

The View of Islamic Law and Positive Law in Indonesia on The Alimentation of Children towards Parents

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ABSTRACT

Parents must care for their children based on Islamic and positive laws in Indonesia. Indeed, parents and children have an alimentantion relationship, that is, a reciprocal relationship in maintenance or bread. However, in general, in society, the understanding of income is only imposed on parents to children, so there are many cases of parental neglect. So the question arises: What is the view of Islamic law and positive law in Indonesia regarding the provision of alimentantion of children to parents? This research uses qualitative, juridical-normative research as its approach and descriptive as its research nature. The Qur'an, Hadith, the opinions of imams of madhab, laws and regulations, journals, books, and encyclopedias are sources for obtaining data, so this research is classified as literature research. The findings of this study on Islamic law and positive law in Indonesia indicate that children are obligated to support their parents under specific circumstances. According to Islamic law, this obligation arises when the parents are in need, and the child possesses the means to work or owns property. In positive law, the obligation arises when parents are in financial distress, require assistance, reside in their children's homes, among other conditions.

1. Introduction

Parents, namely father and mother, are a couple who have entered into a marriage, which is the cause of the noble door that allows the birth of children on earth. Through marriage, new generations of families can be created, which will give society the ability to continue to develop. (Lukito, 2013) Birth determines a person's legal status as a legal subject, bearing rights and obligations. (Pengertian Catatan Sipil, n.d.) Because there are rights and obligations, parents and children have responsibility for these matters. Parents



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have responsibilities that they must provide in terms of protecting their children's rights, as stated in the Al-Quran, which means:

"And it is the father's duty to provide for their sustenance and clothing in a proper way." (QS. Al-Baqarah: 233). (*Al-Baqarah*: 233, n.d.)

The obligation of parents to their children is also found in Article 45 of Law No. 1 of 1974 on Marriage, which reads:

"(1) It is the responsibility of both parents to provide the best care and education for their children.

(2) The parental obligations referred to in paragraph (1) of this article apply until the child marries or is able to stand alone, and these obligations continue to apply even if the marriage between the parents breaks down." (*UU No. 1 Tahun 1974 Tentang Perkawinan*, 1974)

Based on the explanation above, the obligations of parents and children are explained based on Islamic law and positive law in Indonesia. So, what are the obligations of children towards their parents, especially when the children reach adulthood?

Every child must behave well and respect their parents, as mentioned in QS. Al-Isra Verses 23-24. Allah SWT said in Surat Al-Isra verses 23-24, which means, "And your Lord has commanded that you do not worship other than Him and that you should do good to your parents as best you can. If one of them or both of them reach an advanced age in your care, then never say to them the word "ah" and do not scold them and speak to them noble words." (*Al-Isra*: 23-24, n.d.) This verse of the Qur'an explains that children must do good deeds for their parents. Even in philosophical studies, there is a harmonious view between the Islamic philosopher Al Ghazali and the Western philosopher Plato regarding morals. Al-Ghazali's view of good morals is almost the same as Plato's. Plato said that the main person is that one can look at his parents continuously. Al Ghazali views people close to Allah as people who approach the teachings of the Prophet SAW and have perfect morals, (Sari, 2017) especially since the Prophet strongly emphasized the importance of respect for parents. But unfortunately, there are many phenomena and cases of children leaving their parents when they are old.

There are examples of cases related to this, including the life story of an 88-year-old grandmother from Padang Pariaman Regency, West Sumatra. For several years, the woman lived alone and abandoned in an old hut. Unfortunately, it turns out that the grandmother has a daughter, who is now the school principal. People who knew about this condemned it. (Bakri, 2020)

Based on the case examples above, there are actually many other cases where children abandon their parents. According to LBH APIK records, cases of violence against the elderly show that there are still many cases in several regions of Indonesia. The results of a survey conducted by LBH APIK revealed that cases of neglect dominate cases of violence against parents. This can be seen in cases of elder abuse handled by LBH APIK in Medan, Yogyakarta, and Bali in July 2019-July 2020. There were many cases of neglect (32 cases), followed by psychological abuse (24 cases) and physical violence (12 cases). (Madrim, 2020)

