

# Protection of Child Rights in Perspective of Human Rights in Indonesia (Analysis Approach to Islamic Law)

Dr. Iman Jauhari<sup>1</sup>

<sup>1</sup> Lecturer of Law Faculty University of Syiah Kuala

*Received: 4 February 2015 Accepted: 1 March 2015 Published: 15 March 2015*

## Abstract

The purpose of this study was to describe children's rights in law and Islamic law, and legal protection of children in law and Islamic law. The method used in this study is a content analysis, research that is in-depth discussion of the contents of a written document from the book and other scientific literature relevant to the object of study. In Islamic view, the obligation of parents on the survival and development of children is entrusted (mandate) to the parents of child by God (Allah). Islam regards the definition of a child as a noble position. Children have a position or get a special place in Nash Al-Quran and Al-Hadith. Therefore, a child within the meaning of Islam must be treated humanely and given education, teaching, the skills of akhlakulkarimah so that the child will someday be responsible in promoting themselves to meet the needs of favorable future. The parents are responsible to the problems of their children in view of the Qur'an.

**Index terms**— protection of children's rights, human rights, islamic law.

Protection of Child Rights in Perspective of Human Rights in Indonesia (Analysis Approach to Islamic Law)I. Introduction

Children are the hope of the future. Children also have existence. The existence of the child as a child, as a man who is the totality of life and humanity. Each child is attached with basic rights as human rights that can not be ignored. However, in the reality of the world, there are many forms of exploitation, violence, discrimination and abuse of children's rights, both real and perceived and hidden.

In fact, children are still exploited, both economically as labor, street children, or sexual exploitation as prostituted children. Because of that, the enforcement of children's rights have not been able to enforce and have not been consistent, although legal instrumentsrelatively are available.

According to data released by UNICEF in 2005 revealed that two (2) million children were killed; and 4 (four) to 5 (five) million disabled children living by war. In some countries such as Uganda, Myanmar, Ethiopia, and Guatemala, children are subject to conscription policy. 1 Organization -ILO, there are approximately 200 million children economically active work or outside the home because of poverty and urbanization. 2 Meanwhile in Indonesia, according to data released by the Central Bureau of Statistics (BPS), an estimated number of 2.4 (two point four) million children aged 10 (ten) to 14 (fourteen) years are economically active, not to mention children under the age of 10 (ten) years. Figures released by BPS was conservative, that is still small compared with reality-age children are out of school learning that amounted to 6.5 (six point five) million. Even researchers from several institutions who are concerned with the problem of child labor refer to larger numbers, such as Irwanto revealed 6 (six) million children work, and other studies have estimated that approximately 10 (ten) million.

## 1 International

Labor Organization (ILO) as a United Nations special agency in charge of international labor issues was revealed that the amount of 7% (seven percent) of children in Latin America are involved in labor, in the Asian region

## 2 DEFINITION OF HUMAN RIGHTS IN GENERAL

---

were estimated to be 18% (eighteen percent) children become child labor, and the greater part of which are in Africa estimated to be 25% (twenty five percent).

Islamic dimension in putting human rights of the children are very broad and noble teachings of social life. Indonesian society is a collection of a bunch of marginal human, and every human being, without exception, always experience a period called childhood. So that child rights is seen as the seed of a society. In this view, Abdur Rozak Hussein stated as follows: If the seeds of the child in the community is good then surely the public will be formed into a society that is good also, further said: Islamic states that children are the seeds that will grow to form a society in the future will come.

Through the United Nations (UN) that have endorsed the Convention on the Rights of the Child (UN's Convention on the Rights of the Child) on 20 November 1989, which until now has bound 191 (one hundred and ninety-one) participating countries (state parties), then the effort of promotion, dissemination and enforcement of the rights of children driven to the whole world, especially in countries that have ratified the Convention on the Rights of the Child (CRC).

Indonesia as a member of the United Nations and the parts of the international community have ratified the CRC in 1990. Ratification of the CRC was done through Presidential Decree (Decree) No. 36 Years of 1990. Indonesia is the earliest country to ratify the Convention on the Rights of the Child. 5 4 F.S.Swantoro, "Maraknya Pelanggaran HAM Berat di Indonesia", Analisis CSIS.Tahun XXIX/2010, No.2, Jakarta, hlm. 211-212. 5 Abdul Rozak Husein, Hak Anak Dalam Islam, ??Fikahati Aneska, 1992), p. 19 Children need to have legal protection to guarantee their rights. They are country's most important asset. They are the successor to the ideals of national struggle. It is to be hung all the expectations of the nation in the future. Therefore, it is appropriate that the most attention is given in order to meet a better tomorrow. They need to be given to good education, health, affection and attention in addition to food and clothing, so that they can develop theirpersonal properly.

