

Bukti Korespodensi

Protecting Child Labor Rights: Maqasid Sharia Framework and Policy Recommendations

by: Yusefri

1. Naskah Submit (25 Juni 2024)

The screenshot shows the journal's submission interface. At the top, the journal title "Samarah" is displayed in large white font on a blue background, with the subtitle "Jurnal Hukum Keluarga dan Hukum Islam" below it. The journal is published by the Islamic Family Law Department, Sharia and Law Faculty, Universitas Islam Negeri Ar-Raniry, Banda Aceh. The ISSN numbers are listed as P-ISSN : 2549-3632 and E-ISSN : 2549-3667. A navigation menu includes links for HOME, ABOUT, USER HOME, SEARCH, CURRENT, ARCHIVES, ANNOUNCEMENTS, and CALL FOR ARTICLES. The main content area shows the article title "#24559 Summary" with buttons for SUMMARY, REVIEW, and EDITING. The "Submission" section lists the authors (Yusefri Yusefri, Mu'adil Faizin, Wahyu Abdul Jafar), title, original file name, and submission date (June 25, 2024). A sidebar on the right contains a list of links: Editorial Team, Reviewers, Focus and Scope, Author Guidelines, Publication Ethics, Open Access Policy, Peer Review Process, Online Submissions, Abstracting & Indexing, Journal Statistics, and Contact.

2. Naskah Review (5 Juli 2024) Naskah Revisi (10 Juli 2024)

The screenshot shows the journal's submission interface for the review stage. The main content area displays "#24559 Review" with buttons for SUMMARY, REVIEW, and EDITING. The "Submission" section is identical to the previous stage. The "Peer Review" section shows "Round 1" with details for the review version (24559-70198-2-RV.DOCX), initiation date (2024-07-05), and reviewer information (Reviewer A and B). The "Editor Decision" section shows the decision "Accept Submission" dated 2024-07-21, with a link to the Editor/Author Email Record. At the bottom, there is a form to upload the author version, with a "Choose File" button, a "No file chosen" message, and an "Upload" button. The sidebar on the right is identical to the previous stage. At the bottom right, there is a "Samarah" logo and a CiteScore 2023 of 2.4, with a note that it is in the "Q1" category (Low) and is in the "best quartile".

3. Naskah Terbit (31 Juli 2024)

The screenshot shows the 'Archive' page of the Samarah journal. The header includes the journal title 'Samarah' and 'Jurnal Hukum Keluarga dan Hukum Islam'. The navigation menu includes 'HOME', 'ABOUT', 'USER HOME', 'SEARCH', 'CURRENT', 'ARCHIVES', 'ANNOUNCEMENTS', and 'CALL FOR ARTICLES'. The breadcrumb trail is 'Home > User > Author > Archive'. The main content area features a table with one article entry:

ID	MM-DD SUBMIT	SEC	AUTHORS	TITLE	STATUS
24559	06-25	ART	Yusefri, Faizin, Jafar	PROTECTING CHILD LABOR RIGHTS: MAQASID SHARIA FRAMEWORK...	Vol 8, No 2 (2024)

Below the table, it indicates '1 - 1 of 1 Items'. There are buttons for 'ACTIVE' and 'ARCHIVE'. A 'Start a New Submission' section with a link is also present. A 'Rebacks' section has buttons for 'ALL', 'NEW', 'PUBLISHED', and 'IGNORED'. A sidebar on the right contains a list of links: Editorial Team, Reviewers, Focus and Scope, Author Guidelines, Publication Ethics, Open Access Policy, Peer Review Process, Online Submissions, Abstracting & Indexing, Journal Statistics, and Contact.

The screenshot shows the article page for 'Protecting Child Labor Rights: Maqasid Sharia Framework and Policy Recommendations'. The breadcrumb trail is 'Home > Vol 8, No 2 (2024) > Yusefri'. The article title is prominently displayed, followed by the authors: 'Yusefri Yusefri, Mu'adil Faizin, Wahyu Abdul Jafar'. An 'Abstract' section follows, containing the following text:

Child labor remains a significant issue in contemporary society despite existing legal frameworks aimed at protecting children's rights. This study presents an original approach by applying the principles of Maqasid Syariah to evaluate and strengthen child protection laws in Indonesia, specifically Law No. 35 of 2014 on Child Protection. The objectives of this research are to assess the effectiveness of the current legal framework in protecting child workers, identify its limitations, and explore how Maqasid Syariah principles can enhance these laws. The research employs a qualitative method, utilizing literature reviews and legal analysis to evaluate the existing legal framework and propose improvements based on Maqasid Syariah principles. Empirical findings reveal several limitations in the current legislation, including inconsistent implementation and enforcement, resource constraints, lack of coordination among stakeholders, insufficient awareness and education about children's rights, and the need to address the root causes of child labor, such as poverty and socio-economic inequalities. The practical implications of this study include

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Artikel Submit



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PROTECTING CHILD LABOR RIGHTS: MAQASID SYARIAH FRAMEWORK AND POLICY RECOMMENDATIONS

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Abstract: Child labor remains a significant issue in contemporary society despite the existence of legal frameworks aimed at protecting children's rights. This study addresses the problem of child labor by examining the effectiveness of current legal frameworks, particularly Indonesia's Law No. 35 of 2014 on Child Protection, through the lens of Maqasid Syariah. The research questions guiding this study are: How influential are the current legal frameworks in protecting child workers? What are the limitations of these frameworks? How can Maqasid Syariah principles enhance child protection laws? This study employs a qualitative method, utilizing literature review and legal analysis to evaluate the existing legal frameworks and propose improvements based on Maqasid Syariah principles. The findings indicate several limitations in the current law, including inconsistent implementation and enforcement, resource constraints, lack of coordination among stakeholders, insufficient awareness and education about children's rights, and the need to address the root causes of child labor, such as poverty and socio-economic inequalities. This study enhances child laborers' protection by prioritizing education, enforcing strict labor protection regulations, increasing community training and awareness, encouraging multi-stakeholder cooperation, and regularly monitoring and evaluating child protection policies and programs. The study also highlights the importance of using the hierarchy of the five protections (religion, life, intellect, lineage, and property) as indicators in evaluating child protection. By adopting a holistic approach grounded in Maqasid Syariah, this study proposes a new theoretical framework for integrating these principles with contemporary child protection laws, offering a promising avenue for enhancing the effectiveness of child labor policies globally. These recommendations aim to ensure that children

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grow up in a safe, healthy, and supportive environment, free from exploitation and hazardous labor conditions.

Keywords: Child labor, Child protection, Maqasid Syariah, Legal framework, Policy recommendations.

***Abstrak:** Pekerja anak tetap menjadi masalah signifikan dalam masyarakat kontemporer, meskipun ada kerangka hukum yang bertujuan untuk melindungi hak-hak anak. Studi ini membahas masalah pekerja anak dengan menilai efektivitas kerangka hukum saat ini, khususnya Undang-Undang No. 35 Tahun 2014 tentang Perlindungan Anak di Indonesia, melalui pendekatan Maqasid Syariah. Pertanyaan penelitian yang memandu studi ini adalah: Seberapa efektif kerangka hukum saat ini dalam melindungi pekerja anak? Apa saja keterbatasan dari kerangka ini? Bagaimana prinsip-prinsip Maqasid Syariah dapat meningkatkan undang-undang perlindungan anak? Studi ini menggunakan metode kualitatif, dengan menggunakan tinjauan literatur dan analisis hukum untuk mengevaluasi kerangka hukum yang ada dan mengusulkan perbaikan berdasarkan prinsip-prinsip Maqasid Syariah. Temuan menunjukkan beberapa keterbatasan dalam undang-undang saat ini, termasuk implementasi dan penegakan yang tidak konsisten, keterbatasan sumber daya, kurangnya koordinasi di antara para pemangku kepentingan, kurangnya kesadaran dan pendidikan tentang hak-hak anak, serta kebutuhan untuk menangani akar penyebab pekerja anak seperti kemiskinan dan ketidaksetaraan sosial-ekonomi. Untuk meningkatkan perlindungan pekerja anak, studi ini merekomendasikan untuk memprioritaskan pendidikan, menegakkan regulasi ketat perlindungan tenaga kerja, meningkatkan pelatihan dan kesadaran masyarakat, mendorong kerjasama multi-pihak, serta melakukan pemantauan dan evaluasi berkala terhadap kebijakan dan program perlindungan anak. Studi ini juga menyoroti pentingnya menggunakan hierarki lima perlindungan (agama, jiwa, akal, keturunan, dan harta) sebagai indikator dalam mengevaluasi perlindungan anak. Dengan mengadopsi pendekatan holistik yang berlandaskan Maqasid Syariah, studi ini mengusulkan kerangka teoretis baru untuk mengintegrasikan prinsip-prinsip ini dengan undang-undang perlindungan anak kontemporer, menawarkan jalan yang menjanjikan untuk meningkatkan efektivitas kebijakan pekerja anak secara global. Rekomendasi ini bertujuan untuk memastikan bahwa anak-anak tumbuh dalam lingkungan yang aman, sehat, dan mendukung perkembangan mereka, bebas dari eksploitasi dan kondisi kerja berbahaya.*

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Kata Kunci: *Pekerja anak, Perlindungan anak, Maqasid Syariah, Kerangka hukum, Rekomendasi kebijakan*

Introduction

Since ancient times, children have been an integral part of economic activities. However, understanding their rights within the context of labor has faced significant challenges throughout various historical periods¹. A review of literature spanning human history reveals narratives about children involved in various forms of work, from agriculture to modern industries². Over this long span, our understanding of their rights has shifted significantly in line with evolving societal views on child protection³.

Through the lens of literature, we can trace how views on child labor rights have changed over time. In many traditional societies, children were often seen as family members who must contribute to earning a livelihood from an early age. During those times, views on child rights in the context of labor were more inclined towards fulfilling economic needs rather than protecting their well-being⁴. However, with the emergence of the human rights movement in the 20th century, awareness of the importance of protecting children from exploitation and oppression began to emerge globally⁵.

In contemporary society, there are various approaches to protecting child labor rights. Many countries have adopted legal regulations that set

¹ Indah Sri Utari et al., "Legal Protection for Children as Victims of Economic Exploitation: Problems and Challenges in Three Major ASEAN Countries (Indonesia, Vietnam and Philippines)," *Lex Scientia Law Review* 7, no. 2 (November 6, 2023): 771–842, <https://doi.org/10.15294/lesrev.v7i2.68301>.

² Fanqiang Meng et al., "The Impact of Labor Mobility with Fellow Townsfolk on the Wages of Rural Migrants: Evidence from China," *Humanities and Social Sciences Communications* 10, no. 1 (July 5, 2023): 376, <https://doi.org/10.1057/s41599-023-01795-8>.

³ Ramya Subrahmanian, "Eliminating Child Labour: What Needs to Be Done?," *BMJ Paediatrics Open* 7, no. 1 (December 2023): e002102, <https://doi.org/10.1136/bmjpo-2023-002102>.

⁴ Oleg M. Yaroshenko et al., "Child Labour in Show Business in Europe: Legal Status and Protection of the Rights of Child Actors, Singers and Models," *JusOnline*, no. 1 (April 2024): 58, https://doi.org/10.26350/18277942_000164.

⁵ John Kennedy and Ishita Chatterjee, "Manual Scavenging at Early Age: A Critical Analysis from the Perspective of Children of Manual Scavengers as Child Labour," *Revista de Gestão Social e Ambiental* 18, no. 3 (May 20, 2024): e07016, <https://doi.org/10.24857/rgsa.v18n3-127>.

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minimum ages for employment⁶, working hours, safe working conditions, and mandatory education⁷. Nonetheless, challenges remain in consistently implementing and enforcing these regulations worldwide. Phenomena such as child labor in the informal sector and home industries, as well as the exploitation of children in global supply chains, show that protecting child labor rights is still a complex and urgent issue⁸.

Indah Sri Utari et al. highlights the significant legal and practical challenges in protecting children from economic exploitation in ASEAN countries. Despite existing laws, implementation is often weak, and enforcement mechanisms are insufficient to ensure adequate protection⁹. Fanqiang Meng et al. discuss how labor mobility among rural migrants in China impacts wages but also underscores the vulnerability of children in these migrant families to labor exploitation due to economic pressures.¹⁰

Ramya Subrahmanian emphasizes the need for a multifaceted approach to eliminate child labor, stressing that international efforts must be complemented by national policies that address the root causes, such as poverty and lack of education¹¹. Oleg M. Yaroshenko et al. investigate child labor in the European show business industry, revealing that despite regulations, child actors and performers are often subject to exploitation and insufficient legal protection¹².

John Kennedy and Ishita Chatterjee analyze manual scavenging among children in India, showing that socio-economic factors and insufficient policy enforcement contribute to the continuation of this hazardous practice¹³. Joseph Ajefu et al. explore the impact of women's inheritance rights on child

⁶ Brice Lionel Batomen Kuimi et al., "Child Labour and Health: A Systematic Review," *International Journal of Public Health* 63, no. 5 (June 1, 2018): 663–72, <https://doi.org/10.1007/s00038-018-1075-9>.

⁷ Joseph Ajefu et al., "Women's Inheritance Rights and Child Health Outcomes in Kenya," *Journal of Family and Economic Issues* 45, no. 1 (March 2024): 137–50, <https://doi.org/10.1007/s10834-023-09895-y>.

⁸ Bárbara Morais Santiago Freitas et al., "Between Play and Exploitation: What Is the Place of the Rights of Child YouTubers?," *European Journal of Investigation in Health, Psychology and Education* 14, no. 5 (May 1, 2024): 1197–1213, <https://doi.org/10.3390/ejihpe14050079>.

⁹ Utari et al., "Legal Protection for Children as Victims of Economic Exploitation."

¹⁰ Meng et al., "The Impact of Labor Mobility with Fellow Townsmen on the Wages of Rural Migrants."

¹¹ Subrahmanian, "Eliminating Child Labour."

¹² Yaroshenko et al., "Child Labour in Show Business in Europe."

¹³ Kennedy and Chatterjee, "Manual Scavenging at Early Age."

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health outcomes in Kenya, linking economic empowerment of families to reduced child labor and better health for children¹⁴.

Bárbara Morais Santiago Freitas et al. discuss the blurred lines between play and exploitation in the context of child YouTubers, pointing out the gaps in regulatory frameworks to protect children in digital labor environments¹⁵. Anna Reda-Ciszewska examines the special rights of employees caring for children or family members with disabilities in Poland, highlighting how legal provisions can impact the balance between work and family responsibilities.¹⁶

Yuly Inés Liñan Cuello et al. provide an overview of child labor in Latin America, emphasizing the need for educational and social constructs to address the issue effectively¹⁷. Joana Morrison et al. evaluate health equity progress in Somalia, drawing connections between improved maternal and newborn health and reduced child labor due to better socio-economic conditions¹⁸.

Despite the various strategies and regulations, there is a noticeable gap in policies that effectively strengthen the protection of children as workers. The research indicates that while legal frameworks exist, their implementation and enforcement are often inadequate, leaving children vulnerable to exploitation and hazardous working conditions. There is a critical need for comprehensive policies that not only address the symptoms but also the root causes of child labor, ensuring robust protection and welfare for children globally.

¹⁴ Ajefu et al., “Women’s Inheritance Rights and Child Health Outcomes in Kenya.”

¹⁵ Freitas et al., “Between Play and Exploitation.”

¹⁶ Anna Reda-Ciszewska, “Special Rights of Employees Caring for a Child or Other Family Member with Disabilities with Regard to the Organization of Working Time and Remote Working Under the Polish Labor Code,” *PRAWO i WIEŻ* 49, no. 2 (May 24, 2024): 209–22, <https://doi.org/10.36128/PRIW.VI49.628>.

¹⁷ Yuly Inés Liñan Cuello, Jaidith Eneth Vidal, and Katerine Yohana Solano Brito, “Situación actual del trabajo infantil en Latinoamérica: una mirada desde los constructos educativos,” May 6, 2024, <https://doi.org/10.5281/ZENODO.11118092>.

¹⁸ Joana Morrison and Sk Md Mamunur Rahman Malik, “Health Equity in Somalia? An Evaluation of the Progress Made from 2006 to 2019 in Reducing Inequities in Maternal and Newborn Health,” *International Journal for Equity in Health* 23, no. 1 (March 5, 2024): 46, <https://doi.org/10.1186/s12939-023-02092-1>.

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The Maqasid Syariah approach¹⁹, which aims to protect five fundamental human needs (religion, life, intellect, progeny, and wealth)²⁰, offers a relevant framework for addressing child labor issues²¹. Maqasid Syariah emphasizes safeguarding children's welfare and rights from exploitation²². Therefore, child labor issues are not only viewed from legal and economic perspectives but also broader ethical and moral standpoints, ensuring that all aspects of children's lives are protected following Syariah principles.

The article "Protecting Child Labor Rights" highlights the serious issue of protecting children as workers in the modern era. Despite various international efforts to reduce child labor²³, the practice remains widespread, particularly in the informal sectors such as agriculture and domestic work²⁴. For example, the COVID-19 pandemic has exacerbated this situation, increasing the number of children working due to economic pressures and educational disruptions²⁵. In many developing countries, children are still forced to work to help meet family needs²⁶, facing hazardous and exploitative working conditions²⁷.

¹⁹ Luthfiyah Dewi Masyithoh, Dwi Putra Amrah, and Imron Musthofa, "SHARIA ECONOMIC LAW ANALYSIS OF MUD BATHING IN TIKTOK LIVE AS ONLINE BEGGING (MAQASHID SYARIAH APPROACH)," *Mu'amalah: Jurnal Hukum Ekonomi Syariah* 3, no. 1 (June 9, 2024): 19, <https://doi.org/10.32332/muamalah.v3i1.7831>.

²⁰ Jasser Auda, *Membumikan Hukum Islam Melalui Maqashid Syariah*, trans. Rosidin and 'Ali 'Abd el-Mun'im (Bandung: Mizan, 2015).

²¹ Abbas Arfan, "Maqasid Al-Syariah Sebagai Sumber Hukum Islam, Analisis Terhadap Pemikiran Jasser Auda," *Al-Manahij* 07, no. 01 (July 2013): 183–94.

²² Abdalla Ibrahim et al., "Child Labor and Health: A Systematic Literature Review of the Impacts of Child Labor on Child's Health in Low- and Middle-Income Countries," *Journal of Public Health* 41, no. 1 (March 1, 2019): 18–26, <https://doi.org/10.1093/pubmed/fdy018>.

²³ Birhanu Mengist Zewdie, Arega Bazezew Berlie, and Linger Ayele Mersha, "Causes of Child Labor and Working Conditions in Ethiopia: Evidence from Temporary Inter-Rural Child Labor Migrants from Sekela District," *Comparative Migration Studies* 12, no. 1 (June 13, 2024): 28, <https://doi.org/10.1186/s40878-024-00384-1>.

²⁴ Reda-Ciszewska, "Special Rights of Employees Caring for a Child or Other Family Member with Disabilities with Regard to the Organization of Working Time and Remote Working Under the Polish Labor Code."

²⁵ Amran Suadi, "The Role Of Religious Court In Women And Children Rights Protection Through Partial And Executable Decision" 7, no. 3 (November 2018): 353–74.

²⁶ Batomen Kuimi et al., "Child Labour and Health."

²⁷ Rowena B Bernard, "The Regional Regulation of Child Labour Laws through Harmonisation within COMESA, the EAC and SADC," *African Human Rights Law Journal* 23, no. 1 (July 24, 2023): 48–74, <https://doi.org/10.17159/1996-2096/2023/v23n1a3>.

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The importance of this issue is immense because child labor not only hinders children's physical and mental development but also perpetuates the cycle of intergenerational poverty²⁸. The Convention on the Rights of the Child (CRC) and ILO Conventions No. 138 and No. 182 emphasize that every child has the right to be protected from economic exploitation and hazardous work²⁹. However, in practice, this protection is often inadequate. Many children work in unsafe and unhealthy conditions, resulting in physical injuries, long-term health problems, and psychological impacts such as stress and trauma³⁰.

This research highlights gaps in the existing literature. Most studies focus on the impact of child labor on health and education³¹ but pay less attention to the effectiveness of policies and programs implemented to address this issue³². Moreover, the lack of accurate and detailed data on child labor conditions in the informal sector also hampers practical efforts to combat child labor³³.

The authors use the Maqasid Syariah approach to identify patterns and provide policy recommendations. However, further research is needed to understand how policies can be effectively implemented in various social and economic contexts. This study also emphasizes the importance of more focused community-level interventions, such as public awareness programs and health support for child workers, to create sustainable change. Thus, this article fills a gap in the literature by exploring new ways to protect child labor rights and improve their well-being and providing policy recommendations that can be applied in various countries to reduce child labor significantly.

Analysis of the Limitations of Law no. 35 of 2014 concerning Child Protection

²⁸ Utari et al., "Legal Protection for Children as Victims of Economic Exploitation."

²⁹ Laura Lundy and Helen Stalford, "The International Journal of Children's Rights," n.d.

³⁰ Esther Njieassam, "Child Labour in Artisanal and Small-Scale Gold Mines in Uganda: Are Legal Protections Adequate?," *Journal of African Law* 67, no. 1 (February 2023): 45–57, <https://doi.org/10.1017/S0021855322000298>.

³¹ Ibrahim et al., "Child Labor and Health."

³² Lundy and Stalford, "The International Journal of Children's Rights."

³³ Ajefu et al., "Women's Inheritance Rights and Child Health Outcomes in Kenya."

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In Indonesia, child protection is a moral, legal, and social foundation defining the shared responsibility of the government, society, and relevant institutions to safeguard children's rights, interests, and welfare. Systematic efforts are designed to ensure that children's rights are fulfilled and protected from all forms of violence, exploitation, neglect, and abuse. Law No. 35 of 2014 on Child Protection provides a robust legal foundation for achieving this protection³⁴.

This law defines a child as any person under the age of 18, including those still in the womb. It reinforces the state's commitment to respecting, protecting, and fulfilling children's rights across various aspects of life, such as education, health, and general welfare. The law emphasizes the vital roles of families, communities, and the government in child protection. As the smallest unit of society, families are primarily responsible for protecting and fulfilling children's rights. Communities play a significant role by creating a conducive environment for children's growth and development. At both central and local levels, the government is mandated to provide facilities and services that support child protection, including strict law enforcement against child rights violations³⁵.

The law also outlines mechanisms and procedures for protection involving various parties, such as child protection agencies, law enforcement officers, and non-governmental organizations. Regular monitoring and evaluation are conducted to ensure effective implementation of the law. Additionally, special handling for children who are victims of violence or rights violations, including rehabilitation and social reintegration, is arranged to ensure they receive equal opportunities to resume everyday, productive lives. This comprehensive approach aims to establish Indonesia as a child-friendly nation that safeguards the future of its younger generation³⁶.

The principles of child protection applied in Indonesia encompass non-discrimination, the best interests of the child, the right to life, survival and development, participation, and child advancement. The principle of non-discrimination asserts that every child has equal rights without discrimination

³⁴ "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak" (n.d.).

³⁵ Andri Hermawan, "Dokumen Identitas Pelaut Sebagai Wujud Perlindungan Hukum Tenaga Kerja Abk (Anak Buah Kapal) Indonesia Di Kapal Perikanan Berbendera Asing" (PhD Thesis, Universitas Brawijaya, 2016).

³⁶ Fadil Mas' ud, "Implikasi Undang-Undang Perlindungan Anak Terhadap Pekerja Anak (Suatu Kajian Sosiologi Hukum Terhadap Anak Penjual Koran Di Kota Kupang)," *JPK (Jurnal Pancasila Dan Kewarganegaraan)* 4, no. 2 (2019): 11–19.

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based on gender, social status, religion, or disability. The best interests of the child principle emphasizes that the child's best interests should be the primary consideration in every decision or action concerning the child³⁷.

The right to life, survival, and development also affirms the child's right to live, grow, and develop optimally, including access to food, healthcare, education, and a healthy environment. The participation principle recognizes that children can express their opinions in decisions affecting their lives following their developmental stage and maturity. The principle of child advancement stresses ensuring every child has equal opportunities to develop their potential and participate in societal life³⁸.

However, despite this solid legal framework, its implementation and enforcement face significant challenges. Research indicates that while legal frameworks exist, children in Indonesia remain vulnerable due to inconsistent application and weak enforcement. Children are still in hazardous work environments, especially in informal and rural areas, with minimal regulatory oversight³⁹.

Furthermore, the law underscores the importance of providing special protection for children in difficult circumstances, such as those involved in or affected by armed conflicts, children with disabilities, and those who have been victims of various forms of abuse. Nevertheless, practical implementation often falls short due to limited resources, lack of coordination among enforcement agencies, and insufficient awareness and training among those responsible for implementing these protections⁴⁰.

The critical need is for comprehensive policies that not only address the symptoms of child labor but also tackle the root causes, such as poverty, lack of access to quality education, and socio-economic inequalities. Effective policy implementation requires a coordinated approach involving all stakeholders, including the government, civil society, and the private sector, to uphold children's rights and welfare.

³⁷ Subrahmanian, "Eliminating Child Labour."

³⁸ Ibrahim et al., "Child Labor and Health."

³⁹ Zewdie, Berlie, and Mersha, "Causes of Child Labor and Working Conditions in Ethiopia."

⁴⁰ "International Labor Organization: Child Labor Convention Ratified by All ILO Member States, a First in ILO History," web page, Library of Congress, Washington, D.C. 20540 USA, accessed June 24, 2024, <https://www.loc.gov/item/global-legal-monitor/2020-09-30/international-labor-organization-child-labor-convention-ratified-by-all-ilo-member-states-a-first-in-ilo-history/>.

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Child protection is a fundamental responsibility of any civilized society and state. The legal framework governing child protection ensures that children's rights are comprehensively safeguarded. In many countries, child protection frameworks include various laws, regulations, and policies designed to uphold children's best interests in all aspects of their lives⁴¹.

The child protection framework in Indonesia is comprehensively regulated under Law No. 35 of 2014 on Child Protection, aimed at ensuring the fulfillment of children's rights and providing protection from all forms of violence, exploitation, neglect, and abuse. This law consists of 14 chapters and 93 articles detailing various aspects of child protection, from definitions, basic principles, rights and obligations, and the roles of related institutions to criminal provisions for violators of children's rights⁴².

General Provisions (Chapter I) defines a child as any person under 18, including those still in the womb. Basic Principles (Chapter II) emphasizes that every child has the right to life, survival, development, and protection from violence and discrimination. Rights and Obligations (Chapters III and IV) outline the rights and duties of children, parents, and the government. For example, Article 9 states that every child has the right to education and instruction to develop their personality and intelligence according to their interests and talents⁴³.

Articles 13-19 emphasize children's rights to protection from discrimination, economic exploitation, physical and psychological violence, and neglect. Articles 20-35 discuss the duties of parents, families, and communities in fulfilling children's rights and protection and the state's responsibility in providing health and education services⁴⁴.

Child protection procedures begin with the prevention and early detection of potential rights violations. The government must conduct socialization and education for the community on the importance of child protection and provide complaint and case-handling services through institutions such as the Indonesian Child Protection Commission (KPAI) and

⁴¹ Florentz Magdalena, "Penyerapan Tenaga Kerja Anak Di Indonesia" (Universitas Gadjah Mada, 2021).

⁴² "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak."

⁴³ "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak."

⁴⁴ Moh Said, "EVALUASI KEBIJAKAN PENGURANGAN PEKERJA ANAK PROGRAM KELUARGA HARAPAN DI DINAS TENAGA KERJA DAN TRANSMIGRASI KABUPATEN SUMENEP," *PUBLIC CORNER* 9, no. 2 (2014).

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Integrated Service Centers for the Empowerment of Women and Children (P2TP2A)⁴⁵.

When a violation occurs, the first step is reporting by the community or any party aware of the violation. Reports can be made to the police, KPAI, or P2TP2A. Law enforcement will then conduct investigations and inquiries according to legal procedures. Articles 69 to 72 regulate the investigation process, emphasizing the special treatment of children who are victims or perpetrators of crimes.

During the handling stage, children who are victims of violence or rights violations receive rehabilitation services, both medical, psychological, and social. Article 59 states that the government must provide unique places for children needing protection, such as safe houses or shelters. This rehabilitation aims to restore the child's physical and psychological condition and facilitate social reintegration.

Regular monitoring and evaluation are conducted to ensure the effective implementation of this law. Relevant institutions such as KPAI and the Ministry of Women's Empowerment and Child Protection monitor and evaluate the cases handled and compile annual reports containing recommendations for improving the child protection system in Indonesia⁴⁶.

The final part of this law, particularly Articles 76 to 89, regulates criminal sanctions for violators of children's rights. For example, Article 76A states that anyone who commits physical violence against a child is threatened with imprisonment for up to 5 years and a maximum fine of Rp100 million. Other violations, such as sexual exploitation, child trafficking, and neglect, are also threatened with severe criminal sanctions, according to the seriousness of the violations committed⁴⁷.

Limitations	Issues	Solutions
Inconsistent Implementation and Enforcement	Inconsistent law enforcement allows child labor to persist, especially in informal sectors and rural areas.	Strengthen monitoring and enforcement mechanisms, including specialized training for law enforcement officers.

⁴⁵ Mohammad Kavid, "PERAN PUSAT PELAYANAN TERPADU PERLINDUNGAN PEREMPUAN DAN ANAK (P2TP2A) ODAH ETAM DALAM UPAYA MENANGANI KEKERASAN ANAK DI KOTASAMARINDA" 6 (n.d.).

⁴⁶ Ibrahim et al., "Child Labor and Health."

⁴⁷ Batomen Kuimi et al., "Child Labour and Health."

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Limitations	Issues	Solutions
Resource Constraints	Effective implementation requires substantial resources, often limited in many regions of Indonesia.	Increase funding for child protection, develop training programs for personnel, and strengthen supporting infrastructure.
Coordination Among Stakeholders	Lack of effective coordination among various stakeholders hampers the law's effectiveness.	Build an integrated coordination system among government, NGOs, and communities to enhance communication and cooperation.
Awareness and Education	Lack of awareness and education about the law and children's rights among communities, parents, and law enforcement.	Increase public awareness campaigns and education programs about children's rights and legal protections.
Addressing Root Causes	The law addresses symptoms rather than the root causes of child labor, such as poverty and lack of education.	Develop comprehensive policies addressing the root causes of child labor, including poverty alleviation and improving access to education.

Despite Law No. 35 of 2014 providing a robust legal framework, several limitations hinder its effectiveness, particularly concerning child labor in the current era.

1. Inconsistent Implementation and Enforcement

Implementation and enforcement of the law are inconsistent. Although the law mandates comprehensive protection for children, real-world application often diverges due to inadequate monitoring and enforcement mechanisms. This inconsistency allows child labor to persist, especially in informal sectors and rural areas with minimal regulatory oversight⁴⁸.

2. Resource Constraints

⁴⁸ "International Labor Organization."

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Effective law implementation requires substantial resources, including trained personnel, financial support, and infrastructure⁴⁹. Many regions in Indonesia face resource constraints that limit their ability to enforce the law effectively⁵⁰. This shortage leads to gaps in protection and support services for children, especially those in vulnerable situations.

3. Coordination Among Stakeholders

Another limitation is the lack of effective coordination among various stakeholders, including government agencies, non-governmental organizations (NGOs), and communities. While the law outlines the roles and responsibilities of different entities in child protection, the absence of a cohesive and integrated approach hampers the law's effectiveness. Better coordination is needed to ensure comprehensive and unified efforts in protecting children's rights⁵¹.

