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

Abstract

This study aims to provide learning about child protection as one of the human rights in the paradigm of Islam and national law in Indonesia. The research method using legal studies refers to religious provisions and seven related laws and regulations, namely; Legislation no. 4 of 1979 on child welfare; Legislation no. 23 of 2002 concerning child protection; Legislation No. 11 of 2012 concerning the Juvenile Criminal Justice System (UUSPA); Legislation No. 39 of 1999 concerning Human Rights; Legislation No. 10 of 2012 concerning Ratification of the Optional Protocol to the Convention on the Rights of the Child; and Legislation no. 1 of 2000 concerning Ratification of ILO Convention No. 182 Regarding the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; Code of Civil Law. 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 cannot be separated from the elements of human rights. The expected implication is that the government includes values about child protection in the national education curriculum in order to provide lessons about the importance of children's human rights to create a better future generation.

Keywords: Lessons Learned, Islamic law, child protection right, Nasional Law

Introduction

Every child has fair opportunities and rights that must be fulfilled by parents, 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 is important to investigate the role of child 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 children (Chiu, et. al., ~~Cross, Wheeler, Evans, & Goulet~~, 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 with intellectual disabilities 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).

Indonesia is the fourth largest country in the world with a third of the population being children or the equivalent of 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 having 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, hundreds of thousands of children are affected by climate change, 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 violations of children's rights in the era of the Covid 19 pandemic. The Indonesian Child Protection Commission (ICPC) received 6,519 complaints of violations of anal rights throughout 2020. 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).

It is very important for future studies to 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). The religious paradigm of child protection through the study of Islamic law is based on the majority of Indonesian children being Muslim who is in a strong Muslim community. 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 related to child protection 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 concrete, clear, and in accordance with the 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; Situmorang et al., 2021; Seregig et al., 2018). 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 are victims of abuse and neglect (Brown et al., 2021). Law in Indonesia currently refers to international conventions without

regard to the existence of customary law and Islamic 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 a Law 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 in order 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 approach to investigating child deaths; and blame culture 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 for consideration in learning for the Muslim community and evaluating the quality and effectiveness of government regulations on the rights of Indonesian children.

Research Question

Based on the literature review, the author focuses on the contribution of Islamic law and legislation in Indonesia regarding child protection, this is very important to discuss in relation to Law Number 35 of 2014 concerning Child Protection and the majority of Indonesian citizens who are Muslims. In this study, the problem is stated as follows;

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 in nature 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. What is clear is that human rights are best seen as rights to freedoms that are specific to impartiality, and without any territorial limitations of a country. (Sen, 2005).

According to Landman & Carvalho (2009), to learn 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 is necessary 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 (McCamant, 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 refers to any activities aimed at ensuring and protecting children's rights so that they can live, grow, develop, and contribute to their full potential in a manner consistent with human dignity and free from violence and prejudice. The way children are protected is well regulated by law. Parents and the community play an important role in implementing these government regulations (Bechett, 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 (Zvereva et al., 2019). Second, protection from all forms of physical and mental violence. This form of violence does not only come from parents but also from other parties. Third, protection of physical and mental health where parents are responsible for ensuring 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 (Waldfoegel, 1998a). 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. This is because human rights have been carried since they were born and apply universally. It should be noted that a child is someone who is not yet 18 years old, including a child who is still in the womb (Waldfoegel, 2009b). 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, Tarar, & Ali, 2018). According to Chernaya (2018), the concept of children's rights in modern social and humanitarian discourse is related to education, humanity, welfare, legal socialization institutions, and legal culture.

Method

Design

The legal research design was used in this study with the aim of investigating Learning About Child Protection Rights in the Paradigm of Religion and National Law. The design of legal research basically 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 which is carried out by reviewing literature studies from primary legal materials and related studies that are relevant to child protection as a human right. A study of the national legal paradigm and the Islamic religious paradigm is carried out to obtain valuable lessons on child protection in Indonesia, especially for children who are victims of violence, sexual abuse, and educational inequality.

Data and sources of data

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

Table 1.

Document type

Theme	The secondary data	Destination
Children's Rights in the Paradigm of Islam	<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 protect children from violence, neglect, exploitation, and abuse.
Children's Rights in the National Law Paradigm	<ol style="list-style-type: none"> 1. Law no. 23 of 2002 concerning Child Protection 2. Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection 3. Law no. 39 of 1999 concerning Human Rights 4. Law No. 10 of 2012 concerning Ratification of the Optional Protocol to the Convention on the Rights of the Child 5. Law no. 1 of 2000 concerning Ratification of ILO Conventions 6. Civil Code (KUHP) 7. Law no. 4 of 1979 concerning Child Welfare 8. Law no. 3 of 1997 on juvenile court 	The goal of the data analysis is to learn about the national law on children's rights in order to provide lessons on how to safeguard children from violence, neglect, exploitation, and abuse.

