



Protection Of Children's Rights Within The Family

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Abstract: It is necessary for children to receive guidance and protection from parents, family, the government, and adults during their development in understanding the environment. Judging from various areas of life, children are not yet capable enough to protect themselves from actions that cause mental, physical, and psychological harm. Therefore, nowadays, considering the situation and conditions with the emergence of increasingly advanced technology, children need help from other people, especially from the family, to protect themselves. This research uses the library research method or literature study, namely reviewing data sources with references to books or articles, previous research journals, and other scientific writings related to the theme of this research. The research results show that the protection of children's rights in Islamic family law both in court (product of decisions and determinations) and outside of court (mediation) exists in two forms, namely hadhanah and guardianship.

Keywords: *children's rights, family, Protection.*

1. Introduction

Children are a blessing as well as a trust or mandate given by God Almighty as the future successors of the nation (Malik et al., 2024). According to Article 1 of the Republic of Indonesia Law Number 1 of 1974 concerning Marriage, the purpose of marriage is to establish a happy and eternal family (household) based on the belief in God Almighty (Laksmiana & Irawan, 2021). Children are the result of love and affection between husband and wife that must be nurtured and cared for as best as possible, as they will become heirs within their family (Asmadi, 2020). In the perspective of Islamic Law, the essence of child protection refers to efforts to implement children's rights and protect them from physical, psychological, and mental harm (Putri Afifah et al., 2021); (Prema et al., 2022).

Based on the Republic of Indonesia Law Number 1 of 1974 concerning marriage, it is explained that a child is born legitimately from a lawful marriage that has been officially and legally recognized (Supriyadi, 2021). Article 1 paragraph (1) of the Republic of Indonesia Law Number 35 of 2014 Amendment to Law Number 23 of 2002 concerning Child Protection explains that a child refers to someone who has not reached 18 (eighteen) years of age, including unborn children (Arianto et al., 2023); (Santriati, 2020); (Analiya & Arifin, 2022). When speaking about the future of the nation, it depends on the current condition of the children and how parents strive to educate them properly (Wahyudi & Kushartono, 2020).

In this regard, it is important for everyone to know and understand the rights and obligations of children, especially parents who play a significant role in nurturing and educating their children (Ihsani, 2021). Although children may act based on their own feelings, thoughts, and will, the greatest influence on a child's development comes from

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the environmental factors that shape their character and behavior (Yani et al., 2021). According to Article 20 of the Republic of Indonesia Law Number 35 of 2014 Amendment to Law Number 23 of 2002 concerning Child Protection, the organizers of child protection include the state, government, local government, society, family, and parents or guardians who are obliged and responsible for child protection (Syarif, 2021).

Therefore, it is necessary for children to receive guidance, mentoring, and protection from parents, family, government, and adults during their developmental stages while getting to know their environment (Darmayasa et al., 2020). Considering various aspects of a child's life, they are not yet capable of protecting themselves from actions that may cause mental, physical, and psychological harm (Lathifah Azhar Saptaningrum, 2023). Therefore, in this era (the millennial era), given the situation and condition with the advancement of technology, children need assistance from others, especially from family, to protect themselves (Santriati, 2020). The term 'family' refers to the smallest unit of society consisting of husband and wife, or husband and wife and their children, or father and his children, or mother and her children, or blood relatives up to the third degree (Prema et al., 2022).

Because the success of legal protection is born out of participation in the surrounding environment, the family is the most important and primary institution (Mozin & Sunge, 2021). Without the participation of both, children's rights cannot be fulfilled, leading to physical, psychological, social, and even mental disturbances in children (Ghoni & Pujiyono, 2020). However, regarding community participation, it seems to be neglected nowadays due to the perception of the community not wanting to intervene in issues that have arisen (Analiya & Arifin, 2022).

