



THE CONCEPT OF LEGAL PROTECTION FOR CHILDREN VICTIMS OF SEXUAL CRIMES IN THE PERSPECTIVE OF ISLAMIC LAW

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Abstract

Sexual crimes against children are severe human rights violations that cause long-lasting physical, psychological, and social consequences for the victims. Legal protection of child victims is therefore an urgent imperative requiring a comprehensive approach. This study analyzes the concept of legal protection for children victims of sexual crimes from the perspective of Islamic law and examines its relevance to the national legal system in Indonesia. Employing a qualitative normative-juridical research method through extensive literature review of classical and contemporary fiqh literature, the Qur'an, Hadith, and relevant national laws and regulations, the study reveals that key Islamic legal principles, particularly *maqāṣid al-syarī'ah*, emphasize the protection of the soul (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-'aql*), and lineage (*ḥifẓ al-nasl*). The findings highlight that Islamic law not only supports repressive measures against perpetrators but also prioritizes restorative justice aimed at the holistic recovery of victims physically, psychologically, and spiritually. Moreover, the study discusses practical challenges and opportunities for integrating these Islamic legal principles into Indonesia's pluralistic legal system to strengthen child protection mechanisms. The integration can promote fairness, justice, and compassion in handling sexual crimes against children, enabling a more effective and victim-centered legal response. Therefore, the research contributes to developing a synergistic, equitable, and value-based child protection system in Indonesia, while offering insights for policymakers, legal practitioners, and academics interested in the intersection of religious law and human rights.

Keywords: Child Protection, Sexual Crimes, Islamic Law, *Maqāṣid al-Syarī'ah*, Restorative Justice, Indonesian Legal System



A. Introduction

Children are a trust entrusted by Allah SWT to parents, family, society, and the country. In the Islamic view, children are a holy nature and must be protected and educated with affection and responsibility. In the social and legal context, children are subjects who have human rights that must be guaranteed so that they grow and develop optimally, both physically, mentally, spiritually, and socially (Nurjanah, 2018). However, social reality shows that children are often victims of various forms of crime, especially sexual crimes that have a serious impact on their psychological development and future. Sexual crimes against children are a form of violence that is very heinous and hurts children's basic rights to protection, security, and dignity as human beings.

The phenomenon of sexual crimes against children has increased from year to year, both in terms of quantity and quality. In many cases, children are victims of sexual exploitation, rape, molestation, incest, and child pornography (Napitupulu & Julio, 2023). These cases occur not only in the general public, but also in families, schools, and religious institutions, which are supposed to be shelters for children. This situation shows that the child protection system is still not able to optimally prevent and deal with sexual crimes against children. Even in some cases, legal proceedings against perpetrators of sexual crimes against children do not provide a deterrent effect, and victims often do not get justice and proper redress (Dee et al., 2025).

Sexual crimes against children are not only a legal issue, but also a moral, social, and religious issue. In Indonesia's positive law, various legal instruments have been established, such as Law Number 35 of 2014 concerning Child Protection, as well as Law Number 17 of 2016 which aggravates penalties for perpetrators of sexual crimes against children (Lubis et al., 2025). However, the implementation of these regulations still faces various obstacles, such as weak law enforcement officials, patriarchal culture, and social stigma against victims. Therefore, a multidisciplinary approach is needed that not only prioritizes formal legal aspects, but also religious and moral values that can strengthen the legal protection system for children.

Islam as a religion that is *rahmatan lil 'alamin* has noble principles in maintaining the dignity and honor of human beings, including children. The Qur'an and Hadith contain teachings that explicitly and implicitly affirm the importance of protecting children from various forms of tyranny, violence, and exploitation. Islam also stipulates strict sanctions against perpetrators of adultery, harassment, or other acts of sexual violence, as a form of protection for human purity and self-esteem (Efendi, 2021). Therefore, the perspective of Islamic law in looking at the protection of children victims of sexual crimes is very relevant to be studied as an alternative or complement to the existing positive legal system.

Legal protection in Islam is not only repressive, but also preventive and curative. Islam emphasizes the importance of moral education, family development, and fair and proportionate law enforcement. In the context of sexual crimes against children, Islamic law focuses not only on sanctioning the perpetrator, but also on the overall recovery of the victim, both physically, psychologically, and spiritually (Agustini et al., 2021). This shows that the concept of child protection in Islam is holistic and based on the values of justice, compassion, and respect for human dignity.

