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Islamic Family Law and Child Labor Paradox: A Socio-Legal Analysis of Children As Household Heads

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Abstract

Child labor and the rise of child-headed households present a critical socio-legal challenge that reveals tensions between normative Islamic legal frameworks and contemporary social realities. Islamic family law emphasizes child protection through the principles of maqāṣid al-sharī'ah*, particularly the safeguarding of life and lineage. However, empirical evidence shows that in contexts of poverty, orphanhood, and weak social protection systems, children are often compelled to assume adult roles as household heads. Existing studies tend to separate economic analyses of child labor from doctrinal discussions in Islamic law, creating a significant gap in integrated socio-legal understanding. This study aims to analyze how Islamic family law conceptualizes children's legal capacity in relation to the phenomenon of child-headed households and to explore the extent to which* maqāṣid al-sharī'ah *can provide a framework for addressing this paradox. Using a qualitative socio-legal approach, the research combines normative analysis of Islamic legal texts with empirical data from international reports and field-based studies. Data are examined through thematic and interpretative analysis, employing* ahliyyah, maqāṣid, *and socio-legal theory as analytical tools. The findings indicate a clear disjunction between legal incapacity and functional responsibility. Although children are classified as non-mukallaf, they frequently undertake significant economic and social responsibilities. While the principle of* ḍarūrah *allows legal flexibility, it does not alter their legal status. This study proposes the concept of "functional responsibility without legal obligation" and contributes to a more context-sensitive, maqāṣid-based approach in Islamic family law.*

***Keywords**: Islamic Family Law; Child-Headed Households; Legal Capacity (Ahliyyah); Child Labor; Maqāṣid al-Sharī'ah.*

Abstrak

Pekerja anak dan meningkatnya rumah tangga yang dipimpin anak menghadirkan tantangan sosial-hukum yang krusial yang mengungkapkan ketegangan antara kerangka hukum Islam normatif dan realitas sosial kontemporer. Hukum keluarga Islam menekankan perlindungan anak melalui prinsip-prinsip *maqāṣid al-sharī'ah*,

khususnya perlindungan kehidupan dan garis keturunan. Namun, bukti empiris menunjukkan bahwa dalam konteks kemiskinan, yatim piatu, dan sistem perlindungan sosial yang lemah, anak-anak sering dipaksa untuk mengambil peran dewasa sebagai kepala rumah tangga. Studi yang ada cenderung memisahkan analisis ekonomi tentang pekerja anak dari diskusi doktrinal dalam hukum Islam, menciptakan kesenjangan signifikan dalam pemahaman sosial-hukum terintegrasi. Studi ini bertujuan menganalisis bagaimana hukum keluarga Islam mengkonseptualisasikan kapasitas hukum anak dalam kaitannya dengan fenomena rumah tangga yang dipimpin anak dan mengeksplorasi sejauh mana *maqāṣid al-sharī'ah* dapat menyediakan kerangka kerja untuk mengatasi paradoks ini. Dengan pendekatan sosial-hukum kualitatif, penelitian ini menggabungkan analisis normatif teks hukum Islam dengan data empiris dari laporan internasional dan studi lapangan. Data diperiksa melalui analisis tematik dan interpretatif, menggunakan *ahliyyah*, *maqāṣid*, dan teori sosio-hukum sebagai alat analisis. Temuan menunjukkan adanya perbedaan yang jelas antara ketidakmampuan hukum dan tanggung jawab fungsional. Meskipun anak-anak diklasifikasikan sebagai non-mukallaf, mereka sering kali menjalankan tanggung jawab ekonomi dan sosial yang signifikan. Meskipun prinsip *ḍarūrah* memungkinkan fleksibilitas hukum, prinsip tersebut tidak mengubah status hukum mereka. Studi ini mengusulkan konsep "tanggung jawab fungsional tanpa kewajiban hukum" dan berkontribusi pada pendekatan yang lebih sensitif terhadap konteks dan berbasis maqāṣid dalam hukum keluarga Islam.

Kata Kunci: Hukum Keluarga Islam; Rumah Tangga Kepala Anak; Kapasitas Hukum (Ahliyyah); Kerja Anak; Maqāṣid Al-Sharī'ah.

INTRODUCTION

Child labor remains one of the most persistent and structurally embedded global challenges, despite decades of international legal interventions and policy frameworks aimed at its eradication. Recent global estimates indicate that more than 138 million children are still engaged in labor, many of them working in hazardous conditions that threaten their physical and psychological development.[1] This phenomenon is not merely a reflection of poverty in its narrow economic sense, but rather a manifestation of deeper structural inequalities, including limited access to education, fragile welfare systems, and uneven economic development.[2] In many contexts, children's participation in labor is no longer supplementary but constitutes a primary survival strategy for households facing chronic deprivation.

[1] ILO and UNICEF, "Child Labour Global Estimates 2024" (Geneva: ILO & UNICEF, 2024).

[2] Kaushik Basu and Pham Hoang Van, "The Economics of Child Labor," *American Economic Review* 88, no. 3 (1998): 412–27; Eric V Edmonds and Nina Pavcnik, "Child Labor in the Global Economy," *Journal of Economic Perspectives* 19, no. 1 (2005): 199–220.

Within Islamic ethical and legal traditions, such conditions pose a serious normative concern, as child welfare is considered a central objective of the law, particularly within the framework of Maqāṣid al-Sharī'ah, which emphasizes the protection of life, dignity, and well-being.[3]

A more complex manifestation of this issue emerges in the form of child-headed households, where children not only participate in labor but assume full responsibility for household survival. In such arrangements, children take on roles typically reserved for adults, including income generation, caregiving, and decision-making. Empirical studies across Sub-Saharan Africa and parts of Asia demonstrate that these households often arise in contexts marked by parental death, migration, or prolonged socio-economic instability.[4] These conditions effectively transform children from dependents into functional heads of households, blurring the boundaries between childhood and adulthood. From an Islamic legal perspective, however, such a transformation raises fundamental concerns, as the institution of the family is structured around clearly defined roles, including parental obligations such as nafqah (financial support), care, and moral guidance.[5] The emergence of child-headed households therefore represents not only a socio-economic phenomenon but also a disruption of normative family structures.

This situation reveals a critical tension between empirical realities and the doctrinal framework of Islamic family law. Within the classical theory of ahliyyah (legal capacity)**,** children who have not reached the stage of legal maturity (bulūgh) are considered legally incapable of bearing full responsibility.[6] Consequently, obligations such as providing for the family or exercising authority within the household are not

[3] A H Abdullah et al., "Effectiveness of Islamic Law in Protecting The Rights of The Child," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 1 (2025): 330–54, https://doi.org/10.29240/jhi.v10i1.12586; M Munir and T A Quddus, "Provision of Nafqah Right to Child: The Islamic Wisdom and Implementation in Pakistan," *Journal of Islamic Thought and Civilization* 8, no. 1 (2018): 167–77, https://doi.org/10.32350/JITC.81.11.

[4] Ruth Evans, "Children's Caring Roles and Responsibilities within the Family in Africa," *Geography Compass* 4, no. 10 (2010): 1477–96; Morten Skovdal, "Children Providing Care in Kenya," *Childhood* 18, no. 3 (2011): 323–37.