The government has established specialized institutions to handle child protection, such as the Indonesian Child Protection Commission (KPAI), which guarantees the rights of Indonesian children are achieved and fulfilled (Analiya & Arifin, 2022); (Soraya & Yuherawan, 2021); (Hamida & Setiyono, 2022). The Indonesian state is based on Pancasila, which has the principle of justice stated in the second principle, "Just and Civilized Humanity," which must be realized together with law enforcement because the purpose of law enforcement is to create justice for all Indonesian people from various backgrounds, including justice for children (Aulia Putri, 2021).

However, it seems that the KPAI institution is not able to be used as an instrument to guarantee the fulfillment of children's rights and does not provide a way out to prevent uncontrolled deprivation of children's rights in Indonesia, where many children are still victims of unfulfilled rights (Larassati, 2020). According to Al-Mawardi, the form of *hadhanah* (caring for or nurturing children) is in the form of attention and affection from parents towards children, which besides providing identity, breastfeeding, guardianship, and providing sustenance, also includes protection to obtain the rights that should be given to children (Nurfieni, 2022); (Peiru & Alhakim, 2022).

Islam states that children are creatures of God Almighty who should be loved and protected because children are not yet capable of fulfilling their own needs. Based on the word of Allah SWT in Surah An-Nisa verse 9, which means: "And let those [executors and guardians] fear [injustice] as if they [themselves] had left weak offspring behind and feared for them. So let them fear Allah and speak words of appropriate justice." Therefore,

in this study, it is crucial for the author to further discuss the theme of Protecting Children's Rights Within the Family."

This research explores the significant contributions of child rights protection within the family context in Indonesia, focusing on the integration of national laws and Islamic values. Through an analysis of child protection and marriage laws, this study reveals how legislation is designed to support child welfare and highlights the importance of the family as the smallest and most fundamental social unit in child protection. The novelty of this research lies in its critique of the effectiveness of child protection agencies like KPAI and how principles of justice in Pancasila can be integrated to more effectively protect children. By connecting legal theories, public policies, and family practices within the cultural context of Indonesia, this study offers new and urgent insights for reforms centered on more inclusive and effective child protection.

2. Materials and Methods

The method used by the author in this research is library research method, where the data sources used are entirely documentary library materials such as reference books, previous research journals, relevant articles, magazines or newspapers, and other scholarly writings, all of which are examined from their literature related to the theme of Protecting Children's Rights Within the Family. Through the analytical approach, the study's findings can serve as a basis for enhancing children's rights protection, especially in the field of Islamic family law. The theoretical aspects in scholarship can be used as a reference in addressing the evolving trends of the times, particularly in the realm of Islamic family law, which can alter human mindset and actions to confront the challenges of societal development.

3. Results and Discussion

3.1 The Juridical Rights of Children

a. Children's Rights According to Experts

The definition of rights can be understood and interpreted through the perspectives of several expert figures. According to Bernard Windscheid, rights are desires endowed with power and granted by legal order or legal system to the relevant party. Meanwhile, Lamaire states that rights are permissions granted to individuals to act upon something (Saepullah, 2021). Van Apeldoorm defines rights as powers regulated by law. On the other hand, the definition of children can be elucidated through the viewpoints of experts. Montessori posits that children, essentially, are not merely phases of life someone goes through to reach maturity. Ki Hajar Dewantara suggests that children, as part of natural order, possess unique characteristics and as individuals with potential to acquire knowledge indirectly, thereby offering opportunities for their optimal development (Puspytasari & Firman, 2021).

According to Irma Soetyowati Soemitro, children's rights refer to the entitlement to special protection, opportunities, and facilities that enable children to develop in a healthy and appropriate manner, in conditions that are both free and beneficial. From the perspectives of experts regarding the definitions of both rights and children, it can be concluded that children's rights need to be realized in order to enhance optimal growth and development through the care and affection provided by parents themselves (Eko Putro & Kosasih, 2021).

b. Children's Rights According to the Protection Law

Children's Rights" refers to something inherent in an individual from the moment of conception within a mother's womb. Discussing rights inevitably involves considering obligations, as both are interconnected, leading to cause and effect in various situations (Yuniarlin, 2022). The obligations here refer to actions that children can perform towards their parents, or vice versa, actions that parents can perform towards their children. Parents' obligations towards their children play a crucial role in ensuring child protection within the family. Emphasizing parental duties towards children's rights in fulfilling their needs is essential for the child's future and well-being, ensuring quality and guaranteed welfare (Lubis, 2020).

