

CHILDREN'S RIGHTS IN A QUASI-BROKEN HOME FAMILY: ISLAMIC LAW VERSUS CHILD PROTECTION LAW

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Abstract: In contemporary society, numerous indicators of a quasi-broken home manifest within families. Consequently, communication between children and parents becomes disrupted, leading to disharmony within the family unit and fostering a tendency for children to exhibit rebellious behaviours. The objectives of this study are threefold: (1) to examine the rights of children within quasi-broken homes in the West Langsa District, (2) to analyse the perspectives of Islamic law and Law Number 35 of 2014 concerning the fulfilment of children's rights within quasi-broken homes in the West Langsa District, and (3) to identify the similarities and disparities between the perspectives of Islamic law and Law Number 35 of 2014 regarding the fulfilment of children's rights within quasi-broken homes in the West Langsa District. This research employed a normative, empirical approach, categorized as field research. Data collection methods included observation, interviews, and documentation. The findings reveal that three main findings. First, the implementation of children's rights within quasi-broken homes in the West Langsa District is inadequate due to parental work commitments. Second, Islamic law and Law Number 35 of 2014 align on several aspects concerning the fulfilment of children's rights, including the rights to life, education, voice, participation, identity, and inheritance. However, adequate

protection from violence and provision of love and care are lacking due to parental busyness. Third, disparities between Islamic law and Law Number 35 of 2014 are evident in education. Islamic law advocates for worldly and religious education, while Law Number 35 of 2014 emphasizes education tailored to the child's abilities and interests. Moreover, Law Number 35 of 2014 extends the right of care to individuals beyond the parents.

Keywords: Children's Rights, Islamic Law, Broken Home, Positive Law

Abstrak: Dalam masyarakat *modern* banyak ditemukan adanya gejala *quasi broken home* di dalam suatu keluarga. Hal tersebut mengakibatkan komunikasi antara anak dan orang tua menjadi terganggu, keluarga menjadi tidak harmonis dan sikap anak cenderung menjadi nakal. Tujuan dari penelitian ini ialah (1) untuk mengetahui hak anak dalam *quasi broken home* di Kecamatan Langsa Barat, (2) untuk mengetahui perspektif hukum Islam dan Undang-Undang Nomor 35 Tahun 2014 terhadap praktik pemenuhan hak anak dalam *quasi broken home* di Kecamatan Langsa Barat dan (3) untuk mengetahui persamaan dan perbedaan antara perspektif hukum Islam dan Undang-Undang Nomor 35 Tahun 2014 praktik pemenuhan hak anak dalam *quasi broken home* di Kecamatan Langsa Barat. Penelitian ini menggunakan pendekatan normatif empiris dan jenis penelitian ini adalah penelitian lapangan (*field research*) dengan bentuk sosiologis. Untuk memperoleh data peneliti menggunakan metode observasi, wawancara dan dokumentasi. Adapun hasil dari penelitian ini menunjukkan bahwa (1) hak anak dalam *quasi broken home* di Kecamatan Langsa Barat tidak terlaksana dengan baik dikarenakan kesibukan orang tua dalam bekerja. (2) Persamaan perspektif hukum Islam dan Undang-Undang Nomor 35 Tahun 2014 terhadap praktik pemenuhan hak anak dalam *quasi broken home* di Kecamatan Langsa Barat yaitu dimana dalam pemenuhan hak atas kehidupan, hak atas pendidikan, hak untuk bersuara dan berpartisipasi dan hak pemenuhan identitas dan warisan telah terpenuhi dengan baik. Namun, hak anak yang berkaitan dengan perlindungan dari kekerasan belum terpenuhi dengan baik dan hak anak yang berkaitan dengan pemenuhan kasih sayang dan perawatan yang juga tidak terpenuhi dengan baik karena kesibukan orang tua. (3) Perbedaan antara perspektif hukum Islam dan Undang-Undang Nomor 35 Tahun 2014 praktik pemenuhan hak anak dalam *quasi broken home* di Kecamatan Langsa Barat terlihat dalam pemenuhan pendidikan anak dimana dalam hukum Islam bahwa pendidikan anak terdiri dari pendidikan formal yang bersifat keduniaan dan pendidikan keagamaan, sedangkan dalam Undang-Undang Nomor 35 Tahun 2014 hanya sebatas pendidikan yang disesuaikan dengan bakat dan minat anak. Selain itu, perbedaan lainnya terletak di dalam Undang-Undang Nomor 35 Tahun 2014 yang juga menyebutkan hak anak atas kebolehan diasuh oleh orang lain selain orang tua.

Kata Kunci: Hak Anak, Hukum Islam, *Quasi Broken Home*, Hukum Positif.

INTRODUCTION

Children, as integral family members, represent a nation's forthcoming generation, bearing a pivotal role in its continuity. Consequently, giving them special attention and protection is imperative to ensure their growth and development. Children require assurance that their physical and mental needs are met commensurate with their developmental stage to foster their evolution into fully realized individuals. Given their inherent lack of physical and spiritual maturity and an inability to independently

fulfill their needs, children rely significantly on the support and protection provided by their family.¹

For children to assume responsibility for the nation's sustainability and well-being, they must be afforded equal and ample opportunities for optimal growth and development. However, children are often vulnerable to rights violations, with insufficient attention granted to their rights, particularly in their formative years. Fundamental rights, such as those about dignity and honour, should be inherently granted without necessitating explicit petitioning from the child. Hence, it is paramount to ensure legal protection guaranteeing the unprejudiced fulfilment of children's rights. Child protection initiatives aim to cultivate an environment conducive to realizing children's rights and responsibilities.²