Furthermore, Islam pays special attention to the rights of the child, as reflected in the *maqāṣid al-syarī'ah*, namely the purposes of sharia which include the protection of religion, soul, intellect, descendants, and property (Auda, 2015). Within the framework of this *maqāṣid*, sexual crimes against children are included in the form of violations of the protection of the soul (*ḥifẓ al-nafs*), Sense (*Ḥifẓ al-'aql*), and descendants (*ḥifẓ al-nasl*). Thus, these crimes are not just ordinary crimes, but a form of serious violation of sharia and must be acted upon with appropriate laws (Pratama et al., 2025). In this case, the application of the concept *ta'zīr* Islamic law opens up space to impose sanctions according to the level of crime and the condition of the victim.

In addition to national legal foundations and Islamic principles, child protection aligns with international legal frameworks that emphasize universal children's rights. The United Nations Convention on the Rights of the Child (CRC) asserts that children have the right to protection from all forms of violence, including sexual violence, and the right to physical and psychological recovery (UNICEF, 1989). Victimology theory highlights the profound impact sexual violence has on child victims, including psychosocial trauma that can persist into adulthood. This necessitates an approach that is not only retributive but also restorative. Therefore, from an Islamic perspective, the protection of children from sexual crimes is not only the responsibility of individuals or families, but a collective responsibility that must be borne by all components of society and the state. (N. P. Sari et al., 2024)

This approach recognizes the importance of an adaptive and holistic legal system that incorporates legal, social, and psychological aspects in child protection. Thus, studies on protecting children who are victims of sexual crimes must go beyond formal legal analysis and apply a multidisciplinary perspective to ensure optimal and sustainable protection.

The specificity of Islam in regulating child protection can be traced from various sources of Islamic law, such as the Qur'an, Sunnah, *ijma'*, and *qiyas*. In many verses of the Qur'an, Allah SWT forbids all forms of tyranny and violence, and commands to treat children with compassion and responsibility. The hadith of the Prophet Muhammad PBUH also provides an example of how to treat children with tenderness, as well as giving a stern warning against those who hurt children. Even in the history of Islam, there are

many cases where the Prophet upheld justice for children and provided special protection to those who were victims of persecution. This tradition is the conceptual basis for child protection in Islamic law.

This research is present as a form of intellectual and scientific effort to explore in depth how Islamic law regulates the protection of children who are victims of sexual crimes. This research also aims to examine the basic concepts in Islamic law that are relevant to the issue of child protection, as well as how these principles can be applied or integrated in the national legal system. Thus, it is hoped that this research can contribute to the strengthening of the legal protection system for children, especially in the context of the Indonesian Muslim community.

The fundamental problem that is the focus of this study is the extent to which the concept of legal protection for children victims of sexual crimes in the perspective of Islamic law can provide a fair and just solution. In addition, how Islamic law views the position of children as victims, as well as proportionate forms of sanctions against perpetrators of sexual crimes are also important issues that are studied. This research will systematically outline the theological and juridical foundations of Islamic law in providing protection for children, both through normative, historical, and sociological approaches.

The urgency of this research is very high, considering the increasing prevalence of cases of sexual violence against children in various regions, as well as the weak legal protection provided to victims. Many children who after becoming victims do not get the proper recovery, even tend to be blamed or experience social discrimination. By examining the Islamic legal approach to this issue, it is hoped that it can open up new insights into the need for a protection system that is not only repressive, but also humanistic and spiritual. Islamic values that emphasize justice, compassion, and protection of the weak are an important foundation in building a legal system that cares for victims.

In addition, the results of this research are also expected to be a reference material for policymakers, academics, and legal practitioners in formulating more effective policies in protecting children from sexual crimes. In the long term, this research is expected to encourage the birth of an inclusive and value-based legal system, as well as strengthen the role of Islamic law as a source of inspiration in structuring the national legal system. Thus, the protection of children is not only a legal-formal responsibility of the state, but also part of the moral and spiritual responsibility of Muslims.

B. Method

This study employs a qualitative research method with a normative-juridical approach focused on analyzing legal norms derived both from Islamic law and positive laws applicable in Indonesia. This approach is appropriate for examining the conceptual

foundations, principles, and legal protection systems relevant to child victims of sexual crimes based on religious texts and statutory provisions.

Data collection was conducted through extensive library research involving a systematic review of classical and contemporary fiqh literature, Qur'anic exegesis, collections of hadith, and scholarly works on Islamic law. Secondary data included relevant national legislation, regulations, government documents, academic journal articles, and reports from child protection institutions. The selection of literature and legal texts followed clear inclusion criteria to ensure relevance and authority.

The data were analyzed qualitatively using descriptive-analytical techniques. First, Islamic legal concepts concerning child protection were described in detail, followed by an analysis of their application in the context of sexual crimes against children in the contemporary era. To strengthen the analysis, a comparative approach was employed to identify convergences and potential integration points between Islamic legal principles and Indonesian positive law, aiming to develop a comprehensive, equitable, and victim-centered legal protection framework. (Wijaya et al., 2025)

This methodology allows a thorough interpretation of normative texts while situating Islamic legal principles within the current national legal environment, contributing to policy and academic discourse on child protection.

