



Rights and Obligations of Children to Parents as Objects of Commercial Content on Tiktok According to the Marriage Law

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Abstract: This study aims to find out how the rights and obligations of children towards parents as objects of commercial content on TikTok according to the marriage law. The research method used is normative. The results of the study show that the rights and obligations of children towards their parents are based on the Marriage Law; children must respect their parents and obey their good wishes. And if the child has grown up, he is obliged to look after according to his ability, parents and family in a straight line upwards, if they need help. Legal consequences for children who do not carry out their alimony obligations towards parents, namely parents can submit a determination to the District Court and file civil lawsuits regarding unlawful acts (PMH) committed by children due to non-fulfillment of children's obligations in providing care to parents whether it's looking after and caring for parents in a healthy or sick condition, as well as providing a living and other things, including the cost of compensation.

Keywords: *Rights and Obligations, Parents and Children*

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How to cite (Chicago Style):

Wagimin, H.Y., Mustika, W. "Rights and Obligations of Children to Parents as Objects of Commercial Content on Tiktok According to the Marriage Law." *Estudiante Law Journal*, 5 (1), (February 2023): 96-105 <https://doi.org/10.33756/eslaj.v5i1.19944>

1. Introduction

The rapid development of technology and information has affected the increasing use of social media in society. Currently, social media has become part of their lifestyle; people use it to share all their daily activities and as a medium for sharing news and getting information.¹

Social media, also often referred to as Social Media, is a digital platform that facilitates its users to communicate and share content in the form of writing, photos, and videos. Social media is here to bring changes in communication in society; social media is also a means to socialize with one another, which is done virtually and allows humans to interact without being limited by space and time. Social media is comprehensive in scope; examples of social media are Instagram, Facebook, TikTok, Twitter, Youtube, Snapchat, and many more. In this research, the author will specifically discuss social media TikTok. TikTok is one of the platforms that are currently popular. Everyone, from children to adults, has this application on their smartphone.²

In TikTok, a variety of content contains varied and creative video creations, such as challenges, lipsync, dance, and others. Aside from being a means of entertainment, TikTok is also a promotional medium. Of course, various kinds of advertisements can increase rupiah coffers, which is certainly very tempting for TikTok content creators. The content creator is a term for video makers. To create exciting content, of course, creativity is needed.

TikTok is not only used as a medium of entertainment; at this time, many people use TikTok as a medium to earn additional income. For example, they were using TikTok as a means of promotion, selling in the TikTok Shop application, TikTok affiliates, and creating content in the form of images, videos, live broadcasts, etc.

Interesting TikTok content will become viral and widely known by the general public. However, recently a phenomenon has been happening and viral on social media, TikTok. This is viral because it displays content broadcast live on TikTok in the form of mud bath content carried out by parents, in this case, who are elderly for hours until they shiver and almost faint.

This mud bath action was broadcast live on TikTok to gain the sympathy of the people watching so that they would give a gift where the gift could be cashed. This content is very troubling, which makes parents use it as commercial content to get money. The existence of this content is very unfortunate because it is unethical to treat parents like that; the content is considered to violate the provisions that exist on TikTok, so TikTok finally blocks this content.

The existence of such things is, of course, miserable, where parents are used as commercial content. This behavior is very unethical and violates human rights, even

¹ Siti Muslichatul Mahmudah and Muthia Rahayu, "Pengelolaan Konten Media Sosial Korporat Pada Instagram Sebuah Pusat Perbelanjaan," *Jurnal Komunikasi Nusantara* 2, no. 1 (2020): 1–9,.

² Diana Novita and Nafisah Yuliani, "Tiktok Ads , Digital Marketing Baru Untuk Memperluas Pasar Dan Meningkatkan Value Merek Dagang (Studi Kasus : Ramadan 2020)" 6, no. 9 (2020): 20–29 Hal 2.

though adult children are responsible to their parents when their parents need help instead of hiring their parents..

This is in line with Law No. 16 of 2019 Article 46, which :

- (1) The child must respect both parents and obey their good wishes.
- (2) If the child has grown up, he is obliged to look after according to his ability, parents and family in a straight line upwards, if they need his help.³

Article 321 of the Indonesian Civil Code (KUHPer) also emphasizes that "every child is obliged to provide for his parents and blood relatives in an upward line if they are in poor condition".⁴

In this Marriage Law, children are obliged to look after both parents depending on the child's ability. Therefore, the contents of the law could be stronger because there are exceptions, and this law does not explain the age limit for children to carry out their obligations to their parents. The marriage law stipulates that maintenance obligations will only be borne after the child grows up.

