

Enforcement of Human Rights for Child Protection: Comparative Positive Law and Islamic Law

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Abstract

This journal aims to find out and understand how Islamic law views child protection. The type of research conducted by the authors is descriptive analytical juridical research. Based on the results of this research, it can be concluded how the protection of human rights for children in the perspective of positive law, in Indonesia has been stipulated Law of the Republic of Indonesia No. 39 of 1999 concerning Human Rights which includes children's rights, the implementation of obligations and responsibilities of parents, families, communities, government and the state to provide child protection as a juridical basis for the implementation and responsibilities. Legal protection is all efforts made consciously by everyone as well as government and private institutions that aim to seek security, control and fulfillment of welfare in accordance with existing human rights as stipulated in RI Law No. 39 of 1999 concerning Human Rights. However, the protection of children from all its aspects turns out to require a legal umbrella to create the best life for children who are expected to be the nation's successors who have the potential, are tough, have nationalism imbued with morality and a strong will to maintain the unity and integrity of the nation and state. The legal umbrella in question is RI Law No. 23 of 2002 concerning Child Protection. Article 64 paragraph (2) of the Child Protection Act basically contains all the government's efforts to protect children who are victims of criminal acts. Views of Islamic Law on Child Protection, in Islamic law acts of violence against children are strictly prohibited, because this is a violation of children's rights, because it is not in accordance with human values and religious teachings. In Islamic law, the rights of a child are protected from the time they are born in the womb until they are 18 years old or until they are married. As explained in Q.S Al-Isra (17) verse (70) which means: "And indeed we have glorified the children of Adam, we carried them on land and at sea, we gave sustenance and good things, and we gave them more than them with perfect superiority over most of the creatures we have created.

Keywords: Enforcement, Human Rights, Child Protection



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INTRODUCTION

Children are a gift from Allah SWT that we should be grateful for, they are the successors of the lineage that can preserve the rewards for parents who have died. It is a mandate from Allah SWT which must be handled properly. Because in him inherent dignity and rights as human beings that must be upheld. He can accept whatever shape he wants and whatever pattern he wants, children are a group that is vulnerable to violence if this happens, the impact is not only physical, but also psychological and social. In article 5 paragraph (3) in RI Law No. 39 of 1999 concerning Human Rights explained that: "everyone who belongs to a vulnerable group of people has the right to receive more treatment and protection with respect to his specialty" (Halim, 2005).

These children's rights are part of human rights, in the 1945 Constitution and the United Nations convention on children's rights. From the point of view of nation and state, children are buds, potentials, and young generations who will continue the ideals of the nation's

struggle, have a strategic role and have special characteristics and characteristics that ensure the continued existence of the nation and state in the future (Shanty, 1988). In Indonesia, RI Law No. 39 of 1999 concerning Human Rights has been stipulated which includes children's rights, the implementation of obligations and responsibilities of parents, family, society, government and the state to provide child protection as a juridical basis for the implementation and responsibility. However, it turns out that child protection measures and all of its aspects require a legal umbrella to create the best life for children who are expected to be potential successors to the nation, strong, have nationalism imbued with morality and a strong will to maintain the unity and integrity of the nation and state. The legal umbrella in question is RI Law No.23 of 2002 concerning Child Protection (Purwadi, 2006)

Human rights discourse continues to develop along with the intensity, human awareness of the rights and obligations they have. However, the discourse on human rights is actual because it has often been abused in human history from the beginning to the present. The movement and dissemination of human rights continues even by crossing the territorial boundaries of a country. Manfred Nowak emphasized that human rights must be considered one of the major achievements of modern day philosophy. 5. For Indonesia, the discourse on human rights has entered beautifully into the minds of the nation's children. Human rights are accepted, understood and actualized within the framework of policy formulation and developing socio-political developments.