4. Awareness and Education

There is a significant need for increased awareness and education about the law and children's rights among communities, parents, and law enforcement officers⁵². Many cases of child labor stem from a lack of knowledge about the legal protections available and the long-term impacts of child labor on children's development and well-being.

5. Addressing Root Causes

The law primarily addresses the symptoms of child labor rather than its root causes⁵³. Issues such as poverty, lack of access to quality education, and socio-economic inequalities drive child labor. Comprehensive policies that tackle these underlying factors are essential for the law's effectiveness. This analysis includes measures to alleviate poverty, improve educational opportunities, and reduce socio-economic disparities.

Modern Needs	Strategies	Reconstruction
Digital Safety	Protect children from online exploitation, cyberbullying, and inappropriate content	Incorporate digital safety provisions into child protection laws and develop digital

⁴⁹ Yayan Sopyan et al., "Child Exploitation by Parents in Early Marriage: Case Study in Cianjur West Java, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (November 30, 2023): 1921, <https://doi.org/10.22373/sjkh.v7i3.14804>.

⁵⁰ Magdalena, "Penyerapan Tenaga Kerja Anak Di Indonesia."

⁵¹ Sopyan et al., "Child Exploitation by Parents in Early Marriage."

⁵² Freitas et al., "Between Play and Exploitation."

⁵³ "International Labor Organization."

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Modern Needs	Strategies	Reconstruction
	through strong regulations and awareness programs.	education programs for children and parents.
Mental Health	Provide access to psychological support and counseling services to ensure children's mental well-being.	Enhance mental health services in schools and communities and integrate mental health education into school curricula.
Inclusive Education	Ensure all children have access to quality education regardless of their socio-economic background.	Enforce inclusive education policies and provide necessary resources to support children with special needs education.
Economic Security	Reduce child labor by providing social safety nets, vocational training for parents, and economic support for families.	Develop comprehensive social welfare programs and provide access to job training and economic support for low-income families.

In the current era, children face a variety of new challenges that require updated and comprehensive protection measures:

a) Digital Safety

With the increasing prevalence of the internet and digital technology, children are exposed to new risks such as online exploitation, cyberbullying, and inappropriate content. Modern child protection laws need to address these digital safety concerns comprehensively⁵⁴.

b) Mental Health

There is a growing recognition of the importance of mental health in children's overall well-being. Modern laws should include provisions for protecting and promoting children's mental health and ensuring access to psychological support and counseling services⁵⁵.

c) Inclusive Education

⁵⁴ Renata Tomaz, Brenda Guedes, and Ingrid Martins, "Main Challenges for Child Digital Citizenship in a Consumer Culture in Brazil," *Journalism and Media* 4, no. 1 (December 30, 2022): 42–59, <https://doi.org/10.3390/journalmedia4010004>.

⁵⁵ Jason Hung, "Policy-Oriented Examination of Left-Behind Children's Health and Well-Being in China," *Sustainability* 15, no. 7 (March 30, 2023): 5977, <https://doi.org/10.3390/su15075977>.

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Ensuring all children have access to quality education regardless of their socio-economic background is crucial⁵⁶. Laws should enforce inclusive education policies that accommodate children with disabilities and those from marginalized communities⁵⁷.

d) Economic Security

Addressing the economic conditions that lead to child labor is essential⁵⁸. Policies that provide social safety nets, vocational training for parents, and economic support for families can help reduce the incidence of child labor.

While Law No. 35 of 2014 establishes a strong foundation for child protection in Indonesia, its effectiveness is limited by implementation challenges, resource constraints, and insufficient coordination among stakeholders. Addressing these limitations and adapting the law to meet modern needs are crucial steps toward ensuring robust protection and welfare for children in Indonesia.

Analysis of Child Labor Protection from the Perspective of Maqasid Syariah

Evaluating and monitoring the performance in protecting child labor rights is crucial to ensure the effectiveness of implemented programs and policies. This evaluation involves assessing the achievement of objectives, resource utilization efficiency, and the effectiveness of child protection program implementation. Evaluation helps identify successes, weaknesses, and challenges, allowing for policy improvement in the future⁵⁹.

The primary focus of the evaluation is measuring compliance with established regulations, including minimum working age, permissible working hours, and safe working conditions. It should also measure the extent of law enforcement and the effectiveness of penalties for violators⁶⁰. Evaluations must consider the real impact of policies on the lives of working

⁵⁶ Chuzaimatus Saadah, Az Zahra Aulya Salsabila, and Dwi Khalimah, "PRODUCTIVE ZAKAT AND WOMEN'S EMPOWERMENT FOR INCLUSIVE ECONOMY: SHARIA ECONOMIC LAW AND SOCIAL FIQH IN INDONESIA," *Mu'amalah: Jurnal Hukum Ekonomi Syariah* 3, no. 1 (June 14, 2024): 77, <https://doi.org/10.32332/muamalah.v3i1.9248>.

⁵⁷ Sopyan et al., "Child Exploitation by Parents in Early Marriage."

⁵⁸ Utari et al., "Legal Protection for Children as Victims of Economic Exploitation."

⁵⁹ Ibrahim et al., "Child Labor and Health."

⁶⁰ Lundy and Stalford, "The International Journal of Children's Rights."

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children. This includes changes in working conditions, access to education and health services, and changes in exploitation and violence levels. A holistic approach is necessary, involving children and their families to understand their experiences deeply⁶¹.

Performance monitoring should involve external parties such as NGOs and international organizations to ensure the evaluation process is independent and objective. External involvement helps enhance accountability and transparency in child protection efforts. The main challenges in evaluation are data limitations, especially in the informal sector, and a lack of trained human resources for conducting evaluations. Therefore, more excellent investment is needed in capacity and infrastructure to support performance evaluations.

The Maqasid Syariah approach emphasizes five main objectives: protection of religion (الدين), life (النفوس), intellect (العقل), lineage (النسل), and property (المال)⁶². Child labor protection encompasses several objectives, such as safeguarding the child's life and intellect from hazardous work and ensuring they grow up in a healthy and supportive environment.

قوله تعالى: "وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ" (الأَنْعَام: 151)

Do not kill the soul which Allah has forbidden, except for a just cause." (QS. Al-An'am: 151)

This verse emphasizes the importance of protecting life as a primary objective of Sharia. Protecting children from hazardous labor exploitation aligns with efforts to ensure their safety and welfare⁶³. After emphasizing the importance of monotheism (tawhid) and the duty of children to respect and serve their parents, the third critical piece of advice is directed toward parents: do not kill your children out of fear of poverty⁶⁴.

In Surah Al-Isra (17:31), Allah warns:

"Do not kill your children for fear of poverty. We provide for them and you. Surely, killing them is a heinous sin."

This warning addresses a practice from the time of ignorance (jahiliyyah) when people, having little faith in Allah, would kill their children

⁶¹ "International Labor Organization."

⁶² Ainol Yaqin, "Revitalisasi Maqashid Al-Syari'ah Dalam Istibath Hukum Islam: Kajian Atas Pemikiran Muhammad Al-Thahir Ibnu 'Asyur," *Asy-Syir'ah Jurnal Ilmu Syari'ah Dan Hukum* 50, no. 2 (2016): 315–40.

⁶³ *Tafsir Ibnu Katsir Juz 8* (Bandung: Sinar Baru Algensindo, 2000).

⁶⁴ M. Quraish Shihab, *Tafsir Al-Misbah (Kesan, Pesan Dan Keserasian Al-Qur'an) Jilid 4, Lentera Hati*, vol. 4, 1, 2000, <https://www.ptonline.com/articles/how-to-get-better-mfi-results>.

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due to fear of poverty⁶⁵. The continuation of this verse reassures that Allah is the Provider for both parents and their children:

“And do not kill your children for fear of poverty. We provide for them and you. Surely, killing them is a heinous sin.” (Quran 17:31)

Furthermore, Allah confirms this provision in Surah Hud (11:6): “And there is no creature on earth but that upon Allah is its provision, and He knows its place of dwelling and place of storage. All is in a clear register.” (Quran 11:6)

During the era of ignorance, it was common for people to kill their children out of fear of poverty. This practice, unfortunately, still echoes in modern times, where some impoverished nations see parents selling their children because they cannot afford to feed them⁶⁶. This mindset can harm the child’s education and overall well-being if parents perceive their children as merely a burden.

Within the context of Maqasid Syariah, priority is given to education and development over labor. Imam Al-Ghazali, in “المستصفى من علم الأصول” argues that education and child protection must be prioritized to ensure children grow and positively contribute to society⁶⁷. Imam Asy-Syatibi in “الموافقات في أصول الشريعة” emphasizes that any measure leading to human welfare and preventing harm is a Sharia objective. Hence, policies protecting children from exploitation and providing access to education and health are Maqasid Syariah implementations⁶⁸.

If we look at the hierarchy of the five main objectives in Maqasid Syariah’s theory, the primary position for children is to be protected in their religion. This means that children must be guaranteed the freedom to follow their faith according to their parents’ guidance or their own choice. Following this, children’s right to life must be protected, and no party can take the life of a child, even their parents.

Next, children must have their intellect protected, ensuring their right to education in Indonesia’s Constitution. Article 9 of the Child Protection Law

⁶⁵ Shihab.

⁶⁶ Shihab.

⁶⁷ أبي حامد محمد بن محمد/الغزالي الطوسي, *المستصفى* and عبد الله محمود محمد عمر *علم الأصول* (Dar Al-Kutub Al-Ilmiah, 2014), <https://books.google.co.id/books?id=8C1uDwAAQBAJ>.

⁶⁸ أبي إسحاق إبراهيم بن موسى اللخمي/الشاطبي, and عبد الله دراز ومحمد عبد الله دراز *الموافقات في أصول الشريعة 1-2* (Dar Al Kotob Al Ilmiah 2018), *الموافقات في أصول الشريعة 1-2*, (دار الكتب العلمية), <https://books.google.co.id/books?id=I7N0DwAAQBAJ>.

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emphasizes the importance of education and teaching for children. Proper education is crucial to develop children into wise adults. Mistakes in educating children can lead to a generation's downfall. After the three rights mentioned above, lineage/honor and property protection follow. We realize that material concerns are the last in the protection hierarchy, according to Maqasid Syariah.

According to Maqasid Syariah's theory, protecting children's labor rights involves preventing child labor and restoring primary guidance and character-building, according to Maqasid Syariah's indicators. Parental care for children should prioritize the maintenance of religion, life, intellect, honor, and property. When parents encourage children to work for money, it should not lead to children dropping out of school, as education aims to maintain religion, life, intellect, and honor.

The phenomenon of children working to earn a living shows parents' misunderstanding of the priority scale of child care. The shift to the digital era should be accompanied by a parental understanding of the child protection priority scale based on Maqasid Syariah.

To ensure comprehensive child protection and align with the principles of Maqasid Syariah, the following policy recommendations are proposed:

1) Prioritize Education

Policies should ensure children access quality education, including financial support for needy families. This ensures that children do not have to work to meet economic needs. Education should be considered a fundamental right and priority, as Article 9 of the Child Protection Law emphasizes the importance of education and teaching for children. The principle of protecting intellect (العقل) from Maqasid Syariah underlines this necessity.

2) Strict Labor Protection

Enforce strict regulations regarding the minimum working age, permissible working hours, and safe working conditions for children. Effective law enforcement is essential to prevent child exploitation. These regulations align with the Maqasid Syariah principle of protecting life (النفوس) by ensuring children are not subjected to hazardous labor conditions.

3) Community Training and Awareness

Increase public awareness about the importance of child protection through educational campaigns and training programs for parents and employers. Raising awareness aligns with the Maqasid Syariah objective of

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protecting intellect (العقل) and ensuring that the community understands the significance of safeguarding children's rights and well-being.

4) Multi-Stakeholder Cooperation

Encourage cooperation between the government, private sector, NGOs, and civil society in formulating and implementing comprehensive child protection policies. Collaborative efforts are necessary to address the multifaceted issue of child labor and ensure effective implementation and enforcement of protective measures.

5) Regular Monitoring and Evaluation

Regular monitoring and evaluation of child protection policies and programs should be conducted to ensure their effectiveness and make necessary adjustments. Continuous assessment aligns with the Maqasid Syariah principle of preserving intellect (العقل) by ensuring that policies remain relevant and effective in protecting children's rights and development.

By adopting the Maqasid Syariah approach, child protection policies can be more comprehensive and focused on the long-term welfare of children, ensuring they grow up in a safe, healthy, and supportive environment.

The following table presents a set of proposed articles for the Child Protection Law, structured according to the principles of Maqasid Syariah. These recommendations aim to ensure comprehensive protection of children's rights by aligning with the five main objectives of Maqasid Syariah: protecting religion (الدين), life (النفس), intellect (العقل), lineage (النسل), and property (المال). Each article and clause addresses critical areas of child protection, ensuring that children can grow and develop in a safe, supportive, and nurturing environment. The justifications provided highlight how these recommendations align with the objectives of Maqasid Syariah, ensuring their relevance and effectiveness in contemporary contexts.

Article	Clauses	Justification
Right to Education	<ol style="list-style-type: none"> 1. Every child shall have the right to free and compulsory primary education. 2. The state shall provide financial assistance to families in need to ensure children's access to secondary and higher education. 	<p>Prioritizing education aligns with the Maqasid Syariah principle of protecting intellect (العقل), ensuring children receive the education necessary for their development and future contributions to society.</p>

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Article	Clauses	Justification
Prohibition of Child Labor	<ol style="list-style-type: none"> 1. The minimum age for employment shall be set at 15 years. 2. Employment of children aged 15-18 years shall be regulated, ensuring it does not interfere with their education and is not hazardous. 3. Employers violating these regulations shall face strict penalties, including fines and imprisonment. 	<p>Protecting children from exploitation and hazardous work aligns with the Maqasid Syariah principle of protecting life (النفس).</p>
Community Awareness and Education	<ol style="list-style-type: none"> 1. The government shall implement nationwide educational campaigns to raise awareness about child protection laws and the importance of education. 2. Training programs for parents and employers on children's rights and legal obligations shall be mandatory. 	<p>Community education aligns with the Maqasid Syariah principle of protecting intellect (العقل) and ensures a broader societal understanding of the importance of child protection.</p>
Multi-Stakeholder Collaboration	<ol style="list-style-type: none"> 1. Establish a national committee comprising government, private sector, NGOs, and civil society representatives to oversee child protection initiatives. 2. This committee shall regularly meet to review policies, share best practices, and coordinate 	<p>The collaboration aligns with the comprehensive approach to effectively addressing child labor issues.</p>

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Article	Clauses	Justification
	efforts to protect children's rights.	
Monitoring and Evaluation	<ol style="list-style-type: none"> 1. The government shall establish an independent body to monitor and evaluate the implementation of child protection laws. 2. This body shall publish annual reports on the state of child protection and make recommendations for policy improvements. 	Regular monitoring and evaluation ensure policies remain effective and adapt to changing circumstances, aligning with the Maqasid Syariah principle of preserving intellect (العقل).

These proposed articles aim to provide a robust legal framework for protecting children's rights in Indonesia, ensuring their well-being and development in line with the principles of Maqasid Syariah.

Conclusion

This study has explored the multifaceted issue of child labor and evaluated the effectiveness of existing legal frameworks in protecting child workers' rights through Maqasid Syariah's lens. This approach emphasizes the holistic well-being of children by safeguarding their religion, life, intellect, lineage, and property. Despite the robust legal foundation provided by Law No. 35 of 2014 on Child Protection, several limitations have been identified that hinder its effectiveness, particularly in addressing child labor in contemporary society. These limitations include inconsistent implementation and enforcement, resource constraints, lack of coordination among stakeholders, insufficient awareness and education about children's rights, and the need to address the root causes of child labor, such as poverty and socio-economic inequalities.

To enhance the protection of child laborers, the following policy recommendations are proposed based on the principles of Maqasid Syariah: prioritizing education to ensure children have full access to quality education, enforcing strict labor protection regulations, increasing community training

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and awareness, encouraging multi-stakeholder cooperation, and conducting regular monitoring and evaluation of child protection policies and programs. These recommendations aim to provide a comprehensive approach to child protection that is both effective and sustainable.

Additionally, it is crucial to use the hierarchy of the five protections (religion, life, intellect, lineage, and property) as indicators in evaluating child protection. By employing this hierarchy, we can ensure that all aspects of children's well-being are holistically addressed, from spiritual and intellectual needs to physical and economic protection.

Future research should focus on implementing these policy recommendations and developing new strategies to enhance child protection. Investigating the impact of educational campaigns and community training programs on reducing child labor and the effectiveness of multi-stakeholder collaboration in different socio-economic contexts would provide valuable insights. Furthermore, developing a new theory on the integration of Maqasid Syariah with contemporary child protection laws could offer a more holistic and culturally relevant approach to addressing child labor issues.

In conclusion, adopting a holistic approach grounded in Maqasid Syariah can create a legal and social environment that protects and nurtures children's well-being, ensuring they grow up in a safe, healthy, and supportive environment. This new theoretical framework of integrating Maqasid Syariah with modern child protection laws offers a promising avenue for enhancing the effectiveness of child labor policies globally.

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أبي إسحاق إبراهيم بن موسى اللخمي/الشاطبي. *الموافقات*. دار ال Kotob Al Ilmiyah 2018. *في أصول الشريعة 2-1 ج2. الموافقات في أصول الشريعة 2-1*. *دار الكتب العلمية*. <https://books.google.co.id/books?id=I7N0DwAAQBAJ>.

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Peer Review 1



Samarah: Jurnal Hukum Keluarga dan Hukum Islam
Volume 5 No. 1. January-June 2021
ISSN: 2549 – 3132; E-ISSN: 2549 – 3167
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PROTECTING CHILD LABOR RIGHTS: MAQASID SYARIAH FRAMEWORK AND POLICY RECOMMENDATIONS

For improving:

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| ▪ This study is in accordance with the focus of the Samarah journal |
| ▪ Follow the journal of Samarah template |
| ▪ This study will interest Islamic law scholars and contribute to the context of Islamic law, seen from the perspective of human rights at the local (national) and global (international) human rights levels. |
| ▪ The literature review must clearly explain the grand theory of this research |
| ▪ A literature review must quote journal articles indexed scopus |
| ▪ Use the latest reference of the last 5 years |
| ▪ The author must explain the results of the data analysis and connect them to the theory used to make the findings clear. |
| ▪ The author should explain the contribution of the article to the mining of maqashid shariah (Islamic law) studies and guarantees of the protection of children's rights from human trafficking crimes both in Indonesia and in the world. |
| ▪ check your references and technical writing |

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Abstract: Child labor remains a significant issue in contemporary society despite the existence of legal frameworks aimed at protecting children's rights. This study addresses the problem of child labor by examining the effectiveness of current legal frameworks, particularly Indonesia's Law No. 35 of 2014 on Child Protection, through the lens of Maqasid Syariah. The research questions guiding this study are: How influential are the current legal frameworks in protecting child workers? What are the limitations of these frameworks? How can Maqasid Syariah principles enhance child protection laws? This study employs a qualitative method, utilizing literature review and legal analysis to evaluate the existing legal frameworks and propose improvements based on Maqasid Syariah principles. The findings indicate several limitations in the current law, including inconsistent implementation and enforcement, resource constraints, lack of coordination among stakeholders, insufficient awareness and education about children's rights, and the need to address the root causes of child labor, such as poverty and socio-economic inequalities. This study enhances child laborers' protection by prioritizing education, enforcing strict labor protection regulations, increasing community training and awareness, encouraging multi-stakeholder cooperation, and regularly monitoring and evaluating child protection policies and programs. The study also highlights the importance of using the hierarchy of the five protections (religion, life, intellect, lineage, and property) as indicators in evaluating child protection. By adopting a holistic approach grounded in Maqasid Syariah, this study proposes a new theoretical framework for integrating these principles with contemporary child protection laws, offering a promising avenue for enhancing the effectiveness of child labor policies globally. These

Commented [R1]: Clarify that this study is expected to attract the attention of scholars in Islamic law who are interested in the interaction between Islamic law and human rights.

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recommendations aim to ensure that children grow up in a safe, healthy, and supportive environment, free from exploitation and hazardous labor conditions.

Keywords: Child labor, Child protection, Maqasid Syariah, Legal framework, Policy recommendations.

***Abstrak:** Pekerja anak tetap menjadi masalah signifikan dalam masyarakat kontemporer, meskipun ada kerangka hukum yang bertujuan untuk melindungi hak-hak anak. Studi ini membahas masalah pekerja anak dengan menilai efektivitas kerangka hukum saat ini, khususnya Undang-Undang No. 35 Tahun 2014 tentang Perlindungan Anak di Indonesia, melalui pendekatan Maqasid Syariah. Pertanyaan penelitian yang memandu studi ini adalah: Seberapa efektif kerangka hukum saat ini dalam melindungi pekerja anak? Apa saja keterbatasan dari kerangka ini? Bagaimana prinsip-prinsip Maqasid Syariah dapat meningkatkan undang-undang perlindungan anak? Studi ini menggunakan metode kualitatif, dengan menggunakan tinjauan literatur dan analisis hukum untuk mengevaluasi kerangka hukum yang ada dan mengusulkan perbaikan berdasarkan prinsip-prinsip Maqasid Syariah. Temuan menunjukkan beberapa keterbatasan dalam undang-undang saat ini, termasuk implementasi dan penegakan yang tidak konsisten, keterbatasan sumber daya, kurangnya koordinasi di antara para pemangku kepentingan, kurangnya kesadaran dan pendidikan tentang hak-hak anak, serta kebutuhan untuk menangani akar penyebab pekerja anak seperti kemiskinan dan ketidaksetaraan sosial-ekonomi. Untuk meningkatkan perlindungan pekerja anak, studi ini merekomendasikan untuk memprioritaskan pendidikan, menegakkan regulasi ketat perlindungan tenaga kerja, meningkatkan pelatihan dan kesadaran masyarakat, mendorong kerjasama multi-pihak, serta melakukan pemantauan dan evaluasi berkala terhadap kebijakan dan program perlindungan anak. Studi ini juga menyoroti pentingnya menggunakan hierarki lima perlindungan (agama, jiwa, akal, keturunan, dan harta) sebagai indikator dalam mengevaluasi perlindungan anak. Dengan mengadopsi pendekatan holistik yang berlandaskan Maqasid Syariah, studi ini mengusulkan kerangka teoretis baru untuk mengintegrasikan prinsip-prinsip ini dengan undang-undang perlindungan anak kontemporer, menawarkan jalan yang menjanjikan untuk meningkatkan efektivitas kebijakan pekerja anak secara global. Rekomendasi ini bertujuan untuk memastikan bahwa anak-anak*

Commented [R2]: Highlight the study's contribution to the advancement of understanding Islamic law within the context of human rights.

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tumbuh dalam lingkungan yang aman, sehat, dan mendukung perkembangan mereka, bebas dari eksploitasi dan kondisi kerja berbahaya.

Kata Kunci: Pekerja anak, Perlindungan anak, Maqasid Syariah, Kerangka hukum, Rekomendasi kebijakan

Introduction

Since ancient times, children have been an integral part of economic activities. However, understanding their rights within the context of labor has faced significant challenges throughout various historical periods¹. A review of literature spanning human history reveals narratives about children involved in various forms of work, from agriculture to modern industries². Over this long span, our understanding of their rights has shifted significantly in line with evolving societal views on child protection³.

Through the lens of literature, we can trace how views on child labor rights have changed over time. In many traditional societies, children were often seen as family members who must contribute to earning a livelihood from an early age. During those times, views on child rights in the context of labor were more inclined towards fulfilling economic needs rather than protecting their well-being⁴. However, with the emergence of the human rights movement in the 20th century, awareness of the importance of protecting children from exploitation and oppression began to emerge globally⁵.

Commented [R3]: Include case studies on national laws and regulations in countries that apply Islamic law.

Commented [R4]: Outline how the implementation of Islamic law in various countries impacts human rights at the national level

¹ Indah Sri Utari et al., "Legal Protection for Children as Victims of Economic Exploitation: Problems and Challenges in Three Major ASEAN Countries (Indonesia, Vietnam and Philippines)," *Lex Scientia Law Review* 7, no. 2 (November 6, 2023): 771–842, <https://doi.org/10.15294/lesrev.v7i2.68301>.

² Fanqiang Meng et al., "The Impact of Labor Mobility with Fellow Townsfolk on the Wages of Rural Migrants: Evidence from China," *Humanities and Social Sciences Communications* 10, no. 1 (July 5, 2023): 376, <https://doi.org/10.1057/s41599-023-01795-8>.

³ Ramya Subrahmanian, "Eliminating Child Labour: What Needs to Be Done?," *BMJ Paediatrics Open* 7, no. 1 (December 2023): e002102, <https://doi.org/10.1136/bmjpo-2023-002102>.

⁴ Oleg M. Yaroshenko et al., "Child Labour in Show Business in Europe: Legal Status and Protection of the Rights of Child Actors, Singers and Models," *JusOnline*, no. 1 (April 2024): 58, https://doi.org/10.26350/18277942_000164.

⁵ John Kennedy and Ishita Chatterjee, "Manual Scavenging at Early Age: A Critical Analysis from the Perspective of Children of Manual Scavengers as Child Labour,"

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In contemporary society, there are various approaches to protecting child labor rights. Many countries have adopted legal regulations that set minimum ages for employment⁶, working hours, safe working conditions, and mandatory education⁷. Nonetheless, challenges remain in consistently implementing and enforcing these regulations worldwide. Phenomena such as child labor in the informal sector and home industries, as well as the exploitation of children in global supply chains, show that protecting child labor rights is still a complex and urgent issue⁸.

Indah Sri Utari et al. highlights the significant legal and practical challenges in protecting children from economic exploitation in ASEAN countries. Despite existing laws, implementation is often weak, and enforcement mechanisms are insufficient to ensure adequate protection⁹. Fanqiang Meng et al. discuss how labor mobility among rural migrants in China impacts wages but also underscores the vulnerability of children in these migrant families to labor exploitation due to economic pressures.¹⁰

Ramya Subrahmanian emphasizes the need for a multifaceted approach to eliminate child labor, stressing that international efforts must be complemented by national policies that address the root causes, such as poverty and lack of education¹¹. Oleg M. Yaroshenko et al. investigate child labor in the European show business industry, revealing that despite regulations, child actors and performers are often subject to exploitation and insufficient legal protection¹².

Commented [R5]: Discuss the practical implications for the protection of individual and group rights within local contexts.

Revista de Gestão Social e Ambiental 18, no. 3 (May 20, 2024): e07016, <https://doi.org/10.24857/rgsa.v18n3-127>.

⁶ Brice Lionel Batomen Kuimi et al., "Child Labour and Health: A Systematic Review," *International Journal of Public Health* 63, no. 5 (June 1, 2018): 663–72, <https://doi.org/10.1007/s00038-018-1075-9>.

⁷ Joseph Ajefu et al., "Women's Inheritance Rights and Child Health Outcomes in Kenya," *Journal of Family and Economic Issues* 45, no. 1 (March 2024): 137–50, <https://doi.org/10.1007/s10834-023-09895-y>.

⁸ Bárbara Morais Santiago Freitas et al., "Between Play and Exploitation: What Is the Place of the Rights of Child YouTubers?," *European Journal of Investigation in Health, Psychology and Education* 14, no. 5 (May 1, 2024): 1197–1213, <https://doi.org/10.3390/ejihpe14050079>.

⁹ Utari et al., "Legal Protection for Children as Victims of Economic Exploitation."

¹⁰ Meng et al., "The Impact of Labor Mobility with Fellow Townsmen on the Wages of Rural Migrants."

¹¹ Subrahmanian, "Eliminating Child Labour."

¹² Yaroshenko et al., "Child Labour in Show Business in Europe."

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John Kennedy and Ishita Chatterjee analyze manual scavenging among children in India, showing that socio-economic factors and insufficient policy enforcement contribute to the continuation of this hazardous practice¹³. Joseph Ajefu et al. explore the impact of women's inheritance rights on child health outcomes in Kenya, linking economic empowerment of families to reduced child labor and better health for children¹⁴.

Bárbara Morais Santiago Freitas et al. discuss the blurred lines between play and exploitation in the context of child YouTubers, pointing out the gaps in regulatory frameworks to protect children in digital labor environments¹⁵. Anna Reda-Ciszewska examines the special rights of employees caring for children or family members with disabilities in Poland, highlighting how legal provisions can impact the balance between work and family responsibilities.¹⁶

Yuly Inés Liñan Cuello et al. provide an overview of child labor in Latin America, emphasizing the need for educational and social constructs to address the issue effectively¹⁷. Joana Morrison et al. evaluate health equity progress in Somalia, drawing connections between improved maternal and newborn health and reduced child labor due to better socio-economic conditions¹⁸.

Despite the various strategies and regulations, there is a noticeable gap in policies that effectively strengthen the protection of children as workers. The research indicates that while legal frameworks exist, their implementation and enforcement are often inadequate, leaving children vulnerable to exploitation and hazardous working conditions. There is a

¹³ Kennedy and Chatterjee, "Manual Scavenging at Early Age."

¹⁴ Ajefu et al., "Women's Inheritance Rights and Child Health Outcomes in Kenya."

¹⁵ Freitas et al., "Between Play and Exploitation."

¹⁶ Anna Reda-Ciszewska, "Special Rights of Employees Caring for a Child or Other Family Member with Disabilities with Regard to the Organization of Working Time and Remote Working Under the Polish Labor Code," *PRAWO i WIEŻ* 49, no. 2 (May 24, 2024): 209–22, <https://doi.org/10.36128/PRIW.V149.628>.

¹⁷ Yuly Inés Liñan Cuello, Jaidith Eneth Vidal, and Katerine Yohana Solano Brito, "Situación actual del trabajo infantil en Latinoamérica: una mirada desde los constructos educativos.," May 6, 2024, <https://doi.org/10.5281/ZENODO.11118092>.

¹⁸ Joana Morrison and Sk Md Mamunur Rahman Malik, "Health Equity in Somalia? An Evaluation of the Progress Made from 2006 to 2019 in Reducing Inequities in Maternal and Newborn Health," *International Journal for Equity in Health* 23, no. 1 (March 5, 2024): 46, <https://doi.org/10.1186/s12939-023-02092-1>.

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critical need for comprehensive policies that not only address the symptoms but also the root causes of child labor, ensuring robust protection and welfare for children globally.

The Maqasid Syariah approach¹⁹, which aims to protect five fundamental human needs (religion, life, intellect, progeny, and wealth)²⁰, offers a relevant framework for addressing child labor issues²¹. Maqasid Syariah emphasizes safeguarding children's welfare and rights from exploitation²². Therefore, child labor issues are not only viewed from legal and economic perspectives but also broader ethical and moral standpoints, ensuring that all aspects of children's lives are protected following Syariah principles.

The article "Protecting Child Labor Rights" highlights the serious issue of protecting children as workers in the modern era. Despite various international efforts to reduce child labor²³, the practice remains widespread, particularly in the informal sectors such as agriculture and domestic work²⁴. For example, the COVID-19 pandemic has exacerbated this situation, increasing the number of children working due to economic pressures and educational disruptions²⁵. In many developing countries, children are still

¹⁹ Luthfiyah Dewi Masyithoh, Dwi Putra Amrah, and Imron Musthofa, "SHARIA ECONOMIC LAW ANALYSIS OF MUD BATHING IN TIKTOK LIVE AS ONLINE BEGGING (MAQASHID SYARIAH APPROACH)," *Mu'amalah: Jurnal Hukum Ekonomi Syariah* 3, no. 1 (June 9, 2024): 19, <https://doi.org/10.32332/muamalah.v3i1.7831>.