C. Finding and Discussion

1. The Urgency of Legal Protection for Children Victims of Sexual Crimes

Children are weak creatures who really need attention, protection, and affection from the surrounding environment, both family, society, and the state. Within the framework of human rights, children are included in vulnerable groups that have special rights, especially in terms of protection from all forms of violence, exploitation, and inhuman treatment (W. C. K. Sari, 2022). One of the most worrying forms of violence is sexual crime, which not only physically damages the child's body, but also leaves deep psychological trauma and protracted social wounds. Sexual crimes against children are serious violations of the basic rights of children and are criminal acts that must be dealt with strictly by the applicable legal system.

The urgency of legal protection for children victims of sexual crimes lies in the complexity of the impact caused. Physically, children who are victims of sexual violence can experience damage to the reproductive organs, sexually transmitted infections, and in some cases, unwanted pregnancies. At the age when they should be growing and developing healthily, victims actually experience serious physical disorders that endanger long-term health (Octaviani & Nurwati, 2021). This impact is very different from that of adults because the condition of the child's body is not yet fully developed, making the effects of sexual crimes much more destructive.

From a psychological perspective, trauma from sexual crimes is very complex and profound. The victim's child often experiences prolonged fear, anxiety, sleep disturbances, shame, depression, and even a tendency to self-harm or commit suicide. The feelings of guilt and social stigma that are often attached to victims also aggravate their mental state. Children can also lose confidence, withdraw from social environments, and experience developmental disorders. In many cases, without adequate psychological treatment, this trauma will carry over into adulthood and negatively impact the victim's social life, education, and overall future (Ramadhani & Nurwati, 2023).

From a social point of view, sexual crimes against children cause moral shocks in society. A society that is supposed to be a safe and child-friendly space turns into a risky and threatening environment. When sexual crimes against children continue to occur and are not handled properly, public trust in the legal system and state institutions can decline. Moreover, the social impact of sexual violence on children also extends to the victim's family, who often feel depressed, ashamed, and experience internal relationship disruptions (Firmanda et al., 2023). Sexual crimes against children can also lead to the emergence of a cycle of violence, where the victim's child is at risk of becoming a perpetrator of violence in the future due to unaddressed inner wounds.

This reality shows that legal protection of children victims of sexual crimes is an urgent necessity. The state as an organizer of power is obliged to ensure the protection of children through strict laws and regulations, effective law enforcement mechanisms, and holistic rehabilitation support. In the Indonesian context, child protection efforts have been regulated in various legal instruments, such as Law Number 35 of 2014 concerning Child Protection which is an amendment to Law Number 23 of 2002. It affirms that every child has the right to protection from sexual violence and exploitation. This law was then strengthened by the presence of Law Number 17 of 2016 which regulates harsher punishments for perpetrators of sexual crimes against children, including the enforcement of chemical castration punishment and the installation of electronic detection devices for perpetrators.

However, in practice, the implementation of child protection laws in Indonesia still faces many challenges. Law enforcement that is not optimal, weak coordination between related institutions, limited trained human resources, and a patriarchal culture that is still strong are the main obstacles. In addition, victims of sexual crimes often do not receive adequate legal assistance, and in many cases, victims are actually rehabilitated, which is when the legal process actually makes the victim traumatized again due to an unchild-friendly examination procedure. The lack of psychosocial counseling and rehabilitation services also shows that protection for victims has not been comprehensive.

On the other hand, the public also still has a limited understanding of the importance of protecting children from sexual violence. Many cases are not reported because they are considered a family disgrace or because the perpetrator is the victim's closest person, such as family members, teachers, or community leaders. This shows that child protection efforts are not enough only from a legal point of view, but also require a cultural and educational approach that makes the public aware of the importance of their active role in preventing and handling cases of sexual violence against children (Efendi & Kasih, 2022).

Therefore, the urgency of legal protection for child victims of sexual crimes is not only seen from the aspect of the need for severe sanctions for perpetrators, but also from the urgent need for a comprehensive and sustainable system in handling cases of sexual violence. Legal protection should include three main aspects: prevention, prosecution, and remediation. Prevention can be done through education to children and the community about the dangers of sexual violence, enforcement is carried out with a fast, firm, and fair legal process, while recovery is focused on rehabilitating victims medically, psychologically, and socially so that they can return to living their normal lives.