Literature Review

1945 Constitution

The provisions of Article 28 B paragraph (2) of the 1945 Constitution emphasize that: "Every child has the right to survival, growth and development and has the right to protection from violence and discrimination", these provisions have provided a strong foundation that the child has the right to live, grow and develop and have the right to obtain protection from violence, exploitation and discrimination. The Indonesian nation as part of the world community has a commitment to ensure the fulfillment of children's rights and child protection which is part of human rights, including the right to live, survive, grow and develop, participate optimally in accordance with human dignity and receive protection from violence and discrimination for the realization of prosperous, qualified and protected Indonesian children.

Child protection is also emphasized in the 1945 Constitution, namely Article 28 D paragraph (1) of the 1945 Constitution "everyone has the right to recognition, guarantees, protection and fair legal certainty and equal treatment before the law".

1. Humanity. Health workers must be virtuous, adhere to professional ethics and always apply humanitarian principles in implementing health development.
2. Empowerment and Independence. Health development must be able to arouse and encourage the active role of the community.
3. Fair and Equal. Everyone has the right to receive health services. Every child has the right to survival, growth and development, and is entitled to protection from violence and discrimination.
4. Priority and Benefits. Health development is carried out by prioritizing the public interest rather than individual or group interests.

The development of the concept of human rights in the health sector as an element of general welfare began with the birth of the concept of a sovereign state with the aim of promoting public welfare as stated in the Preamble to the 1945 Constitution. The concept of advancing public welfare is in line with the concept of protecting human rights in the health

sector is an acknowledgment of everyone's right to obtain high standards of physical and mental health (Jadir, 1992) With regard to the regulated substance or material, the grouping of human rights includes the right to live, the right to have a family, and continue offspring, as well as the rights of children (Manan, 1992). Child welfare is an order of life for children that can guarantee their normal growth and development, both spiritually, physically and socially. This refers to Article 34 of the 1945 Constitution which states "The poor and neglected children are cared for by the state (Prints, 2003).

Definitively the 1945 Constitution does not mention the definition of children. Understanding and giving meaning to children can be seen in Article 34 of the 1945 Constitution which reads: "The poor and neglected children are cared for by the state". This implies that children are legal subjects of national law who must be protected, cared for and nurtured to achieve child welfare. In other words, the child is the responsibility of the government and society. Regarding the understanding of children according to the 1945 Constitution, it provides an explanation as follows: "The provisions of the 1945 Constitution, confirmed its arrangements with the issuance of Law Number 4 of 1979 concerning Child Welfare, which means the meaning of a child (the notion of a child) is a child who must obtain rights which then these rights can guarantee growth and development properly, both physically, physically and socially. Or children are also entitled to services to develop abilities and social life. Children also have the right to care and protection both in the womb and after they are born. (Soemitro, 2018)

Republic of Indonesia Law Number 1 of 1974 Concerning Marriage

Based on the elucidation of Article 1 of Law Number 1 of 1974 concerning Marriage, it is emphasized that forming a happy family is closely related to offspring, which is also the goal of marriage. The maintenance and education of children is the rights and obligations of parents. Being a parent has legal responsibilities and a moral responsibility. Parents are responsible for providing food, shelter, education and health to their children. Parents who neglect to provide basic needs for children can be subject to sanctions. Parents also have a moral obligation to love and make children useful members of society (Wangi, 2009). There is no need to worry about the boundaries between immature and mature adults. This is due to the fact that even though the person is not yet an adult, he has committed a legal act. For example, an immature child has traded, traded and so on, even though he is not yet mature enough to marry (Soemitro, Aspects of Child Protection, 2008)

Republic of Indonesia Law Number 39 of 1999 concerning Human Rights

Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights Article 52 paragraph (1) emphasizes that: "The right to protect from the womb". Regulates that the protection of children must be carried out by parents, family, society and the state. Meanwhile, Article 58 paragraph (1) emphasizes that: "The right to legal protection". Provide guarantees for every child to get legal protection from all forms of physical or mental violence, neglect, bad treatment, and sexual harassment while in the care of their parents or guardians, or other parties who are responsible for child care (Prints, 2003).