²⁰ Jasser Auda, *Membumikan Hukum Islam Melalui Maqashid Syariah*, trans. Rosidin and 'Ali 'Abd el-Mun'im (Bandung: Mizan, 2015).

²¹ Abbas Arfan, "Maqasid Al-Syariah Sebagai Sumber Hukum Islam, Analisis Terhadap Pemikiran Jasser Auda," *Al-Manahij* 07, no. 01 (July 2013): 183–94.

²² Abdalla Ibrahim et al., "Child Labor and Health: A Systematic Literature Review of the Impacts of Child Labor on Child's Health in Low- and Middle-Income Countries," *Journal of Public Health* 41, no. 1 (March 1, 2019): 18–26, <https://doi.org/10.1093/pubmed/fdy018>.

²³ Birhanu Mengist Zewdie, Arega Bazezew Berlie, and Linger Ayele Mersha, "Causes of Child Labor and Working Conditions in Ethiopia: Evidence from Temporary Inter-Rural Child Labor Migrants from Sekela District," *Comparative Migration Studies* 12, no. 1 (June 13, 2024): 28, <https://doi.org/10.1186/s40878-024-00384-1>.

²⁴ Reda-Ciszewska, "Special Rights of Employees Caring for a Child or Other Family Member with Disabilities with Regard to the Organization of Working Time and Remote Working Under the Polish Labor Code."

²⁵ Amran Suadi, "The Role Of Religious Court In Women And Children Rights Protection Through Partial And Executable Decision" 7, no. 3 (November 2018): 353–74.

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forced to work to help meet family needs²⁶, facing hazardous and exploitative working conditions²⁷.

The importance of this issue is immense because child labor not only hinders children's physical and mental development but also perpetuates the cycle of intergenerational poverty²⁸. The Convention on the Rights of the Child (CRC) and ILO Conventions No. 138 and No. 182 emphasize that every child has the right to be protected from economic exploitation and hazardous work²⁹. However, in practice, this protection is often inadequate. Many children work in unsafe and unhealthy conditions, resulting in physical injuries, long-term health problems, and psychological impacts such as stress and trauma³⁰.

This research highlights gaps in the existing literature. Most studies focus on the impact of child labor on health and education³¹ but pay less attention to the effectiveness of policies and programs implemented to address this issue³². Moreover, the lack of accurate and detailed data on child labor conditions in the informal sector also hampers practical efforts to combat child labor³³.

The authors use the Maqasid Syariah approach to identify patterns and provide policy recommendations. However, further research is needed to understand how policies can be effectively implemented in various social and economic contexts. This study also emphasizes the importance of more focused community-level interventions, such as public awareness programs and health support for child workers, to create sustainable change. Thus, this article fills a gap in the literature by exploring new ways to protect child

²⁶ Batomen Kuimi et al., "Child Labour and Health."

²⁷ Rowena B Bernard, "The Regional Regulation of Child Labour Laws through Harmonisation within COMESA, the EAC and SADC," *African Human Rights Law Journal* 23, no. 1 (July 24, 2023): 48–74, <https://doi.org/10.17159/1996-2096/2023/v23n1a3>.

²⁸ Utari et al., "Legal Protection for Children as Victims of Economic Exploitation."

²⁹ Laura Lundy and Helen Stalford, "The International Journal of Children's Rights," n.d.

³⁰ Esther Njjeassam, "Child Labour in Artisanal and Small-Scale Gold Mines in Uganda: Are Legal Protections Adequate?," *Journal of African Law* 67, no. 1 (February 2023): 45–57, <https://doi.org/10.1017/S0021855322000298>.

³¹ Ibrahim et al., "Child Labor and Health."

³² Lundy and Stalford, "The International Journal of Children's Rights."

³³ Ajefu et al., "Women's Inheritance Rights and Child Health Outcomes in Kenya."

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labor rights and improve their well-being and providing policy recommendations that can be applied in various countries to reduce child labor significantly.

Analysis of the Limitations of Law no. 35 of 2014 concerning Child Protection

In Indonesia, child protection is a moral, legal, and social foundation defining the shared responsibility of the government, society, and relevant institutions to safeguard children's rights, interests, and welfare. Systematic efforts are designed to ensure that children's rights are fulfilled and protected from all forms of violence, exploitation, neglect, and abuse. Law No. 35 of 2014 on Child Protection provides a robust legal foundation for achieving this protection³⁴.

This law defines a child as any person under the age of 18, including those still in the womb. It reinforces the state's commitment to respecting, protecting, and fulfilling children's rights across various aspects of life, such as education, health, and general welfare. The law emphasizes the vital roles of families, communities, and the government in child protection. As the smallest unit of society, families are primarily responsible for protecting and fulfilling children's rights. Communities play a significant role by creating a conducive environment for children's growth and development. At both central and local levels, the government is mandated to provide facilities and services that support child protection, including strict law enforcement against child rights violations³⁵.

The law also outlines mechanisms and procedures for protection involving various parties, such as child protection agencies, law enforcement officers, and non-governmental organizations. Regular monitoring and evaluation are conducted to ensure effective implementation of the law. Additionally, special handling for children who are victims of violence or rights violations, including rehabilitation and social

Commented [R6]: Analyze the relationship between Islamic legal principles and international human rights conventions.

³⁴ "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak" (n.d.).

³⁵ Andri Hermawan, "Dokumen Identitas Pelaut Sebagai Wujud Perlindungan Hukum Tenaga Kerja Abk (Anak Buah Kapal) Indonesia Di Kapal Perikanan Berbendera Asing" (PhD Thesis, Universitas Brawijaya, 2016).

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reintegration, is arranged to ensure they receive equal opportunities to resume everyday, productive lives. This comprehensive approach aims to establish Indonesia as a child-friendly nation that safeguards the future of its younger generation³⁶.

The principles of child protection applied in Indonesia encompass non-discrimination, the best interests of the child, the right to life, survival and development, participation, and child advancement. The principle of non-discrimination asserts that every child has equal rights without discrimination based on gender, social status, religion, or disability. The best interests of the child principle emphasizes that the child's best interests should be the primary consideration in every decision or action concerning the child³⁷.

The right to life, survival, and development also affirms the child's right to live, grow, and develop optimally, including access to food, healthcare, education, and a healthy environment. The participation principle recognizes that children can express their opinions in decisions affecting their lives following their developmental stage and maturity. The principle of child advancement stresses ensuring every child has equal opportunities to develop their potential and participate in societal life³⁸.

However, despite this solid legal framework, its implementation and enforcement face significant challenges. Research indicates that while legal frameworks exist, children in Indonesia remain vulnerable due to inconsistent application and weak enforcement. Children are still in hazardous work environments, especially in informal and rural areas, with minimal regulatory oversight³⁹.

Furthermore, the law underscores the importance of providing special protection for children in difficult circumstances, such as those involved in or affected by armed conflicts, children with disabilities, and those who have been victims of various forms of abuse. Nevertheless, practical implementation often falls short due to limited resources, lack of

Commented [R7]: Identify areas where Islamic legal principles align with or diverge from global standards.

³⁶ Fadil Mas' ud, "Implikasi Undang-Undang Perlindungan Anak Terhadap Pekerja Anak (Suatu Kajian Sosiologi Hukum Terhadap Anak Penjual Koran Di Kota Kupang)," *JPK (Jurnal Pancasila Dan Kewarganegaraan)* 4, no. 2 (2019): 11–19.

³⁷ Subrahmanian, "Eliminating Child Labour."

³⁸ Ibrahim et al., "Child Labor and Health."

³⁹ Zewdie, Berlie, and Mersha, "Causes of Child Labor and Working Conditions in Ethiopia."

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coordination among enforcement agencies, and insufficient awareness and training among those responsible for implementing these protections⁴⁰.

The critical need is for comprehensive policies that not only address the symptoms of child labor but also tackle the root causes, such as poverty, lack of access to quality education, and socio-economic inequalities. Effective policy implementation requires a coordinated approach involving all stakeholders, including the government, civil society, and the private sector, to uphold children's rights and welfare.

Child protection is a fundamental responsibility of any civilized society and state. The legal framework governing child protection ensures that children's rights are comprehensively safeguarded. In many countries, child protection frameworks include various laws, regulations, and policies designed to uphold children's best interests in all aspects of their lives⁴¹.

The child protection framework in Indonesia is comprehensively regulated under Law No. 35 of 2014 on Child Protection, aimed at ensuring the fulfillment of children's rights and providing protection from all forms of violence, exploitation, neglect, and abuse. This law consists of 14 chapters and 93 articles detailing various aspects of child protection, from definitions, basic principles, rights and obligations, and the roles of related institutions to criminal provisions for violators of children's rights⁴².

General Provisions (Chapter I) defines a child as any person under 18, including those still in the womb. Basic Principles (Chapter II) emphasizes that every child has the right to life, survival, development, and protection from violence and discrimination. Rights and Obligations (Chapters III and IV) outline the rights and duties of children, parents, and the government. For example, Article 9 states that every child has the right to education and instruction to develop their personality and intelligence according to their interests and talents⁴³.

Commented [R8]: Evaluate efforts made to bridge the gap between Islamic law and international human rights standards

⁴⁰ "International Labor Organization: Child Labor Convention Ratified by All ILO Member States, a First in ILO History," web page, Library of Congress, Washington, D.C. 20540 USA, accessed June 24, 2024, <https://www.loc.gov/item/global-legal-monitor/2020-09-30/international-labor-organization-child-labor-convention-ratified-by-all-ilo-member-states-a-first-in-ilo-history/>.

⁴¹ Florentz Magdalena, "Penyerapan Tenaga Kerja Anak Di Indonesia" (Universitas Gadjah Mada, 2021).

⁴² "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak."

⁴³ "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak."

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Articles 13-19 emphasize children's rights to protection from discrimination, economic exploitation, physical and psychological violence, and neglect. Articles 20-35 discuss the duties of parents, families, and communities in fulfilling children's rights and protection and the state's responsibility in providing health and education services⁴⁴.

Child protection procedures begin with the prevention and early detection of potential rights violations. The government must conduct socialization and education for the community on the importance of child protection and provide complaint and case-handling services through institutions such as the Indonesian Child Protection Commission (KPAI) and Integrated Service Centers for the Empowerment of Women and Children (P2TP2A)⁴⁵.

When a violation occurs, the first step is reporting by the community or any party aware of the violation. Reports can be made to the police, KPAI, or P2TP2A. Law enforcement will then conduct investigations and inquiries according to legal procedures. Articles 69 to 72 regulate the investigation process, emphasizing the special treatment of children who are victims or perpetrators of crimes.

During the handling stage, children who are victims of violence or rights violations receive rehabilitation services, both medical, psychological, and social. Article 59 states that the government must provide unique places for children needing protection, such as safe houses or shelters. This rehabilitation aims to restore the child's physical and psychological condition and facilitate social reintegration.

Regular monitoring and evaluation are conducted to ensure the effective implementation of this law. Relevant institutions such as KPAI and the Ministry of Women's Empowerment and Child Protection monitor and evaluate the cases handled and compile annual reports containing recommendations for improving the child protection system in Indonesia⁴⁶.

The final part of this law, particularly Articles 76 to 89, regulates criminal sanctions for violators of children's rights. For example, Article 76A states that anyone who commits physical violence against a child is

Commented [R9]: Review how human rights principles are integrated into the practice of Islamic law across different jurisdictions.

Commented [R10]: Provide concrete examples and case studies of policies and practices aimed at balancing Islamic law with human rights.

⁴⁴ Moh Said, "EVALUASI KEBIJAKAN PENGURANGAN PEKERJA ANAK PROGRAM KELUARGA HARAPAN DI DINAS TENAGA KERJA DAN TRANSMIGRASI KABUPATEN SUMENEP," *PUBLIC CORNER* 9, no. 2 (2014).

⁴⁵ Mohammad Kavid, "PERAN PUSAT PELAYANAN TERPADU PERLINDUNGAN PEREMPUAN DAN ANAK (P2TP2A) ODAH ETAM DALAM UPAYA MENANGANI KEKERASAN ANAK DI KOTASAMARINDA" 6 (n.d.).

⁴⁶ Ibrahim et al., "Child Labor and Health."

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threatened with imprisonment for up to 5 years and a maximum fine of Rp100 million. Other violations, such as sexual exploitation, child trafficking, and neglect, are also threatened with severe criminal sanctions, according to the seriousness of the violations committed⁴⁷.

Commented [R11]: Discuss the challenges and successes encountered in the implementation of these principles.

Limitations	Issues	Solutions
Inconsistent Implementation and Enforcement	Inconsistent law enforcement allows child labor to persist, especially in informal sectors and rural areas.	Strengthen monitoring and enforcement mechanisms, including specialized training for law enforcement officers.
Resource Constraints	Effective implementation requires substantial resources, often limited in many regions of Indonesia.	Increase funding for child protection, develop training programs for personnel, and strengthen supporting infrastructure.
Coordination Among Stakeholders	Lack of effective coordination among various stakeholders hampers the law's effectiveness.	Build an integrated coordination system among government, NGOs, and communities to enhance communication and cooperation.
Awareness and Education	Lack of awareness and education about the law and children's rights among communities, parents, and law enforcement.	Increase public awareness campaigns and education programs about children's rights and legal protections.
Addressing Root Causes	The law addresses symptoms rather than the root causes of child labor, such as poverty and lack of education.	Develop comprehensive policies addressing the root causes of child labor, including poverty alleviation and improving access to education.

⁴⁷ Batomen Kuimi et al., "Child Labour and Health."

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Despite Law No. 35 of 2014 providing a robust legal framework, several limitations hinder its effectiveness, particularly concerning child labor in the current era.

1. Inconsistent Implementation and Enforcement

Implementation and enforcement of the law are inconsistent. Although the law mandates comprehensive protection for children, real-world application often diverges due to inadequate monitoring and enforcement mechanisms. This inconsistency allows child labor to persist, especially in informal sectors and rural areas with minimal regulatory oversight⁴⁸.

2. Resource Constraints

Effective law implementation requires substantial resources, including trained personnel, financial support, and infrastructure⁴⁹. Many regions in Indonesia face resource constraints that limit their ability to enforce the law effectively⁵⁰. This shortage leads to gaps in protection and support services for children, especially those in vulnerable situations.

3. Coordination Among Stakeholders

Another limitation is the lack of effective coordination among various stakeholders, including government agencies, non-governmental organizations (NGOs), and communities. While the law outlines the roles and responsibilities of different entities in child protection, the absence of a cohesive and integrated approach hampers the law's effectiveness. Better coordination is needed to ensure comprehensive and unified efforts in protecting children's rights⁵¹.

4. Awareness and Education

There is a significant need for increased awareness and education about the law and children's rights among communities, parents, and law enforcement officers⁵². Many cases of child labor stem from a lack of knowledge about the legal protections available and the long-term impacts of child labor on children's development and well-being.

5. Addressing Root Causes

Commented [R12]: Propose recommendations for improving the alignment between Islamic law and human rights standards at both the national and international levels

⁴⁸ "International Labor Organization."

⁴⁹ Yayan Sopyan et al., "Child Exploitation by Parents in Early Marriage: Case Study in Cianjur West Java, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (November 30, 2023): 1921, <https://doi.org/10.22373/sjhk.v7i3.14804>.

⁵⁰ Magdalena, "Penyerapan Tenaga Kerja Anak Di Indonesia."

⁵¹ Sopyan et al., "Child Exploitation by Parents in Early Marriage."

⁵² Freitas et al., "Between Play and Exploitation."

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The law primarily addresses the symptoms of child labor rather than its root causes⁵³. Issues such as poverty, lack of access to quality education, and socio-economic inequalities drive child labor. Comprehensive policies that tackle these underlying factors are essential for the law’s effectiveness. This analysis includes measures to alleviate poverty, improve educational opportunities, and reduce socio-economic disparities.

Commented [R13]: Offer practical approaches and solutions for addressing discrepancies and challenges in applying human rights principles within the framework of Islamic law.

Modern Needs	Strategies	Reconstruction
Digital Safety	Protect children from online exploitation, cyberbullying, and inappropriate content through strong regulations and awareness programs.	Incorporate digital safety provisions into child protection laws and develop digital education programs for children and parents.
Mental Health	Provide access to psychological support and counseling services to ensure children’s mental well-being.	Enhance mental health services in schools and communities and integrate mental health education into school curricula.
Inclusive Education	Ensure all children have access to quality education regardless of their socio-economic background.	Enforce inclusive education policies and provide necessary resources to support children with special needs education.
Economic Security	Reduce child labor by providing social safety nets, vocational training for parents, and economic support for families.	Develop comprehensive social welfare programs and provide access to job training and economic support for low-income families.

In the current era, children face a variety of new challenges that require updated and comprehensive protection measures:

a) Digital Safety

With the increasing prevalence of the internet and digital technology, children are exposed to new risks such as online exploitation, cyberbullying,

⁵³ “International Labor Organization.”

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and inappropriate content. Modern child protection laws need to address these digital safety concerns comprehensively⁵⁴.

b) Mental Health

There is a growing recognition of the importance of mental health in children's overall well-being. Modern laws should include provisions for protecting and promoting children's mental health and ensuring access to psychological support and counseling services⁵⁵.

c) Inclusive Education

Ensuring all children have access to quality education regardless of their socio-economic background is crucial⁵⁶. Laws should enforce inclusive education policies that accommodate children with disabilities and those from marginalized communities⁵⁷.

d) Economic Security

Addressing the economic conditions that lead to child labor is essential⁵⁸. Policies that provide social safety nets, vocational training for parents, and economic support for families can help reduce the incidence of child labor.

While Law No. 35 of 2014 establishes a strong foundation for child protection in Indonesia, its effectiveness is limited by implementation challenges, resource constraints, and insufficient coordination among stakeholders. Addressing these limitations and adapting the law to meet modern needs are crucial steps toward ensuring robust protection and welfare for children in Indonesia.

⁵⁴ Renata Tomaz, Brenda Guedes, and Ingrid Martins, "Main Challenges for Child Digital Citizenship in a Consumer Culture in Brazil," *Journalism and Media* 4, no. 1 (December 30, 2022): 42–59, <https://doi.org/10.3390/journalmedia4010004>.

⁵⁵ Jason Hung, "Policy-Oriented Examination of Left-Behind Children's Health and Well-Being in China," *Sustainability* 15, no. 7 (March 30, 2023): 5977, <https://doi.org/10.3390/su15075977>.

⁵⁶ Chuzaimatus Saadah, Az Zahra Aulya Salsabila, and Dwi Khalimah, "PRODUCTIVE ZAKAT AND WOMEN'S EMPOWERMENT FOR INCLUSIVE ECONOMY: SHARIA ECONOMIC LAW AND SOCIAL FIQH IN INDONESIA," *Mu'amalah: Jurnal Hukum Ekonomi Syariah* 3, no. 1 (June 14, 2024): 77, <https://doi.org/10.32332/muamalah.v3i1.9248>.

⁵⁷ Sopyan et al., "Child Exploitation by Parents in Early Marriage."

⁵⁸ Utari et al., "Legal Protection for Children as Victims of Economic Exploitation."

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Analysis of Child Labor Protection from the Perspective of Maqasid Syariah

Evaluating and monitoring the performance in protecting child labor rights is crucial to ensure the effectiveness of implemented programs and policies. This evaluation involves assessing the achievement of objectives, resource utilization efficiency, and the effectiveness of child protection program implementation. Evaluation helps identify successes, weaknesses, and challenges, allowing for policy improvement in the future⁵⁹.

The primary focus of the evaluation is measuring compliance with established regulations, including minimum working age, permissible working hours, and safe working conditions. It should also measure the extent of law enforcement and the effectiveness of penalties for violators⁶⁰. Evaluations must consider the real impact of policies on the lives of working children. This includes changes in working conditions, access to education and health services, and changes in exploitation and violence levels. A holistic approach is necessary, involving children and their families to understand their experiences deeply⁶¹.

Performance monitoring should involve external parties such as NGOs and international organizations to ensure the evaluation process is independent and objective. External involvement helps enhance accountability and transparency in child protection efforts. The main challenges in evaluation are data limitations, especially in the informal sector, and a lack of trained human resources for conducting evaluations. Therefore, more excellent investment is needed in capacity and infrastructure to support performance evaluations.

The Maqasid Syariah approach emphasizes five main objectives: protection of religion (الدين), life (النفس), intellect (العقل), lineage (النسل), and property (المال)⁶². Child labor protection encompasses several objectives, such as safeguarding the child's life and intellect from hazardous work and ensuring they grow up in a healthy and supportive environment.

Commented [R14]: Identify steps that can be taken to facilitate dialogue and harmonization between Islamic law and global human rights standards.

⁵⁹ Ibrahim et al., "Child Labor and Health."

⁶⁰ Lundy and Stalford, "The International Journal of Children's Rights."

⁶¹ "International Labor Organization."

⁶² Ainol Yaqin, "Revitalisasi Maqashid Al-Syari'ah Dalam Istinbath Hukum Islam: Kajian Atas Pemikiran Muhammad Al-Thahir Ibnu 'Asyur," *Asy-Syir'ah Jurnal Ilmu Syari'ah Dan Hukum* 50, no. 2 (2016): 315–40.

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قوله تعالى: "وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ" (الأنعام: 151)

Do not kill the soul which Allah has forbidden, except for a just cause."
(QS. Al-An'am: 151)

This verse emphasizes the importance of protecting life as a primary objective of Sharia. Protecting children from hazardous labor exploitation aligns with efforts to ensure their safety and welfare⁶³. After emphasizing the importance of monotheism (tawhid) and the duty of children to respect and serve their parents, the third critical piece of advice is directed toward parents: do not kill your children out of fear of poverty⁶⁴.

In Surah Al-Isra (17:31), Allah warns:

"Do not kill your children for fear of poverty. We provide for them and you. Surely, killing them is a heinous sin."

This warning addresses a practice from the time of ignorance (jahiliyyah) when people, having little faith in Allah, would kill their children due to fear of poverty⁶⁵. The continuation of this verse reassures that Allah is the Provider for both parents and their children:

"And do not kill your children for fear of poverty. We provide for them and you. Surely, killing them is a heinous sin." (Quran 17:31)

Furthermore, Allah confirms this provision in Surah Hud (11:6):

"And there is no creature on earth but that upon Allah is its provision, and He knows its place of dwelling and place of storage. All is in a clear register." (Quran 11:6)

During the era of ignorance, it was common for people to kill their children out of fear of poverty. This practice, unfortunately, still echoes in modern times, where some impoverished nations see parents selling their children because they cannot afford to feed them⁶⁶. This mindset can harm the child's education and overall well-being if parents perceive their children as merely a burden.

Within the context of Maqasid Syariah, priority is given to education and development over labor. Imam Al-Ghazali, in "المستصفى من علم الأصول" argues that education and child protection must be prioritized to

⁶³ *Tafsir Ibnu Katsir Juz 8* (Bandung: Sinar Baru Algensindo, 2000).

⁶⁴ M. Quraish Shihab, *Tafsir Al-Misbah (Kesan, Pesan Dan Keresarian Al-Qur'an) Jilid 4, Lentera Hati*, vol. 4, 1, 2000, <https://www.ptonline.com/articles/how-to-get-better-mfi-results>.

⁶⁵ Shihab.

⁶⁶ Shihab.

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ensure children grow and positively contribute to society⁶⁷. Imam Asy-Syatibi in “الموافقات في أصول الشريعة” emphasizes that any measure leading to human welfare and preventing harm is a Sharia objective. Hence, policies protecting children from exploitation and providing access to education and health are Maqasid Syariah implementations⁶⁸.

If we look at the hierarchy of the five main objectives in Maqasid Syariah’s theory, the primary position for children is to be protected in their religion. This means that children must be guaranteed the freedom to follow their faith according to their parents’ guidance or their own choice. Following this, children’s right to life must be protected, and no party can take the life of a child, even their parents.

Next, children must have their intellect protected, ensuring their right to education in Indonesia’s Constitution. Article 9 of the Child Protection Law emphasizes the importance of education and teaching for children. Proper education is crucial to develop children into wise adults. Mistakes in educating children can lead to a generation’s downfall. After the three rights mentioned above, lineage/honor and property protection follow. We realize that material concerns are the last in the protection hierarchy, according to Maqasid Syariah.

According to Maqasid Syariah’s theory, protecting children’s labor rights involves preventing child labor and restoring primary guidance and character-building, according to Maqasid Syariah’s indicators. Parental care for children should prioritize the maintenance of religion, life, intellect, honor, and property. When parents encourage children to work for money, it should not lead to children dropping out of school, as education aims to maintain religion, life, intellect, and honor.

The phenomenon of children working to earn a living shows parents’ misunderstanding of the priority scale of child care. The shift to the digital era should be accompanied by a parental understanding of the child protection priority scale based on Maqasid Syariah.

Commented [R15]: The author should explicitly delineate how the article contributes to the field of maqasid syariah (objectives of Islamic law).

أبي حامد محمد بن محمد/الغزالي الطوسي، *المستصفى* and عبد الله محمود محمد عمر⁶⁷ من علم الأصول (Dar Al-Kutub Al-Ilmiyah, 2014), <https://books.google.co.id/books?id=8C1uDwAAQBAJ>.

أبي إسحاق إبراهيم بن موسى اللخمي/الشاطبي، and عبد الله دراز ومحمد عبد الله دراز⁶⁸ *الموافقات في أصول الشريعة 1-2*, ج2، *الموافقات في أصول الشريعة 1-2* (Dar Al Kotob Al Ilmiyah 2018، دار الكتب العلمية، <https://books.google.co.id/books?id=I7N0DwAAQBAJ>).

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To ensure comprehensive child protection and align with the principles of Maqasid Syariah, the following policy recommendations are proposed:

1) Prioritize Education

Policies should ensure children access quality education, including financial support for needy families. This ensures that children do not have to work to meet economic needs. Education should be considered a fundamental right and priority, as Article 9 of the Child Protection Law emphasizes the importance of education and teaching for children. The principle of protecting intellect (العقل) from Maqasid Syariah underlines this necessity.

2) Strict Labor Protection

Enforce strict regulations regarding the minimum working age, permissible working hours, and safe working conditions for children. Effective law enforcement is essential to prevent child exploitation. These regulations align with the Maqasid Syariah principle of protecting life (النفس) by ensuring children are not subjected to hazardous labor conditions.

3) Community Training and Awareness

Increase public awareness about the importance of child protection through educational campaigns and training programs for parents and employers. Raising awareness aligns with the Maqasid Syariah objective of protecting intellect (العقل) and ensuring that the community understands the significance of safeguarding children's rights and well-being.

4) Multi-Stakeholder Cooperation

Encourage cooperation between the government, private sector, NGOs, and civil society in formulating and implementing comprehensive child protection policies. Collaborative efforts are necessary to address the multifaceted issue of child labor and ensure effective implementation and enforcement of protective measures.

5) Regular Monitoring and Evaluation

Regular monitoring and evaluation of child protection policies and programs should be conducted to ensure their effectiveness and make necessary adjustments. Continuous assessment aligns with the Maqasid Syariah principle of preserving intellect (العقل) by ensuring that policies remain relevant and effective in protecting children's rights and development.

By adopting the Maqasid Syariah approach, child protection policies can be more comprehensive and focused on the long-term welfare

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of children, ensuring they grow up in a safe, healthy, and supportive environment.

The following table presents a set of proposed articles for the Child Protection Law, structured according to the principles of Maqasid Syariah. These recommendations aim to ensure comprehensive protection of children's rights by aligning with the five main objectives of Maqasid Syariah: protecting religion (الدين), life (النفوس), intellect (العقل), lineage (النسل), and property (المال). Each article and clause addresses critical areas of child protection, ensuring that children can grow and develop in a safe, supportive, and nurturing environment. The justifications provided highlight how these recommendations align with the objectives of Maqasid Syariah, ensuring their relevance and effectiveness in contemporary contexts.

Commented [R16]: Explain how the findings of the study might influence the practical application of maqashid shariah in legal and social contexts, particularly in relation to the protection of vulnerable groups such as children.

Article	Clauses	Justification
Right to Education	<ol style="list-style-type: none"> 1. Every child shall have the right to free and compulsory primary education. 2. The state shall provide financial assistance to families in need to ensure children's access to secondary and higher education. 	Prioritizing education aligns with the Maqasid Syariah principle of protecting intellect (العقل), ensuring children receive the education necessary for their development and future contributions to society.
Prohibition of Child Labor	<ol style="list-style-type: none"> 1. The minimum age for employment shall be set at 15 years. 2. Employment of children aged 15-18 years shall be regulated, ensuring it does not interfere with their education and is not hazardous. 3. Employers violating these regulations shall face strict penalties, 	Protecting children from exploitation and hazardous work aligns with the Maqasid Syariah principle of protecting life (النفوس).

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Article	Clauses	Justification
	including fines and imprisonment.	
Community Awareness and Education	<ol style="list-style-type: none"> 1. The government shall implement nationwide educational campaigns to raise awareness about child protection laws and the importance of education. 2. Training programs for parents and employers on children's rights and legal obligations shall be mandatory. 	Community education aligns with the Maqasid Syariah principle of protecting intellect (العقل) and ensures a broader societal understanding of the importance of child protection.
Multi-Stakeholder Collaboration	<ol style="list-style-type: none"> 1. Establish a national committee comprising government, private sector, NGOs, and civil society representatives to oversee child protection initiatives. 2. This committee shall regularly meet to review policies, share best practices, and coordinate efforts to protect children's rights. 	The collaboration aligns with the comprehensive approach to effectively addressing child labor issues.
Monitoring and Evaluation	<ol style="list-style-type: none"> 1. The government shall establish an independent body to monitor and evaluate the implementation of child protection laws. 2. This body shall publish annual reports on the state of child protection 	Regular monitoring and evaluation ensure policies remain effective and adapt to changing circumstances, aligning with the Maqasid Syariah principle of preserving intellect (العقل).

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Article	Clauses	Justification
	and make recommendations for policy improvements.	

These proposed articles aim to provide a robust legal framework for protecting children's rights in Indonesia, ensuring their well-being and development in line with the principles of Maqasid Syariah.

Conclusion

This study has explored the multifaceted issue of child labor and evaluated the effectiveness of existing legal frameworks in protecting child workers' rights through Maqasid Syariah's lens. This approach emphasizes the holistic well-being of children by safeguarding their religion, life, intellect, lineage, and property. Despite the robust legal foundation provided by Law No. 35 of 2014 on Child Protection, several limitations have been identified that hinder its effectiveness, particularly in addressing child labor in contemporary society. These limitations include inconsistent implementation and enforcement, resource constraints, lack of coordination among stakeholders, insufficient awareness and education about children's rights, and the need to address the root causes of child labor, such as poverty and socio-economic inequalities.

To enhance the protection of child laborers, the following policy recommendations are proposed based on the principles of Maqasid Syariah: prioritizing education to ensure children have full access to quality education, enforcing strict labor protection regulations, increasing community training and awareness, encouraging multi-stakeholder cooperation, and conducting regular monitoring and evaluation of child protection policies and programs. These recommendations aim to provide a comprehensive approach to child protection that is both effective and sustainable.

Additionally, it is crucial to use the hierarchy of the five protections (religion, life, intellect, lineage, and property) as indicators in evaluating child protection. By employing this hierarchy, we can ensure that all aspects of children's well-being are holistically addressed, from spiritual and intellectual needs to physical and economic protection.

