

Review Of The Crime Of Murder Committed By Women In The Family



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ABSTRACT

The crime of premeditated murder can also be committed by women in the family, which increases along with the development of society. This type of research is normative with statutory and conceptual approaches. The data used is secondary data consisting of primary, secondary and tertiary legal materials. Factors causing the criminal offence of premeditated murder committed by women in the family are due to factors within the perpetrator, namely revenge, envy, heartache and mental disorders as well as factors from outside themselves which include economic factors, lack of appreciation of religion and lack of legal knowledge. For this reason, it is suggested that women should not commit premeditated murder against family members because the threat of punishment is very high and very detrimental to the perpetrator and that efforts to overcome premeditated murder against the family by women are carried out by all parties, especially families with a religious approach.

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1. INTRODUCTION

In essence, since humans were born, they have brought their own natures. God has created humans in male and female sexes. every human being is equal before the law, without distinguishing between men and women. As long as his status as a legal subject, he has legal rights and obligations and must be able to be responsible for every action in accordance with the provisions of the applicable laws and regulations. Women and men

basically both have intelligence, behaviour or character as well as ideals and dreams to be achieved. Women are also social beings who really need to socialise with other humans, especially in meeting their needs. Human nature is a natural inheritance that must be respected by anyone. Therefore, all forms of discrimination based on sex are strongly opposed.¹

The Indonesian state recognises and upholds human rights and basic human freedoms as rights inherent in human beings, which must be protected, respected and upheld in order to enhance human dignity, welfare, happiness, intelligence and justice. This is regulated in the 1945 Constitution of the Republic of Indonesia and various other laws and regulations such as Law No. 39/1999 on Human Rights which is regulated in Articles 45-51 and also other laws related to women's rights such as Law No. 23/2004 on the Elimination of Domestic Violence. In various studies and regulations from national legal instruments and international law, women are included in vulnerable groups along with other vulnerable groups such as children, minorities, refugees and others.² The inclusion of women as one of the vulnerable groups in human rights is due to various social, cultural, economic or physical conditions that make women a weak and unprotected group and are therefore at risk and danger of experiencing violence or violations of rights by other groups.³ The law can qualify an act as lawful or disqualify it as unlawful.⁴

Moving on from the above thoughts, the issue of women in society has an equally important role as men, there are only things that are specific / special in women. This is related to the nature and nature of women or women as mothers who will give birth to children later. However, in society both have an important role that cannot be ignored. Especially in this current era. the issue of women or women in the role of functions and problems is an issue that is not only interesting to talk about but also very relevant to study.

The development of interaction in society, supported by the development of science and technology, has a major influence on the role of women. Women are increasingly prominent and are needed both as important

¹Ali, M, Zaidan, Perempuan Dalam Perspektif Hukum Pidana, *Jurnal Yuridis* 1(2), Desember 2018, ISSN 1693448, p. 217 -231, <https://doi.org/10.35586/v1i2.152>.

²Hermawan, Budi Bangun, Hak Perempuan dan Kesetaraan Gender dalam Perspektif Filsafat Hukum, *Jurnal Pandecta*, 15(1), Juni 2020, p. 74-82. <https://doi.org/10.15294/pandecta.v15i1.23895>.

³Krisnalita, *Perempuan, HAM dan Permasalahannya di Indonesia*, Jakarta: Binamulia Hukum, 2018, p. 71-81.