Responsibility for the maintenance of children is the responsibility of all parties (government, communities and families). Family (parents) are the first and foremost responsible for the maintenance of the child, who is mentioned in Law No. 4 of 1979 on Child Welfare.

In the appendix of Presidential Decree No. 129 of 1996 on the National Action Plan on Human Rights of Indonesia stated that "the implementation of human rights conventions in which was passed on the promotion and enhancement of the content of the protection of rights, namely: a) increase the role available national institutions (Presidential Instruction No.2 of 1989 on the National Committee for Children Welfare Development) in order to implement the Convention on the Rights of the Child, b) establish a child protection agency as an independent body in the field of child protection.

Based on the background of the problem, the issues discussed in this paper is how definition of human rights in general, children's rights in national law and Islamic law, and legal protection of children in the national law and Islamic law.

The method used in this study is a content analysis, 6 II.

## 2 Definition of Human Rights in General

research that is in-depth discussion of the contents of written documents from the book and other scientific literature relevant to the legal protection of children in the perspective of human rights in Indonesia, an analytical approach to the study of Islamic law.

The term of human rights or basic human rights, which is the translation of foreign terms such as "droits de l'homme" section of the "declaration des drits et du citoyen de l'homme" (France), or "menselijke grondrechten" (Netherlands), "fundamental human rights" (UK), and "huququl asasiyah" (Arabic). In general, more widely used in Indonesian terms of human rights.

Actually, the human rights it is an area that is not clearly limit the issues covered in it. However, it should be examined some meaning or definition put forward by scholars. It is intended to address problems that have been mentioned above. The understanding of human rights are the "rights of human beings by nature and cannot be separated rather than intrinsically and because it is sacred". 7 Meanwhile, Marbangun Hardjowirogo 8 believes that human rights are rights that allow it to live unmolested and life as a citizen of a life together. Then G.J. Wolhoff 9 gives the sense that human rights are a number of rights as if rooted in the human person where such rights cannot be removed or lost from the human life. Thus, human rights are basic rights or fundamental rights brought by humans from Year 2015 birth as a gift from Almighty God. These rights are the basis of other rights and obligations. 10 Moreover, human rights are also listed in the Preamble to the Charter of the United Nations which reads "for the sake reinforce belief in human rights, the price and the degree of human dignity, the same rights, both men and women and for all nations large and small ... "further provisions concerning human rights are set out in several articles of the UN charter such as Article 1. 13. 55. 56. 62 and 76. The view of the conception of human rights in addition to what has been described above, was also found by the Islamic conception. Human rights in Islam is defined as a legal ownership, rights and precious possessed by every individual from birth regardless of difference, race, tribe, nation or religion.

Because of the nature of human rights, then anyone who tried to seize the moral sanction as an antihuman actions. In the Qur'an there is a very real gesture that every individual has the right to life and the primordial obtain the same dignity and noble life before God and fellow human interaction. So much so that a person's right to life that Allah has strongly condemned the murder (Surah 2:72, 2:85, 2:91, 3:112. 4:93, 6:151).

The same thing in another verse of Surat Al-Kafirun: 6, Allah affirms "lakum dii nukum wa liyaa diin", that is, there is no compulsion in religion (Sura Al-Baqara). That's the common thread of respect for human rights in Islam. In terms of faith in the creator, Allah gives freedom of choice to His servant, especially relating to other areas. In this case Islam upholds these rights. a. Human rights has developed into "ideology" that global (universal), so that human rights become a "concern" of the international community.

M. Yahya Harahap, in Iman Jauhari said there are some things that need to be recognized by law enforcement officers, namely: b. Ruler (government) should be the "servant" of society, so that people really feel there is "protection". c. Some of the keywords of Human Rights, (1) "to take steps", in the form of a series of efforts to positive action to improve the quality of human rights protection, (2) "to guarantee" human rights in the sense of relief for any violation of human rights, (3), "to ensure" rights in the sense of any right response is worth of human rights (4), "to recognize", in the sense of acknowledging that human rights are 12 Ibid, p. 6-7.

According to the version of Islam, which is the first human rights violations occurring in the world once it is the murder of the son of Adam, Habil (Abel), by his brother Qabil (Cain) (Cain killed Abel because not willing to see Abel has a happy life (as husband and wife) with Cain's twin brother, Iqlima, who is pretty good-looking.

