



Legal Parameters of Placement of Parents in Nursing Homes as Neglect

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Abstract

Background. The placement of the elderly in nursing homes is still often perceived as a form of neglect, although positive law has not made such an act an automatic offense. The difference between social judgment and legal measures has led to the lack of clear parameters to determine when placement in a nursing home is still an exercise of family obligations and when it turns into neglect.

Purpose. This study aims to analyze the legal position of parental placement in nursing homes and formulate the boundary between moral obligations, family legal obligations, and neglect based on Indonesian positive laws through the theory of H.L.A. Hart.

Method. This research uses normative legal research methods with a legislative approach and a conceptual approach. The analysis was carried out qualitatively through the interpretation of laws and regulations, legal doctrines, and the theory of H.L.A. Hart as the basis of the analysis.

Results. The results showed that the measure of neglect lies in the neglect of the obligation to provide life, care, maintenance, and attention to the elderly who need help, not in the location where they live. Parental placement in a nursing home remains legal as long as the family continues to fulfill legal responsibilities, maintain relationships, supervise treatment, and ensure all parental needs are met. On the other hand, neglect only occurs when the family releases these legal obligations so that the basic needs of the parents are no longer met.

Conclusion. This research offers legal parameters that clearly distinguish between moral obligations, family obligations, and neglect, thus providing certainty in the application of laws related to the care of elderly parents.

Keywords: H.L.A. Hart; Family Law; Children's Obligations; Nursing Home; Parental Neglect.



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INTRODUCTION

The relationship between a child and a parent is a legal and moral relationship that lasts throughout life. Parents have conceived, given birth, raised and educated children to adulthood.

These sacrifices give birth to an obligation for children to nurture and respect their parents

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DOI 10.62885/legisci.v3i6.1234

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when they enter old age. These obligations are not only known as moral values, but are also recognized in positive law in Indonesia (Suryani et al., 2020). Family harmony is greatly influenced by the reciprocal implementation of responsibilities between parents and children (Sari et al., 2022).

Social changes have affected the care patterns of the elderly. Busy work, high mobility, and increasing need for health services have caused some families to choose to place their parents in nursing homes (Ningsih, 2020). This choice often causes negative judgments from the public. Not a few consider that sending parents to a nursing home is a form of neglect of children's obligations. As a result, there has been a debate about the boundary between treatment efforts and neglect of family members.

The debate raises important legal issues. On the one hand, the law requires adult children to take care of parents who need assistance according to their abilities as stipulated in Article 46 paragraph (2) of Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019 (Marriage Law). On the other hand, Article 9 of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) prohibits everyone from abandoning their dependent family members. Law Number 13 of 1998 concerning Elderly Welfare (Elderly Law) also recognizes the existence of social welfare services for the elderly, including specially organized care facilities. The recognition shows that nursing homes are part of a social service system recognized by law.

In addition, people still often view sending parents to nursing homes as an immoral act. The view that one of the duties of a child is to take care of the parents directly at home (Bakung et al., 2022). Parents who need warmth and calm in the scope of their family seem to be 'thrown away' by their children. Sending parents to a nursing home is also often categorized as an escape from a child's responsibility towards his parents (Pertiwi, 2021). Such assessments are based more on cultural values and social stigma than on clear legal measures.

Research on the right to maintenance and parental neglect has been conducted from various perspectives. Annisa et al. Examining child support rights for elderly parents and legal remedies for elderly neglect through a normative juridical approach. The research confirms that children have an obligation to provide maintenance, maintenance, and assistance to parents in accordance with the provisions of laws and regulations. Placement of parents in nursing homes is seen as an alternative treatment if the child is unable to take care of them directly (Aprilia et

al., 2022). However, the study has not explicitly distinguished between placement in a nursing home as an implementation of family obligations and neglect as a violation of the law.

Another study was conducted by Tulyabu et al. Through an empirical study at the Griya Elderly Nursing Home "Jannati". The results of the study show that some children still fulfill their right to maintenance, but the implementation is not optimal because visits, attention, and maintenance are carried out in a limited manner. The study focuses on the implementation of children's obligations to parents living in nursing homes (Tulyabo et al., 2024). The research has not described the legal measures that distinguish the fulfillment of family obligations from neglect, nor has it used H.L.A. Hart's theory to distinguish between moral obligations and legal obligations. These differences are the space that this study fills through the analysis of positive Indonesian law and the theory of H.L.A. Hart to formulate the parameters of parental placement in nursing homes that still meet legal obligations and that have turned into neglect.

