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Introduction

Islamic economic principles form a foundational pillar of the Muslim family system, balancing moral responsibility with financial justice. In family law, mechanisms such as *zakat* (obligatory almsgiving), *mahr* (dower), *mirath* (inheritance), and *waqf* (charitable endowments) were historically designed not only to regulate assets but also to safeguard vulnerable members of the family—especially children. In many Muslim societies, inheritance remains the primary financial safety net ensuring that minors are not deprived of their rightful property or basic needs after the death of a parent. Likewise, welfare institutions derived from *zakat* and *waqf* play a supplementary role in supporting orphans and underserved children, protecting them from financial neglect and social vulnerability.¹

In contemporary legal systems, the harmonization of classical Islamic legal doctrines with modern child protection policies has become an important area of debate. While the Islamic legal structure guarantees fixed and enforceable shares for children, modern reforms often confront challenges relating to guardianship, property administration, and state oversight. This raises crucial research questions: To what extent do Islamic inheritance laws protect children’s rights in theory and practice? What legal barriers exist in enforcing Islamic economic mechanisms within modern legal systems? And how can instruments such as *zakat* and *waqf* be optimized to strengthen national child protection frameworks?²

The objectives of this study are threefold: (1) to investigate how Islamic inheritance laws contribute to securing the financial rights and welfare of children; (2) to identify legal and procedural challenges associated with the implementation of Islamic family law

¹ Hidayat, D. (2024). *The Islamic Legal Perspective on Inheritance Distribution and Its Relevance to Customary Law*. *An-Nur: Jurnal Studi Islam*, 15(2).
Nurfityyani Siregar, & Nasution, N. H. A. (2023). Legal Review of Children Born Out of Wedlock Based on Islamic Inheritance Law and Civil Law. *International Journal of Educational Research Excellence (IJERE)*, 2(2), 139–144.
<https://doi.org/10.55299/ijere.v2i2.461>
² Sulistiyono, A. (2025). Reform of Islamic Inheritance Law: The Influence on Adoption, Illegitimate Children, and Inheritance Rights. *Jurnal IUS*.

in OIC countries; and (3) to recommend policies that reinforce child protection through Islamic economic tools.

Methodologically, this research adopts a comparative legal approach by examining Islamic family law provisions in relation to international child protection standards. Case studies from Pakistan and Indonesia—two major OIC jurisdictions with strong Islamic legal influences yet differing statutory frameworks—are analyzed. In addition, the research draws on primary Islamic legal sources including the Qur’an, Sunnah, and classical and contemporary *fiqh* scholarship.³

This analysis demonstrates that Islamic economic mechanisms—long before contemporary child protection conventions—created institutional and legal structures to defend minors from economic exploitation and social neglect. The challenge today lies not in the absence of legal principles, but in ensuring their effective implementation in rapidly transforming legal and economic systems. By comparing Pakistan and Indonesia, this study will highlight how Muslim-majority jurisdictions can maintain fidelity to Sharia principles while adapting to international standards of child welfare. Ultimately, the goal is not merely to critique but to propose workable policies that enhance the role of Islamic economic tools in the protection and empowerment of children.⁴

Methodology

This study adopts a comparative legal analysis to examine how Islamic family law aligns with international child protection frameworks, particularly in matters of inheritance and property rights. Case studies from Pakistan and Indonesia are used to explore practical implementation challenges and legal variations within OIC jurisdictions. The research also includes textual analysis of primary Islamic legal sources—the Qur’an, Hadith, and classical and contemporary *fiqh* rulings—to assess the foundational principles governing children’s financial rights and welfare.

Islamic Inheritance Laws and Child Protection

Islamic inheritance law (*mirath*) represents one of the most highly structured and morally significant branches of Islamic jurisprudence. It addresses not only the orderly distribution of wealth after death but also the social duty of safeguarding the economic well-being of surviving family members, particularly children. Unlike many pre-Islamic or customary systems in which minors or vulnerable family members could be neglected or

³ Fatima, H. (2024). Inheritance Rights of Orphaned Grandchildren in Light of Sharia and Pakistani Law. *Al-Absar Research Journal of Fiqh & Islamic Studies*.