Within parental roles, Allah, the most glorified, the highest, instils love and care toward children. Such sentiments, materialized through physical and emotional sustenance and shielded from violence or discrimination, significantly impact child development, fostering resilience and independence essential for future endeavours and successes. Parents are profoundly responsible for nurturing their children's growth, as emphasized in the Qur'an, Surah At-Tahrim, verse 6.³

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا قُوا أَنْفُسَكُمْ وَأَهْلِيكُمْ نَارًا وَقُودُهَا النَّاسُ وَالْحِجَارَةُ عَلَيْهَا مَلَائِكَةٌ غِلَظٌ شِدَادٌ لَا يَعْصُونَ اللَّهَ مَا أَمَرَهُمْ وَيَفْعَلُونَ مَا يُؤْمَرُونَ﴾

Translation: O believers! Protect yourselves and your families from a Fire whose fuel is people and stones, overseen by formidable and severe angels, who never disobey whatever Allah orders—always doing as commanded (Qs. At Tahrim :6).

In Islamic law, children are endowed with various rights outlined in the Qur'an, which parents must uphold. Among these rights is the entitlement to affection. Demonstrating affection towards children holds significant importance, as evidenced by the Prophet Muhammad's PBUH (Peace Be Upon Him) actions towards his offspring, even during prayers. This is exemplified in a hadith narrated by Anas bin Malik (may Allah be pleased with him), where the Prophet Muhammad PBUH said:⁴

- 1 Rahman Amin, *Hukum Perlindungan Anak Dan Perempuan Di Indonesia* (Deepublish 2021). See also, Habib Shulton Asnawi, 'Kritik Teori Hukum Feminis Terhadap UU Nomor 1 Tahun 1974 Tentang Perkawinan, Suatu Upaya Dalam Menegakkan Keadilan HAM Kaum Perempuan' (2011) 4 Al-Ahwal 117; Bimo Bayu Aji Kiswanto and Anis Mashdurohatun, 'The Legal Protection Against Children Through A Restorative Justice Approach' (2021) 3 Law Development Journal; Khoiruddin Nasution and Syamruddin Nasution, 'Implementation of Indonesian Islamic Family Law to Guarantee Children's Rights' (2021) 59 Al-Jami'ah: Journal of Islamic Studies.
- 2 Hamdan Firmansyah, *Buku Digital Keperawatan Kesehatan Anak Berbasis Teori Dan Riset* (Poltekkes Kemenkes Yogyakarta 2021). See also, Mary V. Greiner and others, 'Child Welfare Experiences with Automated Medical Data Sharing for Children in Protective Custody' (2022) 136 Children and Youth Services Review 106453; Samantha Fairclough, 'The Lost Leg of the Youth Justice and Criminal Evidence Act (1999): Special Measures and Humane Treatment' (2021) 41 Oxford Journal of Legal Studies 1066 <<https://doi.org/10.1093/ojls/gqab014>>.
- 3 Remiswal Remiswal, *Konsep Fitrah Dalam Pendidikan Islam (Paradigma Membangun Sekolah Ramah Anak)* (Kelompok Penerbit Diandra 2018).
- 4 Nurul Hikmah, *Strategi Pengembangan Sosial Dan Emosi Anak Usia Dini Dalam Islam* (Yayasan Bait Qur'any At-Tafkir 2022); Sarwirini Sarwirini, 'Kenakalan Anak (Juvenile Delinquency): Kausalitas Dan Upaya Penanggulangannya' (2011) 16 Perspektif 244; Tri Anjaswarni and others, *Deteksi Dini Potensi Kenakalan Remaja (Juvenile Delinquency) Dan Solusi* (Zifatama Jawara 2020); Heryanto, 'Pembinaan Keluarga Broken Home' [2016] Jurnal Edueksos.

إِنِّي لَأَذْخُلُ الصَّلَاةَ أُرِيدُ إِطَالَتَهَا فَأَسْمَعُ بُكَاءَ الصَّبِيِّ فَأُخَفِّفُ مِنْ شِدَّةِ وَجْدِ أُمِّهِ بِهِ

Translation: The Prophet, said, "Whenever I start the prayer, I intend to prolong it, but on hearing the cries of a child, I cut short the prayer because I know that the cries of the child will incite its mother's passions." (Narrated by Bukhari No. 709 and Muslim No. 3430)

Offspring are considered a trust and gift from Allah, possessing inherent dignity as complete human beings whose rights must be upheld. Every child, upon birth, is entitled to their rights without needing to request them. These principles are outlined in Law Number 35 of 2014, which amends Law Number 23 of 2002 concerning Child Protection, established by the Indonesian government to ensure the proper implementation of children's rights in Indonesia.⁵

According to Article 1 Number 12 of Law Number 35 of 2014, children's rights are integral to human rights that must be guaranteed, protected, and fulfilled by parents, families, communities, governments, and the State. Child protection laws aim to facilitate an environment where children can live, grow, develop, and participate optimally, thereby fostering the realization of high-quality, morally upright, and prosperous Indonesian children.⁶

In contemporary society, symptoms akin to a quasi-broken home are frequently observed within families where both parents remain intact but are preoccupied with individual busy schedules, consequently lacking sufficient time to attend to their children. As a result, children may experience neglect and psychological conflict, potentially leading to delinquent behaviour.⁷

Preliminary observations suggest that quasi-Broken home dynamics within families often fails to fulfil children's rights. For instance, children may be deprived of the attention and affection they deserve from both parents, as parents prioritize work commitments over familial responsibilities. Consequently, children may be left under the care of grandparents or other relatives, disrupting the essential bond between parents and children. This neglect can lead to disharmony within the family and contribute to the development of problematic behaviour in children.⁸ Furthermore, neglecting children's emotional needs violates Islamic principles, as it constitutes an

5 Hijrah Lahaling, *Pemenuhan Hak-Hak Anak Pekerja Migran Indonesia Dalam Perspektif Hak Asasi Manusia* (Deepublish 2021). See also, Ayusia Sabhita ZAYZDA, Nurul Azizah; ASH-SHAFIKH, Maiza Hazrina; KUSUMA, 'Securitization and Desecuritization of Migration in Indonesia Its Implication to Refugee Rights in the Southeast Asian Region' (2019) 3 *Journal of Southeast Asian Human Rights* 81 <<https://jurnal.unej.ac.id/index.php/JSEHR/article/view/8394>>.

