



The Perspective of Society on the Disharmony between Parents and Children: A Study of Islamic and Civil Law

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Abstract

The relationship between parents and children is one of the most deeply emotionally bonded and complex relationships in human life, so the relationship between parents and children is regulated in such a way by Islamic law and civil law. However, there are still cases of disharmony between parents and children. This research aims to analyze people's views on disharmony between parents and children through the perspective of Islamic law and civil law. This research is included in qualitative research with a variant of thematic analysis to process data from respondents. The results of the study state that the community has understood how the Islamic perspective handles disharmony between parents and children, but they do not understand how civil law handles such cases. The community also prefers to combine Islamic law and civil law in resolving disharmony between parents and children in the hope of reducing disharmony between parents and children. The research may offer recommendations for policymakers and legal practitioners in dealing with familial disharmony.

Kata Kunci

Orang Tua;
Anak;
Ketidakharmonisan;
Hukum Islam;
Hukum Perdata

Abstrak

Hubungan antara orang tua dan anak merupakan salah satu hubungan yang paling dalam dan kompleks dalam kehidupan manusia, sehingga hubungan orang tua dan anak diatur sedemikian rupa oleh hukum Islam dan hukum perdata. Namun demikian, masih terdapat kasus-kasus ketidakharmonisan hubungan antara orang tua dan anak. Tujuan dari penelitian ini adalah untuk menganalisis pandangan masyarakat terhadap ketidakharmonisan hubungan antara orang tua dan anak dalam perspektif hukum Islam dan hukum perdata. Penelitian ini termasuk dalam penelitian kualitatif dengan varian analisis tematik untuk mengolah data dari responden. Hasil penelitian menyatakan bahwa masyarakat telah memahami bagaimana perspektif Islam menangani ketidakharmonisan antara orang tua dan anak, namun mereka tidak memahami bagaimana hukum perdata menangani kasus tersebut. Masyarakat juga lebih memilih untuk menggabungkan hukum Islam dan hukum perdata dalam menyelesaikan kasus ketidakharmonisan antara orang tua dan anak dengan harapan dapat mengurangi kasus ketidakharmonisan antara orang tua dan anak. Penelitian ini dapat memberikan rekomendasi kepada para pembuat kebijakan dan praktisi hukum dalam menangani ketidakharmonisan keluarga.

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INTRODUCTION

The family is a social institution that plays a very important role in forming individuals and society. However, over the past few decades, there have been major changes in family dynamics (Yulia, 2020). There are many things that a child learns in the family, especially his relationship with his parents. The relationship between parents and children is a deep bond that is complex and full of meaning to each other. Every parent has a responsibility for the mandate given by Allah SWT., and it is also a touchstone that every parent must carry out. If the child is educated by following Islamic teachings, the parents will get a big reward, and vice versa; if a child is educated with inappropriate steps, the parents will get a reward for what has been done. Therefore, there are still some phenomena where the relationship between parents and children is not harmonious. Usually, the factors that cause parental disharmony occur because of the lack or breakdown of communication between parents and children, selfish attitudes between parents and children, not fulfilling family needs, lack of parental time with children because parents are busy with work, and the distance of the family from religion. There are still many children who do not get their rights from their parents, such as the right to get affection, the right to a proper education, the right to be given a halal and good living, and so on. Because of this, the relationship between parents and children is regulated by Islamic law and civil law.

The word law itself can be interpreted as rules or norms that regulate how humans behave in society, both rules and norms that are made in a certain way and enforced by certain people (Ali, 1997). The second word is 'Islam,' a religion mandated to the Prophet Muhammad SAW. by Allah SWT. to teach its laws, preach it to all humans, and invite them to embrace it (Shaltut, 2007). Islamic law is a collection of religious rules, commands, and prohibitions of Allah SWT that regulate the behavior of Muslim life in all its aspects. Islamic law comes from the Koran, clarified in more detail through the Hadith of the Prophet Muhammad SAW. There is also an agreement between scholars, ijma, and qiyas. This is the basis on which all aspects of human life have been regulated and determined, not to be contradicted. Although times continue to change and develop, the basic principles that have been

established will always be relevant to the times (Panggabean, 2022).