⁴ Razy, L. H. (2023). *Islamic Inheritance Law in the Modern Era: Contemporary Aspects and Applications*. *An-Nur: Jurnal Studi Islam*, 15(2).

deprived of inheritance by dominant relatives, the Qur’anic revelation introduced a precise and enforceable legal mechanism to protect their rights. In the context of child protection, Islamic inheritance law creates a safety net that ensures financial security for minors, limiting the possibility of exploitation, disinheritance, or economic hardship after the death of a breadwinner.⁵

Key Principles of Islamic Inheritance (Mirath)

Islamic inheritance law is grounded on divine legislation. The Qur’an provides a comprehensive set of rules specifying the fixed shares of inheritors, closing avenues for subjective personal preference or arbitrary exclusion. Verses such as Surah al-Nisa’ (4:7, 4:11–12, 4:176) constitute the primary legal foundation for inheritance distribution, clearly identifying children as essential beneficiaries. Boys and girls are both entitled to inheritance—an extraordinary legal development when examined in historical perspective, considering that pre-Islamic Arabia often denied women and children any share of family wealth.

The distribution mechanism is based on two guiding principles:

Fixed and enforceable shares established by the Qur’an. Automatic entitlement—no heir can be legally denied their share without legitimate cause. For children, especially minors, these principles translate into guaranteed economic protection. Whether the estate is substantial or modest, boys and girls receive their allocated portions in accordance with the Qur’anic formula. Furthermore, the prohibition against altering inheritance shares—even by the deceased’s own will—prevents manipulation and discrimination. The will (*wasiyyah*) may allocate only up to one-third of the estate and cannot be used to reduce or eliminate the mandatory portions granted to legal heirs. Thus, a father cannot exclude his daughters or minor sons by “choosing” to distribute property outside the fixed shares.⁶ Another essential feature of Islamic inheritance law is the special protection of orphans. The Qur’an repeatedly condemns the exploitation, mismanagement, or consumption of orphans’ wealth (e.g., 4:2, 4:6), emphasizing that guardians are trustees, not owners. The property of minor heirs is to be preserved and invested responsibly until they reach maturity, at which point it must be handed over in full. This financial guardianship (*wilayah*) reflects a child-focused legal ethic that recognizes minors not as passive dependents but as rights-holders with economic

⁵ Khosyi’ah, S. (2022). *Inheritance settlement of descendants of children and siblings in Islamic inheritance law and the Compilation of Islamic Law*. **Cogent Social Sciences**, 8, 2126615. <https://doi.org/10.1080/23311886.2022.2126615>

⁶ Siregar, N., & Nasution, N. H. A. (2023). Legal review of children born out of wedlock based on Islamic inheritance law and civil law. **International Journal of Educational Research Excellence**, 2(2), 139–144. <https://doi.org/10.55299/ijere.v2i2.461>

have increasingly intervened in such cases, underscoring that children’s financial rights constitute an inviolable legal interest.⁹

Indonesia

Indonesia adopts a pluralistic framework that allows Muslims to choose between the religious court system and the civil court system for inheritance matters. The Compilation of Islamic Law (KHI, 1991) serves as the reference for Muslim families, providing a codified interpretation of Islamic inheritance rules. Like Pakistan, Indonesia recognizes fixed shares, but it also gives space for family deliberation (*musyawarah*) before formal distribution. While this cultural practice emphasizes family harmony, it occasionally results in informal adjustments that may disadvantage minors—particularly when inheritance is distributed verbally or before legal documentation.¹⁰

To mitigate this, Indonesian religious courts (*Pengadilan Agama*) have increasingly required the registration of guardianship over minors’ property, particularly in cases involving significant assets. When managed properly, the system protects children by requiring guardians to administer wealth transparently until adulthood. Indonesia also has a strong *waqf* and social welfare culture, enabling orphaned children to access additional support through state-regulated religious charitable institutions.¹¹

Challenges in Implementation

Although Islamic inheritance law offers robust child protection mechanisms in theory, varying social, legal, and economic conditions shape their practical application in Pakistan and Indonesia. Both jurisdictions encounter barriers that may compromise minors’ financial security.

Gender-Based Inheritance Rules and Their Impact on Children

⁹ Nisar, A. (2024). Islamic inheritance rights for women in Pakistan: Exploring legal safeguards and social challenges. **Al-Ahwal: Jurnal Hukum Keluarga dan Peradilan Islam**, 17(2). <https://doi.org/10.14421/ahwal.2024.17204>

¹⁰ Atiyatunnajah, M., & Setyawan, S. (2023). Islamic inheritance law and its implications on the rights of adopted children in Indonesia: Perspective on adopted children enforcement in the law of inheritance. **Legal Brief**, 12(1). <https://doi.org/10.35335/legal.v12i1.768>

¹¹ Julius, L., Sudirman, M., & Djaja, B. (2025). Analisis normatif terhadap hak waris perempuan dalam perspektif hukum Islam, hukum adat dan hukum perdata di Indonesia. **Desentralisasi: Jurnal Hukum, Kebijakan Publik, dan Pemerintahan**, 2(3). <https://doi.org/10.62383/desentralisasi.v2i3.730>

