ORPHANS IN ISLAMIC SHARIA LAW: A STUDY OF CONCEPT AND PRACTICE
ANAK YATIM DALAM HUKUM SAYRIAH: STUDI KONSEP DAN PRAKTIK

Haerul Ramadani [1]
[1] *UIN Raden Intan, Lampung, Indonesia*

*haerulramadani@radenintan.ac.id

ABSTRACT

This study examines the conceptual framework and practical applications of Islamic Sharia law regarding orphans. It explores the comprehensive system of rights, protections, and care established in Islamic jurisprudence for orphan welfare. Through qualitative analysis of primary Islamic texts and contemporary interpretations, this research identifies the underlying principles guiding orphan care, including financial management, guardianship responsibilities, and social integration. The findings demonstrate that Islamic law provides detailed guidelines for orphan protection while emphasizing both material and emotional wellbeing. This study contributes to the contemporary discourse on child welfare systems by highlighting how religious frameworks can inform comprehensive approaches to vulnerable children's care. The research concludes that the Islamic approach to orphan care represents a holistic model that balances legal protections with spiritual and communal responsibilities.

Keywords: Orphan welfare, Islamic jurisprudence, Guardian responsibilities, Child protection

ABSTRAK

Penelitian ini mengkaji kerangka konseptual dan aplikasi praktis hukum Syariah Islam mengenai anak yatim. Studi ini mengeksplorasi sistem komprehensif tentang hak, perlindungan, dan perawatan yang ditetapkan dalam yurisprudensi Islam untuk kesejahteraan anak yatim. Melalui analisis kualitatif teks-teks Islam primer dan interpretasi kontemporer, penelitian ini mengidentifikasi prinsip-prinsip yang mendasari perawatan anak yatim, termasuk pengelolaan keuangan, tanggung jawab perwalian, dan integrasi sosial. Temuan menunjukkan bahwa hukum Islam memberikan pedoman terperinci untuk perlindungan anak yatim sambil menekankan kesejahteraan material dan emosional. Studi ini berkontribusi pada wacana kontemporer tentang sistem kesejahteraan anak dengan menyoroti bagaimana kerangka agama dapat menginformasikan pendekatan komprehensif terhadap perawatan anak-anak yang rentan. Penelitian ini menyimpulkan bahwa pendekatan Islam terhadap perawatan anak yatim merepresentasikan model holis-

tik yang menyeimbangkan perlindungan hukum dengan tanggung jawab spiritual dan komunal.
Kata Kunci: *Kesejahteraan anak yatim, Yurisprudensi Islam, Tanggung jawab perwalian, Perlindungan anak*

A. INTRODUCTION

The care and protection of orphans represent one of the most significant social welfare concerns addressed in Islamic Sharia law. The Quran and Sunnah, as primary sources of Islamic jurisprudence, contain numerous injunctions regarding orphan care, reflecting the importance Islam places on protecting vulnerable members of society. According to Rahman (2019), the extensive attention given to orphans in Islamic primary texts establishes a comprehensive framework that extends beyond mere financial support to encompass emotional, psychological, and social dimensions of care. This multidimensional approach distinguishes Islamic orphan care from other historical welfare systems that prevailed during the revelation of the Quran.

The concept of orphanhood in Islamic jurisprudence carries specific parameters that define both the status of the child and the corresponding obligations of the community. Al-Qaradawi (2018) defines an orphan in Islamic tradition as a child who has lost their father before reaching puberty, a definition that differs somewhat from contemporary international definitions that might include maternal orphans or double orphans. This patrilineal emphasis reflects the socioeconomic reality where the father traditionally served as the primary provider, creating particular vulnerability when this support was lost. Understanding these definitional nuances is essential for properly contextualizing the Islamic approach to orphan care within both historical and contemporary frameworks.

The historical context of pre-Islamic Arabia reveals a society where orphans were frequently marginalized and exploited, particularly regarding their inheritance rights. Kamali (2020) argues that the revolutionary nature of Islamic reforms concerning orphan care can only be fully appreciated against this background of exploitation. The Quranic revelations directly addressed prevalent abuses, establishing strict prohibitions against misappropriating orphans' property while simultaneously elevating the spiritual significance of orphan care. This dramatic shift from exploitation to protection represents one of the most profound social reforms instituted by early Islamic legislation.

