

Lessons Learned From Child Protection Rights in Religion Paradigm and National Law

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Abstract

This study aims to provide learning about child protection as one of the most important human rights in the world paradigm of Islam and national law in Indonesia. The research method using legal studies refers to religious provisions and statutory regulations. The focus of this research is on obtaining protection from human rights violations and the right to 12-year compulsory education. The findings reveal two main topics. First, the Islamic religious paradigm views child protection as a child's human right who has a noble position, God's mandate for parents, and a form of piety to God. Second, national law makes children's human rights in care for life, education, and the responsibility of both parents based on court decisions. The conclusion is that child protection in the paradigm of religion and national law is a form of responsibility, has educational rules, and legal provisions that are inextricably linked to the elements of human rights. The expected implication is that the government includes values about child protection in the national education curriculum to provide lessons about the importance of children's human rights to create a better future generation.

Keywords: *lessons learned, Islamic law, child protection rights, nasional law*

Introduction

Every child has fair opportunities and parents have several obligations that they must perform, society, and the state. For decades, professional research has explored various cases of violations of child protection such as cases of violence, neglect, exploitation, and child abuse. It's critical to look into the role of kid protection as a human right in a comprehensive system in the future. UNICEF noted the high number of cases of child protection in the world, especially in poor and developing countries (Clark et al., 2020). A child protection system needs to produce reliable evidence to support information in advocacy, reforming laws, and updating policies according to international standards (Bouma et al., 2018; López et al., 2019); professional expert development (Aletheiani, 2022; Whitaker & Croft, 2020) and a national movement through simulated training to train welfare workers and public financial management performance budget screening for

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children (Chiu, et. al., 2022). In a child protection system, parents need to supervise, overcome children's resistance, and children's discomfort in their environment (Schoch et al., 2020; Tilbury & Ramsay, 2018). Researchers found that parents of children with special needs were less likely to have cases of infringement than those without intellectual disabilities (Slayter & Jensen, 2019). This is of particular interest to future research focusing on child protection. The literature finds that parents have an important influence in shaping interventions for children. The reason is that the experience of parents seeing workers using power is the main influence in shaping parents' views (Dumbrill, 2006).

In Indonesia, children account for one-third of the population or 85 million people. The great potential becomes an economic opportunity for children who are quite good in the future. Despite having strong child protection policies and laws and the situation of children has improved over the last few years, gaps still exist (Wismayanti et al., 2021). More than 50 percent of the population lives in urban areas, this trend is increasing every year. UNICEF revealed that extreme poverty rates are very high at 14.5 percent and moderate poverty at 48.7 percent. Every year, Climate change affects hundreds of thousands of children, malnutrition, natural disasters, and other disasters. Disparities occur because of the large size of the country and the variety of social groups. Children also experience various trends in cases of Children's rights breaches in the modern period of the Covid 19 pandemic. The most recorded complaints include family clusters and 1,622 cases of caregiving; education clusters, learning from home situations related to school policy complaints reached 1,463 cases; 651 cases of pornography and cyber clusters. This number is the highest in 10 years. The challenges of child protection are exacerbated by geography, bullying, and humiliation in schools, teachers often use physical and emotional punishment to discipline children because of their lack of knowledge and skills in dealing with the problems they are experiencing (UNICEF, 2017).

Future research must provide lessons on Child Protection Human Rights in the Religious Paradigm and National Law as a way to overcome the challenges faced by children in Indonesia. This is based on previous research that discusses the country's efforts to build a child protection system that requires an original Indonesian paradigm (O'Leary et al., 2019). Because the majority of Indonesian children are Muslim and live in a strong Muslim community, the religious paradigm of child protection through the study of Islamic law is based on this fact. The study reveals that the paradigms of national law and religious law have an interrelated relationship in providing

important lessons that have an impact on human activities to achieve prosperity in the future (Abidin et al., 2020). Cheruvallil-Contractor et al. (2021) revealed that Islam has special teachings connected to the safety of children, such as care, inheritance rights, and child guardianship rights. So far, most of the Islamic teachings on child protection have overlapped with the Western paradigm of understanding so there are several contested positions. Research also reveals the importance of learning about religious protection and religious education for Muslim children so that they have a strong religious foundation. Therefore, child protection in the religious paradigm requires the concrete, clear, and true nature of Islamic teachings in building evidence-based practice in the Muslim community.

The legal paradigm in Indonesia is based on the Pancasila ideology which developed in positivism legal theory (Ma'rifah & Fajri, 2022; Seregig et al., 2018; Situmorang et al., 2021). Previous research has revealed that the COVID-19 pandemic has increased the risk factors for children's vulnerability to violations of children's rights. This indicates that there are weaknesses in regulations regarding child protection, especially for children who have been abused and neglected (Brown et al., 2021). Law in Indonesia currently refers to international conventions without regard to the existence of Islamic law and customary law. The issue of when the legal values contained in *shari'ah*, *fiqh*, and *siyasa shari'ah* are enforced in Indonesia has not been revealed and answered with certainty. The Indonesian legal system still refers to or adheres to the Continental European Legal system which adheres to the flow of legalism, which views the law as a certainty and is written in the form of legislation or Government Regulation, although in Law no. 14 of 1970 provides an opportunity for Islamic and customary law systems to be enforced. Even though it has been explained in social justice theory that socio-philosophically it is necessary to adhere to the principle of fair equality of rights (Irawan et al., 2021).

Recent demographic changes over the past few years have investigated various legitimate models in the child protection system as regulated by international conventions and national laws. The implication is that to improve child protection performance both through government and non-government child protection agencies (Palacios et al., 2019). However, on the other hand, the complexity strategy and efforts to conceptualize child protection services as a complex and adaptive system have risks. The identified risks are a combination of over-promoting culture; a people-centered attitude to child death investigations; culture is to blame, and a poor performance management system (Munro, 2010). The novelty of the research reveals important lessons about

child protection under religious law and national law which have been extensively investigated. The researcher uses secondary data that refers to the importance of contemporary Islamic religious law practices regarding child protection and laws and regulations that are relevant to the research. This study is an important part of the consideration in learning for the Muslim community and evaluating the quality and effectiveness of government regulations on the rights of Indonesian children.

