

Parental Nutritional Responsibilities for Children Residing in Orphanages

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Abstract

Problem statement: Children are regarded as a mandate bestowed by Allah upon parents, who have a crucial role and responsibility to fulfil all the rights and needs of their offspring. The effective fulfilment of this responsibility by parents is essential for the proper and optimal growth and development of children. **Objective:** This study was to investigate the nature of parental responsibility towards their children placed in orphanages and to ascertain whether the surrender of children to orphanages constitutes a legal violation. **Methods:** This research employs a descriptive normative approach, which involves the identification of legal rules, principles, and doctrines to address the legal issues at hand, and systematically describes the nature of responsibility exhibited by parents who entrust their children to the Syubaanul Wathon Orphanage in Tasikmalaya. The study utilises a qualitative research method to gather in-depth insights regarding the issues examined. **Results:** The findings indicate that parents who relinquish their children to orphanages do not adequately fulfil their responsibilities, thereby constituting a violation of the child's rights to alimentation. **Conclusion:** The responsibility of parents is absolute without any reason they have to fulfill this responsibility so that handing over a child to an orphanage to be cared for there is considered child neglect even though the parents are unable to afford it. The responsibility of parents is absolute without any reason they have to fulfill this responsibility so that handing over a child to an orphanage to be cared for there is considered child neglect even though the parents are unable to afford it.

Keywords: Family, Orphanage, Parental Responsibility.

Abstrak

Anak merupakan amanah yang diberi oleh Allah kepada orang tua, dan orang tua memiliki peran serta tanggung jawab untuk dapat memenuhi segala hak serta kebutuhan anaknya. Pemenuhan tanggung jawab oleh orang tua terhadap anaknya ini dapat membantu anak dapat tumbuh serta berkembang dengan baik dan optimal. Tujuan penelitian ini adalah untuk mengetahui bagaimana bentuk tanggung jawab orang tua terhadap anaknya yang ditempatkan di panti asuhan serta untuk mengetahui apakah penyerahan anak ke panti asuhan melanggar hukum atau tidak. Penelitian ini merupakan jenis penelitian normatif deskriptif, yakni proses untuk menemukan suatu aturan hukum, prinsip-prinsip hukum, maupun doktrin hukum guna menjawab isu hukum yang dihadapi dan menggambarkan secara sistematis tentang bentuk tanggung jawab yang dilakukan oleh orang tua yang menyerahkan anaknya kepada Panti Asuhan Syubaanul Wathon Kota Tasikmalaya. Penelitian ini menggunakan metode kualitatif, metode ini digunakan untuk mengumpulkan wawasan mendalam tentang masalah yang ada pada penelitian ini. Dari hasil penelitian dapat disimpulkan bahwa orang tua yang menyerahkan anaknya ke panti asuhan tidak melaksanakan tanggung jawab sebagaimana mestinya, hal ini merupakan bentuk pelanggaran terhadap hak alimentasi anak. Tanggung jawab orang tua adalah absolut tanpa alasan apapun harus memenuhi tanggung jawab tersebut sehingga penyerahan anak ke panti asuhan untuk dirawat disana termasuk pada penelantaran anak meskipun orang tua termasuk tidak mampu.

Kata Kunci: Keluarga, Panti Asuh, Pola Asuh.



Introduction

A child undoubtedly possesses rights that must be fulfilled by their parents. The fulfilment of children's rights should be executed appropriately and in accordance with the United Nations Convention on the Rights of the Child, which asserts that children's rights are human rights that the State is obligated to uphold. Several rights that must be fulfilled, as stipulated in the Child Protection Act, are outlined in Chapter III, specifically Articles 4 to 18. These include the right to live, grow, and develop; the right to know their parents; the right to be raised and cared for by their biological parents; and the right to be cared for or appointed as a foster or adopted child by another individual when their parents cannot ensure the child's growth and development.

The aforementioned rights constitute alimentation rights, which arise from the reciprocal obligations between parents or blood relatives in the upward line and their children and descendants to provide for one another. The rights of a child inherently generate corresponding obligations for their parents to fulfil these rights. Article 45 of Law Number 16 of 2019, which amends Law Number 1 of 1974 concerning Marriage, stipulates that both parents are obligated to maintain and educate their children to the best of their ability until the child marries or becomes self-sufficient. Article 47 of the same law further explains that children who have not yet reached the age of 18 (eighteen) years or who have never been married remain under the control of their parents, provided that their guardianship has not been revoked.