Supposedly, according to Cain, Iqlima it must be mated by Adam to the Cain and Abel mated with his own twin sister who has a less attractive face that is Labudda. As a result of the dissatisfaction and reckless, then Cain killed Abel. Thus excerpts history of human rights violations told by Allah in the Qur'an Surah Al-Maidah: 30) Human life is sacred and should not be violated by anyone. That holiness should not be revoked except by the power of Shari'ah and through the adopted procedures. It is expressly stated in Q.S. Al-Maidah: 32 which means "he who kills a human being, not because that person kills another person, or for spreading mischief in the land, it is as if he has killed all mankind.

Islam does not justify someone forcing his will on others, because the imposition of the will violates the rights of the man himself. Even more, the coercion of religious believe (in this case Islam) was not allowed. It is explicitly mentioned in Surat Al-Kahf: 29, which means "God gives freedom to all his servants if he would like to be a believer or not". Furthermore, Islam does not declare human rights was only at one place, but scattered in several verses of the Qur'an. Basic rights that are fundamental to the development of rights rights that declared the following, among others: the right to life (Surah Al-Maidah: 30-32), freedom (Surat ash-Shura: 41), the right of equation (Al -Ahqaf: 19), the right to justice (Surat an-Nisa ': 49), the right of protection against tyranny (Surat al-Ahzab: 58), the right to protection from torture (Rawahu Hadith Ibn Majah with a sahih sanad), the rights of individuals in the name of minority (Surat al-Hujarat: 12), the right to shelter (Surat al-Tawbah: 6), minority rights (Surat al-Baqara: 225), the right to work in the life (Surah Ash-Shura: 38), the right of free speech (Surat al-Ahzab: 60-61), the right of freedom of religion (Surah Al-Kafirun: 6), the right to preach (Surah Yusuf: 108), economic rights (Surah Al-Maidah: 120), the protection of the rights owned (Surat al-Baqara: 188), the rights and obligations of workers (Surat al-Ahqaf: 19), the right to enjoy basic foods (Surat al-Ahzab: 6), the right to build a family (Surat an-Nisa: 1), the rights of wives (Surah Ath-THALAQ: 6), the right to education (QS Al-Isra: 23-24), and the right of individuals to protect privatization (Surat al-Hujarat: 12).

Then, when viewed in the Constitution of 1945, provisions governing human rights are more than any other problems, and a number of chapters on human rights, which consists of Articles 1, 2, 3, 18, 26, 27, 28, 29, 30, 32 and Article 34 of the Constitution of 1945, Article number 12. 12 inherent to any individual or group, (5) "to under take", in the sense of trying to protect all human rights in all times and places, ( ??) "to promote", in the sense of improving the quality of human rights protection in the life sector. 13

### III. Children's Rights According to

National Law and Islamic Law

The term child means many things, especially if said child was followed in other words, such a derivative child, little boy, country boy and so on. The concern here is the definition of a child in civil law, particularly in relation to the family, such as biological children, boys and girls, legitimate children and illegitimate children, the eldest and youngest children, stepchildren and legitimate adopted children, foster child, children's nephew, the son of a banana, discordant children (illegitimate) and so on. 14 Child development is a stage in human development, life and development of children seen in a historical question. We should pay attention to other developmental stages to identify and educate children, such as stages of development earlier or later life, all of which are not seen as sheets of loose scattered life, but as a straight path to the divine pleasure. 15 Therefore, for the sake of children and their future, then the people of Aceh, where his wife had died, frequently do the marriage by marital "ganto tika" or so called "change mat" with his wife's sister, who is not married yet. It is given to the maintenance of the babies, because when babies are left to be taken care by his/her stepmother who has very close family ties, they do not worry things happen that are not desirable to the future of their children. 16 In connection with the above description, it can be seen constitutionally the meaning of child, Article 1 Convention on the Rights of the Child adopted by the General Assembly of the United Nations on November 20, 1989 stated "the child is any person under the age of 18 years unless to the child that adulthood is attained earlier ". Whereas in point 2 of Article 1 of Law No. 4 of 1979 on Child Welfare mentioned "Child is a person who has not attained the age of 21 (twenty one) years and has never been married". Children are God's mandate that has to be maintained and educated properly. Without supervision or maintenance of the parents, it is 13 Iman Jauhari, "Tinjauan Sosiologi Hukum Terhadap Pelanggaran HAM di Indonesia", Majalah Hukum, No. 1 Vol. 4 Edisi April 1999, F.H. USU. Medan.