Research Question

The focus of the research, according to the findings of the literature assessment, is on the contribution of Islamic law and legislation in Indonesia. Laws explaining child protection, such as Law Number 35 of 2014 addressing Child Protection and the majority of Indonesian residents who are Muslim, are very important to debate. In this study, here's how the issue is stated;

1. What is the Lesson Learned from Child Protection in the Islamic Paradigm?
2. What are the Lessons Learned from Child Protection Rights in National Law in Indonesia?

Literature Review

Learning about Human Rights

Human rights are a form of protection of human status that there are rights (entitlements) that are inherent to every human being, which provides moral guarantees and enjoys freedom from all forms of treatment that cause humans to not have the right to live with dignity and worth (Griffin, 2008). The idea that human dignity is capable of providing the basis for universal human rights protects it from attacks by any other human power (Panikkar & Panikkar, 1982). Human rights have been owned by humans since their birth or presence in society (Sen, 2005).

According to Landman & Carvalho (2009), learning about human rights must be measured based on a comprehensive methodological framework that includes methods, strengths, and biases. The literature explains that in studying human rights, It's important to emphasize the evaluation of the moral value of human actions to minimize violations against them. If human rights are not guarded, protected, respected, even to the point of being revoked or ignored by certain people/groups, it means that human rights violations have occurred (McCament, 2019). Two types of human rights violations, namely; 1) ordinary human rights violations, namely cases of minor human rights violations that do not threaten the safety of others, for example, intentional environmental pollution

and the use of hazardous materials for public consumption 2) serious human rights violations that threaten human life such as murder, robbery, and slavery (Aydin & Avincan, 2020).

Child protection

Child protection is defined as an effort to guarantee and protect children's rights that are in accordance with human dignity and are properly regulated by law (Beckett, 2007). The literature reveals that there are five forms of child protection. First, protecting children from ignorance by providing them with good and proper teaching and education as citizens. Education is the best form of protection for them to get a good future, which is given in the form of formal education and informal education. Children are given the right to choose their form of education and career (Ajaps & Obiagu, 2020; Zvereva et al., 2019). Second, protection against all types of physical and mental abuse. This form of violence does not only come from parents but also other parties. Third, protection of physical and mental health where parents are in charge of guaranteeing the health of their children is guaranteed and providing good teaching for their growth and development. Fourth, is the protection of freedom within the limits regulated by norms and laws. Fifth, protection from exploitation of energy, money, and sexuality. Parents are the first teachers for children because of their big role in providing child protection (Waldfogel, 1998). Restraints in expressing aspirations, opinions, and freedom to play and associate are a form of violation of the law against child protection (Dumbrill, 2006).

Protection of children's human rights in the learning process for their psychological development is the most important part of human rights (Waldfogel, 2009). Three specific barriers to child protection are financial and psychological poverty, HIV/AIDS infection which can change the social structure of society, and the consequences of post-traumatic stress caused by war (Lachman et al., 2002). Several previous studies reveal the forms of legal protection for children. A legal review according to religion, constitution, and custom as a whole, contains provisions regarding legal relations related to blood kinship, inheritance rights, and marriage (Pulla et al., 2018). According to Chernaya (2018), in the current social and humanitarian discourse, the concept of children's rights is linked to education, humanity, welfare, legal socialization institutions, and legal culture.

Method

Design

The legal research design was used in this study to investigate Learning About Child Protection Rights in the Paradigm of Religion and National Law. The design of legal research investigates legal principles, legal norms, the book of laws and regulations as well as certain legal doctrines or teachings that aim to answer certain legal issues or problems (LLewellyn, 1940). Canick (2009) explains that well-structured legal research can be a means to build a knowledge base that can be used as a strategy in developing effective rational research in the future. This research focuses on secondary data is gathered by studying literature research based on primary legal materials and associated studies that are relevant to the human right of child protection. A study of the national legal paradigm and the Islamic religious paradigm is carried out to obtain valuable lessons on child protection in Indonesia.

Data and sources of data

The data used are secondary data derived from primary legal documents, such as; (1) Law Number 23 of 2002 concerning Child Protection; Law Number 35 of 2014 respecting Legislative Amendments No. 23 of 2002, relating to Child Protection; Civil Code (KUHP); Law No. 10 of 2012 with relation to The Convention on the Rights of the Child's Optional Protocol has been ratified; and Law no. 1 of 2000 Concerning ILO Convention No. 182 Ratification; and Law no. 4 of 1979 Concerning the Welfare of Children. Secondary data derived from Islamic law consists of Islamic law's sources on child protection in the Qur'an which have been interpreted by Muslim scholars; and Islamic law's sources regarding child protection in the Sahih hadith books.

Table 1.

Type of document

Theme	The secondary information	Destination
Children's Rights in the Islamic Perspective	<ol style="list-style-type: none"> 1. Sources of Islamic law regarding child protection in the Koran which have been interpreted by Muslim scholars 2. Sources of Islamic law regarding child protection in authentic hadith books 	The goal of the data analysis is to discover religious laws that protect children's human rights and to learn more about how to keep children safe from abuse, neglect, and exploitation
Children's Rights in the National Law Paradigm	<ol style="list-style-type: none"> 1. The Child Protection Law No. 23 of 2002 2. Amendments to Law No. 23 of 2002 Concerning Child Protection (Law No. 35 of 2014).Law no. 39 of 1999 concerning Human Rights 	The goal of the data analysis is to learn about the national law on children's rights to provide lessons on how to safeguard children from violence, neglect, exploitation, and abuse.