This indicates that parents are obliged to maintain and educate their children to the best of their ability, which includes ensuring that their children have a decent standard of living and can grow and develop adequately until they reach the age of 18 (eighteen) or are married.

One aspect that renders this phenomenon particularly intriguing is the nature of the alimentation provided to children residing in orphanages and whether there are legal repercussions for parents who fail to fulfil their obligations regarding the provision of alimentation for their children.

In light of the central issue, the following sub-problems are formulated: What is the Alimentation Responsibility of Parents for children who are entrusted to the Syubaanul Wathon Orphanage in Tasikmalaya? Does the transfer of children to the Syubaanul Wathon orphanage constitute a violation of the child's rights to alimentation?

Firstly, it is imperative to ascertain the extent of parental responsibility for the financial and emotional well-being of their children once they are placed in the Syubaanul Wathon Orphanage in Tasikmalaya. It is essential to understand whether parents retain an ongoing obligation to provide for their children's needs despite the transition to institutional care. This inquiry examines the ethical and legal dimensions of parental duties, particularly concerning ongoing support and involvement when children are in institutional settings. Secondly, we must investigate whether the placement of children in the Syubaanul Wathon Orphanage constitutes a violation of their rights to adequate nourishment and care.

Methods

The research conducted is classified as normative juridical research. This type of research aims to identify legal rules, principles, and doctrines to address pertinent legal issues. The focus of this study is on the positive legal norms that govern parental responsibilities towards children who are entrusted to orphanages.

The methodological approach employed in this study includes both a statutory approach and a case approach. The statutory approach involves a comprehensive examination of all relevant laws and regulations pertinent to the legal issues being investigated. This approach is deemed appropriate as it seeks to explore the legal

frameworks concerning the alimentary responsibilities of parents for children placed in orphanages. Conversely, the case approach examines specific cases that relate to the issues in question.

As this research is normative in nature, the data sources utilised consist of primary, secondary, and tertiary legal materials. The primary legal materials encompass the 1945 Constitution, Law Number 35 of 2014 concerning Amendments to Law Number 32 of 2002 on Child Protection, Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 on Marriage, Law Number 4 of 1979 on Child Welfare, Law Number 39 of 1999 on Human Rights, and documents pertaining to child submission. The secondary legal materials include various scholarly works related to the alimentary responsibilities of parents towards their children. The tertiary legal material referenced in this study is the Big Indonesian Dictionary.

The analytical method employed is descriptive qualitative analysis, which aims to provide a concise overview of the issues based on applicable laws and regulations relevant to the topics under discussion. This method involves logically and systematically organising the findings. The analysis of the data in this study will articulate and elucidate the legal norms regulating the alimentary responsibilities of parents for children residing in orphanages.

Children's Rights

Adopted in November 1989, the United Nations Convention on the Rights of the Child (CRC) represents a significant milestone in the international movement to extend human rights to children. The CRC acknowledges children as developing individuals entitled to rights that encompass civil, political, social, environmental, economic, and cultural contexts. Its emphasis on child development and well-being accords special importance to the family as a crucial construct in a child's life (Wulczyn et al., 2021, p. 1).

There are diverse conceptualisations and understandings of the term 'child'. According to Article 1 of the Convention on the Rights of the Child (CRC), this generally refers to all young individuals under the age of 18 years (Collins & Wright, 2022, p. 2), unless, under applicable law, the age of majority is attained earlier (Palanichamy, A., 2016, p. 3). This numerical definition does not stipulate a minimum age; hence, it may extend to include a fetus as a child, as observed in several cultures. Social research typically refers to a group of children (and young people) who are defined as children under the CRC (Hameed et al., 2021, p. 34).