Islam teaches that a child must respect their parents. Surah Al-Isra verses 23-24 emphasize the importance of filial piety to parents and the prohibition of a child speaking harshly to parents; surah Luqman verses 14-15 instructs always to do good to parents as long as parents invite goodness. There is a hadith about filial piety: 'The Prophet Muhammad SAW said: "The pleasure of Allah depends on the pleasure of parents and the wrath of Allah depends on the wrath of parents." (HR. Tirmidzi)' and the hadith about the prohibition of disobeying parents: 'The Prophet Muhammad said: "Among the major sins are shirk to Allah, disobedience to parents, killing a soul, and false witness." (HR. Bukhari and Muslim)'.

Kant stated that law is the whole of the conditions by which one person's free will can conform to the free will of another person, according to the legal regulations regarding freedom. (Hikmah, 2023). Civil law is a law that regulates relationships between individuals and has a regulatory character with the aim of protecting individual interests (Aprita, 2021). Civil law is written and regulated in the Civil Code. There is also unwritten civil law, namely customary law.

The Civil Law system according to the division of the Book of Laws as described in Civil Law is as follows: (1) Book I: on Persons, which contains Individual Law and Family Law; (2) Book II: on the Law of Objects, which contains the Law of Objects and the Law of Inheritance; (3) Book III: on Obligations, which contains the Law of Property relating to the rights of obligations that apply to certain persons or parties (4) Book IV: on Proof and Expiration, which contains matters of proof and the effects of lapse of time on legal relationships; (5) Family Law or *familierecht*, as stated by Prof. Soediman Kartohadiprodjo, SH.

Family Law or *familierecht*, as stated by Prof. Soediman Kartohadiprodjo, SH, is all legal rules that determine the conditions and ways of establishing eternal relationships and all their consequences. Family Law is a rule that regulates family relationships or rules, both written and non-written, relating to families by blood and families due to marriage. This includes marriage, property in marriage, divorce (*talaq*), parental rights or powers,

guardianship (release), guardianship, and so on relating to the family.

Article 299 of the Civil Code regulates the relationship between parents and children, "During the marriage of the parents, every child until adulthood remains under the authority of both parents, as long as the parents are not released or dismissed from that authority."

The relationship between parents and children is the most crucial and is the closest social relationship between people. This relationship between parents and children is one of human life's most profound and complex emotional bonds. It would be unfortunate if the relationship between parents and children is not good and harmonious. Islamic Law and Civil Law both regulate and explain this issue specifically. This shows that the relationship between parents and children cannot be underestimated. Having a harmonious family is certainly the dream of all humans (Yusuf, 2020).

However, in Indonesia, there are cases where parents and their children conflict. In general, the meaning of family disharmony is a bad relationship between one family member and another (Na'im, 2023). If this disharmony case continues to occur, it can hurt both parties. This is one of the reasons why researchers chose the title "Community Views on Disharmony between Parents and Children: A Study of Islamic and Civil Law".

This study aims to analyze people's views on disharmony between parents and children from the perspective of Islamic law and civil law, which, if seen, cases like this have occurred around the community. In addition, in this study, the author also wants to analyze people's views on the impact and solution of disharmony between parents and children from the perspective of Islamic law and civil law. Through this identification of the impact of disharmony between parents and children, the author hopes that this research can be useful and provide insight into how the community views family disharmony and how Islamic law and civil law have a role in resolving these cases.

METHOD

Based on the theme revealed, this type of research is included in the qualitative category, namely data in the form of writing described through observations and various behaviors contained in

individuals, groups, or organizations that occur in everyday life in detail. The approach used in the research is normative. The normative approach is intended to explore the community's views on disharmony between parents and children based on the study of Islamic law and applicable civil law.

The subjects involved in the research are people who are not limited by gender, including parents and children. In taking subjects, the criteria are that the respondent is at least 17 years old. In the research, there are two types of data: primary and secondary data.

Primary data is obtained through distributing questionnaires as the initial stage of research. This questionnaire is a way to collect research data. The time required to distribute questionnaires to respondents began on October 9, 2024, to October 31, 2024. Furthermore, secondary data complements primary data. Secondary data in literature related to research themes such as journals and books.

After the data from the respondents' answers are collected, data analysis is conducted to obtain the desired information. Researchers used thematic analysis techniques to analyze the data. Researchers use thematic analysis to identify patterns from respondents' answers and draw conclusions. This is the final step of the research conducted by the researcher.

