

Fulfillment Right Child on Education and Welfare Reviewed From Islamic Family Law Perspective

Dila Shinta¹, Amru Syahputra Lubis²
Institut Syekh Abdul Halim Hasan Binjai, Indonesia

Article Info	ABSTRACT
<p>Keywords: children's rights, education, welfare, Islamic law</p>	<p>This research discusses the fulfillment of children's rights to education and welfare from the perspective of Islamic family law and compares it with Indonesian positive law. In Islam, children are seen as trusts who have fundamental rights such as education, welfare and protection. Meanwhile, national law has ratified the Convention on the Rights of the Child through Presidential Decree no. 36 of 1990 and regulates it further in Law no. 35 of 2014. However, implementation in the field still faces various structural and cultural obstacles. This research uses a normative-sociological approach with a literature study method. The research results show that although normatively there are similarities between Islamic law and positive law, the fulfillment of children's rights has not been implemented optimally. Therefore, synergy is needed between family, community and state to ensure the fulfillment of children's rights as a whole .</p>
<p>This is an open access article under the CC BY-NC license</p> 	<p>Corresponding Author: Dila Shinta Institut Syekh Abdul Halim Hasan Binjai, Indonesia dilashinta.mhs@insan.ac.id</p>

INTRODUCTION

In Islamic teachings, children are a tremendous trust, their existence not only as part of the family but also as an important part of the social structure of society. Islam views every child as having basic rights that must be fulfilled by parents, family, society, and the state. These rights encompass spiritual, physical, emotional, and social aspects. Two key areas of focus in Islam are the right to education and welfare. Education is considered the primary means of shaping a child's character, morals, and abilities, while welfare serves as the foundation for optimal child growth and development. Islam's concern for children demonstrates that this religion is not merely a ritual of worship, but also a system of life that ensures a balance between life in this world and the hereafter, as well as between individual and social rights. (Andi, et et al. , 2023)

The position of children in Islam is very noble, they are even seen as a valuable investment for parents, both in this world and the afterlife. This is confirmed in the hadith narrated by Imam al -Bukhari and Imam Muslim, where Rasulullah SAW said that when a person dies, his deeds are cut off except for three things: sadaqah Jariyah , beneficial knowledge, and pious children who pray for their parents. This hadith emphasizes that a child's role is not limited to this worldly life but also influences their parents' lives in the

afterlife. Therefore, raising children to become pious individuals is a major responsibility and a form of jariyah charity .

Beyond religious perspectives, child protection is also a priority within Indonesia's positive legal system. The Child Protection Law states that children are a trust and gift from God Almighty, possessing the dignity and worth of full human beings. Children are also considered the nation's next generation, playing a strategic role in realizing a superior and competitive future for the nation. Therefore, child care must be comprehensive and sustainable, encompassing aspects such as fulfilling their rights and ensuring legal protection, as well as maximizing their potential.

However, historically, perceptions of children have changed over time. In the past, children were often viewed as miniature adults. This view led to a tendency to treat children on an equal footing with adults, regarding responsibilities, work, and social obligations, without considering their psychological and emotional developmental stages. Children were viewed as individuals who were not yet physically perfect but who had to carry out the same social responsibilities. This clearly contradicts the modern approach, which recognizes that children have their own developmental stages that must be respected.

In educational philosophy, particularly empiricism, children are considered to be born as a 'tabula rasa' or blank slate. This means that children do not possess any potential from birth; rather, their development and knowledge are entirely shaped by experience and environmental influences. In this context, education and the environment play a dominant role. This conception ignores the innate or natural factors within children. However, the Islamic perspective views children as individuals endowed with a sacred natural disposition from birth, and education is tasked with preserving and developing this potential. (Masganti Sit, 2015)

Modern developments show that children's rights are increasingly recognized internationally. One important milestone in the history of global child protection was the birth of the Convention on the Rights of the Child (CRC). on the Rights of the The United Nations (UN) Convention on the Rights of the Child (Chapter 11) was issued on November 20, 1989. This Convention comprehensively regulates various basic rights of children, from the right to life, education, protection, to the right to participation. This document is the primary reference for child protection efforts in many countries, including Indonesia. (Resti Hedi Juwanti , 2017)

Indonesia, as a member of the United Nations, demonstrated its commitment to child protection by ratifying the Convention on the Rights of the Child through Presidential Decree No. 36 of 1990. This ratification serves as an international legal basis that strengthens national regulations to provide maximum protection for Indonesian children. Thus, the government has a legal and moral obligation to ensure that children's rights are fulfilled in all aspects of life, including law, education, health, and social aspects.

