

The Children's Responsibility toward Parents Deposited in Social Foundations in Review of Law No. 1 of 1974

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Abstract. *This research aims to know that the obligation of a child is to be devoted to his parents including being responsible for the alimony of the care of both parents as mandated by Law No. 1 of 1974. This research uses empirical juridical research method with statutory approach and case approach. The results of this study prove that the care of parents by children in nursing homes due to the wishes of the parents themselves is makruh. The makruh law can change to haram, if the child after leaving his parents in the foundation, does not show good manners, such as relinquishing responsibility as a child. The law is permissible if the child does the entrustment for the good of the parents and the child still carries out the obligations and fulfills the rights of his parents who live in the nursing home. In the view of Law No. 1 of 1974 itself, children are obliged to take care of all the needs of their parents even though they are in a nursing home because this is an obligation of alimony of children to their parents.*

Keywords: Home; Liability; Nursing; Parent.

1. Introduction

Allah commands to worship him with the command to do good to parents, to explain how great the rights of both parents must be fulfilled by children, because parents are the real cause of the existence and life of a child, the kindness of parents towards children has no limits, so children's devotion to parents must be so¹. Children must be devoted to both parents because the

¹ Lim, F., (2019), Kewajiban Orang Tua terhadap Anak dalam Perspektif Islam, *Jurnal Hawa* Vol. 1 No. 1, p. 37.

pleasure of Allah lies in the pleasure of both parents. As long as what the parents tell the child does not violate the law of Allah, the child is obliged to fulfill it.²

This section contains a statement of the research method used, whether quantitative research or qualitative research, or a combination of both. Furthermore, it contains data and sampling techniques, time and place of research, and data analysis techniques used. For quantitative research, the definition of variables and research hypotheses are also mentioned.

Allah says in the Qur'an surah al-isra' verse 24:

وَأَخْفِضْ لَهُمَا جَنَاحَ الذَّلْدِّ مِنَ الرَّحْمَةِ وَقُلْ رَبِّ أَرْحَمُهُمَا كَمَا رَبَّيْتَنِي صَغِيرًا

Meaning: And humble yourselves before them both with great affection and say: "O my Lord, love them both, as they have nurtured me when I was a child".³

The law of birrul walidain is obligatory. Even if a child is married, birrul walidain is obligatory. Imam Al-Qurtubi said that one of the ways of disobeying one's parents is to go against their wishes in permissible matters. If a parent orders something, it is obligatory for the child to fulfill it.⁴

A child's efforts to care for and be devoted to parents in various ways, such as fulfilling the rights of both parents:⁵

1. Obeying them except in disobedience to Allah Swt.
2. Doing good
3. Tawadhu'
4. Speak softly
5. Feeding
6. Asking permission when going out for jihad etc.
7. Giving wealth when they ask
8. Do not give them a bad face or anything like that.
9. Prioritizing doing good to the mother over the father.
10. Prioritizing the mother over the father.

² Ghalib Bin Sulaiman, (2016), *Sungguh Merugi Siapa Yang Mendapati Orangnya Masih Hidup Tapi Tidak Meraih Surga*, Jakarta: Darul Haq, p.18.

³ Mushaf Al-Firdaus, (2018), *Alqur'an Hafalan Terjemah Dan Penjelasan Tematik Ayat*, Jakarta: Pustaka Al-Fadhilah Penerbit Buku Islam Inspratif, Qs.al-isra" ayat:24

⁴ Abu Salman Farhan Al-Atsary, (2014), *Antara Dua Arah Cinta*, Jakarta: Pt Alex Media Komputindo, 2014. p. 196

⁵ Abdul Aziz Ibnu Fathy As-Sayyid Nida, (2007), *Mawusu'ah Al-Adab Al-Islamiyah*, Ar-Riyad: Dar Tayyibah Linnasyar Wa At-Tawzy, p. 163-167

As for filial piety to elderly parents, it can be added with:

1. Taking care of both parents in their own home
2. Hired a nurse to take care of both parents at home
3. Putting them in a nursing home (at the parents' wish or consent).⁶

The term elderly (elderly) is someone who has reached the age of 60 (sixty) years and over. This is explained in Government Regulation of the Republic of Indonesia (PPRI) Number 43 of 2004 concerning the Implementation of Efforts to Improve the Social Welfare of the Elderly in article 1 paragraph 3.⁷ When a person has reached the age of 60 years and above, they will experience changes in the aging process. In dealing with these changes, adaptation or adjustment of an individual is needed.