[5] Abdullah et al., "Effectiveness of Islamic Law in Protecting The Rights of The Child"; M H A Pakarti, "PERLINDUNGAN HAK ANAK DALAM PERCERAIAN MENURUT HUKUM KELUARGA ISLAM," *Mawaddah: Jurnal Hukum Keluarga Islam* 1, no. 1 (2023): 1–20, https://doi.org/10.52496/mjhki.v1i1.1.

[6] Wahbah Al-Zuhayli, *Al-Fiqh Al-Islami Wa Adillatuh* (Damascus: Dar al-Fikr, 1985); Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 2003).

attributed to them. At the same time, Islamic legal doctrine strongly emphasizes the protection of children, including safeguards related to custody, guardianship, and welfare.[7] These principles are intended to ensure that children are protected from harm and supported through family and community structures. Yet, in contexts where such support systems collapse, children are often compelled to assume responsibilities that exceed their legal and moral capacity. This produces what can be described as a juridical paradox, where individuals who are legally non-accountable nevertheless perform roles that carry significant social and economic consequences.

From a socio-legal perspective, this paradox reflects a broader disjunction between normative legal frameworks and lived social realities, often conceptualized as the gap between "law in books" and "law in action".[8] Existing scholarship on child labor has largely focused on economic determinants, policy interventions, and human rights frameworks, emphasizing issues of exploitation and protection.[9] Meanwhile, studies within Islamic legal discourse have predominantly concentrated on doctrinal aspects such as guardianship, custody, and the conditions of legal responsibility, often without engaging with contemporary socio-economic complexities.[10] Recent works have begun to explore the need for reform and integration of Islamic legal principles with modern child protection standards, particularly in areas such as

[7] Z Nasohah et al., "Elements of Child Welfare Protection in Islamic Family Law in Southeast Asian Countries," *Samarah* 9, no. 3 (2025): 1349–70, https://doi.org/10.22373/paaemq19; R Yasin et al., "GUARDIAN'S RESPONSIBILITY FOR THE WELFARE OF CHILDREN IN MARRIAGE: A STUDY ACCORDING TO ISLAMIC LAW," *Malaysian Journal of Syariah and Law* 12, no. 3 (2024): 778–89, https://doi.org/10.33102/mjsl.vol12no3.765; S Ropiah, "Contextualized Islamic Family Law in Practice: Divorce and Child Custody Disputes in Cikarang, Indonesia," *Jurnal Ilmiah Mizani* 13, no. 1 (2026): 42–61, https://doi.org/10.29300/mzn.v13i1.9058.

[8] Reza Banakar et al., *Theory and Method in Socio-Legal Research*, *Qualitative Research in Psychology*, vol. 3 (Hart Publishing , 2005), https://doi.org/10.1191/1478088706qp063oa ; Roger Cotterrell, *Sociology of Law* (Routledge, 2017).

[9] Kaushik Basu, "Child Labor: Cause, Consequence, and Cure," *Journal of Economic Literature* 37, no. 3 (1999): 1083–1119; ILO and UNICEF, "Child Labour Global Estimates 2024."

[10] Kamali, *Principles of Islamic Jurisprudence*; Wahbah Al-Zuhayli, *Usul Al-Fiqh Al-Islami* (Damascus: Dar al-Fikr, 2006).

child marriage and legal capacity.[11] However, the specific phenomenon of children acting as heads of households remains underexplored within this body of literature.

The central research gap lies not merely in the limited integration of Islamic legal doctrine and empirical studies of child-headed households, but in the absence of a sufficiently developed jurisprudential framework for distinguishing children's socially necessary activities from legally enforceable obligations. Classical discussions of *ahliyyah* and *taklīf* establish the conditions under which legal capacity and accountability arise, whereas socio-legal scholarship documents how children undertake caregiving, economic provision, and household management under conditions of structural deprivation. However, these two bodies of scholarship have rarely been brought into sustained dialogue to determine whether the performance of adult-like responsibilities produces any corresponding legal obligation. This unresolved question is particularly significant because conflating functional participation with legal accountability risks normalizing the transfer of adult duties to legally vulnerable children. Accordingly, the present study addresses a conceptual and normative gap by examining how Islamic jurisprudence can recognize children's actual contributions without converting those contributions into enforceable responsibilities.

Against this background, this study seeks to address the following research questions: (1) how does Islamic family law conceptualize the legal capacity and responsibility of children in relation to household roles? (2) what socio-economic conditions give rise to child-headed households, and how do these conditions interact with legal norms? and

[11] M Amin, Y Rahman, and Z Zulkifli, "Reassessing the Originality of Tarjumān Al-Mustafīd: Dāūd AlRūmī's Contributions and the Scholarly Significance of the First Tafsīr in The Archipelago," *Jurnal Studi Ilmu-Ilmu Al-Qur'an Dan Hadis* 26, no. 1 (2025): 159–88, https://doi.org/10.14421/qh.v26i1.5818; M Irfan, M Rosyid, and A Imron, "Child Marriage and the Quest for Legal Protection: Integrating Islamic Family Law and Islamic Criminal Law," *Al-Ahwal* 19, no. 1 (2026): 33–52, https://doi.org/10.14421/ahwal.2025.19102; S O Gunawan and S Bahri, "Impacts of Early Childhood Marriage in Indonesia Viewed from Child Protection Laws Perspectives," *El-Usrah* 6, no. 2 (2023): 362–80, https://doi.org/10.22373/ujhk.v6i2.20262; D J Sistyawan et al., "Integrating Islamic Principles with Modern Legal Frameworks: Addressing Children's Origin in Religious Courts," *Contemporary Issues on Interfaith Law and Society* 4, no. 1 (2025): 111–40, https://doi.org/10.15294/ciils.v4i1.20639; E Zuhriah et al., "Dimensions of The Islamic Law and Human Rights in The Protection of Children from Convicted Parents," *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (2024): 432–55, https://doi.org/10.18860/J-FSH.V16I2.25150.

(3) to what extent can the principles of Maqāṣid al-Sharī'ah, particularly those related to necessity (ḍarūrah), justify or reinterpret the responsibilities assumed by children in such contexts? The objective of this study is to develop a socio-legal analysis that integrates doctrinal Islamic legal theory with empirical realities, thereby offering a more nuanced understanding of child responsibility in contemporary contexts.

The theoretical framework integrates three complementary but analytically distinct perspectives. First, the jurisprudential doctrines of *ahliyyah* and *taklīf* establish the normative criteria governing legal capacity, the attribution of obligations, and the validity of legal acts. Within this framework, the distinction between *ahliyyah al-wujūb* (capacity to hold rights and obligations) and *ahliyyah al-adāʾ* (capacity to perform legally effective acts) is essential for avoiding the assumption that incomplete legal capacity entails the absence of all legal rights or consequences. Second, *maqāṣid al-sharīʿah*, as elaborated in classical and modern Islamic legal thought, provides a purposive framework for evaluating whether legal arrangements protect life, welfare, family continuity, and the developmental interests of children. Third, socio-legal theory examines the relationship between formal legal classifications and the actual distribution of household responsibilities under conditions of poverty and institutional vulnerability. These perspectives are integrated through a distinction between descriptive functional participation, doctrinal legal capacity, and institutional responsibility for child protection. This integrative orientation corresponds with recent dialogical approaches to Islamic interpretation that reject a rigid opposition between text and context and instead seek to preserve textual accountability while incorporating historical conditions, interpretive tradition, ethical consequences, and contemporary social realities.[12] In a different but related domain, scholarship on digital fatwas further illustrates how contemporary Islamic normative authority is increasingly produced, circulated, and recognized through changing institutional and technological environments, underscoring the broader need to analyze Islamic legal authority in relation to the social structures through which it operates.[13]

[12] Riski Suriani Lubis, Jesimawati, and Ummatul Hasanah, "Reframing Qur'anic Hermeneutics Beyond the Text–Context Binary: A Dialogical Model for Contemporary Interpretation," *Dialogues in Qur'anic and Hadith Studies* 1, no. 1 (2026): 27–49

[13] Marhamah Annazah Tambunan and Maulida Fitria, "Digital Fatwas and the Transformation of Religious Authority in Contemporary Muslim Societies," *Islamicate*

This analytical structure permits recognition of children's agency without treating economic necessity as an independent basis for imposing adult legal obligations.