⁴Tina, Yulies Masriani, *Pengantar Hukum Indonesia*, Jakarta: Sinar Grafika, 2018, p.13.

human resources as thinkers and decision makers. Women emerge as leaders in all fields and also increase attention to various problems in the fields of economy, politics, social culture, and so on. Thus the old concept of women as "kitchen friends" will be increasingly abandoned with the increasing role of women outside the home. Because of this role, there will be progress for women to achieve their desired achievements. Actions that are in accordance with the law do not need to be questioned because they do not cause problems. Conversely, unlawful acts are categorised as unlawful acts that actually occur (onrecht in actual) or legal acts that may occur (onrecht in potentie). Usually unlawful acts will be sanctioned.⁵

The influence of changes in the position of women also has a negative impact where the more open the role of women doing activities outside the home, the possibility of women doing deviant things such as committing crimes or criminal offences that often appear in the mass media, both from television media, newspapers, and other mass media. As a result, there are some people who develop patterns of behaviour that deviate from general norms by doing what they want for personal gain and interests that disturb and harm other parties.⁶ The history of the development of society from before, during and after the Middle Ages is characterised by various human endeavours to sustain life.⁷

Any crime that often occurs in society is essentially a despicable act in addition to being a problem for the disruption of community involvement and security. Although it is men who always and often commit crimes, it does not mean that women can commit crimes. This is because women are human beings who have desires and needs for themselves, so that to fulfil them it is possible to commit deviant behaviour, including as perpetrators of crime. A criminal offence is also called an offence or a punishable act or criminal event is an act that violates or contradicts the law committed with fault by a person who can be held accountable.⁸ One form of criminal offence or crime committed by women today is premeditated murder. The crime of premeditated murder is a criminal offence that is preceded by a plan to kill, but the definition and requirements of the elements of planning are not

⁵Sudarto, *Kapita Selektta Hukum Pidana*, Bandung; Alumni, 2018, p. 111.

⁶Kartono, *Patologi Sosial 2, Kejahatan*, Jakarta: Rajawali Press, 2019, p. 5.

⁷Atmasasmita, Romli, *Teori Dan Kapita Selektta Kriminologi*, Bandung: PT Refika Aditama, 2018, p. 63.

⁸Soesilo. R, *Pokok-Pokok Hukum Pidana Peraturan Umum Delik-Delik Khusus*, Bogor: Politea, 2019, p. 19.

formulated in the Criminal Code (KUHP).⁹ The offence of premeditated murder is a criminal offence that is preceded by a plan to kill, but the definition and requirements of the element of premeditation are not formulated in the Criminal Code (KUHP).¹⁰

Premeditated murders committed by women in the family are increasing along with the development of society. The rise of the phenomenon of murder cases in the internal family needs to be a concern for all groups, which throughout 2023 in Indonesia increased.¹¹ An example of a fairly viral case that has recently been in the spotlight of netizens on social media is the death of a police officer due to being burned by his own wife by Briptu FN, a policewoman who burned her own husband, Briptu RDW after a domestic dispute in Mojokerto.¹²

In the Explanation of the 1945 Constitution, it is stated that the Republic of Indonesia is a state based on law, not based on power. This means that Indonesia is a state of law that wants the law to be enforced, respected and obeyed without exception for all citizens. The purpose of this research is to find out the factors that cause premeditated murder committed by women in the family.

2. METHODS

This type of research is normative, which is research aimed at finding and formulating legal arguments through analysis of the subject matter.¹³ Normative legal research, also known as library legal research, is legal research conducted by examining library materials or secondary data only.¹⁴ The approach in this research is statutory and conceptual and the nature of the research is descriptive analytical, namely research that explains and

⁹Iriyanto, Echwan dan Halif, Unsur Rencana Dalam Tindak Pidana Pembunuhan Berencana, *Jurnal Yudisial*, 14(1), 2021, p. 19.

¹⁰Wulandari, Anita, Tinjauan Hukum Pidana Islam Terhadap Tindak Pidana Pembunuhan Berencana Dalam Kitab Undang-Undang Hukum Pidana, *Jurnal Al-Hakim*, 2(1), Mei 2020, ISSN 2685-2225, p. 19.
<https://oldjournal.iainsurakarta.ac.id/index.php/al-hakim/article/view/2487>.