6 Lahaling (n 5).

7 Liza Agnesta Krisna, *Hukum Perlindungan Anak: Panduan Memahami Anak Yang Berkonflik Dengan Hukum* (Deepublish 2016). See also, Rosita, 'Quo Vadis Pekerja Anak Pada Perkebunan Tembakau Di Kabupaten Jember' (2017) 2 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*; Novi Endira, 'Tinjauan Hukum Islam Tentang Kekerasan Non Fisik Terhadap Anak Dalam Keluarga: Studi Kasus Di Gampong Pisang Kecamatan Labuhan Haji Kabupaten Aceh Selatan' (2016) Volume 1 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah* 154; A Hami Sarong, 'The Child Rights in Islamic Law with a Special Focus on Aceh' (2019) 4 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah* 31.

8 Results of Initial Observations Carried Out on June 6, 2023

injustice against children, as stated in the hadith of the Prophet Muhammad PBUH narrated by imam Al Darmiiy.⁹

Based on the foregoing background, this study aims to investigate the fulfilment of children's rights within the ostensibly intact family units where, the parental roles mirror those in broken homes (family with divorce parents) due to each parent's busyness, leading to the neglect of children's rights. Furthermore, this study is both viable and significant, as prior research has predominantly concentrated on children's rights within broken homes. In contrast, the phenomenon of ostensibly intact families, where parents' commitments to their respective careers lead to the neglect of children's rights, remains underexplored and insufficiently discussed.¹⁰

Methods

This research employed empirical normative legal research, characterized as field research adopting a sociological approach. The data sources comprised primary data—obtained directly through interviews with fathers, mothers, children, and their families—and secondary data, consisting of books, journals, and scholarly articles. Techniques for data collection encompass observation, interviews, and documentation. Data analysis involved a structured process involving data reduction, presentation, and verification.

Results And Discussions

Child Rights in Quasi-Broken Homes in West Langsa Sub-district

In contemporary society, the phenomenon of a quasi-broken home is increasingly prevalent within families where both parents remain together, yet the familial bond appears strained due to each parent's demanding schedules. This scenario significantly reduces quality time between parents and their children, leading to situations where children often receive insufficient parental attention and care. Both parents engaged in their careers and jobs—whether in the private sector or government institutions—find themselves ensnared in a cycle of busyness, leaving their children to navigate their formative years with limited parental guidance. Consequently, the responsibility of nurturing and caring for the children frequently falls to alternate caregivers, underlining the sacrifices made by parents to balance professional obligations with familial duties.

The impact of parents' hectic schedules is particularly pronounced for children under five, who are entrusted to the care of close relatives. However, this arrangement is typically a temporary solution, lasting only until the child begins formal education in

9 Zulkarnain and others, *Ke Arah Pribumisasi Hukum Pidana Islam Di Aceh: Kajian Hadis Jinayat Dan Hukum Jinayat* (Perdana Publishing 2015). See also, Yasrul Huda, 'Islamic Sharia in Aceh And Its Implication in Other Other Regions in Indonesia; Case Study During Implementation Aceh As Nanggroe Aceh Darussalam' (2020) 5 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*; Ratno Lukito, 'Shariah And The Politics Of Pluralism In Indonesia: Understanding State's Rational Approach To Adat And Islamic Law' (2019) Volume 4 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*.

10 Azwir Azwir, Pagar Pagar and Muhammad Syukri Albani Nasution, 'The Legality of Divorce in Aceh: A Study of Divorce Practices Out of Religious Courts' [2022] *Al-Manahij: Jurnal Kajian Hukum Islam* 165 <<https://ejournal.uinsaizu.ac.id/index.php/almanahij/article/view/6389>>. See also, Muhammad Siddiq Armia and others, 'Criticizing the Verdict of 18/JN/2016/MS.MBO of Mahkamah Syar'iyah Meulaboh Aceh on Sexual Abuse against Children from the Perspective of Restorative Justice' (2022) 17 *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 113; Muhammad Siddiq Armia, 'Public Caning: Should It Be Maintained or Eliminated? (A Reflection of Implementation Sharia Law in Indonesia)' [2019] *Qudus International Journal of Islamic Studies*.

elementary school. During their elementary years, children spend most of their day at school, from morning to evening, returning to an often-empty home due to their parents' continued absence.

In families with multiple children, the responsibility for after-school care often shifts to the eldest sibling, who is deemed capable of overseeing the well-being of younger siblings for several hours until the parents return home, usually in the late afternoon. This model of sibling guardianship, however, presupposes the availability and capacity of the eldest child, which may not always be a viable solution.

When the eldest sibling is equally engaged in personal commitments, younger school-aged children might find themselves at home, unsupervised. This arrangement stems from a parental belief in the independence and self-sufficiency that formal education is presumed to instil in children, allowing them to manage independently in their parent's absence. This depiction of modern family dynamics highlights the intricate balance between professional commitments and parental responsibilities and the resultant quasi-broken home scenario, where physical presence does not necessarily equate to emotional availability or engagement in the children's lives.