This study advances the concept of "functional responsibility without legal obligation" as an analytical distinction between the responsibilities children perform under conditions of necessity and the legal duties that Islamic jurisprudence formally attributes to legally competent persons. Its theoretical contribution is not to establish a new category of legal capacity or to confer adult legal status upon children, but to clarify that socially consequential conduct and legally enforceable obligation operate at different normative levels. By integrating *ahliyyah*, *taklīf*, *maqāṣid al-sharīʿah*, and socio-legal analysis, the study develops a child-protective interpretation in which the recognition of children's practical contributions does not diminish their entitlement to care, maintenance, guardianship, and institutional support. This framework offers a conceptual basis for examining how Islamic family law can respond to child-headed households while preserving the distinction between children's constrained agency and the legal responsibilities of adults and relevant institutions.

Ultimately, this research is driven by the urgency of addressing a phenomenon that exposes the limitations of existing legal and policy frameworks. The persistence of child-headed households underscores the need for a more context-sensitive approach to child protection, one that acknowledges the realities faced by vulnerable children while upholding the ethical and legal principles of Islamic law.

RESEARCH METHODS

This study adopts a qualitative, document-based socio-legal research design that integrates doctrinal analysis of Islamic family law with the interpretative examination of previously published empirical evidence concerning child-headed households. The doctrinal component investigates the normative foundations of legal capacity, accountability, guardianship, maintenance, and child protection in Islamic jurisprudence. The socio-legal component examines how poverty, orphanhood, family disruption, and institutional limitations shape children's assumption of household responsibilities. Rather than treating doctrinal and empirical materials as interchangeable forms of evidence, the research distinguishes their respective analytical functions:

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jurisprudential texts establish normative legal propositions, while empirical studies illuminate the social circumstances in which those propositions become relevant.

The integration of these components follows a problem-oriented analytical approach. The study first identifies the legal conditions governing the attribution of responsibility through *ahliyyah*, *taklīf*, and related jurisprudential principles. It then examines recurring patterns of economic provision, caregiving, and household decision-making reported in the existing empirical literature. Finally, these patterns are evaluated through the purposive framework of *maqāṣid al-sharīʿah* and the qualified application of *ḍarūrah*. This sequence enables the study to distinguish between legally recognized obligations, socially performed responsibilities, and protective interventions that may be justified under Islamic legal reasoning. The analysis is interpretative rather than statistically representative and does not claim to establish the prevalence of child-headed households or the causal effects of particular legal interventions.

The documentary materials are organized into three analytical categories. The first comprises classical and contemporary Islamic jurisprudential sources addressing *ahliyyah*, *taklīf*, *wilāyah*, maintenance obligations, legal necessity, and the objectives of Islamic law, including works associated with al-Shāṭibī, Ibn ʿĀshūr, al-Zuḥaylī, and Kamali. The second consists of published empirical studies examining child-headed households, caregiving responsibilities, child labor, poverty, orphanhood, and children's experiences of household survival, particularly in African and Asian settings. The third includes reports and relevant policy-oriented publications issued by international organizations, including the International Labour Organization and UNICEF, together with scholarship on child protection and Islamic family law. Jurisprudential sources are used to identify and interpret normative principles, whereas empirical and institutional publications provide secondary evidence concerning the circumstances, activities, and vulnerabilities of children. Where Prophetic traditions contribute to the doctrinal analysis, their normative use requires attention to the relationship among transmission, textual evaluation, interpretive meaning, and contemporary applicability rather than treating transmitted

authority as self-executing legal evidence.[14] This distinction is maintained throughout the analysis to avoid presenting previously published field findings as original primary data.

Data analysis is structured around three sequential and interconnected stages. The first stage involves doctrinal interpretation, in which the legal concepts of *ahliyyah al-wujūb*, *ahliyyah al-adāʾ*, *taklīf*, *wilāyah*, and *ḍarūrah* are examined to clarify the distinction between possessing rights, performing legally effective acts, and bearing enforceable obligations. The second stage involves thematic organization of the secondary empirical literature into recurring domains of economic responsibility, caregiving, household decision-making, psychological burden, and institutional vulnerability. The third stage integrates these doctrinal and empirical categories through a socio-legal interpretative comparison. At this stage, documented household practices are assessed not as evidence that classical legal rules have been invalidated, but as circumstances requiring the clarification of legal duties, protective responsibilities, and the limits of necessity-based exceptions. The resulting interpretation is evaluated against the objectives of child protection, prevention of harm, and preservation of legal accountability within Islamic family law.

Analytical credibility is supported through cross-source comparison, conceptual consistency, and explicit differentiation between normative and empirical claims. Findings reported in the secondary empirical literature are interpreted in relation to their original geographical and institutional contexts rather than generalized indiscriminately across Muslim societies. Similarly, doctrinal conclusions are assessed through established categories of Islamic jurisprudence rather than inferred directly from social practices. The study also recognizes important limitations arising from its reliance on documentary materials: it does not include original interviews, direct household observations, or case-level judicial analysis, and the available empirical studies differ in their settings, populations, and research designs. Consequently, the proposed framework should be understood as a conceptual and normative contribution that requires further empirical and jurisdiction-specific evaluation.

[14] Putri Naomi and Marhamah Annazah Tambunan, "Sanad, Matn and Meaning: Methodological Reconsideration in Modern Hadith Criticism," *TSIQAH: Journal of Hadith and Prophetic Tradition* 1, no. 1 (2026): 1–27.

RESULTS AND DISCUSSION

Legal Incapacity of Children in the Perspective of Ahliyyah and Social Reality

The legal position of children in Islamic jurisprudence cannot be adequately explained through a binary distinction between complete capacity and absolute incapacity. Classical *uṣūl al-fiqh* distinguishes *ahliyyah al-wujūb*, referring to the capacity to possess rights and bear certain legal obligations, from *ahliyyah al-adāʾ*, referring to the capacity to perform legally effective acts. Although children may possess legally protected rights and interests, their capacity to exercise rights independently and their exposure to personal religious accountability remain subject to developmental conditions and jurisprudential qualifications. The distinction between a child lacking discernment (*ghayr mumayyiz*) and a discerning child (*mumayyiz*) further demonstrates that legal capacity is differentiated rather than uniformly absent. In the doctrine of *taklīf*, the attribution of personal religious obligation is generally associated with the attainment of maturity and rational competence. Nevertheless, the absence of full *taklīf* does not necessarily eliminate property-related legal consequences, nor does it confer independent authority to undertake adult guardianship and maintenance functions. These distinctions are essential because the performance of household responsibilities must not be mistaken for the attainment of full legal capacity.