2. Methods

In this study, researchers used a normative approach. The research approach used by the author is statutory (statute approach). Primary and secondary legal materials that have been collected are then processed and studied in depth to obtain an overview of the legal issues under study. All the results obtained by the author are then analyzed, which will later be connected with principles, legal theories, and formulations of existing laws, and conclusions can be drawn to answer the problems studied.

3. Rights and Obligations of Children towards Parents

Discussing the rights and obligations of children in civil law is closely related to the reciprocal relationship between parents and children and vice versa between children and their parents. Alimentation rights, in simple legal terms, are often associated with alimony. However, alimony rights are not just a child's support for parents but also include maintenance and assisting parents when parents need help.⁵

The right of alimony (there are two parties: children and parents) emphasizes the close relationship in the concept of family, which according to Brooks, underlines that parents are the biological mother of a child and the man he marries, regardless of whether the man is the father. Biological parents or someone who, through adoption, have the legal right to care for children in the absence or permission of biological

³ "Law No. 16 2019.

⁴ *Kitab Undang-Undang Hukum Perdata.*

⁵ Rahdinal Fathanah and Rachmi Sulistyarini, "Tanggung Jawab Anak Dalam Memelihara Orang Tua Terkait Ketentuan Pasal 46 Ayat (2) Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 5, no. 2 (2020): 226, Hal 3

parents. This means that biological and adoptive parents are responsible for caring for and meeting the needs of children.⁶

Parental obligations are children's rights, and vice versa; children's obligations to parents are the rights of parents of children. That is, parents are obliged to look after and guide their children who are not old enough according to their abilities. On the other hand, every child is obliged to respect and obey his parents, and an adult child is obliged to look after his parents and family in a straight line upwards who are incapacitated.

Family law is defined as the whole of the provisions regarding the legal relationship concerned with blood-related kinship and kinship by marriage (marriage, parental authority, guardianship, guardianship, and absence). Blood kinship is a family affinity that exists between several people who have the same nobility.⁷

Looking at the phenomenon that has recently occurred on social media, which features parents being used as objects of commercial content on TikTok. There is a lot of talk about the viral mud bath content. There are many assumptions from the public that their children tell their parents to live on TikTok for hours, which is said to be a form of parental exploitation. Meanwhile, we all know that as adult children, we have obligations that must be fulfilled towards our parents, for example, such as providing a living for our parents instead of the other way around, employing parents in a very disgraceful way especially seeing the condition of parents who are no longer strong.

Legislation regarding the obligation of children to care for their parents is contained in Law number 16 of 2019 concerning Marriage Article 46 paragraph (2), which emphasizes that children have responsibilities that are no less important in family relationships. One of them is that children are obliged to look after their parents if they need help. The high level of activity, which is often done by children, often takes up all of their time with their parents.

Parental rights:

1. The right to be obeyed and respected
2. The right to be heard
3. The right to be treated with kindness
4. The right to be given a living
5. The right to be served (for elderly parents)
6. The right to be given love and be glorified

Duties of children towards parents:

1. Children must respect their parents and obey their wishes properly

⁶ W Waspiah et al., "Peningkatan Pemahaman Hak Alimentasi Terhadap Kelompok Lanjut Usia Melalui Legal Counseling Approach," *Journal of Legal* 2021 Hal 9.

⁷ Tedy Sudrajat, "Perlindungan Hukum Terhadap Hak Anak Sebagai Hak Asasi Manusia Dalam Perspektif Sistem Hukum Keluarga Di Indonesia.," *Jurnal Ilmu Hukum*, 2011, 111.

2. If the child is an adult, the child is obliged to look after according to his ability, parents and family in a straight line upwards if they need help.

3. Children must provide maintenance to their parents when they grow up.

Based on Law Number 16 of 2019 Concerning Marriage, the provisions regarding the rights and obligations of children towards parents are based on Article 46, paragraph (1) and paragraph (2), which stated :

1) The child must respect both parents and obey their good wishes.

(2) If the child has grown up, he is obliged to look after according to his ability, parents and family in a straight line upwards, if they need his help.

This means that a child considered an adult must maintain his obligations following his abilities to his parents and family. The obligation of children to respect and obey the will of their parents is universal. Perhaps no nation does not want this. On the other hand, parents must set a good example for their children.

The existence of these reciprocal obligations is seen from the principle of legal certainty. Therefore certainty will be implemented regarding the rights and obligations of parents and children. Moreover, if you look at it from the principle of justice, it is very fair that after the parents are no longer able to support themselves, the child is obliged to provide what the parents need.⁸

The sentence reads, "If they (parents) need their help," stated in Article 46 paragraph (2) of the Marriage Law, this statement can be considered as weakening the child's obligation to care for parents and is also considered not accordance with the moral values of customs in Indonesia. Regardless of the parents' condition and the child's ability, under any circumstances, the provision of alimony rights remains the responsibility of a child.⁹

The Civil Code (KUHPer) in article 321 reads, "Every child is obliged to provide for his parents and blood relatives in an upward line if they are in poor condition.