Child protection in the context of sexual crimes must also adopt the principle of restorative justice, which is a legal approach that not only punishes the perpetrator, but also rehabilitates the victim and repairs social relations damaged by the crime. This principle is in line with human values and an Islamic legal approach that emphasizes justice, compassion, and social responsibility. In this case, synergy is needed between state institutions, law enforcement officials, educational institutions, religious organizations, and the community in creating an effective and humane child protection system.

Thus, the urgency of legal protection for children victims of sexual crimes is a fundamental need in maintaining the dignity and future of the nation's next generation. The protection provided is not only about criminalizing the perpetrators, but also includes holistic protection of children's rights, including the right to recover and grow properly. The state and society must jointly build a system that does not tolerate violence against children, and make child protection a priority in social, legal, and national development policies (Ulya, 2021). In this framework, Islamic law with its universal values also makes a great contribution in forming a paradigm of legal protection that is fair, civilized, and oriented towards the benefit of children as the mandate of Allah SWT.

2. Principles of Child Protection in Islamic Law

Islam as a perfect religion has regulated all aspects of human life, including the protection of children. In Islam's view, children are not only a trust, but also part of the next generation of the ummah that must be cared for, maintained, and protected with full responsibility. Protection of children does not only apply in the context of parenting

and education, but also includes the protection of the honor, soul, intellect, and offspring of children from various forms of violence, including sexual crimes. Within the framework of Islamic law, these principles of child protection are integrated into *maqāṣid al-syarī'ah* (the goals of sharia), which is a philosophical concept in Islamic law that aims to realize the benefits of the ummah and prevent harm (*mafsadat*).

One of the *maqāṣid al-syarī'ah* that is relevant in the protection of children victims of sexual crimes is *hifz al-nafs* (protection of the soul). Islam strongly upholds the value of life and prohibits all forms of actions that threaten or damage the human soul, including children. In the Qur'an, Allah SWT says:

وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ

"And do not kill a soul that Allah has forbidden (to kill) except for the right reasons."
(QS. Al-Isra': 33)

This verse is the normative basis that Islam protects every soul, and acts of sexual violence against children that have the potential to damage the physical and soul of children are classified as serious violations of the right to life and safety of life. Therefore, Islamic law places the protection of the child's soul as a very important thing.

The principle of child protection in Islamic law does not stand alone but can be understood within the context of legal pluralism recognized in Indonesia's national legal system. Legal pluralism theory emphasizes the coexistence and interaction of multiple legal systems within a plural society (Griffiths, 1986). This allows for the integration of Islamic legal values and norms into positive law without diminishing their normative force, thereby strengthening child protection from a richer cultural and normative perspective.

Moreover, restorative justice, increasingly adopted in child justice systems, emphasizes victim recovery and repairing social relations damaged by offenses (Zehr, 2002). This restorative approach aligns well with Islamic values that prioritize justice ('adl), compassion (rahmah), and social responsibility (amanah). It not only punishes offenders but also takes comprehensive care of victim rehabilitation, resulting in more humane and effective handling of sexual crimes against children.

The Prophet Muhammad saw said:

رَفَعَ الْقَلَمَ عَنْ ثَلَاثَةٍ: عَنِ النَّائِمِ حَتَّى يَسْتَيْقِظَ، وَعَنِ الْمَجْنُونِ حَتَّى يُعِيْقَ، وَعَنِ الصَّبِيِّ حَتَّى يَحْتَلِمَ

"The pen (record of sins) is lifted from three persons: the one who sleeps until he wakes up, the insane man until he wakes up, and the children until they reach puberty." (HR. Abu Dawud)

This hadith shows that Islam understands the psychological condition of children and does not legally burden them before they reach the age of puberty. However, in the context of sexual violence, this principle emphasizes that children are the parties who

must be protected because they do not yet have the mental and spiritual capacity to understand and avoid the dangers that threaten them.

The next principle is *hifz al-nasl* (protection of offspring), which means to maintain the sanctity and honor of the human lineage. In Islam, safeguarding the nasab and honor of children is an integral part of preserving a healthy and dignified social order. Sexual crimes against children not only damage a child's future, but also have the potential to contaminate the honor and structure of the family as a whole. In the Qur'an it is stated:

وَالَّذِينَ لَا يَدْعُونَ مَعَ اللَّهِ إِلَهًا آخَرَ وَلَا يَقْتُلُونَ النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَلَا يَزْنُونَ ۚ وَمَنْ يَفْعَلْ
ذَلِكَ يَلْقُ أَثَامًا

"And those who do not worship other gods with Allah and do not kill the soul that Allah has forbidden (kill) except for a righteous reason, and do not commit adultery; Whoever does such a thing, he will surely be punished accordingly." (QS. Al-Furqan: 68)

This verse places adultery and murder in one severe prohibition. In the context of sexual violence against children, it is a form of adultery that is aggravated by elements of violence and destruction of children's honor. Therefore, this violation of *the principle of hifz al-nasl* requires a very serious and strict enforcement in Islamic law.