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Future research should focus on implementing these policy recommendations and developing new strategies to enhance child protection. Investigating the impact of educational campaigns and community training programs on reducing child labor and the effectiveness of multi-stakeholder collaboration in different socio-economic contexts would provide valuable insights. Furthermore, developing a new theory on the integration of Maqasid Syariah with contemporary child protection laws could offer a more holistic and culturally relevant approach to addressing child labor issues.

In conclusion, adopting a holistic approach grounded in Maqasid Syariah can create a legal and social environment that protects and nurtures children's well-being, ensuring they grow up in a safe, healthy, and supportive environment. This new theoretical framework of integrating Maqasid Syariah with modern child protection laws offers a promising avenue for enhancing the effectiveness of child labor policies globally.

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- ↪ **The literature review must explain clearly the grand theory of this research and the hypothetical development of this research.**
- ↪ **The findings presented must show the answer to the research objective and the policy implications.**
- ↪ **If done well, it will be beneficial for the development of Islamic law regarding the protection of child labor rights**
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PROTECTING CHILD LABOR RIGHTS: MAQASID SYARIAH FRAMEWORK AND POLICY RECOMMENDATIONS

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Abstract: Child labor remains a significant issue in contemporary society, despite existing legal frameworks aimed at protecting children's rights. This study presents an original approach by applying the principles of Maqasid Syariah to evaluate and strengthen child protection laws in Indonesia, specifically Law No. 35 of 2014 on Child Protection. The objectives of this research are to assess the effectiveness of the current legal framework in protecting child workers, identify its limitations, and explore how Maqasid Syariah principles can enhance these laws. The research employs a qualitative method, utilizing literature reviews and legal analysis to evaluate the existing legal framework and propose improvements based on Maqasid Syariah principles. Empirical findings reveal several limitations in the current legislation, including inconsistent implementation and enforcement, resource constraints, lack of coordination among stakeholders, insufficient awareness and education about children's rights, and the need to address the root causes of child labor, such as poverty and socio-economic inequalities. The practical implications of this study include recommendations to prioritize education, enforce strict labor protection regulations, enhance community training and awareness, encourage multi-stakeholder cooperation, and conduct regular monitoring and evaluation of child protection policies and programs. The study also highlights the importance of using the hierarchy of five protections (religion, life, intellect, lineage, and property) as indicators in evaluating child protection. By adopting a holistic approach grounded in Maqasid Syariah, this study proposes a new theoretical framework to integrate these principles with contemporary child protection laws. This offers a promising avenue for enhancing the effectiveness of child labor policies globally, ensuring that children grow up in a safe, healthy, and supportive environment, free from exploitation and hazardous working conditions.

Keywords: Child labor, Child protection, Maqasid Syariah, Legal framework, Policy recommendations.

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Commented [R2]: State the primary goals of the study explicitly. Define what the research aims to achieve or uncover.

Commented [R3]: Describe the research methodology in detail. Include information about the design, data collection procedures, and analytical techniques employed.

Commented [R4]: Summarize the key findings of the research. Highlight the most significant empirical results and their implications.

Commented [R5]: Discuss how the findings can be applied in practice. Explain the potential impact on relevant fields, practitioners, or policy makers.

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Abstrak: Pekerja anak tetap menjadi masalah signifikan dalam masyarakat kontemporer, meskipun terdapat kerangka hukum yang bertujuan untuk melindungi hak-hak anak. Studi ini memiliki orisinalitas dalam pendekatannya yang menggunakan prinsip-prinsip Maqasid Syariah untuk mengevaluasi dan memperkuat undang-undang perlindungan anak di Indonesia, khususnya Undang-Undang No. 35 Tahun 2014 tentang Perlindungan Anak. Tujuan penelitian ini adalah untuk menilai efektivitas kerangka hukum saat ini dalam melindungi pekerja anak dan mengidentifikasi keterbatasan serta bagaimana prinsip Maqasid Syariah dapat meningkatkan undang-undang tersebut. Metode yang digunakan dalam penelitian ini adalah metode kualitatif, dengan melakukan tinjauan literatur dan analisis hukum untuk mengevaluasi kerangka hukum yang ada serta mengusulkan perbaikan berdasarkan prinsip-prinsip Maqasid Syariah. Hasil empiris menunjukkan beberapa keterbatasan dalam undang-undang saat ini, termasuk implementasi dan penegakan yang tidak konsisten, keterbatasan sumber daya, kurangnya koordinasi di antara para pemangku kepentingan, kurangnya kesadaran dan pendidikan tentang hak-hak anak, serta kebutuhan untuk menangani akar penyebab pekerja anak seperti kemiskinan dan ketidaksetaraan sosial-ekonomi. Implikasi praktis dari penelitian ini meliputi rekomendasi untuk memprioritaskan pendidikan, menegakkan regulasi ketat perlindungan tenaga kerja, meningkatkan pelatihan dan kesadaran masyarakat, mendorong kerjasama multi-pihak, serta melakukan pemantauan dan evaluasi berkala terhadap kebijakan dan program perlindungan anak. Studi ini juga menyoroti pentingnya menggunakan hierarki lima perlindungan (agama, jiwa, akal, keturunan, dan harta) sebagai indikator dalam mengevaluasi perlindungan anak. Dengan mengadopsi pendekatan holistik yang berlandaskan Maqasid Syariah, studi ini mengusulkan kerangka teoretis baru untuk mengintegrasikan prinsip-prinsip ini dengan undang-undang perlindungan anak kontemporer. Ini menawarkan jalan yang menjanjikan untuk meningkatkan efektivitas kebijakan pekerja anak secara global dan memastikan bahwa anak-anak tumbuh dalam lingkungan yang aman, sehat, dan mendukung perkembangan mereka, bebas dari eksploitasi dan kondisi kerja berbahaya.

Kata Kunci: Pekerja anak, Perlindungan anak, Maqasid Syariah, Kerangka hukum, Rekomendasi kebijakan

Introduction

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Since ancient times, children have been an integral part of economic activities. However, understanding their rights within the context of labor has faced significant challenges throughout various historical periods¹. A review of literature spanning human history reveals narratives about children involved in various forms of work, from agriculture to modern industries². Over this long span, our understanding of their rights has shifted significantly in line with evolving societal views on child protection³.

Through the lens of literature, we can trace how views on child labor rights have changed over time. In many traditional societies, children were often seen as family members who must contribute to earning a livelihood from an early age. During those times, views on child rights in the context of labor were more inclined towards fulfilling economic needs rather than protecting their well-being⁴. However, with the emergence of the human rights movement in the 20th century, awareness of the importance of protecting children from exploitation and oppression began to emerge globally⁵.

¹ Indah Sri Utari et al., "Legal Protection for Children as Victims of Economic Exploitation: Problems and Challenges in Three Major ASEAN Countries (Indonesia, Vietnam and Philippines)," *Lex Scientia Law Review* 7, no. 2 (November 6, 2023): 771–842, <https://doi.org/10.15294/lesrev.v7i2.68301>.

² Fanqiang Meng et al., "The Impact of Labor Mobility with Fellow Townsmen on the Wages of Rural Migrants: Evidence from China," *Humanities and Social Sciences Communications* 10, no. 1 (July 5, 2023): 376, <https://doi.org/10.1057/s41599-023-01795-8>.

³ Ramya Subrahmanian, "Eliminating Child Labour: What Needs to Be Done?," *BMJ Paediatrics Open* 7, no. 1 (December 2023): e002102, <https://doi.org/10.1136/bmjpo-2023-002102>.

⁴ Oleg M. Yaroshenko et al., "Child Labour in Show Business in Europe: Legal Status and Protection of the Rights of Child Actors, Singers and Models," *JusOnline*, no. 1 (April 2024): 58, https://doi.org/10.26350/18277942_000164.

⁵ John Kennedy and Ishita Chatterjee, "Manual Scavenging at Early Age: A Critical Analysis from the Perspective of Children of Manual Scavengers as Child Labour," *Revista de Gestão Social e Ambiental* 18, no. 3 (May 20, 2024): e07016, <https://doi.org/10.24857/rgsa.v18n3-127>.

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The grand theory underlying this research is the theory of human rights⁶ and the theory of child welfare.⁷ The human rights theory⁸ emphasizes that every individual,⁹ including children,¹⁰ has rights that must be protected by the state and society.¹¹ The child welfare theory underscores that children should be prioritized in social¹² and economic development efforts,¹³ ensuring their physical, mental,¹⁴ and emotional needs are met for healthy and balanced growth.¹⁵

In contemporary society, there are various approaches to protecting child labor rights. Many countries have adopted legal regulations that set

⁶ Agus Purnomo et al., "Dimensions of Maqāṣid Al-Sharī'ah and Human Rights in the Constitutional Court's Decision on Marriage Age Difference in Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (July 30, 2023): 1397, <https://doi.org/10.22373/sjhk.v7i3.13283>.

⁷ "Research and Knowledge Gaps in Child Welfare in the United States: A National Survey of Agency Staff, Allied Disciplines, Tribal Leaders, and People Who Have Experienced Child Welfare," *Children and Youth Services Review* 138 (July 1, 2022): 106496, <https://doi.org/10.1016/j.chilyouth.2022.106496>.

⁸ Tamyiz Mukharrom and Supriyanto Abdi, "Harmonizing Islam and Human Rights Through the Reconstruction of Classical Islamic Tradition," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (March 31, 2023): 40, <https://doi.org/10.22373/sjhk.v7i1.16436>.

⁹ Mariani Amberi, "Efforts to Prevent Child Age Marriage in The Study of Islamic Legal Philosophy and Indonesia Positive Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (March 31, 2023): 239, <https://doi.org/10.22373/sjhk.v7i1.12404>.

¹⁰ Mursyid Djawas and Riska Fajrina, "Efektifitas Lembaga Perlindungan Anak Terlantar: Studi pada Panti Asuhan Suci Hati di Meulaboh, Kabupaten Aceh Barat," *SAMARAH: Jurnal Hukum Keluarga dan Hukum Islam* 3, no. 2 (November 20, 2019): 295, <https://doi.org/10.22373/sjhk.v3i2.4904>.

¹¹ Iskandar A. Gani et al., "The Constitutional Court's Protection and Fulfilment of the Citizens' Rights: Constitutional and Islamic Law Perspectives," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (March 31, 2024): 317, <https://doi.org/10.22373/sjhk.v8i1.22215>.

¹² Stacy Dunkerley et al., "Honoring Family: Using Parent Partner Expertise to Strengthen a Child Welfare Coaching Program," *Children and Youth Services Review* 159 (April 1, 2024): 107523, <https://doi.org/10.1016/j.chilyouth.2024.107523>.

¹³ Kristen Lwin et al., "Examining the Role of Child Welfare Worker Characteristics and the Substantiation Decision," *Child Abuse & Neglect* 149 (March 1, 2024): 106641, <https://doi.org/10.1016/j.chiabu.2024.106641>.

¹⁴ Ni Luh Putu Maitra Agastya et al., "Transformation of Child Welfare Institutions in Bandung, West Java: A Case of Deinstitutionalization in Indonesia," *Children and Youth Services Review* 159 (April 1, 2024): 107545, <https://doi.org/10.1016/j.chilyouth.2024.107545>.

¹⁵ "Research and Knowledge Gaps in Child Welfare in the United States."

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minimum ages for employment¹⁶, working hours, safe working conditions, and mandatory education¹⁷. Nonetheless, challenges remain in consistently implementing and enforcing these regulations worldwide. Phenomena such as child labor in the informal sector and home industries, as well as the exploitation of children in global supply chains, show that protecting child labor rights is still a complex and urgent issue¹⁸.

The hypothetical development of this research is based on the assumption that despite the existing policies and regulations, inconsistent implementation and enforcement contribute to the persistent prevalence of child labor. The primary hypothesis to be tested is that enhancing comprehensive policies that integrate legal, economic, social, and ethical approaches, particularly through the Maqasid Shariah framework, can significantly reduce child labor and improve their welfare.

Indah Sri Utari et al. highlights the significant legal and practical challenges in protecting children from economic exploitation in ASEAN countries. Despite existing laws, implementation is often weak, and enforcement mechanisms are insufficient to ensure adequate protection¹⁹. Fanqiang Meng et al. discuss how labor mobility among rural migrants in China impacts wages but also underscores the vulnerability of children in these migrant families to labor exploitation due to economic pressures.²⁰

Ramya Subrahmanian emphasizes the need for a multifaceted approach to eliminate child labor, stressing that international efforts must be complemented by national policies that address the root causes, such as poverty and lack of education²¹. Oleg M. Yaroshenko et al. investigate child labor in the European show business industry, revealing that despite

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¹⁶ Brice Lionel Batomen Kuimi et al., "Child Labour and Health: A Systematic Review," *International Journal of Public Health* 63, no. 5 (June 1, 2018): 663–72, <https://doi.org/10.1007/s00038-018-1075-9>.

¹⁷ Joseph Ajefu et al., "Women's Inheritance Rights and Child Health Outcomes in Kenya," *Journal of Family and Economic Issues* 45, no. 1 (March 2024): 137–50, <https://doi.org/10.1007/s10834-023-09895-y>.

¹⁸ Bárbara Morais Santiago Freitas et al., "Between Play and Exploitation: What Is the Place of the Rights of Child YouTubers?," *European Journal of Investigation in Health, Psychology and Education* 14, no. 5 (May 1, 2024): 1197–1213, <https://doi.org/10.3390/ejihpe14050079>.

¹⁹ Utari et al., "Legal Protection for Children as Victims of Economic Exploitation."

²⁰ Meng et al., "The Impact of Labor Mobility with Fellow Townsmen on the Wages of Rural Migrants."

²¹ Subrahmanian, "Eliminating Child Labour."

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regulations, child actors and performers are often subject to exploitation and insufficient legal protection²².

John Kennedy and Ishita Chatterjee analyze manual scavenging among children in India, showing that socio-economic factors and insufficient policy enforcement contribute to the continuation of this hazardous practice²³. Joseph Ajefu et al. explore the impact of women's inheritance rights on child health outcomes in Kenya, linking economic empowerment of families to reduced child labor and better health for children²⁴.

Bárbara Morais Santiago Freitas et al. discuss the blurred lines between play and exploitation in the context of child YouTubers, pointing out the gaps in regulatory frameworks to protect children in digital labor environments²⁵. Anna Reda-Ciszewska examines the special rights of employees caring for children or family members with disabilities in Poland, highlighting how legal provisions can impact the balance between work and family responsibilities.²⁶

Yuly Inés Liñan Cuello et al. provide an overview of child labor in Latin America, emphasizing the need for educational and social constructs to address the issue effectively²⁷. Joana Morrison et al. evaluate health equity progress in Somalia, drawing connections between improved maternal and newborn health and reduced child labor due to better socio-economic conditions²⁸.

Despite the various strategies and regulations, there is a noticeable gap in policies that effectively strengthen the protection of children as workers. The research indicates that while legal frameworks exist, their implementation and enforcement are often inadequate, leaving children

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²² Yaroshenko et al., "Child Labour in Show Business in Europe."

²³ Kennedy and Chatterjee, "Manual Scavenging at Early Age."

²⁴ Ajefu et al., "Women's Inheritance Rights and Child Health Outcomes in Kenya."

²⁵ Freitas et al., "Between Play and Exploitation."

²⁶ Anna Reda-Ciszewska, "Special Rights of Employees Caring for a Child or Other Family Member with Disabilities with Regard to the Organization of Working Time and Remote Working Under the Polish Labor Code," *PRAWO i WIEDZA* 49, no. 2 (May 24, 2024): 209–22, <https://doi.org/10.36128/PRIW.V149.628>.

²⁷ Yuly Inés Liñan Cuello, Jaidith Eneth Vidal, and Katerine Yohana Solano Brito, "Situación actual del trabajo infantil en Latinoamérica: una mirada desde los constructos educativos," May 6, 2024, <https://doi.org/10.5281/ZENODO.11118092>.

²⁸ Joana Morrison and Sk Md Mamunur Rahman Malik, "Health Equity in Somalia? An Evaluation of the Progress Made from 2006 to 2019 in Reducing Inequities in Maternal and Newborn Health," *International Journal for Equity in Health* 23, no. 1 (March 5, 2024): 46, <https://doi.org/10.1186/s12939-023-02092-1>.

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vulnerable to exploitation and hazardous working conditions. There is a critical need for comprehensive policies that not only address the symptoms but also the root causes of child labor, ensuring robust protection and welfare for children globally.

The Maqasid Syariah approach²⁹, which aims to protect five fundamental human needs (religion, life, intellect, progeny, and wealth)³⁰, offers a relevant framework for addressing child labor issues³¹. Maqasid Syariah emphasizes safeguarding children's welfare and rights from exploitation³². Therefore, child labor issues are not only viewed from legal and economic perspectives but also broader ethical and moral standpoints, ensuring that all aspects of children's lives are protected following Syariah principles.

The article "Protecting Child Labor Rights" highlights the serious issue of protecting children as workers in the modern era. Despite various international efforts to reduce child labor³³, the practice remains widespread, particularly in the informal sectors such as agriculture and domestic work³⁴. For example, the COVID-19 pandemic has exacerbated this situation, increasing the number of children working due to economic pressures and educational disruptions³⁵. In many developing countries, children are still

²⁹ Luthfiyah Dewi Masyithoh, Dwi Putra Amrah, and Imron Musthofa, "SHARIA ECONOMIC LAW ANALYSIS OF MUD BATHING IN TIKTOK LIVE AS ONLINE BEGGING (MAQASHID SYARIAH APPROACH)," *Mu'amalah: Jurnal Hukum Ekonomi Syariah* 3, no. 1 (June 9, 2024): 19, <https://doi.org/10.32332/muamalah.v3i1.7831>.

³⁰ Jasser Auda, *Membumikan Hukum Islam Melalui Maqashid Syariah*, trans. Rosidin and 'Ali 'Abd el-Mun'im (Bandung: Mizan, 2015).

³¹ Abbas Arfan, "Maqasid Al-Syariah Sebagai Sumber Hukum Islam, Analisis Terhadap Pemikiran Jasser Auda," *Al-Manahij* 07, no. 01 (July 2013): 183–94.

³² Abdalla Ibrahim et al., "Child Labor and Health: A Systematic Literature Review of the Impacts of Child Labor on Child's Health in Low- and Middle-Income Countries," *Journal of Public Health* 41, no. 1 (March 1, 2019): 18–26, <https://doi.org/10.1093/pubmed/fdy018>.

³³ Birhanu Mengist Zewdie, Arega Bazezew Berlie, and Linger Ayele Mersha, "Causes of Child Labor and Working Conditions in Ethiopia: Evidence from Temporary Inter-Rural Child Labor Migrants from Sekela District," *Comparative Migration Studies* 12, no. 1 (June 13, 2024): 28, <https://doi.org/10.1186/s40878-024-00384-1>.

³⁴ Reda-Ciszewska, "Special Rights of Employees Caring for a Child or Other Family Member with Disabilities with Regard to the Organization of Working Time and Remote Working Under the Polish Labor Code."

³⁵ Amran Suadi, "The Role Of Religious Court In Women And Children Rights Protection Through Partial And Executable Decision" 7, no. 3 (November 2018): 353–74.

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forced to work to help meet family needs³⁶, facing hazardous and exploitative working conditions³⁷.

The importance of this issue is immense because child labor not only hinders children's physical and mental development but also perpetuates the cycle of intergenerational poverty³⁸. The Convention on the Rights of the Child (CRC) and ILO Conventions No. 138 and No. 182 emphasize that every child has the right to be protected from economic exploitation and hazardous work³⁹. However, in practice, this protection is often inadequate. Many children work in unsafe and unhealthy conditions, resulting in physical injuries, long-term health problems, and psychological impacts such as stress and trauma⁴⁰.

This research highlights gaps in the existing literature. Most studies focus on the impact of child labor on health and education⁴¹ but pay less attention to the effectiveness of policies and programs implemented to address this issue⁴². Moreover, the lack of accurate and detailed data on child labor conditions in the informal sector also hampers practical efforts to combat child labor⁴³.

The authors use the Maqasid Syariah approach to identify patterns and provide policy recommendations. However, further research is needed to understand how policies can be effectively implemented in various social and economic contexts. This study also emphasizes the importance of more focused community-level interventions, such as public awareness programs and health support for child workers, to create sustainable change. Thus, this article fills a gap in the literature by exploring new ways to protect child labor rights and improve their well-being and providing policy recommendations that can be applied in various countries to reduce child labor significantly.

³⁶ Batomen Kuimi et al., "Child Labour and Health."

³⁷ Rowena B Bernard, "The Regional Regulation of Child Labour Laws through Harmonisation within COMESA, the EAC and SADC," *African Human Rights Law Journal* 23, no. 1 (July 24, 2023): 48–74, <https://doi.org/10.17159/1996-2096/2023/v23n1a3>.

³⁸ Utari et al., "Legal Protection for Children as Victims of Economic Exploitation."

³⁹ Laura Lundy and Helen Stalford, "The International Journal of Children's Rights," n.d.

⁴⁰ Esther Njieassam, "Child Labour in Artisanal and Small-Scale Gold Mines in Uganda: Are Legal Protections Adequate?," *Journal of African Law* 67, no. 1 (February 2023): 45–57, <https://doi.org/10.1017/S0021855322000298>.

⁴¹ Ibrahim et al., "Child Labor and Health."

⁴² Lundy and Stalford, "The International Journal of Children's Rights."

⁴³ Ajefu et al., "Women's Inheritance Rights and Child Health Outcomes in Kenya."

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Analysis of the Limitations of Law no. 35 of 2014 concerning Child Protection

In Indonesia, child protection is a moral, legal, and social foundation defining the shared responsibility of the government, society, and relevant institutions to safeguard children's rights, interests, and welfare. Systematic efforts are designed to ensure that children's rights are fulfilled and protected from all forms of violence, exploitation, neglect, and abuse. Law No. 35 of 2014 on Child Protection provides a robust legal foundation for achieving this protection⁴⁴.

This law defines a child as any person under the age of 18, including those still in the womb. It reinforces the state's commitment to respecting, protecting, and fulfilling children's rights across various aspects of life, such as education, health, and general welfare. The law emphasizes the vital roles of families, communities, and the government in child protection. As the smallest unit of society, families are primarily responsible for protecting and fulfilling children's rights. Communities play a significant role by creating a conducive environment for children's growth and development. At both central and local levels, the government is mandated to provide facilities and services that support child protection, including strict law enforcement against child rights violations⁴⁵.

The law also outlines mechanisms and procedures for protection involving various parties, such as child protection agencies, law enforcement officers, and non-governmental organizations. Regular monitoring and evaluation are conducted to ensure effective implementation of the law. Additionally, special handling for children who are victims of violence or rights violations, including rehabilitation and social reintegration, is arranged to ensure they receive equal opportunities to resume everyday, productive

⁴⁴ "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak" (n.d.).

⁴⁵ Andri Hermawan, "Dokumen Identitas Pelaut Sebagai Wujud Perlindungan Hukum Tenaga Kerja Abk (Anak Buah Kapal) Indonesia Di Kapal Perikanan Berbendera Asing" (PhD Thesis, Universitas Brawijaya, 2016).

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lives. This comprehensive approach aims to establish Indonesia as a child-friendly nation that safeguards the future of its younger generation⁴⁶.

The principles of child protection applied in Indonesia encompass non-discrimination, the best interests of the child, the right to life, survival and development, participation, and child advancement. The principle of non-discrimination asserts that every child has equal rights without discrimination based on gender, social status, religion, or disability. The best interests of the child principle emphasizes that the child's best interests should be the primary consideration in every decision or action concerning the child⁴⁷.

The right to life, survival, and development also affirms the child's right to live, grow, and develop optimally, including access to food, healthcare, education, and a healthy environment. The participation principle recognizes that children can express their opinions in decisions affecting their lives following their developmental stage and maturity. The principle of child advancement stresses ensuring every child has equal opportunities to develop their potential and participate in societal life⁴⁸.

However, despite this solid legal framework, its implementation and enforcement face significant challenges. Research indicates that while legal frameworks exist, children in Indonesia remain vulnerable due to inconsistent application and weak enforcement. Children are still in hazardous work environments, especially in informal and rural areas, with minimal regulatory oversight⁴⁹.

Furthermore, the law underscores the importance of providing special protection for children in difficult circumstances, such as those involved in or affected by armed conflicts, children with disabilities, and those who have been victims of various forms of abuse. Nevertheless, practical implementation often falls short due to limited resources, lack of coordination among enforcement agencies, and insufficient awareness and training among those responsible for implementing these protections⁵⁰.

⁴⁶ Fadil Mas' ud, "Implikasi Undang-Undang Perlindungan Anak Terhadap Pekerja Anak (Suatu Kajian Sosiologi Hukum Terhadap Anak Penjual Koran Di Kota Kupang)," *JPK (Jurnal Pancasila Dan Kewarganegaraan)* 4, no. 2 (2019): 11–19.

⁴⁷ Subrahmanian, "Eliminating Child Labour."

⁴⁸ Ibrahim et al., "Child Labor and Health."

⁴⁹ Zewdie, Berlie, and Mersha, "Causes of Child Labor and Working Conditions in Ethiopia."

⁵⁰ "International Labor Organization: Child Labor Convention Ratified by All ILO Member States, a First in ILO History," web page, Library of Congress, Washington, D.C. 20540 USA, accessed June 24, 2024, <https://www.loc.gov/item/global-legal-monitor/2020->

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The critical need is for comprehensive policies that not only address the symptoms of child labor but also tackle the root causes, such as poverty, lack of access to quality education, and socio-economic inequalities. Effective policy implementation requires a coordinated approach involving all stakeholders, including the government, civil society, and the private sector, to uphold children's rights and welfare.

Child protection is a fundamental responsibility of any civilized society and state. The legal framework governing child protection ensures that children's rights are comprehensively safeguarded. In many countries, child protection frameworks include various laws, regulations, and policies designed to uphold children's best interests in all aspects of their lives⁵¹.

The child protection framework in Indonesia is comprehensively regulated under Law No. 35 of 2014 on Child Protection, aimed at ensuring the fulfillment of children's rights and providing protection from all forms of violence, exploitation, neglect, and abuse. This law consists of 14 chapters and 93 articles detailing various aspects of child protection, from definitions, basic principles, rights and obligations, and the roles of related institutions to criminal provisions for violators of children's rights⁵².

General Provisions (Chapter I) defines a child as any person under 18, including those still in the womb. Basic Principles (Chapter II) emphasizes that every child has the right to life, survival, development, and protection from violence and discrimination. Rights and Obligations (Chapters III and IV) outline the rights and duties of children, parents, and the government. For example, Article 9 states that every child has the right to education and instruction to develop their personality and intelligence according to their interests and talents⁵³.

Articles 13-19 emphasize children's rights to protection from discrimination, economic exploitation, physical and psychological violence, and neglect. Articles 20-35 discuss the duties of parents, families, and

09-30/international-labor-organization-child-labor-convention-ratified-by-all-ilo-member-states-a-first-in-ilo-history/.

⁵¹ Florentz Magdalena, "Penyerapan Tenaga Kerja Anak Di Indonesia" (Universitas Gadjah Mada, 2021).

⁵² "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak."

⁵³ "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak."

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communities in fulfilling children's rights and protection and the state's responsibility in providing health and education services⁵⁴.

Child protection procedures begin with the prevention and early detection of potential rights violations. The government must conduct socialization and education for the community on the importance of child protection and provide complaint and case-handling services through institutions such as the Indonesian Child Protection Commission (KPAI) and Integrated Service Centers for the Empowerment of Women and Children (P2TP2A)⁵⁵.

When a violation occurs, the first step is reporting by the community or any party aware of the violation. Reports can be made to the police, KPAI, or P2TP2A. Law enforcement will then conduct investigations and inquiries according to legal procedures. Articles 69 to 72 regulate the investigation process, emphasizing the special treatment of children who are victims or perpetrators of crimes.

During the handling stage, children who are victims of violence or rights violations receive rehabilitation services, both medical, psychological, and social. Article 59 states that the government must provide unique places for children needing protection, such as safe houses or shelters. This rehabilitation aims to restore the child's physical and psychological condition and facilitate social reintegration.

Regular monitoring and evaluation are conducted to ensure the effective implementation of this law. Relevant institutions such as KPAI and the Ministry of Women's Empowerment and Child Protection monitor and evaluate the cases handled and compile annual reports containing recommendations for improving the child protection system in Indonesia⁵⁶.

The final part of this law, particularly Articles 76 to 89, regulates criminal sanctions for violators of children's rights. For example, Article 76A states that anyone who commits physical violence against a child is threatened with imprisonment for up to 5 years and a maximum fine of Rp100 million. Other violations, such as sexual exploitation, child trafficking, and neglect,

⁵⁴ Moh Said, "EVALUASI KEBIJAKAN PENGURANGAN PEKERJA ANAK PROGRAM KELUARGA HARAPAN DI DINAS TENAGA KERJA DAN TRANSMIGRASI KABUPATEN SUMENEP," *PUBLIC CORNER* 9, no. 2 (2014).

⁵⁵ Mohammad Kavid, "PERAN PUSAT PELAYANAN TERPADU PERLINDUNGAN PEREMPUAN DAN ANAK (P2TP2A) ODAH ETAM DALAM UPAYA MENANGANI KEKERASAN ANAK DI KOTASAMARINDA" 6 (n.d.).

⁵⁶ Ibrahim et al., "Child Labor and Health."

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are also threatened with severe criminal sanctions, according to the seriousness of the violations committed⁵⁷.

Limitations	Issues	Solutions
Inconsistent Implementation and Enforcement	Inconsistent law enforcement allows child labor to persist, especially in informal sectors and rural areas.	Strengthen monitoring and enforcement mechanisms, including specialized training for law enforcement officers.
Resource Constraints	Effective implementation requires substantial resources, often limited in many regions of Indonesia.	Increase funding for child protection, develop training programs for personnel, and strengthen supporting infrastructure.
Coordination Among Stakeholders	Lack of effective coordination among various stakeholders hampers the law's effectiveness.	Build an integrated coordination system among government, NGOs, and communities to enhance communication and cooperation.
Awareness and Education	Lack of awareness and education about the law and children's rights among communities, parents, and law enforcement.	Increase public awareness campaigns and education programs about children's rights and legal protections.
Addressing Root Causes	The law addresses symptoms rather than the root causes of child labor, such as poverty and lack of education.	Develop comprehensive policies addressing the root causes of child labor, including poverty alleviation and improving access to education.

Despite Law No. 35 of 2014 providing a robust legal framework, several limitations hinder its effectiveness, particularly concerning child labor in the current era.

1. Inconsistent Implementation and Enforcement

⁵⁷ Batomen Kuimi et al., "Child Labour and Health."

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Implementation and enforcement of the law are inconsistent. Although the law mandates comprehensive protection for children, real-world application often diverges due to inadequate monitoring and enforcement mechanisms. This inconsistency allows child labor to persist, especially in informal sectors and rural areas with minimal regulatory oversight⁵⁸.

2. Resource Constraints

Effective law implementation requires substantial resources, including trained personnel, financial support, and infrastructure⁵⁹. Many regions in Indonesia face resource constraints that limit their ability to enforce the law effectively⁶⁰. This shortage leads to gaps in protection and support services for children, especially those in vulnerable situations.

3. Coordination Among Stakeholders

Another limitation is the lack of effective coordination among various stakeholders, including government agencies, non-governmental organizations (NGOs), and communities. While the law outlines the roles and responsibilities of different entities in child protection, the absence of a cohesive and integrated approach hampers the law's effectiveness. Better coordination is needed to ensure comprehensive and unified efforts in protecting children's rights⁶¹.