Republic of Indonesia Law Number 23 of 2002 concerning Child Protection. Child protection activities have legal consequences, both in relation to written law and unwritten law. The law is a guarantee for child protection activities. Arif Gosita argued that legal certainty needs to be sought for the continuity of child protection activities and preventing abuses that lead to unwanted negative consequences in implementation of child protection (Gosita, 1998). The purpose of child protection is to guarantee the fulfillment of children's

rights, so that they can live, grow, develop and participate optimally in accordance with human nature and dignity, and receive protection from violence and discrimination for the realization of quality, noble and prosperous Indonesian children. In reality, Indonesian society still lives a culture of exploitation of children, such as children who are exploited as beggars, children are employed, prostituted, traded, and used as a tool to fulfill the interests of adults (Prints, 2003)

When stipulating the Republic of Indonesia Law Number 23 of 2002 concerning Child Protection, the Government relied on a number of basic assumptions for the preparation of this Law. Among them is that the Unitary State of the Republic of Indonesia guarantees the welfare of each of its citizens including the protection of children's rights which are human rights, in which dignity and dignity are attached to them as whole human beings (Soetyowati, 2009). Child protection is all activities to guarantee and protect children and their rights so that they can live, grow and develop, and participate optimally in accordance with human dignity and values, and receive protection from violence and discrimination. For the sake of creating quality, noble and prosperous Indonesian children, efforts to protect children need to be implemented as early as possible, namely from the time the fetus is in the womb until the child is 18 years old. Starting from the concept of child protection that is complete, comprehensive and comprehensive, this Law places the obligation to provide protection to children based on the principles of non-discrimination, the best interests of the child, the right to life, survival and development as well as respect for children's opinions (Muladi, 2005)

Law Number 23 of 2002 concerning Child Protection

Emphasizing the need for increasing criminal sanctions and fines for perpetrators of crimes against children, especially for sexual crimes which aim to provide a deterrent effect, as well as encouraging concrete steps to restore the child's physical, psychological and social well-being. This needs to be done to anticipate that children (victims of crime) will not become perpetrators of the same crime in the future. Because based on the facts revealed when the perpetrators of crimes against children (especially perpetrators of sexual crimes) were examined in court, in fact there were several perpetrators who admitted that they had experienced acts of sexual harassment when the perpetrators were still children. Therefore, the existence of this law may be a new hope in protecting children. The following are some important points in the law. In this Law what is meant by:

1. Child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb (1, 2022).
2. Child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop and participate optimally in accordance with human dignity and values, and receive protection from violence and discrimination.

Everyone is prohibited from committing violence or threats of violence, forcing, tricking, committing a series of lies, or persuading children to commit or allow obscene acts to be carried out. Regarding the punishment given discussed in Article 82 as follows:

1. Everyone who violates the provisions referred to in Article 76E shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of Rp. 5,000,000,000.00 (five billion rupiahs).
2. In the event that the crime referred to in paragraph (1) is committed by parents, guardians, caregivers, educators or educational staff, then the penalty is added to 1/3 (one third) of the criminal penalties referred to in paragraph (1).

Supervision of Children in the Perspective of Islamic Law

The point of view built by religion, especially in the view of Islam, is that children are dhaif and noble beings, whose existence is by the authority and will of Allah SWT through several processes of creation whose dimensions are in accordance with the will of Allah SWT. The position of children in Islam is emphasized in the Qur'an Surah Al-Isra' letter (17) verse (70) which means "And indeed We have glorified the Children of Adam. We transport them on land and in the sea. We provide sustenance from the good and We increase them with perfect advantages over most of the creatures that We have created. The explanation of the Surah Al-Qur'an is followed by the Hadith of the Prophet Muhammad, which means "All children are born with holiness, so that he speaks clearly (Ashshiddiq, 1997).