Legal instruments such as international conventions and national regulations are crucial as forms of legal protection for children. The state is obligated to provide policies, legal systems, and supporting facilities that can effectively guarantee children's rights. Furthermore, the law serves as a tool to regulate relationships between children and their parents, schools,

and the community. When children experience violence, exploitation, or discrimination, the state, through its legal instruments, is responsible for providing protection and prosecuting the perpetrators. (Nafi Mubarak, 2016)

On the other hand, child development is a lifelong process. Each child has different developmental phases and rhythms, although there are general patterns that can be identified. This development encompasses not only physical aspects, but also cognitive, social, emotional, language, and creative aspects. A healthy environment, a harmonious family, and a supportive education are important factors in a child's growth and development. (Sit, 2015)

Changes in children are greatly influenced by interactions with their environment, including parents, teachers, peers, and the community. Furthermore, the maturation process also plays a significant role. Therefore, the support provided to children must be comprehensive and consistent. Each developmental phase requires a different approach, including granting rights, emotional support, and character education. (Amita Diananda , 2018)

Law No. 23 of 2002 concerning Child Protection, as amended by Law No. 35 of 2014, explicitly establishes children's rights. These include the right to life, growth, development, identity, and education. However, in practice, not all of these rights are met effectively. There are still numerous cases of abortion, children without birth certificates, abandoned children, and various other forms of rights violations. This demonstrates the gap between regulation and implementation. (Abdussalam, 2016)

Therefore, this study is crucial for delving deeper into children's rights and the forms of legal protection that have been and should be provided by the state. Both from an Islamic perspective and under Indonesian positive law, children have fundamental rights that cannot be ignored. The author will systematically describe how these rights are regulated and how the state and society can collaborate. in realizing an ideal child protection system. It is hoped that this study will provide a scientific contribution to building a future generation that is qualified, virtuous, and comprehensively protected .

RESEARCH METHODS

This research is a normative-sociological legal study. The normative approach is used to analyze and understand the legal norms governing children's rights from both positive and Islamic legal perspectives. The primary focus of this approach is the study of relevant laws and regulations, such as Law Number 35 of 2014 concerning Child Protection, as well as other related regulations, such as the Compilation of Islamic Law (KHI). With this approach, the author attempts to examine legally how the law formally formulates and regulates children's rights and the obligations of the state and parents to provide adequate protection.

Meanwhile, a sociological approach is used to complement normative analysis by examining the social realities that occur in society. This approach emphasizes the implementation or application of the law in real life, particularly the extent to which children's rights stipulated in the law are actually exercised and experienced by children in their daily lives. This approach also allows the author to examine various social, cultural, and structural

constraints that influence the effectiveness of legal protection for children. Thus, the sociological approach provides a more comprehensive picture of the role of the state and society in fulfilling children's rights.

library studies. research) which focuses on the exploration and analysis of legal materials. The primary legal sources used in this research include legislation, such as the Child Protection Law , the Compilation of Islamic Law, and other relevant legal documents. In addition, secondary legal sources used include supporting literature such as scientific books, journal articles, previous research results, and reports from institutions working in the field of child protection. All of these sources are used to enrich the analysis, both normatively and sociologically.

Using a combination of normative and sociological approaches, this study aims to provide a comprehensive understanding of children's rights from the perspective of legal regulations and their implementation in the field. While this study emphasizes the importance of the law in ensuring child protection, it also critiques the various challenges and inequalities that persist in social reality. It is hoped that this dual approach will yield findings that are not only theoretical but also practically relevant in efforts to strengthen the child protection system in Indonesia .

RESULTS AND DISCUSSION

The Concept of Fulfilling Children's Rights in Islamic Family Law

Islamic family law places great emphasis on the existence and rights of children. From an Islamic perspective, children are a gift from Allah SWT who must be cared for, raised, and educated with full responsibility. Islamic law not only regulates marital relations and the rights of husband and wife, but also regulates the obligations of parents towards their children from birth to adulthood. Fulfillment of children's rights under Islamic family law includes the right to life, the right to growth and development, the right to education, and the right to identity. These rights are rooted in the teachings of the Quran and the Hadith, and are reinforced by legal regulations such as the Compilation of Islamic Law (KHI).

