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## State Responsibility in Child Protection: A Fiqh Siyash Perspective on Law No. 35/2014 Child Protection Law and State Responsibility

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### Abstract

This research is motivated by the increasing number of cases of violence against children in elementary schools, which indicates a gap between legal provisions and their implementation in the field. This study aims to analyze the state's responsibility in protecting the constitutional rights of elementary school children based on Article 54 of Law Number 35 of 2014 and examine its relevance from a jurisprudence perspective. This research uses a normative legal method by applying a statutory and conceptual approach. The results show that the implementation of child protection in elementary schools is still suboptimal, as indicated by the high rate of violence against children. This condition is influenced by weak supervision, ineffective coordination between institutions, and the less than optimal implementation requires further strengthening of siyasah dusturiyah aspects to ensure more substantive welfare (al-maslahah). Specific findings indicate a synchronization gap between child protection regulations and the fulfillment of fundamental rights within educational environments, where the principle of the state as a guardian (waliyul amri) has not been fully integrated into the technical and operational dimensions of field policy. This analysis asserts that reinforcing state responsibility must rely not only on the formal legality of positive law but also on the moral-political obligation to cultivate an educational ecosystem that is both secure and equitable, in alignment with the principles of himayah al-atfal. Therefore, it is necessary to strengthen the supervisory system, improve coordination between institutions, and develop more responsive and sustainable policies to ensure the effective protection of elementary school children.

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## **Introduction**

Violence against children in elementary schools still occurs frequently, indicating that the state's responsibility for protection has not been optimally implemented, both in terms of legal regulations and their implementation in the field. This situation not only indicates that the oversight mechanism is not yet optimal, but also reflects the gap between applicable legal provisions and practices in educational settings. Within the framework of a state based on the rule of law, this condition indicates that the implementation of legal norms has not yet fully run as it should. Indonesia is obliged to guarantee the fulfillment of children's rights, including in the education sector which plays an important role as a space for children's growth and development. This is emphasized in Article 1 paragraph (3) of the 1945 Constitution which states that Indonesia is a state based on law, so that all implementation of power must be based on law in order to guarantee the protection of the human rights of every citizen, including vulnerable groups such as children, people with disabilities, and people with certain social and economic conditions.(UUD, 1945)In the concept of a state based on the rule of law, law is used as the primary basis for the exercise of power, so that every policy taken by the government must be guided by the constitution to avoid abuse of authority while simultaneously realizing legal certainty, justice, and benefits for the community.(Soekanto, 1977).

Children, as individuals who are still in the physical, mental, and social development stages, do not yet have adequate capabilities to protect themselves from various forms of rights violations, whether physical, psychological, or verbal. Therefore, children are included in the category of groups that require special protection that cannot be equated with adults, including protection from unsafe, discriminatory, and potentially exploitative environments(Zulfa & Rohman, 2024). Thus, child protection is a very important aspect in efforts to fulfill human rights that must be guaranteed by the state through comprehensive policies that can be implemented effectively. Children's rights to obtain optimal life, growth, and development, as well as to obtain a safe and conducive environment are constitutional rights that must be realized through policies and regulations that place the best interests of the child as the primary consideration (the best interest of the child). Considering that at this phase, children are still in the stage of character development, the formation of moral values, and personality, and also have a fairly high level of vulnerability to various forms of violence, both direct and indirect, originating from fellow students or from parties with authority in the educational environment.(Elvira Ginting & Muhammad Syukri Albani, 2019).

Constitutionally, the guarantee of protection for children is stated in Article 28B paragraph (2) of the 1945 Constitution, which states that every child has the right to live, grow, and develop, and to receive protection from various forms of violence and discriminatory treatment. This provision emphasizes that the state bears fundamental responsibility in ensuring that children's rights are fulfilled, which are an inseparable part of human rights that are inherent and cannot be limited under any circumstances. Furthermore, this provision emphasizes that the principle of the best interest of the child must be placed as the main foundation in every action or policy of state administration.(UUD, 1945)Therefore, child protection is not only seen as a moral responsibility, but also a binding legal obligation that must be concretely realized by the state through various policy instruments. In this context, the state acts as a duty bearer,

obligated to ensure the fulfillment of children's rights through the development of responsive public policies, adequate budget allocation, and effective and equitable law enforcement(Pratama & Sari, 2023).