The difference between legal provisions and the social stigma against parental placement in nursing homes suggests the need for research to clarify the boundary between moral obligations and legal obligations. The unclear boundaries can create uncertainty in determining when the child's obligations are still considered to have been fulfilled and when the neglect turns into a violation of the law. H.L.A. Hart's thinking on the relationship between law and morality provides a theoretical basis for explaining the problem. Hart distinguishes moral obligations born from the values and habits of society with legal obligations born from norms recognized in the legal system (Bello, 2014). Thus, Hart's view could shed light on the clear limits on when family obligations turn into legal obligations that can be enforced through sanctions.

Based on these problems, this study aims to analyze the legal position of parental placement in nursing homes according to positive Indonesian law and explain the difference between moral obligations, family legal obligations, and neglect as violations of the law through the theory of H.L.A. Hart. This research makes a conceptual contribution by formulating legal parameters to distinguish the placement of parents in nursing homes as a form of implementing family obligations in the face of neglect of family members.

LITERATURE REVIEW

H.L.A. Hart explained that law and morality are closely related, but they are not mutually exclusive. Morality develops from religious values, customs, habits, and views on life of the

community (Pulungan, 2011). On the contrary, law is a set of rules that gain recognition and enforceability in a legal system (Azhari et al., 204). Not every moral value turns into a legal norm. Similarly, not all legal norms are formed solely on moral considerations. The separation is necessary so that the assessment of an act is carried out objectively based on the applicable rules.

According to Hart, moral obligation is an obligation born from people's beliefs about behavior that is considered good and appropriate (Bello, 2025). These obligations are not always accompanied by legal sanctions, but gain strength through social acceptance. In Indonesian society, children are seen as having a moral obligation to respect, love, and care for their parents as a form of reciprocity for the sacrifices that have been made since childhood (Saipudin, et.al., 2022). These values live in religious teachings, moral norms, and family culture that develop in society.

These moral obligations then become the basis for the formation of various legal norms that govern the relationship between children and parents. However, Hart emphasized that a new obligation can be called a legal obligation if it has been recognized in the legal system (Hart, 1994). In other words, the law does not adopt all the moral values that live in society. The law only adopts certain values that are considered important to maintain order, certainty, and justice. Therefore, this research does not stop at moral assessments of children's obligations to parents, but continues the analysis of obligations that have acquired legal legitimacy.

The second stage is *legal obligation*. Hart explained that legal obligations are born because of the existence of binding and recognized rules in the legal system (Latipulhayat, 2017). In this study, this obligation is reflected in Article 46 paragraph (2) of the Law which states that adult children are obliged to take care of their parents and family in a straight line upwards, according to their ability, if they need help. The arrangement shows that the obligation to take care of parents is no longer only in the moral realm, but has become a legal obligation recognized by the state.

Article 46 paragraph (2) also shows that the law does not constitute an absolute obligation. The formulations "according to their ability" and "when they need assistance" indicate that the law takes into account the concrete circumstances of the parties. Children are not burdened with obligations that are beyond their capabilities. On the contrary, these obligations arise when parents do need help or protection. Thus, the law provides a more

measurable limit compared to moral obligations that are often understood as absolute by society.

The recognition of the legal obligation was then analyzed using the concept of *primary rules* proposed by Hart. According to Hart, *primary rules* are rules that directly regulate people's behavior through the formation of rights and obligations. These rules determine what must be done and what is prohibited by law (Efendi, et.al., 2024). The existence of *primary rules* is the foundation for the creation of order in social life. Without primary rules, the law does not have a binding standard of conduct for every citizen.

In this study, Article 46 paragraph (2) of the Marriage Law is positioned as the *primary rule*. The provisions born of a legal and reciprocal marriage stipulate the obligation for the child to take care of parents who need help, according to his ability. The norm does not regulate law enforcement procedures, but establishes the obligations that must be fulfilled by legal subjects. Therefore, the existence of Article 46 paragraph (2) is the starting point to assess whether the child's obligations to parents have been carried out or have been ignored. The primary rule then becomes the basis for analysis of the possibility of neglect.

Hart explained that the existence of *primary rules* alone is not enough to form a complete legal system. A legal system requires other rules that govern how to recognize, interpret, and enforce primary rules. These rules are known as *secondary rules*. The existence of secondary rules provides certainty about who has the authority to determine the occurrence of law violations and how a rule is applied to concrete events (Nasihuddin et al., 2024). Thus, *secondary rules* function to maintain consistency in the application of the law.