Furthermore, Islam positions children as creatures who have the full right to be protected and respected. The Prophet PBUH is an exemplary figure in treating children with affection, tenderness, and respect for their dignity. He said:

مَنْ لَا يَرْحَمُ صَغِيرَنَا وَلَا يَعْرِفُ حَقَّ كَبِيرِنَا فَلَيْسَ مِنَّا

"Whoever does not love the young among us and does not respect the old, he is not of our group." (HR. Tirmidhi)

This moral message is the basis that every act that harms children—especially sexual crimes—is against the teachings of the Prophet PBUH and Islamic values. Therefore, the protection of children must be seen as the collective responsibility of the people, not only the responsibility of the state or the family.

In the jurisprudence of jinayah, sexual crimes against children are classified as *jarimah* (serious crimes) that require sanctions (*uqubat*) that are appropriate. If the crime falls under the category of adultery, the perpetrator can be punished *Hadd* (fixed sanctions), such as stoning or stoning, depending on the status of the perpetrator (*Muhshan* or *ghair muhshan*) (Zulfadli et al., 2024). However, if the crime does not meet the requirements of adultery but is still classified as sexual violence or harassment, then the sanction *ta'zir* can be imposed by the judge according to the level of the crime and the damage caused. Penalty *ta'zir* is flexible, allowing judges to impose sentences such as imprisonment, whipping, fines, exile, or even the death penalty under certain conditions (Efendi, 2023).

The scholars agree that the protection of children in this case is not only limited to prevention, but also includes the rehabilitation of victims and the prevention of the repetition of crimes. Imam al-Ghazali in *Ihya Ulum al-Din* emphasized that safeguarding the welfare of children is part of maintaining the sustainability of a healthy Islamic society. Likewise, Imam al-Shatibi in *al-Muwafaqat* explained that *maqāṣid al-syarī'ah* exists to protect human rights in this life and the hereafter, including children's rights to safety and dignity.

Therefore, legal protection of children who are victims of sexual crimes in Islam is not only interpreted as a form of prevention against heinous acts, but also as a form of respect for the *maqāṣid syarī'ah* as a whole. Islamic law provides a fair and firm framework, but still pays attention to the benefit and recovery of the victim. Within this framework, the state is obliged to adopt these principles of Islamic law into the national legal system as a form of actualization of the values of justice and protection of children's rights in contemporary Muslim society.

3. The Relevance of the Concept of Islamic Law in the Child Protection System in Indonesia

Indonesia's pluralistic legal system provides fertile ground for the coexistence and integration of diverse legal traditions, including Islamic law and national positive law. The theory of legal pluralism recognizes that multiple legal systems operate simultaneously within one society and interact in complex ways (Safaruddin Harahap, 2016). This pluralistic framework allows the harmonization of Islamic legal principles with state law to enhance the protection of children from sexual crimes, by accommodating cultural-religious values alongside statutory mandates.

In the child protection context, legal pluralism enables the reinforcement of moral and spiritual dimensions embedded in Islamic law, enriching the protective mechanisms beyond formal legal sanctions. This approach not only respects constitutional guarantees such as those enshrined in Article 29 of the 1945 Constitution on freedom of religion and belief but also provides room for local legal adaptations, as exemplified by the implementation of Qanun Jinayah in Aceh. Through legal pluralism, Indonesia can develop a more context-sensitive and victim-centered protection system that bridges universal human rights with religious ethics. However, various facts show that a positive legal approach alone is not effective enough in providing comprehensive protection, both in terms of prevention, prosecution, and victim recovery. This is where the relevance of Islamic law becomes significant, as it is able to offer a more holistic approach to law and is rooted in strong spiritual and moral values.

Islamic law has a strong normative foundation in terms of the protection of children, especially from sexual crimes. Key concepts in *maqāṣid al-syarī'ah*—such as *ḥifẓ al-nafs* (life protection), *Ḥifẓ al-'aql* (protection of reason), and *ḥifẓ al-nasl* (protection of

offspring)—shows that Islam not only protects children as individuals, but also protects the future of generations and the social structure of society (Sukardi, 2017). This approach is much more comprehensive than the positive legal approach which tends to be legal-formal and sometimes does not touch the moral and spiritual aspects of the victim or perpetrator. In this context, Islamic values such as justice (*'al-'adl'*), affection (*'ar-rahmah'*), and trust (*'al-amānah'*) is essential to be integrated into the national legal system as an ethical foundation that strengthens positive legal norms (Nelli & Syahrizan, 2024).

