

ParentsLegalResponsibilities

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1 PARENTS' LEGAL RESPONSIBILITIES FOR THE USE OF INFORMATION MEDIA AND ELECTRONIC TRANSACTIONS BY CHILDREN IN THE CURRENT DIGITAL ERA

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Abstract: In the digital era, especially during the current COVID-19 pandemic, the demands of parents' roles and responsibilities towards children, especially to build relationships and communicate with children, are very important and relevant. Digitization in all aspects of life after the COVID-19 pandemic has changed the way people live in general and are "forced" to enter and live in the digital world. Stand on this, the law exists to give meaning to family life, in the form of parental responsibility and children's respect for parents, even in the digital era.

Keywords: Parents' Legal Responsibilities, Information Media and Electronic Transactions, Digital Era

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Introduction

The internet (short for the word 'inter-network') is a series of interconnected computers to form a computer network. Meanwhile, in terms of science, the Internet is a large library in which there is a lot of information or data which can be in the form of text, graphics, audio or animation, and others in the form of electronic media. People can "visit" the library anytime and from anywhere. In terms of communication, the Internet is a very efficient and effective means of exchanging information remotely and within an office environment.¹

The Internet is a computer network formed by the United States Department of Defense in 1969, through the ARPA project called ARPANET (Advanced Research Project Agency Network), where they demonstrated how with UNIX-based computer hardware and software, we can communicate over long distances. Unlimited over the telephone line. The ARPANET project designed the shape of the network, reliability, and how much information could be transferred, and finally, all the standards they set became the

¹ <http://library.binus.ac.id/eColls/eThesisdoc/Bab2HTML/2007100317IFBab2/page2.html>, diakses tanggal 2 Juni 2022.

forerunners of the development of a new protocol which is now known as TCP/IP (Transmission Control Protocol/Internet Protocol).²

The initial purpose of building the ARPANET project was military purposes. At that time the United States Department of Defense (US Department of Defense's) created a computer network system that was spread by connecting all computers in vital areas to overcome problems in the event of a nuclear attack and to avoid centralized information, which in the event of war could be easily destroyed.

The ARPANET was formed specifically by the four major universities in America, namely the Stanford Research Institute, the University of California at Santa Barbara, the University of California at Los Angeles, and the University of Utah, where they formed a unified network in 1969, and in general, the ARPANET was introduced in October 1972. Soon the project grew rapidly in all regions, and all the universities in the country wanted to join, thus making it difficult for the ARPANet to regulate. Therefore the ARPANet was split into two, namely "MILNET" for military purposes and the new, smaller "ARPANET" for non-military, such as universities. The combination of the two networks eventually became known as DARPA Internet, which was then simplified to become the internet³.

Furthermore, after the Internet was used by academics (UCLA) for research and technology development purposes, in early 1990 the United States Government permitted commercial use of the Internet. Since the internet was discovered until now, it has undergone major changes, namely, it has become a tool for mass communication. This is demonstrated by the presence of the Internet and Social Networking. The internet is a new medium that offers diversity and freedom of access to information without having to be bound by restrictions and censorship so that social activities can not only be carried out in the real world (real) but can also be carried out in cyberspace (unreal).

The digital era is marked by the development of information and communication technology (ICT) which must exist and be followed by today's modern society. We are currently in a historical phase where digitalization touches almost all aspects of life. The development of computing technology has reached a stage where the internet is able to connect almost all physical and non-physical devices in an integrated network to make it easier to operate. In today's urban life, the internet is everything and everything is the internet.⁴

The internet (sites) which are carried out in cyberspace (unreal) has given rise to social networks (social networks) as a means of communication, creating statuses, commenting, sharing photos and videos, and so on. The ease of access, in fact, besides having a positive side, also presents a negative side as a threat, including being a vehicle

² <https://yusufilham.web.ugm.ac.id/2015/09/12/sejarah-internet-di-dunia-dan-perkembangannya-di-indonesia/>, diakses tanggal 2 Juni 2022.

³ <http://library.binus.ac.id/eColls/eThesisdoc/Bab2HTML/2007100317IFBab2/page3.html>, diakses tanggal 2 Juni 2022.