The United Nations Convention on the Rights of the Child encompasses four core principles related to children's rights: children should live free from discrimination; all actions concerning children, undertaken by public and private entities, should consider the best interests of the child; to the greatest possible extent, state parties are obliged to ensure a child's right to survival and development; and children have the right to freely express their views on matters affecting them (Chesney & Duderstadt, 2022, p. 4). According to the CRC, children possess several fundamental rights, including the right to life, the right to their own identity, the right to freedom, and the right to protection.

Neglect, defined as circumstances in which a child's basic needs or rights are not adequately met, resulting in harm or jeopardy to the child's health, development, or safety, constitutes a significant global health and social issue (Kobulsky et al., 2020, p. 1). Neglect is associated with impairments across multiple domains and throughout the lifespan, including cognitive impairments (e.g., language development, executive functioning, intellectual performance, numeracy, literacy, emotional recognition), mental health problems (e.g., attachment and social relationship issues, mood and behaviour disorders, suicidality, risk-taking), and physical health problems (e.g., sexually transmitted infections, ischemic heart disease, migraine headaches, arthritis, obesity) (Kobulsky et al., 2020, p. 4).

According to UNICEF, abandoned children constitute one of the groups of Children in Need of Special Protection (CNSP). An abandoned child is defined as one who, for various reasons, cannot adequately fulfil their basic needs, whether spiritual, physical, or social. A child is considered abandoned not only when they lack one parent or both but also when their rights to proper development, education, and adequate health services are not fulfilled due to negligence, misunderstanding, incompetence, or deliberate acts of the parents (Sutinah & Aminah, 2018, p. 24). The Guidelines for Neglected Child Social Services outline the characteristics of abandoned children. Firstly, abandoned children are typically aged 5–18 years and are often orphans. Secondly, some are born out of wedlock and lack care because their parents are not psychologically or financially prepared. Thirdly, abandoned children are often those whose births are unplanned or unwanted, making them susceptible to mistreatment. Fourthly, they are those whose rights remain unfulfilled by their parents. While poverty is not the sole cause of child neglect, it must be acknowledged that the pressures of poverty and the vulnerability of the family economy severely limit their ability to provide for their children's rights. Fifthly, abandoned children often come from broken homes, victims of parental divorce, and live in troubled family conditions characterised by neglectful, unemployed, or substance-abusing parents. Some abandoned children, particularly orphans, reside in orphanages and are under the care of these institutions. Abandoned children living in orphanages require not only protection and the fulfilment of their basic needs but also assurances and opportunities for healthy growth and development (Sutinah & Aminah, 2018, p. 25).

Eglantyne Jebb drafted a children's charter, which she presented in Geneva and was adopted by the League of Nations in 1924 as the first Declaration of the Rights of the Child, encompassing five key points:

1. The child must be provided with the means requisite for normal development, both materially and spiritually.
2. The hungry child must be fed; the sick child must be nursed; the backward child must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and supported.
3. The child must be the first to receive relief in times of distress.
4. The child must be positioned to earn a livelihood and must be protected against all forms of exploitation.
5. The child must be raised with the understanding that their talents should be dedicated to the service of fellow human beings (Isaacs, 2017, p. 209).

Parental Responsibility

Family is a fundamental factor and plays a crucial role in the development and growth of children, facilitating their transformation into well-rounded individuals. The relationship between family and children constitutes a process of personality formation (Yakovleva et al., 2020, p. 45). The family environment encompasses both the physical and social contexts within which family members grow and develop (Zhang & Topitzes, 2022, p. 1).

The most significant influence on child development is parents. Parents hold vital responsibilities in the education of their children. A child's education is essential for their development. Specifically, education, in conjunction with the child's health, emotional and behavioural development, identity, familial and social relationships, and self-care skills, constitutes a fundamental need for the child's overall development (Erdmanis, 2020, p. 156). To nurture and educate their children into becoming good individuals, parents must provide foundational education, as well as instil attitudes and essential skills, including religious education, ethics, and manners (Setiawan et al., 2020, p. 779). Henricson outlines the responsibilities of parents as follows: ensuring that the child receives proper education; safeguarding the child's physical well-being and protecting them from danger and harm; addressing the child's physical needs; attending to the child's emotional needs; fostering the

child's social behaviours in a humane and non-abusive manner; respecting the individuality of the child and granting them the right to participate in decision-making (Kiral, 2019, p. 122).