Every human life must experience a phase of change, when children are cared for by parents, over time children grow up and parents will experience an elderly phase. However, the current problem is that it cannot be denied that in this day and age there are several younger generations whose respect, devotion and manners to parents are getting thinner and fading.⁸

Elderly parents really need full attention and affection from their children, but the attention and affection from children is diminishing because their children are busy working. Now in Indonesia, many children are busy working outside the home, so there is no time to take care of parents, especially if the child has a high position and a lot of activities. There are also children who have a family background that is economically disadvantaged so that they are unable to take good care of their parents so that many individuals neglect their obligation to care for their parents in old age, by delegating it to a social institution such as a nursing home.⁹

One of the places used as care for elderly parents in the Southeast Aceh region is the Rahmad Naksabandi Nursing Home Foundation, Pulus Baru Village, Lawe Bulan District, Southeast Aceh Regency. The background of the elderly in this nursing home is different, some of whose existence is very neglected and some

⁶ Wildan Fauzi, (2023), Kewajiban Anak terhadap Orang Tua menurut Hadits Bukhari, *Gunung Djati Conference Series*, Volume 24, p. 116

⁷ Government Regulation of the Republic of Indonesia (PPRI) Number 43 Year 2004.

⁸ Rahdinal Fathanah, Rachmi Sulistyarini, (2020), Tanggung Jawab Anak Dalam Memelihara Orang Tua Terkait Ketentuan Pasal 46 Ayat (2) Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan, *Jurnal Ilmiah Pendidikan Pancasila dan Kewarganegaraan*, Vol. 5, Nomor 2, p. 227.

⁹ Nyimas Lidya Putri Pertiwi, Evi Yuliyana, (2021), Perilaku Anak Terhadap Penitipan Orang Tua Di Panti Jompo Dalam Tinjauan Hukum Islam (Studi Kasus Di Yayasan Srikandi Bandar Surabaya Lampung Tengah), *Syakhsiyah Jurnal Hukum Keluarga Islam*, Vol. 1, No. 1

even become beggars in markets and streets, some have families but are unable to pay for their living needs, some parents are entrusted there by families or children who are able to pay for their living needs.

Based on information from one of the orphanage administrators, it is said that the background of the family entrusting elderly parents in this social institution includes problems in the family such as parents who do not like the noise when they are at home due to the presence of grandchildren, frequent arguments between children and elderly parents which are the cause of children entrusting parents, incompatibility between elderly parents and sons-in-law, there are so neglected parents due to families who are no longer able to take care of parents and various other causes that become the choice to entrust in this social institution.

There are 2 phenomena that researchers found in this case, namely children who choose to care for elderly parents at home and children who choose to leave their elderly parents in nursing homes. Of course this has different reasons and factors, for children who choose to take care of themselves at home such as easily controlling the condition of their parents both in terms of physical and psychological health and for those who choose to leave their elderly parents in nursing homes have their own reasons such as the wishes of the parents themselves so as not to trouble the children, incompatibility with the son-in-law, frequent conflicts between children and elderly parents and the family's economic inability to care for elderly parents.

2. Research Methods

The approach method used in this research is the juridical-empirical method. Juridical-empirical research is legal research on the enactment or implementation of normative legal provisions directly on each specific legal event that occurs in society.¹⁰ This research used empirical legal research or observation in the field or field research which research focuses on collecting empirical data in the field. The analysis carried out in the field on a / each problem found has a qualitative nature which is from a search or research that produces descriptive data, namely in writing or orally from individuals and behavior.¹¹

3. Results and Discussion

¹⁰ Abdulkadir Muhammad, (2004), *Hukum dan Penelitian Hukum*, Bandung: Citra Aditya Bakti, p. 134

¹¹ Mukti Fajar ND dan Yulianto Achmad, (2010), *Dualisme Penelitian Hukum Normatif dan Hukum Empiris*, Yogyakarta: Pustaka Pelajar, p. 34

3.1. Background of Children Leaving Their Parents at the Rahmad Naksabandi Nursing Home Foundation, Pulonas Baru Village, Lawe Bulan Sub-district

Based on the results of the data collected by the researchers, the background that is the reason for children to leave their parents is described below. According to the opinion of Naemah's mother, the reason or factor for leaving parents in social institutions is her request to be active, especially the children of Naemah's mother are very rarely at home and there are no relatives who can pay attention to her situation, choosing to live in this Social Institution in the hope that they can get their peers and make her happy.

According to Naemah's mother, leaving parents is indeed less good than taking care of parents, but what power according to Naemah's mother, work activities that are far away and must be separated make Naemah's mother choose to leave her and is expected to be able to do daily activities there.

