

Normative Construction of Obligations to Balance the Parenting Roles By Working Partners in Gender Equality Perspective

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Abstract

One contemporary issue in family law today concerns the division of responsibilities between parents who both have jobs, particularly in balancing their roles in child rearing. The normative construction of the duty to balance parenting roles between working couples, viewed from the perspective of gender equality, needs to be addressed. The purpose of this research is to formulate normative provisions regarding the duty of balancing childcare responsibilities by working couples. This study adopts a library research method with an interdisciplinary approach, examining the problem from various perspectives, including law and gender. The research results indicate that the formulation of normative duties in childcare is not entirely adequate in protecting the rights of the child. This inadequacy leads to gender injustice, specifically the double burden placed on women. The gender injustice is also caused by the absence of clear and explicit legal provisions regulating the balancing of childcare roles by working couples. Therefore, it is proposed that the balancing of childcare roles be implemented by amending Article 45 of Law No. 1 of 1974 concerning marriage, incorporating language that mandates the duty of balancing childcare roles by working couples.

Keywords: *Normative, Parenting, Gender*

Introduction

Since being declared as one of the crucial issues on the UN's Sustainable Development Goals agenda, gender equality

has been discussed globally, including within the family. This issue has not only attracted the attention of scholars but also international organizations, social workers, volunteers and



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national stakeholders. This is still a hot topic of discussion because there has not yet been found the right solution for gender justice, especially for women, without discrimination in treating or granting everyone's rights.¹ Gender equality is a fundamental human right that ensures the freedom to lead a dignified life, devoid of fear, and the liberty to make life choices. This right extends beyond men to include women, as explicitly outlined in Article 27, Paragraph 1 of the 1945 Constitution, which asserts that "All citizens have an equal standing before the law and the government and are obligated to respect and adhere to the law and government without any exceptions." Consequently, every individual possesses the entitlement to engage in activities and receive opportunities in a just and equitable manner.

Gender equality is also very important to implement in building a family, husband and wife need to agree on sharing gender roles together to maintain and realize family balance. For example, dividing roles and daily tasks, being responsible for each other's roles and duties, and maintaining shared commitments. This balanced division of labor is also regulated in Article 31 of Law Number 1 of 1974 concerning Marriage, namely that the position of the wife is equal to the rights and position of the husband in domestic life

and association living together in society. One aspect of the family that requires a balance of roles is the parenting style of children. The style of parenting of parents towards children will affect the growth and development of children, especially in behavior, character formation and children's academics.

Besides that, according to Sujiono, the problem regarding child growth and development is that parents, both mothers and fathers, should give their role to time or opportunities, understanding the period of child development both egocentric and imitating, group times and the importance of exploring.² From a legal standpoint, the legal safeguard for children is delineated in Law Number 1 of 1974. This law governs the rights and responsibilities between parents and children, specifically articulated in Article 45, Paragraphs (1) and (2) of Law Number 1 of 1974. The provision states that "Parents are mandated to provide the best possible care and education for their children. These parental obligations persist until the child either gets married or becomes self-sufficient." This regulation underscores that children inherently possess the fundamental right to receive care from both parents, and it is a mandatory duty for the parents to fulfill.

¹ Muhammad Zawil Kiram, "Is Our Child Too Young To Learn Gender Equality? An Interpretation of Gender Education in Aceh Families," *Gender Equality: International Journal of Child and Gender Studies*, vol. 6, no. 2 (2020): p.1.

² Eka Prasetya Pertiwi, "Diskursus Keadilan Gender Terhadap Tumbuh Kembang Anak Usia Dini," *Widya Kumara Jurnal Pendidikan Anak Usia Dini*, vol. 2, no. 2 (2021), p.201.

However, the data shows that there are still cases of injustice found in the families of working spouses. What is a contemporary issue in current family law is the division of tasks between the roles of both parents who both have jobs in balancing their roles in the family, especially in child rearing. This injustice is experienced especially by mothers who have multiple roles. Mothers who work at home but also do work outside the home have a higher frequency of activities. A working mother is not only preoccupied with household affairs but also work responsibilities outside the home. Conversely, the husband's burden looks quite light, when he finishes doing work outside the home he feels free from caring for children because *stereo type* in society that upbringing is the main task of a mother than as a claim to a father's duty. Whereas in the Marriage Law article 45 paragraph (1) and (2) explains the obligation to care for children to parents not only to mothers.