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3. Law No. 10 of 2012 on the Optional Protocol to the Convention on the Rights of the Child's Ratification
 4. International Labor Organization (ILO) Conventions Ratification Law No. 1 of 2000
 5. Civil Code (KUHP)
 6. Children's Welfare Law No. 4 of 1979
 7. Juvenile Court Law No. 3 of 1997
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Data Collection techniques

The research uses the documentation method that has been compiled concerning two studies, particularly, the Child's Human Rights in the National Law Paradigm and the Child's Human Rights in the Islamic Paradigm. Problem identification is carried out by selecting articles in the Republic of Indonesia's legislation and sources of the Islamic law that are relevant to Islamic culture in Indonesia and ensuring that the data can provide a clear and accurate picture. RQ1 examines the learning of the religious paradigm covering aspects of blood kinship, inheritance rights, and marriage. RQ2 examines the learning of the national legal paradigm covering aspects of education, humanity, welfare, legal socialization institutions, and legal culture. The two RQs focus on the study of child protection as a human right with different but related paradigms. (see table 1)

Table 2

Data Collection Process

Theme	Primary legal data sources	Indication RQ	Code data
Child protection in the religious paradigm	1. Sources of Islamic law regarding child protection in the Qur'an at-Tahrim (66) verse 6 and Surah Al-Nahal verse 78 which have been interpreted by Muslim scholars	RQ 1	1, 2
	2. Sources of Islamic law regarding child protection in the hadith book narrated by Sahih al-Bukhari number 2415, hadith narrated by Ibn Majah number 3046		3, 4
Child Protection in the National Law Paradigm	1. Article 1 paragraph of Law No. 23 of 2002 Concerning Child Protection (1)	RQ 2	6
	2. Article 1 paragraph 2 of Law No. 35 of 2014 Concerning Amendments to Law No. 23 of 2002 Concerning Child Protection		6
	3. The Human Rights Law of 1999 (Number 39)		7
	4. The Juvenile Criminal Justice System Act of 2012 (Law No. 11 of 2012) is a law that governs the juvenile criminal justice system (UUSPA)		7
	5. Optional Protocol to the Convention on the Rights of the Child Concerning the Sale, Prostitution, and Abuse of Children Pornography was ratified by Law No. 10 of 2012.		7
	6. Law No. 1 of the year 2000 ratified the ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor..		8
	7. Article 1 paragraph of the Child Welfare Law No. 4 of 1979 (2)		8
	8. Article 330 of the Civil Code and Article 2 of the Civil Code, paragraph (1)		

Data Analysis

The study employs the analytical method offered by Krippendorff (2018), which is a strategy for in-depth study of legitimate information's content that may be re-examined from data depending on its context. The first step is to formulate the purpose of the analysis by collecting the data to be analyzed. In this study, the data analyzed are the intrinsic elements contained in Child Protection Lessons in the Paradigm of Religion and National Law in Indonesia. The second step is conceptualization and operationalization by simplifying research and considering the construct of thought on child protection, measuring aspects of legal review, and the theoretical framework of human rights. The third step is a coding sheet, which is bringing the operationalization down to a more manageable level a coding sheet by entering what you want to see and how to measure it. The fourth step is to formulate data collection techniques on predetermined resources. In this study, data sources are derived from primary legal sources, which are taken based on the criteria that have been determined by the researcher. The fifth step is coder training and instrument testing so that it meets the requirements. The sixth step is the coding process that has been compiled by Number 1 for data code [1], Number 2 for data code [2], Number 3 for data code [3], Number 4 for data code [4], Number 5 for data code [5], and so on until the last data code. The data codes [1,2,3, and 4] make up RQ1. The data codes [6,7, and 8] make up RQ2. Data that has been coded is used to answer the research problem formulation. The sixth step is data reduction, namely filtering carried out during the data analysis process so that irrelevant data can be minimized. Researchers conduct research studies that are logical, objective, and systematic by the facts or evidence obtained from research materials and legal sources. The seventh step is input data analysis, It involves understanding the meaning of data that has been processed and coded to find information.. The eighth step is inferring or grouping data that meet the originality requirements to draw conclusions and suggestions addressed to stakeholders.

Result and Discussion**RQ1: Lessons Learned from Child Protection Rights in Religious Paradigm**

The first finding answers the problem formulation that discusses learning about child protection rights in the religious paradigm. The findings reveal that conceptually the teachings of Islam view children as a mandate from Allah SWT that must be protected. As a result, children must be properly cared for to develop and grow spiritually and physically. The presence of children can

make their parents happy. Children, on the other hand, can put their parents to the test. Children can make parents arrogant and the highest of people. In Islam, the kid holds a high rank since he or she is the heir to the lineage, the keeper of the parents' reward, and an independent entity. A pious child has obedience to the law of Allah SWT who can guarantee the fulfillment of prayers for his parents. Independent beings mean that children are creations of Allah SWT who have their destiny which must be their responsibility regardless of the coercion of others, including their parents a result, it is critical for parents to properly educate and protect their children. The right of religious maintenance (*hifzal-din*) for a newborn child in the world is under the responsibility of both parents. A child's adopted religion must be the same as his parents' faith until the child can determine for himself whether he wants to continue following the religion he has followed since birth or choose the best religion for him. The maintenance of religious rights for children in Islam must first be carried out by both parents, especially a mother who is pregnant, gives birth, and raises children. Children's religious development must begin from the beginning of the child's life period, namely from the womb. This can be done by getting children used to hearing good sentences such as reading the Koran, blessings, dhikr, and others. When a child is born into the world, parents must also provide religious guidance to the newborn child, namely in the form of inculcating divine values. Consider data 1.

“In verse 6 of the Qur'an At-Tahrim (66).’ Regarding the word of Allah *لذوقوا عقابكم ولعقاب اولادكم* command to protect yourselves and your families from hell's inferno, 'Mujahid said' fear Allah. While Qatada said; That is, you should command them to obey Allah and prevent disobedience to Him.”

Based on data 1 Islamic teaching maintains the rights of children to get an education, texts, protection, and maintenance as in the Qur'an. Guarantees need to be given so that every child gets these rights. The protection and granting of rights to children have been according to the Qur'an and hadith, to be applied in human life (Al-Ghazaliy, 1983). The protection carried out by parents in the Qur'an is the responsibility of meeting the needs of children, cognitive, emotional, and spiritual intelligence. This is because children are creatures who do not know anything so they need protection and guidance from their parents so that humans can worship God well. Consider data 2.

“Abdurahman Muhammad Abdullah bin Al-Sheikh on Ibn Kasir's commentary explains that children are creatures who do not know anything as Allah has said in Surah Al-Nahal verse 78, which means, 'And Allah brought you out of your mother's

womb without knowing anything, He also blessed you with hearing, sight, and a grateful heart.”