In order to carry out this constitutional mandate, the state has established various provisions of laws and regulations that specifically regulate the protection of children, which include aspects of prevention, case handling, recovery or rehabilitation of victims, and the imposition of sanctions on perpetrators(Mubarok, 2022). One of the main legal foundations for child protection is contained in Law Number 35 of 2014 as an amendment to Law Number 23 of 2002 concerning Child Protection, which strengthens the previous regulation by expanding the definition of violence and setting the age limit for children up to 18 years, as well as encouraging the establishment of independent institutions such as the Indonesian Child Protection Commission (KPAI) to act as an institution that oversees the implementation of child protection. The law also emphasizes that the state and government bear the primary responsibility for protecting children from various forms of violence, whether physical, psychological, sexual, or economic, including detrimental acts such as the exploitation of child labor and the practice of early marriage. Important provisions in this law are further regulated in Article 54 which specifically states that:

1. Children who are in or around educational institutions have the right to receive protection from various forms of violence, both physical and psychological, sexual crimes, and other forms of crimes committed by educators, education staff, fellow students, or other parties.
2. Protection as referred to in paragraph (1) is the responsibility of educators, education personnel, government officials and/or the community.(UU 35, 2014).

This provision emphasizes that child protection in educational settings is not solely the responsibility of educational institutions, but also the responsibility of the state, as the holder of power in governance. This emphasizes that the state plays a comprehensive and strategic role, not only limited to formulating regulations but also ensuring that formulated policies are optimally implemented through a continuous monitoring system. Therefore, the state's role is not limited to merely normative roles; it must also be actively present in ensuring implementation and oversight so that child protection can be optimally realized and provide a sense of security for students.(Supriyanto, 2011)Within the framework of the state system, this responsibility is carried out through various institutions that have the authority to formulate policies, provide guidance, and supervise the implementation of education, including relevant ministries, independent institutions, and law enforcement officers whose function is to create an educational environment that is safe, comfortable, and free from all forms of violence.(Manurung et al., 2025)However, the reality is that cases of violence against children are still common in various settings, particularly in elementary schools, which should be safe and supportive environments for children's growth and development. This violence can take the form of physical abuse, verbal abuse, and digital violence, which is increasing with technological advancements.(Kayowuan Lewoleba & Helmi Fahrozi, 2020)This situation indicates that there are still various weaknesses in policy implementation, a lack of coordination between institutions, and a suboptimal monitoring system. Therefore, serious improvement efforts are needed so that child protection efforts can be implemented optimally and sustainably(Rahayu, 2024).

The impact of violence against children not only results in physical damage, but also has serious and long-lasting psychological consequences, such as trauma, anxiety, emotional disturbances, and decreased self-confidence, which can affect the development of a child's personality in the long term. In some circumstances, experiences of violence can also lead to decreased academic achievement, obstacles in social interactions, and the emergence of deviant behavior as a reaction to the pressure experienced. This condition indicates that the child protection system in educational environments still requires more comprehensive strengthening, both through improving the quality of supervision, developing the capacity and sensitivity of educators to child protection issues, and strengthening coordination between relevant institutions. (Jones et al., 2023) From a legal perspective, violence against children constitutes a human rights violation that imposes a responsibility on the state to not only provide protection but also ensure comprehensive recovery for victims. These efforts include providing rehabilitation services, ongoing psychological support, ensuring access to health services, and providing compensation as part of restoring victims' rights. However, in reality, child victims often find themselves in a vulnerable and powerless position within the justice system, due to limited access to legal aid, a lack of understanding of legal procedures, and a judicial process that has the potential to cause further trauma. This situation further emphasizes the importance of strengthening the state's role in developing a more adaptive and responsive legal protection system, one that embraces a child-friendly perspective and prioritizes the best interests of the child as the primary basis for handling every case. (Priyambudi et al., 2023).

Thus, protection of children does not only depend on the existence of formal regulations alone, but also requires various parties, including the government, educational institutions, society, and the family as the child's closest environment. (Djanggih, 2018). Without synergy between all these elements, the regulations that have been formed have the potential not to be implemented optimally in practice. In the perspective of *Siyasah Fiqh*, power is understood as a trust that must be carried out in order to achieve benefit and avoid harm in people's lives. This principle emphasizes that every policy established by a leader must not be oriented solely towards the interests of power, but must be directed towards the public interest, including in the fields of education and the protection of children as a vulnerable group. (Bariah, 2018) Conceptually, the state's obligation to protect children is closely related to the principle of the rule of law, which places law as the primary basis for the exercise of power. In this regard, the state not only functions as a norm-setter but also must ensure that these provisions are effectively implemented, provide real protection, and meet societal needs.