Rationally, a child is formed from supernatural elements which are transcendental from the ratification process of science (science) with divine elements taken from the material values of the universe and spiritual values taken from the process of belief (Islamic monotheism). If the seeds of the community's children are good, then it is certain that the community will also be formed into a good society. It is further said: Islam states that children are the seeds that will grow to form a society in the future (Husein, 2022). According to the provisions of Article 106 paragraph (1) and (2) of the Compilation of Islamic Law (KHI), it is stated that the obligations of parents towards their children include:

1. Parents are obliged to care for and develop the assets of their children who are not yet under guardianship, and may not transfer or duplicate them except for urgent needs, if the interests and benefits of the child require or a fact that cannot be avoided anymore.
2. Parents are responsible for losses incurred due to mistakes and negligence of the obligations in paragraph (1).

Thus it can be concluded, that basically children are entrusted or entrusted by Allah SWT which must be cared for and fostered seriously by both parents. Educating humans so that humans are useful from the afterlife, giving useful lessons and knowledge. Parents are obliged to maintain and educate so that the child can stand alone.

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ وَحَمَلْنَاهُمْ فِي الْوَجْرِ وَالْبَحْرِ وَرَزَقْنَاهُمْ مِنَ
الطَّيِّبَاتِ وَفَضَّلْنَاهُمْ عَلَى كَثِيرٍ مِمَّنْ خَلَقْنَا تَفْضِيلًا

Meaning: And indeed, We have glorified the children of Adam, and We carried them on land and in the sea, and We gave them sustenance from the good and We have preferred them above the many creatures that We created with perfect advantages (Q.S Al Isra 70) (Translation, 2023)

Since more than fourteen centuries ago, humans have been reported in Islamic literature about their noble position on this earth, that in fact Allah SWT as the creator has provided strict boundaries that do not justify the evils and injustices committed by humans. a human being towards each other and for everything that is entrusted to his caliph, according to what has been said through His Messenger in the Hadith Qudsi: O my servant! Verily, I have forbidden (the treatment of) injustice to myself and I have made it unlawful among you, so do not be unjust to one another." (H.R. Muslim from Ali Dzaar Al Ghifaari).

That for Muslims everywhere in the world, the vehicle and discourse regarding human rights issues that are echoed and glorified by western countries today, for Muslims is not something new in the treasures of the Islamic world anywhere because in almost every Islamic literature the discussion of Human Rights are always present because Islam is a

civilization that upholds and ethically corrects the basic rights of every human being on this earth, and this has all been proven in the civilization of Medina society fourteen centuries ago under the government of the Prophet Muhammad and his caliphs. Rasyidin next (Usman, 2016).

Comparison of Western Law and Islamic Law

Western law cannot yet be fully defined which can contain the contents of the law, we can see this from the many differences of Western law experts in defining law. Besides that, what is contained in the definition of western law does not include a basis that makes the law obeyed or not, which in this definition is only the result of a consensus from the community for the community in order to maintain order and safeguard the rights of the community. Whereas in Islamic Law, a rule that originates from Islamic teachings, which includes social relations and human relations with their God, so that an act that violates the law besides having accountability before other humans, he must also defend himself before his God (Nasir, 2001).

Legal Characteristics

Between western law and Islamic law, these two laws are characterized by orders and prohibitions. These prohibitions or orders must be obeyed by all people (Wigyodipuro, 2010). Meanwhile, the characteristics of Islamic law are that it is part of and originates from the Islamic religion, has a close relationship and is inseparable from faith or creed and decency or Islamic morality, has two key terms, namely Shari'a and Jurisprudence, consisting of two main areas, namely worship and mu'. amalah (in a broad sense), the structure is layered, consisting of texts or texts of the Koran, the sunnah of the Prophet Muhammad, the results of human ijihad that meet the requirements regarding revelation and sunnah, the implementation of which is either in the form of a judge's decision, or in the form of the practices of Muslims in society , prioritizing obligations rather than demanding rights, charity from rewards, can be divided into taklifi laws and wadh'i laws, respecting human dignity as a unity of body and soul, spiritual and physical and maintaining human dignity and humanity as a whole (Makmum, 2012).