From data 2, every parent realizes that children have certain rights that must be respected, implemented, and protected. This is done so that the class of children can protect their rights in a way that is by religious teachings (Abdullah, 2004). Some of the learning recommendations made by parents in religious education for their children are the lecture method, the exemplary method, and storytelling about the stories of the Prophets (Kusuma, 2021). Important lessons regarding education and awareness of children about their rights are found in one of the Hadiths narrated by al-Bukhari number 2415. Consider data 3.

“Hadith from Qutaibah, from Malik, from Abi Hazm, from Sahal bin Sa'ad r.a that the Messenger of Allah was served a drink while on his right there was a child and on his left, there were several adults. The Prophet SAW asked the little boy: 'Do you allow me to give drink to the adults today first?' The child said: 'No, by Allah I do not give my share to any of them. to the little boy.’”

The hadith in data 3 explains that the Prophet SAW taught children that he had rights, and the fulfillment of his rights took priority to his position, namely the right to take precedence in getting a drink even though many adults were also present and had the right. To provide learning and awareness of these rights, the Prophet SAW intended to teach people to respect the existence of children and their rights, not to underestimate, and not to violate their rights (Al-Bukhari, 1997). The Prophet SAW taught that those who have rights are not only fathers and mothers or other parties, but also children who have rights, opinions, and desires that are considered (Al-Nasa'i, 1997). The form of protection provided in the traditions of the Prophet SAW in the form of the *min janib al-'adam* aspect, namely the existence of legal provisions that prohibit all actions that are detrimental and violate the rights of children as described in the Hadith narrated by Ibn Majah. Consider data 4.

“Hadith from Abu Bakr bin Abi Shaibah and Hannad bin al-Sirri, from al-Ahwash, from Syahib bin Gharqadah, from Sulaiman bin 'Amr bin al-Ahwash, from his father who heard the Prophet SAW say during the Hajj Wada: 'O people. Remember, which day is holier?' The crowd replied: 'Day of the Great Hajj.' The Prophet SAW said: 'Indeed, your blood, your wealth, and Your fortune is as sacred to you as your day is, in this month of yours, in your country. Remember, it is never someone who commits a crime but the consequences will befall him. Parents cannot do evil to their children and a child cannot do evil to people.’”

This hadith narrated by Ibn Majah number 3046 explains the prohibition of acts of violence against children, especially for their older daughters (Ibnu Majah, 1997). The history of Muslim hadith number 34723 also emphasizes the prohibition of violence against girls because they have a soft nature and are sensitive to their feelings. It is forbidden to murder on the grounds of poverty, fear of humiliation, inability to bear the shame, and so on (Muslim, 1972). More deeply in regards to children's rights in Islam consisting of biological children, adopted children, milk children, adopted children, stepchildren, and children out of wedlock, the classification of these children can determine their position or status, both in descent and inheritance, as well as guardianship in Islamic law.

In Islam, there are five kinds of human rights to children, namely the maintenance of religious rights (*hifz al-din*), the preservation of the soul (*hifz al-nafs*), the maintenance of honor and lineage (*hifz al-nasl*), maintenance of reason (*hifz al-'aql*) and property maintenance (*hifz al-mal*). Therefore Islam really respects children's rights. The study of child protection issues is based on Islamic law, which is one of the rules embraced in society. Because of the suppleness of Islamic law, fresh analogies and interpretations must be established in light of the modern-day situation of child criminality. The transcendental principles inherent in Islamic legal rules persuade believers that religious teachings oppose the exploitation of fellow humans, especially minors (Tarazi, 1995). Sanctions given to perpetrators who employ children and neglect children get a *Jarimah ta'zir* sanction. This sanction has been explained in a previous study by Mesrati (2022) that the implementation of child protection also includes sanctions that must be accepted. If there is exploitation and violence against children, sanctions must be implemented as a form of humanitarian obligation.

The right to maintain lineage/offspring (*hifz al-nasl*) is a form of the right to maintain lineage in Islam, which can be seen in the concept of maintaining honor. The honor of a child can be realized by recognizing his identity as a child of his biological parents. Therefore, in Islam, the adoption of a child should not cause the child to lose the origin of his descendants. The right to maintain children's lineage in the view of Islam includes; the defense of rights and dignity of the child, the biological father may not be replaced by another person's name even though the child has become an adopted child; rights and honors are related to the child's psyche, because if the child is known as a child without a father or clear lineage, then he will experience big problems in his personality growth later (Ashfaq, 2017). If the origin of the child is not known, it is feared that there will be

problems with *muharramat*. *Al-Muharramat* (contained in illegitimate affairs) related to children is a prohibition of marriage with a woman only for a certain time, because there is a reason for it, it cannot be married. Rabb (2022) explains that the legal consequences for children born from marriages whose origins are not clear, therefore there is no legal relationship between the child and his father. In this case, Islamic law is very clear about the legal status of children to provide protection for them which is essentially meant to maintain human dignity.

The right to maintain a child's soul (*hifz al-nafs*) is an obligation, both physical and mental health maintenance so that children can grow normally, not be overtaken by physical or mental illness (Rothman & Coyle, 2018). Efforts to maintain children's health must be carried out from the time they are in the womb. Islamic attention to the health of children is not only carried out when he is in the womb but also given after he is born. When a child is born in the world, the maintenance of the child's health is given to efforts for healthy growth, prevention and healing. At the growth stage, among the efforts that can be made by parents so that their children grow up healthy, among others, through *radha'ah* (breastfeeding), circumcision, prevention, and healing efforts (Tarazi, 1995). Thus Islam respects and implements the right to health of children, both physically and mentally. If parents have given attention and responsibility to the health of their children, the generation that is nurtured will have physical and mental strength, passion, and enthusiasm, so that they become a young generation who are ready to carry out human mandates as *khalifah fil ardhi*. The implementation of Intellectual rights (*hifz al-'aql*) one of which is the right to obtain children's education is an important pillar for efforts to increase the degree of humanity and advance human civilization which in Islam is known as *hifz al-'aql*. Islam teaches that education for every human being is very important because it shapes the character and morals of children (Halstead, 2007). Parents are the most important responsibility holders. If parents and families are unable to carry out their obligations, then the community and the government will take on these responsibilities and obligations. In the sense that the government as the bearer of responsibility is obliged to encourage and make it easier for children's rights to be implemented education because it is with an education that God's degree will be elevated by God in the world and in the hereafter (Sukardi, 2016). Increasing human degrees through education can be realized if the conception of children's education is not only focused on intellectual abilities but also must develop children's mental and spiritual abilities. Early education for a child is an obligation that must be carried out by parents as mandated by Allah.

