal offense, strengthening the role of the Boalemo Police Women and Children Protection Unit, providing assistance to victims, providing family counseling, and enforcing the law firmly against perpetrators. Prevention also requires community involvement, as stipulated in Article 15 of the Law on the Elimination of Domestic Violence. Therefore, legal protection for wives and children must be directed not only at punishing perpetrators but also at rehabilitating victims and preventing recurrence of domestic neglect.

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