RESULTS AND DISCUSSION

Result

Based on the research conducted, the community understands how to deal with cases of disharmony between parents and children in the view of Islamic law, but the community does not understand how civil law deals with cases of disharmony between parents and children, even though the community can deal with these cases of disharmony. People feel that it is important to understand how Islamic and civil law regulate and deal with disharmony between parents and children and that legal protection for children in the context of family disharmony is needed. There are laws and regulations regulating relationships in the family, one of which is Law Number 35 of 2014 concerning Child Protection. Legal protection for children can be understood as an effort to protect various freedoms, human rights, and interests related to the welfare of children. Children's rights include the right to grow

up in a safe, healthy, adequate, and loving environment and provide adequate protection, such as family mediation, access to legal protection, and custody arrangements that prioritize the child's best interests.

Many people consider that there are differences between Islamic law and civil law in dealing with cases of disharmony between parents and children; this is due to the:

- 1) Islamic law and civil law come from different sources; Islamic law comes from the Al-Quran and Hadith, while civil law comes from written sources (laws) and unwritten sources (customary law).
- 2) In Islamic law, the relationship between parents and children is seen as a spiritual and moral responsibility that is a reciprocal responsibility between parents and children. In contrast, civil law emphasizes the rights and interests of children, which are based on formal regulations and human rights.

However, some people also say there is no difference between Islamic law and civil law because, to some extent, civil law refers to Islamic law, which both regulate so that there is no disharmony between parents and children.

Disharmony between parents and children will certainly have a negative impact, such as causing the sin of disobedience, reducing the blessing of life, loss of affection, weakening the bond between families, and can affect psychological health. Some people consider that disharmony between parents and children has an impact on both sides, both on the parents and children. Where if seen from the side of a child, it will have an impact, such as the welfare of the child being disturbed, the custody of education and child protection being neglected, the child losing direction, and the child getting social punishment. When viewed from the parent's side, it will have an impact, such as divorce cases, one of the parents losing custody of the child, and the implementation of parental obligations that are not carried out.

Based on the results of research that has been conducted, the community also offers several solutions that can be done to resolve and reduce disharmony between parents and children; the community provides solutions with two different views, namely in the view of Islamic law and the view of civil law:

First, in Islamic law's view, the community provides solutions and settlements: (1) Settlement with love, mutual respect, and good communication. If the communication is well established, the relationship between parents and children will not be easily influenced by the surrounding environment, such as strengthening Islamic values in the family, instilling faith and devotion, deliberation in the family, and involving religious leaders if needed.

Second, in the view of civil law, the community provides solutions and settlements, as follows: (1) mediation as an initial solution, (2) determination of custody and prioritizing the interests of children; (3) legal protection and child welfare; (4) provision of child support; (5) consultation with third parties; (6) the role of the state in child protection.

With these solutions, communities can handle and reduce disharmony between parents and children. Most people choose to handle and reduce cases of family disharmony by combining Islamic law and civil law. This is because the two laws complement each other and work together to achieve optimal goals. Islamic law offers moral values, principles of compassion, forgiveness, and obedience to Allah SWT, and civil law provides a legal framework that protects individual rights. By combining Islamic law and civil law, disharmony between parents and children can be resolved with a balance between resolution with religious values and resolution with legal protection to maintain individual rights.

Discussion

Human relationships seem close and easy but are far from simple. Human relationships are very complex because they involve many aspects. Behind the closeness and comfort of a relationship, there are complex dynamics involving many aspects, ranging from emotional, physical, social, and even intellectual. This also applies to the family relationship between parents and children. Although the relationship between parents and children is the closest and most emotionally connected relationship between humans, it still involves individuals with different characteristics and needs.

In a family setting, there are parents and children, where parents are in charge and responsible for educating children, and a child must respect the family. A child gets many lessons in a family envi-

ronment. In line with previous research UPBR, being in the family influences the formation of a child's character; this is realized by motivation and support for a child in accepting and understanding. However, if the family environment has a negative influence, parents need to teach children first (Nasution, 2019). Similar to human relationships, in a family setting, several conflicts are caused by differences of opinion or lack of communication between families, causing disharmony between parents and children. Therefore, the relationship between parents and children is regulated in such a way in Islamic law and civil law.