Data Collection techniques

The research uses the documentation method that has been compiled with reference to two studies, namely the Human Rights of the Child in the National Law Paradigm and the Human Rights of

the Child in the Islamic Paradigm. Problem identification is carried out by selecting articles in the laws of the Republic of Indonesia and sources of 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. Law Number 23 of 2002 concerning Child Protection Article 1 paragraph (1)	RQ 2	6
	2. Law Number 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection Article 1 paragraph 2		6
	3. Law number. 39 of 1999 concerning Human Rights		7
	4. Law Number.11 of 2012 concerning the Juvenile Criminal Justice System (UUSPA)		7
	5. Law Number 10 of 2012 concerning Ratification of the Optional Protocol to the Convention on the Rights of the Child Regarding the Sale of Children, Child Prostitution, and Child Pornography		7
	6. Law Number 1 Year 2000 concerning Ratification of ILO Convention Number 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor		7
	7. Law Number 4 of 1979 concerning Child Welfare in Article 1 paragraph (2)		8
	8. Article 330 of the Civil Code and Article 2 paragraph (1) of the Civil Code		8
		8	

Data Analysis

The research uses the analytical technique proposed by Krippendorff (2018), which is an in-depth analysis technique of the content of valid information and can be re-examined from data based on its context. The first step is to formulate the purpose of the content analysis, which is to examine the Lesson on Child Protection in the Paradigm of Religion and National Law in Indonesia. The second step is to formulate the conceptualization and operationalization of research data by considering the construct of thought on child protection, measuring aspects of legal review, and the theoretical framework of human rights. The third step is to reduce operationalization into coded data which aims to facilitate research analysis and synthesis. The fourth step is testing the instrument and the validity of the documentation data with triangulation techniques to gain confidence in the validity of the data in the study. In the fifth step, the coding system is carried out by considering number 1 for data code [1], number 2 for data code [2], and so on until the last data code. RQ1 consists of data codes [1,2,3, and 4], RQ2 consists of data codes [6,7, and 8]. Data that has been coded is used to answer the research problem formulation. The sixth step is to conduct a logical, objective and systematic study of research in accordance with facts or evidence derived from research materials and legal sources. The seventh step is searching for data by interpreting the meaning of the data that has been processed and coded. The eighth step is to group data that meets the originality requirements to draw conclusions and suggestions that are addressed to the government and related agencies as well as parents.

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. Consider data 1.

“Abu Hamid al-Ghazali explained about the rights of children referring to the word of Allah in the Qur'an At-Tahrim (66) verse 6, which means, 'O you who believe, protect yourselves and your families from the fire of hell whose fuel is are men and stones, guardians of the angels who are harsh, harsh, and do not disobey Allah for what He has commanded them and always do what is commanded.' Regarding the word of Allah *امنوا قوا انفسكم وماهليكم نار* command to protect yourselves and your families from the fire of hell, '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 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 described in 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 knowing anything and He give you hearing, sight and heart so that you may be grateful.”

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 own rights in a way that is in accordance with 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. In order 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 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: 'Verily your blood, your wealth and your wealth are sacred among you as holy is your day, in this month of yours, in your country. Remember, it is never someone who commits a crime but the consequences will befall himself. 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 commit murder on the grounds of poverty, fear of humiliation, inability to bear the shame, and so on (Muslim, 1972). More deeply regarding the status of children 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 maintenance of the soul (*hifz al-nafs*), the maintenance of honor and lineage (*hifz al-nasl*), maintenance of reason (*hifz al-'aql*) and maintenance of property (*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 religion teachings oppose exploitation of fellow humans, especially minors (Tarazi, 1995).

The right of religious maintenance (*hifz al-din*) for a newborn child in the world is under the responsibility of both parents. The religion adopted by a child must follow the religion of his parents until the child can decide for himself to continue following the religion he has adhered to 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 (Mesrati, 2022). 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.

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; protection of the 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*.

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 in 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 facilitate the implementation of children's education, because it is with 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 the 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.

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). The values of upholding justice, preventing injustice, and the need for cooperation in overcoming social problems are humanitarian missions brought by religion (Hutchinson et al., 2015). Therefore, children must have their needs met, love, education, clothing, food, and shelter, as well as religious cultivation, are absolutely 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 rules that have been set by Him, 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 the legality of child protection in Indonesia is realized by the presentation and issuance of Law Number 23 of 2002 concerning Child Protection, then Law Number 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection. Consider data 6.