The Qur’anic rule that gives sons a share equal to that of two daughters (*li al-dhakari mithlu hazz al-unthayayn*) is frequently misunderstood from a modern rights perspective. The structural logic of Islamic law does not reduce the value of girls but assigns different financial responsibilities: a male heir is responsible for providing maintenance to female family members, whereas women have no such financial duties. In practice, however, this framework sometimes clashes with socio-economic realities. In many modern families, daughters may not be financially supported by brothers, especially in cases of strained relationships, remarriage, or migration. As a result, daughters may encounter financial insecurity despite receiving their lawful shares. This reveals the need for stronger enforcement—not alteration—of Sharia principles to ensure that financial obligations toward female heirs are actually fulfilled.¹²

Legal Disputes Over Property Rights in Blended Families

The rise of blended families—caused by remarriage after divorce or death—creates new inheritance complexities in both Pakistan and Indonesia. Guardianship disputes often arise when a stepfather or stepmother manages inherited property belonging to children from a previous marriage. Without clear court registration of guardianship, children’s assets may be exposed to misuse. Widows with young children also face pressure from the deceased husband’s relatives over property transfer, especially in rural areas where customary norms are still influential. Although both countries provide legal remedies, many families prefer informal settlement, which may lead to deprivation of minors’ rights.¹³

Another challenge involves lack of awareness. Many parents, especially fathers, give property to sons during their lifetime while assuming that daughters will be cared for informally. Such practices distort the intent of Islamic inheritance law and undermine the economic protection of daughters and young children. Courts rarely become involved unless a dispute arises, meaning the harm is often only addressed after the deprivation has already occurred.

Toward Child-Focused Implementation of Mirath

The challenges described above do not stem from Islamic law itself but from inadequate enforcement, informal social attitudes, and procedural weaknesses. Strengthening the role of inheritance law in child protection requires a move from theory

¹² Yusmita, Y. (2023). Keadilan gender dalam sistem kewarisan bilateral Hazairin. *KH*, 3(1). <https://doi.org/10.29300/kh.v3i1.10939>

¹³ Zuhrah, I., Rachmi Handayani, I. G. A. K., & Harahap, B. (2024). Legislative legal politics of inheritance law in Indonesia. *Journal of Ecohumanism*, 3(6), 910–916. <https://doi.org/10.62754/joe.v3i6.4059>

to practice. Several strategies are crucial: Mandatory legal documentation of guardianship for minors’ assets to prevent informal control and misappropriation. Court oversight for sale or transfer of inherited property involving minors, ensuring transparency and benefit for the child. Increasing awareness among families—especially fathers—about the duty to ensure all children receive their rightful shares. Training judges, notaries, and religious leaders to prioritize the protection of minors in inheritance cases. Integration with welfare instruments such as zakat and waqf, ensuring that orphaned and vulnerable children receive not only their inheritance but also community-based economic assistance. Where these measures are strengthened, inheritance law becomes a powerful mechanism to secure children’s dignity, economic independence, and long-term well-being.¹⁴

Zakat and Waqf as Instruments of Child Protection

Zakat, the third pillar of Islam, is not merely an act of charity but a compulsory economic system with the potential to address structural poverty and vulnerability. Among the eight Qur’anic categories entitled to zakat, several are directly relevant to child protection, including *orphans, the poor, the needy*, and those facing financial hardship. When properly administered, zakat ensures that children who have lost one or both parents do not become economically marginalized.¹⁵

Zakat supports minors in two primary forms:

Provision of immediate financial assistance for basic needs such as food, shelter, clothing, and education. Long-term economic security through ongoing welfare programs and scholarship systems. Unlike inheritance, which depends on the availability of family property, zakat operates regardless of the economic status of the child’s parents, ensuring that orphaned and vulnerable minors are not left behind in the absence of personal wealth. Historically, Islamic states institutionalized zakat distribution through *bayt al-mal* (public treasury), funding orphanages, schools, healthcare, and food distribution programs. Modern zakat organizations in Pakistan (e.g., Bait-ul-Maal) and Indonesia (e.g., Baznas and Rumah Zakat) continue this

¹⁴ Fatahullah, F., Sulistiyono, A., & Harahap, B. (2025). Reform of Islamic inheritance law: The influence of customary law on the institution of *wasiat wajibah* in Islamic law. **Jurnal IUS: Kajian Hukum dan Keadilan**, 13(1), 259–274. <https://doi.org/10.29303/ius.v13i1.1695>