The concept of *secondary rules* in this study is associated with the PKDRT Law and Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code). Article 9 of the PDKRT Law regulates the prohibition of neglect of household members who according to law are obliged to be maintained. Meanwhile, Article 428 of the Criminal Code only regulates criminal liability for those who leave people who are obliged to be cared for in a state of abandonment. These two provisions do not create new obligations, but provide legal consequences if the previously determined obligations are not implemented.

Thus, this study makes a clear distinction between the obligation to maintain and the liability for the neglect of the obligation. Article 46 paragraph (2) of the Marriage Law is the basis for the birth of children's legal obligations to parents. On the contrary, Article 9 of the PKDRT Law and Article 428 of the New Criminal Code are the basis for assessing whether the

neglect of obligations has developed into neglect that is recognized as a violation of the law. This distinction is important so that any form of failure that fulfills obligations is not necessarily seen as a criminal act.

The next stage in Hart's theory is the *rule of recognition*. According to Hart, *the rule of recognition* is a basic rule used to determine whether a norm is recognized as a valid law in a legal system (Hart, 1994). Through this rule, it can be known the source of law that is the basis for the assessment of an act. *The rule of recognition* also serves to distinguish legal norms from social norms or moral norms that do not have juridically binding power. Therefore, this concept is important in research that tests the legality of an action based on positive laws.

In this study, *the rule of recognition* was used to identify the legal basis that regulates the placement of parents in nursing homes. The recognition of the existence of nursing homes is not only based on social practices that develop in the community, but also on the provisions of the Elderly Law and its implementing regulations that recognize social welfare services for the elderly through family-based and institution-based services. Through the concept of *the rule of recognition*, the existence of a nursing home is understood as an institution that obtains legitimacy from the legal system. Not as a symbol of abandonment or as a symbol of the implementation of obligations, according to Hart's thought.

METHODS

This research is a normative legal research that examines legal norms (Mardani, 2025) regarding children's obligations to parents and the legal limits of neglect of family members. The approaches used include a legislative approach and a conceptual approach (Ibrahim, 2005). The legislative approach is used to study the Marriage Law, the PKDRT Law, the Elderly Law, the New Criminal Code, and other regulations related to the object of research. A conceptual approach is used to understand the concepts of moral obligations, legal obligations, neglect, and family responsibilities based on legal doctrine.

The legal materials used consist of primary legal materials, secondary legal materials, and tertiary legal materials (Soekanto et al., 2015). Primary legal materials include laws and regulations that regulate the legal relationship between children and parents, protection of the elderly, and neglect of family members. Secondary legal materials are in the form of books, journal articles, research results, and expert opinions discussing family law, criminal law, elder protection, and legal theory of H.L.A. Hart. Tertiary legal materials are legal dictionaries, encyclopedias, and other references that help explain legal terms. All legal materials are

collected through literature studies, then inventoried, classified, and arranged according to the formulation of the research problem.

The analysis is carried out qualitatively through grammatical, systematic, and teleological interpretation of all legal materials that have been collected (Mertokusumo, 2004). H.L.A. Hart's theory is used as an analytical knife to distinguish moral obligations, family legal obligations, and neglect as violations of the law. The analysis stage begins with identifying the norms that form the child's obligations to parents, then examining the legal consequences of neglecting these obligations, and assessing the legal position of nursing homes in the Indonesian legal system. Furthermore, all of these norms are analyzed based on a framework of thought that has been prepared to determine whether the placement of parents in nursing homes is an implementation of a legal obligation or meets the element of neglect. The results of the analysis are then formulated prescriptively to build legal arguments that provide certainty, usefulness, and justice.

DISCUSSION

Legal Analysis of Placement of Parents in Nursing Home as a Form of Neglect of Family Members

The legal analysis of the placement of parents in nursing homes as a form of neglect of family members departs from the view that entrusting parents to a nursing home is synonymous with discarding or neglecting parents. This view arises because the family culture in Indonesia places the family as the party responsible for caring for elderly family members (Juita, 2022). Not a few people consider that children who do not take care of their parents directly at home have failed to carry out their moral and social obligations.