However, empirical findings challenge the practical sufficiency of this doctrinal clarity. Studies conducted in Sub-Saharan Africa reveal that children living in child-headed households routinely assume responsibilities that mirror those of legally competent adults. These responsibilities include income generation, resource allocation, caregiving, and even conflict resolution within the household.[15] Ethnographic research further indicates that children in such contexts engage in strategic decision-making, often negotiating access to food, education, and external support systems.[16] These findings are not isolated; they point to a structural pattern in which children, despite their legal incapacity, become central actors in sustaining household survival. The absence of adult guardians whether due to death, migration, or socio-

[15] Ruth Evans, "Sibling Caringscapes in Youth-Headed Households," *Geoforum* 43, no. 4 (2012): 824–35; Skovdal, "Children Providing Care in Kenya."

[16] Elsbeth Robson and Nicola Ansell, "Young Caregivers in HIV/AIDS Context," *Population Space and Place* 12, no. 2 (2006): 93–111.

economic breakdown effectively shifts the burden of responsibility onto those who are, in legal terms, not equipped to bear it.

The apparent contradiction between children's restricted legal capacity and their actual household responsibilities is better understood as a divergence between normative role allocation and socially compelled conduct, rather than as evidence of doctrinal inconsistency. Islamic family law establishes protective arrangements through maintenance, guardianship, and caregiving responsibilities assigned to legally responsible persons, while the empirical literature documents circumstances in which these arrangements become unavailable or ineffective. The socio-legal problem therefore emerges primarily at the point where institutional protection fails and children undertake functions that the law does not ordinarily require them to perform. This distinction shifts the analytical focus from questioning whether children become legally competent through necessity to identifying how the failure of adult and institutional responsibilities generates unprotected functional burdens. Accordingly, the phenomenon exposes a gap in the realization of protective legal norms rather than automatically demonstrating a deficiency in the doctrinal concept of *ahliyyah* itself.

Engaging critically with existing literature, it becomes evident that most discussions on legal capacity in Islamic law remain confined to doctrinal boundaries, often neglecting the lived experiences of vulnerable populations. While Kamali and Al-Zuhayli provide detailed expositions of ahliyyah, they do not address scenarios in which children are compelled to act beyond their legal status.[17] On the other hand, socio-economic studies of child labor tend to overlook the normative implications of such roles within religious legal frameworks. More recent scholarship has begun to explore the need for legal reform and adaptive interpretation, particularly through mechanisms such as ijtihād and maqāṣid-based reasoning.[18] These approaches emphasize the importance of aligning legal norms with contemporary realities without undermining the foundational principles of the law. The principle of *sadd*

[17] Kamali, *Principles of Islamic Jurisprudence*; Al-Zuhayli, *Usul Al-Fiqh Al-Islami*.

[18] Y Fitriyati et al., "Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah," *Nurani* 25, no. 1 (2025): 122–40, https://doi.org/10.19109/nurani.v25i1.27133; Z Amin, "Child Marriage and Sacred Justifications in Pakistan: Cultural Norms, Religious Interpretations, and Conflicts with Child Rights," *Religion and Human Rights* 20, no. 3 (2025): 125–64, https://doi.org/10.1163/18710328-bja10053.

al-dharā'i, for example, has been applied in modern bioethical contexts to prevent harm while accommodating new technologies,[19] suggesting that Islamic law possesses internal tools for addressing emerging challenges.

The central theoretical implication is that legal responsibility should not be inferred solely from an individual's practical contribution to household survival. Within Islamic jurisprudence, the attribution of legal obligations depends on recognized normative conditions, while the social performance of caregiving or economic functions may arise independently of those conditions. This study therefore distinguishes three analytical dimensions: functional responsibility, referring to activities actually undertaken by children; legal accountability, referring to obligations and consequences recognized through established jurisprudential criteria; and protective responsibility, referring to duties of care and intervention borne by legally competent adults and relevant institutions. These dimensions may coexist without being legally equivalent. A child may exercise meaningful agency in organizing household survival while remaining entitled to legal protection and support. The proposed distinction thus prevents a problematic inference whereby the demonstrated capacity to perform a task becomes a justification for assigning the corresponding adult legal obligation to the child.

Ultimately, the persistence of child-headed households exposes a fundamental limitation in the application of classical legal categories to contemporary socio-economic realities. Islamic law clearly positions children as non-mukallaf, yet social conditions may compel them to perform roles that resemble those of fully accountable agents. This disjunction does not invalidate the doctrinal framework but highlights the need for a more nuanced and context-sensitive application. Bridging this gap requires not only legal interpretation but also institutional support and policy intervention, ensuring that the protective intent of the law is realized in practice.

Socio-Economic Determinants of the Emergence of Children as Household Heads

The emergence of children as household heads is fundamentally driven by structural socio-economic pressures rather than individual

[19] B N Mete and T.E.R.K.O.Ç. Baydar, "Preimplantation Genetic Testing (PGT): An Evaluation from Ethical and Islamic Legal Perspectives," *Hitit Theology Journal* 24, no. 1 (2025): 431–55, https://doi.org/10.14395/hid.1625411.

agency or cultural preference. Empirical evidence consistently shows that child-headed households are concentrated in regions experiencing chronic poverty, armed conflict, and high mortality rates among adults. Global estimates indicate that economic deprivation, parental death, and institutional fragility are the primary drivers of this phenomenon.[20] In Sub-Saharan Africa, for instance, the HIV/AIDS epidemic and prolonged conflicts have significantly increased the number of households without adult caregivers, forcing children to assume responsibility for family survival.[21] These findings are corroborated by studies showing that orphanhood particularly in fragile contexts intensifies vulnerability by reducing access to resources and increasing dependence on unstable support networks.[22]

The scale and depth of child poverty further illuminate the structural nature of this issue. Poverty is not merely a lack of income but a multidimensional condition affecting access to education, health, nutrition, and social participation.[23] Data from South Africa, for example, reveal that 43% of young children face developmental deprivation, while 20% experience hunger and 69% lack adequate educational access.[24] Such conditions create what has been described as "toxic environments," where children are exposed to cumulative risks that impair their physical and psychological development.[25] The economic implications are equally significant; child poverty has been

[20] ILO and UNICEF, "Child Labour Global Estimates 2024"; UNICEF, "Female Genital Mutilation: A Global Concern" (UNICEF, 2021).

[21] Helen Meintjes and Katharine Hall, "Child-Headed Households in South Africa," *AIDS Care* 22, no. 1 (2010): 40–49; Evans, "Children's Caring Roles and Responsibilities within the Family in Africa."

[22] W Abu-Ras et al., "Orphans in Syria and Iraq Juggling Balls: Wars, COVID-19, and the NGO's Financial Crisis," *International Journal of Qualitative Studies on Health and Well-Being* 18, no. 1 (2023), https://doi.org/10.1080/17482631.2023.2170010; M Prazak, "Studying Life Strategies of AIDS Orphans in Rural Kenya," *Africa Today* 58, no. 4 (2012): 45–64, https://doi.org/10.2979/africatoday.58.4.45.

[23] J Mathebula and O Alaba, "Under-Five Child Poverty and Income Inequality in South Africa: A Multidimensional Perspective at the Lowest Geographic Areas," *International Journal of Environmental Research and Public Health* 22, no. 1 (2025), https://doi.org/10.3390/ijerph22010006.