⁴ Tulisan ini merupakan Bab IX dari buku Agus Sudibyo, *Jagat Digital, Pembebasan dan Penguasaan*, Kepustakaan Populer Gramedia, Jakarta, 2019, selengkapnya dapat diakses: <https://www.dpr.go.id/dokad/dokumen/K1-RJ-20200701-114454-7688.pdf>.

for crimes such as copyright infringement, fraud, and embezzlement; online games can damage the mentality of the younger generation; become a means of spreading pornography and spreading hoaxes.

Problems

1. What is the responsibility of parents toward children from a positive legal perspective in Indonesia?
2. What is the responsibility of parents towards children and vice versa in a positive legal perspective in Indonesia?

Discussion

Digital Age vs Children: Internet Access and Social Networking

Access to the Internet and Social Networking through Media Technology is currently easily carried out and affordable by all levels of society, almost without knowing the age limit, both young people and old people and even toddlers, both from the rich and the lower middle class. Even now, children aged 5 to 12 years are the most users in taking advantage of advances in Information Media and Technology making children a multi-tasking generation. The ease of access to the Internet and social networking is now followed by the ease of getting a gadget or smartphone as a means or tool. Gadgets themselves can be computers or laptops, tablet PCs, and also cell phones or smartphones. Gadgets are not only circulating among teenagers (age 12-21 years) and adults or the elderly (age 60 and above), but also among children (age 7-11 years), and ironically, gadgets are not foreign goods for children. (age 3-6) years who should not be fit to use gadgets.

Even today, modern parents have experienced a paradigm shift, where they prefer to buy gadgets or smartphones with all the game facilities (applications) in them, so there is no need to buy various kinds of toys for their children, so today's children don't know anymore. traditional game. Ease of access to the Internet and social networking with gadgets or smartphones as a means or tool makes children even more spoiled by the sophistication of gadgets or smartphones, where one click can access a wide variety of games, information, and so on. This has made the socialization of children less or not optimal with their peers. Even children no longer need more time and energy to learn to read and write on books or paper, they can simply use gadgets or smartphones as learning tools which are classified as more fun because the available applications are usually equipped with attractive animations, bright colors, and songs. upbeat song.

Habits that tend to only listen without any real physical action and trigger laziness. At first, they were lazy to move, then they became lazy in many ways, such as lazy to eat, lazy to bathe, lazy to study, lazy to play, lazy to leave the house, lazy to play with friends, and so on. In theory, according to psychologist Prima (2015), early childhood is still in the stage of motor development which requires them to move a lot. On the other hand, excessive use of gadgets will make children silent for too long so their health

development will be disrupted and children will experience obesity. In fact, not only motor skills, children's language, and social skills will also be hampered because children do not interact much with other people. This ease of access causes children to obtain what they have not yet had time to obtain, whether in the form of pictures, writing, sounds, and so on (online games with pornographic advertisements; gambling; spreading hoaxes, etc.) or in other words, causes changes in behavior.

Human behavior is the result of all kinds of experiences and interactions between humans and their environment which are manifested in the form of knowledge, attitudes, and actions. This response can be passive (without action: thinking, opinion, behaving) or active (taking action). Active behavior can be seen, while passive behavior is not visible, such as knowledge, perception, or motivation. Some experts distinguish forms of behavior into three domains, namely knowledge, attitudes, and actions, or what we often hear with the terms knowledge, attitude, and practice (Sarwono, 2004). Human behavior occurs through a sequential process. Rogers' research (1974 in definition.com, 2017) revealed that before a person adopts a new behavior (new behavior), a sequential process occurs within the person, namely⁵:

1. Awareness, that is, the person is aware of or knows the stimulus (object) beforehand.
2. Interest, that is, people are starting to be attracted to the stimulus.
3. Evaluation (consider whether the stimulus is good or not for him). This means that the attitude of the respondent is even better.
4. Trial, people have started trying new behaviors.
5. Adoption, the subject has behaved in a new way according to his knowledge, awareness, and attitude toward the stimulus.