A situation like this will not cause problems if one party from both parents does not feel disadvantaged but it is different when one party, both husband and wife feel disadvantaged because the wife gets a dual role (public and domestic) while the husband does not participate in domestic chores.

households, especially in the process of raising children which results in disputes between the two parties which lead to divorce and not optimal care for child development by parents. Gender inequality in working families is often caused by a lack of understanding by husbands and wives about their roles in the family, especially in child rearing.

The current condition of the obligation to balance the role of childcare by working married couples has not been explicitly regulated in Indonesian legislation, even though childcare and maintenance is a very important area in providing child protection rights and preparing a generation of superior quality for the country. Therefore, the authors raise research on "Normative Construction Of Obligations To Balance The Parenting Role By Working Partners in Gender Equality Perspective".

There are many research articles that discuss gender injustice that occurs in the family. The first study was written by Muhammad Irfan Syuhudi entitled "Sharing Power: Equal Roles of Husband and Wife in the Household" which explains that wives who work in public spaces still have multiple roles, resulting in an imbalance of roles in the family.³ Furthermore, Dede Nurul Qomariah's writing entitled "Societal

³ Muhammad Irfan Syuhudi, "Berbagi Kuasa: Kesetaraan Peran Suami Istri Dalam Rumah Tangga,"

Jendela PLS: Jurnal Cendekiawan Ilmiah Pendidikan Luar Sekolah, vol. 4, no. 2 (Juni 2022), p. 19.

Perceptions of Gender Equality in the Family", Qomariah revealed that people's perceptions of the concept of gender equality are still low, besides that society also views gender equality in the family as a good thing as long as it does not conflict with natural values and religious values.⁴ Other types of research reveal gender injustice in the family, including the writings of Ach. Musyaffa entitled "Gender Discrimination in the Family", Musyaffa explained that in the family women often become victims of gender discrimination because they are always told to work not only in reproductive work but also in productive work, husbands still ask for help from wives.

From several previous studies, it can be seen that there has been no research that addresses specifically the normative construction of the obligation to balance roles in raising children for working married couples in terms of gender equality. So, the novelty from this research is that this paper not only discusses on gender inequality experienced by women in working partner families, but also offer a normative formulation of the obligation to balance childcare roles in working partner families as a form of offering solutions to realize justice and gender equality in parenting husband and wife children worker.

The systematics of writing in this paper will first explain the background of why this research is important to do. Next, it explains the research method used in this study. Followed by a discussion that will explain, *First* how is the formulation of normative obligations to balance the role of childcare by working married couples in Indonesia and, *Second*, how is the legal construction of the obligation from the perspective of gender equality.

Method

This research is a type of library research (*Library Research*). The method used by the researcher is a normative method which examines the Normative Construction of Obligation Balance by Employment Couples from a gender equality perspective. The approach used is juridical and gender equality with legal construction theory and theory *equilibrium* (balance). By using these two interdisciplinary approaches, a legal reform formulation will be obtained that is adapted to the needs of community legal guarantees regarding gender equality.

The data source used in the form of data obtained from document studies and literature which is divided into primary data collected from 1945 Constitution Article 27 Paragraph 1, Law Number 16 of 2019 Amendments to Law Number 1 of 1974 concerning Marriage

⁴ Dede Nurul Qomariah, "Persepsi Masyarakat Mengenai Kesetaraan Gender Dalam

Keluarga," *Jendela PLS: Jurnal Cendekiawan Ilmiah Pendidikan Luar Sekolah*, vol. 4, no. 2 (2019), p.16.

Articles 31 and Article 45, Law Number 35 of 2014 Amendments to Law Number 23 of 2002 concerning Child Protection, and the secondary data in this study is in the form of literature consisting of books, papers and journals.

Then from the data that has been collected a descriptive analysis is carried out to explain and describe precisely and clearly all the data obtained from the theory and results of the research which can be used as material in drawing conclusions.