¹¹<https://www.liputan6.com/regional/read/5491839/kaleidoskop-2023-maraknya-fenomena-kasus-pembunuhan-keluarga-di-indonesia>,

¹²<https://www.liputan6.com/hot/read/5616322/4-fakta-terkait-polwan-bakar-suami-yang-juga-polisi-hingga-tewas-tragis?page=4>, (2024, Mei 18)

¹³Ali, Zainuddin, *Metode Penelitian Hukum*, Jakarta: Sinar Grafika, 2009, p.14.

¹⁴Peter, Mahmud, Marzuki, *Metode Penelitian Hukum*, Jakarta: Sinar Grafika, 2017, p. 34.

describes contributing factors to premeditated murder committed by women in the family.

3. DISCUSSION

Crime is one of the social phenomena that greatly affects the peace and prosperity of community life. Therefore, this criminal act is an act that is both form and nature contrary to the law. These criminal acts according to their form and nature are contrary to the order or order desired by the law, they are acts against (violating the law). Strictly speaking, they are detrimental to society, in the sense that they contradict or hinder the implementation of a good and just social order.¹⁵ It is also recognised that crime does not arise on its own and cannot be completely eliminated. As long as human beings live in society, all that can be done is to reduce it in the sense of counteracting its development, not eliminating it. Other crimes remain complex social phenomena, so in order to recognise this, it is necessary to know what causes these crimes.

The background of the causes of crime in general and the crime of murder committed by women, many scholars and jurists have suggested that crime is the result of various and diverse factors. And these factors today and in the future cannot be arranged according to a generally applicable provision without any exceptions or in other words to reveal criminal behaviour there is no scientific theory. Some of the factors that cause women to commit murder against their family members such as parents, husbands and children that come from within themselves include:¹⁶

1. Heartache.

Heartache is a disease that easily arises in a person, in this case in the woman concerned. Women who are hurt sometimes cannot control their feelings when the hurt arises in women. If the woman cannot control her hurt feelings, such as by killing another person without realising it, who she considers to be the cause of the woman's hurt feelings.

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¹⁵Moelyatno, *Kejahatan Dalam Masyarakat*, Rajawali Press, 2015, p. 120.

¹⁶Zulkifli, Andi, *Tinjauan Kriminologis Terhadap Kejahatan Pembunuhan Yang Dilakukan Oleh Perempuan di Kota Makassar*, Skripsi, 2013, p. 56.

realising it, who she considers to be the cause of the woman's hurt feelings.

3. Envy

The feeling of envy is one of the factors causing the offence of murder committed by women. Envy arises because someone is considered a rival to another person so that he tries to eliminate the person he considers as a rival. Or in other words, that the envious woman will eventually cause hatred or hostility to the person she considers a rival.

4. Mental illness

It is an act committed to take the life of another person in an unlawful manner. Murder can be committed with a variety of motives (such as revenge, jealousy, self-defence and so on). A person can commit murder in ways that may be unimaginable to others because they already have psychological problems that can make them not be in reality when they do it. Murder with mental illness is an act committed to take the life of another person in an unlawful manner. Forensic psychology is very helpful in conducting in-depth investigations related to cases of murder with mental disorders. In criminal law, the responsibility of the person who commits a criminal offence is often called the subjective element while the criminal act is the objective element. The determination of the subjective element of ODGJ (Person with Mental Disorder) who commits murder is given by a psychiatric expert (psychiatrist), through a forensic psychiatry examination or judicial psychiatry. The pre-adjudication phase examination or preliminary examination includes the investigation and prosecution process.