Islamic law is a collection of religious rules, commands, and prohibitions of Allah SWT., which regulates human life in all its aspects and the relationship between people and children, which is regulated in such a way by Islamic law. In the Quran, some verses regulate the relationship between parents and children, some of which are:

- 1) Surah Al Isra verses 23-24 means, "And your Lord has commanded you to worship none but Him and be kind to your parents. If either of them or both of them come to old age in your care, then at no time should you say to them the word "ah" and do not yell at them, and say to them good words. And humble yourself before them with compassion and say, "O my Lord, have mercy on them both, as they have brought me up in childhood."

Research done before in Surah Al Isra verses 23-24 explains that a child is forbidden to speak harshly and yell at parents, but a child is encouraged to say noble words, be humble, and pray for parents. (Hamid, 2024).

- 2) Surah Luqman verses 14-15 means, "And We commanded man (to be kind) to his parents. His mother conceived him in a state of increasing weakness and weaned him at the age of two years. Give thanks to Me and your parents. Only to Me shall you return. And if they force you to associate with Me something of which you do not know, then do not obey them, and associate with them in this world well, and follow the path of those who return to Me. Then only to Me shall you return, and I will tell you what you have done."

In surah Luqman verses 14-15, it is explained that a child should do good to their parents as long

as parents invite them to goodness. But when parents invite to something wrong, a child can refuse subtly and have the right to invite back to good things.

- 3) Hadith about filial piety to parents, namely the Prophet Muhammad SAW said: "The pleasure of Allah depends on the pleasure of the parents and the wrath of Allah depends on the wrath of the parents." (HR. Tirmidzi), and the hadith about the prohibition of disobedience to parents, namely the Prophet Muhammad SAW said: "Among the major sins are shirk to Allah, disobedience to parents, killing a soul, and false witness." (HR. Bukhari and Muslim).

Civil law is a law that regulates relationships between individuals. It includes family law, which discusses family relationships due to marriage, such as the relationship between parents and children. The Civil Code, which regulates the relationship between parents and children, is as follows.

- 1) Law Number 4 of 1979 concerning Child Welfare Article 9 states that parents are responsible for the welfare of children spiritually, physically, and socially. Children are entitled to protection against the environment that can harm or inhibit growth and development.
- 2) Law Number 1 Year 1974 Article 45 stipulates that both parents are obliged to maintain and educate their children as well as possible. This obligation applies until the child marries or can stand alone.
- 3) Law Number 35 of 2014 Article 26, paragraph (1) states that parents are responsible for nurturing, maintaining, educating, and protecting children. Parents must also develop children according to their talents, abilities, and interests.

Protection for children in civil law is spelled out to protect the rights and interests of children considered to be the more vulnerable parties in family relationships. This principle is based on the principle of child protection, which is oriented towards the welfare and best interests of the child.

This research provides insight into the community's views on disharmony between parents and children and how Islamic law and civil law resolve these problems. The results showed that most respondents understood how to deal with disharmony between parents and children in the view of Islamic law. This research aligns with the theory

stating that Islamic law from the Koran and Hadith is a guide in solving all kinds of problems that arise in family life (Lestari et al., 2024). However, some respondents do not understand how civil law addresses cases of disharmony between parents and children. This shows a gap in understanding among the community regarding the law governing the relationship between parents and children. Hence, the importance of legal education, discussed in a previous study (Novrianto, 2024), showed that community involvement in legal education could increase their awareness of the role of both laws in handling cases of family disharmony. Nonetheless, the respondents showed that they could still address these disharmony cases constructively.

The results of this study show that people believe that a lack of effective communication within the family causes disharmony between parents and children. This aligns with previous research, which shows that effective communication can strengthen family relationships and help prevent negativity arising from conflict. Family communication theory emphasizes the importance of open and honest communication as the foundation for building healthy family relationships. Families that actively strive to improve and maintain lines of communication can often overcome conflict constructively, as expressed by (Putri et al., 2024), who emphasized that good communication is the key to creating harmony in family relationships.