The Islamic right to maintain property (*hifz al-mal*), Islam gives great attention to the social rights of everyone, especially for vulnerable groups, namely the poor, women, and children by imposing the basics of social security. In social terms, Islam provides guarantees for every child born to a Muslim, be it the child of a government official, employee, worker, or commoner (Cheruvallil-Contractor et al., 2021). Once the importance of parents in bearing the socio-economic burden of children, then God gives a very big reward for a father who provides a living for his family. On the other hand, if he does not want to provide for his children and family even though he is able, then he will get a very big sin.

Based on the findings, it is clear that in the view of Islam, children have a noble position before Allah SWT. This position makes children have protection rights that must be fulfilled as a form of human obedience to God. The literature reveals that Islamic teachings command love, care, and education. Parents must be good role models, one word and deed, fair and do not discriminate against children in terms of age, gender, strengths, and weaknesses, and appreciate the potential of children with an attitude of love and affection (Giladi, 2014). Religion's humanitarian missions include maintaining justice, combating injustice, and the necessity for cooperation in overcoming social problems (Hutchinson et al., 2015). The latest study mentions that fulfilling the child's position is not a risk-free matter if it is not integrated properly. Need adjustments to policies and child services. This means that children are protected and obtain child and family-centered welfare. The role of care and responsibility of the government towards children is as important as the role of foster parents in fulfilling their rights (Takaffoli et al., 2022). Therefore, children must have their needs met, love, education, clothing, food, and shelter, as well as religious cultivation, are necessary for them. Justice for children is to give them the freedom to explore the potential of their minds so that they can interpret nature as well as possible. Of course, you still have to rely on the regulations that He has established, and the guidance of the Prophet SAW as an explanation, and the *ijtihad* of the *fuqaha* also become the basis for perfecting the current conditions that continue to develop.

RQ2: Lessons Learned from Child Protection Rights in National Law

The second finding reveals lessons learned about child protection rights in positive law that applies in Indonesia. The findings show that in positive law, children are the nation's future generation, and they have human rights that are tailored to them. These human rights include the widest

opportunity to live, grow and develop properly by the provisions of universally applicable laws. The function of positive law is to protect the rights and interests of children from criminals. Reviewing positive laws means knowing the advantages and disadvantages of each of these laws to complement each other in providing children's human rights. The legitimacy of child protection in Indonesia is established by the presentation and enactment of Law Number 23 of 2002 on Child Protection, followed by Law Number 35 of 2014 on Amendments to Law No. 23 of 2002 on Child Protection. Consider data 6.

“According to Article 1 paragraph 2 (protection of children) encompasses all activities aimed at ensuring and protecting Children's rights to live, grow, develop, and participate in society to their full potential in a way that respects human dignity and is devoid of violence and discrimination. Parents are required to protect their children from the time they are in the womb, according to Article 1 paragraph (1) of Law Number 23 of 2002 about Child Protection. If parents try to deprive a kid of their right to life (read: abort) without particular reasons and causes, they will face legal processes and will be held accountable for their actions. Children must be prepared early to become strong, intelligent, and independent human beings. Therefore, children must have a sense of security and peace under the protection and love in the arms of their families.”

According to the law, measures to protect children must be conducted consistently to maintain their welfare, since children are one of the most valuable assets for a nation's future prosperity. This is why a child protection system needs to produce reliable evidence to support information in advocacy, reforming laws, and updating policies according to international standards (Bouma et al., 2018; López et al., 2019). Consider data 7.

“Human rights for children are one type of human right that must be respected, defended, protected, and implemented internationally. According to RI Law no. 39 of 1999 concerning Human Rights, the state is responsible because children's rights are considered as human rights. The Juvenile Criminal Justice System (UUSPA) is defined in Law No. 11 of 2012 on the difference between juvenile justice and adult justice to protect young people who have violated the law. The Convention on the Rights of the Child has two protocols, including Law Number 10 of 2012 which ratifies the Optional Protocol to the Convention on the Rights of the Child concerning the Sale of Children, Child Prostitution, and Child Pornography. UU no. 1 of 2000 which ratified the ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Work; Civil rights and liberties; family environment and alternative care; basic health and well-being; educational, recreational, and cultural activities.”

The level of protection provided to children should be comparable to that provided to adults. The United Nations Convention on the Rights of the Child is an international treaty that protects

children's rights has also proven successful in becoming a guide for Indonesia in going through various crises caused by disasters, conflicts, and problems in protecting and fulfilling children's rights. In the child protection system, parents supervise, overcome children's resistance, and children's discomfort in their environment (Schoch et al., 2020; Tilbury & Ramsay, 2018). Consider data 8.

“Minors under the age of 21 (twenty-one) are referred to as children. According to Article 330 of the Civil Code, the child has never been married. This interpretation conforms with Article 1 paragraph (2) of the Child Welfare Law No. 4 of 1979. A child is defined as someone who has not yet turned 21 (twenty-one) years old and has never been married. This definition of a kid includes individuals who are not yet mature, as well as those who have not yet attained the legal legitimacy age limit as a legal subject or as an ordinary legal subject as decided by civil law.”

According to data 8, the primary Indonesian child protection patterns is founded on the principles of welfare guarantees and child benefits as future values. Children have a very broad position and play a very important role in civil law, especially when it comes to the protection of children's civil rights (Syafiuddin et al., 2021). For example, in the matter of the distribution of inheritance, even a child in the womb of a woman is considered to have been born if the interests of the child so desire as intended by Article 2 of the Civil Code. In general, people who are called adults (*meerderjarig*) can carry out legal actions legally, unless the law does not stipulate so. Given the gap that exists in Indonesia, the state, in collaboration with the entire society, should act to safeguard Various sorts of violence and manipulation are perpetrated against children by irresponsible adults who use children as a vehicle for their crimes. For example, one of the programs in the Indonesian school system that is a type of child protection by the state is the adoption of a child-friendly cultural program that promotes the basic concept of non-discrimination, the interests of children's rights to life, and respect (Widodo & Galang, 2020).