Discussion

Broadly speaking, the concept of gender primarily pertains to the roles and duties assigned to men and women, which become internalized in habits and family dynamics within the societal culture we inhabit. This includes the societal expectations dictating the desired norms for how men and women should conduct themselves, encompassing their characteristics, attitudes, and behavior. Gender can be delineated as a differentiation in roles, attributes, attitudes, or behaviors that evolve and take shape within a society or are deemed suitable for men and women by that society. Gender is sometimes considered as something natural. For example, the role of men as the head of the family or the role of women as housewives, which places women in domestic work and men in public work. The

impact of this view raises and even grows the assumption that women (especially in rural areas) do not need to get a higher education or even if women who have had higher education are still considered better if they concentrate on work that is domestic in the household rather than utilizing the expertise of higher education results. On the other hand, it turns out that in practice in daily life we encounter many heads of families who are carried by women who play a role and must be responsible for the needs and welfare of their families. For example, women whose husbands do not work, are divorced or their husbands have died. Even today there are women who get a double role/burden (*double burden*) where women have work responsibilities in the public as well as domestic areas and are required to be the main executors in providing care for children. Likewise with the assumption that men are more rational while women are more emotional, all of this is often seen as something natural. In fact, the reality also shows that there are many men who are emotional, on the other hand there are also women who are more rational. These things prove that gender is: not something natural; changeable and changeable; is not permanent; interchangeable and general.

As for something that is natural, it is something that is a gift from the Almighty, in

this case that every person is born into the world in a biological condition, male or female, is His absolute power, and the two sexes cannot be exchanged. So that it can be clearly distinguished between the understanding of 'gender' and sex. Thus, the understanding of gender is based on social and cultural constructions, which can be modified and changed at any time following developments and places where it occurs. Meanwhile, sex is the biological difference between male and female gender, and is natural wherever they are.⁵

The term gender equality is meaningful as a condition when men and women are equal, comparable and equal in enjoying and having their rights as human beings from all aspects of life such as in the family, society and government.⁶ Theories about gender equality are divided into several theoretical studies including:⁷

a. Nurture Theory

In accordance with the nurture theory, disparities between women and men stem predominantly from socio-cultural constructs that lead to distinct roles and responsibilities. These distinctions often result in women being consistently overlooked and undervalued for their contributions in family life, society, and at the national and state

levels. The quest for equality has been spearheaded by individuals advocating for the parity of women and men, commonly known as feminists, who have inclined towards the pursuit of "sameness," characterized as achieving equal status in a quantitative sense.

b. Nature Theory

According to the nature theory, distinctions between men and women are inherent, unalterable, and universal. These biological variances suggest that each gender inherently possesses distinct roles and responsibilities, aligning with their respective functions. In societal interactions, this leads to a division of tasks, often referred to as the division of labor.

c. Equilibrium Theory

Apart from the two approaches mentioned earlier, there exists a middle ground referred to as balance or equilibrium. This perspective underscores the importance of fostering a sense of partnership and harmony in the interactions between women and men. This viewpoint avoids discrimination between genders, emphasizing the necessity for both to collaborate in partnership and harmony within family, community, and national life. Consequently, the application of gender equality and justice should take into account contextual and

⁵ Polsoskum, p. 24.

⁶ Rakhman, "Islam Dan Egalitarisme: Ruang Terbuka Kesetaraan Gender", *At-Ta'wil*, *Jurnal Pengkajian Al-Qur'an Dan Turast*, vol. 1, no. 1 (2019), p. 62-73.

⁷Rudi Aldianto, "Kesetaraan Gender Masyarakat Transmigrasi Etnis Jawa," *Jurnal Equilibrium Pendidikan Sosiologi*, vol. 3, no. 1 (Mei 2015), p. 89.

situational considerations rather than relying on mathematical calculations or universal standards. In essence, this theory promotes collaboration and harmony in the relationship between men and women.

Gender bias behavior arises because of gender inequality (*Gender Inequality*). This factor is caused by the system and social structure that places men and women in a disadvantageous position. The various forms of gender inequality are:⁸

- a. Marginalization (a process of marginalization that causes economic poverty for both men and women);
- b. Subordination (judgment or assumption that a role is performed on women that places them in a lower position than men);
- c. Stereotype (negative labeling of someone based on a wrong assumption);
- d. Violence (an act of violence, both physical and non-physical, perpetrated by a person against another person);
- e. Double load/*double burden* (the workload received by one gender is more than the other gender).

All forms of gender inequality above are manifested at many levels, namely at the

level of the country, workplace, organization, community customs, family/household.