4. Awareness and Education

There is a significant need for increased awareness and education about the law and children's rights among communities, parents, and law enforcement officers⁶². Many cases of child labor stem from a lack of knowledge about the legal protections available and the long-term impacts of child labor on children's development and well-being.

5. Addressing Root Causes

The law primarily addresses the symptoms of child labor rather than its root causes⁶³. Issues such as poverty, lack of access to quality education, and socio-economic inequalities drive child labor. Comprehensive policies that tackle these underlying factors are essential for the law's effectiveness. This analysis

⁵⁸ "International Labor Organization."

⁵⁹ Yayan Sopyan et al., "Child Exploitation by Parents in Early Marriage: Case Study in Cianjur West Java, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (November 30, 2023): 1921, <https://doi.org/10.22373/sjhk.v7i3.14804>.

⁶⁰ Magdalena, "Penyerapan Tenaga Kerja Anak Di Indonesia."

⁶¹ Sopyan et al., "Child Exploitation by Parents in Early Marriage."

⁶² Freitas et al., "Between Play and Exploitation."

⁶³ "International Labor Organization."

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includes measures to alleviate poverty, improve educational opportunities, and reduce socio-economic disparities.

Modern Needs	Strategies	Reconstruction
Digital Safety	Protect children from online exploitation, cyberbullying, and inappropriate content through strong regulations and awareness programs.	Incorporate digital safety provisions into child protection laws and develop digital education programs for children and parents.
Mental Health	Provide access to psychological support and counseling services to ensure children's mental well-being.	Enhance mental health services in schools and communities and integrate mental health education into school curricula.
Inclusive Education	Ensure all children have access to quality education regardless of their socio-economic background.	Enforce inclusive education policies and provide necessary resources to support children with special needs education.
Economic Security	Reduce child labor by providing social safety nets, vocational training for parents, and economic support for families.	Develop comprehensive social welfare programs and provide access to job training and economic support for low-income families.

In the current era, children face a variety of new challenges that require updated and comprehensive protection measures:

a) Digital Safety

With the increasing prevalence of the internet and digital technology, children are exposed to new risks such as online exploitation, cyberbullying, and inappropriate content. Modern child protection laws need to address these digital safety concerns comprehensively⁶⁴.

b) Mental Health

There is a growing recognition of the importance of mental health in children's overall well-being. Modern laws should include provisions for protecting and

⁶⁴ Renata Tomaz, Brenda Guedes, and Ingrid Martins, "Main Challenges for Child Digital Citizenship in a Consumer Culture in Brazil," *Journalism and Media* 4, no. 1 (December 30, 2022): 42–59, <https://doi.org/10.3390/journalmedia4010004>.

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promoting children's mental health and ensuring access to psychological support and counseling services⁶⁵.

c) Inclusive Education

Ensuring all children have access to quality education regardless of their socio-economic background is crucial⁶⁶. Laws should enforce inclusive education policies that accommodate children with disabilities and those from marginalized communities⁶⁷.

d) Economic Security

Addressing the economic conditions that lead to child labor is essential⁶⁸. Policies that provide social safety nets, vocational training for parents, and economic support for families can help reduce the incidence of child labor.

While Law No. 35 of 2014 establishes a strong foundation for child protection in Indonesia, its effectiveness is limited by implementation challenges, resource constraints, and insufficient coordination among stakeholders. Addressing these limitations and adapting the law to meet modern needs are crucial steps toward ensuring robust protection and welfare for children in Indonesia.

Analysis of Child Labor Protection from the Perspective of Maqasid Syariah

Evaluating and monitoring the performance in protecting child labor rights is crucial to ensure the effectiveness of implemented programs and policies. This evaluation involves assessing the achievement of objectives, resource utilization efficiency, and the effectiveness of child protection program implementation. Evaluation helps identify successes, weaknesses, and challenges, allowing for policy improvement in the future⁶⁹.

⁶⁵ Jason Hung, "Policy-Oriented Examination of Left-Behind Children's Health and Well-Being in China," *Sustainability* 15, no. 7 (March 30, 2023): 5977, <https://doi.org/10.3390/su15075977>.

⁶⁶ Chuzaimatus Saadah, Az Zahra Aulya Salsabila, and Dwi Khalimah, "PRODUCTIVE ZAKAT AND WOMEN'S EMPOWERMENT FOR INCLUSIVE ECONOMY: SHARIA ECONOMIC LAW AND SOCIAL FIQH IN INDONESIA," *Mu'amalah: Jurnal Hukum Ekonomi Syariah* 3, no. 1 (June 14, 2024): 77, <https://doi.org/10.32332/muamalah.v3i1.9248>.

⁶⁷ Sopyan et al., "Child Exploitation by Parents in Early Marriage."

⁶⁸ Utari et al., "Legal Protection for Children as Victims of Economic Exploitation."

⁶⁹ Ibrahim et al., "Child Labor and Health."

Commented [R10]: Highlight that the study examines how Islamic legal principles are applied or adapted in relation to human rights issues.

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The primary focus of the evaluation is measuring compliance with established regulations, including minimum working age, permissible working hours, and safe working conditions. It should also measure the extent of law enforcement and the effectiveness of penalties for violators⁷⁰. Evaluations must consider the real impact of policies on the lives of working children. This includes changes in working conditions, access to education and health services, and changes in exploitation and violence levels. A holistic approach is necessary, involving children and their families to understand their experiences deeply⁷¹.

Performance monitoring should involve external parties such as NGOs and international organizations to ensure the evaluation process is independent and objective. External involvement helps enhance accountability and transparency in child protection efforts. The main challenges in evaluation are data limitations, especially in the informal sector, and a lack of trained human resources for conducting evaluations. Therefore, more excellent investment is needed in capacity and infrastructure to support performance evaluations.

The Maqasid Syariah approach emphasizes five main objectives: protection of religion (الدين), life (النفس), intellect (العقل), lineage (النسل), and property (المال)⁷². Child labor protection encompasses several objectives, such as safeguarding the child's life and intellect from hazardous work and ensuring they grow up in a healthy and supportive environment.

قوله تعالى: "وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ" (الأنعام: 151)

Do not kill the soul which Allah has forbidden, except for a just cause." (QS. Al-An'am: 151)

This verse emphasizes the importance of protecting life as a primary objective of Sharia. Protecting children from hazardous labor exploitation aligns with efforts to ensure their safety and welfare⁷³. After emphasizing the importance of monotheism (tawhid) and the duty of children to respect and

Commented [R11]: Explain that the research contributes to understanding how traditional Islamic law engages with or responds to contemporary human rights standards.

⁷⁰ Lundy and Stalford, "The International Journal of Children's Rights."

⁷¹ "International Labor Organization."

⁷² Ainol Yaqin, "Revitalisasi Maqashid Al-Syari'ah Dalam Istibath Hukum Islam: Kajian Atas Pemikiran Muhammad Al-Thahir Ibnu 'Asyur," *Asy-Syir'ah Jurnal Ilmu Syari'ah Dan Hukum* 50, no. 2 (2016): 315–40.

⁷³ *Tafsir Ibnu Katsir Juz 8* (Bandung: Sinar Baru Algensindo, 2000).

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serve their parents, the third critical piece of advice is directed toward parents: do not kill your children out of fear of poverty⁷⁴.

In Surah Al-Isra (17:31), Allah warns:

“Do not kill your children for fear of poverty. We provide for them and you. Surely, killing them is a heinous sin.”

This warning addresses a practice from the time of ignorance (jahiliyyah) when people, having little faith in Allah, would kill their children due to fear of poverty⁷⁵. The continuation of this verse reassures that Allah is the Provider for both parents and their children:

“And do not kill your children for fear of poverty. We provide for them and you. Surely, killing them is a heinous sin.” (Quran 17:31)

Furthermore, Allah confirms this provision in Surah Hud (11:6):

“And there is no creature on earth but that upon Allah is its provision, and He knows its place of dwelling and place of storage. All is in a clear register.” (Quran 11:6)

During the era of ignorance, it was common for people to kill their children out of fear of poverty. This practice, unfortunately, still echoes in modern times, where some impoverished nations see parents selling their children because they cannot afford to feed them⁷⁶. This mindset can harm the child’s education and overall well-being if parents perceive their children as merely a burden.

Within the context of Maqasid Syariah, priority is given to education and development over labor. Imam Al-Ghazali, in “المستصفى من علم الأصول” argues that education and child protection must be prioritized to ensure children grow and positively contribute to society⁷⁷. Imam Asy-Syatibi in “الموافقات في أصول الشريعة” emphasizes that any measure leading to human welfare and preventing harm is a Sharia objective. Hence, policies protecting

Commented [R12]: Emphasize that the study specifically addresses the interaction between Islamic legal norms and human rights principles.

⁷⁴ M. Quraish Shihab, *Tafsir Al-Misbah (Kesan, Pesan Dan Kekeragaman Al-Qur'an) Jilid 4, Lentera Hati*, vol. 4, 1, 2000, <https://www.ptonline.com/articles/how-to-get-better-mfi-results>.

⁷⁵ Shihab.

⁷⁶ Shihab.

⁷⁷ أبي حامد محمد بن محمد/الغزالي الطوسي, *المستصفى* and عبد الله محمود محمد عمر *الأصول* (Dar Al-Kutub Al-Ilmiyah, 2014), <https://books.google.co.id/books?id=8C1uDwAAQBAJ>.

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children from exploitation and providing access to education and health are Maqasid Syariah implementations⁷⁸.

If we look at the hierarchy of the five main objectives in Maqasid Syariah's theory, the primary position for children is to be protected in their religion. This means that children must be guaranteed the freedom to follow their faith according to their parents' guidance or their own choice. Following this, children's right to life must be protected, and no party can take the life of a child, even their parents.

Next, children must have their intellect protected, ensuring their right to education in Indonesia's Constitution. Article 9 of the Child Protection Law emphasizes the importance of education and teaching for children. Proper education is crucial to develop children into wise adults. Mistakes in educating children can lead to a generation's downfall. After the three rights mentioned above, lineage/honor and property protection follow. We realize that material concerns are the last in the protection hierarchy, according to Maqasid Syariah.

According to Maqasid Syariah's theory, protecting children's labor rights involves preventing child labor and restoring primary guidance and character-building, according to Maqasid Syariah's indicators. Parental care for children should prioritize the maintenance of religion, life, intellect, honor, and property. When parents encourage children to work for money, it should not lead to children dropping out of school, as education aims to maintain religion, life, intellect, and honor.

The phenomenon of children working to earn a living shows parents' misunderstanding of the priority scale of child care. The shift to the digital era should be accompanied by a parental understanding of the child protection priority scale based on Maqasid Syariah.

To ensure comprehensive child protection and align with the principles of Maqasid Syariah, the following policy recommendations are proposed:

- 1) Prioritize Education

Policies should ensure children access quality education, including financial support for needy families. This ensures that children do not have to work to meet economic needs. Education should be considered a fundamental

أبي إسحاق إبراهيم بن موسى اللخمي/الشاطبي، and عبد الله دراز ومحمد عبد الله دراز⁷⁸ 2-1-2 الموافقات في أصول الشريعة 1-2، الموافقات في أصول الشريعة 1-2، (دار الكتب العلمية، 2018)، <https://books.google.co.id/books?id=I7N0DwAAQBAJ>.

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right and priority, as Article 9 of the Child Protection Law emphasizes the importance of education and teaching for children. The principle of protecting intellect (العقل) from Maqasid Syariah underlines this necessity.

At the regional level, this ensures compliance with national education policies and aligns with regional human rights frameworks. Globally, ensuring the right to free and compulsory education for every child aligns with international human rights standards such as the United Nations Convention on the Rights of the Child (CRC) and Sustainable Development Goal 4, which aims to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.

2) Strict Labor Protection

Enforce strict regulations regarding the minimum working age, permissible working hours, and safe working conditions for children. Effective law enforcement is essential to prevent child exploitation. These regulations align with the Maqasid Syariah principle of protecting life (النفس) by ensuring children are not subjected to hazardous labor conditions.

The minimum age for employment shall be set at 15 years, with regulated employment for children aged 15-18 years to ensure it does not interfere with their education and is not hazardous. Regionally, this supports commitments made under frameworks like the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, ensuring labor standards that protect children.

Setting a minimum age for employment and regulating the employment of children aged 15-18 aligns with International Labour Organization (ILO) Conventions No. 138 on the Minimum Age and No. 182 on the Worst Forms of Child Labor. This global alignment helps in eradicating child labor and protecting children from exploitation and hazardous work conditions.

3) Community Training and Awareness

Increase public awareness about the importance of child protection through educational campaigns and training programs for parents and employers. Raising awareness aligns with the Maqasid Syariah objective of protecting intellect (العقل) and ensuring that the community understands the significance of safeguarding children's rights and well-being.

This ensures broader societal understanding of the importance of child protection, fostering a culture of respect for children's rights at the community level. Regionally, this reinforces initiatives such as the ASEAN

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Community Vision 2025, which emphasizes social cohesion and rights-based approaches to development.

Educational campaigns and training programs at the national level contribute to global efforts to raise awareness about child rights, as supported by the CRC and various United Nations initiatives. These programs help build a global culture that values and protects children's rights.

4) Multi-Stakeholder Cooperation

Encourage cooperation between the government, private sector, NGOs, and civil society in formulating and implementing comprehensive child protection policies. Collaborative efforts are necessary to address the multifaceted issue of child labor and ensure effective implementation and enforcement of protective measures.

This aligns with regional human rights mechanisms, promoting cross-sectoral collaboration and policy coherence in addressing child protection. The establishment of multi-stakeholder committees at the national level reflects global best practices for child protection, as recommended by international organizations such as UNICEF and the United Nations Global Compact. This approach fosters international cooperation and the sharing of best practices for child protection.

5) Regular Monitoring and Evaluation

Regular monitoring and evaluation of child protection policies and programs should be conducted to ensure their effectiveness and make necessary adjustments. Continuous assessment aligns with the Maqasid Syariah principle of preserving intellect (العقل) by ensuring that policies remain relevant and effective in protecting children's rights and development.

This aligns with the Maqasid Syariah principle of preserving intellect (العقل) and supports regional accountability mechanisms, such as those promoted by the ASEAN Intergovernmental Commission on Human Rights (AICHR). The creation of independent monitoring and evaluation bodies ensures compliance with international human rights obligations and enhances transparency and accountability in child protection. This aligns with global human rights monitoring frameworks, such as those of the United Nations Human Rights Council and the ILO.

These recommendations aim to provide a robust legal framework for protecting children's rights in Indonesia, ensuring their well-being and development in line with the principles of Maqasid Syariah. By integrating these principles, the article offers relevant insights and practical guidelines for enhancing child protection at both national and international levels. This

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contributes to the broader discourse on Islamic law and human rights, promoting a holistic and ethical approach to child protection that is both contextually relevant and universally applicable. By adopting the Maqasid Syariah approach, child protection policies can be more comprehensive and focused on the long-term welfare of children, ensuring they grow up in a safe, healthy, and supportive environment.

The following table presents a set of proposed articles for the Child Protection Law, structured according to the principles of Maqasid Syariah. These recommendations aim to ensure comprehensive protection of children's rights by aligning with the five main objectives of Maqasid Syariah: protecting religion (الدين), life (النفس), intellect (العقل), lineage (النسل), and property (المال). Each article and clause addresses critical areas of child protection, ensuring that children can grow and develop in a safe, supportive, and nurturing environment. The justifications provided highlight how these recommendations align with the objectives of Maqasid Syariah, ensuring their relevance and effectiveness in contemporary contexts.

Article	Clauses	Justification
Right to Education	<ol style="list-style-type: none"> Every child shall have the right to free and compulsory primary education. The state shall provide financial assistance to families in need to ensure children's access to secondary and higher education. 	Prioritizing education aligns with the Maqasid Syariah principle of protecting intellect (العقل), ensuring children receive the education necessary for their development and future contributions to society.
Prohibition of Child Labor	<ol style="list-style-type: none"> The minimum age for employment shall be set at 15 years. Employment of children aged 15-18 years shall be regulated, ensuring it does not interfere with their education and is not hazardous. 	Protecting children from exploitation and hazardous work aligns with the Maqasid Syariah principle of protecting life (النفس).

Commented [R15]: Highlight that the study may serve as a foundation for subsequent research exploring similar themes or expanding upon its findings.

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Commented [R17]: Indicate that the study aims to contribute meaningfully to ongoing academic discussions on the integration of Islamic law with human rights issues.

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Article	Clauses	Justification
	3. Employers violating these regulations shall face strict penalties, including fines and imprisonment.	
Community Awareness and Education	<ol style="list-style-type: none"> 1. The government shall implement nationwide educational campaigns to raise awareness about child protection laws and the importance of education. 2. Training programs for parents and employers on children's rights and legal obligations shall be mandatory. 	Community education aligns with the Maqasid Syariah principle of protecting intellect (العقل) and ensures a broader societal understanding of the importance of child protection.
Multi-Stakeholder Collaboration	<ol style="list-style-type: none"> 1. Establish a national committee comprising government, private sector, NGOs, and civil society representatives to oversee child protection initiatives. 2. This committee shall regularly meet to review policies, share best practices, and coordinate efforts to protect children's rights. 	The collaboration aligns with the comprehensive approach to effectively addressing child labor issues.
Monitoring and Evaluation	<ol style="list-style-type: none"> 1. The government shall establish an independent body to monitor and evaluate the implementation of child protection laws. 	Regular monitoring and evaluation ensure policies remain effective and adapt to changing circumstances, aligning with the Maqasid

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Article	Clauses	Justification
	2. This body shall publish annual reports on the state of child protection and make recommendations for policy improvements.	Syariah principle of preserving intellect (العقل).

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These proposed articles aim to provide a robust legal framework for protecting children's rights in Indonesia and international levels, ensuring their well-being and development in line with the principles of Maqasid Syariah.

Conclusion

This study has explored the multifaceted issue of child labor and evaluated the effectiveness of existing legal frameworks in protecting child workers' rights through the lens of Maqasid Syariah. This approach emphasizes the holistic well-being of children by safeguarding their religion, life, intellect, lineage, and property. Despite the robust legal foundation provided by Law No. 35 of 2014 on Child Protection, several limitations hinder its effectiveness in addressing child labor in contemporary society. These limitations include inconsistent implementation and enforcement, resource constraints, lack of coordination among stakeholders, insufficient awareness and education about children's rights, and the need to address the root causes of child labor, such as poverty and socio-economic inequalities.

The main findings of this study indicate that while a strong legal foundation exists, child protection in Indonesia is still suboptimal. To address these issues, several policy recommendations are proposed based on the principles of Maqasid Syariah. First, prioritize education by ensuring every child has access to free and compulsory primary education, and providing financial assistance to families in need for access to secondary and higher education. Second, establish a minimum working age of 15 years, regulate work for children aged 15-18 to ensure it does not interfere with their education and is not hazardous, and impose strict penalties on employers who violate these regulations.

Furthermore, it is essential to increase community awareness and education through national campaigns and mandatory training programs for

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parents and employers about children's rights and their legal obligations. The formation of a national committee comprising government representatives, the private sector, NGOs, and civil society is also recommended to oversee child protection initiatives. This approach aims to ensure a comprehensive and effective strategy in addressing child labor issues.

The study also recommends the establishment of an independent body to regularly monitor and evaluate the implementation of child protection laws. This is crucial to ensure that existing policies remain relevant and effective in adapting to changing conditions. Utilizing the hierarchy of the five protections (religion, life, intellect, lineage, and property) as indicators in evaluating child protection ensures that all aspects of children's well-being are holistically addressed.

A significant contribution of this article to the study of Maqasid Syariah and child rights protection is the application of Maqasid Syariah principles to strengthen legal and policy frameworks. At the national level, this article provides concrete guidance for improving the implementation and enforcement of child protection in Indonesia, emphasizing education, protection from child labor, and multi-stakeholder collaboration. Globally, the article demonstrates how Maqasid Syariah principles can be applied to enhance international legal frameworks, such as the UN Convention on the Rights of the Child (CRC) and ILO Conventions, to protect children from exploitation and human trafficking.

In conclusion, adopting a holistic approach grounded in Maqasid Syariah can create a legal and social environment that protects and nurtures children's well-being, ensuring they grow up in a safe, healthy, and supportive environment. This new theoretical framework, integrating Maqasid Syariah with modern child protection laws, offers a promising avenue for enhancing the effectiveness of child labor policies globally. Future research should focus on implementing these policy recommendations and developing new strategies to enhance child protection, as well as exploring the impact of educational campaigns and community training programs on reducing child labor.

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PROTECTING CHILD LABOR RIGHTS: MAQASID SYARIAH FRAMEWORK AND POLICY RECOMMENDATIONS

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Abstract: Child labor remains a significant issue in contemporary society despite existing legal frameworks aimed at protecting children's rights. This study presents an original approach by applying the principles of Maqasid Syariah to evaluate and strengthen child protection laws in Indonesia, specifically Law No. 35 of 2014 on Child Protection. The objectives of this research are to assess the effectiveness of the current legal framework in protecting child workers, identify its limitations, and explore how Maqasid Syariah principles can enhance these laws. The research employs a qualitative method, utilizing literature reviews and legal analysis to evaluate the existing legal framework and propose improvements based on Maqasid Syariah principles. Empirical findings reveal several limitations in the current legislation, including inconsistent implementation and enforcement, resource constraints, lack of coordination among stakeholders, insufficient awareness and education about children's rights, and the need to address the root causes of child labor, such as poverty and socio-economic inequalities. The practical implications of this study include recommendations to prioritize education, enforce strict labor protection regulations, enhance community training and awareness, encourage multi-stakeholder cooperation, and conduct regular monitoring and evaluation of child protection policies and programs. The study also highlights the importance of using the hierarchy of five protections (religion, life, intellect, lineage, and property) as indicators in evaluating child protection. By adopting a holistic approach grounded in Maqasid Syariah, this study proposes a new theoretical framework to integrate these principles with contemporary child protection laws. This offers a promising avenue for enhancing the effectiveness of child labor policies globally, ensuring that

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study proposes a new theoretical framework to integrate these principles with contemporary child protection laws. This offers a promising avenue for enhancing the effectiveness of child labor policies globally, ensuring that children grow up in a safe, healthy, and supportive environment, free from exploitation and hazardous working conditions.

Keywords: Child labor, Child protection, Maqasid Syariah, Legal framework, Policy recommendations.

***Abstrak:** Pekerja anak tetap menjadi masalah signifikan dalam masyarakat kontemporer, meskipun terdapat kerangka hukum yang bertujuan untuk melindungi hak-hak anak. Studi ini memiliki orisinalitas dalam pendekatannya yang menggunakan prinsip-prinsip Maqasid Syariah untuk mengevaluasi dan memperkuat undang-undang perlindungan anak di Indonesia, khususnya Undang-Undang No. 35 Tahun 2014 tentang Perlindungan Anak. Tujuan penelitian ini adalah untuk menilai efektivitas kerangka hukum saat ini dalam melindungi pekerja anak dan mengidentifikasi keterbatasan serta bagaimana prinsip Maqasid Syariah dapat meningkatkan undang-undang tersebut. Metode yang digunakan dalam penelitian ini adalah metode kualitatif, dengan melakukan tinjauan literatur dan analisis hukum untuk mengevaluasi kerangka hukum yang ada serta mengusulkan perbaikan berdasarkan prinsip-prinsip Maqasid Syariah. Hasil empiris menunjukkan beberapa keterbatasan dalam undang-undang saat ini, termasuk implementasi dan penegakan yang tidak konsisten, keterbatasan sumber daya, kurangnya koordinasi di antara para pemangku kepentingan, kurangnya kesadaran dan pendidikan tentang hak-hak anak, serta kebutuhan untuk menangani akar penyebab pekerja anak seperti kemiskinan dan ketidaksetaraan sosial-ekonomi. Implikasi praktis dari penelitian ini meliputi rekomendasi untuk memprioritaskan pendidikan, menegakkan regulasi ketat perlindungan tenaga kerja, meningkatkan pelatihan dan kesadaran masyarakat, mendorong kerjasama multi-pihak, serta melakukan pemantauan dan evaluasi berkala terhadap kebijakan dan program perlindungan anak. Studi ini juga menyoroti pentingnya menggunakan hierarki lima perlindungan (agama, jiwa, akal, keturunan, dan harta) sebagai indikator dalam mengevaluasi perlindungan anak. Dengan mengadopsi pendekatan holistik yang berlandaskan Maqasid Syariah, studi ini mengusulkan kerangka teoretis baru untuk mengintegrasikan prinsip-prinsip ini dengan undang-undang perlindungan anak kontemporer. Ini menawarkan jalan yang menjanjikan untuk meningkatkan efektivitas kebijakan pekerja anak secara global dan*

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memastikan bahwa anak-anak tumbuh dalam lingkungan yang aman, sehat, dan mendukung perkembangan mereka, bebas dari eksploitasi dan kondisi kerja berbahaya.

Kata Kunci: *Pekerja anak, Perlindungan anak, Maqasid Syariah, Kerangka hukum, Rekomendasi kebijakan*

Introduction

Since ancient times, children have been an integral part of economic activities. However, understanding their rights within the context of labor has faced significant challenges throughout various historical periods¹. A review of literature spanning human history reveals narratives about children involved in various forms of work, from agriculture to modern industries². Over this long span, our understanding of their rights has shifted significantly in line with evolving societal views on child protection³.

Through the lens of literature, we can trace how views on child labor rights have changed over time. In many traditional societies, children were often seen as family members who must contribute to earning a livelihood from an early age. During those times, views on child rights in the context of labor were more inclined towards fulfilling economic needs rather than protecting their well-being⁴. However, with the emergence of the human rights movement in the 20th century, awareness of the importance of protecting children from exploitation and oppression began to emerge globally⁵.

¹ Indah Sri Utari et al., “Legal Protection for Children as Victims of Economic Exploitation: Problems and Challenges in Three Major ASEAN Countries (Indonesia, Vietnam and Philippines),” *Lex Scientia Law Review* 7, no. 2 (November 6, 2023): 771–842, <https://doi.org/10.15294/lesrev.v7i2.68301>.

² Fanqiang Meng et al., “The Impact of Labor Mobility with Fellow Townsmen on the Wages of Rural Migrants: Evidence from China,” *Humanities and Social Sciences Communications* 10, no. 1 (July 5, 2023): 376, <https://doi.org/10.1057/s41599-023-01795-8>.

³ Ramya Subrahmanian, “Eliminating Child Labour: What Needs to Be Done?,” *BMJ Paediatrics Open* 7, no. 1 (December 2023): e002102, <https://doi.org/10.1136/bmjpo-2023-002102>.

⁴ Oleg M. Yaroshenko et al., “Child Labour in Show Business in Europe: Legal Status and Protection of the Rights of Child Actors, Singers and Models,” *JusOnline*, no. 1 (April 2024): 58, https://doi.org/10.26350/18277942_000164.

⁵ John Kennedy and Ishita Chatterjee, “Manual Scavenging at Early Age: A Critical Analysis from the Perspective of Children of Manual Scavengers as Child Labour,” *Revista de Gestão Social e Ambiental* 18, no. 3 (May 20, 2024): e07016, <https://doi.org/10.24857/rgsa.v18n3-127>.

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The grand theory underlying this research is the theory of human rights⁶ and the theory of child welfare.⁷ The human rights theory⁸ emphasizes that every individual,⁹ including children,¹⁰ has rights that the state and society must protect.¹¹ The child welfare theory underscores that children should be prioritized in social¹² and economic development efforts,¹³ ensuring their physical, mental,¹⁴ and emotional needs are met for healthy and balanced growth.¹⁵

⁶ Agus Purnomo et al., “Dimensions of Maqāsid Al-Sharī‘Ah and Human Rights in the Constitutional Court’s Decision on Marriage Age Difference in Indonesia,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (July 30, 2023): 1397, <https://doi.org/10.22373/sjhk.v7i3.13283>.

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⁸ Tamyiz Mukharrom and Supriyanto Abdi, “Harmonizing Islam and Human Rights Through the Reconstruction of Classical Islamic Tradition,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (March 31, 2023): 40, <https://doi.org/10.22373/sjhk.v7i1.16436>.

⁹ Mariani Amberi, “Efforts to Prevent Child Age Marriage in The Study of Islamic Legal Philosophy and Indonesia Positive Law,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (March 31, 2023): 239, <https://doi.org/10.22373/sjhk.v7i1.12404>.

¹⁰ Mursyid Djawas and Riska Fajrina, “Efektifitas Lembaga Perlindungan Anak Terlantar: Studi pada Panti Asuhan Suci Hati di Meulaboh, Kabupaten Aceh Barat,” *SAMARAH: Jurnal Hukum Keluarga dan Hukum Islam* 3, no. 2 (November 20, 2019): 295, <https://doi.org/10.22373/sjhk.v3i2.4904>.

¹¹ Iskandar A. Gani et al., “The Constitutional Court’s Protection and Fulfilment of the Citizens’ Rights: Constitutional and Islamic Law Perspectives,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (March 31, 2024): 317, <https://doi.org/10.22373/sjhk.v8i1.22215>.

¹² Stacy Dunkerley et al., “Honoring Family: Using Parent Partner Expertise to Strengthen a Child Welfare Coaching Program,” *Children and Youth Services Review* 159 (April 1, 2024): 107523, <https://doi.org/10.1016/j.chilyouth.2024.107523>.

¹³ Kristen Lwin et al., “Examining the Role of Child Welfare Worker Characteristics and the Substantiation Decision,” *Child Abuse & Neglect* 149 (March 1, 2024): 106641, <https://doi.org/10.1016/j.chiabu.2024.106641>.

¹⁴ Ni Luh Putu Maitra Agastya et al., “Transformation of Child Welfare Institutions in Bandung, West Java: A Case of Deinstitutionalization in Indonesia,” *Children and Youth Services Review* 159 (April 1, 2024): 107545, <https://doi.org/10.1016/j.chilyouth.2024.107545>.

¹⁵ “Research and Knowledge Gaps in Child Welfare in the United States.”

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In contemporary society,¹⁶ there are various approaches to protecting child labor rights. Many countries have adopted legal regulations that set minimum ages for employment¹⁷, working hours, safe working conditions, and mandatory education¹⁸. Nonetheless, challenges remain in consistently implementing and enforcing these regulations worldwide. Phenomena such as child labor in the informal sector and home industries, as well as the exploitation of children in global supply chains, show that protecting child labor rights is still a complex and urgent issue¹⁹.

The hypothetical development of this research is based on the assumption that despite the existing policies and regulations, inconsistent implementation and enforcement contribute to the persistent prevalence of child labor. The primary hypothesis to be tested is that enhancing comprehensive policies that integrate legal, economic, social, and ethical approaches, particularly through the Maqasid Shariah framework, can significantly reduce child labor and improve their welfare.

Indah Sri Utari et al. highlight the significant legal and practical challenges in protecting children from economic exploitation in ASEAN countries. Despite existing laws, implementation is often weak, and enforcement mechanisms are insufficient to ensure adequate protection²⁰. Fanqiang Meng et al. discuss how labor mobility among rural migrants in China impacts wages but also underscores the vulnerability of children in these migrant families to labor exploitation due to economic pressures.²¹

¹⁶ Ahmad Rusyaid Idris, Muhammad Khusaini, and Syaiful Anwar Al-Mansyuri, "Contemporary Islamic Law in Indonesia: The Fulfillment of Child Custody Rights in Divorce Cases Caused by Early Marriage," *MILRev: Metro Islamic Law Review* 3, no. 1 (April 4, 2024): 1–21, <https://doi.org/10.32332/milrev.v3i1.8907>.