The paradigm of Islamic law and the Law on Child Protection provides an important lesson that a child is someone who is considered immature and must be given protection so that his rights are fulfilled like an adult human. The government's role in building *nasab* and protecting children is contained in Islamic teachings, and vice versa (Engelcke & Yassari, 2019). Previous studies revealed that the two have an interrelated relationship in providing maximum protection for the rights of Muslim children, especially for those who are 'without parents' and people with disabilities. The role of the state in building *nasab* and protecting children is contained in Islamic teachings, and vice versa (Engelcke & Yassari, 2019). Recent research explains that the best

interests of children are a shared responsibility. Islamic law and positive law, both have regulated the real position of the child. Even if it is hit by slanted issues and is considered not conducive to providing children's rights, this is the wrong perspective (Azizah et al., 2022). The law on children's rights protects them, it's just that the practice is sometimes not by the guidance that should be carried out by the stakeholders due to certain factors.

The novelty of research reveals that a child must get more serious attention from all aspects of his life, both in terms of national law based on Pancasila principles and the provisions of the true teachings of Islam. As previous research revealed that the legal paradigm of child protection is based on the ideology of Pancasila which is part of human rights and the law develops in positivism legal theory (Ma'rifah & Fajri, 2022), and in the context of Islamic teachings, O'Leary et al. (2020) and Cheruvallil-Contractor et al. (2021) revealed that Islam has special teachings connected to the safety of children, such as care, inheritance rights, and child guardianship rights. As a result, it is vital to take preventative actions in order to preserve and guarantee the fulfillment of their rights. Even if the acknowledgment of a kid's origins is done through the methods and rules that have been established, more efforts are needed to raise public awareness about child protection.

Conclusion

Conclusions can be inferred from the above explanation. First, learning in the Islamic religious paradigm is seen from five kinds of human rights to children known as *maqasid al-shari'ah*, namely religious freedom is upheld (*hifz al-din*), preservation of the soul (*hifz al-nafs*), maintenance of honor and *nasab*/descendants (*hifz al-nasl*), the preservation of reason (*hifz al-'aql*) and property maintenance (*hifz al-mal*) therefore Islam respects children's rights. Islamic law as one of the norms adopted in society must use as the basis for reviewing the issue of child protection. Second, important lessons from the national legal paradigm regarding the protection of children are accommodated in at least eight laws that must be obeyed by all citizens. Thus, it can be understood that the criteria for children as stipulated in the Act, must be given adequate protection, and it is the obligation of parents or guardians and the state in its implementation so that the rights of the children are truly respected can be fulfilled to the maximum. Protection of children in the context of the state eventually develops into an obligation and responsibility of the state because it is a universally applicable human right. Each component and element has its share of duties and responsibilities in protecting children. This is so that they can live, grow, develop,

and participate to their full potential in a way that is respectful of human dignity and free of violence and prejudice..

References

- Abdullah, A. M. (2004). *Tafsir Ibnu Kasir*. Pustaka Imam AsySyafi'i.
- Abidin, Suryanto, T., & Utami, P. (2020). Beyond muamalah principles in digital payment education and its impacts on corruption prevention in Indonesian public sectors. *Journal of Social Studies Education Research*, 11(3), 46–64.
- Al-Bukhari, S. al-B. (1997). *Mausu'ah al-Hadits al-Syarif* (2nd ed.). Global Islamic Software Company.
- Al-Ghazaliy, A. H. (1983). *al-Mustashfa fi 'Ilm al-Ushul*. Dar al-Kutub al-Ilmiyyah.
- Al-Nasa'i, S. al-N. (1997). *Mausu'ah al-Hadits al-Syarif* (2nd ed.). Global Islamic Software Company.
- Aletheiani, D. R. (2022). Schooling practices, curriculum, and educational opportunities of the children in the fisherman'neighbourhoods in Indonesia archipelago. *The Curriculum Journal*, 33(1), 2022. <https://doi.org/https://doi.org/10.1002/curj.144>
- Ajaps, S., & Obiagu, A. (2020). Increasing Civic Engagement Through Civic Education: A Critical Consciousness Theory Perspective. *Journal of Culture and Values in Education*. <https://doi.org/10.46303/jcve.2020.2>
- Ashfaq, H. (2017). *Right of Progeny and Cairo Declaration of Human Rights in Islam*. 19–30. <https://doi.org/10.12816/0037077>
- Aydin, H., & Avincan, K. (2020). Intellectual crimes and serious violation of human rights in Turkey: a narrative inquiry. *International Journal of Human Rights*, 24(8), 1127–1155. <https://doi.org/10.1080/13642987.2020.1713108>
- Azizah, E. N., Hayatudin, A., & Sulistiani, S. L. (2022). Kedudukan Hukum Anak Hasil Incest Menurut Putusan Mk No. 46/Puu-Viii/2010 dan Hukum Islam. *Bandung Conference Series: Islamic Family Law (Vol., 2(1))*. <https://proceedings.unisba.ac.id/index.php/BCSIFL/article/view/1264>
- Beckett, C. (2007). *Child Protection: An Introduction*. SAGE Publication Ltd. http://pustaka.unp.ac.id/file/abstrak_kki/EBOOKS/Child Protection An Introduction.pdf
- Bouma, H., López, M. L., Knorth, E. J., & Grietens, H. (2018). Corrigendum to “Meaningful participation for children in the Dutch child protection system: A critical analysis of relevant provisions in policy documents” [Child Abuse & Neglect 79 (2018) 279–292]