“Article 1 paragraph 2 explains that child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and protection from violence and discrimination. Referring to Article 1 paragraph (1) of Law Number 23 of 2002 concerning Child Protection, parents are obliged to protect their children from the time they are in the womb. Parents will be faced with legal processes and will be held accountable for their actions if they try to deprive the child of the right to life (read; abort) without certain reasons and reasons. 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 in order 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.

“The quality of protection for children in positive law in Indonesia has received great attention from the government as stated in the RI Law no. 39 of 1999 concerning Human Rights explains that children's rights are a form of human rights which are essentially His gifts that must be respected, upheld, and protected and apply universally so that the state has responsibility for them. Then in Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (UUSPA), where juvenile justice is different from adult justice to provide protection to children in conflict with the law. In addition, there are two protocols for the convention on children's rights, namely Law Number 10 of 2012 concerning Ratification of the Optional Protocol to the Convention on the Rights of the Child concerning the Sale of Children, Child Prostitution, and Child Pornography; and Law Number 1 Year 2000 concerning Ratification of ILO Convention Number 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor is the fulfillment of children's rights and child protection. This is also an inclusive development that puts children's rights as the government's main priority which consists of five clusters, namely; civil rights and freedoms; family environment and alternative care; basic health and well-being; education, use of leisure and cultural activities; and special protection.”

The level of protection provided to children should be comparable to that provided to adults. The Convention on the Rights of the Child 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.

“Article 330 of the Civil Code provides the understanding that children are minors who have not reached the age of 21 (twenty one) years and have not been married before. This understanding is the same as that stated by Law no. 4 of 1979 concerning Child Welfare in article 1 paragraph (2) states that a child is someone who has not reached the age of 21 (twenty one) years and has never been married”. This understanding of children is placed in the same meaning as those who are not yet adults and someone who has not reached the age limit of legal legitimacy as a legal subject or like a normal legal subject determined by civil law.”

According to data 8, the primary pattern of child protection in Indonesia 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 children from various forms of violence and manipulation 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 the right to life, and respect for children (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 role of the state 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).

The novelty of research clearly 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 related to child protection such as care, inheritance rights, and child guardianship rights. As a result, in order for each kid to later assume responsibility as a bud, potential, and young generation, successor to the nation's struggle values, children must have the greatest opportunity to live and develop optimally, physically, mentally, socially, and with noble character. 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

From the explanation above, conclusions can be drawn. First, learning in the Islamic religious paradigm is seen from five kinds of human rights to children known as maqasid al-shari'ah, namely maintenance of religious rights (*hifz al-din*), maintenance of the soul (*hifz al-nafs*), maintenance of honor and nasab/descendants (*hifz al-nasl*), maintenance of reason (*hifz al-'aql*) and maintenance of property (*hifz al-mal*) therefore Islam really respects children's rights. Islamic law as one of the norms adopted in society must used 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. It 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 own share of duties and responsibilities in providing protection to children. This is so that they can live, grow, develop,

and participate to their full potential in a manner consistent with human dignity, while also being protected from violence and prejudice..

References

- Abdullah, A. M. (2004). *Tafsir Ibnu Kasir*. Bogor: 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.). Beirut: Global Islamic Software Company.
- Al-Ghazaliy, A. H. (1983). *al-Mustashfa fi 'Ilm al-Ushul*. Beirut: Dar al-Kutub al-Ilmiyyah.
- Al-Nasa'i, S. al-N. (1997). *Mausu'ah al-Hadits al-Syarif* (2nd ed.). Beirut: 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>
- 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>
- Beckett, C. (2007). *Child Protection: An Introduction*. London (U.K): SAGE Publication Ltd. Retrieved from [http://pustaka.unp.ac.id/file/abstrak_kki/EBOOKS/Child Protection An Introduction.pdf](http://pustaka.unp.ac.id/file/abstrak_kki/EBOOKS/Child%20Protection%20An%20Introduction.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. Retrieved from <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*. HeinOnline. United States of America: Oxford University Press. Retrieved from 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.). bei: 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*. London: 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. Measuring Human Rights*. London and New York: 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). London & New York: 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. Child Rights to Guardianship*. Singapore: 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*. Beirut: 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., ... 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>
- 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., ... 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.
- Slyter, 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.childyouth.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.
- Tarazi, N. (1995). *The child in Islam*. United State America: 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*, p. 1. Retrieved from unicef.org/indonesia/children-in-indonesia
- Waldfoegel, J. (1998). Rethinking the paradigm for child protection. *Future of Children*, 8(1), 104–119. <https://doi.org/10.2307/1602631>
- Waldfoegel, 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.