According to the information provided by Naemah, the routine in visiting elderly parents at this Social Institution is sometimes carried out to see and visit parents and communicate with caregivers to control the physical condition of parents so that if something happens it can be anticipated as soon as possible by the child.

According to the information provided by Siti Aisyah's mother regarding leaving elderly parents at this social institution, the reason is that the situation of parents who do not want to trouble their children, the condition of the family environment that is less harmonious, and parents who are very difficult to manage are factors for Siti Aisyah's mother to leave her parents at the social institution.

According to Siti Aisyah's mother, she recognizes that caring for parents is better at home, but unsupportive circumstances such as unruly parents who demand patience from children and the mother's fear of fighting parents make Siti Aisyah's mother have to choose to obey her parents' wishes, namely not wanting to trouble the family.

According to the information given by Mrs. Saminah regarding leaving her parents in this social institution, the reason is that their work situation is so busy that they are rarely at home and their parents can even be neglected by them, therefore Saminah chooses to leave her parents so that they can be cared for in the institution, as well as leaving them in the nursing home is the will of her parents.

When viewed as a percentage of factors leaving parents in nursing homes, the desire of the parents themselves amounted to 72% and the rest were mixed factors. This can be seen from interviews conducted by the author at related

locations. This is because many parents do not want to make their families bothered by taking care of themselves.

From the explanation above, it can be concluded that some of the reasons that are factors for children leaving their parents in the Rahmad Naksabandi nursing home in Pulon Baru Village, Lawe Bulan Subdistrict are as follows:

1. The first factor causing parents to be entrusted to the nursing home of the Rahmad Naksabandi foundation in Pulon Baru village, Lawe Bulan sub-district, is because parents have no children and no family to take care of them.
2. The second contributing factor is the desire of the parents themselves who sometimes want to have a friend to talk to.
3. The third causal factor is, because the conditions of the family environment are less harmonious and unruly parents make children afraid to fight against parents, so leaving their parents in nursing homes is the best choice rather than fighting their own parents.
4. The fourth contributing factor is that because of their advanced age, parents prefer to live in nursing homes so that they can worship quietly and solemnly.
5. The fifth contributing factor, children who abandon their parents because of their busy schedules, is the reason why their parents are placed in nursing homes.

3.2. Leaving parents in a nursing home according to Islamic family law

Birru Walidain is the right of both parents that must be carried out by children in accordance with Islamic commands, as long as both parents do not order or encourage their children to do things that are hated by Allah Swt¹². Orders that deviate from His rules, recommendations that are contrary to His shari'a, should not be obeyed by children, even if they are ordered by both parents. Parents who dare to legalize the haram, and forbid something halal, have deviated from the teachings of Islam and children are allowed to go against their orders.¹³

With this foundation, we can understand that obeying and obeying parents is one of the main obligations in taqarrub to Allah, and disobeying them is one of

¹² Rofiqotul Aini , Soffatul Umami, (2023), Hak Dan Kewajiban Anak Laki-Laki Maupun Perempuan Dalam Keluarga (Kajian Gender), *Jurnal Hawa: Studi Pengarus Utamaan Gender dan Anak*, Vol. 5, No. 1, p.91.

¹³ Isa Asyur Ahmad, (2014), *Berbakti Kepada Ibu Bapak*, Melayu: Penerbit Gema Isnani, 2014, p.14.

the major sins. Allah commands His servants to maintain relationships with relatives, neighbors and acquaintances of deceased parents¹⁴. The relationship must be maintained in order to remain good, harmonious and harmonious, and actions that will damage or break the relationship must be avoided. Good and harmonious relationships must be prioritized towards mothers and fathers who have gone to great lengths to nurture and educate the jewels of their hearts. With other people we must maintain a close relationship, especially with parents who are getting old.¹⁵

As expressed by M. Quraish Shihab in terms of children's obligations towards parents, the filial piety ordered in Islam is to be polite to both in speech and deeds in accordance with the customs of the community, so that they are happy with us, and fulfill their legitimate and reasonable needs according to our abilities as children.¹⁶

Every child certainly has obligations and responsibilities towards parents who have raised and nurtured them from childhood to adulthood. For example, when these parents have entered old age, there are many things that children must do. Such as giving attention, affection, and keeping from everything that can hurt him. In this way, a child will create a complete, prosperous and loving family and a balance between children and parents. With rights and obligations, life becomes more neutral, balanced and fair¹⁷.

Based on the rule of *usul fiqh* which reads:

الْمَنْزُ تَمَقَا صِدَا

“ Everything depends on the intent ”¹⁸

If it is not possible to take care of one's parents at home for valid reasons according to *sharee'ah*, then it is permissible to leave one's parents in a nursing home. However, the home in question should be guaranteed to provide quality services. If not, then it is not permissible to send the parents to a nursing

¹⁴ Isa Asyur Ahmad, (2014), *Berbakti Kepada Ibu Bapak*, Melayu: Penerbit Gema Isnani, 2014, p.14.