## 4 IN PRINCIPLE I DECLARATION OF

---

p. 91 14 H. Hilman Hadikusuma, Bahasa Hukum Indonesia, (Bandung: Alumni, 1992), p.83 15 H. Syamsul Bahri Tanrere, "Pendidikan Anak Dalam Islam", Buletin Dakwah, No. 39 Tahun Ke XXVI, 1999, Medan, p. 1. 16 Iman Jauhari, "Penanganan Kasus-Kasus Perkawinan Poligami di Daerah Istimewa Aceh" Majalah Hukum, vol. 5 No. 1 Edisi Februari 2000, FH. USU, Medan, p. 73 difficult for a child expected to be useful for religion and the state.

Sugiri said "as long as the process of growth and development in her/his body, the person is still a child and into adulthood when a new development and growth process was completed, so the age limit for children is the same as the beginning of becoming an adult, which is 18 years for women and 20 years for men, as well as in the United States, Yugoslavia, and other western countries ". 17 1. Groups, in which the individual can basically enjoy major support from others and security in life.

Children as one element of a family, have interpersonal relationships in the family, such as in this case is the child's relationship with their parents, children with other fellow children, children with relatives members of the parents, mothers or father.

2. Groups in which the individual when he was a kid and have not got a care, helpless and the beginning of their education. 18 The definition of "family" here is pure family by family system (family system principal), comprising the father, mother and child, not the family according to the extended family system, which consists of father, mother, son, grandfather, grandmother, in-laws, nephew and so on, as found among the people of Indonesia.

A family according to pure family system is the smallest family unit in society and the state. If this smallest unit is good and prosperous, then by itself the state and society would be good and prosperous. Therefore, Islam is concerned about the formation and development of the family. It is evident that in the Qur'an and hadith are dozens of verses from some of the letters and dozens of hadith, which discuss family issues.

Article 1 point 4 of Law No. 4 of 1979 stated that "the family is the smallest community unit consisting of father and/or mother and child". While in the preamble of the convention of children's rights is mentioned that "The family as the core group of the community and as a natural environment for the growth and well-being of all, its members and particularly children should be given required protection and assistance in order to have a fully responsibilities in society". 19 View of the child in the religious sense will be constructed in accordance with the Islamic view that makes it easy to conduct a study in accordance with the concepts of the Quran and the hadith of the Prophet Muhammad. Islam regards the definition of a child as a noble position. Children have a position or get a special 17 Romli Atmasasmita, Problema Kenakalan Anak-Anak dan Remaja, (Bandung: Armico, 1986), p. 34 18 place in Nash of Al-Quran and Al-Hadith. Therefore, a child within the meaning of Islam must be treated humanely and given education, teaching, the skills of akhlakulkarimah, so that the child will someday be responsible in promoting themselves to meet the needs of favorable future. The problems of child in view of the Qur'an are parents' responsibility.

In the meaning of Islam, the position of the child is a lend from Allah SWT to both parents, the community, the nation and the state as the heir of the teachings of Islam (Allah Revelation) that will be prosperity in the world as rahmatan lilalamin. This understanding gives the rights to children to be recognized, believed, and secured as the implementation of deeds received by the children from the parents, the community, state and nation. The provision is stated in Surah Al-Isra (17) verse 31, which means: "And kill not your children for fear of poverty. We shall provide sustenance for them as well as for you. Surely killing them is an enormous sin". 20 The right has two meanings, namely: First, "a set of rules and texts that govern the basics that should be adhered to in relation to our fellow man, either the person, or the treasure". Second, "the power to master something or something is obligatory upon a person for the other kind". Rights according to common sense, "a provision by which the Personality 'set a rule or a legal burden". 21 1) The right to protect the child while still in the womb of his mother (Surah Al-Baqarah (2) paragraph 233);

Children's rights are absolute in view of the dimensions of belief and religious life of Islam, consisting of: Declaration on child rights initiated by the United Nations, can not be regarded as a provision of positive law in the community association socialized with children. The fact of the constitutional provisions of rights of children in Indonesia, that the absence of laws and regulations that protect the lives of children. The Indonesian people still need to ratify the Declaration of the Rights of the Child into a law or other regulations that are more restrictive to the rights of children in Indonesia. Protection of children's rights in Indonesia, formulated within a legal framework which is not much different with the legal provisions adults in general. For example, in Act No. 39 Year 1999 on human rights, child rights grouping in general to in Article 56 through Article 66 of Law No. 39 of 1999 on Human Rights. Form and meaning of the child's human rights formulation conclude that children's rights contained in the Declaration on the Right of the Child, which was ratified into the new provisions of the rights of Indonesian children. Convention on the rights of the child, has a different outlook compared to previous international instruments. The difference was primarily, it appears from the way children seen and treated, not merely as the paradoxal placed with adults, but it is treated as a human being "filled" with all the rights that are inherent attached to the child as being humans.