In addition, social developments have changed the pattern of family life. High work mobility, limited time, and increasing need for health services cause not all families to be able to provide direct care to elderly parents (Nadilla et al., 2026). At the same time, the needs of the elderly are also increasingly complex. Some elderly people need ongoing medical supervision, assistance with daily activities, and an environment that supports their health conditions. This situation encourages some families to choose nursing homes as a place to care for their parents.

In legal discourse, these choices are often associated with fulfilling children's obligations and the potential for neglect. Neglect is not just a situation when a person lives apart from his family. Neglect is the act of allowing a person who should have life, care, or maintenance to be

in a condition where his basic needs are not met (Prastyananda, 2016). Therefore, the main measure of neglect is not where a person lives. The main measure is whether the legal obligations imposed on the responsible party have been fulfilled or not.

This concept can be found in Article 5 letter d of the PKDRT Law which states that domestic neglect is a form of domestic violence. This provision shows that Indonesian law views neglect as a serious act. Violence is not only in the form of physical acts that cause injury. Violence can also be in the form of neglect of people who are dependent on the perpetrator (Lubis, n.d.). Therefore, a person can be held legally accountable even if he does not commit an act of violence directly.

More detailed arrangements are contained in Article 9 paragraph (1) of the PKDRT Law. The provision states that everyone is prohibited from abandoning a person within the scope of his household, even though according to the law that applies to him or based on consent or agreement, he is obliged to provide life, care, or maintenance to that person. From this formulation, several elements can be found that must be fulfilled together to declare the existence of neglect, namely:

- a. there must be a legal relationship that gives rise to the obligation of maintenance,
- b. There is a legal obligation to provide life, care, or maintenance, and
- c. These obligations are not carried out so that the party who is his dependents experiences a state of abandonment.

Based on these provisions, neglect cannot be concluded just because the parents live outside the child's home. Neglect also cannot be determined just because the parents live in a nursing home. The law does not make the location of residence an element of the crime of neglect. What is examined is whether the party with legal obligations continues to carry out the obligation or ignores it. Therefore, the analysis of nursing homes must be directed at the implementation of family responsibilities towards parents.

Furthermore, it is necessary to understand who is meant as a family member or household member who receives legal protection. Article 2 paragraph (1) of the PKDRT Law states that the scope of the household includes husbands, wives, children, people who have family relationships due to blood relations, marriage, breastfeeding, parenting, and guardianship who live in the household, as well as people who work to help the household and settle in the household. This provision shows that not all family relationships are automatically included in the scope of the household according to the PKDRT Law. For family members other than

husbands, wives, and children, there are additional requirements in the form of living in the same household (Arief, 2017).

The phrase "settling in a household" has an important meaning in determining the implementation of the PKDRT Law. Parents who live with children in one house can be included in the scope of the household as referred to in Article 2 paragraph (1). On the other hand, if the parents have lived in another place permanently, then a debate arises about the application of the provisions of domestic neglect in the PKDRT Law. However, the end of domestic relations according to the PKDRT Law does not mean removing all children's legal obligations to parents. These obligations can still be found in other laws and regulations.

The obligations of children to parents are expressly regulated in Article 46 paragraph (2) of the Marriage Law. The article contains several elements that must be understood in its entirety, namely:

- a. The child has grown up. This means that these obligations are not imposed on children who are still minors or are still dependent on their parents.
- b. Parents need help. Maintenance obligations do not automatically arise just because a person has the status of a parent. This obligation arises when parents do need help from their children.
- c. Assistance is provided according to the child's ability. This phrase indicates that the law takes into account the real conditions faced by the child.

The provisions of Article 46 paragraph (2) of the Marriage Law show that Indonesian law recognizes the existence of a mutual obligation between parents and children. After parents carry out their obligations to raise and educate children, the law gives the child an obligation to help parents in need.

The existence of the phrase "according to his ability" has a very important meaning. The law does not impose obligations that are beyond one's ability. Therefore, if the child does not have adequate economic ability, is sick, unemployed, or is in a condition that causes him or her to be unable to provide assistance optimally, then this situation must be taken into account in the legal assessment. In such a situation, it is not appropriate for the child to be immediately considered to be negligent. The assessment must be carried out by looking at the real abilities that the child has at the time when the obligation should be carried out (Tuasikal, 2016).

In addition, Article 46 paragraph (2) also requires that parents must 'need help'. This requirement indicates that maintenance obligations are conditional and not absolute (Listari et

al., 2023). If the parents still have sufficient income, have adequate assets, receive a pension, or are able to meet their own living needs, then the need for child assistance must be assessed proportionately. In these circumstances, it cannot necessarily be stated that the child committed neglect because he did not provide financial assistance. What must be considered is whether there is a real need that requires intervention from the child.