Parents are also responsible for protecting their children from abuse perpetrated by others. In a similar vein, parents must refrain from neglecting their children and must shield them from the neglect of others (Xu, 2021, p. 430). Furthermore, parents should assist their children in becoming autonomous agents. Generally, autonomy can be understood as the capacity to make specific decisions or to choose a particular lifestyle based on one's own needs, desires, and volition (Xu, 2021, p. 432).

Reasons for the Care of Children at Syubaanul Wathon Orphanage

According to O'Ayotunde, orphanages are institutions that house children whose parents have passed away or whose origins are unknown. They are public institutions created to provide care and protection for children experiencing parental death. In summary, orphanages are residential institutions dedicated to the care of numerous children. According to The Faith to Action Initiative, orphanages are organisations dedicated to children whose parents are unable to support their lives or needs (Chik et al., 2020, p. 249).

According to Erwintri, an orphanage is a social welfare institution established by the government, or by individuals responsible for providing services, sponsorship, and the eradication of neglect among children. It serves as a substitute for parental roles in meeting the mental and social needs of foster children, allowing them ample opportunity for physical growth and intellectual development until they reach maturity and are able to fulfil their roles as individuals and citizens in public life (Novika Ambarsari, n.d., 2017, p. 568). In other words, orphanages are institutions designated for children whose biological guardians are deceased or otherwise unable or unwilling to care for them. Generally, two key issues confront neglected children that must be addressed through the existence of orphanages. First, they lack a family to support and rely on for fulfilling their needs and rights. Second, there are challenges related to education, moral guidance, and character development (Warmansyah Abbas & Subiyakto, 2022, p. 2253). It is evident worldwide that individuals, families, and organisations recognise the need to care for children, particularly orphans, destitute, or abandoned children, who are primarily cared for through child care institutions run by governmental and non-governmental organisations, and in some cases, through foster families (Lone & Ganesan, n.d., 2016, p. 164). The government establishes orphanages to accommodate children born into or living in less fortunate circumstances; they are then rehabilitated and fostered to become well-qualified, educated individuals akin to children living with their biological parents (Hayati, 2023, p. 19).

The Syubaanul Wathon Orphanage, located at Sutisna Senjaya Street Number 147B Cikalang, Tawang District, Tasikmalaya City, West Java, was founded in 1984 by KH Ma'sum. The establishment of this orphanage was motivated by KH Ma'sum's concern for the future of his younger siblings, who were abandoned by their parents at a young age, as well as the observation of numerous orphans in the surrounding community. Currently, Syubaanul Wathon Orphanage is led by KH Ma'sum himself and accommodates 141 foster children, comprising 72 girls and 69 boys. The foster children at this orphanage are categorised into three groups: orphans, children from impoverished backgrounds, and abandoned or unknown children.

The policy of the Syubaanul Wathon Orphanage regarding the acceptance of children handed over by their parents is based on its vision, which aims to provide a comfortable and safe environment for children in need, including those whose parents are unable to fulfil their responsibilities. The process for handing over a child to the Syubaanul Wathon Orphanage is not straightforward; several procedures must be followed by the parents of the child being surrendered. Required documentation includes a photocopy of the Family Card (KK), a photocopy of the parent's Identity Card (KTP), the child's birth certificate, and a certificate of

incapacity from the local community leader (RT). Once the documents are submitted, the orphanage conducts observations to ascertain the family's economic condition. If the orphanage deems the child eligible for fostering, the child must complete a form containing their identity, which is signed by the parents, the caretaker of the orphanage, and the child. Upon the fulfilment of all conditions, the head of the foundation reads the pledge, which is then repeated by the parents who are surrendering their children to the orphanage.

The care provided by Syubaanul Wathon Orphanage encompasses meeting all needs of its foster children, including the provision of healthy and nutritious food, educational facilities, comfortable living conditions, and environments that encourage the development of foster children. The right to education afforded to foster children includes formal education at various levels, ranging from early childhood, kindergarten, elementary, junior high, to high school, appropriate to the age of each child. For early childhood and kindergarten, these are directly managed by the Syubaanul Wathon Orphanage Foundation, while partnerships are established with several local schools for elementary, junior high, and senior high education through memorandums of understanding (MoUs). In addition to formal education, the Syubaanul Wathon Orphanage also provides non-formal education, implementing semi-pesantren education, which includes compulsory congregational prayers, teaching foster children to read the Qur'an, conducting recitations, and sessions for memorisation after Isya prayers.