When referring to the provisions of Article 321 of the Civil Code (KUHPer), every child has a responsibility to care for his parents, namely in fulfilling daily life's needs and remembering that children are the only closest person who can assist them as the form of reciprocity towards their parents.¹⁰

Discussing the responsibilities of children towards parents in civil law, alimony rights in legal terms are often associated with alimony. Parents, especially those who are elderly, should get help from their children in living their daily lives. Instead of

⁸ Angly Branco Ontolay, "Hak Dan Kewajiban Orang Tua Dan Anak Ditinjau Dari Pasal 45 Juncto 46 Undang-Undang Nomor 1 Tahun 1974," *Lex Privatum* Volume VII (2019): Hlm 5.

⁹ Hilman Hadikusuma, *Hukum Perkawinan Indonesia Menurut: Perundangan, Hukum Adat, Dan Agama* (Bandung: CV.Mandar Maju, n.d.).

¹⁰ Rahdinal *Op.cit* Hal 4."

making parents a source of livelihood, especially with the condition of parents who are no longer strong.

Providing maintenance to parents is the main thing that is mandatory as a form of child's responsibility towards parents. Even though the child is poor, this does not mean they can be separated from carrying out their responsibilities in providing a living for their parents. Whatever the problem is, children are still responsible for caring for their parents. The Civil Code regarding the manifestation of children's responsibility for caring for parents (alimention) is that every child will never be able to relinquish his responsibilities as a bearer of obligations related to reciprocity between children and their parents.¹¹

4. Legal Consequences for Children Who Do Not Carry Out Their Obligations to Parents

The Civil Code and Law Number 16 of 2019 concerning Marriage, in essence, have ordered children always to carry out their obligations related to providing care to parents. Not fulfilling the child's obligations in terms of caring for parents is detrimental to the parents' position when they are old.

The alimony obligation is often referred to as the obligation to provide maintenance or livelihood as long as the parents' marriage lasts, and each child, until he becomes an adult, remains under the auspices of his parents as long as they are not dismissed from that power. This alimony obligation has a reciprocal nature, in the sense that parents must fulfill every child's right, and the rights of parents when they grow up must be carried out by giving their best.

Marriage is the only gate to enter household life. Civil ties will arise between a child and his parents if the marriage is validly carried out based on religious and state laws. Based on the family law system in force in Indonesia, the birth of a child from a legal marriage manifests parental power, which must be interpreted through parental responsibility in fulfilling children's rights.

If the alimony obligation is not carried out correctly and ends in a fatal outcome, this "is included in a legal event." This event can make certain sanctions a form of legal consequence of the existence of this phenomenon.¹²

Commenting on what is intertwined with legal consequences, no statement in the Marriage Law discusses explicitly the extent to which the child's maturity level is, the correct form of care, and sanctions or legal consequences for violating it.

¹¹ Angly Branco Ontolay, *op.cit.* Hlm 6”

¹² Achmad Ali, *Menguak Tabir Hukum* (Bandung: Ghalila Indonesia, 2008).

However, regarding this alimony obligation, according to the elucidation of Article 326 of the Indonesian Civil Code (KUHPer) that the district court is allowed to examine the case and assign a person who is obliged to provide alimony can prove his inability to carry out the alimony.

So that later, the District Court, following the position of its legal territory, will determine for the child to place parties who need a living, in this case, the parents, into the scope of their children and provide the necessary items following the needs required by parents in living their daily lives.

Parents' submission of a determination to the judiciary, namely the District Court, is seen as one of the things parents need to do. This is an effort to protect them and as a form of prevention against children so that they continue carrying out their obligations as ordered by law. Even though the person concerned, in this case, is a child, it is proven that he is economically unable to provide a living for his parents.

Referring to the problems in this writing, when children still do not carry out their obligations as ordered according to Law number 16 of 2019 concerning Marriage Article 46 paragraph (2) and the Civil Code Article 326 through a District Court determination related to providing maintenance towards parents. So parents can file a civil lawsuit against the child through an unlawful act lawsuit (PMH) in the form of compensation for non-fulfillment of the child's obligations in providing maintenance. The actions that the child has carried out are included in the unlawful acts because they have deliberately not carried out the provisions that have been ordered by law. In principle, there are only two types of lawsuits in civil law: a lawsuit for default and a lawsuit for unlawful acts (PMH). As a result of the problems discussed in this paper it is more to do with lawsuits against the law (PMH) committed by children against their parents. Acts against the law (PMH) according to the provisions in Article 1365 of the Civil Code.