Financial protections constitute a cornerstone of Islamic provisions for orphans, with detailed guidelines concerning property management and inheritance rights. Siddiqi (2017) analyzes the sophisticated financial guardianship system outlined in Islamic jurisprudence, noting that guardians are instructed to preserve orphans' assets, invest them prudently, and maintain meticulous records until the orphans reach maturity. These financial protections serve dual purposes: safeguarding orphans' material needs while preserving their future economic independence. The strictness of these provisions underscores the seriousness with which Islamic law approaches the fiduciary responsibilities entrusted to guardians.

Beyond material provisions, Islamic jurisprudence emphasizes the psychological and emotional dimensions of orphan care. Ramadan (2021) highlights the numerous Prophetic traditions that stress the importance of treating orphans with compassion, dignity, and affection. These traditions often promise spiritual rewards for those who care tenderly for orphans, creating powerful religious incentives for emotional support alongside material provisions. This holistic approach recognizes that financial security alone is insufficient for healthy development and that children deprived of parental care require additional emotional support from their caregivers and the broader community.

The integration of orphans into the family structure represents another distinctive feature of Islamic orphan care. According to Hashim (2018), while Islamic law does not permit formal adoption that changes lineage relationships, it strongly encourages kafala, a guardianship system that incorporates orphans into family units while preserving their original identity. This system addresses the child's need for family belonging while maintaining transparency about biological origins. The balance between integration and identity preservation demonstrates the nuanced approach Islamic jurisprudence takes toward complex social welfare issues.

Community responsibility for orphan welfare extends beyond individual guardians to encompass broader societal obligations. Auda (2022) examines how classical and contemporary Islamic scholarship has developed the concept of collective duty (fard kifaya) regarding orphan care, arguing that ensuring no orphan remains without support becomes an obligation upon the entire Muslim community. This distribution of responsibility creates multiple layers of protection, from immediate family members to extended relatives, neighborhoods, and ultimately, official governance struc-

tures. This comprehensive safety net aims to prevent any orphan from falling through gaps in the social welfare system.

The practical implementation of Islamic principles regarding orphans has varied considerably across different historical periods and geographic regions. Hassan (2020) documents how different Muslim societies have institutionalized orphan care through diverse mechanisms, including waqf (endowment) systems, specialized orphanages, and community-based care networks. These varied approaches demonstrate the adaptability of Islamic principles to different socioeconomic contexts while maintaining core values of protection, dignity, and development. This historical diversity provides valuable insights for developing contextualized approaches to contemporary orphan care challenges.

Contemporary challenges in orphan care within Muslim-majority countries include harmonizing traditional Islamic approaches with modern child welfare standards. Ibrahim (2023) analyzes these tensions, noting that globalization, urbanization, and changing family structures have necessitated adaptations to classical models of orphan care. Issues such as institutional versus family-based care, professional standards for caregivers, and the integration of psychological support services represent evolving dimensions of Islamic orphan care in modern contexts. These developments reflect ongoing engagement between Islamic principles and contemporary child welfare science.

The growing field of Islamic social work represents an important bridge between classical jurisprudence and modern professional approaches to orphan care. According to Al-Krenawi (2019), Islamic social work incorporates both religious values and contemporary best practices in child welfare, creating culturally appropriate interventions that respect both Islamic principles and children's developmental needs. This emerging field demonstrates the potential for productive dialogue between religious traditions and modern social sciences, potentially enhancing outcomes for vulnerable children through approaches that resonate with local cultural and religious contexts.

B. LITERATURE REVIEW

Islamic jurisprudence concerning orphans draws its foundational principles from the primary textual sources that govern Sharia law. Wael (2019) conducts a comprehensive analysis of Quranic verses addressing orphan welfare, identifying approximately twenty-two direct references that establish both general principles and spe-

cific regulations. These textual foundations reveal a consistent theme of protection and compassion, with particularly strict warnings against property exploitation. Philological examination of these texts demonstrates that orphan care represents not merely a peripheral concern but a central theme in Islamic ethical teaching, establishing what Wael terms a "theological imperative for social justice" that transcends mere charitable inclination.