The interpretation of Article 46 paragraph (2) also shows that the child's obligations do not depend on his or her existence in one house or in one Family Card. This provision does not require the existence of the same place of residence between the child and the parent. The article also does not require children and parents to be registered in one Family Card. The legal relationship that gives birth to the obligation of maintenance comes from a blood relationship in a straight line upwards. Therefore, differences in addresses, differences in residence, and differences in population administration do not remove these legal obligations.

Consequently, the legal measure does not lie in one house or one Family Card. The measure of the law lies in the existence or not of the implementation of maintenance obligations. Children who live separately from their parents can still carry out these obligations through the provision of economic assistance, attention, supervision, and other forms of assistance. On the other hand, a child who lives in the same house with his parents may be considered to have neglected his obligations if he does not meet the living and care needs of parents who need help. Therefore, residence is not the main determining factor in assessing neglect.

After understanding the child's obligations to parents, it is necessary to analyze the position of nursing homes in the Indonesian legal system. The regulation regarding the elderly is contained in Article 1 number 2 of the Elderly Law that the elderly is a person who has reached the age of sixty years and above. This law was established to provide protection and improve welfare for the elderly. The state recognizes that the elderly group needs special attention because they experience a decline in physical and social abilities (Sari, 2025). Therefore, protection for the elderly is the responsibility of the family, society, and the government.

Article 8 of the Elderly Law emphasizes that the family has the main responsibility in realizing the welfare of the elderly. This provision shows that the family remains the most responsible party in the care of elderly parents. However, the law does not stipulate that all maintenance must be carried out directly by the family at home. The law actually recognizes

the existence of various forms of social welfare services that can be used to help meet the needs of the elderly. Thus, the law does not rule out the possibility of using special treatment facilities.

Nursing homes are a form of social welfare services recognized by the state. The existence of nursing homes is intended to provide health services, social services, protection, coaching, and assistance for the elderly (Liswandi et al., 2024). In practice, many elderly people require special care that cannot always be provided by the family. Some require round-the-clock medical supervision. Others require rehabilitation, therapy, or assistance in daily activities. This situation shows that nursing homes can be a means to help meet the needs of the elderly.

Based on the results of an analysis of various laws and regulations, no provision was found that prohibited families from placing parents in nursing homes. There is also no norm that states that such actions are automatically negligent. On the contrary, the existence of nursing homes is recognized as part of the social service system for the elderly. Therefore, the placement of parents in a nursing home is basically a legal act. Legal assessments should be directed to the purpose and implementation, not solely to the location of the treatment.

If the elderly are placed in a nursing home because they need better health services, more intensive supervision, or facilities that cannot be provided by the family, then these actions cannot be categorized as neglect. In such circumstances, the family is actually trying to meet the needs of the parents in the way that is considered the most appropriate. The family continues to carry out its responsibilities even though daily maintenance is carried out by professionals. The presence of a nursing home only serves as a means to assist in the implementation of these obligations. Legal responsibility remains with the family (Qamarina, 2017).

On the other hand, placing parents in nursing homes can lead to neglect if done with the aim of relinquishing family responsibilities. This situation can be seen if the family no longer pays attention to the condition of the parents, does not meet their living needs, does not establish communication, and does not supervise the care of the parents. In such a situation, the family no longer carries out the maintenance obligations imposed by law. Nursing homes are only used as a place to transfer responsibilities to other parties. If these conditions are proven, the element of abandonment can be considered to have been met.

The assessment of whether or not there is neglect must be made based on the concrete facts in each case. Not all families have the same condition. There are families who have high economic ability but do not pay attention to their parents. There are also families who have

limited abilities, but still try to meet the needs of their parents in various ways. Therefore, legal judgments should not be based solely on assumptions or social stigma. What must be assessed is the bond of obligation based on the law (Alamsyah et al., 2025).

The maintenance aspect also cannot be limited to providing sustenance. Elderly parents need emotional attention, social connections, and psychological support. Regular visits, good communication, and family involvement in decision-making are part of the maintenance effort. Therefore, the fulfillment of children's obligations is not only measured by the amount of money given. Maintenance should be understood as a comprehensive effort to maintain the well-being of the elderly. This approach is in line with the goal of protecting human dignity guaranteed by law.