If during the preliminary examination process by the investigator it is found that the offender is suffering from mental disorder, then this examination process will be terminated by the investigator. Then the ODGJ will be put into a mental hospital upon a decision from the judge. This is in accordance with Article 44 of the Criminal Code, paragraph (1) "Whoever commits an act for which he cannot be held accountable because his soul is defective in growth or disturbed by disease, shall not be punished" and paragraph (2) "If it turns out that the act cannot be held accountable to the perpetrator because his soul is defective in growth or disturbed by disease, the judge may order that the person be admitted to a mental hospital for a maximum of one year as a probationary period", paragraph (3) "The provisions in paragraph 2 shall only apply to the Supreme Court, High Court, and District Court". Apart from the perpetrator himself, there are also factors

that influence a person to commit a murder crime, namely factors that come from outside the individual himself:¹⁷

1. Economic factors

In general, it has a relationship with the emergence of crime, where in the development of the economy in modern times, when free competition grows, reviving consumer interest by placing advertisements and so on. This tends to create a desire to have as much goods or money as possible, so that people have a tendency to prepare themselves in various ways for crime and so on. It can be said that economic conditions and criminality have a direct relationship, especially regarding crimes against other people's property, or let's say theft. In a situation where the ownership of economic factors is fixed and in the meantime prices suddenly soar, then automatically the economic range owned earlier will be reduced.

With reduced purchasing power, a person will cause calculations and considerations that can still be controlled, but if at the same time there is a decrease in the value of money, an increase in family dependents, etc. which basically affects the standard of living so that it becomes so low, it revives consumer interest by placing advertisements and so on. This tends to give rise to desires to have as much goods or money as possible so that in doing so, one has a tendency to prepare oneself in various ways for crime and so on. It can be said that economic conditions and criminality have a direct relationship, especially regarding crimes against other people's property, or let's say theft. In a situation where the ownership of economic factors is fixed and in the meantime prices suddenly soar, then automatically the economic range owned earlier will be reduced. With reduced purchasing power, a person will make calculations and these considerations can still be controlled, but if at the same time there is a decrease in the value of money, an increase in family dependents, and so on, which basically affects the standard of living so that it becomes so low, this can lead to the emergence of criminality as an outlet. Unemployment can be said to be the cause of crime, all of which are motivated by poor economic conditions.

¹⁷Fachrurrozi, Kamal, *et al*, Pengaruh Kemiskinan Dan Pengangguran Terhadap Kriminalitas Di Indonesia Di Tahun 2019, *Jurnal Real Riset*, 3(2), p. 177-182. DOI 10.47647/jrr.

2. Lack of appreciation of religious teachings

There have been many attempts to determine the extent to which religious factors influence the incidence of crime. However, there does not seem to be enough evidence to know that low religious values can cause people to commit crimes. The norms contained in religion (all religions teach truth and goodness) and religion is always good and guides people towards the right path, and shows things that are prohibited and required, which are good and which are bad, so that if humans really explore and understand the contents of their religion, then they will always be good people too, will not do things that harm others, including criminal acts. And conversely, if religion does not function for humans, it is just a symbol, then it is meaningless at all, even human faith will become weak. If this is the case, then people are very easy to do bad things because their social control is not strong, and it is easy to commit crimes.

3. Lack of knowledge about the law

Due to the lack of public knowledge about the law, the community acts as a vigilante when there are problems that occur in the community.

4. CONCLUSION

Factors causing the crime of premeditated murder committed by women in the family are due to factors within the perpetrator, namely due to revenge, envy, heartache and mental illness / disorder as well as factors from outside themselves which include economic factors, lack of appreciation of religion and lack of legal knowledge. So that women do not commit premeditated murder against family members because the threat of punishment is very high and very detrimental to the perpetrator and that efforts to overcome premeditated murder against the family by women are carried out by all parties, especially the family with a religious approach.

5. LIMITATION

In order for this research to be directed, it is necessary to make a limitation, namely the discussion in this study is a problem that has been determined, this research only discusses the factors that cause premeditated murder committed by women in the family. This research is for the community, it is hoped that it can be used as a guideline not to commit the crime of premeditated murder in the family because it has severe sanctions. As for law enforcement, it can be used as a guideline in making decisions related to the crime of premeditated murder in the family.

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