Justice in Islamic law does not only mean giving appropriate punishments, but also includes the restoration of victims' rights, the elimination of social stigma, and the prevention of the recurrence of crimes. In this case, Islamic law is in line with the concept of restorative justice that is now beginning to be developed in the juvenile justice system in Indonesia (Hamdi et al., 2021). The restorative justice approach in Islam is not only aimed at cracking down on perpetrators, but also restoring the condition of the victim and repairing the social damage caused. Therefore, if these Islamic values are integrated into the national justice system, then the protection of children from sexual violence can be addressed in a more humane and sustainable manner.

In addition to justice, Islam also emphasizes compassion as the main foundation in social relationships, including in educating and protecting children. In the legal context, this value of compassion should not be interpreted as a weakness for the perpetrator of sexual crimes, but rather as a basis for empathy for the victim, as well as a moral responsibility to ensure that they get psychological and social recovery. In the Qur'an, Allah introduces Himself as Ar-Rahman and Ar-Rahim, traits that show that compassion is at the core of Islamic law. Therefore, a legal system that adopts Islamic values must pay attention to a compassion-based approach to children, not only as a form of legal protection, but also as a moral, social, and spiritual responsibility of society (Kurniawan, 2024).

The relevance of the concept of Islamic law is also seen in the importance of integrating spiritual values in handling sexual crimes against children. In modern society, the problem of sexual violence against children is not only triggered by the weak legal system, but also by the moral and spiritual degradation of individuals. Therefore, a legal approach that focuses only on criminalization is often not enough. Islam offers a strong preventive approach through moral education, strengthening family institutions, and religious formation from an early age. This is in line with the spirit of national law which prioritizes preventive efforts through character education and strengthening the role of the family. The integration between the two has great potential in strengthening the child protection system which is not only repressive, but also solutive and constructive.

The potential for harmonization between Islamic law and national law in the context of child protection is very wide open, considering that Indonesia adheres to a pluralistic legal system. Constitutionally, Article 29 of the 1945 Constitution guarantees the freedom of each citizen to embrace their own religion and worship according to their religion, as well as provide space for the application of religious values in the legal and social life of the community. In addition, in practice, various national legal policies have also accommodated the principles of Islamic law, especially in the fields of religious justice, Islamic banking, and family law. In terms of child protection, especially in areas that implement Qanun or Islamic Sharia Regional Regulations such as Aceh, this harmonization is even more concrete (Efendi, 2024). For example, the existence of Qanun Jinayah Aceh has shown how Islamic law can be adopted in the local legal system to deal with sexual crimes against children.

However, harmonization between Islamic law and national law in the context of child protection cannot be separated from challenges. One of the main challenges is that there is still a negative view of Islamic law as a rigid, patriarchal, and irrelevant system with the times. In fact, if studied more deeply, Islamic law is dynamic and contextual, and attaches great importance to social justice and protection of vulnerable groups such as children. Therefore, an objective and comprehensive academic and legal approach is needed to elaborate the contribution of Islamic law in supporting child protection systems that are adaptive to the pluralistic social context of Indonesian society.

At the policy level, the integration of Islamic values into the child protection system can be carried out through the drafting of laws and regulations that are in favor of the victim and responsive to local religious and cultural values. For example, the implementation of sex education based on Islamic values in schools, the preparation of sharia-based child-friendly criminal procedure legal guidelines, and the provision of victim rehabilitation services that pay attention to spiritual aspects. In addition, the involvement of scholars, religious leaders, and Islamic institutions in public advocacy and education is also an important step to build collective awareness of the importance of child protection from the perspective of Islamic law.

Thus, the relevance of the concept of Islamic law in the child protection system in Indonesia is not only theoretical, but also practical. Islam has a complete set of values and legal systems to protect children from sexual crimes, and these values are in line with modern legal principles that uphold human rights and social justice. Therefore, the integration of Islamic law into the national child protection system is a necessity that must continue to be developed, both through education, advocacy, and legal reform. In this context, Indonesia has a great opportunity to become a model of a modern Muslim country that successfully combines positive laws and Islamic values in a legal protection system for children.

Despite the strong normative and moral framework that Islamic law provides for the protection of children, critical perspectives—particularly from feminist jurisprudence and human rights discourses—highlight challenges related to the interpretation and implementation of Islamic legal provisions. Critics argue that certain interpretations of Islamic law may inadvertently perpetuate patriarchal norms or constrain the agency of victims, especially girls, which can hamper comprehensive protection. Moreover, there is concern over balancing traditional legal norms with evolving international human rights standards to ensure children's rights are fully respected and protected without discrimination or bias.