¹⁵ Collingridge M, Miller S., (1997), Tanggung jawab berbakti dan perawatan orang lanjut usia. *Jurnal Filsafat Terapan*, h 119–128.

¹⁶ M.Quraish Shihab, (2002), *Tafsir Al-Misbah Pesan Kesan dan Keserasian Alquran*, Juz II (Jakarta: Lentera Hati, p.438-439.

¹⁷ Dixon N., (1995), Model Persahabatan Dari Kewajiban Berbakti. *Jurnal Filsafat Terapan*. Vol 12, p.77–87.

¹⁸ Gontor Darussalam, (2006), *Ushul Fiqh Wa Qowaidul Fiqhiyyah*, Ponorogo: La Tansa Gontor, p. 22

home¹⁹. And of course, children must ask for their parents' approval first before leaving them in a nursing home. In looking at the reality of parents who are in nursing homes, of course, we must also see the obligations of children towards parents that must be carried out, namely continuing to provide all the things that can make them happy which are the rights of these parents, so they should not be abandoned.

It is makruh for a child to leave his parents in a nursing home because of the parents' own wishes. In accordance with the words of Allah SWT in the Qur'an Surah Al-Isra" verse 23 which reads:

﴿وَقَضَىٰ رَبُّكَ أَلَّا تَعْبُدُوا إِلَّا إِيَّاهُ وَبِالْوَالِدَيْنِ إِحْسَانًا إِمَّا يَبُلُغَنَّ عِنْدَكَ الْكِبَرَ أَحَدُهُمَا أَوْ كِلَاهُمَا فَلَا تَقُلْ لَهُمَا قَوْلًا وَلَا تَنْهَرُهُمَا وَقُلْ لَهُمَا قَوْلًا كَرِيمًا

Meaning: And your Lord has commanded that you should worship none but Him, and that you should do good to your mothers and fathers in the best manner. If either of them or both of them grow old in your care, then by no means say to them the word "ah", and do not yell at them, and speak to them noble words.

With regard to the prohibition of children leaving their parents in nursing homes in these conditions, it is explained by Allah SWT in the Qur'an surah Luqman 14:

﴿وَوَصَّيْنَا الْإِنْسَانَ بِوَالِدَيْهِ حَمَلَتْهُ أُمُّهُ وَهْنًا عَلَىٰ وَهْنٍ وَفِصْلَهُ فِي عَامَيْنِ أَنِ اشْكُرْ لِي وَلِوَالِدَيْكَ إِلَيَّ الْمَصِيرُ

Meaning: And We commanded mankind to be kind to his two parents; his mother conceived him in a state of increasing weakness, and weaned him in two years. Be grateful to me and to your two mothers and fathers, only to me shall you return

In relation to the permissibility of leaving parents in a nursing home, in principle, the child does not want to leave his parents in a nursing home, but due to impossible conditions that directly affect the parents themselves, they become neglected. This is due to economic inability, lack of time to care for the parents, disharmony with the family due to the presence of the parents, the children themselves who are sickly and so on. Based on the above, it is permissible to leave one's parents in a nursing home by force. But it is better to leave it.

3.3. Responsibility of Children to Parents Entrusted to Social Foundations in Review of Law No. 1 of 1974

¹⁹ Hoff Sommers C., (1998), Moralitas berbakti. *Jurnal Filsafat*. Vol.83, p.439–456.

In the field of law, alimony rights are often used to determine who will provide for a child in the future in cases involving divorce disputes between husband and wife. However, the right of alimony is not only given to parents, the right of alimony must also be fulfilled by their children if they are capable. As stipulated in Article 46 of Law No. 1/1974 on Marriage, "the right of alimony is not merely the child's maintenance of the parent but also includes the maintenance and provision of assistance to the parent if the parent needs assistance." No one can challenge alimony or alimony rights owned by biological children and biological parents, whether it is from another person who is the child's husband, wife, or spouse²⁰.

Alimony obligations can also be referred to as the obligation to provide alimony (alimentatieplicht) during the period of marriage of the parents, and also the legitimate children of the husband and wife relationship. The alimony obligation is a burden given by law to persons or legal entities, alimony obligations have a reciprocal nature between children and parents, with the intention that every child's rights must be fulfilled by parents, as well as parental rights when the child has entered adulthood, the child is obliged to fulfill parental rights²¹.