With the case examples and survey results above, this proves that there are still many children who neglect their parents. In society, there is still an incomplete understanding regarding the obligations of caring for or providing for children to their parents. Therefore, Therefore, this research has strategic urgency because many Indonesians still do not know that the obligation of providing or maintaining children to parents has been regulated in Islamic law and positive law in Indonesia. Therefore, to understand the provisions of Islamic law and positive law in Indonesia regarding the provisions for the maintenance or support of children for their parents, the author is interested in writing an article entitled

"The View of Islamic Law and Positive Law in Indonesia on The Alimentation of Children towards Parents."

Based on the explanation above, the author wants to formulate a research problem that will be examined in this research, namely: What is the view of Islamic law and positive law in Indonesia regarding the provisions for child alimony to parents?

Much research has been conducted on alimony, especially regarding children's feelings towards their parents and vice versa. Some use a normative approach, and some use a sociological approach. Therefore, the authors tried to group several previous studies according to the focus of their approach.

Regarding the normative approach, Salahuddin,(Salahuddin, 2017) Mufti Adhitya Hafizhi,(Hafizhi, 2019) and Fikry Maulana Maghribi(Maghribi, 2018) are several researchers who use a normative approach with various reference sources, namely the Marriage Law No. 1 of 1974, the opinions of the imams of four schools of thought, as well as examining the sanctions. In Islamic law, the basic requirement to provide for parents is that the child can afford to work or have a large amount of property if they are poor. Positive law also stipulates that children must maintain their parents, but there are various requirements in various laws and regulations.

As for the sociological approach, Rahmadani Putri,(Putri, 2018) Jourdan Abdullah At-Takdits,(At-Takdits, 2019) Nadia Nurhadanti(Nurhardanti, 2015) researched the implementation of children supporting their parents who live in nursing homes, namely from Rahmadani Putri stated that the behaviour of children in Gunung Baringin Village, East Panyabungan District, Madailing Natal Regency is not by or contrary to Islamic Law, namely the Compilation of Islamic Law and Positive Law applicable in Indonesia, because most of these children are ordinary people who do not know their obligations to parents. Then the law entrusts parents in nursing homes as long as the reason justified by sharia 'is permissible because there is more intensive parental care in terms of food, shelter, social needs, and health, then children can carry out obligations to their parents indirectly, namely by representing to someone or something social institution such as a nursing home. However, there are also older adults who since they were first deposited in nursing homes, have never been at all, rarely, or routinely provided for by their children while in nursing homes. In contrast, the view of Islamic law entrusting the elderly in nursing homes is not in line with the Qur'an, Hadith, or the agreement of scholars.

Unlike the research above, this study differs from previous research because this study includes a more complete reference to the provisions for child support for parents. Novelty in this study, researchers want to be more complete regarding the provisions for child support for parents. The compiler places more emphasis on the comparative perspective of Islamic law in the form of Al-Qur'an commands and their interpretations, hadiths, and opinions of school scholars. Meanwhile, from a positive legal perspective in Indonesia, namely in the form of the Civil Code, Law No. 1 of 1974 concerning Marriage, Law No. 23 of 2004 concerning the Elimination of Domestic Violence, and the Compilation of Islamic Law, So this paper has quite extensive and comprehensive references, which are not only based on one statutory regulation to find out how children provide for and care for their parents.

2. Research Method

This research uses a qualitative approach as the research methodology, juridical-normative as the approach, and descriptive as the nature of the research, and this research is classified as library research.