The primary environment for a child's growth and development, where they first learn and develop, is within their family, with their parents as their first teachers. Therefore, parents, as the child's initial educators within the family, significantly contribute to shaping the child's personality and character. With parents, a child can more easily adapt to their surroundings, understand their environment, and navigate social interactions within it (Irawan, 2020).

The enactment of Republic of Indonesia Law Number 35 of 2014 Amendment to Law Number 23 of 2002 concerning Child Protection serves to fulfill children's rights and acts as a bridge to protect them from various threats that may hinder their growth and development (Thalib, 2020); (Malik et al., 2024). These threats include physical violence, sexual abuse, neglect, lack of guidance and teaching from parents, insufficient education, lack of parental affection resulting in misguided social behaviors, among others.

Article 1 paragraph (1) of Republic of Indonesia Law Number 35 of 2014 Amendment to Law Number 23 of 2002 concerning Child Protection stipulates that children under the age of 18 are the responsibility and obligation of parents to protect and nurture them so they can grow and develop properly. However, if parents are absent, unknown, or unable to fulfill their duties and responsibilities for any reason, then these obligations and responsibilities may be transferred to the family according to applicable regulations. Child protection is implemented in accordance with existing laws and regulations, with rational, responsible, and effective measures.

According to Article 4 in conjunction with Article 18 of Republic of Indonesia Law Number 35 of 2014 Amendment to Law Number 23 of 2002 concerning Child Protection, children have certain rights, including:

Table 1. Articles Related to Children's Right

Chapter	The Text of the Article in the law
chapter 4	"Every child has the right to live, grow, develop, and participate in a manner consistent with human dignity, and to be protected from violence and discrimination."
chapter 5	"Every child has the right to have a name as their identity and citizenship status."
chapter 6	"Every child has the right to practice their religion, think, and express themselves according to their level of intelligence and age, under the guidance of parents or

Chapter	The Text of the Article in the law
	guardians.."
chapter 7	(1) "Every child has the right to know their parents, be raised, and nurtured by their own parents." (2) "In cases where, due to certain reasons, parents cannot ensure the child's growth and development, or the child is neglected, the child has the right to be nurtured or adopted by others as foster or adoptive parents according to the provisions of applicable laws and regulations."
chapter 8	Every child has the right to receive healthcare services and social security according to their physical, mental, spiritual, and social needs.
chapter 9	"Every child has the right to receive education and instruction for personal development and intelligence level according to their interests and talents.."
chapter 10	"Every child has the right to express and be heard, receive, seek, and provide information according to their intelligence level and age for their development based on moral values and appropriateness."
chapter 11	"Every child has the right to rest and utilize leisure time, socialize with peers, play, recreate, and create according to their interests, talents, and intelligence level for personal development."
chapter 12	"Every child with disabilities has the right to receive rehabilitation, social assistance, and maintenance of social welfare standards."
chapter 13	"Every child under the care of parents, guardians, or any responsible party for caregiving has the right to protection from: a. Discrimination b. Exploitation, whether economic or sexual c. Neglect d. Cruelty, violence, and abuse e. Injustice f. Other forms of mistreatment
chapter 14	(1) "Every child has the right to be raised by their own parents, except if there are valid reasons and/or legal provisions indicating that separation is in the best interest of the child and is a last resort consideration." (2) In cases of separation as referred to in paragraph (1), the child still has the right to: a) meet directly and have regular personal contact with both parents b) receive care, maintenance, education, and protection for their growth and development process from both parents according to their abilities, talents, and interests c) receive financial support from both parents d) obtain other rights of the child
chapter 15	Every child has the right to protection from: a. "Misuse in political activities b. Involvement in armed conflicts c. Involvement in social riots d. Involvement in events containing elements of violence e. Involvement in warfare f. Sexual crimes
chapter 16	(1) "Every child has the right to protection from being targets of persecution, torture, or inhumane punishment." (2) "Every child has the right to freedom according to the law." (3) "The arrest, detention, or imprisonment of a child shall only be carried out if in accordance with applicable law and only as a last resort measure."
chapter 17	(1) "Every child deprived of their liberty has the right to:" a. Be treated humanely and placed separately from adults b. Receive effective legal assistance or other assistance in every stage of legal proceedings c. Defend themselves and obtain justice