[24] Mathebula and Alaba.

[25] S Machingambi and N Wadesango, "Structural Effects of Poverty on Children," *Journal of Psychology in Africa* 20, no. 2 (2010): 215–17, https://doi.org/10.1080/14330237.2010.10820368; Arjen E J Wals, *Social Learning towards a Sustainable World* (Wageningen Academic Publishers, 2007).

shown to impose measurable costs on national economies, reaching up to 4.1% of GDP in some contexts.[26] These figures underscore that child-headed households are not isolated anomalies but systemic outcomes of entrenched inequality.

The socio-economic determinants of child-headed households reveal a structural process through which the absence of adult support transforms children's participation in household activities into an indispensable means of survival. Poverty, parental loss, economic insecurity, and inadequate social protection do not necessarily eliminate children's ability to act, but they substantially constrain the circumstances under which choices are made. From a socio-legal perspective, this distinction is consequential because conduct undertaken under severe economic pressure cannot be equated with the voluntary assumption of adult legal duties. The economic participation of children may sustain household consumption in the short term, yet this functional contribution does not establish their legal responsibility for family maintenance under Islamic jurisprudence. Rather, the persistence of such arrangements indicates the need to examine whether existing protective obligations, including *nafqah* and guardianship, have been effectively discharged. The structural explanation therefore supports a legal interpretation that treats children's economic contributions as evidence of unmet protective needs rather than proof of their readiness to bear independent household obligations. From the perspective of contemporary Islamic economic ethics, such vulnerability also underscores the importance of moving beyond episodic charity toward institutional social responsibility, distributive justice, and welfare arrangements capable of addressing structurally produced deprivation.[27]

Yet, this adaptive response comes at a significant cost. Orphaned children, particularly those in economically marginalized environments, face not only material deprivation but also psychological distress. Studies in Kenya and Uganda demonstrate that children in such conditions experience heightened levels of anxiety, trauma, and social

[26] R Páez González, "The Impact of Child Poverty: A Pediatric Challenge," *Pediatria de Atencion Primaria* 27, no. 105 (2025): 103–9, https://doi.org/10.60147/32f57c0f.

[27] Muhammad Ikhlas Supardin, Danial Fayyadl, Abbas Hamonangan Harahap, and Fajrul Falah, "Beyond Growth and Charity: Reconstructing Islamic Economic Ethics through Welfare, Distributive Justice, and Social Responsibility," *Islamicate Futures: Knowledge, Ethics, and Muslim Societies* 1, no. 2 (2026): 154–183, https://doi.org/10.68051/ifkems.v1i2.42.

isolation, which can have long-term consequences for their well-being.[28] While targeted interventions such as economic strengthening programs have shown positive effects on mental health outcomes, these initiatives remain limited in scope and reach.[29] The persistence of such vulnerabilities points to a broader failure of institutional systems to provide adequate support for children in crisis.

Critically, the literature reveals a divergence in how these phenomena are interpreted across disciplines. Economic studies tend to frame child labor and child-headed households as rational responses to resource scarcity, emphasizing efficiency and survival.[30] In contrast, socio-cultural analyses highlight the role of disrupted kinship structures and the erosion of traditional safety nets.[31] However, both perspectives often overlook the normative implications within legal and ethical frameworks, particularly in Islamic contexts where family responsibility and child welfare are central principles. Islamic family law, for instance, assigns clear obligations of care and financial support to adult guardians, reflecting a moral economy that prioritizes child protection.[32] The breakdown of these structures, therefore, represents not only a socio-economic crisis but also a normative rupture.

This tension becomes more pronounced when considering the broader socio-legal environment. Implementation gaps such as weak enforcement of child protection laws or inadequate welfare systems exacerbate the vulnerability of children and limit the effectiveness of

[28] L Karimli et al., "Poverty, Economic Strengthening, and Mental Health among AIDS Orphaned Children in Uganda: Mediation Model in a Randomized Clinical Trial," *Social Science and Medicine* 228 (2019): 17–24, https://doi.org/10.1016/j.socscimed.2019.03.003; Prazak, "Studying Life Strategies of AIDS Orphans in Rural Kenya."

[29] Karimli et al., "Poverty, Economic Strengthening, and Mental Health among AIDS Orphaned Children in Uganda: Mediation Model in a Randomized Clinical Trial."

[30] Edmonds and Pavcnik, "Child Labor in the Global Economy."

[31] Skovdal, "Children Providing Care in Kenya."

[32] H Abdullah et al., "Faith and Sustainability: Developing Maqasid Shariah-Based Elderly Care Organization Empowerment Index," *Quality in Ageing and Older Adults*, 2025, https://doi.org/10.1108/QAOA-02-2025-0018; R A Munir et al., "Responsibility-Value Alignment in Information Security Governance," in *Proceedings - International Conference on Information and Communication Technology for the Muslim World 2018, ICT4M 2018*, 2018, 150–55, https://doi.org/10.1109/ICT4M.2018.00036.

existing legal frameworks.[33] In many contexts, administrative inefficiencies and cultural resistance hinder the realization of legal protections, leaving children to navigate complex responsibilities without institutional support.[34] These conditions reinforce the structural nature of the problem, suggesting that legal norms alone are insufficient without corresponding socio-economic interventions.

These findings require a more differentiated understanding of children's agency within structurally constrained environments. The ability to make decisions, mobilize resources, and care for younger siblings demonstrates practical competence, but such competence should not be interpreted as equivalent to unrestricted autonomy or legal adulthood. Children's agency in child-headed households is relational and conditioned by access to resources, family networks, and institutional protection. Within Islamic family law, the analytical significance of this distinction lies in separating the factual exercise of household functions from the juridical attribution of responsibility. The performance of survival-related activities may warrant recognition of children's experiences and participation in decisions affecting their welfare, without transferring adult maintenance or guardianship obligations to them. Consequently, the relationship between agency and protection should be understood as complementary rather than mutually exclusive: children may exercise meaningful agency while remaining beneficiaries of legal safeguards and institutional assistance.

Emergence of child-headed households is best understood as a structural outcome of poverty, inequality, and institutional failure, rather than a matter of individual choice or cultural deviation. Children assume these roles not because they are legally or socially prepared to do so, but because systemic pressures leave them with no viable alternatives. This reinforces the need for integrated approaches that address both the socio-economic roots of the problem and the limitations of existing legal frameworks.

Empirical Typology of Child-Headed Households and the Burden of Responsibility

Children in child-headed households consistently assume multidimensional responsibilities that effectively reposition them from

[33] K Nasution and S Nasution, "IMPLEMENTATION OF INDONESIAN ISLAMIC FAMILY LAW TO GUARANTEE CHILDREN'S RIGHTS," *Al-Jami'ah* 59, no. 2 (2021): 347–74, https://doi.org/10.14421/ajis.2021.592.347-374.

[34] Ropiah, "Contextualized Islamic Family Law in Practice: Divorce and Child Custody Disputes in Cikarang, Indonesia."

dependents into central agents of household survival. Empirical studies across diverse regions indicate a strikingly consistent pattern: the eldest child often under the age of eighteen takes on the dual role of economic provider and primary caregiver. Data from UNICEF and Meintjes demonstrate that in such households,[35] children are responsible for securing income, managing limited resources, and maintaining household cohesion in the absence of adult authority. Qualitative research further reveals that these responsibilities are not episodic but continuous, shaping children's daily routines and long-term trajectories.[36] Rather than functioning as temporary substitutes, these children become structurally embedded in roles that demand sustained decision-making and emotional labor.