Therefore, adopting a critical and dialogical approach is essential to contextualize Islamic legal principles dynamically in a way that harmonizes with universal human rights and gender justice. Such engagement can foster an inclusive legal system that not only preserves religious values but also delivers equitable justice for all children, particularly victims of sexual crimes. This reflective stance encourages continual reform and scholarly debate, thereby strengthening the legal framework's responsiveness to contemporary social realities.

D. Conclusion

Based on the result in this study, it is concluded that legal protection for children who are victims of sexual crimes is a collective responsibility that requires a fair, comprehensive, and value-based legal system. Islamic law offers a robust normative framework, grounded in *maqāṣid al-syarī'ah*, emphasizing the protection of the soul (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-'aql*), and offspring (*ḥifẓ al-nasl*) as fundamental forms of respecting human dignity.

In the Indonesian context, the integration of Islamic legal principles into the national legal system holds significant relevance—not merely as a legal alternative but as an essential enrichment that reinforces the moral and spiritual dimensions of child protection. Such integration can strengthen the legal foundation with values of justice, compassion, and holistic victim recovery. Therefore, a synergy between positive law and Islamic values is imperative to develop a child protection system that is not only repressive towards perpetrators but also empathetic and restorative towards victims. This integrated approach supports the creation of a child-friendly society that prioritizes justice, healing, and prevention.

Policy makers, law enforcement agencies, religious institutions, and communities need to collaborate closely to effectively protect children victims of sexual crimes. This collaboration should focus on incorporating Islamic principles into child protection regulations and practices to ensure a comprehensive approach. It is essential to implement child-friendly legal procedures that are sensitive to the psychological and spiritual needs of victims, providing them with a safe and supportive environment during

the legal process. Public awareness and education on the prevention of child sexual abuse must be promoted, grounded both in positive legal frameworks and religious ethics to foster a culture of vigilance and care. Furthermore, developing comprehensive rehabilitation programs that address not only the physical and psychological aspects but also the spiritual healing of victims is critical for their full recovery. Through these concerted efforts, a more effective and humane child protection system can be realized, blending legal rigor with compassion and cultural relevance.

By advancing these efforts, Indonesia has the opportunity to become a model Muslim-majority country that successfully harmonizes modern legal frameworks with Islamic ethical values in protecting the rights and dignity of children.

Bibliography

- Agustini, I., Rachman, R., & Haryandra, R. (2021). Perlindungan Hukum Terhadap Korban Kekerasan Seksual: Kajian Kebijakan Hukum Pidana Indonesia Dan Hukum Pidana Islam. *Rechtenstudent*, 2(3), 342–355. <https://doi.org/10.35719/rch.v2i3.89>
- Auda, J. (2015). *Membumikan Hukum Islam Melalui Maqashid Syariah*. PT. Mizan Pustaka.
- Dee, M. La, Efendi, S., Harahap, E. H., & Amrullah, M. S. (2025). *Dinamika Hukum Pidana Dalam Konteks Keadilan*. PT. Media Penerbit Indonesia.
- Efendi, S. (2021). Sanksi Kejahatan Pelecehan Seksual Menurut KUHP dan Qanun Aceh No. 6 Tahun 2014 Tentang Hukum Jinayat. *Shibghah: Journal of Muslim Societies*, 3(1), 31–49. <https://jurnal.kopertais5aceh.or.id/index.php/shibghah/article/view/211>
- Efendi, S. (2023). Analisis Sanksi Pidana dalam Hukum Islam Pendekatan Teoritis dan Pustaka. *MAQASIDI: Jurnal Syariah Dan Hukum*, 3(2), 151–162. <https://doi.org/10.47498/maqasidi.v3i2.3524>
- Efendi, S. (2024). Transformation of Islamic Criminal Law in Modern Society in Aceh. *Al-Qanun: Jurnal Kajian Sosial Dan Hukum Islam*, 5(2), 41. <https://doi.org/10.58836/al-qanun.v5i2.21513>
- Efendi, S., & Kasih, D. (2022). Upaya Penanggulangan Kekerasan Seksual Terhadap Anak di Aceh Barat dalam Persepektif Hukum Islam. *Legalite : Jurnal Perundang Undangan Dan Hukum Pidana Islam*, 7(2). <https://doi.org/10.32505/legalite.v7i2.4705>
- Firmanda, H., Azlina, I. I. S., & Septipah, I. (2023). Perlindungan Korban Kekerasan Seksual yang Mengalami Victim Blaming di Media Sosial Berdasarkan Aliran Realisme Hukum. *Reformasi Hukum*, 27(1), 38–49. <https://doi.org/10.46257/jrh.v27i1.489>
- Hamdi, S., M. Ikhwan, M. I., & Iskandar, I. (2021). Tinjauan Hukum Islam Terhadap Implementasi Restorative Justice Dalam Sistem Peradilan Pidana Anak Di