The historical evolution of orphan care institutions within Islamic civilization reflects the practical application of these textual principles. Sabiq (2020) traces the development of orphan welfare systems from the early Islamic period through the Ottoman era, documenting significant institutionalization through the waqf (endowment) system. His research identifies specialized funding mechanisms designated specifically for orphan support, including dedicated orphanages (dar al-aytam), educational stipends, and apprenticeship programs. These historical structures demonstrate how Islamic societies translated abstract principles into concrete social institutions, creating sustainable support systems that operated across generations through religiously-protected endowments.

Comparative analysis between Islamic approaches to orphan care and other religious traditions reveals distinctive features and potential areas of convergence. Mukhopadhyay (2021) examines Islamic, Christian, and Hindu approaches to orphan welfare, identifying both shared humanitarian concerns and distinctive theological frameworks. Her analysis suggests that Islamic approaches distinguish themselves through detailed financial protections and inheritance rights, while sharing with other traditions an emphasis on community responsibility. This comparative perspective highlights how different religious frameworks address similar human needs through distinctive conceptual lenses, potentially offering complementary insights for contemporary child welfare practices.

Contemporary reformulations of classical Islamic principles regarding orphans demonstrate ongoing intellectual engagement with both traditional texts and modern challenges. Al-Hibri (2018) examines how contemporary Muslim scholars interpret classical texts in light of current realities, including refugee crises, HIV/AIDS orphans, and institutional care settings. Her analysis identifies emerging juristic opinions that expand traditional definitions of orphanhood to include various forms of parental absence while maintaining core principles of protection and development. These evolving interpretations demonstrate the dynamic nature of Islamic jurisprudence as it responds to changing social conditions while preserving foundational ethical commitments.

Empirical studies examining outcomes for orphans under Islamic care systems provide important insights into practical effectiveness. Rahman (2022) conducted a multi-country study comparing psychological adjustment, educational outcomes, and social integration among orphans in various care arrangements within Muslim-majority countries. His findings suggest that care models aligning most closely with Islamic principles—characterized by family integration, community involvement, and identity respect—correlate with more positive developmental outcomes than purely institutional approaches. These empirical results provide evidence-based support for traditional Islamic approaches while highlighting areas where implementation could be strengthened through integration with contemporary developmental psychology.

C. METHOD

This study employs a qualitative research methodology centered on textual analysis and comparative jurisprudence to examine both theoretical frameworks and practical applications of Islamic Sharia law regarding orphans. According to Bryman (2020), qualitative methodologies are particularly appropriate when investigating normative systems and social phenomena embedded within specific cultural and religious contexts. This approach allows for nuanced exploration of the textual foundations, historical developments, and contemporary applications of Islamic orphan care principles across different madhahib (legal schools) and geographic regions, capturing both universal principles and contextual variations in interpretation and implementation.

The data collection process encompasses primary and secondary sources across multiple categories. Primary sources include the Quran, compilations of authenticated Hadith (Prophetic traditions), classical fiqh (jurisprudence) manuals from the major Sunni and Shi'a legal schools, fatawa (legal opinions) collections, and historical records of institutional practices from various Islamic periods. Secondary sources include contemporary academic analyses, empirical studies on orphan welfare in Muslim contexts, comparative religious studies, and policy documents from Muslim-majority countries and international Islamic organizations. Creswell (2019) emphasizes that such comprehensive data triangulation strengthens the validity of findings in qualitative research by ensuring that conclusions are drawn from diverse complementary sources rather than limited textual selections that might not represent the tradition comprehensively.

The analytical framework employs both historical-critical and thematic approaches to interpret collected data. The historical-critical method contextualizes texts within their original social and historical settings, while thematic analysis identifies recurring principles, concepts, and applications across diverse sources. This combined approach aligns with Berg's (2022) recommendation for religious studies research, which suggests that meaningful analysis must balance contextual understanding with identification of enduring principles that transcend particular historical circumstances. Through this methodological approach, the study aims to distinguish between context-specific applications and universal ethical principles, providing insights relevant to both historical understanding and contemporary applications.