One of the primary concerns of children's rights is the right to life and development. Islam strictly forbids infanticide, as did the practice of burying girls alive during the Jahiliyah era , and this practice is strongly condemned in the Qur'an (QS. At- Takwir : 8–9). In the contemporary context, this prohibition also applies to abortions performed without a shari'a (Islamic) justification . Furthermore, Islam mandates that aqiqah be performed on the seventh day after birth, as a form of recognition of the child's existence and gratitude to Allah SWT for the birth of a child.

The right to identity, such as a good name and clear lineage, is also strongly emphasized. In the Compilation of Islamic Law, Article 103 paragraph (1), it is stated that a child's origin can be proven through a birth certificate or other evidence, and if there is none, then the religious court can determine the child's origin after a valid examination. Furthermore, the right to breastfeed is also a concern. Islam commands mothers to breastfeed their children for two full years if possible, as stated in QS. Al-Baqarah: 233.

Education is also a child's right recognized in Islam. Chapter XII of the Compilation of Islamic Law states that a father is obligated to finance his child's education. Education in Islam extends beyond formal education to moral, spiritual, and social education. Therefore, fulfilling the right to education in an Islamic family is seen as the primary responsibility of parents, who will eventually be held accountable before Allah SWT.

Indonesian Positive Law and Fulfillment of Children's Rights

In Indonesian national law, the fulfillment of children's rights is explicitly regulated through various laws and regulations, the most important of which is Law Number 23 of 2002 concerning Child Protection, which was later updated through Law Number 35 of 2014. This law serves as a legal framework for the state and society in providing protection and fulfilling children's rights comprehensively. Indonesian positive law defines a child as someone under 18 years of age, including children who are still in the womb.

Children's rights in the Child Protection Law are grouped into four main categories in accordance with the Convention on the Rights of the Child (CRC), namely:

1. right to survival rights) which include the right to life and to obtain the best standard of health;
2. Protection rights rights) from violence, exploitation, discrimination and neglect ;
3. The right to development rights) which include the right to education, recreation, and development of potential;
4. Participation rights (participation) rights) namely the child's right to have his opinion heard in every decision that concerns him.

However, in practice, many obstacles remain that hinder the fulfillment of these rights. Data shows that many children do not have birth certificates, meaning they are not administratively recognized by the state. Many children also drop out of school, live in neglect , and even become victims of exploitation and violence. Weak oversight, limited budgets, and low public awareness are some of the main factors contributing to the suboptimal implementation of child protection in the field. (Nasir Djamil , 2013)

Comparison of Perspectives: Islamic Law and Indonesian Positive Law

Normatively, both Islamic law and Indonesian positive law share a commonality in emphasizing the importance of protecting and fulfilling children's rights. Both legal systems recognize that children are individuals with dignity and fundamental rights from birth, which must be respected and protected by parents, society, and the state. Both Islamic and positive law emphasize the education and welfare of children.

However, there are some significant differences between the two, especially in terms of the definition of a child's age and the system of sanctions. In positive law, the age of a child is limited to 18 years, while in Islamic law, a man is considered an adult after puberty , while a woman is still considered a child until she marries because her responsibility still rests with her guardian or father, even if she is biologically an adult. In addition, Islamic law emphasizes a moral and spiritual approach, for example, the obligation of parents to breastfeed and educate children as part of a mandate from God, while positive law uses an administrative and criminal approach, where violations of children's rights can be subject to legal sanctions.

These differences in approach reflect the philosophical background of each legal system. Islamic law is rooted in revelation and eternal responsibility, while positive law is rooted in rational thought and a modern social system that emphasizes the state's responsibility to its citizens. Nevertheless, both can complement each other in building a comprehensive child protection system that adapts to local and religious values.

D. Inhibiting Factors and Solutions to Fulfilling Children's Rights

In its implementation, the fulfillment of children's rights often faces various obstacles, both internal to the family and external to the social and state structures. One major factor is low parental awareness of the importance of children's rights. Many parents do not yet understand that children have individual rights that must be guaranteed and respected. Furthermore, economic factors are also a serious obstacle. Many families living in poverty cannot afford to provide their children with adequate access to education, healthcare, or nutrition.

Furthermore, weak government oversight and policy implementation exacerbate the situation. Good regulations are often not accompanied by effective implementation on the ground. A shortage of supervisory staff, limited funding, and weak coordination between government and non-governmental institutions are serious obstacles to child protection. As a result, many children remain victims of exploitation, violence, discrimination, and even human trafficking.