¹⁷ Brice Lionel Batomen Kuimi et al., "Child Labour and Health: A Systematic Review," *International Journal of Public Health* 63, no. 5 (June 1, 2018): 663–72, <https://doi.org/10.1007/s00038-018-1075-9>.

¹⁸ Joseph Ajefu et al., "Women's Inheritance Rights and Child Health Outcomes in Kenya," *Journal of Family and Economic Issues* 45, no. 1 (March 2024): 137–50, <https://doi.org/10.1007/s10834-023-09895-y>.

¹⁹ Bárbara Morais Santiago Freitas et al., "Between Play and Exploitation: What Is the Place of the Rights of Child YouTubers?," *European Journal of Investigation in Health, Psychology and Education* 14, no. 5 (May 1, 2024): 1197–1213, <https://doi.org/10.3390/ejihpe14050079>.

²⁰ Utari et al., "Legal Protection for Children as Victims of Economic Exploitation."

²¹ Meng et al., "The Impact of Labor Mobility with Fellow Townsmen on the Wages of Rural Migrants."

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Ramya Subrahmanian emphasizes the need for a multifaceted approach to eliminate child labor, stressing that international efforts must be complemented by national policies that address the root causes, such as poverty and lack of education²². Oleg M. Yaroshenko et al. investigate child labor in the European show business industry, revealing that despite regulations, child actors and performers are often subject to exploitation and insufficient legal protection²³.

John Kennedy and Ishita Chatterjee analyze manual scavenging among children in India, showing that socio-economic factors and insufficient policy enforcement contribute to the continuation of this hazardous practice²⁴. Joseph Ajefu et al. explore the impact of women's inheritance rights on child health outcomes in Kenya, linking economic empowerment of families to reduced child labor and better health for children²⁵.

Bárbara Morais Santiago Freitas et al. discuss the blurred lines between play and exploitation in the context of child YouTubers, pointing out the gaps in regulatory frameworks to protect children in digital labor environments²⁶. Anna Reda-Ciszewska examines the special rights of employees caring for children or family members with disabilities in Poland, highlighting how legal provisions can impact the balance between work and family responsibilities.²⁷

Yuly Inés Liñan Cuello et al. provide an overview of child labor in Latin America, emphasizing the need for educational and social constructs to address the issue effectively²⁸. Joana Morrison et al. evaluate health equity progress in Somalia, drawing connections between improved maternal and newborn health and reduced child labor due to better socio-economic conditions²⁹.

²² Subrahmanian, "Eliminating Child Labour."

²³ Yaroshenko et al., "Child Labour in Show Business in Europe."

²⁴ Kennedy and Chatterjee, "Manual Scavenging at Early Age."

²⁵ Ajefu et al., "Women's Inheritance Rights and Child Health Outcomes in Kenya."

²⁶ Freitas et al., "Between Play and Exploitation."

²⁷ Anna Reda-Ciszewska, "Special Rights of Employees Caring for a Child or Other Family Member with Disabilities with Regard to the Organization of Working Time and Remote Working Under the Polish Labor Code," *PRAWO i WIEŻ* 49, no. 2 (May 24, 2024): 209–22, <https://doi.org/10.36128/PRIW.VI49.628>.

²⁸ Yuly Inés Liñan Cuello, Jaidith Eneth Vidal, and Katerine Yohana Solano Brito, "Situación actual del trabajo infantil en Latinoamérica: una mirada desde los constructos educativos.," May 6, 2024, <https://doi.org/10.5281/ZENODO.11118092>.

²⁹ Joana Morrison and Sk Md Mamunur Rahman Malik, "Health Equity in Somalia? An Evaluation of the Progress Made from 2006 to 2019 in Reducing Inequities in Maternal

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Despite the various strategies and regulations, there is a noticeable gap in policies that effectively strengthen the protection of children as workers. The research indicates that while legal frameworks exist, their implementation and enforcement are often inadequate, leaving children vulnerable to exploitation and hazardous working conditions. There is a critical need for comprehensive policies that not only address the symptoms but also the root causes of child labor, ensuring robust protection and welfare for children globally.

The Maqasid Syariah approach³⁰, which aims to protect five fundamental human needs (religion, life, intellect, progeny, and wealth)³¹, offers a relevant framework for addressing child labor issues³². Maqasid Syariah emphasizes safeguarding children's welfare and rights from exploitation³³. Therefore, child labor issues are not only viewed from legal and economic perspectives but also from broader ethical and moral standpoints, ensuring that all aspects of children's lives are protected following Syariah principles.

The article "Protecting Child Labor Rights" highlights the serious issue of protecting children as workers in the modern era. Despite various international efforts to reduce child labor³⁴, the practice remains widespread, particularly in the informal sectors such as agriculture and domestic work³⁵.

and Newborn Health," *International Journal for Equity in Health* 23, no. 1 (March 5, 2024): 46, <https://doi.org/10.1186/s12939-023-02092-1>.

³⁰ Luthfiyah Dewi Masyithoh, Dwi Putra Amrah, and Imron Musthofa, "SHARIA ECONOMIC LAW ANALYSIS OF MUD BATHING IN TIKTOK LIVE AS ONLINE BEGGING (MAQASHID SYARIAH APPROACH)," *Mu'amalah: Jurnal Hukum Ekonomi Syariah* 3, no. 1 (June 9, 2024): 19, <https://doi.org/10.32332/muamalah.v3i1.7831>.

³¹ Jasser Auda, *Membumikan Hukum Islam Melalui Maqashid Syariah*, trans. Rosidin and 'Ali 'Abd el-Mun'im (Bandung: Mizan, 2015).

³² Abbas Arfan, "Maqasid Al-Syariah Sebagai Sumber Hukum Islam, Analisis Terhadap Pemikiran Jasser Auda," *Al-Manahij* 07, no. 01 (July 2013): 183–94.

³³ Abdalla Ibrahim et al., "Child Labor and Health: A Systematic Literature Review of the Impacts of Child Labor on Child's Health in Low- and Middle-Income Countries," *Journal of Public Health* 41, no. 1 (March 1, 2019): 18–26, <https://doi.org/10.1093/pubmed/fdy018>.

³⁴ Birhanu Mengist Zewdie, Arega Bazezew Berlie, and Linger Ayele Mersha, "Causes of Child Labor and Working Conditions in Ethiopia: Evidence from Temporary Inter-Rural Child Labor Migrants from Sekela District," *Comparative Migration Studies* 12, no. 1 (June 13, 2024): 28, <https://doi.org/10.1186/s40878-024-00384-1>.

³⁵ Reda-Ciszewska, "Special Rights of Employees Caring for a Child or Other Family Member with Disabilities with Regard to the Organization of Working Time and Remote Working Under the Polish Labor Code."

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For example, the COVID-19 pandemic has exacerbated this situation, increasing the number of children working due to economic pressures and educational disruptions³⁶. In many developing countries, children are still forced to work to help meet family needs³⁷, facing hazardous and exploitative working conditions³⁸.

The importance of this issue is immense because child labor not only hinders children's physical and mental development but also perpetuates the cycle of intergenerational poverty³⁹. The Convention on the Rights of the Child (CRC) and ILO Conventions No. 138 and No. 182 emphasize that every child has the right to be protected from economic exploitation and hazardous work⁴⁰. However, in practice, this protection is often inadequate. Many children work in unsafe and unhealthy conditions, resulting in physical injuries, long-term health problems, and psychological impacts such as stress and trauma⁴¹.

This research highlights gaps in the existing literature. Most studies focus on the impact of child labor on health and education⁴² but pay less attention to the effectiveness of policies and programs implemented to address this issue⁴³. Moreover, the lack of accurate and detailed data on child labor conditions in the informal sector also hampers practical efforts to combat child labor⁴⁴.

The authors use the Maqasid Syariah approach to identify patterns and provide policy recommendations. However, further research is needed to understand how policies can be effectively implemented in various social and

³⁶ Amran Suadi, "The Role Of Religious Court In Women And Children Rights Protection Through Partial And Executable Decision" 7, no. 3 (November 2018): 353–74.

³⁷ Batomen Kuimi et al., "Child Labour and Health."

³⁸ Rowena B Bernard, "The Regional Regulation of Child Labour Laws through Harmonisation within COMESA, the EAC and SADC," *African Human Rights Law Journal* 23, no. 1 (July 24, 2023): 48–74, <https://doi.org/10.17159/1996-2096/2023/v23n1a3>.

³⁹ Utari et al., "Legal Protection for Children as Victims of Economic Exploitation."

⁴⁰ Laura Lundy and Helen Stalford, "The International Journal of Children's Rights," n.d.

⁴¹ Esther Njieassam, "Child Labour in Artisanal and Small-Scale Gold Mines in Uganda: Are Legal Protections Adequate?," *Journal of African Law* 67, no. 1 (February 2023): 45–57, <https://doi.org/10.1017/S0021855322000298>.

⁴² Ibrahim et al., "Child Labor and Health."

⁴³ Lundy and Stalford, "The International Journal of Children's Rights."

⁴⁴ Ajefu et al., "Women's Inheritance Rights and Child Health Outcomes in Kenya."

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economic contexts.⁴⁵ This study also emphasizes the importance of more focused community-level interventions, such as public awareness programs and health support for child workers, to create sustainable change. Thus, this article fills a gap in the literature by exploring new ways to protect child labor rights and improve their well-being and providing policy recommendations that can be applied in various countries to reduce child labor significantly.

Analysis of the Limitations of Law no. 35 of 2014 concerning Child Protection

In Indonesia, child protection is a moral, legal, and social foundation defining the shared responsibility of the government, society, and relevant institutions to safeguard children's rights, interests, and welfare. Systematic efforts are designed to ensure that children's rights are fulfilled and protected from all forms of violence, exploitation, neglect, and abuse. Law No. 35 of 2014 on Child Protection provides a robust legal foundation for achieving this protection⁴⁶.

This law defines a child as any person under the age of 18, including those still in the womb. It reinforces the state's commitment to respecting, protecting, and fulfilling children's rights across various aspects of life, such as education, health, and general welfare. The law emphasizes the vital roles of families, communities, and the government in child protection. As the smallest unit of society, families are primarily responsible for protecting and fulfilling children's rights. Communities play a significant role by creating a conducive environment for children's growth and development. At both central and local levels, the government is mandated to provide facilities and services that support child protection, including strict law enforcement against child rights violations⁴⁷.

⁴⁵ Muhammad Miftahul Ikhsan, Neni Nuraeni, and Deffa Meiriyanti, "INTEGRATING ISLAMIC BUSINESS ETHICS IN LABOR PROTECTION AND MINIMUM WAGE DETERMINATION IN INDONESIA," *Mu'amalah: Jurnal Hukum Ekonomi Syariah* 3, no. 1 (June 7, 2024): 105–14, <https://doi.org/10.32332/muamalah.v3i1.8188>.

⁴⁶ "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak" (n.d.).

⁴⁷ Andri Hermawan, "Dokumen Identitas Pelaut Sebagai Wujud Perlindungan Hukum Tenaga Kerja Abk (Anak Buah Kapal) Indonesia Di Kapal Perikanan Berbendera Asing" (PhD Thesis, Universitas Brawijaya, 2016).

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The law also outlines mechanisms and procedures for protection involving various parties, such as child protection agencies, law enforcement officers, and non-governmental organizations. Regular monitoring and evaluation are conducted to ensure effective implementation of the law. Additionally, special handling for children who are victims of violence or rights violations, including rehabilitation and social reintegration, is arranged to ensure they receive equal opportunities to resume everyday, productive lives. This comprehensive approach aims to establish Indonesia as a child-friendly nation that safeguards the future of its younger generation⁴⁸.

The principles of child protection applied in Indonesia encompass non-discrimination, the best interests of the child, the right to life, survival and development, participation, and child advancement. The principle of non-discrimination asserts that every child has equal rights without discrimination based on gender, social status, religion, or disability. The best interests of the child principle emphasize that the child's best interests should be the primary consideration in every decision or action concerning the child⁴⁹.

The right to life, survival, and development also affirms the child's right to live, grow, and develop optimally, including access to food, healthcare, education, and a healthy environment. The participation principle recognizes that children can express their opinions in decisions affecting their lives following their developmental stage and maturity. The principle of child advancement stresses ensuring every child has equal opportunities to develop their potential and participate in societal life⁵⁰.

However, despite this solid legal framework, its implementation and enforcement face significant challenges. Research indicates that while legal frameworks exist, children in Indonesia remain vulnerable due to inconsistent application and weak enforcement. Children are still in hazardous work environments, especially in informal and rural areas, with minimal regulatory oversight⁵¹.

Furthermore, the law underscores the importance of providing special protection for children in difficult circumstances, such as those involved in or affected by armed conflicts, children with disabilities, and those

⁴⁸ Fadil Mas' ud, "Implikasi Undang-Undang Perlindungan Anak Terhadap Pekerja Anak (Suatu Kajian Sosiologi Hukum Terhadap Anak Penjual Koran Di Kota Kupang)," *JPK (Jurnal Pancasila Dan Kewarganegaraan)* 4, no. 2 (2019): 11–19.

⁴⁹ Subrahmanian, "Eliminating Child Labour."

⁵⁰ Ibrahim et al., "Child Labor and Health."

⁵¹ Zewdie, Berlie, and Mersha, "Causes of Child Labor and Working Conditions in Ethiopia."

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who have been victims of various forms of abuse. Nevertheless, practical implementation often falls short due to limited resources, lack of coordination among enforcement agencies, and insufficient awareness and training among those responsible for implementing these protections⁵².

The critical need is for comprehensive policies that not only address the symptoms of child labor but also tackle the root causes, such as poverty, lack of access to quality education, and socio-economic inequalities. Effective policy implementation requires a coordinated approach involving all stakeholders, including the government, civil society, and the private sector, to uphold children's rights and welfare.

Child protection is a fundamental responsibility of any civilized society and state. The legal framework governing child protection ensures that children's rights are comprehensively safeguarded. In many countries, child protection frameworks include various laws, regulations, and policies designed to uphold children's best interests in all aspects of their lives⁵³.

The child protection framework in Indonesia is comprehensively regulated under Law No. 35 of 2014 on Child Protection, aimed at ensuring the fulfillment of children's rights and providing protection from all forms of violence, exploitation, neglect, and abuse. This law consists of 14 chapters and 93 articles detailing various aspects of child protection, from definitions, basic principles, rights and obligations, and the roles of related institutions to criminal provisions for violators of children's rights⁵⁴.

General Provisions (Chapter I) defines a child as any person under 18, including those still in the womb. Basic Principles (Chapter II) emphasizes that every child has the right to life, survival, development, and protection from violence and discrimination. Rights and Obligations (Chapters III and IV) outline the rights and duties of children, parents, and the government. For example, Article 9 states that every child has the right to education and

⁵² "International Labor Organization: Child Labor Convention Ratified by All ILO Member States, a First in ILO History," web page, Library of Congress, Washington, D.C. 20540 USA, accessed June 24, 2024, <https://www.loc.gov/item/global-legal-monitor/2020-09-30/international-labor-organization-child-labor-convention-ratified-by-all-ilo-member-states-a-first-in-ilo-history/>.

⁵³ Florentz Magdalena, "Penyerapan Tenaga Kerja Anak Di Indonesia" (Universitas Gadjah Mada, 2021).

⁵⁴ "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak."

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instruction to develop their personality and intelligence according to their interests and talents⁵⁵.

Articles 13-19 emphasize children's rights to protection from discrimination, economic exploitation, physical and psychological violence, and neglect. Articles 20-35 discuss the duties of parents, families, and communities in fulfilling children's rights and protection and the state's responsibility in providing health and education services⁵⁶.

Child protection procedures begin with the prevention and early detection of potential rights violations. The government must conduct socialization and education for the community on the importance of child protection and provide complaint and case-handling services through institutions such as the Indonesian Child Protection Commission (KPAI) and Integrated Service Centers for the Empowerment of Women and Children (P2TP2A)⁵⁷.

When a violation occurs, the first step is reporting by the community or any party aware of the violation. Reports can be made to the police, KPAI, or P2TP2A. Law enforcement will then conduct investigations and inquiries according to legal procedures. Articles 69 to 72 regulate the investigation process, emphasizing the special treatment of children who are victims or perpetrators of crimes.

During the handling stage, children who are victims of violence or rights violations receive rehabilitation services, both medical, psychological, and social. Article 59 states that the government must provide unique places for children needing protection, such as safe houses or shelters. This rehabilitation aims to restore the child's physical and psychological condition and facilitate social reintegration.

Regular monitoring and evaluation are conducted to ensure the effective implementation of this law. Relevant institutions such as KPAI and the Ministry of Women's Empowerment and Child Protection monitor and

⁵⁵ "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak."

⁵⁶ Moh Said, "EVALUASI KEBIJAKAN PENGURANGAN PEKERJA ANAK PROGRAM KELUARGA HARAPAN DI DINAS TENAGA KERJA DAN TRANSMIGRASI KABUPATEN SUMENEP," *PUBLIC CORNER* 9, no. 2 (2014).

⁵⁷ Mohammad Kavid, "PERAN PUSAT PELAYANAN TERPADU PERLINDUNGAN PEREMPUAN DAN ANAK (P2TP2A) ODAH ETAM DALAM UPAYA MENANGANI KEKERASAN ANAK DI KOTASAMARINDA" 6 (n.d.).

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evaluate the cases handled and compile annual reports containing recommendations for improving the child protection system in Indonesia⁵⁸.

The final part of this law, particularly Articles 76 to 89, regulates criminal sanctions for violators of children's rights. For example, Article 76A states that anyone who commits physical violence against a child is threatened with imprisonment for up to 5 years and a maximum fine of Rp100 million. Other violations, such as sexual exploitation, child trafficking, and neglect, are also threatened with severe criminal sanctions, according to the seriousness of the violations committed⁵⁹.

Limitations	Issues	Solutions
Inconsistent Implementation and Enforcement	Inconsistent law enforcement allows child labor to persist, especially in informal sectors and rural areas.	Strengthen monitoring and enforcement mechanisms, including specialized training for law enforcement officers.
Resource Constraints	Effective implementation requires substantial resources, often limited in many regions of Indonesia.	Increase funding for child protection, develop training programs for personnel, and strengthen supporting infrastructure.
Coordination Among Stakeholders	Lack of effective coordination among various stakeholders hampers the law's effectiveness.	Build an integrated coordination system among government, NGOs, and communities to enhance communication and cooperation.
Awareness and Education	Lack of awareness and education about the law and children's rights among communities, parents, and law enforcement.	Increase public awareness campaigns and education programs about children's rights and legal protections.
Addressing Root Causes	The law addresses symptoms rather than the	Develop comprehensive policies addressing the root

⁵⁸ Ibrahim et al., "Child Labor and Health."

⁵⁹ Batomen Kuimi et al., "Child Labour and Health."

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Limitations	Issues	Solutions
	root causes of child labor, such as poverty and lack of education.	causes of child labor, including poverty alleviation and improving access to education.

Despite Law No. 35 of 2014 providing a robust legal framework, several limitations hinder its effectiveness, particularly concerning child labor in the current era.

1. Inconsistent Implementation and Enforcement

Implementation and enforcement of the law are inconsistent. Although the law mandates comprehensive protection for children, real-world application often diverges due to inadequate monitoring and enforcement mechanisms. This inconsistency allows child labor to persist, especially in informal sectors and rural areas with minimal regulatory oversight⁶⁰.

2. Resource Constraints

Effective law implementation requires substantial resources, including trained personnel, financial support, and infrastructure⁶¹. Many regions in Indonesia face resource constraints that limit their ability to enforce the law effectively⁶². This shortage leads to gaps in protection and support services for children, especially those in vulnerable situations.

3. Coordination Among Stakeholders

Another limitation is the lack of effective coordination among various stakeholders, including government agencies, non-governmental organizations (NGOs), and communities. While the law outlines the roles and responsibilities of different entities in child protection, the absence of a cohesive and integrated approach hampers the law's effectiveness. Better coordination is needed to ensure comprehensive and unified efforts in protecting children's rights⁶³.

4. Awareness and Education

There is a significant need for increased awareness and education about the law and children's rights among communities, parents, and law enforcement

⁶⁰ "International Labor Organization."

⁶¹ Yayan Sopyan et al., "Child Exploitation by Parents in Early Marriage: Case Study in Cianjur West Java, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (November 30, 2023): 1921, <https://doi.org/10.22373/sjkh.v7i3.14804>.

⁶² Magdalena, "Penyerapan Tenaga Kerja Anak Di Indonesia."

⁶³ Sopyan et al., "Child Exploitation by Parents in Early Marriage."

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officers⁶⁴. Many cases of child labor stem from a lack of knowledge about the legal protections available and the long-term impacts of child labor on children's development and well-being.

5. Addressing Root Causes

The law primarily addresses the symptoms of child labor rather than its root causes⁶⁵. Issues such as poverty, lack of access to quality education, and socio-economic inequalities drive child labor. Comprehensive policies that tackle these underlying factors are essential for the law's effectiveness. This analysis includes measures to alleviate poverty, improve educational opportunities, and reduce socio-economic disparities.

Modern Needs	Strategies	Reconstruction
Digital Safety	Protect children from online exploitation, cyberbullying, and inappropriate content through strong regulations and awareness programs.	Incorporate digital safety provisions into child protection laws and develop digital education programs for children and parents.
Mental Health	Provide access to psychological support and counseling services to ensure children's mental well-being.	Enhance mental health services in schools and communities and integrate mental health education into school curricula.
Inclusive Education	Ensure all children have access to quality education regardless of their socio-economic background.	Enforce inclusive education policies and provide necessary resources to support children with special needs education.
Economic Security	Reduce child labor by providing social safety nets, vocational training for parents, and economic support for families.	Develop comprehensive social welfare programs and provide access to job training and economic support for low-income families.

⁶⁴ Freitas et al., "Between Play and Exploitation."

⁶⁵ "International Labor Organization."

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In the current era, children face a variety of new challenges that require updated and comprehensive protection measures:

a) **Digital Safety**

With the increasing prevalence of the internet and digital technology, children are exposed to new risks such as online exploitation, cyberbullying, and inappropriate content. Modern child protection laws need to address these digital safety concerns comprehensively⁶⁶.

b) **Mental Health**

There is a growing recognition of the importance of mental health in children's overall well-being. Modern laws should include provisions for protecting and promoting children's mental health and ensuring access to psychological support and counseling services⁶⁷.

c) **Inclusive Education**

Ensuring all children have access to quality education regardless of their socio-economic background is crucial⁶⁸. Laws should enforce inclusive education policies that accommodate children with disabilities and those from marginalized communities⁶⁹.

d) **Economic Security**

Addressing the economic conditions that lead to child labor is essential⁷⁰. Policies that provide social safety nets, vocational training for parents, and economic support for families can help reduce the incidence of child labor.

While Law No. 35 of 2014 establishes a strong foundation for child protection in Indonesia, its effectiveness is limited by implementation challenges, resource constraints, and insufficient coordination among stakeholders. Addressing these limitations and adapting the law to meet

⁶⁶ Renata Tomaz, Brenda Guedes, and Ingrid Martins, "Main Challenges for Child Digital Citizenship in a Consumer Culture in Brazil," *Journalism and Media* 4, no. 1 (December 30, 2022): 42–59, <https://doi.org/10.3390/journalmedia4010004>.

⁶⁷ Jason Hung, "Policy-Oriented Examination of Left-Behind Children's Health and Well-Being in China," *Sustainability* 15, no. 7 (March 30, 2023): 5977, <https://doi.org/10.3390/su15075977>.

⁶⁸ Chuzaimatus Saadah, Az Zahra Aulya Salsabila, and Dwi Khalimah, "PRODUCTIVE ZAKAT AND WOMEN'S EMPOWERMENT FOR INCLUSIVE ECONOMY: SHARIA ECONOMIC LAW AND SOCIAL FIQH IN INDONESIA," *Mu'amalah: Jurnal Hukum Ekonomi Syariah* 3, no. 1 (June 14, 2024): 77, <https://doi.org/10.32332/muamalah.v3i1.9248>.

⁶⁹ Sopyan et al., "Child Exploitation by Parents in Early Marriage."

⁷⁰ Utari et al., "Legal Protection for Children as Victims of Economic Exploitation."

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modern needs are crucial steps toward ensuring robust protection and welfare for children in Indonesia.

Analysis of Child Labor Protection from the Perspective of Maqasid

Syariah

Evaluating and monitoring the performance in protecting child labor rights is crucial to ensure the effectiveness of implemented programs and policies. This evaluation involves assessing the achievement of objectives, resource utilization efficiency, and the effectiveness of child protection program implementation. Evaluation helps identify successes, weaknesses, and challenges, allowing for policy improvement in the future⁷¹.

The primary focus of the evaluation is measuring compliance with established regulations, including minimum working age, permissible working hours, and safe working conditions. It should also measure the extent of law enforcement and the effectiveness of penalties for violators⁷². Evaluations must consider the real impact of policies on the lives of working children. It includes changes in working conditions, access to education and health services, and changes in exploitation and violence levels. A holistic approach is necessary, involving children and their families to understand their experiences deeply⁷³.

Performance monitoring should involve external parties such as NGOs and international organizations to ensure the evaluation process is independent and objective. External involvement helps enhance accountability and transparency in child protection efforts. The main challenges in evaluation are data limitations, especially in the informal sector, and a lack of trained human resources for conducting evaluations. Therefore, more excellent investment is needed in capacity and infrastructure to support performance evaluations.

The Maqasid Syariah approach emphasizes five main objectives: protection of religion (الدين), life (النفوس), intellect (العقل), lineage (النسل), and property (المال)⁷⁴. Child labor protection encompasses several objectives, such

⁷¹ Ibrahim et al., "Child Labor and Health."

⁷² Lundy and Stalford, "The International Journal of Children's Rights."

⁷³ "International Labor Organization."

⁷⁴ Ainol Yaqin, "Revitalisasi Maqashid Al-Syari'ah Dalam Istibath Hukum Islam: Kajian Atas Pemikiran Muhammad Al-Thahir Ibnu 'Asyur," *Asy-Syir'ah Jurnal Ilmu Syari'ah Dan Hukum* 50, no. 2 (2016): 315–40.

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as safeguarding the child's life and intellect from hazardous work and ensuring they grow up in a healthy and supportive environment.

قوله تعالى: "وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ" (الأنعام: 151)

Do not kill the soul which Allah has forbidden, except for a just cause." (QS. Al-An'am: 151)

This verse emphasizes the importance of protecting life as a primary objective of Sharia. Protecting children from hazardous labor exploitation aligns with efforts to ensure their safety and welfare⁷⁵. After emphasizing the importance of monotheism (tawhid) and the duty of children to respect and serve their parents, the third critical piece of advice is directed toward parents: do not kill your children out of fear of poverty⁷⁶.

In Surah Al-Isra (17:31), Allah warns:

"Do not kill your children for fear of poverty. We provide for them and you. Surely, killing them is a heinous sin."

This warning addresses a practice from the time of ignorance (jahiliyyah) when people, having little faith in Allah, would kill their children due to fear of poverty⁷⁷. The continuation of this verse reassures that Allah is the Provider for both parents and their children:

"And do not kill your children for fear of poverty. We provide for them and you. Surely, killing them is a heinous sin." (Quran 17:31)

Furthermore, Allah confirms this provision in Surah Hud (11:6):

"And there is no creature on earth but that upon Allah is its provision, and He knows its place of dwelling and place of storage. All is in a clear register." (Quran 11:6)

During the era of ignorance, it was common for people to kill their children out of fear of poverty. This practice, unfortunately, still echoes in modern times, where some impoverished nations see parents selling their children because they cannot afford to feed them⁷⁸. This mindset can harm the child's education and overall well-being if parents perceive their children as merely a burden.

Within the context of Maqasid Syariah, priority is given to education and development over labor. Imam Al-Ghazali, in "المستصفى من علم الأصول"

⁷⁵ *Tafsir Ibnu Katsir Juz 8* (Bandung: Sinar Baru Algensindo, 2000).

⁷⁶ M. Quraish Shihab, *Tafsir Al-Misbah (Kesan, Pesan Dan Keserasian Al-Qur'an) Jilid 4, Lentera Hati*, vol. 4, 1, 2000, <https://www.ptonline.com/articles/how-to-get-better-mfi-results>.

⁷⁷ Shihab.

⁷⁸ Shihab.

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argues that education and child protection must be prioritized to ensure children grow and positively contribute to society⁷⁹. Imam Asy-Syatibi in “الموافقات في أصول الشريعة” emphasizes that any measure leading to human welfare and preventing harm is a Sharia objective. Hence, policies protecting children from exploitation and providing access to education and health are Maqasid Syariah implementations⁸⁰.

If we look at the hierarchy of the five main objectives in Maqasid Syariah’s theory, the primary position for children is to be protected in their religion. It means that children must be guaranteed the freedom to follow their faith according to their parents’ guidance or their own choice. Following this, children’s right to life must be protected, and no party can take the life of a child, even their parents.

Next, children must have their intellect protected, ensuring their right to education in Indonesia’s Constitution. Article 9 of the Child Protection Law emphasizes the importance of education and teaching for children. Proper education is crucial to develop children into wise adults. Mistakes in educating children can lead to a generation’s downfall. After the three rights mentioned above, lineage/honor and property protection follow. We realize that material concerns are the last in the protection hierarchy, according to Maqasid Syariah.

According to Maqasid Syariah’s theory, protecting children’s labor rights involves preventing child labor and restoring primary guidance and character-building, according to Maqasid Syariah’s indicators. Parental care for children should prioritize the maintenance of religion, life, intellect, honor, and property. When parents encourage children to work for money, it should not lead to children dropping out of school, as education aims to maintain religion, life, intellect, and honor.

The phenomenon of children working to earn a living shows parents’ misunderstanding of the priority scale of child care. The shift to the digital era should be accompanied by a parental understanding of the child protection priority scale based on Maqasid Syariah.

أبي حامد محمد بن محمد/الغزالي الطوسي, *المستصفى* and عبد الله محمود محمد عمر⁷⁹ (Dar Al-Kutub Al-Ilmiyah, 2014), <https://books.google.co.id/books?id=8C1uDwAAQBAJ>.

أبي إسحاق إبراهيم بن موسى اللخمي/الشاطبي, and عبد الله دراز ومحمد عبد الله دراز⁸⁰ (Dar Al Kotob Al Ilmiyah 2018), *الموافقات في أصول الشريعة 1-2 ج2*, *الموافقات في أصول الشريعة 1-2 ج1*, (دار الكتب العلمية), <https://books.google.co.id/books?id=I7N0DwAAQBAJ>.

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To ensure comprehensive child protection and align with the principles of Maqasid Syariah, the following policy recommendations are proposed:

1) Prioritize Education

Policies should ensure children access quality education, including financial support for needy families. This ensures that children do not have to work to meet economic needs. Education should be considered a fundamental right and priority, as Article 9 of the Child Protection Law emphasizes the importance of education and teaching for children. The principle of protecting intellect (العقل) from Maqasid Syariah underlines this necessity.

At the regional level, this ensures compliance with national education policies and aligns with regional human rights frameworks. Globally, ensuring the right to free and compulsory education for every child aligns with international human rights standards such as the United Nations Convention on the Rights of the Child (CRC) and Sustainable Development Goal 4, which aims to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.