The Formulation Of Normative Obligations To Balance The Role Of Childcare By Working Partner

1. Parenting Patterns in Positive Law and Islamic Law

In the perspective of the philosophy of marriage, children are part of the family members who are entitled to happiness. The happiness in question is that children get pleasure, peace, and safety. Parenting is a way or system of looking after, caring for, educating, guiding, helping, training or developing a child's abilities based on compassion.

The positive law also explains the rights and obligations between parents and children which are regulated in articles 45 to 49 of Law Number 1 of 1974. The rights and obligations of parents and children are stated as follows:

- a. It is the responsibility of parents to provide the best possible care and education for their children. These parental duties remain in effect until the child either gets married or becomes self-sufficient, as stipulated in Article 45, Paragraphs (1) and (2) of Law Number 1 of 1974.
- b. It is the duty of children to care for and assist their parents in their old age, in

⁸ Agus Afandi, "Bentuk-Bentuk Perilaku Bias Gender," *LENERA: Journal of Gender of Children Studies*, vol. 1, no. 1 (Desember 2019), p. 4–5.

- accordance with Article 46, Paragraph (2) of Law Number 1 of 1974.
- c. Children who have not reached maturity and have not entered into marriage are under the guardianship of their parents, as outlined in Article 47, Paragraph (1) of Law Number 1 of 1974.
 - d. Parents act on behalf of their underage and unmarried children in all legal matters, both within and outside the court, as specified in Article 47, Paragraph (2) of Law Number 1 of 1974.

The duties and commitments of parents are additionally outlined in Law Number 23, Article 26, Paragraph (1) concerning Amendments to Law Number 23 of 2003 Regarding Child Protection. According to this law, parents bear the responsibility and obligation to:

- a. Foster, nurture, educate, and safeguard their children.
- b. Foster the development of children in accordance with their capabilities, talents, and interests.
- c. Deter the occurrence of early marriages.
- d. Impart character education and instill moral values in their children.

When grouped according to Khoiruddin Nasution's formulation, there are three children's rights that must be given by their parents. *First*, general rights (get a good name, get safety guarantees, and get health insurance). *Second*, rights during parenting

(right to get breast milk, right to guarantee life, right to earn a living; food, clothing and shelter, and health, right to get health insurance). *Third*, post-care rights (right to education to have expertise/competence; pedagogical/knowledge and/or the like, personality, social and professional, right to good behavior, right to get fair treatment regardless of gender, and right to marry when they are adults.⁹

Family (parents) has a great influence on the success of children's education. Protecting children's rights is the obligation and responsibility of both parents, and this is the biggest role of both parents for the growth and development of children, because children really need love and protection for the rights they have.

Then the parenting pattern is divided into several types of parenting patterns, namely:¹⁰

- a. *Authoritative*, is a parenting style with high demands and responses from parents. The characteristics of this upbringing are as follows:
 - 1) Be firm.
 - 2) Giving children the opportunity to develop until they are able to direct themselves so that children have responsibility for their behavior.
- b. *Indulgent*, is a parenting style that is low on demands but high on responses. The characteristics of this parenting are:

⁹ Khoiruddin Nasution, *Smart Dan Sukses* (Yogyakarta: Tazzafa dan Academia, 2008), p 140-142.

¹⁰ Listia Fitriani, "Peran Pola Asuh Orang Tua Dalam Mengembangkan Kecerdasan Emosi

Anak," *LENERA: Journal of Gender of Children Studies*, vol. 8, no. 1 (2015), p. 102-104.

- 1) Very little demanding of his children.
 - 2) Giving freedom to his son.
 - 3) Prefer to think of themselves as the center for children, whether their children perceive them or not.
- c. *Authoritarian*, is a parenting style with high demands but low responses. The characteristics of this parenting are:
- 1) Tends to be more punitive and disciplined.
 - 2) Parents do not encourage children's behavior freely and limit children.
- d. *Neglectful*, is a parenting style where parents are low in demands and responses. The characteristics of this parenting are:
- 1) Very little time for children.
 - 2) Very little understand the activities and whereabouts of children.

Parenting according to Islam is the attitude and behavior of parents towards young children in care which is the responsibility of parents to their children. As explained in the letter Al-Luqman (31): 17.