The majority of children residing in the Syubaanul Wathon Orphanage are intentionally entrusted by their parents, who believe they lack the means to finance and guarantee their child's well-being. They hope that sending their child to an orphanage will enable the child to receive a proper education and develop into an independent, intelligent, and well-mannered individual. Occasionally, these parents visit their children at the orphanage as a means of fulfilling their parental responsibilities. Of the total 141 children in the Syubaanul Wathon Orphanage, there are 10 children who were handed over to the institution. Five of these children were deliberately entrusted by their parents, all of whom are from legal marriages. The other five were surrendered by members of the community who discovered the children and do not know their parents' identities, rendering the children's status unknown. The primary reason parents relinquish their children is often due to poor economic conditions, leading to the difficult decision to entrust their children to an orphanage to ensure their inherent rights are fulfilled. However, unlike those children who are entrusted, parents who surrender their children to the orphanage have not fully assumed their parental responsibilities. They transfer the entire obligation of fulfilling their children's rights to the Syubaanul Wathon Orphanage, including the costs associated with care and education. The following is data regarding children submitted by their parents to the Syubaanul Wathon Orphanage:

Table 1. Data of Submitted Children

No.	Name	Age	Reason submitted
1.	M. Zaki	3 Years	Unknown
2.	Yurbi	3 Years	Unknown
3.	Nazila	3 Years	Unknown
4.	Biyan	10 Years	Unknown
5.	Aditya	12 Years	Unknown
6.	Fikri	7 Years	Parents are not able
7.	Nisa	7 Years	Parents are not able
8.	Yogi	9 Years	Parents are not able
9.	Rizki	5 Years	Parents are not able
10.	Irfan	6 Years	Parents are not able

Data Source: Interview with Administrator of the Syubaanul Wathon Orphanage

The table above presents data concerning children who were admitted to orphanages. It includes their ages at the time the research was conducted, as well as the reasons for their placement in these institutions. In certain cases, the rationale for placement remains unspecified, as these children were admitted without formal procedures through the orphanage's administration. For others, the circumstances leading to their placement were primarily attributable to the economic conditions of their parents, which were inadequate to ensure the optimal growth and development of the child.

Responsibilities of Parental Provision for Children Placed in the Syubaanul Wathon Orphanage in Tasikmalaya City

The responsibilities of parents towards their children are delineated in various laws and regulations, including Article 45 of Law Number 1 of 1974 concerning Marriage, which stipulates that "Both parents are obliged to maintain and educate their children as well as possible." This provision remains applicable until the child is either married or capable of self-support, as articulated in paragraph 2 of the article (Putri, n.d. 2022, p. 436). However, a notable concern arises when parents place their children in orphanages, thereby failing to fulfil their obligations to care for and educate their offspring adequately. The children relinquished to these institutions are not yet married nor capable of independent living.

Furthermore, Article 26, paragraph (1) of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 on Child Protection asserts that "Parents are obliged and responsible for nurturing, caring for, educating, and protecting children; developing children according to their abilities, talents, and interests; and preventing child marriage." Empirical evidence suggests that many parents neglect their duties to care for, nurture, educate, and protect their children. Additionally, these parents often fail to foster the development of their children and do not prevent marriages involving minors. After a child is placed in an orphanage, it is common for the parents to cease visiting or monitoring the child's well-being in the institution.

According to Article 9 of Law Number 4 of 1979 concerning Child Welfare, it is stated that parents bear the primary responsibility for ensuring the welfare of their children—spiritually, physically, and socially—from birth until adulthood or at least until the child is capable of assuming responsibility for themselves. However, it is evident that parents who relinquish their children do not assume this fundamental responsibility, as some parents choose to place their children in orphanages only a few days after birth.