To overcome these obstacles, various systematic efforts are needed. One of these is strengthening the role of the family, especially parents, as the first and primary environment for children. Religious and community leaders also have a strategic role in providing an understanding of child protection values from a religious and cultural perspective. Furthermore, active collaboration between educational institutions, local governments, civil society organizations, and religious institutions is needed to oversee child protection policies more concretely. Continuous education and campaigns on children's rights must also be carried out broadly and inclusively so that all levels of society have the same awareness and responsibility in ensuring the future of Indonesian children .

CONCLUSION

Fulfilling children's rights to education and welfare is a responsibility inherent not only to parents, but also to society and the state. In a legal context, both Islamic family law and Indonesian positive law explicitly provide normative guarantees for these rights. Islamic law emphasizes the moral and spiritual responsibility of parents to provide a decent education and life for children, while positive law emphasizes the state's obligation to guarantee the fulfillment of children's rights through public policy and legal protection. Thus, the existing normative framework is already sufficiently robust as a foundation for child protection in various aspects of life. However, implementation challenges in the field remain significant obstacles to the equitable fulfillment of children's rights. Various factors such as low parental awareness, economic constraints, lack of access to education and health services, and weak

oversight by authorities are obstacles that have not been fully resolved. Therefore, cross-sectoral synergy is needed between families, educational institutions, the government, and civil society to strengthen comprehensive child protection. Furthermore, increasing social awareness through education and ongoing campaigns regarding the importance of children's rights must be continuously encouraged so that every element of society has the same understanding and commitment to ensuring the future of the nation's next generation .

REFERENCE

- Abdussalam. *Hukum Perlindungan Anak*. PTIK Jakarta, 2016.
- Anshori, Saifuddin. *Hukum Islam dan Perlindungan Anak: Telaah terhadap Asas dan Implementasinya*. Jakarta: Kencana, 2021.
- Arifin, Syamsul. "Konsep Keadilan Anak dalam Perspektif Hukum Islam." *Al-Adalah: Jurnal Hukum dan Politik Islam* 15, no. 2 (2018): 215–232.
- Diananda, Amita. "Psikologi Remaja dan Permasalahannya." *Istighna* 1, no. 1 (Januari 2018): 22–34.
- Fahlevi, Reza. "Aspek Hukum Perlindungan Anak dalam Perspektif Hukum Nasional." *Lex Jurnalica* 12, no. 3 (Desember 2015): 145–159.
- Hasibuan, Rika Sari. "Perlindungan Hak Anak dalam Perspektif HAM dan Hukum Islam." *Al-Mashlahah: Jurnal Hukum Islam dan Pranata Sosial* 10, no. 1 (2022): 55–68.
- Juwanti, Resti Hedi. "Pola Perlindungan Anak di Negara-Negara Muslim." *SALAM: Jurnal Sosial dan Budaya Syar'i* 4, no. 1 (2017): 45–59.
- Khairani, M. "Urgensi Pendidikan Anak dalam Perspektif Islam." *Tarbawi: Jurnal Pendidikan Islam* 5, no. 2 (2020): 134–147.
- Lubis, Nurul Huda. *Perlindungan Anak dan Peran Negara: Telaah Konstitusi dan Hukum Islam*. Medan: Perdana Publishing, 2020.
- Mubarok, Nafi'. "Kebijakan Negara dalam Keterlambatan Pengurusan Akta Kelahiran Anak." *Al-Qanun: Jurnal Pemikiran dan Pembaharuan Hukum Islam* 19, no. 1 (Juni 2016): 75–89.
- Muhammad Joni dan Tanamas Z. Zulchaina. *Aspek Hukum Perlindungan Anak dalam Perspektif Konvensi Hak Anak*. Bandung: Citra Aditya Bakti, 1999.
- Nasution, M. Amin. "Perlindungan Anak dalam Konteks Hukum Islam dan Hukum Positif di Indonesia." *Jurnal Hukum Islam Indonesia* 3, no. 1 (2019): 50–65.
- Sit, Masganti. *Psikologi Perkembangan Anak Usia Dini*. Jilid I. Medan: Perdana Mulya Sarana, 2015.
- Supriyadi, W. Eko. *Hukum Perlindungan Anak di Indonesia: Analisis Undang-Undang dan Implementasinya*. Yogyakarta: Graha Ilmu, 2021.
- Wulandari, Aulia. "Peran Keluarga dan Negara dalam Pemenuhan Hak Anak." *Jurnal Hukum dan Pembangunan Sosial* 8, no. 2 (2022): 89–101.