Indonesia. *Maqasidi: Jurnal Syariah Dan Hukum*, 1(1), 74–85.
<https://doi.org/10.47498/maqasidi.v1i1.603>

Kurniawan, H. (2024). Perlindungan Hak Anak dalam Konflik Perceraian: Analisis Hukum Keluarga Indonesia. *Wathan: Jurnal Ilmu Sosial Dan Humaniora*, 1(3), 314–324.
<https://doi.org/10.71153/wathan.v1i3.167>

Lubis, J., Hidayat, E. F., Efendi, S., Rasiwan, H. I., Ishaq, F. M., Trisista, R. G. M., Minabari, A., Kartono, F., Nggeboe, & Wibowo, D. E. (2025). *Pengantar Hukum Pidana*. Adikara Cipta Aksa.

Napitupulu, Y. R., & Julio, B. A. (2023). Pelecehan Seksual Anak Di Bawah Umur Pada Anak Indonesia. *Jurnal Multidisiplin Indonesia*, 2(10), 3088–3095.
<https://doi.org/10.58344/jmi.v2i10.582>

Nelli, J., & Syahrizan, M. (2024). Analisis Hukum Islam terhadap Kekerasan Dalam Rumah Tangga dalam Perspektif Maqashid Syariah. *Bertuah : Journal of Shariah and Islamic Economics*, 5(2), 322–340.

Nurjanah, S. (2018). Keberpikahan Hukum Islam Terhadap Perlindungan Anak. *AL-ADALAH*, 14(2), 391. <https://doi.org/10.24042/adalah.v14i2.2905>

Octaviani, F., & Nurwati, N. (2021). Analisis Faktor Dan Dampak Kekerasan Seksual Pada Anak. *Jurnal Ilmu Kesejahteraan Sosial HUMANITAS*, 3(II), 56–60.
<https://doi.org/10.23969/humanitas.v3i11.4118>

Pratama, D. W., Wafa, H. I., Efendi, S., Arzaqi, N., Rasiwan, I., Ginting, N. M., Ramiyanto, Aziz, I. R., & Putriyana, A. (2025). *Kriminologi (Suatu Pengantar)*. Adikara Cipta Aksa.

Ramadhani, S. R., & Nurwati, R. N. (2023). Dampak Traumatis Remaja Korban Tindakan Kekerasan Seksual Serta Peran Dukungan Sosial Keluarga. *Share : Social Work Journal*, 12(2), 131. <https://doi.org/10.24198/share.v12i2.39462>

Safaruddin Harahap, I. (2016). Perlindungan Hukum Terhadap Anak Korban Kejahatan Seksual dalam Perspektif Hukum Progresif. *Jurnal Media Hukum*, 23(1), 37–47.
<https://doi.org/10.18196/jmh.2015.0066.37-47>

Sari, N. P., Hak, N., & Andiko, T. (2024). Analisis Undang-Undang Nomor 17 Tahun 2017 Tentang Perlindungan Anak Korban Kekerasan Seksual Perspektif Fikih Siyasah Dusturiyah. *Journal of Sharia and Legal Science*, 2(1), 107–130.
<https://doi.org/10.61994/jsls.v2i1.414>

Sari, W. C. K. (2022). Perlindungan Hukum Terhadap Anak Sebagai Korban Kejahatan Eksploitasi Seksual. *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal*, 2(1), 61–72. <https://doi.org/10.15294/ipmhi.v2i1.53747>

Sukardi, D. (2017). Perlindungan Hukum Terhadap Anak Korban Kejahatan Seksual Dalam Perspektif Hukum Positif Dan Islam. *Mahkamah : Jurnal Kajian Hukum Islam*, 2(1), 116–131. <https://doi.org/10.24235/mahkamah.v2i1.1665>

Ulya, N. H. (2021). Perlindungan Hukum Terhadap Anak Korban Kekerasan Seksual Perspektif Negara Dan Maqashid Syariah. *Journal of Islamic Law and Family Studies*, 4(1), 1–21. <https://doi.org/10.18860/jilfas.v4i1.11839>

Wijaya, M., Pratomo, B., Citta, A. B., & Efendi, S. (2025). *Metodologi Penelitian: Kombinasi Pendekatan Kuantitatif, Kualitatif dan Mixed Methods*. PT. Media Penerbit Indonesia.

Zulfadli, Efendi, S., Akbar, K., Syaf, M. N., Hasibuan, K., Gozali, M., Mas'odi, Naitboho, Y. R., Naisabur, N., & HS, D. E. R. (2024). *Fiqih Jinayah*. Pena Cendekia Pustaka.