The effects are palpable in homes where parents, particularly fathers who are often viewed as family leaders, exhibit pretentious behaviours and fail to provide adequate attention to their children. Children from such environments, which may resemble those of a quasi-broken home, often display a noticeable lack of affection, observable by those around them. Nevertheless, the involvement of a spouse can inspire the father to engage more with their child, ensuring the child retains a paternal figure throughout their life. However, due to work commitments that keep parents occupied outside the home, the nature and extent of parental attention can vary, depending on the parents' availability and circumstances.

Parents, especially fathers, show care by taking time to drop off and pick up their children from school. This practice allows fathers to dedicate their available time to connect with their children, engaging in conversations about their day at school, homework assignments, and any challenges they may face. Parents often regard this investment of time as a substantial expression of affection, demonstrating concern for their children's well-being and school experiences during commutes.

Moreover, for parents who struggle to find time due to external work demands, engaging in meaningful communication when the family is together at home becomes another form of attention. Such interactions typically focus on the child's experiences within the school and their broader social contexts, aiming to preserve the parent-child relationship and familial communication. Often, these moments of connection are restricted to evenings when work obligations do not interfere, utilizing this time to foster dialogue between parents and children.

Another approach parents adopt in quasi-broken home scenarios is maximizing weekend opportunities by organizing family vacations. These outings, free from the constraints of work schedules, offer a chance to visit local attractions, providing parents with a means to compensate for the absence experienced during the workweek. Such vacations are prime opportunities for quality family time, helping bridge the gap created by busy weekday schedules. Additionally, parents may opt to spend quality time at home during weekends, imposing restrictions on children's

activities outside the home to prioritize family bonding. Such limitations are set to reinforce familial ties through shared experiences.

The mother's role in the developmental process is crucial, and working mothers, in particular, strive to ensure their children feel loved despite the challenges of balancing work and family life. This commitment is evident in mothers' efforts to prepare meals before work, ensuring the family's nutritional needs are met, highlighting the ongoing dedication to their familial responsibilities even in the face of external pressures.

Parents in quasi-broken homes possess a solid understanding of children's rights. Despite this awareness, the practical application of these rights within the family is hindered. The challenge arises primarily because fulfilling these rights is impeded by the parents' work-related responsibilities. This situation underscores a gap between understanding and the optimal practice of children's rights due to professional obligations.¹¹

Parents understand the importance of providing affection and supervision, yet they often find these aspects insufficient due to their work demands. In response to this shortfall in emotional support, parents may prioritize the financial aspects of children's rights, endeavouring to meet their material needs to compensate. In their efforts to support the family economically, the collective goal of both parents is to ensure that the children's needs and desires are met as comprehensively as possible.

Within any family, each child's individual traits and characteristics necessitate differentiated attention and care from the parents. Consequently, how attention and affection are dispensed varies, often influenced by the parents' partiality towards a child they favor the most. Such differential treatment is a deliberate choice by the parents, who strive to balance their attention to avoid fostering jealousy or feelings of neglect among their other children.

In addition, there are differences in the form of attention given by parents to each child, which is also caused by the child's age. The age difference of each child in a family can affect the form of attention and affection given by parents. Parents assume that if the child is older, the form of attention given will be much different from the child in the smallest age range. This is because the youngest child needs real attention and affection. However, it is different for children approaching adulthood or adolescence, where the form of attention and affection needed by children fulfils the needs of children's lives and various forms of children's desires.

Alongside providing attention and affection to children, one of their fundamental rights is access to education. Education is a cornerstone for children to lead fulfilling

11 Podi Sastra Pramana Putra, 'Fenomena Quasi Broken Home Dalam Keluarga Pekebun' (2018) 3 Al Ijarah : Jurnal Pemerintahan Dan Politik Islam 225 <<https://ejournal.iainbengkulu.ac.id/index.php/alimarah/article/view/2154>>. See also, M Natsir Asnawi, 'Application of the Shared Parenting Model in Resolving Child Custody Disputes' (2019) 5 Al Iqtishadiyah: Jurnal Ekonomi Syariah dan Hukum Ekonomi Syariah 61; Maghfirah Maghfirah and Gushairi Gushairi, 'Shared Parenting Concept in Post-Divorce Gifts; Study of Contemporary Islamic Marriage Legislation' (2020) 20 Hukum Islam 185; Bambang Sarutomo, 'Penyebab Anak Di Bawah Umur Melakukan Tindak Pidana Pencurian Di Kabupaten Demak' (2021) 1 International Journal of Law Society Services 46; Sukoco KW, Dino Rozano and Tri Utami, 'Pengaruh Broken Home Terhadap Perilaku Agresif' [2016] Jurnal Penelitian Tindakan Bimbingan & Konseling.

lives and develop their diverse talents and knowledge. Consequently, the paramount importance of education in a child's life underscores the primary endeavour parents undertake. For parents juggling employment responsibilities, providing education to their children is the foremost objective.

Education constitutes the cornerstone of family life. Every child should have the entitlement to receive the highest quality education available. Without education, children cannot evolve into productive members of society, which accentuates the critical role of parents in their children's educational pursuits. Parents endeavour to provide optimal and high-quality education for their children, including addressing their educational needs comprehensively.