The influence of gadget use on children is in the spotlight of various groups. The Ministry of Communication and Informatics together with UNICEF conducted research entitled "Digital Citizenship Safety among Children and Adolescents in Indonesia" (Safety of Using Digital Media in Children and Adolescents in Indonesia). The results of a ground-breaking study that analyzes online activity and behavior among children and adolescents. The survey results found that:

1. According to the latest data, at least 30 million children and adolescents in Indonesia are internet users, and digital media is currently their main choice of communication channel. The study found that 80 percent of respondents surveyed were internet users, with evidence of a strong digital divide between those living in urban and more affluent areas of Indonesia and those living in rural (and less affluent) areas. In the Special Region of Yogyakarta, Jakarta, and Banten, for example, almost all respondents are internet users. Meanwhile, in North Maluku and West Papua, less than a third of respondents have used the internet.

2. This study is the first of its kind, with unique data on groups of children and adolescents who have never used the internet. The most obvious gap is that in urban areas only 13 percent of children and youth do not use the internet, while in rural areas, it accounts for 87 percent.
3. The majority of those surveyed have used online media for more than one year, and almost half of them admit that they first learned about the internet from friends. This study revealed that 69 percent of respondents use a computer to access the internet. About a third - 34 percent - use a laptop, and a fraction - just 2 percent - connect via video games. More than half of respondents (52 percent) use mobile phones to access the internet, but less than a quarter (21 percent) for smartphones, and only 4 percent for tablets.
4. This study collects data to guide future policies in protecting children's rights to access information and, at the same time, share information and express their views or ideas safely.

The main conclusions resulted from this study:

1. The use of social and digital media is an integral part of the daily lives of young Indonesians. This study found that 98 percent of the children and youth surveyed knew about the internet and that 79.5 percent of them were internet users..
2. There are around 20 percent of respondents do not use the internet, the main reason is that they do not have the equipment or infrastructure to access the internet or that they are prohibited by their parents from accessing the internet.
3. Changes in the structure of the media in Indonesia, especially with the increasing use of cell phones, have changed access to and use of digital internet media among children and adolescents, who tend to use: personal computers to access the internet in internet cafes and school computer labs; laptop at home, and above all a mobile phone or smartphone during daily activities.
4. Children and youth have three main motivations for accessing the internet: to seek information, to connect with friends (old and new), and for entertainment. Information-seeking is often driven by school assignments, while the use of social media and entertainment content is driven by personal needs.
5. Research on communication patterns of children and adolescents via the internet reveals that the majority of their communication is done with peers, followed by communication with teachers, and communication with family members is also quite significant.
6. Regarding privacy issues, in general, this study found that some many children and adolescents provide personal information such as home addresses, telephone numbers, or school addresses.
7. Most of them are aware of the importance of passwords for e-mail and social media.
8. In addition, almost all of them disagree with pornographic content on the internet. However, a large number of children and youth have been exposed to pornographic content, especially when it appears unintentionally or in the form of advertisements that have graphic overtones.

9. Parents may lag behind their children in mastering and using digital media, few parents supervise their children when accessing the internet, and few become 'friends' of their children on social networks.
10. Parents and teachers are increasingly aware of the benefits of digital media to support children's education and learning. For example, more and more teachers are assigning students to collect information from the internet to do various assignments. This is a good step to increase the use of the internet as an educational tool.

Parental Responsibilities to Children in a Positive Legal Perspective in Indonesia

Responsibility according to the Big Indonesian Dictionary is "a state of being obliged to bear everything." Being responsible according to the General Indonesian Dictionary is "obliged to bear, bear, bear everything and bear the consequences." Regarding legal responsibility, Ridwan Halim stated: "Legal responsibility is a further consequence of carrying out a role, whether that role is a right and an obligation or a power. In general, legal responsibility is defined as an obligation to do something or behave in a certain way not to deviate from existing regulations.