¹⁵ Safitri, S., & Juliana, J. (2025). Analysis zakat’s contribution to alleviation poverty among the bearer disability in SDGs achievement. *Falah: Jurnal Ekonomi Syariah*, 10(1), 42–53. <https://doi.org/10.22219/jes.v10i1.39258>

integrated into state welfare frameworks to create a coordinated and scalable child protection system.¹⁸

Barriers to Full Implementation

Despite their strong theoretical potential, zakat and waqf systems face challenges that hinder maximum impact on child protection:Fragmented and sometimes politicized zakat administration.Lack of unified databases to track orphaned and vulnerable children in need.Limited monitoring to ensure long-term support rather than temporary relief.Under-utilization of waqf assets due to weak management or outdated regulations.In Pakistan, zakat distribution sometimes overlaps with political priorities rather than purely welfare objectives, while in Indonesia, many waqf assets remain idle due to administrative and legal constraints. Overcoming these gaps requires improved governance, digital data systems for beneficiaries, and public awareness to encourage more waqf endowments dedicated to children’s welfare.¹⁹

Strengthening Zakat and Waqf for Child Protection: A Policy Perspective

To maximize the potential of Islamic economic tools, the following strategies can be considered:Developing child-specific zakat and waqf programs, including funds exclusively for education, nutrition, and healthcare.Digitizing beneficiary records to ensure transparency and long-term monitoring of support.Legal reforms for professional management of waqf through certified financial administrators and investment strategies. Collaboration between religious authorities, social ministries, and NGOs to unify child welfare efforts.Public campaign to promote family-based waqf, such as endowments on behalf of deceased parents dedicated to supporting orphans.²⁰When zakat and waqf are managed according to their intended Islamic vision not merely as charitable gestures but

¹⁸ Palasenda, N. F., & Salikurrahman, M. (2024). The role of waqf in advancing quality education and community empowerment: Aligning with sustainable development goals. *Jurnal eL-Tarbawi*, 17(2), 263–284. <https://doi.org/10.20885/tarbawi.vol17.iss2.art4>

¹⁹ Yumna, A., Masrifah, A. R., Muljawan, D., Noor, F., & Marta, J. (2024). The impacts of cash waqf linked sukuk empowerment programs: Empirical evidence from Indonesia. *Journal of Islamic Monetary Economics and Finance*, 10(1), 5–34. <https://doi.org/10.21098/jimf.v10i1.19406>

²⁰ Muhammad, A. A., et al. (2023). The impact of Islamic models of zakat and waqf in reducing poverty among vulnerable during the pandemic era in Bauchi State Nigeria. *AZKA International Journal of Zakat and Social Finance*, 4(1), 69–90. <https://doi.org/10.51377/azjaf.vol4n01.143>

The Qur'an places strong emphasis on protecting children's assets. Verses such as Surah al-Nisa' (4:2, 4:6) warn guardians not to consume or exploit orphan wealth, making it one of the gravest ethical violations. Classical jurists outlined three strict principles: Guardians may not use children's wealth for personal purposes, except in urgent necessity and with repayment. Investing inherited wealth is encouraged, to prevent depreciation over time. Full transfer of assets to the child must occur as soon as they reach maturity and demonstrate sound judgment in financial matters. If a guardian is suspected of mismanagement, the judge (*qadi*) has authority to remove the guardian and appoint another. This shows the judicial protection embedded in the classical doctrine of *mirath*.²³

Realities and Challenges in Pakistan and Indonesia

Despite the clarity of Sharia rules, modern implementation involves both strengths and gaps. Pakistan and Indonesia serve as important comparative examples due to their shared Islamic heritage but differing administrative systems.

Pakistan

Pakistani family law (through the Guardians and Wards Act 1890 and MFLO 1961) establishes strict judicial supervision over property belonging to minors. A guardian must obtain court permission before sale or transfer of a child's property. However: Many families avoid formal legal processes due to cost or lack of awareness. Informal guardianship is common, especially in rural households. Uncles or grandparents sometimes assume property control without legal registration. These informal arrangements leave minors vulnerable to fraud, pressure, and unjust deprivation. Although courts intervene when complaints arise, prevention remains weak.²⁴

Indonesia

Indonesia's religious courts provide formal oversight of minors' assets under the Compilation of Islamic Law (KHI), and—unlike Pakistan—the practice of registered guardianship (*perwalian*) is more common, offering greater legal transparency in managing children's inheritance. However, challenges persist, as families sometimes rely on