Furthermore, the concept of state responsibility positions the state as the primary party with an active obligation to respect, protect, and fulfill the rights of its citizens. This emphasizes that the state cannot be passive, but must be actively present in ensuring the fulfillment of these rights. From the perspective of *Fiqh Siyasah*, this responsibility is not only interpreted within the framework of formal leadership, but also in how the state formulates public policies aimed at achieving the welfare of society as a whole. Al-Mawardi's thinking in *Al-Ahkam al-Sultaniyyah* explains that *ahl al-halli wa al-'aqdi* play a significant role in establishing policies related to the public interest and directing society's life towards the common good. (Al-Mawardi, 2020) In a modern constitutional system, this concept can be juxtaposed with the role of legislative institutions, which have the authority

to form laws and regulations. Legislative institutions not only play a role in formulating legal norms, but also represent the interests of society through a deliberative process that considers various social, political, and legal aspects. Therefore, the enactment of Law Number 35 of 2014 can be understood as a concrete manifestation of the state's role in protecting society, especially children as a vulnerable group.(Bariah, 2018).

Based on various previous studies, studies on child protection in elementary education settings generally still focus on aspects of policy implementation, the effectiveness of laws and regulations, and the handling of cases of violence that occur. This approach tends to emphasize practical and empirical aspects, so there is not much study of child protection within the framework of the state's constitutional responsibility in more depth from the perspective of Constitutional Law(Kusuma, 2023). Furthermore, approaches that integrate positive legal analysis with the perspective of Fiqh Siyasa are also still relatively limited, even though both approaches are expected to provide a broader and more complete understanding. Therefore, this study is directed at filling this gap in studies through an analysis of the protection of elementary school children as part of the state's constitutional responsibility by referring to Article 54 of Law Number 35 of 2014 analyzed from the perspective of Fiqh Siyasa. Thus, it is hoped that it can contribute, both theoretically and practically, to a more complete understanding of the state's role in child protection.

## **Method**

This research applies the normative legal method, which views law as a system of norms that regulates the authority and responsibility of the state in carrying out government functions and protecting the rights of citizens. This approach focuses on the analysis of legal norms contained in relevant laws and legal doctrines, thus being not only descriptive but also analytical in assessing the conformity between normative provisions and developing practices. The primary focus of the study is on positive law, specifically Article 54 of Law Number 35 of 2014 concerning Child Protection, which is linked to the state's responsibility in protecting elementary school children as a vulnerable group. In addition, this research also uses the Fiqh Siyasa approach as a normative framework to provide ethical and philosophical dimensions to the concept of state responsibility. Thus, this research integrates the positive legal approach with Islamic normative values to gain a more comprehensive understanding. The approaches applied include a statute approach and a conceptual approach in understanding the concept of state responsibility from the perspectives of Constitutional Law and Fiqh Siyasa.(Muhaimin, 2020; Solikin, 2019).

This research uses primary, secondary, and tertiary legal materials as the basis for analysis. The legal sources used include primary, secondary, and tertiary legal materials as the basis for analysis. Primary legal materials consist of laws and regulations, especially Law Number 35 of 2014, as the primary reference in examining the state's legal responsibility. Secondary legal materials include various literature such as books, journal articles, and related previous research results, which serve to strengthen the theoretical and conceptual foundations. Meanwhile, tertiary legal materials are used as supporting materials to clarify legal terms and concepts. The use of data from the mass media is limited to supporting the identification of legal issues, not as the primary source, thus maintaining the normative nature of the research.(Muhaimin, 2020; Widiarty, 2024). The

collection of legal materials is carried out through a systematic literature review, while the analysis is carried out qualitatively using prescriptive and argumentative legal reasoning. Through this approach, the research aims to formulate normative arguments regarding the state's constitutional obligations in providing protection to elementary school children, both from the perspective of positive law and *Siyasah Fiqh*, thereby producing a more comprehensive understanding.(Solikin, 2019)..

## **Results**

### ***State Responsibility in Protecting Elementary School Children Based on Article 54 of Law Number 35 of 2014***

The discussion of the state's responsibility to protect children at the elementary school level cannot be separated from the applicable legal system and the empirical reality in the educational environment. This is because child protection is not solely related to formal legal provisions, but is also determined by the effectiveness of their implementation in practice. Therefore, this study focuses on analyzing child protection regulations in the Indonesian legal system as a legal basis, the implementation of state responsibility as an indicator of policy effectiveness, and various obstacles that influence the success of child protection, whether originating from institutional, cultural, or supervisory aspects. This approach is expected to produce a comprehensive understanding of the relationship between legal regulations and the conditions that occur in the reality of their implementation in the context of child protection(Hidayat, 2023).