Chapter	The Text of the Article in the law
	in an objective and impartial juvenile court session closed to the public.
	(2) "Every child who is a victim or perpetrator of sexual violence or facing legal proceedings has the right to confidentiality."
chapter 18	Every child who is a victim or perpetrator of a crime has the right to receive legal assistance and other assistance."

Thus, in the Republic of Indonesia Law Number 35 of 2014 Amendment to the Republic of Indonesia Law Number 23 of 2002 concerning Child Protection, the rights of children outlined above are realized through implementation efforts aimed at protecting children's rights and creating an environment that ensures their protection and realization. The importance of balancing rights and obligations is key to improving children's welfare. In the Convention on the Rights of the Child, there are four basic principles that serve as the foundation for every effort to protect children. Firstly, the principle of non-discrimination, which mandates equal treatment for every child without exception. Secondly, the principle of the best interests of the child, which emphasizes the importance of parents in ensuring a better future for the child. Thirdly, the principle of the right to life, survival, and development, which guarantees the fulfillment of children's basic needs to ensure their survival. Fourthly, the principle of respect for the views of the child, which gives children the right to express their opinions freely, be heard, and appreciated, enabling them to develop fully and confidently.

c. Children's Rights According to the Marriage Law

Based on Article 1 of the Republic of Indonesia Law Number 1 of 1974 concerning Marriage, marriage refers to the emotional and physical bond between a man and a woman as husband and wife with the aim of establishing a happy and eternal family (household) based on the belief in the One Almighty God. Furthermore, Article 2 of the Republic of Indonesia Law Number 1 of 1974 states that marriage is considered valid when performed according to the laws of each religion and belief system and registered according to the prevailing regulations (Laksmana & Irawan, 2021).

In building a marriage, there are rights and obligations between husband and wife, where they must understand their respective authorities and duties. Besides the rights and obligations between spouses in forming a happy family, there are also rights and obligations between husband and wife as parents to their children (Asmadi, 2020).

The origin of a child in the perspective of Islamic Law holds significant importance as it relates to the lineage (nasab) between the child and its father. Biologically, every child born originates from the fusion of a male sperm and a female egg through fertilization. Thus, a child is considered legitimate if it has a lineage connection with its father through a valid marriage. Conversely, a child born out of wedlock cannot be considered legitimate and only has a lineage connection with its mother (Putri Afifah et al., 2021).

According to Article 55 of the Republic of Indonesia Law Number 1 of 1974 regarding the origin of a child can be proven through: (1) The origin of a child can be proven by an authentic birth certificate issued by an authorized official. (2) If such a certificate is not available, the Court may issue a determination of the child's origin after a thorough examination based on qualifying evidence. (3) Based on the Court's decision in paragraph (2) of this Article, the birth registration authority in the jurisdiction of the respective Court issues a birth certificate for the child concerned.

It is stated above that a child is born from a valid marriage recognized by law and since in the womb, there are rights and obligations inherent in them. A child is a Gift from Allah SWT to parents as a form of their obedience and responsibility in educating, caring for, and shaping the child's character. Regardless of the origin of a child born from a valid or invalid marriage, they will still receive their rights in full from their closest environment, namely the parents.