The theory used as an analytical tool is the theory of legal systems by Lawrence M. Friedman. In his book "American Law: An Introduction," Friedman states that the legal system includes: legal structure components; substantial components of law; and the

cultural component (society's legal culture), where there are three elements of the legal system that must be considered if the law is to function, namely structure, substance, and legal culture. (Barkatullah, 2013) Meanwhile, the method used is the comparative legal method, namely comparing the provisions for child alimony towards their parents based on Islamic law with positive law in Indonesia through three elements, namely (1) compared; (2) to be compared; and (3) the third comparison. Compared is the element being compared, whereas to be compared is the subject of law that is studied, and last The third comparison is the similarity of the two laws being compared. (Lukito, 2016)

3. Results

a. Definition of Alimentation

The definition of alimentation in the Big Indonesian Dictionary is maintenance or feeding. The definition of alimony rights in accordance with the Index (list of issues referring to the relevant articles) in the Civil Code is "a reciprocal obligation between parents or blood relatives in the upper line and children and their descendants to provide for each other," so from the above definition, an obligation arises that originates from law. Regarding the right of alimony in this context, the focus is on the child's obligations towards his biological parents; there are several related articles. (*Kamus Besar Bahasa Indonesia (KBBI)*, n.d.)

b. Alimentation of Islamic Legal Perspectives

The basis of Islamic law found by the author regarding the provisions for child alimony towards parents contained in Islamic law is the Al-Qur'an, hadith, and the opinions of scholars, including the following:

1) Surah Al-Baqarah verse 215

It means, They ask you (Muhammad) about what they should spend. Say, "Whatever wealth you spend, it should be allocated to both parents, relatives, orphans, the poor, and those who are on a journey." And whatever good you do, Allah is all-knowing. (*Al-Baqarah: 215*, n.d.)

In Al Maraghi's interpretation of the verse above, it is explained that whoever wants to spend his wealth should prioritize his parents, because they are the ones who educate and raise his children from childhood to adulthood. (Al-Maraghi, 1984)

Meanwhile, in Tafsir Al Mishbah written by M. Quraish Shihab, this verse explains to whom wealth should be given, namely first to mother and father, because this is the cause of the birth of children and many rewards, then to close and distant relatives and orphans, then to the poor who need help and those who travel but have no provisions. (Shihab, 2002a)

2) Surah An-Nisa verse 36

It means, "And worship Allah and do not associate anything with Him. And do good to the parents, relatives, orphans, the poor, near neighbors and distant neighbors, peers, Ibnu Sabil, and sahaya servants that you have. Truly, God does not like the proud." (*An-Nisa: 36*, n.d.)

In the Tafsir al-Mishbah, it is stated that after the command to worship Allah SWT and not associate partners with Allah, the next command is to serve your parents. The term used for two parents is al-walidain, and according to the author of this commentary, M. Quraish Shihab, the word walid is used specifically for the biological father; likewise, the word al-walidat means the biological mother. This is different from the words abb and umm, which are used to refer to biological and non-biological fathers and mothers. (Shihab, 2002b)

According to Sheikh Muhammad Abduh, bestowal is used for two things: first, giving favors to other parties; and second, good deeds. Therefore, said bestowal is broader than just providing favors or sustenance; its meaning is even higher and deeper than the meaning of fairness, because fairness is "treating others the same as they treat you," whereas bestowal is "treating him better than he treats you." Fair is taking all your rights and/or giving all the rights of others, whereas bestowal is "give more than you should give and take less than you should take." Because of that, Rasul, peace be upon him. Telling someone, "You and your property are for or belong to your father, your parents." Narrated by Abu Daud. (Shihab, 2002b)

3) Surah Al-Isra' verse 23

Meaning: "And your Lord has commanded that you do not worship anyone other than Him and that you should do good to your parents as best you can. If one of them or both of them reaches an advanced age in your care, then never say to them the word "ah" and do not scold them and speak to them noble words." (*Al-Isra*: 23, n.d.)

This verse contains an order for children to speak kindly and gently to both of them (parents), treat them with respect, and glorify them.

According to Tafsir Al Mishbah, this verse emphasizes devotion and personal respect for parents. Ihsan (filial piety) to parents, which is commanded by Islam, is to be polite to both of them in words and actions in accordance with community customs to please both parents. Apart from that, it also fulfills the legal and reasonable needs of both parents in accordance with the child's abilities. (Shihab, 2002c)

4) Surah Luqman verse 15

Meaning: "And if they both force you to associate me with something that you have no knowledge of, then do not follow them, and associate with them in the world well, and follow the path of those who return to Me; then only to Me will you return; then I will tell you what you have done." (*Luqman*: 15, n.d.)