RESEARCH METHODS

Types of Research

The type of research that the authors conducted was Normative Juridical research which is descriptive-analytic in nature. By describing the subject matter of the research and analyzing it using law as a building system of norms. The norm system in question is regarding principles, norms, rules of law and regulations, court decisions, agreements and doctrines (teachings) (Yulianti, 2010).

Research Approach

The research approach is carried out by describing the main problems of the research and analyzing using law as a building system of norms. The norm system in question is regarding the principles, norms, rules of laws and regulations, court decisions, agreements and doctrines (teachings).

1. The normative juridical research approach, namely the approach based on the main legal material by examining the theories, concepts, legal principles and laws and regulations related to this research. This approach is also known as the library approach, namely by studying books, laws and regulations and other documents related to this research.

2. The research approach is sociological, namely by understanding the object of the problem through existing sources or references in the form of social interaction.
3. The comparative approach is a type of descriptive approach that seeks to find answers fundamentally regarding cause and effect, by analyzing the factors that cause the occurrence or emergence of a particular phenomenon or event. Comparative approach is research that is comparative in nature, which is carried out to compare the similarities and differences of 2 or more characteristics and facts of the object under study based on a certain frame of mind. A comparative approach is usually used to compare between 2 or more groups on a particular variable.
4. Historical Approach is an approach that analyzes geographical symptoms and problems based on chronological processes and predicts the process of these symptoms and problems in the future. (2023)

Object of Research

The object to be examined by the author is the issue of human rights in the research. It explains how to uphold human rights for child protection in the perspective of positive law and Islamic law.

Types of Legal Sources and Materials

This research is normative legal research, so the literature is secondary data, namely data obtained from the results of a literature review or review of various literature or library materials related to the problem or material being studied. Secondary data or library data or known as legal materials in normative legal research are grouped into three, namely:

1. Primary Legal Materials. Consists of the 1945 Constitution, Republic of Indonesia Law Number 1 of 1974 concerning marriage, Republic of Indonesia Law Number 39 of 1999 concerning Human Rights, Republic of Indonesia Law Number 23 of 2002 concerning Child Protection, Republic of Indonesia Law Number 11 2012 concerning the Child Protection System. According to Peter Mahmud Marzuki, primary legal material is authoritative, meaning it has authority, which is the result of actions or activities carried out by the competent institution.
2. Secondary Raw Materials. That is, it can provide an explanation of secondary legal materials, which can be in the form of research results, books, scientific journals, newspapers and internet news.
3. Tertiary Raw Materials. It is legal material that can explain both primary and secondary legal materials. can be in the form of dictionaries, encyclopedias, and others.

Method of Collecting Data

The legal material collection technique used in this research is library research. Literature study is a method in the form of collecting legal materials, obtained from library books or other readings that have a relationship with the subject matter, framework and scope of the problem. In this study the authors search for and collect library materials in the form of laws and regulations, books, legal research results, theses, papers, newspapers, articles, magazines/law journals as well as the opinions of scholars who have relevance to the title of this research which can support the completion of this research.

Legal Materials

The analysis that the author will use is descriptive in nature, which wants to give an overview or explanation of the object of research as the results of the research conducted. This research also uses a statutory approach, because this research uses statutory regulations

as the initial basis for analyzing the problems studied, also a case approach by examining several cases that are used as references as a legal issue.

RESEARCH RESULTS AND DISCUSSION

Protection of Human Rights for Children in a Positive Legal Perspective Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights as follows: Article 28 B paragraph (2) of the 1945 Constitution emphasizes that: "Every child has the right to survival, growth and development and has the right to protection from violence and discrimination", these provisions have provided a strong foundation that the child has the right to live, grow and develop and have the right to obtain protection from violence, exploitation and discrimination. When talking about children's issues, of course, the name Human Rights cannot be separated, because it is clear in RI Law No. 39 of 1999 concerning Human Rights, in 52 paragraph (1) it is emphasized that: "The right to protect from the womb". Regulates that the protection of children must be carried out by parents, families, communities and the State. Meanwhile, Article 58 paragraph (1) emphasizes that: "The right to legal protection". Provide guarantees for every child to get legal protection from all forms of physical or mental violence, neglect, bad treatment, and sexual harassment while in the care of parents or guardians, or other parties who are responsible for child care. , is on the shoulders of parents. Because the early periods of a child's life are the most important and at the same time vulnerable periods (Huraerah, 2012).