²³ Nahar, N., & Wahab, M. A. (2023). Islamic legal accountability in managing orphan property: A study of guardianship authority and judicial control. *Journal of Islamic Law and Society*, 4(2), 115–130.
<https://doi.org/10.23917/jils.v4i2.26276>

²⁴ Andriyani, A., & Amiruddin, M. (2024). Challenges in implementing guardianship and inheritance for minors: Case study of religious court decisions in Indonesia. *Jurnal IUS: Kajian Hukum dan Keadilan*, 12(3), 551–566.
<https://doi.org/10.29303/ius.v12i3.1692>

musyawarah (informal agreements) instead of judicial procedures, certain guardians treat minors’ property as general family income rather than as a trust exclusively belonging to the child, and women custodians may experience pressure from the husband’s relatives when seeking to control or manage their children’s inheritance. These tensions are rooted not in Islamic legal doctrine, which clearly safeguards the rights of minors, but in cultural practices and social customs that continue to influence inheritance administration..²⁵

Financial Risks for Children in Blended and Single-Parent Families

Global family dynamics are undergoing significant transformation in both Pakistan and Indonesia, with rising cases of remarriage following divorce or widowhood, an increasing number of single-parent households, and many families relying on overseas workers for financial support. These shifting patterns often trigger disputes concerning children’s property and inherited wealth, particularly when step-parents assume control over minors’ assets, siblings from different marriages contest property rights, or remittances meant for children are absorbed by extended family members rather than being safeguarded for their benefit. From a Sharia perspective, the solution does not lie in changing the Qur’anic inheritance rules—which already ensure fair and fixed shares for children—but rather in strengthening mechanisms of oversight, transparent documentation, and accountable record-keeping to prevent financial abuse and guarantee that minors receive and retain full control of their rightful property when they reach maturity..²⁶

Toward a Child-Protective Model of Property Management

To realize the true spirit of Islamic law, minors’ assets should be managed through transparent and structured mechanisms. Possible reforms include:

Policy Recommendation	Intended Benefit
Digital registration of inherited property under the child’s name	Prevents confiscation or informal redistribution
Mandatory court supervision for guardians handling valuable assets	Reduces financial abuse

²⁵ Fadli, M., & Nur, A. (2025). Legal protection for children in blended families: Analysis of property disputes and guardianship conflicts. *Al-Ahkam: Jurnal Ilmu Syariah*, 35(1), 88–101.

<https://doi.org/10.21580/ahkam.2025.35.1.18567>

²⁶ Khalid, N., & Yusuf, M. (2023). Digitalization of guardianship and inheritance management for minors: A reform of Islamic family law administration. *Journal of Legal, Ethical and Regulatory Issues*, 26(6), 1–12.

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Periodic reporting requirements for guardians	Ensures ongoing accountability
Investment funds managed by professional Islamic financial institutions	Preserves value of minors’ assets and generates returns
Linking inherited wealth with education and development plans	Supports holistic growth, not only financial survival

An innovative model is emerging in Indonesia, where orphaned children receive both inheritance protection and educational support through combined waqf + guardianship programs – allowing children to grow with dignity rather than economic dependence.²⁷

Conclusion

This study demonstrates that Islamic economic principles embedded within family law—particularly inheritance (*mirath*), *zakat*, *waqf*, and *mahr*—constitute a comprehensive legal framework for ensuring the financial protection and welfare of children. Far from being limited to wealth distribution, Islamic law establishes a multilayered system that guarantees economic dignity for minors during moments of family disruption such as death, divorce, or parental absence. The Qur’anic allocation of fixed inheritance shares prevents the exclusion of children from family property and ensures that boys and girls are recognized as rightful heirs. Complementing this structure, mechanisms of guardianship (*wilayah*) regulate the proper preservation, management, and investment of minors’ wealth until they reach maturity, treating inherited assets as a trust rather than transferable family property.

Case studies from Pakistan and Indonesia reveal that while Islamic legal theory provides strong safeguards for children, contemporary implementation remains uneven. Gaps emerge primarily not from the substance of Sharia but from informal family practices, low legal awareness, weak institutional oversight, and cultural attitudes that may unintentionally deprive minors—especially girls, orphans, and children in blended families—of their economic rights. Similarly, although *zakat* and *waqf* possess a historically proven capacity to support vulnerable children, their effectiveness depends on

²⁷ Rahman, A., & Hasan, S. (2024). Integration of Islamic financial institutions in safeguarding minors’ inherited wealth: A model of trusteeship-based investment. *International Journal of Islamic and Middle Eastern Finance and Management*, 17(2), 256–274. <https://doi.org/10.1108/IMEFM-10-2023-0481>
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