In Surah Luqman verses 14 and 15, God commands people to be devoted to their parents in all things. Humans are commanded to help their parents, both when they are alive and when they are dead. The form of devotion to parents is mandatory to provide basic food as long as the child is able to help his parents. (Kurniawan, 2017)

Apart from the obligation of children to support their parents as stated in the Al-Qur'an, the arguments for this obligation are also contained in the hadith of the Prophet Muhammad, some of which are as follows:

1) Hadith in the Book of Sunan Ibnu Majah Number 2282:

Meaning: "Hisham bin Ammar said to us; Isa bin Yunus said to us; Yusuf bin Ishaq told us from Muhammad bin Al Munkadir; Jabir bin Abdullah said, "A man said, "O Messenger of Allah, I have property and children, while my father also needs my property." Then he said, "You and your property belong to your father" (Pusaka, 2009)

2) Hadith in the Book of Sahih al-Bukhari Number 5351:

It means: "Narrated from Ādam ibn Abi Iyas from Shu'bah from Adi ibn Thabit, he said: I heard Abdullah ibn Yazid Al-Ansari, from Abu Mas'ud Al-Ansari, I said, "From the Prophet, peace be upon him?" He said, From the Prophet, may God bless him and grant him peace. He said: When a Muslim spends a living on his family and he expects a reward, then it becomes charity for him. (Bukhari, n.d.)

3) Hadith in the Book of Sunan Abi Dawud Number 5139:

Meaning: "Muhammad ibn Kasir told us Sufyan from Bahz ibn Hakim from his father, and his grandfather said I once asked the Messenger of Allah. Who is the first person I must obey? He answered, Your mother. I asked again, then who else? He answered, Your mother.

I asked again, then who else? He still answered your mother. Then, on the fourth question, he just answered, Your father. After that, the closest family. (Sajastani, n.d.)

As for the conditions for granting alimony to the elderly, according to the Madhhab Imams, they are as follows:

1) Hanafi School

The conditions for granting alimony to the elderly, according to scholars of the Hanafi school, are:

- a) The poor parents. (Jaziri, 2015) Fathers who have reached old age are not required to work. An inability to work is not a requirement to provide support to parents. Children are still required to provide support for their parents, even though both parents are able to work but are willing to work. (Mughniyyah, 2011)
- b) Children are not required to be rich; the requirement is that they are capable or able to work. (Mughniyyah, 2011)

2) Maliki School

The conditions for providing alimony from children to parents, according to the scholars of the Maliki school, are:

- a) The poor parents. This means they cannot meet their own needs. If they are able to meet the needs of only one (the father's or mother's side), the child is obliged to fulfill or meet the other's needs. (Mughniyyah, 2011)
- b) Parents who are unable to work. If parents are still able to work, then providing support to them is not mandatory for children. Apart from that, if parents are able to work but do not want to work, then maintenance is not required of the parents. (Mughniyyah, 2011)
- c) Children in a situation where they have a lot of wealth or are rich. This means that children are able to work and have assets that are more than the food they need for their family, wife, children, pets, and necessary servants. If there is no excess wealth, children have no obligation to support their parents. (Mughniyyah, 2011)

3) Syafi'i School

According to scholars from the Syafi'i school, the conditions for giving maintenance to parents are as follows:

- a) The poor parents. (Jaziri, 2015) This means that parents do not have assets. If parents have enough assets to meet their living needs, then the child is not obliged to provide support to both parents, whether the parents are sick, disabled, crazy, or blind, because in such conditions, the parents do not need support from the child. If parents work, children are obliged to provide support for them because forcing them to work is not a commendable act. (Zuhaili, 2010)
- b) The child is in a situation where he possesses extensive assets, indicating that he has surplus assets beyond what is necessary for his basic daily needs and those of his family. This excess is required as a living for his parents because providing for them takes priority over paying off debts, even if they have to sell their fields or so on. (Jaziri, 2015)

4) Hanbali School

The conditions for giving maintenance to parents by children, according to scholars of the Hanbali school, are:

- a) The poor parents. This means they do not have enough wealth and income to support themselves. If parents have assets or jobs that can meet their needs, this

means they have no right to receive support from their child. If parents possess sufficient assets to fulfill certain needs, the child must fulfill additional needs.(Jaziri, 2015)

- b) Children have advantages or extensive assets. The advantage of wealth here is after meeting one's own needs and those of one's family. Children who possess no excess assets are not required to provide for their parents.(Jaziri, 2015)

c. Alimentation of Positive Legal Perspectives

Islamic law not only mandates parents to provide for their children, but positive law also regulates this obligation in Indonesia.

Every child has a responsibility to respect their parents and follow their good wishes. In fact, between parents and children there is a relationship of alimony, namely a reciprocal relationship between parents and children, in which parents are burdened with the obligation to care for and educate their immature children according to their respective abilities, and vice versa, adult children are obliged to maintain, according to their abilities, their parents and family in a straight line upwards if they need his help.(Komariah, 2013)

Articles 45 and 46 of Law Number 1 of 1974 concerning Marriage, in Chapter X concerning the Rights and Obligations between Parents and Children, specify these reciprocal obligations, also known as alimony obligations. Referring to Article 45 of the law:

- 1) It is the responsibility of both parents to care for and educate their children as best they can.
- 2) The parental obligations referred to in paragraph (1) of this article apply until the child marries or is able to stand alone, and these obligations continue to apply even if the marriage between the parents breaks down.(UU No. 1 Tahun 1974 Tentang Perkawinan, 1974)

The parental obligations referred to in paragraph (1) of this article, as explained in paragraph (2), apply until the child marries or is able to stand alone, and these obligations continue to apply even if the marriage between the parents breaks down.

Meanwhile, Article 46 emphasizes the obligations of children to their parents, namely:

- 1) Children must respect their parents and obey their good wishes.
- 2) If the child is an adult, he has a responsibility to care for his parents and family to the best of his ability if they require his assistance.(UU No. 1 Tahun 1974 Tentang Perkawinan, 1974)

According to Article 46, paragraph (2), children are required to care for and look after their parents in accordance with their abilities and skills. However, this explanation only means "maintain" in the general sense. If you examine the linguistic definition of "to look after," it refers to the act of caring for and taking good care of something, such as your body's health or your wife's children. Therefore, we can say that maintenance includes living. Law No. 1 of 1974 concerning marriage (henceforth referred to as the Marriage Law) mandates children to care for both parents, contingent on the child's abilities or capabilities. Consequently, the Law's contents suffer from exceptions.(Ernawati, 2015)

Apart from the provisions above, Article 321 of the Civil Code also regulates something similar which reads:

"Each child is obliged to provide support to both parents and to his blood relatives in the upward line, if they are poor."(Kitab Undang-Undang Hukum Perdata, 2017)

Not only in Article 321 is maintenance provided to parents regulated, but also in Article 326 of the Civil Code, which reads:

"If the party who is obliged to provide maintenance proves his inability to provide money for this purpose, then the district court has the authority, after investigating the matter, to order him to place the party who needs maintenance in his house and provide him with the necessary goods."(Kitab Undang-Undang Hukum Perdata, 2017)

The scope of this household is described in Chapter I regarding General Provisions in Article 2 of Law No. 23 of 2004 concerning the Elimination of Domestic Violence, which reads:

- 1) The scope of the household in this law includes:
 - a) husband, wife, and children;
 - b) people who have a family relationship with the person as intended in letter A due to blood, marriage, breastfeeding, parenting, and guardianship, who resides in the household, and/or
 - c) people who work to help the household and live in the household.
- 2) People who work as intended in letter C are considered family members for the period of time they are in the household concerned. If the parent lives with the child, then the parent is included in the household.(*Undang-Undang Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga*, 2004)

Because, according to the law, children who are adults are obliged to support or care for their parents, children are prohibited from abandoning their parents. For parties who abandon other people within the scope of their household, there are sanctions as intended in article 9 paragraph (1) of the Domestic Violence Law (hereinafter referred to as the PKDRT Law), namely Article 49 letter a of the PKDRT Law, which is a maximum imprisonment of three (three) years or a maximum fine of IDR 15,000,000.00 (fifteen million rupiah). The verse reads:

"Submitted by a maximum imprisonment of three (three) years or a maximum fine of Rp. 15,000,000.00 (fifteen million rupiah), every person who:

- a) neglecting other people within their household as intended in Article 9, paragraph (1);
- b) abandoning other people as intended in Article 9, paragraph (2)."(*Undang-Undang Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga*, 2004)

Based on the PKDRT Law, children who are legally obliged to care for or support their parents but fail to fulfill this obligation can be subject to sanctions or punished.

Children's obligations to their parents are also stated in the Compilation of Islamic Law (KHI) even though the parents have died, which in Article 175 explains that if the parents die and have debts, then the child, as the heir of both parents, is obliged to pay off the parents' debts. in the form of treatment, care, and so on.

As for the sound from Article 175 paragraph [1], KHI is:

- a) Manage and complete until the burial of the body is complete;
- b) Settle debts in the form of medical treatment, including the obligations of heirs and debt collectors;
- c) Completing the heir's will
- d) Divide the inheritance among the rightful heirs."(Mahkamah Agung RI, 2011)

While Article 175 paragraph [2] KHI reads:

"The heir's responsibility for the heir's debt or obligation is only limited to the amount or value of the inheritance." (Mahkamah Agung RI, 2011)

Based on the paragraph above, heirs only have the obligation to pay off the heir's debts to the extent of the heir's inheritance; heirs are not burdened with the obligation to use their personal assets to pay off the heir's debts. So the child's responsibility, namely being the heir to their parents' debts, is limited to the amount or value of the inheritance from their parents.

From the explanation above, it can be understood that although the article does not contain a detailed explanation of child support for parents, the sentence "treatment, care, etc." contains the meaning of maintaining. Because the meaning of the diction "to look after" is to care for and respect parents, it is appropriate for children to have an obligation to look after their parents, even if they are healthy. Children must look after their parents, especially when the parents are old and sick. Children do not need to wait to be able to work and can fulfill their parents' needs by looking after both of them.

4. Discussion

The legal system is a unity consisting of elements or elements that interact with each other. The system does not want conflict between the elements in the system; if a conflict occurs, it will be resolved immediately by the system. There are three elements of the legal system that must be considered if the law is to function: structure, substance, and legal culture. (Barkatullah, 2013)

Structure concerns the institutions that have the authority to make and implement laws (courts and legislative institutions). The second aspect is the substance, namely the material or form of legal regulations, and the third aspect of the legal system is what is called people's attitudes towards the law and the legal system, namely regarding beliefs about their values, thoughts, ideas, and hopes. A good legal structure will not work well if it is not supported by a good legal substance. Likewise, the benefits of a good legal substance will not be felt if it is not supported by a good legal structure. Furthermore, a good legal structure and substance will not be able to feel their existence if they are not supported by a good legal culture in society. (Barkatullah, 2013)

As for the legal structure in Indonesia, which is part of the legislative body, the DPR (People's Representative Council) holds the power to form laws. Draft laws can come from the DPR, the President, or the DPD. (Regional Representative Council) Draft laws from the DPR can be submitted by members, commissions, or a combination of commissions. (RI, 2016) Meanwhile, it is the court institution whose function is to implement the law, such as judges who give sentences if there are people who do not comply with the rules in the substance of the law.

Meanwhile, regarding the legal substance regarding child alimony towards parents, it is contained in several statutory regulations, as explained by the authors in the discussion.

Then, regarding the legal culture of child alimony towards parents, we all know that Indonesia is a country that highly upholds family values, such as Pancasila, the Indonesian state philosophy, which is full of the values of togetherness and helping each other and is far from the individualistic values that live in some parts of big western country. As is the case in America, American legal culture is individualistic, not only unwritten legal culture, which is in the form of traditions, values, and patterns of behavior, while written legal culture, which is often referred to as modern law, is also individualist in nature and is supported by the political system or liberal political people. (Ma'ruf, 2006) For example, in the United States, it is common for children who have reached the age of 18 to live in a separate house from their parents.