Throughout schooling, children also require financial support for sustenance while in the educational environment. Parents allocate resources according to the educational level of each child. Parents tailor financial provisions for children's school-related needs based on each child's unique requirements. As children progress in age and educational level, the financial allocation for their schooling needs increases correspondingly. Conversely, younger children in elementary school or equivalent stages necessitate comparatively lesser funds. Hence, differential provision of financial support by parents during their children's schooling is a customary and equitable practice.

In every family, children who excel in academic and non-academic aspects bring pride to their family. Despite parents' constraints in dedicating exclusive teaching time due to work commitments, children can demonstrate their capabilities and make their families proud. Academic achievements, such as securing the top position in school rankings based on academic performance, exemplify the accomplishments attained by children. Academic success is a source of familial pride, prompting parents to express appreciation in various ways tailored to their family customs. Parental acknowledgment of children's achievements manifests through verbal praise and affectionate gestures like hugs. This acknowledgment signifies parental recognition of their children's accomplishments.

Furthermore, parents convey appreciation to high-achieving children by providing special treats or meals. This gesture underscores the acknowledgment that the child's efforts in academic pursuits have brought honour to the family. Such acts symbolize parental pride and support for their children's academic endeavours.

Moreover, another critical aspect of children's rights is their freedom of expression. Parents facilitate opportunities for children to voice their opinions on matters directly concerning them. In families where both parents are occupied with employment, avenues for children to communicate directly are provided during routine activities such as dropping off or picking up children from school. These moments allow children to express their thoughts and perspectives directly to their parents.

Parents offer their children opportunities to express their opinions or share their experiences during trips. However, these opportunities are often limited to less than an hour due to time constraints during travel. Consequently, children have minimal chances to communicate with their parents. This scenario extends to family gatherings, such as scheduled dinners, where parents enforce a rule dictating simultaneous meal times and locations for all children. These efforts aim to foster

closeness between parents and children, especially after prolonged parental absence, and facilitate communication among family members.

Parents recognize the importance of allowing children to voice their opinions, particularly regarding matters affecting their lives, such as selecting a school. While parents prioritize education as a fundamental aspect of their children's development, they acknowledge their children's right to choose. Thus, parents empower their children to decide on their preferred educational institutions. However, parental acceptance of a child's choice is contingent upon carefully considering and fulfilling certain criteria.

Children, especially those in elementary to high school, often struggle to discern suitable companions. Left unsupervised, children may form friendships without parental guidance, potentially fostering disruptive behaviours. Peers can influence or instigate these behaviours, including theft and subsequent criminal acts. Furthermore, children may engage in truancy and employ inappropriate language, indicative of deeper behavioural issues stemming from inadequate parental supervision. Parents resort to punitive measures to address such deviant behaviours as a last resort. These measures, including physical discipline within reasonable bounds to avoid excessive harm, aim to deter children from engaging in severe misconduct, including criminal acts. Alternatively, parents may opt for milder sanctions, such as verbal warnings accompanied by parental guidance, to dissuade children from repeating inappropriate behaviours.

Despite parents' demanding schedules, they prioritize addressing their children's misconduct promptly. Punitive actions are initiated when preventive strategies fail, underscoring the necessity of instilling discipline and accountability in children. However, the punishment given is in the form of physical beatings but with reasonable limits so as not to injure or injure the child excessively. This punishment is carried out to provide a deterrent effect for children who commit severe delinquency leading to criminal behaviour. In addition, the lightest punishment carried out by parents against children who misbehave is to warn the child. The warning can be in the form of a firm statement from the parents and advice so that the child does not repeat the deviant and inappropriate actions.

Islamic Law Perspective on the Practice of Fulfilling Children's Rights in Quasi-Broken Home in West Langsa District

Parents should fulfil this obligation when fulfilling the mandate entrusted by Allah. Children have rights that parents must fulfil as part of fulfilling parental responsibilities. In Islam, the rights of children are as follows:

1. Right to Life

Every child has the right to life and protection from all forms of threats to life and health. Islam respects and protects the fundamental rights of children to live a safe and healthy life, as in the Qur'an in Surah al-An'am (2): 151.

﴿ قُلْ تَعَالَوْا أَتْلُ مَا حَرَّمَ رَبُّكُمْ عَلَيْكُمْ أَلَّا تُشْرِكُوا بِهِ شَيْئًا وَبِالْوَالِدَيْنِ إِحْسَانًا وَلَا تَقْتُلُوا أَوْلَادَكُمْ مِمَّنْ إِمْلَاقٍ نَحْنُ نَرْزُقُكُمْ وَإِيَّاهُمْ وَلَا تَقْرَبُوا الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَنٌ وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ ذَلِكُمْ وَصَّكُمْ بِهِ لَعَلَّكُمْ تَعْقِلُونَ ﴾

Translation: Say, O Prophet, "Come! Let me recite to you what your Lord has forbidden to you: do not associate others with Him 'in worship'. 'Do not fail to' honour your parents. Do not kill your children for fear of poverty. We provide for you and for them. Do not come near indecencies, openly or secretly. Do not take a 'human' life—made sacred by Allah—except with 'legal' right.¹ This is what He has commanded you, so perhaps you will understand.

According to Tafsir Al-Azhar, the interpretation of Quran Surah Al-An'am verse 151 asserts that parents should not terminate the lives of their children due to economic hardships, signifying poverty. Islam staunchly upholds the sanctity of every child's life, deeming it an inherent right bestowed upon every individual entering the world. Thus, it is incumbent upon parents to uphold this assurance of life.¹²

In the phenomenon of quasi-broken home families in the West Langsa sub-district, it is evident that parents, both fathers, and mothers, despite facing busy work schedules, strive to ensure their children's right to a safe and healthy life. This is observable through the father's efforts amidst his hectic work schedule, as he endeavours to transport and accompany children to their activities, ensuring their safety during travel.