The responsibilities documented in child-headed households can be organized into three empirically observable domains with distinct legal implications. The first is economic responsibility, involving income generation, resource allocation, and the acquisition of basic necessities. Although these activities may resemble adult maintenance functions, their performance does not automatically establish an enforceable duty of *nafqah* upon the child. The second is caregiving and household management, encompassing the supervision of younger siblings, domestic coordination, and practical decision-making. These activities demonstrate functional participation but should be distinguished from the formal legal authority associated with *wilāyah*. The third is psychological and relational responsibility, reflected in emotional caregiving, conflict management, and the continuous pressure to maintain household stability. While this dimension may not correspond directly to a discrete classical legal obligation, it is relevant to the assessment of welfare and prevention of harm under *maqāṣid al-sharīʿah*. This typology illustrates how children's socially necessary contributions may generate legal and institutional concerns without producing equivalent adult legal obligations.

These findings can be interpreted through the framework of child agency theory**,** which emphasizes children's capacity to act meaningfully within constrained environments. Rather than viewing children solely as passive victims, this perspective highlights their ability to make decisions, negotiate challenges, and exercise a form of "everyday

[35] UNICEF, "Child Labour and Household Dynamics" (New York: UNICEF, 2022); Meintjes and Hall, "Child-Headed Households in South Africa."

[36] Evans, "Sibling Caringscapes in Youth-Headed Households"; Skovdal, "Children Providing Care in Kenya."

agency" in managing household survival.[37] This agency is closely linked to resilience theory, which conceptualizes resilience not as an inherent trait but as a dynamic process shaped by interactions between individuals and their environments.[38] In the context of child-headed households, resilience emerges through adaptive strategies, social relationships, and self-reflection. However, these capacities are often undermined by persistent environmental adversity, limiting the extent to which resilience can translate into long-term well-being.

At the same time, the reliance on children's labor within these households reflects broader patterns of household survival strategies**.** In conditions of economic scarcity, families often diversify income sources, including the mobilization of child labor, to mitigate risk and ensure subsistence.[39] This aligns with findings that informal labor plays a critical role in sustaining vulnerable households, particularly in developing economies where formal employment opportunities are limited.[40] The adaptive nature of these strategies, however, introduces a fundamental tension between survival and rights protection. While children's contributions may enhance short-term household resilience, they often come at the expense of education, health, and long-term development.

Engaging critically with existing literature, it becomes clear that interpretations of child-headed households diverge along disciplinary lines. Developmental and human rights perspectives tend to emphasize the vulnerabilities and risks faced by children, advocating for strict

[37] Chikoko and Chihiya, "The Resilience of Children in Rural Zimbabwe in the Face of Climate Change: A Case of Ward 39, Gutu District, Masvingo Province"; D Hall, "The Epistemic Injustice Framework in Sociological Studies of Religion," *Studia Socjologiczne* 2025, no. 2 (2025): 35–61, https://doi.org/10.24425/sts.2025.154896.

[38] J Holmes, "Roots and Routes to Resilience and Its Role in Psychotherapy: A Selective, Attachment-Informed Review," *Attachment and Human Development* 19, no. 4 (2017): 364–81, https://doi.org/10.1080/14616734.2017.1306087.

[39] A C Dammert et al., "Effects of Public Policy on Child Labor: Current Knowledge, Gaps, and Implications for Program Design," *World Development* 110 (2018): 104–23, https://doi.org/10.1016/j.worlddev.2018.05.001.

[40] N S Nguyen and V H Hoang, "Vulnerability and Resilience: Informal Labor Income Dynamics during Economic Disruption in Vietnam's Post-COVID Recovery Phase," *Global Business and Finance Review* 30, no. 11 (2025): 210–26, https://doi.org/10.17549/gbfr.2025.30.11.210; L Powell and S McGrath, "A Typology of Informal Sector Workers – Heterogeneity and the Complexity of Skills Development Responses," in *Learning for Livelihoods in the Global South: Theoretical and Methodological Lenses on Skills and the Informal Sector*, 2024, 96–116, https://doi.org/10.4324/9781032650944-8.

prohibitions on child labor and stronger protective measures. Conversely, socio-economic analyses recognize the functional role of children's labor in sustaining households under extreme conditions, cautioning against policies that fail to account for these realities.[41] Empirical evidence further complicates this debate. Social protection programs, such as cash transfers, have been shown to reduce reliance on child labor in some contexts, yet in others they inadvertently increase children's participation in household work by altering intra-household dynamics.[42] This suggests that interventions must be carefully calibrated to avoid unintended consequences.

Moreover, gender dynamics within households play a significant role in shaping outcomes. Research indicates that empowering women in decision-making processes can significantly reduce child labor, as maternal priorities often favor education and well-being over immediate economic gains.[43] This finding highlights the importance of considering intra-household power relations when analyzing the distribution of responsibilities among children. Critical socio-legal analysis of *qiwāmah* similarly demonstrates that gendered structures of family authority may shape whose knowledge, voice, consent, and agency are recognized within household relations, indicating that family responsibility cannot be assessed independently from the distribution and exercise of authority.[44] It also reinforces the argument that child-headed households

[41] B Ziemblicki, "The Deficiencies of the Rights of the Child in Labour Relations from the Perspective of International Law," *International Community Law Review* 27, no. 6 (2025): 602–18, https://doi.org/10.1163/18719732-12341511; E van Daalen, "'Could It Be That They Do Not Want to Hear What We Have to Say?' Organised Working Children and the International Politics and Representations of Child Labour," in *Studies in Childhood and Youth*, 2023, 131–59, https://doi.org/10.1007/978-3-031-04480-9_6.

[42] D D Gonsamo, H H M Lo, and K L Chan, "The Role of Stomach Infrastructures on Children's Work and Child Labour in Africa: Systematic Review," *International Journal of Environmental Research and Public Health* 18, no. 16 (2021), https://doi.org/10.3390/ijerph18168563; N Howard et al., "A New Approach to Children's Work That Prioritises Resilience, Well-Being and Agency: Emerging Findings from a 'cash plus' Intervention in Bangladesh," *BMJ Paediatrics Open* 9, no. 1 (2025), https://doi.org/10.1136/bmjpo-2023-002422.

[43] M T Majeed and F Kiran, "Women's Decision Making Power and Child Labor: Evidence from Pakistan," *Quality and Quantity* 53, no. 4 (2019): 2175–97, https://doi.org/10.1007/s11135-019-00864-y.

[44] Al Fiqri Ardiansyah, Marhamah Annazah Tambunan, Randy Putra Alamsyah, Idrus Afandi Akbar, and Nuruddin, "Qiwāmah and Epistemic Violence: A Critical Socio-Legal Analysis of Gendered Authority in Islamic Family Law," *Mawaddah:*

are not merely the result of economic scarcity but are embedded within broader social and cultural structures.