In Black's Law Dictionary, responsibility (liability) is defined as: "The quality or state of being legally obligated or accountable; legal responsibility to another or society, enforceable by civil remedy or criminal punishment". So the quality or condition that is legally obligatory or can be accounted for, legal responsibility to other people or society, is enforced through civil law or criminal penalties.⁵

So it can be concluded that criminal responsibility according to Chairul Huda is defined as the responsibility of a person for the crime he committed, in other words, criminal responsibility is essentially a mechanism built by criminal law to react to violations of the 'agreement to reject' a particular action.⁶ Responsibility is generally defined as acting as a form of awareness of one's obligations.

The relationship of parental responsibility is inseparable from how the interaction between parents and children should be. The symbolic interaction theory introduced by George Herbert Mead makes us understand that an action has a different meaning from other people who also interpret the meaning of the interaction. Symbolic interaction theory argues that humans are individuals who think, feel, and give meaning to every situation, which gives rise to reactions and interpretations of every stimulus they encounter. The event is carried out through the interpretation of symbols or meaningful communication carried out through motion, language, sympathy, empathy, and giving birth to other behaviors that show reactions or responses to stimuli that come to him.⁷

⁵ Bryan A Garner and Henry C Black, *Black's Law Dictionary Tenth Edition*, Thomson West, St. Paul, Minnesota, 2014, p. 997.

⁶ Hanafi Amrani dan Mahrus Ali, *Sistem Pertanggungjawaban Pidana: Perkembangan dan Penerapan*, PT. RajaGrafindo Persada, Depok, 2015, hlm. 21.

⁷ Irmayani, *Peranan Orangtua, Penegak Hukum Dan Pekerja Sosial Dalam Mengatasi Masalah Psikososial Anak Yang Berkonflik Dengan Hukum Atau Lembaga Pemasyarakatan*, dalam Jurnal Sosio Informa, 2017, hlm. 146.

In Indonesian positive law, parents' responsibilities towards their children are regulated in various laws and regulations, as follows:

1. **Law no. 1 of 1974 concerning Marriage, Article 45 paragraph 1**, states: "Both parents are obliged to care for and educate their children as well as possible."
2. **Law no. 4 of 1979 concerning Child Welfare, Article 9**, states: "Parents are first of all responsible for the realization of child welfare, both spiritually, physically and socially."
3. **Law no. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection, Article 1 paragraph 4**, states: "Parents are biological fathers and/or mothers, or fathers and/or stepmothers, or adoptive fathers and/or mothers and Article 4, states: Every child has the right to be live, grow, develop and participate fairly in accordance with human dignity and values, and receive protection from violence and discrimination."
4. **Law no. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection, Article 26**, states: Parents are obliged and responsible for:
 - a. Nurturing, nurturing, educating, and protecting children.
 - b. Develop children according to their abilities, talents, and interests.
 - c. Preventing child marriage.
 - d. Provide character education and instill moral values in children.

So, parents are the living environment that children know for the first time, so they must be responsible for building interactions and relationships between children and their social environment. However, if parents deliberately and/or negligently do not carry out their obligations as good and right parents, the law has regulated the following conditions.

Civil Parental Responsibilities

According to Janus Sidabalok, in Indonesia, the concept of strict liability (absolute responsibility, risk responsibility) can be found implicitly in Article 1367 and Article 1368 of the Civil Code. Civil Law regulates the responsibility of parents for actions caused by children. If due to parents' negligence in educating children, so that children commit criminal acts, then civilly parents are responsible for losses arising from their children's actions as stipulated in Article 1367 ayat (1) dan (2) Kitab Undang-Undang Hukum Perdata (KUHPerdata) that state:

- (1) *A person is apt only responsible for losses caused by his actions, but also for losses caused by the actions of people who are his responsibility or for goods under his control..*
- (2) *Parents and guardians are responsible for losses caused by minor children who live with them and over whom they exercise parental or guardian authority.*

Criminal Responsibilities of Parents

1. **Law no. 11 of 2012 concerning the Juvenile Criminal Justice System**, in its explanation, states that in essence, this law prioritizes the protection and protection of children

who conflict with the law so that children can face their long future and provide opportunities for children, and once again, for their parents. This law also pays attention to the need for children to be accompanied by their parents. As:

- a. Article 55 paragraph (1): "In a Child trial, the Judge is obliged to order the Parent/Guardian or assistant, Advocate or other legal aid providers, and Community Advisor to accompany the Child."
 - b. Article 60 paragraph (1): "Before passing a decision, the Judge allows Parents/Guardians and/or companions to express things that are beneficial to the Child."
 - c. Article 21 paragraph (1): "In the event that a child under the age of 12 (twelve) commits or is suspected of committing a crime, investigators, social counselors, and professional social workers make decisions to:
 1. Hand it back to the parent/guardian; or
 2. Include them in education, coaching, and mentoring programs in government agencies or LPKS in agencies that handle social welfare, both at the central and regional levels, no later than 6 (six) months.
2. **Law no. 44 of 2008 concerning Pornography, Article 38**, states: Everyone who invites, persuades, takes advantage of, permits, abuses power, or forces a child to use pornographic products or services as referred to in Article 12 shall be punished with imprisonment for a minimum of 6 (six) months and a maximum of 6 (six) years and/or a minimum fine of Rp. 250,000,000.00 (two hundred and fifty million rupiahs) and a maximum of Rp. 3,000,000,000.00 (three billion rupiah).
 3. **Law no. 44 of 2008 concerning Pornography, Article 12**, states: Everyone is prohibited from inviting, persuading, taking advantage of, ALLOWING, abusing power or forcing children to use pornographic products or services.
 4. **Law no. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection, Article 76B**, states: Everyone is prohibited from placing, allowing, involving, ordering to involve children in situations of abuse and neglect. **Article 77B**, shall be punished with imprisonment for a maximum of 5 (five) years and/or a fine of a maximum of Rp. 100,000,000.00 (one hundred million rupiahs).
 5. **Law no. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection**:
 - a. Article 76E: "Everyone is prohibited from committing violence or threats of violence, coercing, tricking, committing a series of lies, or persuading a child to commit or allow obscene acts to be committed."
 - b. Article 82 paragraph (1): "Shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp. 5,000,000,000.00 (five billion rupiahs)."
 6. **Law no. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection**:
 - a. Article 76I: "Everyone is prohibited from placing, allowing, doing, ordering to do, or participating in economic and/or sexual exploitation of children."

- b. Article 88: "shall be punished with imprisonment for a maximum of 10 (ten) years and/or a fine of a maximum of Rp. 200,000,000.00 (two hundred million rupiahs)."
- 7. **Law no. 35 of 2014 concerning Amendments to Law no. 23 of 2002 concerning Child Protection:**
 - a. Article 76J, states: paragraph (1) Everyone is prohibited from deliberately placing, allowing, involving, ordering to involve children in abuse, as well as the production and distribution of narcotics and/or psychotropics; paragraph (2) Everyone is prohibited from deliberately placing, allowing, involving, ordering to involve children in abuse, as well as the production and distribution of alcohol and other addictive substances.
 - b. Article 89 paragraph (1), shall be punished with the death penalty or life imprisonment or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a fine of at least IDR 50,000,000.00 (fifty million rupiahs) and a maximum of Rp. 500,000,000.00 (five hundred million rupiahs); paragraph (2), shall be punished with imprisonment for a minimum of 2 (two) years and a maximum of 10 (ten) years and a fine of at least Rp. 20,000,000.00 (twenty million rupiahs) and a fine for a maximum of Rp. hundred million rupiahs).
- 8. **Law no. 11 of 2008 concerning Information and Electronic Transactions:**
 - a. Article 52 paragraph (1) stipulates: "In the case of a crime as referred to in Article 27 paragraph (1) concerning decency or sexual exploitation of children, a one-third weight and the main punishment shall be imposed."
 - b. As for the provisions of Article 27 paragraph (1): "Every person intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have content that violates decency."
 - c. The main criminal provisions are regulated in Article 45 paragraph (1) of Law no. 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, it is stated: "Any person who intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have cargo that violates decency as referred to in Article 27 paragraph (1) shall be subject to imprisonment for a maximum of 6 (six) years and/or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah)."