#### **1. Regulations on the Protection of Elementary School Children in the Indonesian Legal System**

Protection of children in basic education is included in the state's constitutional responsibility to ensure the fulfillment of human rights.(Saleh & Evendia, 2020). The state not only plays a role in formulating regulations but also has a substantive responsibility to ensure comprehensive child protection, particularly in educational settings, which play a crucial role in character and personality formation. Given that elementary school-aged children are still at a stage of development that is physically, psychologically, and socially immature, they tend to be more vulnerable to various forms of violence, including bullying, both directly and through digital media. This vulnerability stems not only from the child's individual limitations but also from environmental conditions that are not yet fully safe. Interactions between students, educators, and social dynamics in schools often trigger violence, whether physical, verbal, or psychological, which often goes undetected early. Therefore, the state needs to ensure that schools are not merely a means of imparting knowledge but also serve as a safe, inclusive environment that supports children's growth and development(Suryani, 2023). This is crucial because successful educational arrangements encompass not only academic aspects but also guarantee the safety and well-being of students. In the Indonesian legal system, child protection efforts are regulated through various statutory provisions as a manifestation of the state's commitment to guaranteeing children's rights. One of the main regulations is Law Number 35 of 2014 concerning Child Protection, which provides a comprehensive legal basis for regulating child protection. This law affirms that every child has the right to live, grow, and develop optimally, and to receive protection from all forms of violence and discriminatory treatment in various environments.

## 2. State Responsibility in Protecting Elementary School Children in Educational Environments

Children at the elementary school level generally do not have sufficient capacity to protect themselves from various threats that have the potential to disrupt their physical and psychological development. At this stage, children are still in the process of forming character, moral values, and social skills, so they are not yet fully able to identify risks or respond appropriately to dangerous situations. This condition makes children a group vulnerable to various forms of violence, whether physical, verbal, or psychological, which can have long-term consequences for the formation and development of individual personalities. Therefore, the state has an obligation to ensure that the educational environment does not merely function as a means of conveying knowledge, but also as an environment that provides a sense of security, is inclusive, and plays a role in supporting the growth of children as a whole, including intellectual, emotional, and social dimensions (Fauzi, 2022). Protection of children cannot be solely the responsibility of the family as the smallest unit in society, instead, it is a collective obligation that involves the role of the state, society, and various related institutions that play a role in the provision of education. This provision is emphasized in Article 54 paragraph (2) of the Child Protection Law, which emphasizes that efforts to protect children are a shared responsibility involving the government, educators, and the community. (Saleh & Evendia, 2020) This provision demonstrates the strategic position of the state as the party coordinating various elements in realizing child protection in educational environments, both through policy formulation, implementation of supervision, and strengthening synergy among stakeholders. Thus, the state not only carries out its function as a rule-maker but also acts as the primary party bearing the responsibility for ensuring that policy implementation is carried out optimally, sustainably, and harmoniously.

## 3. Realities and Challenges of Protecting Elementary School Children in Educational Environments

The gap between the existence of child protection regulations and the effectiveness of their implementation in protecting children who are victims of violence reflects that previously formulated legal provisions have not been fully able to provide effective protection and have not been optimally implemented in practice. Therefore, the existence of laws and regulations alone is not enough to guarantee child protection without the support of effective policy implementation, an adequate monitoring system, and consistent enforcement of sanctions. Therefore, the success of child protection depends heavily on the state's ability to implement these legal norms in practice. The phenomenon of violence against children in educational settings is also reflected in national data, which shows that this problem remains a serious issue. Data released by the Indonesian Child Protection Commission (KPAI) and the Indonesian Education Monitoring Network (JPPI) indicate that violent practices still frequently occur in school environments. This violence occurs in various forms, including physical, verbal, and psychological. This situation not only disrupts children's sense of security but also impacts the learning process and the overall quality of education. Therefore, the state needs to take more responsive and sustainable action to address this problem (Setiawan, 2024).