يَبْنِيَّ أَقِمِ الصَّلَاةَ وَأْمُرْ بِالْمَعْرُوفِ وَانْهَ عَنِ الْمُنْكَرِ وَأَصْبِرْ عَلَىٰ مَا أَصَابَكَ إِنَّ ذَٰلِكَ مِنْ عَزْمِ الْأُمُورِ

It means: *my son, establish prayer and order (people) to do what is good and prevent (them) from*

*what is bad and be patient with what befalls you. Indeed, that is one of the matters that (should) be prioritized.*¹¹

In the interpretation of Jalalain, the exhortation "O my son, establish prayer and tell people to do good and prevent them from doing evil and be patient with what befalls you because of *amar makruf* and *nahi munkar* you that. In fact, this includes things that are emphasized to be practiced because remembering these things are things that are obligatory.¹²

In Islamic law, parenting patterns are termed *gift. Hadhanah* according to the language it means "to place something near the ribs or on the lap", because when a mother breastfeeds her child, she puts the child on her lap, as if at that time the mother protects and nurtures her child. While according to the term *gift* contains the meaning of physical, spiritual and educational maintenance of children.

The obligations of parents according to Islam include:

- a. Obligation to give lineage
A child has the right to get a name and lineage from his parents' legal marriage.
- b. Obligation to provide milk (*rada'ah*)
This is as stated in surah Al-Baqarah verse 233 which means "Let breastfeed their

¹¹ QS. Al-Luqman,[31]: 17.

¹² Jalaluddin As-Suyuthi dan Jalaluddin Muhammad Ibnu Ahmad Al-Mahally, *Tafsir Jalalain* (tnp, n.d.) p. 261.

children for 2 full years, that is for those who want to perfect breastfeeding".¹³ This of course signifies the power of Allah SWT who has created so many benefits that exist in a mother's body in order to continue the child's life.

c. Parenting obligations (*gift*)

Children have the right to get care from both parents, Rasulullah SAW said "*We do not include people who do not love children and do not know the rights of older people*". (Narrated by Abu Dawud). This of course gives the meaning that providing care is something that is very obligatory by parents towards their children.

d. Obligation to provide sustenance and good nutrition

According to Islam, a child has the right to earn a living, namely the fulfillment of his physical and mental needs with the aim of survival and protecting his welfare.

e. Obligation to provide a good education

After obtaining the right to get a living, good care and nutrition, children also have the right to get an education. The obligation as a parent in providing education is very much needed for the child in forming good character and useful for the nation. Of course, religious education for children will shape the child's character with Islamic religious values which will shape noble behavior (morals) in the future.

In Islam, the emphasis is on cultivating positive qualities in patterns, thoughts, behaviors, actions, and other aspects of life. The process of developing good characteristics should commence with setting a positive example, with mothers playing a crucial role, especially in shaping character from a young age within the family environment. This involvement within the family sphere is instrumental in assisting children to emulate and implement virtuous traits, aligning with the principles of good character as prescribed by Islam, encompassing both moral and rational dimensions.¹⁴

According to Islamic Family Law, children are a gift from Allah SWT which is entrusted to parents and must be grateful for. Every servant who is trusted to receive this mandate has the responsibility for the trust given. One form of responsibility that must be given by parents to children entrusted to them is the right parenting pattern to shape the child's character. This is in accordance with the Islamic concept, which is that if we want to instill a strong and noble character, it must start from parents who always love and care for their children.

In the Compilation of Islamic Law, the rights and duties of parents are outlined in

¹³ Departemen Agama RI, *Al-Qur'an Dan Terjemahannya* (Bandung: Dipenogoro, 2000).

¹⁴ Siti Robi'ah & Nur Hidayat, "The Role of Mothers in Building Children's Character According to

an Islamic Perspective," *An-Nisa: Journal of Gender Studies* 16, no. 1 (2023): p. 8.

Article 77 of the first book addressing the Rights and Obligations of husbands and wives. These include:

- a. The noble responsibility of spouses to establish a household characterized by tranquility, love, and mercy, forming the foundation and structure of society.
- b. The mutual obligation of spouses to love, respect, demonstrate loyalty, and provide both physical and spiritual support to each other.
- c. The duty of spouses to nurture and attend to their children, encompassing their physical, spiritual, intellectual growth, and religious education.
- d. The obligation of spouses to uphold their honor. e. If either spouse neglects their duties, they have the option to file a lawsuit with the Religious Courts.