Moreover, in their commitment to protecting their children's health, mothers, despite their professional obligations, prioritize preparing meals themselves to fulfil their children's dietary requirements. This proactive approach aims to protect children from the potential adverse effects of consuming food from external sources. Consequently, children receive nourishing and high-quality meals from their parents, contributing significantly to their overall well-being. Consequently, it can be concluded that parents effectively and comprehensively fulfil their children's right to sustenance.

This provision of sustenance aligns with Maslow's hierarchy of needs, specifically within the physiological needs, which constitute the most fundamental and paramount requirements for human survival. Parents address a foundational aspect of their children's entitlements by ensuring the fulfilment of their children's right to sustenance. Failure to meet these fundamental needs can jeopardize a child's well-being and impede the fulfilment of other rights if not adequately addressed.

2. Right to Education

Children have the right to quality education, both religious and general education. Islam encourages holistic education, including religious knowledge, practical skills, and comprehensive personal development. The child's right to education is stated in the Qur'an Surah al-Tahrim verse 6, as follows.

12 M Munawan, 'A Critical Discourse Analysis Dalam Kajian Tafsir Alquran: Studi Tafsir Al-Azhar Karya Hamka' (2018) 25 TAJDID 155 <<https://riset-iaid.net/index.php/tajdid/article/view/303>>. See also, Joas Wagemakers, *The Muslim Brotherhood in Jordan* (Cambridge University Press 2020) <<https://www.cambridge.org/core/product/identifier/9781108884778/type/book>>; Jacqueline Goodman, 'Mothers and Children: Caught in the Warzone' (2003) 32 *Studies in Law Politics and Society* 163; Haarezt, 'Tunisian Plan to Improve Inheritance, Marriage Rules for Women Rattles Muslim Traditionalists' (*Haarezt.com*, 2017) <<https://www.haaretz.com/middle-east-news/tunisian-womens-rights-plan-rattles-muslim-traditionalists-1.5450397>> accessed 2 April 2018; J Finnis, 'Natural Law and Natural Rights'.

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا قُوا أَنْفُسَكُمْ وَأَهْلِيكُمْ نَارًا وَقُودُهَا النَّاسُ وَالْحِجَارَةُ عَلَيْهَا مَلَائِكَةٌ غِلَاظٌ شِدَادٌ لَا يَعْصُونَ اللَّهَ مَا أَمَرَهُمْ وَيَفْعَلُونَ مَا يُؤْمَرُونَ﴾

Translation: O believers! Protect yourselves and your families from a Fire whose fuel is people and stones, overseen by formidable and severe angels, who never disobey whatever Allah orders—always doing as commanded.

Based on Al-Azhar Tafsir, it is stated that the interpretation of Surah Al-Tahrim verse 6 in the Qur'an indicates that one of the parental obligations is to educate their children in reading and writing. Consequently, it can be argued that providing education to children is a fundamental right that every child should have, and it is the responsibility of parents to ensure its fulfilment.

Upon examining quasi-broken families in the West Langsa sub-district, it can be inferred that the provision of children's educational rights has been adequately addressed. Parents have prioritized education, exerting considerable efforts to facilitate their children's learning process and ensuring they receive a decent and high-quality education. This commitment to education transcends any distinctions among the children.

Parents' educational provision encompasses both secular and religious teachings. By attending to both spheres, it can be concluded that the fulfilment of children's educational rights in accordance with Islamic principles has been effectively achieved. Children are educated not only for their worldly benefits but also for their spiritual well-being in the afterlife. Hence, the educational upbringing of children in quasi-broken families must be balanced, catering to their worldly knowledge and spiritual enlightenment.

3. Right to Protection from Violence

Islam strictly prohibits violence against children. Children have the right to be protected from all forms of violence, including physical, sexual, and emotional abuse. Society and the state are responsible for protecting children from such harm. However, in cases where a child comes from a quasi-broken family, where parental protection against child abuse is lacking, issues may arise. If a child commits a severe delinquency leading to criminal behaviour, the parents might resort to physical punishment, such as striking the child's leg (calf area). Nonetheless, such punitive measures contravene the child's rights, as parents should refrain from employing physical violence as a form of discipline. Instead, they should explore alternative disciplinary measures, avoiding physical harm, whether mild or severe.

Punishments for deviant behaviour should deter future transgressions while preserving the child's physical and psychological well-being. Failure to provide proper care can result in adverse cultural and social impacts on the child, potentially affecting their personality and emotional development.¹³

When considering the fulfilment of protection from violence through the lens of Maslow's hierarchy of needs, it becomes evident that it corresponds to the need for

13 Zulkarnain Zulkarnain, *Buku Hadis Hadis Ahkam Alienation*. See also, Armia and others (n 10); Armia, 'Public Caning: Should It Be Maintained or Eliminated? (A Reflection of Implementation Sharia Law in Indonesia)' (n 10). See also, Fuad Thohari, *Kajian Hadis-Hadis Hukum Pidana Islam* (Deepublish 2016).

safety and security. Maslow posited that individuals require a sense of security to flourish, as it fosters stability and growth. Childhood experiences significantly shape one's perception of safety, and any form of physical violence can undermine a child's sense of security, potentially leading to lasting psychological effects.