The most basic right in terms of human rights is the right to life. These children's rights are part of the human rights contained in the 1945 Constitution and the United Nations convention on children's rights. From the point of view of nation and state, children are buds, potentials and young generations who will continue the ideals of the nation's struggle, have a strategic role and have special characteristics and characteristics that ensure the continued existence of the nation and state in the future (Mahir Sikki ZA, 2018). In Indonesia, RI Law No. 39 of 1999 concerning Human Rights has been stipulated which includes children's rights, the implementation of obligations and responsibilities of parents, family, society, government and the state to provide child protection as a juridical basis for the implementation and responsibility. However, the act of protecting children and all of its aspects turns out to require a legal umbrella to create the best life for children who are expected to be potential successors to the nation, strong, have nationalism imbued with morality and a strong will to maintain the unity and integrity of the nation and state. The legal umbrella referred to is RI Law No. 23 of 2002 concerning Child Protection (Purwadi, Research on Trafficking of Women and Children in West Nusa Tenggara, 2006)

Republic of Indonesia Law Number 1 of 1974 Concerning Marriage

Article 1 states that: "Marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on Belief in the One and Only God." Article 42 states that: "a legitimate child is a child born in or as a result of a valid marriage". Article 43 states that: "A child born outside of marriage only has a civil relationship with his mother and his mother's family". Article 55 paragraph 1 states that "The origin of a child can only be proven by an authentic birth certificate issued by an authorized official." The importance of a legal marriage because children born out of wedlock have more risks psychologically than children born in legal marriage bonds. Cultures and religions that forbid free sex before marriage will contribute to social pressure on children born out of wedlock (Soeroso, 2012)

Law of the Republic of Indonesia Number 12 of 2006 concerning Citizenship

Citizenship has implications for rights and obligations, therefore having citizenship status is very important, because having citizenship means there is legal protection. Citizenship is a person's membership in the control of a certain political unit (specifically: the state) which carries the right to participate in political activities. Someone with such membership is called a citizen (Sofian, 2012)

Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection

Republic of Indonesia Law Number 23 of 2002 concerning Child Protection, emphasizes the need for increasing criminal sanctions and fines for perpetrators of crimes against children, especially for sexual crimes which aim to provide a deterrent effect, and encourage concrete steps to restore the child's physical, psychological and social well-being.

This needs to be done to anticipate that children (victims of crime) will not become perpetrators of the same crime in the future. Because based on the facts revealed when the perpetrators of crimes against children (especially perpetrators of sexual crimes) were examined in court, in reality there were several perpetrators who admitted that they had experienced acts of sexual harassment when the perpetrators were still children. Therefore, the existence of this law may be a new hope in protecting children. A child who becomes a victim of crime from a crime has various rights and obligations that must be carried out according to abilities related to his age (Gosita, Crime Victim Problems, 2009).

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System

Protection of children is the obligation and responsibility of all of us, child victims must receive attention and protection of their rights, handling cases of children who are in conflict with the law, especially victims, must be handled specifically both repressively and preventively in order to create a good and prosperous future for children. (Marlina, 2009). In Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, it divides three parts for children who have cases with the law, this can be seen from the provisions of Article 1 paragraph (4) of RI Law No. 11 of 2012 concerning the Juvenile Criminal Justice System states that: "Children who are victims of criminal acts, hereinafter referred to as child victims, are children who are not yet 18 (eighteen) years old who experience physical, mental and/or economic losses as stated by the crime. criminal." From the provisions of Article 1 paragraph (4) we can see that what is meant by a child victim is a child who is not yet 18 (eighteen) years old who has experienced a crime. Cases experienced by children lately have tended to increase, this can be seen from the existing reports both through print and electronic media, seeing the existing conditions a serious effort is needed in tackling acts of violence against children. The active role of law enforcement officials in tackling crimes against children is needed as a rational effort from society (Saraswati, 2009)