- (S0145213418300802) (10.1016/j.chiabu.2018.02.016)). *Child Abuse and Neglect*, 82(May), 210. <https://doi.org/10.1016/j.chiabu.2018.05.010>
- Brown, S. M., Orsi, R., Chen, P. C. B., Everson, C. L., & Fluke, J. (2021). The Impact of the COVID-19 Pandemic on Child Protection System Referrals and Responses in Colorado, USA. *Child Maltreatment*. <https://doi.org/10.1177/10775595211012476>
- Canick, S. (2009). Legal research assessment. *Legal Reference Services Quarterly*, 28(3–4), 201–217. <https://doi.org/10.1080/02703190902961569>
- Chernaya, A. V. (2018). Children’s rights concept in modern social and humanitarian discourse. *Journal of Social Studies Education Research*, 9(4), 140–167. <https://doi.org/10.17499/jsser.29413>
- Cheruvallil-Contractor, S., Halford, A., & Phiri, M. B. (2021). The Salience of Islam to Muslim Heritage Children’s. *Religions*, 12(6), 1–12. <https://doi.org/https://doi.org/10.3390/rel12060381>
- Chiu, Y. L., Cross, T. P., Wheeler, A. B., Evans, S. M., & Goulet, B. P. (2022). Development and Application of a Self-Report Measure for Measuring Change During Simulation Training in Child Protection. *Journal of Public Child Welfare*, 16(1), 1–19. <https://doi.org/https://doi.org/10.1080/15548732.2021.2016546>
- Clark, H., Coll-Seck, A. M., Banerjee, A., Peterson, S., Dalglish, S. L., Ameratunga, S., & Costello, A. (2020). A future for the world’s children? A WHO–UNICEF–Lancet Commission. *The Lancet*, 395(10224), 605–658. <http://www.akrabjuara.com/index.php/akrabjuara/article/view/919>
- Dumbrill, G. C. (2006). Parental experience of child protection intervention: A qualitative study. *Child Abuse and Neglect*, 30(1), 27–37. <https://doi.org/10.1016/j.chiabu.2005.08.012>
- Engelcke, D., & Yassari, N. (2019). Child law in Muslim jurisdictions: The role of the state in establishing filiation (NASAB) and protecting parentless children. *Journal of Law and Religion*, 34(3), 332–335. <https://doi.org/10.1017/jlr.2019.40>
- Giladi, A. (2014). The Nurture and Protection of Children in Islam: Perspectives from Islamic Sources. Islamic texts command affection, care, and education. *Child Abuse and Neglect*, 38(4), 585–592. <https://doi.org/10.1016/j.chiabu.2014.03.016>
- Griffin, J. (2008). On Human Rights Mark Hannam. In *HeinOnline*. Oxford University Press. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/flr66§ion=18%0Ahttps://books.google.es/books?hl=es&lr=&id=CUsTDAAAQBAJ&oi=fnd&pg=PR9&dq=Human+rights+and+deprivation+of+liberty+pdf&ots=Jo6wU1ZSVE&sig=jPysmIfsW98k6uvOgUhR1kgf-9c
- Halstead, J. M. (2007). Islamic values : a distinctive framework for moral education ? *Journal of*

Moral Education, 36(3), 283–296. <https://doi.org/10.1080/03057240701643056>

Hutchinson, A. J., O’Leary, P., Squire, J., & Hope, K. (2015). Child Protection in Islamic Contexts : Identifying Cultural and Religious Appropriate Mechanisms and Processes Using a Roundtable Methodology. *Child Abuse Review*, 24(3), 395–408. <https://doi.org/DOI:10.1002/car.2304>

Ibnu Majah, S. I. M. (1997). *Mausu`ah al-Hadīts al-Syarif* (2nd ed.). Global Islamic Software Company.

Irawan, A., Handayani, I. G. A. K. R., & Kusriyah, S. (2021). Reconstruction of the Legal Definition of Children to Protect Sexual Disabilities Based on Justice Insight. *Scholars International Journal of Law, Crime and Justice*, 4(5), 272–278. <https://doi.org/10.36348/sijlcj.2021.v04i05.002>

Krippendorff, K. (2018). *Content analysis: An introduction to its methodology*. Ltd.

Kusuma, A. P. (2021). Child Religious Protection for the Muallaf Family in Sibolangit District, Deli Serdang Regency (Analysis of Child Protection Law No.35 of 2014 and the Concept of Hadhonah). *Britain International of Humanities and Social Sciences (BIOHS) Journal*, 3(1), 8–20. <https://doi.org/10.33258/biohs.v3i1.352>

Lachman, P., Poblete, X., Ebigbo, P. O., Nyandiya-Bundy, S., Bundy, R. P., Killian, B., & Doek, J. (2002). Challenges facing child protection. *Child Abuse and Neglect*, 26(6–7), 587–617. [https://doi.org/10.1016/S0145-2134\(02\)00336-8](https://doi.org/10.1016/S0145-2134(02)00336-8)

Landman, T., & Carvalho, E. (2009). Measuring human rights. In *Measuring Human Rights*. Routledge, Taylor & Francis Group. <https://doi.org/10.4324/9780203867594>

LLewellyn, K. N. (1940). The Normative, The Legal, and The Law-Jobs: The Problem of Juristic Method. *The Yale Law Journal*, 49(8), 1355–1400.

López, M. L., Bouma, H., Knorth, E. J., & Grietens, H. (2019). *The Dutch Child Protection System: Historical Overview and Recent Transformations*. 173–192. https://doi.org/10.1007/978-3-319-93348-1_9

Ma’rifah, & Fajri, M. N. (2022). The Protection of Human Rights for The Asian Diaspora in Southeast Asia and Eradication Mafia of Trade People (Comparative Study of Singapore, Malaysia and Indonesia References). *Jurnal Jantera Hukum Borneo*, 5(1), 1–29.

McCamant, J. F. (2019). A critique of present measures of "human rights development" and an alternative. In *Global Human Rights: Public Policies, Comparative Measures, and NGO Strategies* (pp. 123–146). Routledge, Taylor & Francis Group. <https://doi.org/10.4324/9780429052118-9>

Mesrati, A. O. A. (2022). The Best Interests of the Child ’ Under Islamic Law. In *Child Rights to*

Guardianship. Springer International Publishing AG.

Munro, E. (2010). Learning to reduce risk in child protection. *British Journal of Social Work*, 40(4), 1135–1151. <https://doi.org/10.1093/bjsw/bcq024>

Muslim, S. (1972). *Muslim bin Hajjaj al- Naisabury, Shahih Muslim, (Beirut: Dar Ihya 'al - Turâts al-Arabi, 1972), Juz II, h. 119, no. 34723*. Dar Ihya 'al-Turâts al-Arabi.