Islam places great emphasis on both parents to have the obligation to care for, look after and protect children. On the basis that children are entrusted (trusted) by Allah SWT which must be looked after as well as possible, because they will be accountable to Allah SWT. Therefore, parents are fully responsible for the growth and development of their children. However, because the Compilation of Islamic Law is only intended for Muslim communities, not for all citizens and based on the hierarchy of legislation, its level is below the Law, sometimes the Compilation of Islamic Law becomes a source of law that is specific, not comprehensive.

2. Formulation of Normative Obligations to Balance Parenting Roles by Working Partner in Indonesia

According to the Central Statistics Agency (BPS), in 2021 as many as 39.52% or 51.79 million people aged 15 years and over who work are women. This figure increased by 1.09 million people from the previous year as many as 50.7 million people and most of them were static. This data shows that *stereotype* In society, the view that women's duties are only focused on the domestic area of the family, such as cooking, washing, serving their husbands and taking care of children, is slowly eroding. The conventional family concept of the husband acting as the head of the family while the wife's role in taking care of household affairs is starting to be abandoned because of the demands of the times and the social construction of modern society which requires women to have education and work that can improve their welfare.

Along with the development of the times, the problems in the family also developed. The development of community thinking and demands from society that want equality between men and women, including regarding the division of roles in the family. Today's family life no longer makes men the main actors in building family welfare. The participation of women in improving welfare is felt by many husbands and wives working

outside the home to meet the economic needs of the family.

However, in practice, gender inequality or injustice actually occurs in families where husbands and wives both work outside the home. Gender inequality that occurs in the working partner's family is often triggered by a double burden (*double burden*) which is mostly felt by women who are married to men who still have the mindset that the husband's main task is to do public work, namely earning a living and the wife's main task is to do domestic work such as cooking, taking care of children and husband and the main role in raising children. For example: a woman who has a role in managing the household, ensuring that her husband and children are in good condition and have enough food and clothing, serving her husband well, giving birth and breastfeeding also has a role of responsibility outside the home as a worker. Women have multiple workloads but are often underappreciated and ignored.

Incidents regarding gender inequality in the household can also be seen in the observations that researchers conducted in early March 2023 (on a major highway in Jogja to be precise) there was a mother who rode a motorbike alone with her three children and took her child to school with her motorcycle on the road. The phenomenon of mothers piggybacking their children on the road with passengers exceeding their capacity is an interesting phenomenon as well as an

interesting question about what husbands do when their wives do this. Another form of gender inequality in parenting patterns is seen when male parents tend to leave childcare to female parents. Female parents tend to dominate childcare because they are pressured by male parents or the father's side and there are conditions that cause this to happen.

In the context of the normative perspective, gender equality is founded on established regulations and norms, shaping an individual's behavior through principles of loyalty and adherence to the rules prevailing in their surroundings. From a normative standpoint, this implies that there are regulations compelling individuals not to deviate or transgress prescribed rules or norms. Compliance and allegiance manifest through the adherence to established principles, which are articulated in legal regulations founded on principles of justice, legal certainty, and legal benefits.

Equal rights between men and women have been pursued so that both parties get what is their rights and feel justice in equalizing roles and legal protection that is preventive and repressive, where preventive legal protection emphasizes the existence of an agreement given to the people to submit objections before the government's decision get a definitive form, while repressive protection is a form of legal protection that is

more aimed at solving a problem or dispute that arises.¹⁵

Communities should be mindful of promoting gender justice, particularly in the minutest aspects such as households. A household rooted in gender justice and equality entails awareness of individual duties and responsibilities. This approach helps prevent violence or conflicts within the household through mutual understanding, shared responsibilities, and acknowledgment of each other's roles. Fostering a prosperous household involves achieving harmony, fairness, and longevity.

Understanding and being conscious of roles and responsibilities are crucial for ensuring that rights are fulfilled appropriately. Gender inequality arises when men dominate various aspects of life, especially when patriarchal cultural norms persist. It is essential not only to eradicate the influence of patriarchal culture but also to dispel the notion that gender equality should be more male-dominated. Such a mindset undermines women by implying limitations, while men are seen as capable of addressing all challenges.¹⁶

The Legal Construction of Obligations to Balance Parenting Roles by Working Partner in Gender Equality Perspective

¹⁵ Graham, p 82-83.