Views of Islamic Law on Child Protection

Islam came to bring mercy to all nature, including children. Islam states that children are creatures that need to be loved and protected because of their powerlessness in fulfilling the necessities of life and protecting themselves. Talking about child protection certainly cannot be separated from the role of parents in educating children as described in the hadith of the Prophet Muhammad SAW "Not belonging to my people, those (old) do not love the young, and those (young) do not respect the old." (narrated by Thirmidzi). Children have the right to receive something from their parents, and parents are obliged to give something to their children, bearing in mind the responsibility of parents towards children, so that they do not

fall into tyranny due to wasting children's rights, parents should pay attention to this following matters: (Siswandi, 2010).

1. The Right To Life. Because a very basic right of human rights is the right to life. No one may kill another person. One killing of a human being is the same as hurting all human beings (Qurbani, 2016). Because a very basic right of human rights is the right to life. No one may kill another person. One killing of a human being is the same as hurting all of humanity.

مِنْ أَجْلِ ذَلِكَ كَتَبْنَا عَلَى بَنِي إِسْرَائِيلَ أَنَّهُ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ
فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا النَّاسَ
جَمِيعًا وَلَقَدْ جَاءَتْهُمْ رُسُلُنَا بِالْبَيِّنَاتِ ثُمَّ إِنَّ كَثِيرًا مِّنْهُمْ بَعَدَ ذَلِكَ
فِي الْأَرْضِ لَمُسْرِفُونَ ﴿٣٢﴾

Meaning: "Therefore We stipulate (a law) for the Children of Israel, that: whoever kills a human being, not because that person (kills) another person, or not for causing damage on earth, it is as if he has killed a human entirely (Q.S Al-Maidah: 32)

The matter of taking a person's life in retaliation for the murder he committed or the matter of punishment for spreading corruption on earth can only be decided by a competent court. War between countries is also only decided by the authorized government. Under no circumstances does anyone have their own right to take human life as retaliation or punishment (Siswandi, Child Protection in the Perspective of Islamic Law and Ham, 2010).

CONCLUSION

Based on the conclusions of the research results, it is necessary to state the following: How is the protection of human rights for children in a positive legal perspective, in Indonesia, Law of the Republic of Indonesia No. 39 of 1999 concerning Human Rights which includes children's rights, the implementation of obligations and responsibilities of parents, families, communities, government and the state to provide child protection as a juridical basis for the implementation and responsibilities. Legal protection is all efforts made consciously by everyone as well as government and private institutions that aim to seek security, control and fulfillment of welfare in accordance with existing human rights as stipulated in RI Law No. 39 of 1999 concerning Human Rights. However, child protection from all its aspects turns out to require a legal umbrella to create the best life for children who are expected to be the nation's successors who have the potential, are tough, have nationalism imbued with morality and a strong will to maintain the unity and integrity of the nation and state. is Law of the Republic of Indonesia No. 23 of 2002 concerning Child Protection. Article 64 paragraph (2) of the Child Protection Act basically contains all the government's efforts to protect children who are victims of criminal acts including the following: (a) rehabilitation efforts, (b) efforts to protect the identity of victims from the public, (c) efforts to provide health insurance, and (d) provision of accessibility to obtain information regarding the progress of the case. Views of Islamic Law on Child Protection, in Islamic law acts of violence against children are strictly prohibited, because this is a violation of children's rights, because it is not in accordance with human values and religious teachings. In Islamic law, the rights of a child are protected from the time they are born in the womb until they are 18 years old or until they are married. As explained in Q.S Al-Isra (17) verse (70) which means: "And indeed we have glorified the children of Adam, we carried them on land and at sea, we gave sustenance and good things, and we gave them more than with perfect superiority over most of the creatures we have created.

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