If there are rules or laws that specifically regulate criminal sanctions against parental neglect, then parental neglect by children is an unlawful act because it neglects to uphold its obligations and violates the rights of its parents.

The rights of parents towards their children are as follows:

1. The right to feel affection and love
2. The right to be treated with respect and care
3. The right to have a submissive nature from the child to the parent 4.
4. To be treated well from the child
5. The right to get help from the child.
6. The right to be prayed for by the child.

²⁰ Angly Branco Ontolay, (2019), Hak Dan Kewajiban Orang Tua Dan Anak Ditinjau Dari Pasal 45 Juncto 46 Undang- Undang Nomor 1 Tahun 1974, *Lex Privatum*, Vol. VII, No. 3, p. 114.

²¹ Ni Made Yola Suryani, I Nyoman Suarna, I Made Putu Sujana, (2020), Hak Alimentasi Anak Terhadap Orang Tua Dalam Perspektif Hukum Positif Dan Hukum Hindu, *Widya Kerta Jurnal Hukum Agama Hindu*, Volume 3 Nomor 2, p. 97.

Law No. 11 of 2009 concerning Social Welfare reveals that the State as a whole is obliged to prosper the people in various ways. The government provides protection to the elderly based on the law. One of the laws that deals with alimony is contained in Article 46 paragraph (1) of Law No. 1 of 1974 and Article 321 of the Civil Code which is then reaffirmed in Law No. 39 of 1999 Article 42.

Caring for parents in their twilight years is indeed full of obstacles that are very difficult for all of us who have elderly parents. Parents who are elderly are certainly fussy or difficult to manage, causing a very large sense of emotion and certainly resulting in a sense of aggravation, in something like this it is mandatory for us to realize and accept sincerely and gracefully, of course in the end all humans must live in a family of course, In family life it is clear that it must be based on love, in love of course there must be devotion and sacrifice, but if love is not accompanied by sacrifice then that love is called false love, in devotion can be in the form of devotion of children to their father and mother. In the regulation of children's alimony to parents against the law, the regulation of children's alimony to parents has certainly been regulated in Law No. 1 of 1974, every child who is still 18 still gets the right of power that has been given as long as the parents have not revoked the right of power.

The care of elderly parents in social centers we often hear about the event of entrusting parents to social institutions, but there are many phenomena of children entrusting their parents to institutions of course for several reasons, there is a lack of economy or busyness of children so that they are unable to care for their parents, besides that the lives of parents who feel that children are burdened due to fussing and others, therefore there are several reasons and considerations in which children entrust their parents to social institutions so that parents have someone to care for or get happiness.

However, in reality there are still many children who still neglect their parents by entrusting their parents to social institutions, at this time there are still many children who no longer care about their father and mother as an obligation to take care of them when they are old, at this time there are still many children's attitudes and behavior that are not good towards their father and mother to take care of them, when their parents are getting old, the behavior of children that must be built should apply to their father and mother who have begun to age who have been entrusted in nursing homes, namely with several kinds,

1. visiting his father and mother when he has free time
2. buying him food or giving him a little money when he sees him
3. giving affection to his father and mother.

Nowadays, almost all parents who are entrusted in social institutions want what is mentioned in the principle such as visiting even though the child does not want to take care of them, but parents who are entrusted in social institutions still want their children to visit even if it is only for a short time. But as I said, not all children have the confidence to act like this. Only a small percentage of children behave like this towards their parents.

This happens because children are not aware of caring for and giving affection to their own parents. Some changes in children's behavior patterns in relation to family values, structure and culture have shifted children's attention to older parents.

So if reviewed according to Law No. 1 of 1974, it states that even though parents are in nursing homes, children are still responsible for their parents, starting from physical responsibility to mental responsibility. In fact, it is better and appropriate for parents to be entrusted in a nursing home not as a permanent residence, but only as a temporary care place. The child remains fully responsible because the child has an obligation of alimony to his or her own parents.

4. Conclusion

The child is placed in a nursing home because of the parent's own wishes. The ruling is makrooh. The makrooh ruling can be changed to haram, if the child, after leaving his parents at the foundation, does not show good manners, such as neglecting his responsibilities as a child. The law is permissible if the child does the care for the good of the parents and the child still carries out the obligations and fulfills the rights of his parents who live in the nursing home. In the view of Law No. 1 of 1974 itself, children are obliged to take care of all the needs of their parents even though they are in a nursing home because this is an obligation of alimony of children to their parents. As a form of advice, children should understand the rules of parental alimony in Law No. 1 of 1974 which mandates that children are responsible for their parents in their old age. However, the local government must also take part in monitoring the children's alimony obligations to their parents.

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