¹⁶ Panti Rahayu dan Fransiska Novita Eleanora Zulkifli Ismail, Melani Pita Lestari,

The essence of gender equality lies in ensuring that women have equal rights as human beings and can actively participate in various aspects of life. Achieving gender equality involves indicators such as the absence of discrimination between men and women, granting them equal access, broad participation, opportunities, control, and fair distribution of developmental benefits.

Applying the equilibrium theory to gender equality emphasizes the concept of partnership and harmony in familial relationships between men and women. This theory promotes collaboration without discrimination, as both genders are expected to work together harmoniously in the family, society, nation, and state. According to R.H. Tawney, the diversity of roles, whether influenced by biological factors, ethnicity, aspirations, interests, choices, or culture, is an inherent reality of human life.

The obligation to balance the parenting role of working spouses in Indonesia is an effort to balance the parenting role of working parents towards their children. Balancing these roles is done because the primary factor in the success of children's learning achievement, one of which is the parenting style of the family. Therefore, both parents

“Kesetaraan Gender Ditinjau Dari Sudut Pandang Normatif Dan Sosiologis,” *JASI*, vol. 26, no. 2 (2020), p. 158–159.

have equal obligations in terms of parenting, not only borne by one party. A balanced family parenting style can help children achieve what they aspire to. Therefore, balancing the roles in the relationship between husband and wife workers is part of the main components needed by children. Because this will have a positive impact on the development of children's creativity. This is based on research results, that parents' attitudes that can foster their children's creativity include respecting children's opinions and encouraging them to express them, letting children make their own decisions and giving praise to children seriously.

From the point of view of educational psychology, if you want a quality family, you need the cooperation of parents in educating and developing the intelligence of their children. This is because the quality of family or family life clearly plays the biggest role, so that children do not grow up to be wild, mischievous and unruly children. Children who have a delinquent personality (naughty/problematic) are caused by many factors, including:

- a. Parents, particularly fathers, fail to provide children with the attention, affection, and educational guidance they require. This deficiency arises from both parents being engrossed in addressing their individual problems and internal conflicts.

- b. Adolescent children experience unmet physical and psychological needs, as their desires and expectations go unsatisfied or inadequately compensated.
- c. Children lack essential physical and mental training crucial for leading a moral life. They are not accustomed to practicing good discipline and self-control.

As a result, children become confused, restless, confused, filled with hatred, revenge, so they look for a way out by looking for friends who can be an antidote to their anxiety. Children who do not get enough attention and affection from their parents will always feel uncomfortable, feel they have lost their place of refuge and their feet. Which in turn, they will develop compensatory reactions in the form of grudges and hostility towards the outside world. The children began to disappear from the house, preferring to roam and hang out around the clock. The child begins to lie and steal to attract attention and annoy others.

The solution to overcome this, for parents should be aware of their role as parents. Being a good parent is a must. Good parents, of course, will try to understand, understand their children, and motivate and give sufficient attention. Parents should not indulge their children excessively by providing facilities to children that will make it too easy for children to get them, because it will harm

the child's personality and mentality in the future.¹⁷

Misconceptions about gender and also the social construction of society that considers the task of parenting to be entirely the responsibility of the wife or mother makes balancing parenting roles in husband and wife relationships still considered taboo in traditional society. If it has been instilled in parents that childcare is the obligation of husband and wife even though both of them do work outside the home, then there will be no more double burden terms (*double burden*) felt by working women. Both of them understand balancing roles in childcare and are aware of their duties and obligations in the domestic sphere.

According to Article 31 of Law Number 1 of 1974 on Marriage, it is stipulated that the wife's position is equal to the rights and position of the husband in domestic life and social interactions. Additionally, Article 45, Paragraphs (1) and (2) of the same law state that parents are obligated to care for and educate their children to the best of their ability, and these responsibilities persist until the child is married or capable of independence.

However, the existing legal framework addressing childcare obligations by working partners in Indonesia is deemed insufficient in addressing the issue of imbalanced childcare roles. To rectify this, it is suggested that regulations should anticipate and prevent gender injustice more effectively. This could be achieved by introducing rules that emphasize balancing parenting roles as a preventive measure against gender inequality within families. This adjustment aims to establish legal consequences in cases of gender inequality among working partners, promoting the equitable distribution of childcare responsibilities in families.