*Table 1. Increase in Violence in Educational Environments*

Year	Number of Cases
2023	285 cases
2024	573 cases

Source: GoodStats, Surge in Bullying Case Statistics in Indonesia, Here's What It Means Annual Data (2024), <https://share.google/0xVIXMAJYIxoKqOhV>

In addition, the types of violence most frequently experienced by children in educational environments include:

*Table 2. Forms of Violence Against Children in Schools*

Types of Violence	Percentage
Physical Violence	55.5%
Psychological/Verbal Abuse	29.3%

Source: GoodStats based on KPAI and JPPI data (2024)  
<https://share.google/0xVIXMAJYIxoKqOhV>

When viewed based on educational level, the victims of bullying are predominantly elementary school students.

*Table 3. Victims of Bullying Based on Education Level*

Educational level	Percentage
Elementary School	26%
Junior High School	25%
Senior High School	18.75%

Source: National Police Criminal Investigation Center: Data on the Doubled Surge in Bullying Cases (2024) <https://share.google/zKelfH1UdMixU0Ila>

This information indicates a significant increase in the number of cases of violence against children in formal educational settings, confirming that this issue remains a serious challenge in the education system. Although comprehensive child protection regulations have been formulated, their implementation in the field has not been fully effective in preventing violence in schools. These acts of violence involve various parties, such as educators, peers, and education personnel, reflecting the complexity of social relations in educational environments (Anggreni & Fitriyani, 2024).

Law Number 35 of 2014 has provided a solid legal basis for the state to ensure the protection of children in educational settings. Article 54 emphasizes that the state, regional governments, and all elements within the educational environment are obliged to protect children from various forms of violence with the aim of creating a safe and conducive learning environment. Normatively, this provision demonstrates a clear division of responsibilities among various parties. However, in practice, the implementation of this provision still faces various obstacles, both structural and operational, so that child protection has not been optimally implemented. (Mawardy & Adityo, 2024) Several studies have shown that weak oversight systems and a lack of coordination between institutions, such as the Indonesian Child Protection Commission (KPAI), education offices, and the

police, often lead to overlapping authority and gaps in the implementation of child protection.(Wida Nur Hanita et al., 2024).

From a legal perspective, child protection efforts do not solely focus on imposing sanctions on perpetrators, but also involve the state's responsibility to ensure that children's rights to a safe educational environment free from violence are fulfilled. Therefore, child protection must be implemented comprehensively and in an integrated manner, encompassing preventive, repressive, and rehabilitative aspects. The state is obligated to ensure that all educational policies align with the principles of child protection. Failure to do so reflects a suboptimal implementation of the state's obligation to ensure the fulfillment of children's rights as part of human rights.(Anwar et al., 2025). Furthermore, various studies show that child victims of violence are often less protected in the justice system, either due to limited understanding of the legal process, limited access to legal aid, or complex procedures that can potentially lead to further trauma. Therefore, a more child-friendly legal system is needed, such as simplifying judicial procedures, providing easily accessible legal aid, and implementing principles that prioritize the best interests of children at the heart of every case process.(Mestika et al., 2022). In addition to institutional factors, violence against children is also influenced by social factors, such as family conditions, the social environment, and interaction patterns within the school environment. These factors are interrelated and can increase the risk of violence if not managed appropriately. This situation emphasizes that child protection efforts cannot rely solely on legal approaches but also require the involvement of various parties in creating a safe and conducive environment.(Kayowuan Lewoleba & Helmi Fahrozi, 2020).

In the context of basic education, the urgency of child protection is even greater because children are at a developmental stage that is vulnerable to various forms of violence. Therefore, the government needs to ensure that schools are safe spaces through preventive policies, teacher training, and the provision of an effective and accessible reporting system.(Mansir, 2022). Although there is a legal basis through Law Number 35 of 2014, the implementation of child protection still needs to be strengthened, particularly in the aspects of supervision and coordination between institutions, as well as the implementation of policies at the educational unit level. The large number of cases of violence against children indicates that the implementation of protection has not been optimal, which is influenced by limited resources, low institutional capacity, and weak synergy between related parties. Therefore, the implementation of Article 54 needs to be strengthened continuously to be able to address the various challenges that exist. In line with this, several studies have revealed that the implementation of child protection in educational environments still requires strengthening in various aspects, such as increasing the intensity of supervision, strengthening coordination between institutions, and developing more applicable policies at the educational unit level. In addition, the participation of parents and the local community is also a crucial factor in supporting the success of child protection, considering that the social environment outside of school also influences children's development. Thus, a more integrated, collaborative, and prevention-oriented approach is needed so that child protection can be realized optimally and sustainably in educational environments.