In disharmony between parents and children, both parties will be affected, both from the parents and the children. The impact that children will feel is the disruption or non-fulfillment of the rights they get from their parents, such as the right to protection, the right to care, the right to receive care, the right to freedom, the right to education, and even child custody. The results of this study contradict the existing literature, especially the opinion of (Zahra et al., 2023), which emphasizes that children's rights must still be fulfilled by both parents, regardless of disharmony in their relationship. When a child is born, some obligations and rights should be fulfilled so that the child's survival is protected and the child will grow and develop freely and optimally. In addition, (Massa et al., 2020) explain in detail that disharmony between parents and children will have an impact on children; the first is that the child's psychological disturbance is

disturbed because a child needs the role of his parents, the second is that the child will hate the parents this is because the child does not get enough affection and comfort from the parents, The third is that the bad environment easily influences children, this will happen if the conditions of parents and children are not harmonious, so the child will look for a place to entertain himself, the fourth is that the child will see his life in vain due to the pain that the child gets when he has a conflict with his parents, and will cause the child to be difficult to get along and have problems with the child's morals. In disharmony between parents and children, it is not only a child who will get an impact; of course, it will also impact parents. One of the parents will lose custody of the child, and the implementation of unfulfilled parental obligations, and the most serious impact received by parents is divorce.

In this study, the community views that disharmony between parents and children has a solution that can resolve and reduce the occurrence of this case. The community provides solutions with two views, namely, Islamic law and civil law. Still, from both views, it will provide solutions that can find a bright spot in the disharmony of parents and children, namely as follows.

First, settlement with love, mutual respect, and good communication. Good communication will improve the relationship between parents and children. Affection and mutual respect will grow and positively impact their relationship. Therefore, the community considers that resolving with love, mutual respect, and good communication is one of the solutions to disharmony between parents and children.

Second, Islamic values have a significant impact on a family. Therefore, strengthening Islamic values in the family effectively resolves and reduces disharmony between parents and children. Strengthening Islamic values in the family can be started by doing things such as praying together, reading the Koran together, and instilling noble character such as honesty, responsibility, humility, and others. In addition to strengthening Islamic values, instilling faith and devotion is one positive solution. Instilling faith and devotion can form a family with a caring personality toward fellow family members. Simultaneously, the relationship between parents

and children will become more harmonious and filled with love.

Third, establishing custody and prioritizing the interests of the child. The determination of custody should be carried out by considering what is best for the child, with the determination that custody will support the child both physically and emotionally. Prioritizing the interests of children is also something that makes the relationship between parents and children more harmonious by paying attention to the needs of children. In addition, the provision of child support also supports the prioritization of children's interests.

Fourth, legal protection and child welfare can ensure that every child gets their rights. Legal protection and child welfare is certainly the state's role in child protection. Therefore, the state's role in child protection is also one of the solutions to cases of disharmony between parents and children; with this child protection, it can be ensured that children grow up in a safe and comfortable environment.

Fifth, mediation and consultation with third parties. Mediation will involve a third party between parents and children; this solution can be done through deliberation in the family by involving religious leaders if needed. This agrees with previous research that this mediation process is assisted by someone known as a mediator. Mediation requires the presence of both litigants (Rahmah, 2019). Mediation can reduce conflict by building good communication between parents and children.

The author realizes that this study has limitations. The limitation in question is the small number of samples due to the distribution of questionnaires that are not too long, so the results of this study may not fully reflect the views of the entire community. The researcher hopes that this study will inspire future research to explore more aspects of communication between parents and children and its impact on parents and children. In addition, it is also important to consider cultural and social factors that may influence this relationship so that the study results can be more relevant and applicable in the context of a diverse society.

CONCLUSION

The community understands how the Islamic perspective deals with disharmony between parents

and children, but they do not understand how civil law deals with such cases. According to the community, both from an Islamic perspective and civil law, cases of disharmony between parents and children can hurt both parties. For the child, the impacts include psychological and emotional disruption, disruption of the child's welfare, and neglect of the child's right to education and protection. As for the parents, the impact is that it can trigger divorce cases, one of the parents loses custody of the child, and the implementation of parental obligations is not carried out. Cases of disharmony between parents and children will weaken family ties, cause loss of affection, and cause disconnection of friendship. However, if you look at this problem, there is a solution that can reduce the occurrence of similar cases, namely through family settlement or prior consultation. By combining Islamic law and civil law in resolving disharmony between parents and children, families will get a balanced solution between moral-based settlements and religious values and settlements with legal protection to protect individual rights.

The researcher realizes that there are still various shortcomings in terms of word writing, reference sources for problems, and imperfect ways of processing and analyzing data. Good and meaningful research is research that can inspire and encourage future research. Therefore, in the future, researchers hope that similar research will discuss this theme and produce better findings than those that researchers have carried out.

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