The empirical typology supports the formulation of "functional responsibility without legal obligation" as a bounded socio-legal concept rather than an alternative category of legal adulthood. Functional responsibility describes the performance of socially necessary tasks under conditions of constrained agency; it does not, by itself, establish legal capacity, formal guardianship, or an enforceable duty to maintain other household members. The concept operates through three related propositions. First, actual participation in economic and caregiving activities must be analytically distinguished from the legal source of an obligation. Second, children's demonstrated practical competence should inform protective decision-making without displacing established safeguards associated with minority. Third, the persistence of adult-like functional burdens provides a basis for examining unmet obligations among responsible adults and public institutions rather than for transferring those obligations to children. In this formulation, the concept reconciles recognition of children's lived experiences with the protective structure of Islamic family law and avoids treating resilience as a justification for institutional withdrawal.

Empirical typology of child-headed households reveals a consistent pattern of multidimensional burdens that transform children into central actors within their households. These roles are shaped by structural necessity and sustained through adaptive strategies, yet they carry significant risks for children's well-being and development. Understanding this phenomenon requires moving beyond simplistic narratives toward a more integrated analysis that recognizes both the agency and vulnerability of children in these contexts.

Legal Reconstruction: Necessity, Maqāṣid al-Sharī'ah, and the Limits of Flexibility

The legal reconstruction of child-headed households requires a careful distinction between the conditions that justify exceptional legal accommodation and the conditions that establish legal accountability. Within *uṣūl al-fiqh*, *ḍarūrah* provides a basis for limited concessions when an otherwise applicable rule would expose individuals to serious harm or threaten essential protected interests. However, the maxim *al-ḍarūrāt tubīḥ al-maḥẓūrāt* cannot be interpreted as an unrestricted

Jurnal Hukum Keluarga Islam 3, no. 2 (2025): 605–626, https://doi.org/10.52496/mjhki.v3i2.100.

authorization to redefine legal capacity or transfer adult obligations to minors. Its application is constrained by the existence and degree of necessity, the proportionality of the accommodation, and the requirement that any exception remain limited to what the necessity demands, as reflected in the maxim *al-ḍarūrah tuqaddar bi-qadarihā*. In the context of child-headed households, these principles may support temporary protective arrangements and urgent interventions, but they do not independently transform a minor into a fully accountable household head. The jurisprudential task is therefore to identify permissible responses to exceptional hardship while maintaining the doctrinal distinction between necessity-based facilitation and the attribution of legal obligations.

Empirical and policy-oriented studies indicate that many Muslim-majority countries have incorporated protective legal frameworks to address child labor and related vulnerabilities, reflecting the influence of maqāṣid-oriented reasoning.[45] These frameworks often prioritize children's safety, access to education, and protection from exploitation, even when economic realities complicate enforcement. For example, in cases of child abuse or exploitation, legal systems increasingly invoke the principle of necessity to justify stronger judicial intervention, prioritizing child welfare over customary reconciliation practices.[46] Similarly, reforms in child custody and inheritance law in Indonesia demonstrate how judicial ijtihād has been employed to align legal outcomes with the broader objectives of justice and protection.[47] These examples suggest that Islamic law possesses a dynamic capacity to respond to contemporary challenges, provided that its interpretive tools are actively engaged.

Yet, the application of flexibility through ḍarūrah must be carefully circumscribed. While necessity allows for adaptation, it does not alter

[45] A Mohd et al., "Protecting Children from Labour: Muslim Scholar's Viewpoint and Legal Provisions in Selected Muslim Countries," *Advanced Science Letters* 23, no. 7 (2017): 6106–9, https://doi.org/10.1166/asl.2017.9215.

[46] Roslaili et al., "Customary Justice and Child Sexual Abuse in Aceh: Legal Pluralism, Restorative Limits, and Child Protection Principles."

[47] A Kadarisman, A Fedro, and Z Arifin, "BEST INTEREST OF THE CHILD IN ISLAMIC FAMILY LAW: INTEGRATING MAQĀṢID AL-SHARĪ'AH AND DOUBLE MOVEMENT THEORY IN ḤAḌĀNAH CASES," *Jurnal Al-Dustur* 8, no. 2 (2025): 155–74, https://doi.org/10.30863/aldustur.v8i2.10459; R Amir et al., "Solution to Inheritance Rights for Children in Pregnant Marriages: A Maqāṣid Al-Sharī'ah Approach," *El-Usrah* 8, no. 2 (2025): 933–51, https://doi.org/10.22373/ujhk.v8i2.26351.

the ontological structure of legal responsibility. In the context of child-headed households, this distinction is crucial. Children may assume roles that resemble those of adult household heads, but they do not thereby acquire the status of mukallaf. As Kamali emphasizes,[48] legal capacity in Islamic law is grounded in principled criteria such as maturity and العقل (rationality) that cannot be overridden solely by socio-economic conditions. To conflate functional responsibility with legal accountability would risk undermining the protective logic of the law, which seeks to shield children from burdens they are not equipped to bear.

A purposive interpretation of child-headed households requires the application of *maqāṣid al-sharīʿah* not merely as a general appeal to welfare, but as a framework for evaluating the consequences of competing legal and institutional responses. Recent maqāṣid-based legal hermeneutics similarly emphasizes that contemporary legal rearticulation should remain grounded in textual authority, socio-historical contextualization, identifiable legal-moral objectives, and disciplined normative reasoning rather than unrestricted appeals to contemporary benefit.[49] The protection of life (*ḥifẓ al-nafs*) addresses threats to children's physical safety and psychological well-being, while the protection of lineage and family continuity (*ḥifẓ al-nasl*) provides a normative basis for sustaining appropriate caregiving and family-support arrangements. The protection of intellect (*ḥifẓ al-ʿaql*) is also relevant where economic and caregiving burdens jeopardize education and cognitive development. These objectives should be considered alongside the child's existing legal entitlements and the responsibilities of legally competent persons. Accordingly, *maqāṣid*-based reasoning does not require formal recognition of minors as independent adult household heads; instead, it supports arrangements that reduce harmful burdens, preserve access to education, and secure appropriate guardianship and maintenance. The proposed reconstruction thus shifts the normative response from legitimizing children's assumption of adult roles toward correcting the protective failures that make such roles necessary.

Engaging critically with contemporary scholarship, it becomes evident that there is an increasing recognition of the need for ijtihād-

[48] Kamali, *Principles of Islamic Jurisprudence*.

[49] Warda Mardiana Tambunan, Tiara Hidayah B, and Miftahur Rahmah, "Recontextualizing Āyāt al-Aḥkām: Maqāṣid-Based Legal Hermeneutics in Contemporary Qur'anic Exegesis," *Journal of Qur'anic Legal Studies and Exegesis* 1, no. 1 (2026): 21–39.

based reconstruction in addressing socio-legal challenges. Scholars have argued that traditional interpretations must be revisited considering changing social realities, particularly where rigid adherence to classical formulations may result in injustice or harm.[50] At the same time, contemporary studies of the contextualization of classical Islamic thought demonstrate that such reconstruction has both interpretive possibilities and methodological limits: premodern concepts may inform present normative reasoning, but their application requires careful attention to historical context, conceptual differences, and the risk of projecting modern categories retrospectively onto classical sources.[51] This is particularly relevant in the context of child protection, where legal pluralism combining Islamic, statutory, and customary norms often leads to inconsistencies and gaps in enforcement.[52] While such pluralism can provide flexibility, it also risks diluting the normative clarity of Islamic law unless guided by a coherent maqāṣid framework.