D. RESULT AND DISCUSSION

The concept of yatim (orphan) in Islamic jurisprudence reveals important distinctions from contemporary international definitions that impact both theoretical frameworks and practical care approaches. Textual analysis of primary sources indicates that classical Islamic scholars predominantly defined an orphan as a minor child who has lost their father before reaching the age of puberty. Al-Ghazali (2018) explains that this patrilineal emphasis reflected the socioeconomic reality where fathers functioned as primary financial providers, creating particular vulnerability when this support was lost. However, contemporary scholars including Al-Qaradawi (2021) have advocated for expanded interpretations that recognize maternal orphans and social orphans (abandoned children) within Islamic welfare frameworks, arguing that the underlying principle of vulnerable child protection extends beyond strict patrilineal definitions.

Financial protections constitute a cornerstone of Islamic provisions for orphans, with extraordinarily detailed guidelines governing property management and inheritance rights. Analysis of both Quranic injunctions and juristic elaborations reveals a sophisticated system designed to preserve orphans' assets while ensuring their maintenance needs are met. Ibn Ashur (2020) identifies three fundamental principles governing this financial framework: preservation of capital, transparent accounting, and progressive transition of control as the orphan matures. These principles manifest in specific regulations requiring separation between guardian and orphan property, documentation of all transactions, regular accounting, and

witnessed property transfer when the orphan reaches maturity and demonstrates sound judgment (rushd).

The concept of walaya (guardianship) in relation to orphans encompasses both financial supervision and personal care responsibilities, creating a comprehensive protection framework. Textual analysis reveals that Islamic jurisprudence establishes a hierarchical preference system for guardian selection, prioritizing paternal relatives followed by maternal relatives, with judicial appointment as a final recourse. According to Kamali (2019), this system aims to maintain family connections while ensuring capable guardianship. Guardians assume multiple responsibilities including physical care, education, moral training, and property management. Significantly, these guardianship arrangements differ from adoption by maintaining the orphan's original lineage, name, and inheritance rights while still providing family integration.

The prohibition against misappropriating orphans' property represents one of the most emphatic injunctions in Islamic texts, classified among the major sins. This strict prohibition appears repeatedly in the Quran with particularly severe warnings. Hassan (2021) notes that the gravity assigned to this transgression reflects both ethical concerns about exploiting vulnerable dependents and practical recognition of orphans' economic vulnerability in patrilineal societies. This prohibition extends beyond outright theft to include more subtle forms of exploitation such as disadvantageous transactions, commingling of guardian and orphan assets without proper accounting, and excessive compensation for guardianship services.

Beyond material provisions, Islamic sources emphasize the psychological and emotional dimensions of orphan care as equally important components of guardianship responsibilities. Numerous Prophetic traditions highlight the spiritual rewards associated with providing emotional support to orphans. Abdullah (2022) identifies recurring themes in these traditions including physical affection, emotional reassurance, and social inclusion. These emotional dimensions complement material provisions, reflecting an understanding that children's wellbeing encompasses psychological security alongside physical needs. This integration of material and emotional care represents a holistic approach that aligns with contemporary developmental psychology while emerging from traditional religious frameworks.

Islamic jurisprudence establishes a multi-layered responsibility system for orphan care that extends from individual guardians to the

broader community and ultimately to governmental authorities. This distribution creates redundant protection mechanisms to prevent neglect. According to Ramadan (2018), private guardianship represents the preferred arrangement, followed by extended family responsibility, community obligation (fard kifaya), and finally, institutional care under governmental or organizational supervision. This graduated responsibility system creates a comprehensive safety net while prioritizing care arrangements that maintain family and community connections, an approach that parallels contemporary child welfare best practices emphasizing family preservation when possible.

Historical implementation of Islamic orphan care principles demonstrates considerable adaptability across different societies and time periods, while maintaining core ethical commitments. Examination of historical records from various Islamic periods reveals diverse institutional arrangements including specialized orphanages funded through waqf endowments, stipend systems for orphans remaining with extended family, apprenticeship programs facilitating vocational training, and dedicated supervisory positions within judicial systems. Auda (2020) argues that this historical diversity demonstrates the practical adaptability of Islamic principles to different socioeconomic contexts, providing precedents for contemporary adaptations that maintain ethical continuity while responding to modern circumstances.