From the point of view of criminal law, the act of neglect can give rise to criminal liability if it meets the elements specified in the law. Article 49 of the PKDRT Law provides a criminal threat for perpetrators of domestic neglect. In addition, Article 428 of the New Criminal Code also regulates the neglect of people who are obliged to be given life, care, or maintenance based on the law. Both provisions show that criminal law provides protection to parties who are in the care of others. However, the measure used remains the same, i.e. whether or not there is a waiver of maintenance obligations.

Article 428 of the new Criminal Code does not use the size of one house or one Family Card as an element of a criminal act. The provision emphasizes more on the existence of legal obligations and failure to carry out these obligations. Therefore, a person cannot be exempted from responsibility just because he lives in a place different from the person he is dependent on. On the other hand, a person cannot be immediately considered to have committed neglect just because the person who is his dependents lives elsewhere. What must be proven is whether or not there is a waiver of legal obligations (Hengki et al., 2026).

Hart's View on Sending Parents to Nursing Home

The debate over the placement of parents in nursing homes is not only related to legal norms, but also to the moral judgments that apply in society. Some people view that children who place their parents in nursing homes have neglected family responsibilities (Abdi et al., 2020). This assessment arises because Indonesian culture places the family as the main party responsible for the care of the elderly. For Muslims, taking care of their parents is an obligation of their children (*birrul walidain*) in order to obtain the pleasure of Allah, which is reflected in

the pleasure of their parents (Romdhoni, 2024). As a result, the existence of nursing homes is often perceived as a symbol of the release of family responsibilities.

Based on the results of the research, this view is not always in line with the applicable legal construction. Law and morality do have a close relationship, but they are not the same thing. An action can be viewed as morally undesirable without having to be considered a violation of the law. On the contrary, an action can violate the law even though it does not always receive widespread social condemnation (Kusuma, 2015). This distinction is important when assessing whether the placement of parents in a nursing home can be categorized as a form of neglect of family members.

The analysis of this problem can be explained through H.L.A. Hart's thoughts on the relationship between law and morality. Hart explained that legal obligations and moral obligations are two different concepts. Moral obligations are born from values, beliefs, customs, religion, and people's views on life. Legal obligations are born because of rules that are recognized and enforced in the legal system (Miswardi et al., 2021). Therefore, not every moral obligation can be enforced through legal sanctions.

According to Hart, society often confuses moral judgment with legal obligations. An act that is considered inappropriate is often immediately considered a violation of the law. Even though the law has clearer limits on what is ordered and what is forbidden. Law requires a normative basis that can be objectively identified. Meanwhile, morality is often influenced by different values in society (Luthan, 2012). This difference is clearly seen in the issue of nursing homes and care for the elderly.

The results of the study show that some people still consider nursing homes as a place of disposal for the elderly. This assumption is born from the view that a good child must always live with his parents. The presence of parents outside the family home is often interpreted as a form of neglect. In fact, in some cases, families who place their parents in nursing homes receive negative stigma from the surrounding environment (Pertiwi, 2021). However, this assessment is closer to the moral realm than the legal realm.

From a moral point of view, children do have an obligation to respect and care for their parents. This obligation lives in various religious teachings and cultural values in Indonesia. Parents are seen as parties who have sacrificed to raise, educate, and protect children since childhood (Bakung, et.al, 2022). Therefore, when parents enter old age, the community expects

children to give attention and devotion as a form of reciprocity. These expectations form a strong moral standard in family life.

These moral standards often give rise to the judgment that parents should be cared for by their own children. However, the results of the study show that the standard cannot always be applied to the whole family. Each family has different economic, occupational, health, and ability conditions. Some families are able to provide full care at home. Others face time and resource constraints. Therefore, the same moral measure does not always result in the same solution for every family.

Hart explained that morality cannot always be used as a single measure to determine whether there is a violation of the law. The state cannot criminalize someone just because they are considered immoral by society. The state can only impose sanctions if there are legal rules that are violated in accordance with the principle of legality (Sinurat, 2023). This principle is important to maintain legal certainty. Without clear limits, the law will turn into a tool to impose different moral judgments. This situation can cause injustice.

The results of the study show that children's obligations to parents are indeed recognized by law. Article 46 paragraph (2) of the Marriage Law states that adult children are obliged to take care of parents who need their help according to their abilities. This provision shows that some of the moral values regarding respect for parents have been adopted in law. Thus, the relationship between children and parents is not only ethical, but also has a juridical dimension. However, these obligations are not formulated absolutely.