Legal responsibility based on error (based on fault liability) in Indonesian law is contained in Article 1365 of the Indonesian Civil Code (KUHPerdata). This article, which is known as acts against the law, applies in general to anyone.¹³

In determining an act that can be said to be against the law, it must fulfill four elements, namely:

- (1) there is an unlawful act;
- (2) There is an error;
- (3) there is a causal relationship between the loss and the action;
- (4) there is a loss.¹⁴

Suppose the elements contained in Article 1365 of the Civil Code are fulfilled. In that case, the provisions of that article can be used by parents as a form of repressive legal

¹³ NM Kasim W Sazpah, FM Wantu, "Tanggung Jawab Korporasi Boeing Company Atas Kecelakaan Pesawat Di Wilayah Gorontalo.," *Gorontalo Law Review*, 2020.

¹⁴ "Agustina, R, *Perbuatan Melawan Hukum*. (Jakarta: Pasca Sarjana Fakultas Hukum Universitas Indonesia, 2003).," .

protection, namely in the form of payment of compensation costs for non-fulfillment of the child's obligations in providing maintenance or goods. Following the provisions of Law number 16 of 2019 Concerning Marriage and the Civil Code Articles 321 and Article 326, if the child is genuinely proven not to carry out his obligations as ordered by him according to the applicable law.¹⁵

The provisions in Article 326 of the Civil Code also provide a way out for children so that they can always carry out the rights that belong to their parents by placing them within the scope of their household and providing the necessary items. However, the protection provided by the Civil Code in Article 326 is limited to children who are proven unable to provide a living for both parents. Apart from children who are economically still able to provide a living but do not carry out their alimony to both parents.

Legal responsibility is defined as a form of a person's obligation to pay the retaliation that is inflicted on the perpetrator of someone who is harmed. The value of the compensation is seen from the point of view of the losses arising from the actions of the perpetrators. This concept means that a person must be legally responsible because certain actions he has committed are contrary to applicable law so that he can be subject to sanctions following the rules that have been applied.¹⁶

The judge has decided it must have the essence of justice, as the legal consequences that can be carried out as a final legal remedy is to bring it into the criminal realm. Criminal law is "law enforcement efforts to regulate a person's behavior when the case cannot be resolved by other legal channels such as civil law and administrative law".¹⁷

If based on the affirmation of Article 326 of the Civil Code (KUHPer) as a last resort, it cannot be done in overcoming legal events regarding neglect of parents, then "criminal sanctions can be imposed as a last resort (*ultimum remedium*) to provide sanctions for children who had the heart to abandon their parents."

The child's alimony obligation to parents is a moral obligation that becomes a legal obligation," so it demands rules regarding this matter. So the legal consequences of children who do not meet the alimony against parents, besides what is stated in the written rules, are moral demands between children against parents and vice versa.

5. Conclusion

Providing maintenance to parents is the main thing that is mandatory as a form of child's responsibility towards parents. Even though the child is poor, this does not mean they can be separated from carrying out their responsibilities in providing a

¹⁵ Rahdinal *Op.cit* Hal 6."

¹⁶ F.U Laiti, S., Puluhulawa, "Pertanggungjawaban Pidana Atas Tindakan Pegawai Negeri Bukan Bendahara Atau Pejabat Lain Yang Mengakibatkan Kerugian Negara.," *Philosophia Law Review* 2, no. 2 (2022): 78.

¹⁷ Andi Zainal Abidin, *Asas-Asas Hukum Pidana: Bagian Pertama* (Bandung: PT.Alumni, 1997).

living for their parents. Whatever the problem is, children are still responsible for caring for their parents; the Civil Code regarding the manifestation of children's responsibility for caring for parents (alimention) is that every child will never be able to relinquish his responsibilities as a bearer of obligations related to reciprocity, between children and their parents.

Based on Law Number 16 of 2019 Concerning Marriage, the provisions regarding the rights and obligations of children towards parents are based on Article 46, paragraph (1) and paragraph (2), which read:

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(2) If the child has grown up, he is obliged to look after according to his ability, parents and family in a straight line upwards, if they need his help.

This means that a child considered an adult must maintain his obligations following his abilities to his parents and family. The obligation of children to respect and obey the will of their parents is universal, and perhaps no nation does not want this. On the other hand, parents must set a good example for their children.

Legal consequences for children who do not carry out their alimony obligations towards parents, namely parents, can submit a decision to the District Court following the position of their jurisdiction and prove that the child cannot provide a living for him. If the child is proven unable to provide a living, then the District Court will order the child to place the parents within the scope of the household and provide the necessary items.

Filing civil lawsuits regarding unlawful acts (PMH) committed by children as a result of non-fulfillment of the child's obligations in providing care to parents, whether it is guarding and caring for parents in good health or illness, as well as providing alimony and others, including costs compensation.

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