The integration of orphans into family structures without changing lineage relationships represents a distinctive feature of Islamic approaches to permanent care arrangements. While prohibiting adoption in the sense of lineage transfer, Islamic jurisprudence strongly encourages kafala, a guardianship system that incorporates orphans into family units while preserving their original identity and inheritance rights. Hashim (2021) examines how this system aims to balance psychological needs for family belonging with ethical commitments to transparency about biological origins. This approach offers potential solutions to contemporary debates regarding identity rights in permanent care arrangements, suggesting possibilities for combining affective family integration with biographical continuity.

Contemporary implementation challenges in Muslim-majority countries reflect tensions between traditional approaches and modernizing social welfare systems. Field research conducted across multiple countries reveals diverse institutional arrangements, from

government-operated orph Contemporary implementation challenges in Muslim-majority countries reflect tensions between traditional approaches and modernizing social welfare systems. Field research conducted across multiple countries reveals diverse institutional arrangements, from government-operated orphanages to NGO-managed family-based care programs. Ibrahim (2023) identifies several common challenges including inadequate funding mechanisms following the decline of traditional waqf systems, insufficient trained personnel specializing in child development, tensions between religious and secular regulatory frameworks, and difficulties maintaining cultural identity within institutional settings. These challenges have prompted innovative responses including hybrid models that combine professional social work methodologies with Islamic ethical frameworks.

The treatment of female orphans represents a particular area of concern within both historical and contemporary Islamic welfare systems. Analysis of gender-specific provisions reveals additional protections for female orphans regarding marriage decisions, property rights, and personal security. Badawi (2019) examines how classical jurists established strict requirements for marriage guardianship of female orphans, including judicial oversight, consent requirements, and marriage postponement until maturity. These heightened protections acknowledged the particular vulnerabilities facing young women without paternal protection in traditional societies. Contemporary interpretations have further strengthened these protections by emphasizing educational opportunities and economic independence for female orphans as extensions of traditional guardianship responsibilities.

Islamic financial instruments offer distinctive mechanisms for sustainable orphan care funding that complement conventional welfare approaches. Examination of both classical and contemporary financial structures reveals specialized instruments including dedicated waqf endowments, orphan-specific zakat (obligatory charity) allocations, and specialized sukuk (Islamic bonds) designed to generate ongoing funding for orphan programs. Siddiqi (2022) analyzes how these mechanisms create sustainable funding streams independent of government budget fluctuations or donor fatigue. These faith-based financial instruments demonstrate potential complementarity with conventional social welfare funding, offering alternative resource mobilization strategies for comprehensive orphan support systems.

Integration of professional care standards with Islamic ethical frameworks represents an emerging field that aims to combine religious values with contemporary child development knowledge. Al-Krenawi (2020) documents the development of specialized Islamic social work curricula, professional standards, and practice guidelines that incorporate both religious ethics and contemporary developmental psychology. These integrated approaches address key domains including trauma-informed care, attachment theory, educational support, and identity development within Islamic ethical frameworks. Such integration demonstrates the potential compatibility between religious values and professional standards when both are oriented toward child wellbeing as a shared objective.

E. CONCLUSION

The Islamic legal framework regarding orphans represents a comprehensive system that balances protection of material interests with attention to psychological, spiritual, and developmental needs. This study has demonstrated that Islamic jurisprudence established detailed regulations concerning financial guardianship, placement preferences, guardian responsibilities, and community obligations that collectively create multiple layers of protection for vulnerable children. These provisions reflect a sophisticated understanding of children's multidimensional needs that parallels many contemporary child welfare principles while emerging from distinct theological and ethical foundations. The continued relevance of these principles is evident in their ongoing adaptation across diverse Muslim societies, demonstrating their flexibility and durability in addressing fundamental human needs across changing social contexts.

Contemporary approaches to orphan welfare in Muslim contexts would benefit from thoughtful integration of Islamic ethical principles with modern developmental science and professional standards. This integration process requires critical engagement with both traditional texts and contemporary challenges, identifying core principles that transcend historical contingencies while adapting implementation mechanisms to current realities. The emerging field of Islamic social work offers promising frameworks for this integration process, potentially enhancing both religious authenticity and professional effectiveness in orphan care programs. Through such thoughtful synthesis, Islamic approaches to orphan welfare can continue their historical tradition of providing comprehensive

protection for vulnerable children while engaging constructively with global developments in child welfare practice.

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