O'Leary, P., Abdalla, M., Hutchinson, A., Squire, J., & Young, A. (2020). Child Protection with Muslim Communities: Considerations for Non-Muslim-Based Orthodoxies/Paradigms in Child Welfare and Social Work. *British Journal of Social Work*, 50(4), 1201–1218. <https://doi.org/10.1093/bjsw/bcz088>

O'Leary, P. J., Young, A., McAuliffe, D., & Wismayanti, Y. (2019). Developing the social work role in the Indonesian child protection system. *International Social Work*, 62(2), 814–828. <https://doi.org/10.1177/0020872817747028>

Palacios, J., Adroher, S., Brodzinsky, D. M., Grotevant, H. D., Johnson, D. E., Juffer, F., Martínez-Mora, L., Muhamedrahimov, R. J., Selwyn, J., Simmonds, J., & Tarren-Sweeney, M. (2019). Adoption in the service of child protection: An international interdisciplinary perspective. *Psychology, Public Policy, and Law*, 25(2), 57–72. <https://doi.org/10.1037/law0000192>

Panikkar, R., & Panikkar, R. (1982). Is the Notion of Human Rights a Western Concept? *Diogenes*, 30(120), 75–102. <https://doi.org/10.1177/039219218203012005>

Pulla, V., Tarar, M. G., & Ali, A. (2018). Child protection system and challenges in Pakistan. *Space and Culture, India*, 5(3), 54–68. <https://doi.org/10.20896/saci.v5i3.302>

Rabb, I. A. (2022). In the Classroom and in the Courtroom or, Comparative Perspective on the Origins of Islamic Legal Canons. *Vill. L. Rev.* 831, 66(5), 1265–1519. <https://digitalcommons.law.villanova.edu/vlr/vol66/iss5/1>

Rothman, A., & Coyle, A. (2018). Toward a Framework for Islamic Psychology and Psychotherapy : An Islamic Model of the Soul. *Journal of Religion and Health*, 57(5), 1731–1744. <https://doi.org/10.1007/s10943-018-0651-x>

Schoch, A., Aeby, G., Müller, B., Cottier, M., Seglias, L., Biesel, K., Sauthier, G., & Schnurr, S. (2020). Participation of children and parents in the swiss child protection system in the past and present: An interdisciplinary perspective. *Social Sciences*, 9(8), 1–19. <https://doi.org/10.3390/SOCSCI9080148>

Sen, A. (2005). Human Rights and Capabilities. *Journal of Human Development*, 6(2), 151–166. <https://doi.org/10.1080/14649880500120491>

Seregig, I. K., Suryanto, T., Hartono, B., Rivai, E., & Prasetyawati, E. (2018). Preventing the

- acts of corruption through legal community education. *Journal of Social Studies Education Research*, 9(2), 138–159. <https://doi.org/10.17499/jsser.65190>
- Situmorang, J., Sahman, A., Suryanto, T., & Gani, Z. (2021). Literation of land rights law in (Tola gumi) protection of indigenous peoples and its impact on community welfare. *Journal of Social Studies Education Research*, 12(2), 180–209.
- Slyater, E. M., & Jensen, J. (2019). Parents with intellectual disabilities in the child protection system. *Children and Youth Services Review*, 98(September 2018), 297–304. <https://doi.org/10.1016/j.chilyouth.2019.01.013>
- Sukardi, I. (2016). Character Education Based on Religious Values : an Islamic Perspective. *Ta'dib: Journal of Islamic Education*, 21(1), 41–58. <https://doi.org/https://doi.org/10.19109/tjie.v21i1.744>
- Syafiuddin, M. N., Safa, R., & Djatmika, P. (2021). International Journal of Multicultural and Multireligious Understanding Understanding Child Support in the Pattern of Child Protection based on the Principle of Child Protection. *International Journal of Multicultural and Multireligious Understanding*, 8(23), 92–99.
- Takaffoli, M., Arshi, M., Vameghi, M., Mousavi, M. T., & Shati, M. (2022). How to promote the child welfare approach? A qualitative content analysis study in Iran. *The British Journal of Social Work*, 52(1), 354–373. <https://doi.org/10.1093/bjsw/bcab268>
- Tarazi, N. (1995). *The child in Islam*. American Trust Publications.
- Tilbury, C., & Ramsay, S. (2018). A systematic scoping review of parental satisfaction with child protection services. *Evaluation and Program Planning*, 66(October 2017), 141–146. <https://doi.org/10.1016/j.evalprogplan.2017.10.010>
- UNICEF, I. (2017). Children in Indonesia. *Unicef.Org/Indonesia*, 1. [unicef.org/indonesia/children-in-indonesia](https://www.unicef.org/indonesia/children-in-indonesia)
- Waldfogel, J. (1998). Rethinking the paradigm for child protection. *Future of Children*, 8(1), 104–119. <https://doi.org/10.2307/1602631>
- Waldfogel, J. (2009). Prevention and the child protection system. *Future of Children*, 19(2), 195–210. <https://doi.org/10.1353/foc.0.0037>
- Whitaker, S. K., & Croft, V. F. (2020). Effects of accreditation on United States and Canadian veterinary college libraries in the nineteenth and twentieth centuries. *Journal of the Medical Library Association*, 108(2), 167–176. <https://doi.org/10.5195/jmla.2020.882>
- Widodo, W., & Galang, T. (2020). Child Friendly Culture in the Education System in Indonesia. *Journal of Education and Practice*, 11(3), 19–23. <https://doi.org/10.7176/jep/11-3-03>

- Wismayanti, Y. F., O’Leary, P., Tilbury, C., & Tjoe, Y. (2021). The problematization of child sexual abuse in policy and law: The Indonesian example. *Child Abuse and Neglect*, 118(August 2020), 105157. <https://doi.org/10.1016/j.chiabu.2021.105157>
- Zvereva, E. V., Belenkova, N. M., & Kruse, I. I. (2019). International framework, national legal discourse on educational rights and students’ perceptions: Comparative analysis in Russia and France. *Journal of Social Studies Education Research*, 10(4), 530–549.