4. The Right to be Cared for and Loved

Children are entitled to receive good care and affection from parents, family members, and the community. Islam emphasizes the importance of providing love and attention to children as part of the responsibility and trust bestowed upon parents and families. However, children may not receive adequate care and affection in quasi-broken homes. Both parents, the father and the mother, often find themselves preoccupied with work responsibilities, resulting in the minimal time for providing attention and affection to their children. Consequently, children may not receive the requisite love and attention from their parents, potentially leading to negative outcomes such as delinquency, which can impede their growth and development.¹⁴

Examining this issue through the lens of Maslow's hierarchy of needs, the fulfilment of attention and affection falls under the love and belongingness needs category. These needs encompass the desire to belong, be valued, and both give and receive attention from others. Maslow posited that humans are inherently social beings who seek to mitigate loneliness and isolation by forming meaningful connections with others once their basic physiological and safety needs are met.

The fulfilment of affectionate needs holds significant implications for mental health. Maslow's theory underscores the importance of love and affection in early development, suggesting that infants deprived of love during the first 18 months may develop psychological disturbances and struggle to form healthy attachments later in life. Indeed, an individual's personality development is profoundly shaped by the early fulfilment of love needs. Children who lack adequate attention and affection may grow up to exhibit callous behaviour and an increased susceptibility to engaging in criminal activities.

5. Right to Voice and Participation

Children have the right to voice their opinions and participate in decisions affecting their lives by age and maturity level. Islam recognizes the value of children's opinions and provides space for their participation in relevant matters. In this case, children from quasi-broken-home families in West Langsa District have the right to voice and participate well. Parents have provided opportunities for children to express their views on matters relating to the child's life.¹⁵

14 Muhammad Siddiq Armia, 'Ultra Petita and the Threat to Constitutional Justice: The Indonesian Experience' [2018] Intellectual Discourse; Muhammad Siddiq et al Armia, 'Post Amendment of Judicial Review in Indonesia: Has Judicial Power Distributed Fairly?' (2022) 7 JILS 525.

15 Rika Saraswati, Emanuel Boputra and Yuni Kusniati, 'Fulfilling Children's Rights in Indonesia Through Parenting Planning, Single Parenting and Joint Parenting' (2021) 7 Veritas et Justitia 188; Zendy Wulan Ayu Widhi Prameswari and Erni Agustin, 'Indonesian Marriage Law Reform: The Way To Strengthen The Protection of Children's Rights Against Child Marriage' (2018) 2 Journal of Southeast Asian Human Rights 286; Jennifer Harman and others, 'Gender and Child Custody Outcomes across 16 Years of Judicial Decisions Regarding Abuse and Parental Alienation' (2023) 155 Children and Youth Services Review 107187.

6. Right to Identity and Inheritance

Islam recognizes the right of the child to have a clear identity and his right to inheritance. The child has the right to know his/her origins and the identity of his/her family, as stipulated in the Qur'an in Surah al-Ahzab (33): 5.

﴿ اُدْعُوهُمْ لِأَبَائِهِمْ هُوَ أَقْسَطُ عِنْدَ اللَّهِ ۚ فَإِنْ لَّمْ تَعْلَمُوا آبَاءَهُمْ فَإِخْوَانُكُمْ فِي الدِّينِ وَمَوَالِيكُمْ وَلَيْسَ عَلَيْكُمْ جُنَاحٌ فِيمَا أَخْطَأْتُمْ بِهِ ۚ وَلَكِنْ مَّا تَعَمَّدَتْ قُلُوبُكُمْ يَوَكَّانَ اللَّهُ عُفُورًا رَّحِيمًا ﴾

Translation: Settle in your homes, and do not display yourselves as women did in the days of 'pre-Islamic' ignorance. Establish prayer, pay alms-tax, and obey Allah and His Messenger. Allah only intends to keep 'the causes of' evil away from you and purify you completely, O members of the 'Prophet's' family!

Quasi-broken families have effectively fulfilled children's rights to a clear identity. Each child within such families possesses a distinct and identifiable identity. This is evident in that all children are enrolled in formal educational institutions, which typically necessitate comprehensive personal data, including birth identity information, for admission purposes. This can indicate the attention given to ensuring children's identities are recognized and documented within quasi-broken home settings.

Perspective of Law Number 35 of 2014 concerning Child Protection on the Practice of Fulfilling Children's Rights in Quasi-Broken Home in West Langsa District

The legal rights of children are stipulated in Articles 2 to 14 of Law No. 35/2014, amending Law No. 23/2002 on Child Protection. These rights encompass:

1. The right to life, survival, and development, as well as respect for children's opinions. These rights appear to be adequately fulfilled in quasi-broken home families in West Langsa District. Children enjoy a decent livelihood, and parents allow them to express their opinions on matters concerning their welfare, ensuring that decisions are not made without the child's consent.
2. Child protection aims to ensure the fulfilment of children's rights, enabling them to live, grow, develop, and participate optimally while safeguarding them from violence and discrimination. However, in broken-home families in West Langsa District, children's rights to protection from physical violence seem inadequately met, as evidenced by instances of physical punishment for delinquent behaviour. Nevertheless, such punishment is confined to non-sensitive body parts and is reserved for extreme deviant behaviour tending towards criminality. Discrimination is also apparent, manifested in differential attention towards individual children, reflecting parental favouritism.
3. Every child has the right to a name as a personal identity and citizenship status. In West Langsa Sub-district, quasi-broken home families, this right is effectively realized, as demonstrated by the proper documentation of children in formal educational institutions, ensuring clarity of identity and citizenship status.
4. Children can worship according to their religion, express themselves, and develop their interests and talents under parental guidance. In quasi-broken home families in West Langsa District, these rights are well upheld, with parents facilitating the development of children's interests and talents, leading to remarkable achievements.
5. The right to know, be raised, and be cared for by one's parents is inherent to every child. However, in quasi-broken home families in West Langsa District,

this right is inadequately fulfilled due to parents' limited availability resulting from demanding work commitments. Consequently, temporary care is often entrusted to close relatives until the child reaches formal primary school age, after which they are largely left to fend for themselves.