Therefore, every child has the right to protection of their rights. Universally, the protection of children's rights is carried out without distinguishing one from another. A child's rights must be fulfilled regardless of the child's status. This means that both children born from valid marriages and those born outside of marriage are entitled to their rights. Children have the right to education and teaching, the right to survival, and the right to receive love from their parents. Every child born already has rights that must be fulfilled. Children have the right to receive love, whether physically or emotionally, from their parents.

Child protection becomes important when children do not fully receive their rights and are not treated as well as possible by the guardians, especially their parents. This child protection aims to both create and realize unmet child rights and protect children from discriminatory actions.

d. Children's Rights According to Human Rights

The rights inherent to a child fall under the umbrella of Human Rights (HAM). As per the Republic of Indonesia Law Number 39 of 1999, HAM (Human Rights) constitutes a set of rights intrinsic to the essence and existence of humans as beings of the One God, which mandates respect, elevation, and safeguarding by the State, the law, the government, and every individual for the sake of human dignity and protection. A child, on the other hand, is defined as an individual below the age of 18 or still in the womb. One crucial yet unrealized right is the child's entitlement, as outlined in Article 52 paragraph (2) of the Republic of Indonesia Law Number 39 of 1999, which stipulates that human rights and children's interests have been governed and safeguarded by law even before birth. In alignment with Article 52 combined with Article 66 of the Republic of Indonesia Law Number 39 of 1999, children's rights encompass a wide array, including protection, the right to life from conception, identity and citizenship, care and education, religious freedom, familial bonds, safeguarding from harm, access to justice, healthcare, and social security, among others. These rights underscore the child's holistic development, emphasizing their welfare, dignity, and protection, irrespective of their birth status or circumstances. Thus, ensuring the fulfillment and safeguarding of children's rights stands as a

cornerstone in promoting equitable and dignified livelihoods for all children (Supriyadi, 2021).

e. Children's Rights According to Islamic Law

Children born from a mother's womb are considered pure and are perceived as gifts from God to be cherished and protected by their parents, hoped to become sources of joy and comfort for their guardians. Moreover, they are seen as heirs within the family who will carry on their parents' legacy in old age. A child's birth is thus regarded as a blessing and a favor from God, entrusted to parents to be nurtured and guided into becoming righteous and dutiful individuals, particularly towards their elders, especially their own parents. Islamic law stipulates several rights for children, including the right to life, as Islam strictly prohibits murder. According to the Quran (Surah Al-Isra', verse 31), taking away a child's life out of fear of poverty is considered a grave sin. Additionally, children have the right to know their lineage to ascertain their status (*nasab*) comprehensively, ensuring they receive their full entitlement from their parents, as stated in the Quran (Surah Al-Ahzab, verse 5), where adopted children should be called by their biological fathers' names or, if unknown, by their religious brethren's names. Furthermore, children have the right to be given a good name, as naming is a parental obligation and the chosen name reflects the hopes and prayers of the parents, as per the Hadith narrated by Abu Dawud. Moreover, children are entitled to receive breast milk (ASI) from their mothers for up to two years, as stated in the Quran (Surah Al-Baqarah, verse 233). Children also have the right to protection, care, and maintenance from their parents, as parents' upbringing, care, and support are vital for a child's development, as emphasized in the Quran (Surah At-Tahrim, verse 6). Additionally, children have the right to education and instruction to ensure they become productive members of society, as highlighted in the Hadith narrated by Al-Hakim (Arianto et al., 2023).