2) Strict Labor Protection

Enforce strict regulations regarding the minimum working age, permissible working hours, and safe working conditions for children. Effective law enforcement is essential to prevent child exploitation. These regulations align with the Maqasid Syariah principle of protecting life (النفس) by ensuring children are not subjected to hazardous labor conditions.

The minimum age for employment shall be set at 15 years, with regulated employment for children aged 15-18 years to ensure it does not interfere with their education and is not hazardous. Regionally, this supports commitments made under frameworks like the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, ensuring labor standards that protect children.

Setting a minimum age for employment and regulating the employment of children aged 15-18 aligns with International Labour Organization (ILO) Conventions No. 138 on the Minimum Age and No. 182 on the Worst Forms of Child Labor. This global alignment helps in eradicating child labor and protecting children from exploitation and hazardous work conditions.

3) Community Training and Awareness

Increase public awareness about the importance of child protection through educational campaigns and training programs for parents and

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employers. Raising awareness aligns with the Maqasid Syariah objective of protecting intellect (العقل) and ensuring that the community understands the significance of safeguarding children's rights and well-being.

It ensures broader societal understanding of the importance of child protection, fostering a culture of respect for children's rights at the community level. Regionally, this reinforces initiatives such as the ASEAN Community Vision 2025, which emphasizes social cohesion and rights-based approaches to development.

Educational campaigns and training programs at the national level contribute to global efforts to raise awareness about child rights, as supported by the CRC and various United Nations initiatives. These programs help build a global culture that values and protects children's rights.

4) Multi-Stakeholder Cooperation

Encourage cooperation between the government, private sector, NGOs, and civil society in formulating and implementing comprehensive child protection policies. Collaborative efforts are necessary to address the multifaceted issue of child labor and ensure effective implementation and enforcement of protective measures.

It aligns with regional human rights mechanisms, promoting cross-sectoral collaboration and policy coherence in addressing child protection. Establishing multi-stakeholder committees at the national level reflects global best practices for child protection, as international organizations such as UNICEF and the United Nations Global Compact recommended. It approach fosters international cooperation and sharing best practices for child protection.

5) Regular Monitoring and Evaluation

Regular monitoring and evaluation of child protection policies and programs should be conducted to ensure their effectiveness and make necessary adjustments. Continuous assessment aligns with the Maqasid Syariah principle of preserving intellect (العقل) by ensuring that policies remain relevant and effective in protecting children's rights and development.

It aligns with the Maqasid Syariah principle of preserving intellect (العقل) and supports regional accountability mechanisms, such as those promoted by the ASEAN Intergovernmental Commission on Human Rights (AICHR). The creation of independent monitoring and evaluation bodies ensures compliance with international human rights obligations and enhances transparency and accountability in child protection. It aligns with global

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human rights monitoring frameworks like the United Nations Human Rights Council and the ILO.

These recommendations aim to provide a robust legal framework for protecting children's rights in Indonesia, ensuring their well-being and development in line with the principles of Maqasid Syariah. By integrating these principles, the article offers relevant insights and practical guidelines for enhancing child protection at both national and international levels. It contributes to the broader discourse on Islamic law and human rights, promoting a holistic and ethical approach to child protection that is contextually relevant and universally applicable. By adopting the Maqasid Syariah approach, child protection policies can be more comprehensive and focused on the long-term welfare of children, ensuring they grow up in a safe, healthy, and supportive environment.

The following table presents a set of proposed articles for the Child Protection Law, structured according to the principles of Maqasid Syariah. These recommendations aim to ensure comprehensive protection of children's rights by aligning with the five main objectives of Maqasid Syariah: protecting religion (الدين), life (النفس), intellect (العقل), lineage (النسل), and property (المال). Each article and clause addresses critical areas of child protection, ensuring that children can grow and develop in a safe, supportive, and nurturing environment. The justifications provided highlight how these recommendations align with the objectives of Maqasid Syariah, ensuring their relevance and effectiveness in contemporary contexts.

Article	Clauses	Justification
Right to Education	<ol style="list-style-type: none"> Every child shall have the right to free and compulsory primary education. The state shall provide financial assistance to families in need to ensure children's access to secondary and higher education. 	<p>Prioritizing education aligns with the Maqasid Syariah principle of protecting intellect (العقل), ensuring children receive the education necessary for their development and future contributions to society.</p>
Prohibition of Child Labor	<ol style="list-style-type: none"> The minimum age for employment shall be set at 15 years. 	<p>Protecting children from exploitation and hazardous work aligns with the</p>

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Article	Clauses	Justification
	<ol style="list-style-type: none"> 2. Employment of children aged 15-18 years shall be regulated, ensuring it does not interfere with their education and is not hazardous. 3. Employers violating these regulations shall face strict penalties, including fines and imprisonment. 	<p>Maqasid Syariah principle of protecting life (النفس).</p>
<p>Community Awareness and Education</p>	<ol style="list-style-type: none"> 1. The government shall implement nationwide educational campaigns to raise awareness about child protection laws and the importance of education. 2. Training programs for parents and employers on children's rights and legal obligations shall be mandatory. 	<p>Community education aligns with the Maqasid Syariah principle of protecting intellect (العقل) and ensures a broader societal understanding of the importance of child protection.</p>
<p>Multi-Stakeholder Collaboration</p>	<ol style="list-style-type: none"> 1. Establish a national committee comprising government, private sector, NGOs, and civil society representatives to oversee child protection initiatives. 2. This committee shall regularly meet to review policies, share best practices, and coordinate efforts to protect children's rights. 	<p>The collaboration aligns with the comprehensive approach to effectively addressing child labor issues.</p>

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Article	Clauses	Justification
Monitoring and Evaluation	<ol style="list-style-type: none"> 1. The government shall establish an independent body to monitor and evaluate the implementation of child protection laws. 2. This body shall publish annual reports on the state of child protection and make recommendations for policy improvements. 	<p>Regular monitoring and evaluation ensure policies remain effective and adapt to changing circumstances, aligning with the Maqasid Syariah principle of preserving intellect (العقل).</p>

These proposed articles aim to provide a robust legal framework for protecting children's rights in Indonesia and at international levels, ensuring their well-being and development in line with the principles of Maqasid Syariah.

Conclusion

This study has explored the multifaceted issue of child labor and evaluated the effectiveness of existing legal frameworks in protecting child workers' rights through the lens of Maqasid Syariah. This approach emphasizes the holistic well-being of children by safeguarding their religion, life, intellect, lineage, and property. Despite the robust legal foundation provided by Law No. 35 of 2014 on Child Protection, several limitations hinder its effectiveness in addressing child labor in contemporary society. These limitations include inconsistent implementation and enforcement, resource constraints, lack of coordination among stakeholders, insufficient awareness and education about children's rights, and the need to address the root causes of child labor, such as poverty and socio-economic inequalities.

The main findings of this study indicate that while a strong legal foundation exists, child protection in Indonesia is still suboptimal. Several policy recommendations are proposed to address these issues based on the principles of Maqasid Syariah. First, prioritize education by ensuring every child has access to free and compulsory primary education and providing financial assistance to families needing access to secondary and higher

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education. Second, establish a minimum working age of 15 years, regulate work for children aged 15-18 to ensure it does not interfere with their education and is not hazardous, and impose strict penalties on employers who violate these regulations.

Furthermore, increasing community awareness and education through national campaigns and mandatory training programs for parents and employers about children's rights and legal obligations is essential. A national committee comprising government representatives, the private sector, NGOs, and civil society is also recommended to oversee child protection initiatives. This approach ensures a comprehensive and effective strategy for addressing child labor issues.

The study also recommends the establishment of an independent body to monitor and evaluate the implementation of child protection laws regularly. Ensuring is crucial, utilizing the hierarchy of the five protections (religion, life, intellect, lineage, and property) as indicators in evaluating child protection ensures that all aspects of children's well-being are holistically addressed.

A significant contribution of this article to the study of Maqasid Syariah and child rights protection is the application of Maqasid Syariah principles to strengthen legal and policy frameworks. At the national level, this article provides concrete guidance for improving the implementation and enforcement of child protection in Indonesia, emphasizing education, protection from child labor, and multi-stakeholder collaboration. Globally, the article demonstrates how Maqasid Syariah principles can be applied to enhance international legal frameworks, such as the UN Convention on the Rights of the Child (CRC) and ILO Conventions, to protect children from exploitation and human trafficking.

In conclusion, adopting a holistic approach grounded in Maqasid Syariah can create a legal and social environment that protects and nurtures children's well-being, ensuring they grow up in a safe, healthy, and supportive environment. This new theoretical framework, integrating Maqasid Syariah with modern child protection laws, offers a promising avenue for enhancing the effectiveness of child labor policies globally. Future research should focus on implementing these policy recommendations, developing new strategies to enhance child protection, and exploring the impact of educational campaigns and community training programs on reducing child labor.

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Protecting Child Labor Rights: *Maqasid* Sharia Framework and Policy Recommendations

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Abstract: Child labor remains a significant issue in contemporary society despite existing legal frameworks aimed at protecting children's rights. This study presents an original approach by applying the principles of *Maqasid* Syariah to evaluate and strengthen child protection laws in Indonesia, specifically Law No. 35 of 2014 on Child Protection. The objectives of this research are to assess the effectiveness of the current legal framework in protecting child workers, identify its limitations, and explore how *Maqasid* Syariah principles can enhance these laws. The research employs a qualitative method, utilizing literature reviews and legal analysis to evaluate the existing legal framework and propose improvements based on *Maqasid* Syariah principles. Empirical findings reveal several limitations in the current legislation, including inconsistent implementation and enforcement, resource constraints, lack of coordination among stakeholders, insufficient awareness and education about children's rights, and the need to address the root causes of child labor, such as poverty and socio-economic inequalities. The practical implications of this study include recommendations to prioritize education, enforce strict labor protection regulations, enhance community training and awareness, encourage multi-stakeholder cooperation, and conduct regular monitoring and evaluation of child protection policies and programs. The study also highlights the importance of using the hierarchy of five protections (religion, life, intellect, lineage, and property) as indicators in evaluating child protection. By adopting a holistic approach grounded in *Maqasid* Syariah, this study proposes a new theoretical framework to integrate these principles with contemporary child protection laws. This offers a promising avenue for enhancing the effectiveness of child labor policies globally, ensuring that children grow up in a safe, healthy, and supportive environment, free from exploitation and hazardous working conditions.

Keywords: Child labor, Child protection, *Maqasid* Syariah, Legal framework, Policy recommendations.

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Abstrak: Pekerja anak tetap menjadi masalah signifikan dalam masyarakat kontemporer, meskipun terdapat kerangka hukum yang bertujuan untuk melindungi hak-hak anak. Studi ini memiliki orisinalitas dalam pendekatannya yang menggunakan prinsip-prinsip Maqasid Syariah untuk mengevaluasi dan memperkuat undang-undang perlindungan anak di Indonesia, khususnya Undang-Undang No. 35 Tahun 2014 tentang Perlindungan Anak. Tujuan penelitian ini adalah untuk menilai efektivitas kerangka hukum saat ini dalam melindungi pekerja anak dan mengidentifikasi keterbatasan serta bagaimana prinsip Maqasid Syariah dapat meningkatkan undang-undang tersebut. Metode yang digunakan dalam penelitian ini adalah metode kualitatif, dengan melakukan tinjauan literatur dan analisis hukum untuk mengevaluasi kerangka hukum yang ada serta mengusulkan perbaikan berdasarkan prinsip-prinsip Maqasid Syariah. Hasil empiris menunjukkan beberapa keterbatasan dalam undang-undang saat ini, termasuk implementasi dan penegakan yang tidak konsisten, keterbatasan sumber daya, kurangnya koordinasi di antara para pemangku kepentingan, kurangnya kesadaran dan pendidikan tentang hak-hak anak, serta kebutuhan untuk menangani akar penyebab pekerja anak seperti kemiskinan dan ketidakesetaraan sosial-ekonomi. Implikasi praktis dari penelitian ini meliputi rekomendasi untuk memprioritaskan pendidikan, menegakkan regulasi ketat perlindungan tenaga kerja, meningkatkan pelatihan dan kesadaran masyarakat, mendorong kerjasama multi-pihak, serta melakukan pemantauan dan evaluasi berkala terhadap kebijakan dan program perlindungan anak. Studi ini juga menyoroti pentingnya menggunakan hierarki lima perlindungan (agama, jiwa, akal, keturunan, dan harta) sebagai indikator dalam mengevaluasi perlindungan anak. Dengan mengadopsi pendekatan holistik yang berlandaskan Maqasid Syariah, studi ini mengusulkan kerangka teoretis baru untuk mengintegrasikan prinsip-prinsip ini dengan undang-undang perlindungan anak kontemporer. Ini menawarkan jalan yang menjanjikan untuk meningkatkan efektivitas kebijakan pekerja anak secara global dan memastikan bahwa anak-anak tumbuh dalam lingkungan yang aman, sehat, dan mendukung perkembangan mereka, bebas dari eksploitasi dan kondisi kerja berbahaya.

Kata Kunci: Pekerja anak, Perlindungan anak, Maqasid Syariah, Kerangka hukum, Rekomendasi kebijakan

Introduction

Since ancient times, children have been an integral part of economic activities. However, understanding their rights within the context of labor has

faced significant challenges throughout various historical periods¹. A review of literature spanning human history reveals narratives about children involved in various forms of work, from agriculture to modern industries.² Over this long span, our understanding of their rights has shifted significantly in line with evolving societal views on child protection.³

Through the lens of literature, we can trace how views on child labor rights have changed over time. In many traditional societies, children were often seen as family members who must contribute to earning a livelihood from an early age. During those times, views on child rights in the context of labor were more inclined towards fulfilling economic needs rather than protecting their well-being.⁴ However, with the emergence of the human rights movement in the 20th century, awareness of the importance of protecting children from exploitation and oppression began to emerge globally.⁵ The grand theory underlying this research is the theory of human rights⁶ and the theory of child welfare.⁷ The human rights theory⁸ emphasizes that every individual,⁹ including children,¹⁰ has rights that the

¹ Indah Sri Utari et al., “Legal Protection for Children as Victims of Economic Exploitation: Problems and Challenges in Three Major ASEAN Countries (Indonesia, Vietnam and Philippines),” *Lex Scientia Law Review* 7, no. 2 (2023) 771–842.

² Fanqiang Meng et al., “The Impact of Labor Mobility with Fellow Townspeople on the Wages of Rural Migrants: Evidence from China,” *Humanities and Social Sciences Communications* 10, no. 1 (2023) 376.

³ Ramya Subrahmanian, “Eliminating Child Labour: What Needs to Be Done?,” *BMJ Paediatrics Open* 7, no. 1 (2023).

⁴ Oleg M. Yaroshenko et al., “Child Labour in Show Business in Europe: Legal Status and Protection of the Rights of Child Actors, Singers and Models,” *JusOnline*, no. 1 (2024) 58.

⁵ John Kennedy and Ishita Chatterjee, “Manual Scavenging at Early Age: A Critical Analysis from the Perspective of Children of Manual Scavengers as Child Labour,” *Revista de Gestão Social e Ambiental* 18, no. 3 (2024).

⁶ Agus Purnomo et al., “Dimensions of Maqāṣid Al-Sharī‘ah and Human Rights in the Constitutional Court’s Decision on Marriage Age Difference in Indonesia,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (2023): 1397.

⁷ “Research and Knowledge Gaps in Child Welfare in the United States: A National Survey of Agency Staff, Allied Disciplines, Tribal Leaders, and People Who Have Experienced Child Welfare,” *Children and Youth Services Review* 138 (2022).

⁸ Tamyiz Mukharrom and Supriyanto Abdi, “Harmonizing Islam and Human Rights Through the Reconstruction of Classical Islamic Tradition,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023) 40.

⁹ Mariani Amberi, “Efforts to Prevent Child Age Marriage in The Study of Islamic Legal Philosophy and Indonesia Positive Law,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023) 239.

¹⁰ Mursyid Djawas and Riska Fajrina, “Efektifitas Lembaga Perlindungan Anak Terlantar: Studi pada Panti Asuhan Suci Hati di Meulaboh, Kabupaten Aceh Barat,” *SAMARAH: Jurnal Hukum Keluarga dan Hukum Islam* 3, no. 2 (2019) 295.

state and society must protect.¹¹ The child welfare theory underscores that children should be prioritized in social¹² and economic development efforts,¹³ ensuring their physical, mental,¹⁴ and emotional needs are met for healthy and balanced growth.¹⁵ In contemporary society,¹⁶ there are various approaches to protecting child labor rights.¹⁷ Many countries have adopted legal regulations that set minimum wages for employment,¹⁸ working hours, safe working conditions, and mandatory education.¹⁹ Nonetheless, challenges remain in consistently implementing and enforcing these regulations worldwide. Phenomena such as child labor in the informal sector and home industries, as well as the exploitation of children in global supply chains, show that protecting child labor rights is still a complex and urgent issue.²⁰

The hypothetical development of this research is based on the assumption that despite the existing policies and regulations, inconsistent implementation and enforcement contribute to the persistent prevalence of child labor. The primary hypothesis to be tested is that enhancing comprehensive policies that integrate legal, economic, social, and ethical approaches, particularly

¹¹ Iskandar A. Gani et al., "The Constitutional Court's Protection and Fulfilment of the Citizens' Rights: Constitutional and Islamic Law Perspectives," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (2024) 317. Yayan Sopyan Access To Justice of Citizenship Rights for Stateless Indonesian Migrant Workers' Children In Sarawak, Malaysia, *al-Ihkam: Jurnal Hukum dan Pranata Sosial*, 16 (2), 2021: 483.

¹² Stacy Dunkerley et al., "Honoring Family: Using Parent Partner Expertise to Strengthen a Child Welfare Coaching Program," *Children and Youth Services Review* 159 (2024): 107523.

¹³ Kristen Lwin et al., "Examining the Role of Child Welfare Worker Characteristics and the Substantiation Decision," *Child Abuse & Neglect* (2024): 106641.

¹⁴ Ni Luh Putu Maitra Agastya et al., "Transformation of Child Welfare Institutions in Bandung, West Java: A Case of Deinstitutionalization in Indonesia," *Children and Youth Services Review* 159 (2024): 107545.

¹⁵ "Research and Knowledge Gaps in Child Welfare in the United States." Abu Hapsin, *How To Make Islamic Law As The State Legal Policy Of Indonesia: Constitutional And Sociological Arguments*, *Al-Ahkam*, 27 (2), 2017. 151.

¹⁶ Ahmad Rusyaid Idris, Muhammad Khusaini, and Syaiful Anwar Al-Mansyuri, "Contemporary Islamic Law in Indonesia: The Fulfillment of Child Custody Rights in Divorce Cases Caused by Early Marriage," *MILRev : Metro Islamic Law Review* 3, no. 1 (2024): 1–21.

¹⁷ Abdul Rahim Hakimi et al., "Legal Policy for Women Workers in Indonesia: A Review of Contemporary Islamic Law," *MILRev : Metro Islamic Law Review* 3, no. 1 (2024): 66–94.

¹⁸ Brice Lionel Batomen Kuimi et al., "Child Labour and Health: A Systematic Review," *International Journal of Public Health* 63, no. 5 (2018): 663–72.

¹⁹ Joseph Ajefu et al., "Women's Inheritance Rights and Child Health Outcomes in Kenya," *Journal of Family and Economic Issues* 45, no. 1 (2024): 137–50.

²⁰ Bárbara Morais Santiago Freitas et al., "Between Play and Exploitation: What Is the Place of the Rights of Child YouTubers?," *European Journal of Investigation in Health, Psychology and Education* 14, no. 5 (2024): 1197–1213.

through the Maqasid Shariah framework, can significantly reduce child labor and improve their welfare.

Indah Sri Utari et al. highlight the significant legal and practical challenges in protecting children from economic exploitation in ASEAN countries. Despite existing laws, implementation is often weak, and enforcement mechanisms are insufficient to ensure adequate protection.²¹ Fanqiang Meng et al. discuss how labor mobility among rural migrants in China impacts wages but also underscores the vulnerability of children in these migrant families to labor exploitation due to economic pressures.²²

Ramya Subrahmanian emphasizes the need for a multifaceted approach to eliminate child labor, stressing that international efforts must be complemented by national policies that address the root causes, such as poverty and lack of education.²³ Oleg M. Yaroshenko et al. investigate child labor in the European show business industry, revealing that despite regulations, child actors and performers are often subject to exploitation and insufficient legal protection.²⁴

John Kennedy and Ishita Chatterjee analyze manual scavenging among children in India, showing that socio-economic factors and insufficient policy enforcement contribute to the continuation of this hazardous practice²⁵. Joseph Ajefu et al. explore the impact of women's inheritance rights on child health outcomes in Kenya, linking economic empowerment of families to reduced child labor and better health for children²⁶.

Bárbara Morais Santiago Freitas et al. discuss the blurred lines between play and exploitation in the context of child YouTubers, pointing out the gaps in regulatory frameworks to protect children in digital labor environments.²⁷ Anna Reda-Ciszewska examines the special rights of employees caring for children or family members with disabilities in Poland, highlighting how legal provisions can impact the balance between work and family responsibilities.²⁸

Yuly Inés Liñan Cuello et al. provide an overview of child labor in Latin America, emphasizing the need for educational and social constructs to address

²¹ Utari et al., "Legal Protection for Children as Victims of Economic Exploitation."

²² Meng et al., "The Impact of Labor Mobility with Fellow Townsmen on the Wages of Rural Migrants."

²³ Subrahmanian, "Eliminating Child Labour."

²⁴ Yaroshenko et al., "Child Labour in Show Business in Europe."

²⁵ Kennedy and Chatterjee, "Manual Scavenging at Early Age."

²⁶ Ajefu et al., "Women's Inheritance Rights and Child Health Outcomes in Kenya."

²⁷ Freitas et al., "Between Play and Exploitation."

²⁸ Anna Reda-Ciszewska, "Special Rights of Employees Caring for a Child or Other Family Member with Disabilities with Regard to the Organization of Working Time and Remote Working Under the Polish Labor Code," *PRAWO i WIEŻ* 49, no. 2 (2024): 209–22.

the issue effectively.²⁹ Joana Morrison et al. evaluate health equity progress in Somalia, drawing connections between improved maternal and newborn health and reduced child labor due to better socio-economic conditions.³⁰

Despite the various strategies and regulations, there is a noticeable gap in policies that effectively strengthen the protection of children as workers. The research indicates that while legal frameworks exist, their implementation and enforcement are often inadequate, leaving children vulnerable to exploitation and hazardous working conditions. There is a critical need for comprehensive policies that not only address the symptoms but also the root causes of child labor, ensuring robust protection and welfare for children globally.

The Maqasid Syariah approach,³¹ which aims to protect five fundamental human needs (religion, life, intellect, progeny, and wealth)³² offers a relevant framework for addressing child labor issues.³³ Maqasid Syariah emphasizes safeguarding children's welfare and rights from exploitation.³⁴ Therefore, child labor issues are not only viewed from legal and economic perspectives but also from broader ethical and moral standpoints, ensuring that all aspects of children's lives are protected following Syariah principles.

The article "Protecting Child Labor Rights" highlights the serious issue of protecting children as workers in the modern era. Despite various international efforts to reduce child labor,³⁵ the practice remains widespread, particularly in the

²⁹ Yuly Inés Liñan Cuello, Jaidith Eneth Vidal, and Katerine Yohana Solano Brito, "Situación actual del trabajo infantil en Latinoamérica: una mirada desde los constructos educativos.," (2024).

³⁰ Joana Morrison and Sk Md Mamunur Rahman Malik, "Health Equity in Somalia? An Evaluation of the Progress Made from 2006 to 2019 in Reducing Inequities in Maternal and Newborn Health," *International Journal for Equity in Health* 23, no. 1 (2024): 46.

³¹ Luthfiah Dewi Masyithoh, Dwi Putra Amrah, and Imron Musthofa, "SHARIA ECONOMIC LAW ANALYSIS OF MUD BATHING IN TIKTOK LIVE AS ONLINE BEGGING (MAQASHID SYARIAH APPROACH)," *Mu'amalah: Jurnal Hukum Ekonomi Syariah* 3, no. 1 (2024) 19. Asa'ari, Urgensi Pemahaman Terhadap Maqashid Al-Syari'ah dan Perubahan Sosial dalam Istibath Al-Ahkam, *De Jure: Jurnal Hukum dan Syar'iah*, Vol. 13, No. 2, (2021), 236.

³² Jasser Auda, *Membumikan Hukum Islam Melalui Maqashid Syariah*, trans. Rosidin and 'Ali 'Abd el-Mun'im (Bandung: Mizan, 2015).

³³ Abbas Arfan, "Maqasid Al-Syariah Sebagai Sumber Hukum Islam, Analisis Terhadap Pemikiran Jasser Auda," *Al-Manahij* 07, no. 01 (2013): 183–94.

³⁴ Abdalla Ibrahim et al., "Child Labor and Health: A Systematic Literature Review of the Impacts of Child Labor on Child's Health in Low- and Middle-Income Countries," *Journal of Public Health* 41, no. 1 (2019), 18–26.

³⁵ Birhanu Mengist Zewdie, Arega Bazezew Berlie, and Linger Ayele Mersha, "Causes of Child Labor and Working Conditions in Ethiopia: Evidence from Temporary Inter-Rural Child Labor Migrants from Sekela District," *Comparative Migration Studies* 12, no. 1 (2024): 28.

informal sectors such as agriculture and domestic work.³⁶ For example, the COVID-19 pandemic has exacerbated this situation, increasing the number of children working due to economic pressures and educational disruptions.³⁷ In many developing countries, children are still forced to work to help meet family needs,³⁸ facing hazardous and exploitative working conditions.³⁹

The importance of this issue is immense because child labor not only hinders children's physical and mental development but also perpetuates the cycle of intergenerational poverty.⁴⁰ The Convention on the Rights of the Child (CRC) and ILO Conventions No. 138 and No. 182 emphasize that every child has the right to be protected from economic exploitation and hazardous work.⁴¹ However, in practice, this protection is often inadequate. Many children work in unsafe and unhealthy conditions, resulting in physical injuries, long-term health problems, and psychological impacts such as stress and trauma.⁴²

This research highlights gaps in the existing literature. Most studies focus on the impact of child labor on health and education⁴³ but pay less attention to the effectiveness of policies and programs implemented to address this issue.⁴⁴ Moreover, the lack of accurate and detailed data on child labor conditions in the informal sector also hampers practical efforts to combat child labor.⁴⁵

The authors use the Maqasid Syariah approach to identify patterns and provide policy recommendations. However, further research is needed to understand how policies can be effectively implemented in various social and economic contexts.⁴⁶ This study also emphasizes the importance of more focused community-level interventions, such as public awareness programs and health

³⁶ Reda-Ciszewska, "Special Rights of Employees Caring for a Child or Other Family Member with Disabilities with Regard to the Organization of Working Time and Remote Working Under the Polish Labor Code."

³⁷ Amran Suadi, "The Role Of Religious Court In Women And Children Rights Protection Through Partial And Executable Decision" 7, no. 3 (2018): 353–74.

³⁸ Batomen Kuimi et al., "Child Labour and Health."

³⁹ Rowena B Bernard, "The Regional Regulation of Child Labour Laws through Harmonisation within COMESA, the EAC and SADC," *African Human Rights Law Journal* 23, no. 1 (2023): 48–74.

⁴⁰ Utari et al., "Legal Protection for Children as Victims of Economic Exploitation."

⁴¹ Laura Lundy and Helen Stalford, "The International Journal of Children's Rights," n.d.

⁴² Esther Njieassam, "Child Labour in Artisanal and Small-Scale Gold Mines in Uganda: Are Legal Protections Adequate?," *Journal of African Law* 67, no. 1 (2023): 45–57.

⁴³ Ibrahim et al., "Child Labor and Health."

⁴⁴ Lundy and Stalford, "The International Journal of Children's Rights."

⁴⁵ Ajefu et al., "Women's Inheritance Rights and Child Health Outcomes in Kenya."

⁴⁶ Muhammad Miftahul Ikhsan, Neni Nuraeni, and Deffa Meiriyanti, "INTEGRATING ISLAMIC BUSINESS ETHICS IN LABOR PROTECTION AND MINIMUM WAGE DETERMINATION IN INDONESIA," *Mu'amalah: Jurnal Hukum Ekonomi Syariah* 3, no. 1 (2024), 105–14.

support for child workers, to create sustainable change.⁴⁷ Thus, this article fills a gap in the literature by exploring new ways to protect child labor rights and improve their well-being and providing policy recommendations that can be applied in various countries to reduce child labor significantly.

Analysis of the Limitations of Law no. 35 of 2014 concerning Child Protection

In Indonesia, child protection is a moral, legal, and social foundation defining the shared responsibility of the government, society, and relevant institutions to safeguard children's rights, interests, and welfare.⁴⁸ Systematic efforts are designed to ensure that children's rights are fulfilled and protected from all forms of violence,⁴⁹ exploitation, neglect, and abuse. Law No. 35 of 2014 on Child Protection provides a robust legal foundation for achieving this protection.⁵⁰

This law defines a child as any person under the age of 18, including those still in the womb. It reinforces the state's commitment to respecting, protecting, and fulfilling children's rights across various aspects of life, such as education, health, and general welfare. The law emphasizes the vital roles of families, communities, and the government in child protection. As the smallest unit of society, families are primarily responsible for protecting and fulfilling children's rights. Communities play a significant role by creating a conducive environment for children's growth and development. At both central and local levels, the government is mandated to provide facilities and services that support child protection, including strict law enforcement against child rights violations.⁵¹

The law also outlines mechanisms and procedures for protection involving various parties, such as child protection agencies, law enforcement officers, and non-governmental organizations. Regular monitoring and evaluation

⁴⁷ Muhammad Hasrun, et al, The Ideal Legal Protection of the Child Labor Rights In Indonesia: The Dimension of Maqasid Sharia and the Welfare State, *Juris: Jurnal Ilmiah Syariah*, Vol 23, No.1, (2024). 170.

⁴⁸ Taufiqur Rohman, et al, Preventing Violations of Religious and Social Norms: Judicial Interpretation of 'Urgent Reasons' in Marriage Dispensation at the Wonosari Religious Court, Indonesia, *Journal of Islamic Law (JIL)*, Vol. 4, No.2, (2023). 223-224.

⁴⁹ Rifdah Alifiyah and Isa Anshori, Legal Protection for Children in Cases of Domestic Violence in the Indonesian Households, *El-USrah: Jurnal Hukum Keluarga*, Vol. 6 No. 2 (2023). 353.

⁵⁰ "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak" (n.d.). Satria Juanda, et al, The P2TP2A's Effort to Cope with the Intensification of Sexual Abuse of Children in Perspective of the Islamic Family Law (A Case Study at the City of Banda Aceh), *El-USrah: Jurnal Hukum Keluarga*, Vol. 6 No. 1 (2023), 117.