Moreover, the Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 30 of 2017 concerning Family Involvement in the Implementation of Education further outlines parental responsibilities, particularly in relation to education. Article 5 of this Ministerial Regulation articulates that parents are accountable for instilling character values in their children, motivating their enthusiasm for learning, promoting a culture of literacy, and facilitating their educational needs. Nevertheless, the reality indicates that parents frequently fail to fulfil these responsibilities, as they often absolve themselves of these duties once the child is placed in an orphanage.

The parental responsibilities outlined in the aforementioned articles fundamentally encompass the obligations to maintain, educate, nurture, and protect children. This implies that parents must provide comprehensive care and instil moral and intellectual training in their children. Those who surrender their children to the Syubaanul Wathon Orphanage neglect their responsibilities as described, failing to care for, educate, nurture, and supervise their children, as they have effectively delegated all their responsibilities to the institution. As previously stated, the obligation of parents to their children is absolute until the child reaches adulthood or attains the capacity for independent living. Therefore, the act of relinquishing children by parents is legally impermissible and results in the failure to meet parental responsibilities towards their children.

Legal Analysis of the Admission of Children to the Syubaanul Wathon Orphanage in Tasikmalaya City

The law has established various provisions regarding the transfer of children by parents to orphanages. Among these, Article 45 of Law Number 1 of 1974 concerning Marriage stipulates that both parents are obligated to maintain and educate their children to the best of their ability. This obligation remains in effect until the child marries or becomes self-sufficient, and it persists even in the event of a separation between the parents. For this obligation to be fulfilled, it is essential for parents and children to reside together. However, when a child is placed in an orphanage, this arrangement disrupts the cohabitation of parents and children, thereby impeding the parents' capacity to fully meet their obligations.

Article 26 of Law Number 35 of 2014 concerning Child Protection asserts that every parent is obliged and responsible for the care, maintenance, education, and protection of their children. Furthermore, parents are tasked with nurturing their children according to their abilities, preventing early marriage, and providing character education while instilling essential values. The act of surrendering a child to an orphanage contravenes this article, as it prevents parents from fulfilling their child's rights, which can adversely affect the child's optimal growth and development.

Article 9 of Law Number 4 of 1979 concerning Child Welfare states that parents bear the primary responsibility for ensuring the welfare of their children—spiritually, physically, and socially—from birth to adulthood or at least until the child is capable of taking responsibility for themselves. In practice, however, many parents relinquish their children to orphanages, thereby abdicating their responsibilities regarding the fulfilment of children's rights. This behaviour is clearly at odds with the aforementioned article, as it demonstrates a failure on the part of parents to assume their primary role in safeguarding their child's welfare.

Syubaanul Wathon Orphanage currently houses 141 children, categorised into three groups: orphans, children from impoverished backgrounds, and abandoned children with unknown parentage. Among these categories, there are ten children who were deliberately surrendered by their parents or guardians to the orphanage. Following this handover, the parents have failed to adequately fulfil their responsibilities, such as nurturing, caring for, and educating their children, instead delegating all responsibilities to the orphanage. The aforementioned articles indicate that these ten children have had their rights to sustenance violated, as the act of surrendering children to an orphanage results in the failure to meet the obligations inherent to parenthood, which should be upheld at least until the child reaches adulthood or attains self-sufficiency.

Conclusion

The responsibility of parents towards their children is unequivocal, signifying that irrespective of the circumstances, parents are obliged to uphold the fulfilment of their children's rights. Parents who relinquish their children to orphanages do not fulfil their responsibilities towards them. The parental duties encompass maintenance, care, and financial support. The act of surrendering a child by a parent constitutes a violation, as this surrender is perceived as neglect; it indicates that the parents are unable to meet their responsibilities to nurture and support the child until they are of marriageable age or capable of self-sufficiency.

Furthermore, the procedures for the admission of children into the Syubaanul Wathon Orphanage require enhancement, particularly concerning the process of child surrender. It is imperative to establish a written agreement between the orphanage and the parent or guardian who is relinquishing the child, thereby granting the arrangement legal validity. The orphanage must also ascertain the background of the child being submitted by the parent or guardian to mitigate potential issues in the future. In cases where a child's

parental background is unknown, the orphanage should report the situation to the authorities to address the matter of the neglected child appropriately.

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