3.2 Forms of Child Rights Protection Within the Family

a. Hadhanah

Etymologically, "hadhanah" means "beside or under the armpit." As for the terminological meaning of "hadhanah," it refers to "caring for and educating someone who is not yet mature or who has lost their intelligence because they cannot meet their own needs." According to Ash-Shan'ani, "hadhanah" is "taking care of someone (a child) who cannot be independent, educating and nurturing them to prevent anything that may harm or cause harm to them." According to Amir Syarifuddin, "hadhanah" or also known as "kaffalah" is "the care of a young child after a divorce has occurred." Child custody (*hadhanah*) is "an issue that cannot be separated in the context of marriage." If child custody from a couple who are still married, there will certainly be no detailed rules to follow, but it is different when child custody is regulated in detail when both parents end their marriage. In this case, Islamic jurisprudence determines that child custody is based on several issues concerning the child, namely "the age and gender of the child, as well as the conditions and character of the parents, including religion, place, and others (Wahyudi & Kushartono, 2020)."

Parents have a responsibility to care for their children, whether they are married or have ended their marriage. The responsibility for the care of children is not only in material needs but also in non-material needs that prioritize attention and affection. According to Zainuddin Ali, the responsibility of a father as a "hadhin" never disappears even if his marital bond has been severed and he has remarried. The obligation to perform "hadhanah" lies on the shoulders of both parents. This principle can be fulfilled if both parents remain married as husband and wife (Ihsani, 2021). The question arises as to "who has more rights over the child if the child's parents have divorced." According to Satria Efendi M. Zein, there are 2 periods of child custody that must be understood as follows:

a. Before *Mumayyiz* period

This period is from birth until around the age of seven or eight years old. During this time, the child cannot yet distinguish between what is beneficial and harmful to them. Therefore, scholars argue that the mother is the primary and rightful guardian of the child during this period and should undertake the hadhanah duties. This is based on the Hadith of the Prophet Muhammad (peace be upon him): 'Whoever separates a mother from her child, Allah will separate him from his loved ones on the Day of Judgment.' (Narrated by Abu Dawud) Abdullah ibn Umar Ibn al-Ash narrated that a woman complained to the Prophet about her young child, as her former husband intended to take the child with him after divorcing her. The Prophet (peace be upon him) then said: 'You (the woman) have more right to the child as long as you have not married another man.' (Narrated by Abu Dawud and Ahmad) Based on the above Hadith, in the event of divorce, for the child's interest during the pre-mumayyiz period, the mother has a greater right to care for the child, provided she meets the necessary conditions. Ibn Qudamah, a jurist of the Hanbali school of thought, in his book *al-Mughni*, explains that there is no dispute or difference of opinion among scholars on this matter. This is also in line with Article 105 (a) of the Indonesian Compilation of Islamic Law (KHI), which states that the custody of children who are not yet mumayyiz or under 12 years old is the right of their mother (Yani et al., 2021)."

b. The Mumayyiz period

The Mumayyiz period, which spans from the age of seven to approaching puberty, marks a significant developmental phase where a child is deemed capable of discerning between what is beneficial and harmful for themselves. They can now make choices regarding which parent they wish to stay with, thereby being granted the right to choose. This is in accordance with the hadith narrated by Abu Hurairah, where a child, presented with the choice between their parents, opts to stay with their mother, emphasizing the child's agency in decision-making. Islamic law delineates the Mumayyiz period until the age of 21, provided the child is physically and mentally capable and has not entered into marriage, as stipulated in Article 98 of the Islamic Family Law (KHI). Amir Syarifuddin outlines the prerequisites for those assuming the responsibility of hadhanah, emphasizing maturity, sound-mindedness, adherence to

Islam, and righteousness in religious practice, underscoring the importance of providing a religious foundation for the child's upbringing. Additionally, trustworthiness and moral integrity are deemed essential qualities for those tasked with *hadhanah*, ensuring the child's proper care and upbringing (Syarif, 2021).