The formulation of Article 46 paragraph (2) contains important limitations. Children's obligations arise when parents need help. These obligations must also be carried out according to the child's ability. That is, the law does not command something that is beyond one's ability. Children who do not have economic ability cannot be equated with children who have the ability but deliberately ignore their parents. These differences show that law works more measurably than morality.

From the results of the study, it can be understood that the family's civil obligations are between moral obligations and criminal obligations. This obligation is born from an engagement arising from a legal relationship (Widiyastuti, 2020). Its implementation demands responsibility, but it does not always end with criminal sanctions in the event of a violation. At this stage, the law emphasizes the fulfillment of obligations rather than punishment. Therefore,

the analysis regarding parental care must first be placed within the framework of family obligations.

The family's obligations to parents do not always have to be realized through direct care at home. The results of the study show that care can be carried out in various ways as long as the needs of the parents are still met. Children can provide economic assistance, provide health services, arrange daily supervision, or facilitate professional care. The form of carrying out obligations can differ from one family to another. What is measured is the quality of meeting the needs of the elderly, not the physical form of care.

Parents also need attention, communication, respect, and emotional support. These needs cannot be completely replaced by money. Therefore, a child who sends his parents to a nursing home and only pays dues but breaks ties with his parents, does not necessarily carry out all his obligations in full. Family relationships still require the personal involvement of each family member. This means that children continue to monitor their parents' condition, establish communication, visit regularly, and ensure that all parental needs are met (Batmomolin, 2025). In such circumstances, the nursing home functions as a means of care, not as an escape from obligations.

According to Hart, the law cannot judge a person's intentions based solely on social perception. Regular monthly payments to nursing homes by children cannot be considered as an escape from obligations if the child remains in contact and communication. The law must look at concrete actions that show whether or not there is an enforcement of the obligation. Therefore, the presence of parents in nursing homes cannot be immediately considered as evidence of neglect. What must be examined is how the relationship between the child and the parents takes place after the placement is carried out. The law has never required that parental care must be done by living in the same house.

At this point, Hart's thinking helps explain the difference between social judgment and legal judgment. The community can judge that children who entrust their parents to a nursing home have violated their moral obligations. However, legal assessments require different measures. The law must check whether there are obligations regulated by legal norms and whether those obligations are completely ignored. Without this evidence, social stigma cannot be turned into a legal conclusion (Muammar, 2024).

Analysis of Article 9 of the PKDRT Law and Article 428 of the Criminal Code shows that the main element of neglect is neglect of maintenance obligations. Both provisions do not

make sending parents to a nursing home an element of a criminal act. What is of concern is that there are parties who are obliged to provide life, care, or maintenance, but do not carry out these obligations. Therefore, neglect must be proven through facts that show neglect of the needs of the person who is responsible (Jeremiah, 2021). This measure provides a clear line between family obligations and violations of the law.

CONCLUSION

The results of the study show that the main element of the act of neglect lies in the neglect of the maintenance obligation, not in the location where the parents live. Children still have the obligation to take care of parents who need assistance according to their abilities, as stipulated in Article 46 paragraph (2) of the Marriage Law. These obligations are not removed due to differences in houses, different addresses, or differences in Family Cards. However, this obligation is also not absolute because it must consider the child's abilities and the real needs of parents. Therefore, any assessment of neglect must be carried out proportionately based on the concrete conditions that occur.

The placement of parents in a nursing home cannot be automatically categorized as an act of neglect of family members. As long as the family continues to fulfill legal obligations, the presence of parents in the nursing home is a form of carrying out responsibilities recognized by law. On the other hand, if the nursing home is used as a means to release family responsibilities, the action can qualify as neglect. Neglect occurs only when a family waives or ignores a legal obligation to provide life, care, maintenance, and attention to parents who need help. H.L.A. Hart's thinking affirms that moral obligation, family obligation, and neglect as violations of the law are three different concepts. Moral obligations encourage children to be devoted to their parents. Family obligations provide a legal basis for the care of parents who need help. Neglect only occurs when the obligations recognized by the law are clearly ignored so that the needs of the parents are not met. The presence of parents in nursing homes cannot automatically be seen as a violation of the law or as a form of neglect. The placement can be a form of carrying out responsibilities if it is done to ensure the welfare, health, and quality of life of the parents.

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