## 4 In principle I Declaration of

Furthermore, children's rights convention that has been adopted by the UN General Assembly on November 20, 1989 also adopted by the Indonesian government by way of signing on January 26, 1990 (2) Children are entitled



is one of the approaches to protect Indonesian children. Therefore, the problem can not be approached solely juridical, but need a broader approach, namely economic, social, and cultural. 33 In Islamic law, the immature person is called saqhir or sabi, whereas an adult called baligh. Law of the child shall remain in force, until the child was older. It is in the Word of Allah, which means: "And you shall test the orphans until they old enough to get married. Then if you think that they are smart, clever enough to maintain the property then let you handed them the treasure. (Q.S. An-Nisa (4): 6). 34 So to make the perfect transaction, we must wait until the child was older. And here, the meaning of adult is old enough to reproduce, and there are signs of adult males on son, there are signs of adult women in the daughter. This is a reasonable adult, where those signs are not there before the age of 12 (twelve) years for the boys or 9 (nine) years for the girls. Therefore, if a child says he was grown, after he reaches this age, then his statement is acceptable, because he alone is to understand more about whether he/she is adult or not, and children usually do not want to lie in this matter. 35 The experience of Omar Abdullah is the reason that fifteen years is a measure of adult age, and it is the same for men and women, men are considered strong enough to engage in war. Then, if for example the child has passed this age but the indicated signs are not visible yet, then both the son and daughter, both alike to wait until they are 15 (fifteen) years, in the opinion of Abu Yusuf and Muhammad Ibn ' Hasan, and 18 years for son, 17 years for daughter, according to Abu Hanifah. This provision is taken from the hadeeth narrated by Abdullah Ibn Umar, he said: "I am faced with the Prophet Muhammad to register, to the battle of Uhud, and at that time I was 14 (fourteen); then he would not let me join. Then I was exposed to him for Khandak war, being at that time I was 15 (fifteen) years; then he let me go". 36 School of Hanafy explained that the Head of State in charge of providing for the poor people, and the judge is entitled to make demands that poor people 32 Hasan Basri, Psikiator dan Pengadilan, (Jakarta: Ghalia Inbdonesia, , 1982), p. 161 33 Bismar Siregar, et.al, Hukum dan Hak-Hak Anak, ??Jakarta: Rajawali, 1986), p. 22 34 Al-Qur'an dan Terjemahannya, Op.Cit, p. 115. 35 were given a living by state. Their livelihood was so taken from the treasure-trove of heritage that no heir in the state treasury, which collects the scattered treasures, which no owner. 37 1. The responsibility of parents to supervise, provide appropriate services and provide for the child's life.

According to M. Yahya Harahap, the maintenance of the child becomes: 2. Maintenance in the form of supervision and care, and the child is living appropriately continuously until the child was older. According to Paul Wetty: "Children need a sense of love, or serenity and understanding and encouragement from both parents (mother and father) as well as others. With summary we can say that the affection is to be fulfilled for all (every) child." ??9 RI Suhartin C argues that: "For the sake of the good growth of children, the parents must meet physical needs such as eating, drinking and sleeping. The need for security or protection, the need to be loved by his parents, self-esteem needs and needs to express themselves both in writing and orally. ??0 About earning of living, most scholars agree that 'living and children's clothing from birth to adulthood is borne by the father". ??1 Furthermore, Zaid H. Alhamidi suggests: "Be a mother to educate their children in the concerns and simplicity and fortitude in addition to educate and teach them (the children) faith, cleanliness, noble character, encouraging them to do good and prevent them from doing crime and nurture them with affection. ??2 The obligation to maintain the child in Islam called hadhanah, which is the maintenance of a child that has not been able to keep an eye on himself, by way of organizing something that brings the benefit of children, to train and educate and nurture the soul and moral growth. ??3 In Article 45 paragraph (1) of Law No. 1 of 1974 mentioned that "the obligation to maintain and educate the children is charged to parents". Obligation of the father is to meet living expenses in addition to caring for children, educating and guiding until they are adults. Such obligations are also borne by the mother, but the mother's obligation is more emphasis on the maintenance, education and child care. "Educating is to maintain, lead and manage all the rights of children." 44 In Child Welfare Act stated that the parent is the first persons who responsible for the creation of the welfare of children spiritually, physically and socially. Responsibility is borne by the parents as both physically and mentally children have not been able to take care of and feed themselves.