The obligation of *hadhin* or *hadhinah* entails not only providing for the child's material needs but also imparting knowledge, both religious and secular, to prepare them for adulthood, as elucidated in Surah Al-Baqarah (2): 233. While this responsibility doesn't explicitly assign the burden of childcare solely to the father, it does incorporate his duty to provide sustenance for both the mother and the children. In today's tumultuous era, it is imperative for parents to strike a balance between meeting their children's material needs and fulfilling their emotional requirements for love and affection, as well as other pivotal factors shaping their character. This necessitates a profound understanding on the part of those entrusted with child custody. Another crucial aspect is the quality of communication between parents and children; failing to foster a healthy dialogue may lead children to seek validation elsewhere, potentially exposing them to negative influences (Darmayasa et al., 2020).

c. Guardianship

Guardianship is a crucial aspect of family law as it intertwines with various other aspects within the realm of family law. The existence of marriage and the birth of offspring create rights and obligations for parents towards their children. With the presence of a child, parental authority is established. However, if the child is no longer under the parental authority, they will come under the guardianship of a guardian (Lathifah Azhar Saptaningrum, 2023). In Indonesia, guardianship does not have specific regulations of its own. However, the definition and rules regarding guardianship can be found in various legal documents such as the Civil Code (further referred to as the CC), Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage (further referred to as the Marriage Law), Compilation of Islamic Law (further referred to as KHI), Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection (further referred to as the Child Protection Law), Government Regulation Number 29 of 2019 concerning the Requirements and Procedures for Appointing a Guardian (further referred to as GR 29/2019), and other related laws (Santriaty, 2020).

Guardianship is exercised over minors who are not yet adults or have never been married. Guardianship is also implemented when a child is no longer under parental authority, the parental authority is revoked, or when the parents are legally incompetent. The basic rules of guardianship are stipulated in Article 330 of the Civil Code, Article 50 paragraph (1) of the Marriage Law, Article 107 of the Compilation of Islamic Law, and Article 33 of the Child Protection Law, which state that children who have not reached adulthood or have never been married and are not under parental authority will come under the guardianship of a guardian (Prema et al., 2022).

The distinguishing factor in these regulations is the age of adulthood for children. According to the Marriage Law and the Child Protection Law, a child is someone who has not yet reached the age of 18. Meanwhile, according to the Civil Code and the

Compilation of Islamic Law, a child is someone who has not yet reached the age of 21. Based on the regulations regarding the age of adulthood used as a reference for implementing child guardianship, it is evident that the law aims to ensure the welfare and best interests of children. In cases such as the one mentioned where a child aged 16 months is left orphaned due to a fatal accident, it is clear that the child is still a minor and requires care and guidance from a guardian (Mozin & Sunge, 2021).

If we consider the legal age of adulthood according to the Marriage Law, the Child Protection Law, the Civil Code, and the Compilation of Islamic Law, the orphaned child in this case is still a minor and thus needs the care and guidance of a guardian. Moreover, a child aged 16 months is still very young and incapable of legal actions on their own, hence the necessity of appointing a guardian to act on their behalf.

3.3 Counseling for Children and Child Education

In formal educational institutions (Kindergarten/Preschool), guidance and counseling have become an integral part of education in schools since the implementation of the 1975 curriculum. The terminology for these support services has varied and continued to evolve over time. Some common terms used in schools include GC (Guidance and Counseling), BP (Guidance and Counseling), and BK (Guidance and Counseling). Personnel handling these roles also have different designations such as GC teachers, BP teachers, BK teachers, facilitators, and counselors. In Law Number 20 of 2003 concerning the National Education System, Article 1 (paragraph) 6, affirms the designation of counselors and emphasizes counselors as educators. In line with the advancement of scholarly studies, the definition of guidance and counseling has also evolved, although it still retains its essence as a process of providing assistance (helping relationship) (Ghoni & Pujiyono, 2020).

Kartadinata suggests that the current evolving guidance is developmental guidance. The vision of guidance is educational, developmental, and outreach-oriented. The educational vision of guidance is because the guidance orientation focuses on prevention and development rather than corrective and therapeutic efforts. The developmental vision of guidance intends that the central point of guidance goals is to empower the full potential of individuals through the engineering of the developmental environment. Meanwhile, the outreach-oriented vision of guidance is because the target population of guidance services encompasses various dimensions of problems, targets, interventions, settings, methods, and service times in a fairly wide range (Analiya & Arifin, 2022).