⁵¹ Andri Hermawan, "Dokumen Identitas Pelaut Sebagai Wujud Perlindungan Hukum Tenaga Kerja Abk (Anak Buah Kapal) Indonesia Di Kapal Perikanan Berbendera Asing" (PhD Thesis, Universitas Brawijaya, 2016).

are conducted to ensure effective implementation of the law. Additionally, special handling for children who are victims of violence or rights violations, including rehabilitation and social reintegration, is arranged to ensure they receive equal opportunities to resume every day, productive lives. This comprehensive approach aims to establish Indonesia as a child-friendly nation that safeguards the future of its younger generation.⁵²

The principles of child protection applied in Indonesia encompass non-discrimination, the best interests of the child, the right to life, survival and development, participation, and child advancement. The principle of non-discrimination asserts that every child has equal rights without discrimination based on gender, social status, religion, or disability. The best interests of the child principle emphasize that the child's best interests should be the primary consideration in every decision or action concerning the child.⁵³

The right to life, survival, and development also affirms the child's right to live, grow, and develop optimally, including access to food, healthcare, education, and a healthy environment.⁵⁴ The participation principle recognizes that children can express their opinions in decisions affecting their lives following their developmental stage and maturity. The principle of child advancement stresses ensuring every child has equal opportunities to develop their potential and participate in societal life.⁵⁵

However, despite this solid legal framework, its implementation and enforcement face significant challenges. Research indicates that while legal frameworks exist, children in Indonesia remain vulnerable due to inconsistent application and weak enforcement. Children are still in hazardous work environments, especially in informal and rural areas, with minimal regulatory oversight.⁵⁶

Furthermore, the law underscores the importance of providing special protection for children in difficult circumstances, such as those involved in or affected by armed conflicts, children with disabilities, and those who have been victims of various forms of abuse. Nevertheless, practical implementation often falls short due to limited resources, lack of coordination among enforcement

⁵² Fadil Mas' ud, "Implikasi Undang-Undang Perlindungan Anak Terhadap Pekerja Anak (Suatu Kajian Sosiologi Hukum Terhadap Anak Penjual Koran Di Kota Kupang)," *JPK (Jurnal Pancasila Dan Kewarganegaraan)* 4, no. 2 (2019): 11–19.

⁵³ Subrahmanian, "Eliminating Child Labour."

⁵⁴ Edi Darmawijaya and Miss Maslinee Ma'ming, Settlement of the Fulfillment of Wife and Child Livelihood by the Islamic Religious Council Southern Patani Region of Thailand, *El-Usrah: Jurnal Hukum Keluarga*, Vol. 6 No. 1 (2023). 153.

⁵⁵ Ibrahim et al., "Child Labor and Health."

⁵⁶ Zewdie, Berlie, and Mersha, "Causes of Child Labor and Working Conditions in Ethiopia."

agencies, and insufficient awareness and training among those responsible for implementing these protections.⁵⁷

The critical need is for comprehensive policies that not only address the symptoms of child labor but also tackle the root causes, such as poverty, lack of access to quality education, and socio-economic inequalities. Effective policy implementation requires a coordinated approach involving all stakeholders, including the government, civil society, and the private sector, to uphold children's rights and welfare.

Child protection is a fundamental responsibility of any civilized society and state.⁵⁸ The legal framework governing child protection ensures that children's rights are comprehensively safeguarded. In many countries, child protection frameworks include various laws, regulations, and policies designed to uphold children's best interests in all aspects of their lives.⁵⁹

The child protection framework in Indonesia is comprehensively regulated under Law No. 35 of 2014 on Child Protection, aimed at ensuring the fulfillment of children's rights and providing protection from all forms of violence, exploitation, neglect, and abuse. This law consists of 14 chapters and 93 articles detailing various aspects of child protection, from definitions, basic principles, rights and obligations, and the roles of related institutions to criminal provisions for violators of children's rights.⁶⁰

General Provisions (Chapter I) defines a child as any person under 18, including those still in the womb. Basic Principles (Chapter II) emphasizes that every child has the right to life, survival, development, and protection from violence and discrimination. Rights and Obligations (Chapters III and IV) outline the rights and duties of children, parents, and the government. For example,

⁵⁷ "International Labor Organization: Child Labor Convention Ratified by All ILO Member States, a First in ILO History," web page, Library of Congress, Washington, D.C. 20540 USA, accessed June 24, 2024, <https://www.loc.gov/item/global-legal-monitor/2020-09-30/international-labor-organization-child-labor-convention-ratified-by-all-ilo-member-states-a-first-in-ilo-history/>.

⁵⁸ Kuku Pramono Budi, et al, Adjudicating Joint Property Dispute In Islamic Jurisprudence: Balancing The Best Interests Of The Child With A Focus On Residency, *Syariah: Jurnal Hukum Dan Pemikiran*, Volume 23, No.2, (2023). 247. Joni Zuhendra, et al, The Crown Witness From the Point of View of Islamic Criminal Law in Truth Discovery of Criminal Cases in Indonesia, *Al-Istinbath Jurnal Hukum Islam*, Vol. 8. No. 1, (2023), 151.

⁵⁹ Florentz Magdalena, "Penyerapan Tenaga Kerja Anak Di Indonesia" (Universitas Gadjah Mada, 2021).

⁶⁰ "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak."

Article 9 states that every child has the right to education and instruction to develop their personality and intelligence according to their interests and talents.⁶¹

Articles 13-19 emphasize children's rights to protection from discrimination, economic exploitation, physical and psychological violence, and neglect. Articles 20-35 discuss the duties of parents, families, and communities in fulfilling children's rights and protection and the state's responsibility in providing health and education services.⁶²

Child protection procedures begin with the prevention and early detection of potential rights violations. The government must conduct socialization and education for the community on the importance of child protection and provide complaint and case-handling services through institutions such as the Indonesian Child Protection Commission (KPAI) and Integrated Service Centers for the Empowerment of Women and Children (P2TP2A).⁶³

When a violation occurs, the first step is reporting by the community or any party aware of the violation. Reports can be made to the police, KPAI, or P2TP2A. Law enforcement will then conduct investigations and inquiries according to legal procedures. Articles 69 to 72 regulate the investigation process, emphasizing the special treatment of children who are victims or perpetrators of crimes.

During the handling stage, children who are victims of violence or rights violations receive rehabilitation services, both medical, psychological, and social.⁶⁴ Article 59 states that the government must provide unique places for children needing protection, such as safe houses or shelters. This rehabilitation aims to restore the child's physical and psychological condition and facilitate social reintegration.

Regular monitoring and evaluation are conducted to ensure the effective implementation of this law. Relevant institutions such as KPAI and the Ministry of Women's Empowerment and Child Protection monitor and evaluate the cases handled and compile annual reports containing recommendations for improving the child protection system in Indonesia.⁶⁵

⁶¹ "Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak."

⁶² Moh Said, "Evaluasi Kebijakan Pengurangan Pekerja Anak Program Keluarga Harapan di Dinas Tenaga Kerja dan Transmigrasi Kabupaten Sumenep," *Public Corner* 9, no. 2 (2014).

⁶³ Mohammad Kavid, "Peran Pusat Pelayanan Terpadu Perlindungan Perempuan dan Anak (P2TP2A) Odah Etam dalam Upaya Menangani Kekerasan Anak di Kota Samarinda" 6 (n.d.).

⁶⁴ Analiansyah, and Ali Abubakar, Children Handling Procedure in Islamic Criminal Offense in Aceh, *Ahkam*, Volume 21, Number 1, (2021) 131.

⁶⁵ Ibrahim et al., "Child Labor and Health."

The final part of this law, particularly Articles 76 to 89, regulates criminal sanctions for violators of children’s rights. For example, Article 76A states that anyone who commits physical violence against a child is threatened with imprisonment for up to 5 years and a maximum fine of Rp100 million. Other violations, such as sexual exploitation, child trafficking, and neglect, are also threatened with severe criminal sanctions, according to the seriousness of the violations committed.⁶⁶

Tabel.1 Evaluating Law of Children’s Rights

Limitations	Issues	Solutions
Inconsistent Implementation and Enforcement	Inconsistent law enforcement allows child labor to persist, especially in informal sectors and rural areas.	Strengthen monitoring and enforcement mechanisms, including specialized training for law enforcement officers.
Resource Constraints	Effective implementation requires substantial resources, often limited in many regions of Indonesia.	Increase funding for child protection, develop training programs for personnel, and strengthen supporting infrastructure.
Coordination Among Stakeholders	Lack of effective coordination among various stakeholders hampers the law’s effectiveness.	Build an integrated coordination system among government, NGOs, and communities to enhance communication and cooperation.
Awareness and Education	Lack of awareness and education about the law and children’s rights among communities, parents, and law enforcement.	Increase public awareness campaigns and education programs about children’s rights and legal protections.
Addressing Root Causes	The law addresses symptoms rather than the root causes of child labor, such as poverty and lack of education.	Develop comprehensive policies addressing the root causes of child labor, including poverty alleviation and improving access to education.

Source: Author's Interpretation

⁶⁶ Batomen Kuimi et al., “Child Labour and Health.”

Despite Law No. 35 of 2014 providing a robust legal framework, several limitations hinder its effectiveness, particularly concerning child labor in the current era.

1. Inconsistent Implementation and Enforcement

Implementation and enforcement of the law are inconsistent. Although the law mandates comprehensive protection for children, real-world application often diverges due to inadequate monitoring and enforcement mechanisms. This inconsistency allows child labor to persist, especially in informal sectors and rural areas with minimal regulatory oversight.⁶⁷

2. Resource Constraints

Effective law implementation requires substantial resources, including trained personnel, financial support, and infrastructure⁶⁸. Many regions in Indonesia face resource constraints that limit their ability to enforce the law effectively⁶⁹. This shortage leads to gaps in protection and support services for children, especially those in vulnerable situations.

3. Coordination Among Stakeholders

Another limitation is the lack of effective coordination among various stakeholders, including government agencies, non-governmental organizations (NGOs), and communities. While the law outlines the roles and responsibilities of different entities in child protection, the absence of a cohesive and integrated approach hampers the law's effectiveness. Better coordination is needed to ensure comprehensive and unified efforts in protecting children's rights.⁷⁰

4. Awareness and Education

There is a significant need for increased awareness and education about the law and children's rights among communities, parents, and law enforcement officers.⁷¹ Many cases of child labor stem from a lack of knowledge about the legal protections available and the long-term impacts of child labor on children's development and well-being.

5. Addressing Root Causes

The law primarily addresses the symptoms of child labor rather than its root causes⁷². Issues such as poverty, lack of access to quality education, and socio-economic inequalities drive child labor. Comprehensive policies that tackle these

⁶⁷ "International Labor Organization."

⁶⁸ Yayan Sopyan et al., "Child Exploitation by Parents in Early Marriage: Case Study in Cianjur West Java, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (November 30, 2023): 1921, <https://doi.org/10.22373/sjhc.v7i3.14804>.

⁶⁹ Magdalena, "Penyerapan Tenaga Kerja Anak Di Indonesia."

⁷⁰ Sopyan et al., "Child Exploitation by Parents in Early Marriage."

⁷¹ Freitas et al., "Between Play and Exploitation."

⁷² "International Labor Organization."

underlying factors are essential for the law’s effectiveness. This analysis includes measures to alleviate poverty, improve educational opportunities, and reduce socio-economic disparities.

Tabel. 2 Strategies and Reconstruction of Children’s Rights

Modern Needs	Strategies	Reconstruction
Digital Safety	Protect children from online exploitation, cyberbullying, and inappropriate content through strong regulations and awareness programs.	Incorporate digital safety provisions into child protection laws and develop digital education programs for children and parents.
Mental Health	Provide access to psychological support and counseling services to ensure children’s mental well-being.	Enhance mental health services in schools and communities and integrate mental health education into school curricula.
Inclusive Education	Ensure all children have access to quality education regardless of their socio-economic background.	Enforce inclusive education policies and provide necessary resources to support children with special needs education.
Economic Security	Reduce child labor by providing social safety nets, vocational training for parents, and economic support for families.	Develop comprehensive social welfare programs and provide access to job training and economic support for low-income families.

Source: Author's Interpretation

In the current era, children face a variety of new challenges that require updated and comprehensive protection measures:

a) Digital Safety

With the increasing prevalence of the internet and digital technology, children are exposed to new risks such as online exploitation, cyberbullying, and inappropriate content. Modern child protection laws need to address these digital safety concerns comprehensively.⁷³

b) Mental Health

⁷³ Renata Tomaz, Brenda Guedes, and Ingrid Martins, “Main Challenges for Child Digital Citizenship in a Consumer Culture in Brazil,” *Journalism and Media* 4, no. 1 (2022): 42–59.

There is a growing recognition of the importance of mental health in children's overall well-being. Modern laws should include provisions for protecting and promoting children's mental health and ensuring access to psychological support and counseling services.⁷⁴

c) Inclusive Education

Ensuring all children have access to quality education regardless of their socio-economic background is crucial.⁷⁵ Laws should enforce inclusive education policies that accommodate children with disabilities and those from marginalized communities.⁷⁶

d) Economic Security

Addressing the economic conditions that lead to child labor is essential⁷⁷. Policies that provide social safety nets, vocational training for parents,⁷⁸ and economic support for families can help reduce the incidence of child labor.

While Law No. 35 of 2014 establishes a strong foundation for child protection in Indonesia, its effectiveness is limited by implementation challenges, resource constraints, and insufficient coordination among stakeholders. Addressing these limitations and adapting the law to meet modern needs are crucial steps toward ensuring robust protection and welfare for children in Indonesia.

Analysis of Child Labor Protection from the Perspective of Maqasid Syariah

Evaluating and monitoring the performance in protecting child labor rights is crucial to ensure the effectiveness of implemented programs and policies. This evaluation involves assessing the achievement of objectives, resource utilization efficiency, and the effectiveness of child protection program implementation. Evaluation helps identify successes, weaknesses, and challenges, allowing for policy improvement in the future.⁷⁹

⁷⁴ Jason Hung, "Policy-Oriented Examination of Left-Behind Children's Health and Well-Being in China," *Sustainability* 15, no. 7 (2023), 5977.

⁷⁵ Chuzaimatus Saadah, Az Zahra Aulya Salsabila, and Dwi Khalimah, "Productive Zakat and Women's Empowerment for Inclusive Economy: Sharia Economic Law and Social Fiqh in Indonesia," *Mu'amalah: Jurnal Hukum Ekonomi Syariah* 3, no. 1 (2024): 77.

⁷⁶ Sopyan et al., "Child Exploitation by Parents in Early Marriage."

⁷⁷ Utari et al., "Legal Protection for Children as Victims of Economic Exploitation."

⁷⁸ Enny Puji Lestari, Nyimas Lidya Putri Pertiwi, Agus Alimuddin, and Danis Asbihani, "Minat Investasi Pekerja Migran Indonesia dalam Meningkatkan Ketahanan Ekonomi Keluarga di Lampung Timur," *FINANSIA: Jurnal Akuntansi dan Perbankan Syariah* 6, no. 1 (2023): 91.

⁷⁹ Ibrahim et al., "Child Labor and Health."

The primary focus of the evaluation is measuring compliance with established regulations, including minimum working age, permissible working hours, and safe working conditions. It should also measure the extent of law enforcement and the effectiveness of penalties for violators.⁸⁰ Evaluations must consider the real impact of policies on the lives of working children. It includes changes in working conditions, access to education and health services, and changes in exploitation and violence levels. A holistic approach is necessary, involving children and their families to understand their experiences deeply⁸¹.

Performance monitoring should involve external parties such as NGOs and international organizations to ensure the evaluation process is independent and objective. External involvement helps enhance accountability and transparency in child protection efforts. The main challenges in evaluation are data limitations, especially in the informal sector, and a lack of trained human resources for conducting evaluations. Therefore, more excellent investment is needed in capacity and infrastructure to support performance evaluations.

The Maqasid Syariah approach emphasizes five main objectives: protection of religion (الدين), life (النفس), intellect (العقل), lineage (النسل), and property (المال).⁸² Child labor protection encompasses several objectives, such as safeguarding the child's life and intellect from hazardous work and ensuring they grow up in a healthy and supportive environment.

قوله تعالى: "وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ" (الأنعام: 151)

Do not kill the soul which Allah has forbidden, except for a just cause." (QS. Al-An'am: 151)

This verse emphasizes the importance of protecting life as a primary objective of Sharia. Protecting children from hazardous labor exploitation aligns with efforts to ensure their safety and welfare⁸³. After emphasizing the importance of monotheism (*tawhid*) and the duty of children to respect and serve their parents, the third critical piece of advice is directed toward parents: do not kill your children out of fear of poverty.⁸⁴

In Surah Al-Isra (17:31), Allah warns: "Do not kill your children for fear of poverty. We provide for them and you. Surely, killing them is a heinous sin."

⁸⁰ Lundy and Stalford, "The International Journal of Children's Rights."

⁸¹ "International Labor Organization."

⁸² Ainol Yaqin, "Revitalisasi Maqashid Al-Syari'ah Dalam Istinbath Hukum Islam: Kajian Atas Pemikiran Muhammad Al-Thahir Ibnu 'Asyur," *Asy-Syir'ah Jurnal Ilmu Syari'ah Dan Hukum* 50, no. 2 (2016): 315–40. Rahmat Hidayat, Review Of Maqasid Al-Syari'ah concerning The Fulfill-Ment Of Child Rights Post-Devorce In Budi Aji Village, Simpang Pematang District, Mesuji Regency, *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* Vol. 22 No. 2, December 2022. 217

⁸³ *Tafsir Ibnu Katsir Juz 8* (Bandung: Sinar Baru Algensindo, 2000).

⁸⁴ M. Quraish Shihab, *Tafsir Al-Misbah (Kesan, Pesan Dan Keresasian Al-Qur'an) Jilid 4, Lentera Hati*, vol. 4, 1, 2000, <https://www.ptonline.com/articles/how-to-get-better-mfi-results>.

This warning addresses a practice from the time of ignorance (jahiliyyah) when people, having little faith in Allah, would kill their children due to fear of poverty⁸⁵. The continuation of this verse reassures that Allah is the Provider for both parents and their children: “And do not kill your children for fear of poverty. We provide for them and you. Surely, killing them is a heinous sin.” (Quran 17:31). Furthermore, Allah confirms this provision in Surah Hud (11:6): “And there is no creature on earth but that upon Allah is its provision, and He knows its place of dwelling and place of storage. All is in a clear register.” (Quran 11:6).

During the era of ignorance, it was common for people to kill their children out of fear of poverty. This practice, unfortunately, still echoes in modern times, where some impoverished nations see parents selling their children because they cannot afford to feed them.⁸⁶ This mindset can harm the child’s education and overall well-being if parents perceive their children as merely a burden.

Within the context of Maqasid Syariah, priority is given to education and development over labor. Imam Al-Ghazali, in “المستصفى من علم الأصول” argues that education and child protection must be prioritized to ensure children grow and positively contribute to society.⁸⁷ Imam Asy-Syatibi in “الموافقات في أصول الشريعة” emphasizes that any measure leading to human welfare and preventing harm is a Sharia objective. Hence, policies protecting children from exploitation⁸⁸ and providing access to education and health are Maqasid Syariah implementations.⁸⁹

If we look at the hierarchy of the five main objectives in Maqasid Syariah’s theory, the primary position for children is to be protected in their religion. It means that children must be guaranteed the freedom to follow their faith according to their parents’ guidance or their own choice. Following this, children’s right to life must be protected, and no party can take the life of a child, even their parents.

Next, children must have their intellect protected, ensuring their right to education in Indonesia’s Constitution. Article 9 of the Child Protection Law emphasizes the importance of education and teaching for children. Proper education is crucial to develop children into wise adults. Mistakes in educating

⁸⁵ Shihab.

⁸⁶ Shihab.

⁸⁷ أبي حامد محمد بن محمد/الغزالي الطوسي, *المستصفى من علم الأصول* and عبد الله محمود محمد عمر *الأصول* (Dar Al-Kutub Al-Ilmiyah, 2014), <https://books.google.co.id/books?id=8C1uDwAAQBAJ>.

⁸⁸ W.A. Jafar and M. Asmara, “The Urgency of Ahlus Sunnah Wal Jamaah Based Islamic Jurisprudence in Maintaining Cohesiveness of the Indonesian Republic,” *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 (2022) 93–118.

⁸⁹ أبي إسحاق إبراهيم بن موسى اللخمي/الشاطبي, and عبد الله دراز ومحمد عبد الله دراز *الموافقات في أصول الشريعة 1-2* (Dar Al Kotob Al Ilmiyah 2018), *الموافقات في أصول الشريعة 1-2*, ج2, (دار الكتب العلمية), <https://books.google.co.id/books?id=I7N0DwAAQBAJ>.

children can lead to a generation's downfall. After the three rights mentioned above, lineage/honor and property protection follow. We realize that material concerns are the last in the protection hierarchy, according to Maqasid Syariah.

According to Maqasid Syariah's theory,⁹⁰ protecting children's labor rights involves preventing child labor and restoring primary guidance and character-building, according to Maqasid Syariah's indicators. Parental care for children should prioritize the maintenance of religion, life, intellect, honor, and property. When parents encourage children to work for money, it should not lead to children dropping out of school, as education aims to maintain religion, life, intellect, and honor.

The phenomenon of children working to earn a living shows parents' misunderstanding of the priority scale of child care. The shift to the digital era should be accompanied by a parental understanding of the child protection priority scale based on Maqasid Syariah.⁹¹

To ensure comprehensive child protection and align with the principles of Maqasid Syariah, the following policy recommendations are proposed:

1) Prioritize Education

Policies should ensure children access quality education, including financial support for needy families. This ensures that children do not have to work to meet economic needs. Education should be considered a fundamental right and priority, as Article 9 of the Child Protection Law emphasizes the importance of education and teaching for children. The principle of protecting intellect (العقل) from Maqasid Syariah underlines this necessity.

At the regional level, this ensures compliance with national education policies and aligns with regional human rights frameworks. Globally, ensuring the right to free and compulsory education for every child aligns with international human rights standards such as the United Nations Convention on the Rights of the Child (CRC) and Sustainable Development Goal 4, which aims to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.

2) Strict Labor Protection

Enforce strict regulations regarding the minimum working age, permissible working hours, and safe working conditions for children. Effective law enforcement is essential to prevent child exploitation. These regulations align

⁹⁰ Amrullah and Ahmad Rizki, injuan Maqashid Syariah Terhadap Putusan Mahkamah Konstitusi Nomor 22/Puu-Xv/2017 Tentang Permohonan Batas Usia Kawin, *El-Usrah: Jurnal Hukum Keluarga*, Vol.3 No.1 (2020), 122.

⁹¹ Anggoro Sugeng et al., "Indonesia's Zakat Transformation in the Digital Era: Opportunities and Challenges," *Journal of Contemporary Applied Islamic Philanthropy* 2, no. 1 (2024): 15–22.

with the Maqasid Syariah principle of protecting life (النفس) by ensuring children are not subjected to hazardous labor conditions.

The minimum age for employment shall be set at 15 years, with regulated employment for children aged 15-18 years to ensure it does not interfere with their education and is not hazardous. Regionally, this supports commitments made under frameworks like the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, ensuring labor standards that protect children.

Setting a minimum age for employment and regulating the employment of children aged 15-18 aligns with International Labour Organization (ILO) Conventions No. 138 on the Minimum Age and No. 182 on the Worst Forms of Child Labor. This global alignment helps in eradicating child labor and protecting children from exploitation and hazardous work conditions.

3) Community Training and Awareness

Increase public awareness about the importance of child protection through educational campaigns and training programs for parents and employers. Raising awareness aligns with the Maqasid Syariah objective of protecting intellect (العقل) and ensuring that the community understands the significance of safeguarding children's rights and well-being.

It ensures broader societal understanding of the importance of child protection, fostering a culture of respect for children's rights at the community level. Regionally, this reinforces initiatives such as the ASEAN Community Vision 2025, which emphasizes social cohesion and rights-based approaches to development.

Educational campaigns and training programs at the national level contribute to global efforts to raise awareness about child rights, as supported by the CRC and various United Nations initiatives. These programs help build a global culture that values and protects children's rights.

4) Multi-Stakeholder Cooperation

Encourage cooperation between the government, private sector, NGOs, and civil society in formulating and implementing comprehensive child protection policies. Collaborative efforts are necessary to address the multifaceted issue of child labor and ensure effective implementation and enforcement of protective measures.

It aligns with regional human rights mechanisms, promoting cross-sectoral collaboration and policy coherence in addressing child protection. Establishing multi-stakeholder committees at the national level reflects global best practices for child protection, as international organizations such as UNICEF and the United Nations Global Compact recommended. It approaches fosters international cooperation and sharing best practices for child protection.

5) Regular Monitoring and Evaluation

Regular monitoring and evaluation of child protection policies and programs should be conducted to ensure their effectiveness and make necessary adjustments. Continuous assessment aligns with the Maqasid Syariah principle of preserving intellect (العقل) by ensuring that policies remain relevant and effective in protecting children's rights and development.

It aligns with the Maqasid Syariah principle of preserving intellect (العقل) and supports regional accountability mechanisms, such as those promoted by the ASEAN Intergovernmental Commission on Human Rights (AICHR). The creation of independent monitoring and evaluation bodies ensures compliance with international human rights obligations and enhances transparency and accountability in child protection. It aligns with global human rights monitoring frameworks like the United Nations Human Rights Council and the ILO.

These recommendations aim to provide a robust legal framework for protecting children's rights in Indonesia, ensuring their well-being and development in line with the principles of Maqasid Syariah. By integrating these principles, the article offers relevant insights and practical guidelines for enhancing child protection at both national and international levels. It contributes to the broader discourse on Islamic law and human rights, promoting a holistic and ethical approach to child protection that is contextually relevant and universally applicable. By adopting the Maqasid Syariah approach, child protection policies can be more comprehensive and focused on the long-term welfare of children, ensuring they grow up in a safe, healthy, and supportive environment.

The following table presents a set of proposed articles for the Child Protection Law, structured according to the principles of Maqasid Syariah. These recommendations aim to ensure comprehensive protection of children's rights by aligning with the five main objectives of Maqasid Syariah: protecting religion (الدين), life (النفس), intellect (العقل), lineage (النسل), and property (المال).⁹² Each article and clause address critical areas of child protection, ensuring that children can grow and develop in a safe, supportive, and nurturing environment. The justifications provided highlight how these recommendations align with the objectives of Maqasid Syariah, ensuring their relevance and effectiveness in contemporary contexts.

Tabel 3. The Child Protection Law according to the Principles of Maqasid Syariah

⁹² Ali Imron, Baby engagement within the traditional ulama of the Madurese ethnicity: a Maslahah analysis, *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan*, Vol. 23, No. 2 (2023), pp. 270. Syaikh, Et Al, The Maqashid Sharia Construction On Inheritance In Dayak Ngaju Customs Within The Tumbang Anoi Agreement, *El-Mashlahah*, Volume 13 No. 2 (2023), 198.

Article	Clauses	Justification
Right to Education	<ol style="list-style-type: none"> 1. Every child shall have the right to free and compulsory primary education. 2. The state shall provide financial assistance to families in need to ensure children's access to secondary and higher education. 	<p>Prioritizing education aligns with the Maqasid Syariah principle of protecting intellect (العقل), ensuring children receive the education necessary for their development and future contributions to society.</p>
Prohibition of Child Labor	<ol style="list-style-type: none"> 1. The minimum age for employment shall be set at 15 years. 2. Employment of children aged 15-18 years shall be regulated, ensuring it does not interfere with their education and is not hazardous. 3. Employers violating these regulations shall face strict penalties, including fines and imprisonment. 	<p>Protecting children from exploitation and hazardous work aligns with the Maqasid Syariah principle of protecting life (النفس).</p>
Community Awareness and Education	<ol style="list-style-type: none"> 1. The government shall implement nationwide educational campaigns to raise awareness about child protection laws and the importance of education. 2. Training programs for parents and employers on children's rights and legal obligations shall be mandatory. 	<p>Community education aligns with the Maqasid Syariah principle of protecting intellect (العقل) and ensures a broader societal understanding of the importance of child protection.</p>
Multi-Stakeholder Collaboration	<ol style="list-style-type: none"> 1. Establish a national committee comprising government, private sector, NGOs, and civil society 	<p>The collaboration aligns with the comprehensive approach to effectively addressing child labor issues.</p>

Article	Clauses	Justification
	representatives to oversee child protection initiatives. 2. This committee shall regularly meet to review policies, share best practices, and coordinate efforts to protect children's rights.	
Monitoring and Evaluation	1. The government shall establish an independent body to monitor and evaluate the implementation of child protection laws. 2. This body shall publish annual reports on the state of child protection and make recommendations for policy improvements.	Regular monitoring and evaluation ensure policies remain effective and adapt to changing circumstances, aligning with the Maqasid Syariah principle of preserving intellect (العقل).

Source: Author's Interpretation

These proposed articles aim to provide a robust legal framework for protecting children's rights in Indonesia and at international levels, ensuring their well-being and development in line with the principles of Maqasid Syariah.

Conclusion

This study has explored the multifaceted issue of child labor and evaluated the effectiveness of existing legal frameworks in protecting child workers' rights through the lens of Maqasid Syariah. This approach emphasizes the holistic well-being of children by safeguarding their religion, life, intellect, lineage, and property. Despite the robust legal foundation provided by Law No. 35 of 2014 on Child Protection, several limitations hinder its effectiveness in addressing child labor in contemporary society. These limitations include inconsistent implementation and enforcement, resource constraints, lack of coordination among stakeholders, insufficient awareness and education about children's rights, and the need to address the root causes of child labor, such as poverty and socio-economic inequalities.

The main findings of this study indicate that while a strong legal foundation exists, child protection in Indonesia is still suboptimal. Several policy recommendations are proposed to address these issues based on the principles of

Maqasid Syariah. First, prioritize education by ensuring every child has access to free and compulsory primary education and providing financial assistance to families needing access to secondary and higher education. Second, establish a minimum working age of 15 years, regulate work for children aged 15-18 to ensure it does not interfere with their education and is not hazardous, and impose strict penalties on employers who violate these regulations.

Furthermore, increasing community awareness and education through national campaigns and mandatory training programs for parents and employers about children's rights and legal obligations is essential. A national committee comprising government representatives, the private sector, NGOs, and civil society is also recommended to oversee child protection initiatives. This approach ensures a comprehensive and effective strategy for addressing child labor issues.

The study also recommends the establishment of an independent body to monitor and evaluate the implementation of child protection laws regularly. Ensuring is crucial, utilizing the hierarchy of the five protections (religion, life, intellect, lineage, and property) as indicators in evaluating child protection ensures that all aspects of children's well-being are holistically addressed.

A significant contribution of this article to the study of Maqasid Syariah and child rights protection is the application of Maqasid Syariah principles to strengthen legal and policy frameworks. At the national level, this article provides concrete guidance for improving the implementation and enforcement of child protection in Indonesia, emphasizing education, protection from child labor, and multi-stakeholder collaboration. Globally, the article demonstrates how Maqasid Syariah principles can be applied to enhance international legal frameworks, such as the UN Convention on the Rights of the Child (CRC) and ILO Conventions, to protect children from exploitation and human trafficking.

In conclusion, adopting a holistic approach grounded in Maqasid Syariah can create a legal and social environment that protects and nurtures children's well-being, ensuring they grow up in a safe, healthy, and supportive environment. This new theoretical framework, integrating Maqasid Syariah with modern child protection laws, offers a promising avenue for enhancing the effectiveness of child labor policies globally. Future research should focus on implementing these policy recommendations, developing new strategies to enhance child protection, and exploring the impact of educational campaigns and community training programs on reducing child labor.

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Rules of Law

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Yusefri Yusefri, Mu'adil Faizin, Wahyu Abdul Jafar

Assalamu alaikum warahmatullah wabarakatuh

We have reached a decision regarding your submission to Samarah: Jurnal Hukum Keluarga dan Hukum Islam, "Protecting Child Labor Rights: Maqasid Syariah Framework and Policy Recommendations".

We decide to accept your article and publish it in Vol. 8 No. 2, 2024, after you complete the payment of Article Publishing Charges (APCs), Translation Fees, Proofreading Fees, and Fast Track Review Fees late July 26, 2024.

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