The existence of such responsibilities because there is a child's relationship with their parents based on blood ties. According to customary law, the legal effect of the presence of parents with children are: 1. The obligation of parents to take care of their children; 2. In the marriage of daughter, father become the guardian; 3. Prohibition of marriage between children and their parents.

In view of the Islamic law, the obligations of parents on the survival and development of children is entrusted (trust) that God entrusted to the child's parents. But according to Bismar Siregar, "What many of the parents who have children, but he forgot that the child is a blessing and also the trust of Allah SWT." ??6 Therefore, the parents not only care for the children in terms of outward, but also includes a broad sense, the achievement of a balance between body and soul and self-protection from disease.

In a hadist narrated by Abu Dawud, the Prophet Muhammad said which means "to give a good name, giving good education physical education and spiritual education, to give the child the skills and marry him/her with each candidate in accordance with Islamic law".

Then Islamic teaching determinesthat believers should maintain himself and his family (wife and children) from the torment of hellfire, protect themselves from destruction also means protecting his family from the torment of the Fire.

Children are God's creatures that should be respected and honored as God's Word which means "And we actually have glorified the children of Adam" The Holy Quran, Surah Al-Isra (17) verse 70. Hence one should pay attention to and guide their children to the straight path and reasonable and maintain his honor. Thus the legal protection of children should be made jointly by her father and mother and not by his mother alone because H. Abdullah Shah said "he has been quite busy due to take care and educate their 45 Soerjono Soekanto, Hukum Adat Indonesia, (Jakarta: Rajawali, 1981), p.,4.

46 Bismar Siregar, Renungan Hukum dan Iman, (Jakarta: Fikira, 1988), p. 28 ??? Dewan Ulama Al-Azhar, Penerjemah Alawiyah Abdurrahman, children. It is a big job, in addition to the feeling of greater affection than men affection". ??? H.M. Hasballah Thaib said, "in terms of severity of the work does not need to see the hardness of the job but rather the value of the job for the benefit of family togetherness and their future and their children". ??? However, "their work in educating their children is a worship and struggle". ??? Because of the above, then the person is obliged to maintain themselves from things that do not deserve, as well as first run religious orders as well. Because children are more likely to imitate and follow the customs that exist in the environment. That is, to educate children with examples of direct behavior is better than only with the advice in the form of speech. So, if parents have a habit of doing things that are good, then their children will be a pious man. Because since childhood has been forged by the good things, So their children not to be wasted, because the child as God's mandate to be given legal protection to them.

Parents are responsible before God for his children's education. Because they are the generation who will hold the baton of religious struggle and caliph in the earth. Therefore, if the education of the children is well, then blessed are to the parents, both in this world and in the hereafter. Conversely, if the parents neglect on their education, it will be miserable, from the world up in the hereafter. Did not the Prophet have asserted: "Every of you are a leader, and will be held responsible over the people they lead (Reported by Imam Bukhari and Muslim).

Prophet also gave khabar excited to parents who successfully educate their children: "By Allah, that the instructions given by God to man through you is better for you than the wealth of many" (Bukhari and Muslim). Thus educate children to successfully get a guidance of God is incomparable richness value price.

Good news from the Prophet to parents, is also presented by Imam Muslim in a history that asserts: "When a person dies, all his deeds end, except three cases: Shadakah jariah, taken benefit science and pious children who pray for both parents". many areas of life of the state and society. Child protection activities is a legal action brought as a result of the law. Hence, it needs for legal guarantees for the protection of the child's activities. Legal certainty necessarily to arrange for the continuation of child protection activities and prevent abuses that brought unintended negative consequences in the implementation of child protection. Child protection can be divided in two senses are: a) the judicial protection of children, which includes the protection: public law field, and the field of civil law, b) non judicial protection, including: the social, health, and education. So this judicial protection of children is concerning all the legal rules that have a direct impact on the lives of children in the sense of a person's legal order for the child's life.