6. Every child has the right to access healthcare and social security tailored to their physical, mental, and spiritual needs. In West Langsa District, quasi-broken home families, these rights are satisfactorily realized.
7. Children have the right to education tailored to their personal development, interests, and talents. In quasi-broken home families in West Langsa District, this right is effectively upheld through formal and informal educational avenues, such as Islamic teaching institutions.
8. While under the care of parents, guardians, or other responsible parties, children are entitled to protection from discrimination, exploitation, neglect, cruelty, violence, and abuse. In quasi-broken home families in West Langsa Sub-district, such protection is adequately provided, often through the care extended by close relatives during parental absence due to work commitments.
9. Every child has the right to be cared for by their parents, barring valid reasons or legal regulations necessitating separation in the child's best interest. Instances of separation, such as due to divorce or parental absence due to work or legal obligations, do not necessarily entail the elimination of the child's relationship with both parents. In quasi-broken home families in West Langsa Subdistrict, children are primarily deprived of full attention and affection from their parents due to the latter's demanding work schedules, often necessitating parental absence from the immediate vicinity, but not necessarily entailing a complete severance of the parent-child bond.

Similarities between Islamic Law Perspective and Law Number 35 Year 2014 on the Practice of Fulfilling Children's Rights in Quasi-Broken Home in West Langsa District

The similarities between Islamic law and Law Number 35 of 2014 concerning the Fulfilment of Children's Rights in quasi-broken home in West Langsa District are outlined as follows.

1. The right to life of children is prioritized in Islamic law, where it is emphasized as the foremost right parents must fulfil towards their children, and in Law No. 35/2014 on Child Protection, where it is similarly regarded as a top priority within positive law. This underscores the importance of ensuring children's right to life, as it forms the foundation for fulfilling their other rights and promoting their overall well-being. Islamic law and Law Number 35/2014 aim to secure children's rights to lead healthy and prosperous lives.
2. Islamic law and Law No. 35/2014 recognize the right to education, affirming children's entitlement to develop their knowledge and skills for their welfare and advancement.
3. Both Islamic law and Law No. 35/2014 emphasize the right to protection from violence, underscoring the importance of protecting children from any form of harmful behavior, whether physical or psychological, to ensure their well-being and safety.
4. Islamic law and Law No. 35/2014 acknowledge the right to care and affection, highlighting the significance of providing children with love, attention, and nurturing. Law No. 35/2014 particularly elaborates on the parental duty to personally care for and attend to the needs of children.

5. Islamic law and Law No. 35/2014 recognize the right to speak and participate, affirming children's entitlement to express their opinions and viewpoints within the family context. Children can contribute directly to decisions that affect them, enabling them to articulate their preferences and desires to their families.
6. The right to identity is emphasized in both Islamic law and Law No. 35/2014. It emphasizes parents' responsibility to ensure children have clear identities, enabling them to fulfil their civic duties effectively.

Differences in Islamic Law Perspectives with Law Number 35 of 2014 on the Practice of Fulfilling Children's Rights in Quasi-Broken Homes in West Langsa District

Several distinctions between the fulfilment of children's rights delineated in Islamic law and Indonesia's Law No. 35 of 2014 on Child Protection can be observed. A notable divergence concerns the scope of education for children. Islamic law emphasizes a comprehensive educational model that integrates formal education with religious teachings, ensuring that children acquire knowledge pertinent to worldly affairs and spiritual understanding. In contrast, Law No. 35 of 2014 does not explicitly address religious education; instead, it focuses on nurturing the talents and interests of children without specific mention of their spiritual education.

Another area of difference is the approach to children's inheritance rights. Islamic law provides detailed guidelines regarding inheritance for children, ensuring they receive specific shares. However, Law No. 35/2014 on Child Protection only mentions fulfilling children's identity as citizens. Moreover, Law No. 35 of 2014 introduces a broader perspective on childcare, extending beyond the traditional view held in Islamic law, which assigns the responsibility of child-rearing exclusively to parents. The law elaborates that children's care can also involve individuals other than their parents, suggesting a more collective approach to child welfare.

Conclusion

The implementation of children's rights in quasi-broken homes within the West Langsa Sub-district is inadequate, primarily due to parental apathy. The unmet children's rights primarily involve the right to parental love and attention. This deficiency leads to children developing tendencies toward delinquency and even criminal behaviour.

From the perspectives of Islamic Law and Law Number 35 of 2014 on Child Protection, fulfilling children's rights in quasi-broken families in the West Langsa District has been effective in several areas. These include the right to life, education, expression, participation, and the right to identity and inheritance. However, the rights related to protection from violence are not adequately met, as evidenced by the use of physical punishment by parents on children for deviant behaviour. Additionally, the rights concerning the provision of love and attention are insufficiently met due to a general disregard for the children's and families' needs.

The alignment between the perspective of Islamic law and Law Number 35 of 2014 on the fulfilment of children's rights in quasi-broken homes in West Langsa District is apparent in the area of children's education. Islamic law emphasizes the importance of both secular and religious education for children. In contrast, Law Number 35 of 2014 focuses on education that caters to children's societal conditions, talents, and interests. A notable difference is that Law Number 35 of 2014 also recognizes children's rights to be cared for by individuals other than their biological parents.

These findings highlight the complexities and challenges in fully realizing children's rights in quasi-broken homes and point to the need for a nuanced understanding and implementation of laws and principles to effectively protect and fulfil these rights.

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