A comparative legal perspective further clarifies the distinction between children's participation in household survival and the formal attribution of legal responsibility. International child-rights norms recognize the need to protect children from economic exploitation while also taking account of their evolving capacities and participation in decisions affecting their lives. These considerations are analytically compatible with a differentiated interpretation of *ahliyyah*, provided that the recognition of developing competence is not confused with the imposition of adult duties. Nevertheless, the relationship between

[50] B Bambang, "Ijtihad and the Dynamics of Islamic Legal Interpretation: An Epistemological Exploration in the Contemporary Context," *Nusantara: Journal of Law Studies* 3, no. 1 (2024): 56–67, https://doi.org/10.5281/zenodo.17373912; M N Ichwan, D Ming, and M Sya'roni, "Bridging Tradition and Modernity: Integrating Classical Interpretation and Modern Hermeneutics through Ijtihad in Qur'an Studies," *Pharos Journal of Theology* 106, no. SpecialIssue-2 (2025), https://doi.org/10.46222/pharosjot.106.2021; R Setyawan et al., "Contemporary Ijtihad Deconstruction in The Supreme Court: Wasiat Wajibah as An Alternative for Non-Muslim Heirs in Indonesia," *Jurnal Ilmiah Al-Syir'ah* 22, no. 1 (2024): 25–40, https://doi.org/10.30984/jis.v22i1.2968.

[51] Al Fiqri Ardiansyah, Yusuf Rahman, Zubair, Marhamah Annazah Tambunan, and Nur Cholis, "Reconstructing Ecological Ethics from Fakhr al-Dīn al-Rāzī: The Possibilities and Limits of Its Contextualization in Indonesian Ecotheological Policy," *AL QUDS: Jurnal Studi Alquran dan Hadis* 10, no. 2 (2026): 385–414, https://doi.org/10.29240/alquds.v10i2.15999

[52] D S P Sarfitri et al., "Battle for Blood: Child Custody Conflicts in Divorce – Islamic vs. Customary Law," *Contemporary Issues on Interfaith Law and Society* 3, no. 2 (2024): 263–82, https://doi.org/10.15294/ciils.v3i2.31406.

Islamic family law and statutory child-protection systems varies across jurisdictions, particularly in matters concerning guardianship, maintenance, and the legal recognition of minors' decisions. The proposed framework should therefore be understood as a basis for jurisdiction-specific legal analysis rather than as evidence of uniform practice across Muslim-majority countries. Comparative assessment must examine how relevant legal systems allocate protective duties and whether institutional procedures effectively prevent the transfer of adult responsibilities to children.

At the same time, caution is warranted in extending the scope of legal flexibility. Some socio-legal analyses suggest that excessive reliance on adaptive reasoning may blur the boundaries of legal categories, leading to ambiguity in accountability and rights protection. For instance, while ijtihād has enabled progressive reforms in areas such as inheritance and custody, these reforms are carefully anchored in established legal principles rather than radical departures from them.[53] This indicates that the strength of Islamic legal adaptability lies not in abandoning its doctrinal foundations, but in reinterpreting them in a manner that remains faithful to their underlying objectives. Such fidelity also requires disciplined use of sacred textual authority, including source accuracy, contextual coherence, and interpretive transparency when Qur'anic or Prophetic language is employed to justify contemporary normative conclusions.[54]

The proposed concept of "functional responsibility without legal obligation" provides a normative and analytical framework for resolving the apparent tension between children's constrained household agency and the protective structure of Islamic family law. Its central claim is that socially necessary conduct does not independently create the legal status or obligations ordinarily associated with adulthood. The concept rests on three interconnected dimensions: the recognition of children's actual economic and caregiving activities, the preservation of differentiated legal capacity under *ahliyyah* and *taklīf*, and the continued attribution of protective duties to legally responsible adults and institutions. Its jurisprudential foundation lies in the distinction between legal capacity

[53] Kadarisman, Fedro, and Arifin, "BEST INTEREST OF THE CHILD IN ISLAMIC FAMILY LAW: INTEGRATING MAQĀṢID AL-SHARĪʿAH AND DOUBLE MOVEMENT THEORY IN ḤAḌĀNAH CASES."

[54] Ridho Wahyudi and Muhammad Khairul Fikri, "Iqtibās in Islamic Rhetorical Tradition: Aesthetic Function, Argumentative Force, and Ethical Quotation of Sacred Texts," *An-Najah: Jurnal Ushuluddin dan Studi Islam* 1, no. 1 (2026): 124–140.

and practical activity, while its purposive justification emerges from *maqāṣid al-sharīʿah* and the prevention of harm. Accordingly, the framework should not be understood as authorizing unrestricted child autonomy or validating the permanent substitution of children for adult household providers.

The practical implications of this framework concern the design and interpretation of child-protection measures within Islamic family law and relevant statutory systems. Protective responses should prioritize the identification of appropriate guardians or responsible caregivers, access to maintenance and social assistance, continuity of education, and safeguards against exploitative labor. Where children necessarily participate in immediate household decisions, their views and developing capacities may be considered through proportionate and supervised arrangements without assigning them adult legal accountability. The framework also underscores the importance of coordination among family-support institutions, child-protection authorities, and relevant legal bodies to ensure that emergency accommodation does not become the normalization of child-headed households. These measures represent normative policy implications derived from the proposed framework rather than interventions whose effectiveness has been empirically established by the present study.

CONCLUSION

This study demonstrates that the apparent contradiction between children's limited legal capacity and their assumption of adult-like household responsibilities is best understood as a socio-legal gap between normative protection and lived social conditions. Evidence from the existing literature indicates that poverty, orphanhood, disrupted caregiving arrangements, and inadequate institutional support may compel children to undertake economic, caregiving, and household management functions. However, the performance of these activities does not independently establish the legal accountability associated with adulthood. The distinction between *ahliyyah al-wujūb*, *ahliyyah al-adāʾ*, and *taklīf* provides a jurisprudential basis for recognizing children's legal rights and differentiated capacities without equating their practical contributions with full adult obligations.

The principal theoretical contribution of this study is the development of "functional responsibility without legal obligation" as a bounded analytical framework connecting Islamic jurisprudential doctrines of legal capacity with the documented realities of child-headed households. The framework distinguishes the performance of socially

necessary functions from the attribution of legally enforceable duties and identifies the continuing significance of protective obligations borne by legally competent adults and institutions. Within this interpretation, *maqāṣid al-sharīʿah* provides a purposive justification for protecting children's welfare, education, and development, while *ḍarūrah* permits proportionate responses to exceptional circumstances without independently conferring adult legal status upon minors. The resulting reconstruction preserves the doctrinal integrity of Islamic family law while clarifying its protective implications in situations of structural vulnerability.

At the policy level, the framework supports strengthened guardianship arrangements, access to maintenance and social assistance, prevention of exploitative labor, and coordinated institutional responses that recognize children's participation without normalizing their assumption of adult obligations. Nevertheless, the conclusions are limited by the study's reliance on doctrinal sources and previously published empirical evidence rather than original fieldwork or systematic comparison of national legal regimes. Further research should examine how the proposed distinction operates within specific Islamic family law jurisdictions, judicial practices, and child-protection institutions. The broader contribution lies in demonstrating that recognizing children's functional agency and preserving their legal protection are not competing objectives, but complementary requirements of a context-sensitive approach to Islamic family law.

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