Parental Responsibilities to Children and Vice versa in a Positive Legal Perspective in Indonesia

of Article 1 read: "Marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on Belief in the One Supreme God". This means that the purpose of marriage (marriage)

in Indonesia is to form a happy and eternal family based on belief in God Almighty according to the teachings of each religion.

The occurrence of marriage, creates a legal relationship in the form of rights and obligations between husband and wife with the birth of children in a marriage, thus giving rise to a legal relationship between parents and their children in the form of rights and obligations⁸. Law Number 1 of 1974 concerning Marriage (Marriage Law), the provisions Article 298 of the Civil Code states: "Every child, regardless of age, is obliged to respect and respect their parents. Parents are obliged to look after and educate their children who are underage. Losing parents' powers or guardianship's powers does not relieve them of the obligation to provide alimony according to the amount of their income to finance the maintenance and education of their children. For those who are adults, the provisions contained in Part 3 of this chapter apply.

Article 299 of the Civil Code stipulates regarding the application of parental power, it states: "During the marriage of the parents, every child until adulthood remains in the power of both parents, as long as the two parents are not released or dismissed from that power."

1. Respect for parents must be done by children. Article 46 of the Marriage Law states:
2. (1) The child is obliged to respect their parents and obey their good wishes.
3. (2) If the child has grown up, he is obliged to look after his ability, parents, and family in a straight line upwards, if they need help.

As for what is the reciprocity of rights and obligations between parents and children (Parents to children and children to Parents), namely:

1. Parents are obliged to look after and educate their children.
2. Parents are still obliged to pay for the child's maintenance, even though the parent's authority as a parent has been revoked for the following reasons:
3. Children must respect and obey their parents.
4. Adult children are obliged to look after their parents in a straight line if their parents need it.
5. Children who are not yet mature (under 18 years old and have never been married) have the right to be represented by their parents to take legal actions inside and outside the court.
6. A child who is not yet an adult (under 18 years of age and has never been married) has the right to stay under the authority of his parents as long as the authority of the parents has not been revoked.
7. Parents are obliged not to transfer rights or pawn immovable property belonging to their children who are not yet 18 years old and have never been married unless the child's interests require it.

Conclusion

⁸ <https://heylawedu.id/blog/berakhirnya-kekuasaan-orang-tua>, diakses tanggal 2 Juni 2022.

Responsibility (in criminal or administrative law) is defined as the obligation to bear the risks or consequences or losses suffered. Responsibility is generally defined as acting as a form of awareness of one's obligations. The responsibility of parents according to the law basically wants parents to care for and educate their children as well as possible. 4 of 1979 concerning Child Welfare, Article 1 paragraph (4) and Article 4 of Law no. 35 of 2014 concerning Child Protection, and Article 26 of Law no. 35 of 2014 concerning Child Protection. However, if parents deliberately and/or negligently do not carry out their obligations as good and right parents, the criminal provisions are Article 38 of Law no. 44 of 2008 concerning Pornography, Article 12 of Law no. 44 of 2008 concerning Pornography, Article 76B and Article 77B of Law no. 35 of 2014 concerning Child Protection, Article 76E and Article 82 paragraph (1) of Law no. 35 of 2014 concerning Child Protection, Article 76I, Article 76J, Article 88 and Article 89 paragraph (1) of Law no. 35 of 2014 concerning Child Protection, as well as Article 52 paragraph (1) of Law no. 11 of 2008 concerning Information and Electronic Transactions.

The legal relationship in the form of rights and obligations between parents and children is in the form of rights and obligations that must be carried out by parents towards children and children towards parents. As for the responsibilities of parents towards children and vice versa in the perspective of positive law in Indonesia, it is regulated in Article 298 and Article 299 of the Civil Code and Article 46 paragraphs (1) and (2) of the Marriage Law.

Suggestion

Interaction that should be (good interaction) between parents and children must be instilled and accustomed first through parents. In addition, inviting children to discuss, ask questions, and play together with children will develop their imagination and creativity.

Parents are required not to be clueless (technologically illiterate) in controlling and educating children in the digital era. Parents' knowledge of technology can then educate and control children with love and wisdom to raise children's awareness to respect parents.

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