In view of the Islamic law, the obligation of parents on the survival and development of children is entrusted (trust) that God entrusted to the parents of the child. Islam regards the notion of children as a noble position. Child has a special position in the Nash Al-Quran and Al-Hadith. Therefore, a child within the meaning of Islam must be treated humanely and given education, teaching, the skills of akhlakulkarimah so that the child will someday be responsible in promoting themselves to meet the needs of favorable future. The parents responsible to problem of the children in the view of the Qur'an. <sup>1 2 3 4</sup>

<sup>1</sup>ILO, "IPEC Programme Document", 1993, p. 4.3 Irwanto, 1997, Perlindungan Anak Prinsip dan Persoalan Mendasar. Makalah pada Seminar Kondisi dan Penanggulangan Anak

<sup>2</sup>R. Babbie, The Practice of Social Research Practice (Belmont: Wadworth, 1977), p. 75. 7 Kuncoro, Hak-Hak Asasi Manusia dan Pancasila. (Jakarta: Pradnya Paramita, 1976), p. 19. 8 Marbangun Hardjowirogo. Hak-Hak Manusia. (Jakarta: Yayasan Idayu, 1991), p. 7 9 G.J. Worlhoff, Pengantar Ilmu Hukum Tata Negara Republik Indonesia. (Jakarta: Tinta Mas. 1990), p. 143.

<sup>3</sup>Al-Qur'an dan Terjemahannya, Departemen Agama RI, p. 428-429 21 Tengku Muhammad Hasbi Ash Shiddieqy, 1997, Pengantar Fiqh Mua'amalah, Semarang: PT. Pustaka Rizki Putra, p. 121

<sup>4</sup>Bagir Manan, et all, 1997, Peradilan Anak di Indonesia, Bandung: Mandar Maju, p. 86



Figure 1: 2 )

Year	According	Koentjaraningratin	Soerjono
2015	Soekanto, a family function as: 1980), p. 53		

Figure 2:



---

language, religion, political or other views, proposals  
have national or social origin, property, birth or other  
status, both himself and his family. 22

stated:

Children should enjoy all the rights set forth in this  
Declaration.

whatsoever, shall receive these rights, without  
distinction or discrimination of race, color, sex,

Year 2015  
33  
Volume XV Is-  
sue I Version I  
( H )  
Global Journal  
of Human So-  
cial Science  
Rights of the Child, 1959

Every child, without exception

[Note: © 2015 Global Journals Inc. (US) -]

Figure 3:

[Note: 23(1)]

Figure 4:

Year 2015  
35  
Volume XV Issue I Version I  
( H )  
Global Journal of Human Social Science -  
© 2015 Global Journals Inc. (US)

Figure 5:



- 
- 395 [Al-Qur'an Dan Terjemahannya] , Al-Qur'an Dan Terjemahannya . *Departemen Agama RI*  
396 [Pustaka Rizki] , Putra Pustaka Rizki .  
397 [Shidieqy et al. ()] , Ash Shidieqy , Muhammad Tengku , Hasbi . *Hukum Fiqh Islam* 1969. Bulan Bintang.  
398 [Rasyid and Islam ()] , Sulaiman Rasyid , Fiqh Islam . *Jakarta: Attahiriah* 1976.  
399 [Soekanto and Hukum Keluarga ()] , Soejono Soekanto , Intisari Hukum Keluarga . 1980. Bandung: Alumi.  
400 [Wetty and Cemerlang ()] , Paul Wetty , Anak-Anak Yang Cemerlang . 1980. Jakarta: Bulan Bintang.  
401 [Alhamidi et al. ()] , Alhamidi , H Zaid , Fiqh Islam . *Jakarta: Attariah* 1981.  
402 [Soekanto ()] , Soerjono Soekanto . *Hukum Adat Indonesia* 1981.  
403 [Basri et al. ()] , Basri , Psikiator Hasan , ( Dan Pengadilan , Jakarta . 1982. Ghalia Inbdonesia.  
404 [Atmasasmita ()] , Romli Atmasasmita . 1986. Bandung: Armico. Problema Kenakalan Anak-Anak dan Remaja  
405 [Suhartin ()] , C , R Suhartin . *Cara Mendidik Dalam Keluarga Masa Kini* 1986. Jakarta: Bhatara Karya.  
406 [Hamid and Di Indonesia ()] , Zahary Hamid , Pokok-Pokok Hukum Perkawinan Islam Di Indonesia . 1987.  
407 Bandung; Bina Cipta.  
408 [Siregar and Hukum Dan Iman ()] , Bismar Siregar , Renungan Hukum Dan Iman . 1988. Jakarta: Fikira.  
409 [Gosita and Perlindungan Anak ()] , Arif Gosita , Masalah Perlindungan Anak . 1989. Jakarta: Akademi  
410 Pressindo.  
411 [Soemitro and Setyowati ()] , Irma Soemitro , Setyowati . *Aspek Hukum Perlindungan Anak* 1990. Bumi Aksara.  
412 [Dewan Ulama Al-Azhar ()] , Dewan Ulama Al-Azhar . 1991. Perawatan Anak, (Jakarta: Al-Bayan. (penter-  
413 jemah Alawiyah Abdurrahman)  
414 [Hardjowirog and Hak-Hak Manusia ()] , Marbangun Hardjowirog , Hak-Hak Manusia . 1991. Jakarta: Yayasan  
415 Idayu.  
416 [Hadikusuma and Hilman ()] , H Hadikusuma , Hilman . *Bahasa Hukum Indonesia* 1992.  
417 [Thaib and Hasballah ()] , H M Thaib , Hasballah . *Hukum Benda Menurut Islam* 1992. Medan: FH. Undhar.  
418 [Penanggulangan Anak Jermal and Medan ()] , Laai Penanggulangan Anak Jermal , Medan . 1997.  
419 [Manan and Bagir ()] , Manan , Bagir . 1997. Bandung: Mandar Maju.  
420 [Aziz et al. ()] , Aminah Aziz , Aspek Hukum Perlindungan , Anak . 1998. Medan: USU Press.  
421 [Mahalli and Mudjab ()] , A Mahalli , Mudjab . 1999. Kewajiban Timbal Balik Orang Tua Anak, (Yogyakarta:  
422 Mitra Pustaka.  
423 [Joni et al. ()] *Aspek Hukum Perlindungan Anak Dalam Perspektif Profesi Hak Anak*, Muhammad Joni , Z Dan  
424 Zulchaina , Tanamas . 1999. Bandung: PT. Citra Aditya Bakti.  
425 [Efendi and Mansyur] A Efendi , Mansyur . *Tempat Hak-Hak Asasi Manusia Dalam Hukum Internasional/*  
426 *Nasional*, (Bandung)  
427 [Husein and Rozak ()] *Hak Anak Dalam Islam*, Abdul Husein , Rozak . 1992. Fikahati Aneska.  
428 [IPEC Programme Document ()] *IPEC Programme Document*, 1993. ILO  
429 [Usamy and Djamil (ed.) (1999)] *Jaminan Hak Asasi Manusia (Suatu Kajian Yuridis Empiris)*, M Usamy ,  
430 Djamil . F.H. Unsyiah. Darussalam -Banda Aceh (ed.) April 1999. (Kanun Jurnal Ilmu Hukum)  
431 [Irwanto et al.] *Makalah pada Seminar Kondisi dan*, Perlindungan Irwanto , Anak Prinsip Dan Persoalan ,  
432 Mendasar .  
433 [Swantoro ()] 'Maraknya Pelanggaran HAM Berat di Indonesia'. F S Swantoro . *Analisis CSIS. Tahun XXIX*  
434 2000. (2) .  
435 [Jauhari ()] 'Penanganan Kasus-Kasus Perkawinan Poligami di Daerah Istimewa Aceh'. Iman Jauhari . *Majalah*  
436 *Hukum* 2000. 5.  
437 [Tanrere and Bahri ()] 'Pendidikan Anak Dalam Islam'. H Tanrere , Bahri . *Buletin Dakwah* 1999. (39) . (Tahun  
438 Ke XXVI)  
439 [Thaib ()] *Pengaturan Perlindungan Hak Anak Dalam Hukum Positif*, Yusuf Thaib . 1984. Jakarta: BPHN.  
440 [Shiddieqy et al. ()] Ash Shiddieqy , Muhammad Tengku , Hasbi . *Pengantar Fiqh Mua'amalah*, (Semarang)  
441 1997. PT.  
442 [Siregar ()] Bismar Siregar . *Hukum dan Hak-Hak Anak*, (Jakarta: Rajawali) 1986.  
443 [Syah and Abdullah ()] H Syah , Abdullah . *Harta Menurut Pandangan Al-Qur'an*, 1992. Medan: IAIN Press.  
444 [Jauhari et al. (1999)] 'Tinjauan Sosiologi Hukum Terhadap Pelanggaran HAM di Indonesia'. Iman ; F H Jauhari  
445 , Usu , Medan . *Majalah Hukum*, No April 1999. 4 (1) .  
446 [Worlthoff ()] G J Worlthoff . *Pengantar Ilmu Hukum Tata Negara Republik Indonesia. (Jakarta: Tinta Mas*, 1990.