Essentially, guidance is a process of assistance provided to individuals to enable them to achieve optimal development. Assistance in the context of guidance facilitates individuals in developing the ability to choose and make decisions responsibly. Meanwhile, optimal development is development that aligns with the individual's potential and adopted value system (Soraya & Yuherawan, 2021). Based on experts' opinions on the concept of guidance and counseling above, guidance and counseling in early childhood can be interpreted as the process of providing assistance to young children by educators (teachers or assistants) so that children can grow and develop

optimally and have the ability to address/solve the problems they face (Analiya & Arifin, 2022).

3.4 Counseling Approach in Children and Child Education

In general, counseling approaches are divided into four main categories: crisis intervention, remedial approach, preventive approach, and developmental approach. Yusuf and Nurihsan elaborate on these approaches in detail:

a. Crisis Intervention Approach

The crisis intervention approach involves providing guidance to individuals experiencing crises or problems. The guidance aims to help individuals overcome the crises or problems they are facing. In practice, counselors or guidance teachers await counseling seekers, and then provide assistance tailored to the issues they are experiencing. This approach is often influenced by psychoanalytic theories, which suggest that an individual's current functioning is heavily influenced by past experiences, particularly those in the first five or six years of life (Hamida & Setiyono, 2022).

b. Remedial Approach

The remedial approach focuses on assisting individuals facing difficulties. Counseling is directed towards improving various challenges experienced by the client. In implementing counseling with a remedial approach, counselors concentrate on identifying and addressing the individual's weaknesses. This approach is heavily influenced by behaviorist theories, emphasizing the client's attitudes and behaviors in the present moment ("here and now"). The individual's current attitudes and behaviors are greatly influenced by the current environment, thus creating a supportive environment is essential for behavioral improvement (Aulia Putri, 2021).

c. Preventive Approach

The preventive approach aims to anticipate and prevent potential issues before they arise. In counseling with a preventive approach, counselors provide information and teach a range of knowledge and skills to prevent potential problems from occurring (Yuniarlin, 2022).

d. Developmental Approach

The developmental approach focuses on maximizing the development and potential of individuals. It is believed that every individual has inherent strengths and potentials, which can be further developed through the application of various counseling techniques and strategies. In the developmental approach, counseling services are provided to all individuals—not just those facing problems—who are entitled to receive counseling services. Counseling for development can be conducted individually, in groups, or classically, employing methods such as information dissemination, discussions, group processes, and talent and interest development (Larassati, 2020).

4. Conclusions

The protection of children's rights in Islamic family law manifests in two main forms, namely hadhanah and guardianship. Hadhanah encompasses custody rights granted to parents after divorce or separation, ensuring the needs and well-being of the child are met. Meanwhile, guardianship becomes crucial when parents are unable to safeguard the child's interests, and a guardian is appointed to do so. Both forms are guided by the principle of Islamic law that prioritizes the best interests of the child. The research highlights that the Islamic family law system acknowledges the complexity of children's needs and endeavors to address them by considering the family context. Thus, the conclusion underscores the comprehensive approach in providing protection for children's rights through both court processes and mediation outside the court.

The limitations of this study primarily focus on the legal framework and definitions of children's rights according to experts, yet it lacks an investigation into the practical implementation of these laws in daily life and their actual impact on child protection. Additionally, this study does not deeply explore the differences in experiences among children from various socioeconomic or cultural backgrounds, which could provide a broader perspective on the challenges faced in applying children's rights. Moreover, the research is confined to a legal perspective and does not adequately integrate views from other disciplines such as psychology or sociology, which could enrich the analysis. Recommendations for future research include conducting more inclusive comparative studies, involving real-case analyses, and integrating interdisciplinary theories to gain a deeper understanding of the effectiveness of child protection laws in practice.

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