Meanwhile, according to the results of research by Laubunjong (2008) regarding patterns of providing care to the elderly, it was found that the majority of elderly people wanted to be cared for by their daughters. The elderly expect to receive care, be loved, and receive financial assistance and health services that can be provided for by their children. Family support in the form of providing assistance from children to parents still plays a very large role in Indonesian society. If it is related to Indonesian culture, extended family is still developing, allowing elderly people to live with family (children, in-laws, grandchildren, or other family members). (Laubunjong et al., 2008) Liu (2009) found that elderly people in traditional societies in Asia still live with their families. In Taiwanese society, 83% of elderly people live with their families. In Thailand and the Philippines, 92% of elderly people live with their families, 83% in China, 82% in Malaysia, and 69% in Japan. (Liu, 2009)

As in the sub-chapter of legal culture, a sub-chapter of the legal system theory initiated by Lawrence Friedman, legal culture is more oriented towards people's attitudes, people's beliefs, the values held by society, and their ideas or expectations regarding laws and regulations. legal system. In this case, legal culture is a description of attitudes and behavior towards the law, as well as all the factors that determine how the legal system obtains a proper and acceptable place within the framework of society's culture. The greater the public's legal awareness, the better legal culture will be created, which can change the current mentality of society. In simple terms, one indicator of the functioning of the law is the level of public compliance with the law.

Thus, it can be concluded that Indonesia's legal culture, which is strong in family values, strongly supports children's obligations in terms of nurturing, looking after, and providing for their parents. However, unfortunately, the public's understanding of parental alimony is still relatively minimal, so there are still many cases of parental neglect in Indonesia.

Meanwhile, if we compare Islamic law and positive law in Indonesia regarding child alimony towards parents, the authors will compare them using the following three elements:

- 1) *Comparatum* namely the regulations regarding the provisions for child alimony towards their parents.
- 2) *Comparandum*, to compare the legal subjects studied, namely Islamic law and Indonesian positive law.
- 3) *Tertier Comparationis*, similarities of the two laws being compared; namely, both laws require children to support or care for their parents with certain conditions.

5. Conclusion

The perspective of Islamic law on the obligation of child alimony towards parents is unequivocal, being deemed mandatory across numerous sources. Verses such as Q.S. Al-Baqarah verse 215, Q.S. An-Nisa verse 36, Q.S. al-Isra' verse 23, and Q.S. Luqman verse 15, along with hadiths like H.R. Ibn Majah Hadith No. 2282, H.R. Al-Bukhari No. 5351, and H.R. Abi Dawud No. 5139, underline this duty. In the four major schools of jurisprudence—Hanafi, Maliki, Shafi'i, and Hanbali—a common condition for supporting parents is when they are in need, and the child possesses the capability to work or own assets.

Similarly, under Indonesian positive law, the obligation for child alimony towards parents is mandatory but entails specific conditions. These conditions include parental poverty (Civil Code), parental need for assistance (Law No. 1 of 1974 concerning marriage), parents residing within their child's household (Law No. 23 of 2004 concerning the Elimination of Domestic Violence), or parents incurring debts related to care costs or medication, which must be shouldered by the child (Compilation Islamic law). Additionally, neglecting parents who reside with a child can lead to legal consequences, such as a

maximum prison sentence of three years or a maximum fine of IDR 15,000,000.00 (fifteen million rupiah), as stipulated in Law No. 23 of 2004 concerning the Elimination of Domestic Violence.

Despite the extensive elucidation on alimony provisions within Islamic law and Indonesian statutory regulations, cases of parental neglect persist in Indonesia. Strengthening law enforcement to ensure compliance with these regulations is imperative. Moreover, the government's promotion of elderly care programs through nursing homes or social centers, particularly considering the predominantly Muslim population, is crucial. Furthermore, establishing specialized services for the elderly within Islamic boarding schools in Indonesia could address issues of abandonment more effectively.

6. References

Al Qur'an Al Karim

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