An important philosophical foundation for the enactment of a law or rule in society is a foundation based on values and morals that apply to society in a region, where these values and morals uphold truth and honesty in it. Pancasila as the ideology of the Indonesian nation recognizes and protects both individual rights contained in the five Pancasila precepts so that Pancasila is used as a guideline for the life of society and law in Indonesia where the Pancasila precepts contain values from various aspects. Pancasila which consists of parts namely the Pancasila precepts, each precept is essentially a principle of its own, its own

¹⁷ Abdul Qodir Zaelani, "Pola Asuh Anak Dalam Perspektif Yuridis Dan Psikologi Pendidikan," *ASAS* vol. 6, no. 2 (2014), p. 35.

function with a specific purpose, namely a just and prosperous society based on Pancasila. Regulations or laws that exist in Indonesia must be in accordance with Pancasila.¹⁸

Article 27, Paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that: "All citizens possess an equal standing before the law and government and are obligated to uphold the law and government without any exceptions." Meanwhile, Article 27, Paragraph (2) declares: "Every citizen has the right to work and a life that upholds human dignity." Further details on this matter can be found in the elucidation of Law No. 20 of 2003 on the national education system, emphasizing that national development, including in education, aligns with the principles of Pancasila. Hence, national education aims to foster individuals who are, among other things, capable of achieving independence.

The values contained in Pancasila over time grow and develop in the lives of Indonesian people and have the highest degree as life values which are used as guidelines in carrying out daily activities that demand accountability for each individual to achieve the desired goals, with respect to This is inseparable from balancing the parenting roles of husband and wife workers who must comply with the guidelines in Pancasila.

From this philosophy, balancing the role of child rearing in the relationship between husband and wife workers can be included in the obligation of parenting regulations in accordance with the aim of parenting, namely to form a quality and superior generation to serve religion and the motherland. The most important thing in the formulation and delivery of material must be adapted to the moral values of the Indonesian people.

The division of roles in childcare has not been regulated specifically and in detail in a marriage or childcare law in Indonesia, so that the care of working husband and wife children has not yet been assigned a place and has not been legally recognized. This has not yet provided legal guarantees for balancing childcare roles. Substances related to balancing the role of child care that can be implemented include the Marriage Law in the articles that regulate the rights and obligations of husband and wife and child care. Which is the basic right of the child that must be given by both parents.

The rules regarding the obligation to balance childcare roles by working spouses should be regulated in article 45 of Law Number 1 of 1974. The maintenance and care of children in Law Number 1 of 1974 concerning Marriage can be amended and

¹⁸ H. Khaelan, *Filsafat Pancasila, Edisi Pertama* (Yogyakarta: Paradigma, 2002), p. 66.

included by expanding the meaning and adding editorial material in it. The need for amendments to Law No. 1 of 1974 concerning Marriage in article 45 paragraph (1) is because it is considered not to include an ideal parenting pattern in the relationship between husband and wife workers. Balancing the role of parenting by a legalized working partner is one of the important factors in guaranteeing the growth and development of children. However, because there is no regulation against it, it can be considered that the state is negligent in fulfilling Human Rights and Equality in the field of protection of women and children.

Conclusion

Based on the research in this paper, it can be concluded that the formulation of normative arrangements for childcare obligations is not fully adequate, because the implementing rules for childcare as contained in Law No. 1 of 1974 concerning Marriage, article 45 paragraph (1) and paragraph (2) have not regulated and include balancing the role of child care in these rules, but international and national instruments have guaranteed that child care rights are guaranteed in these instruments. From this basis it should be concluded that parenting has not run optimally in Indonesia due to the unclear and strict rules that require the balancing of

childcare roles by working spouses as a contemporary issue that occurs a lot. In order to balance childcare roles, it can be implemented, one of which is by amending Law No. 1 of 1974 concerning marriage, article 45 by including the redaction of giving the obligation to balance childcare roles by working couples after article (1). If the state does not do this, it can be considered negligent or not paying attention to human rights and gender equality/justice in child care, which are basic rights that must be given in child protection. It is high time to balance the roles of caring for children by working families and not become a taboo subject to be legalized, because it is important in the process of child development. With the right materials and arrangements to become a legal construction in providing protection for children's rights.

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