## **Discussion**

### ***State Responsibility in Protecting Primary School Children Viewed from Siyasaah Fiqh***

In the perspective of Siyasaah Fiqh, state power is not only understood as an instrument to regulate people's lives, but also as a mandate that must be carried out responsibly in order to realize benefits and prevent harm in social life. This concept emphasizes that power is not absolute, but contains moral and normative dimensions that bind the ruler in every policy taken. Thus, every government action is not only required to be legally accountable, but must also fulfill moral aspects and religious values. Therefore, the state's responsibility in providing protection to elementary school children cannot be solely understood from a positive legal perspective, but needs to be studied more broadly using a values approach in Siyasaah Fiqh. These values include the principles of justice ('adl), protection of life (hifz al-nafs), as well as the goals of sharia (maqasid al-syariah) which are oriented towards the benefit and welfare of the people. In this framework, child protection is also closely related to efforts to maintain the continuity of offspring (hifz al-nasl), which is an important part of the main goal of maqasid al-syariah. Therefore, Fiqh Siyasaah not only acts as a conceptual basis, but also as an evaluation tool to assess the extent to which the state has carried out its mandate of power fairly and in favor of the benefit of protecting children as the nation's next generation.

#### **1. The Concept of State Power from the Perspective of Siyasaah Fiqh and the Protection of Elementary School Children**

Within the framework of Fiqh Siyasaah, state power carries with it a moral and normative responsibility that requires rulers to direct policies toward the public interest, not solely toward the interests of power. This principle is highly relevant because children at this age are still in a developmental stage that is not yet fully developed, both physically, psychologically, and socially. These limitations mean that children do not yet have the adequate ability to anticipate and protect themselves from various potential threats that could disrupt their growth and development. Therefore, the state is obliged to ensure the maximum fulfillment of children's rights, especially in educational environments, which should be safe, friendly, inclusive, and capable of supporting children's holistic development.(Chandra & Andiko, 2020).

Furthermore, protection of vulnerable groups in Fiqh Siyasaah is an integral part of the state's responsibility to maintain social balance and realize the public good. Children, as the nation's future generation, occupy a crucial role in the sustainability of social life, so efforts to protect them are not only individual but also have broad impacts on society. Failure to provide protection to children not only harms individuals but can also affect the quality of future generations and future social stability. Therefore, the state is required to formulate policies that go beyond the normative level but can also be implemented concretely and responsive to children's needs in their daily lives. In practice, elementary school-aged children are still at a developmental stage that does not allow them to fully understand the various potential risks in their environment, whether within the family, community, or school(Kusuma, 2023). This condition makes children more vulnerable to various forms of violence, whether physical, verbal, or psychological, which can impact their personality development and mental health. Furthermore, unstable social dynamics in school environments also increase the likelihood of various problems that can disrupt

children's growth and development, such as relationships between students who are still adjusting, and can also trigger bullying. This indicates that the educational environment is not yet a fully safe space for children. Therefore, the state must not only provide regulations as a form of formal protection but also ensure the existence of a comprehensive and integrated protection system. This system includes prevention policies, strengthened supervision, and the provision of support services such as counseling, psychological support, and child-friendly reporting mechanisms.(Sunusi, 2024).

Within this framework, the concept of power in Fiqh Siyasa emphasizes that every state policy must be oriented toward the public good. The success of a policy is not solely determined by the existence of formal regulations, but also by the extent to which the policy is able to provide concrete benefits and create a sense of justice for the community(Ibrahim, 2023). In the context of child protection, this success can be measured through various indicators, such as reduced levels of violence, increased feelings of security in the school environment, and optimal fulfillment of children's rights. However, the reality that still shows high rates of violence against children in elementary schools indicates that the implementation of this policy has not been fully effective. Although the state has established various regulations, including Article 54 of Law Number 35 of 2014, its implementation still faces various obstacles, both structural, institutional, and cultural. Normatively, these provisions have demonstrated the state's commitment to protecting children as a vulnerable group. However, in practice, this protection has not been fully realized optimally. This condition reflects a gap between the ideal concept of power in Fiqh Siyasa and the practice of exercising power in the context of child protection. This issue is not solely related to the existence of policies, but also to the extent to which they are effectively implemented and consistently monitored. Analytical evidence suggests that this situation is influenced by several factors, including weak oversight mechanisms, suboptimal coordination between relevant institutions, and limited human resource capacity to handle cases of violence. Furthermore, the persistent perception that violence is part of the disciplinary process also hinders optimal child protection.

From the perspective of Fiqh Siyasa, this situation indicates that the mandate of state power has not been fully realized in practices oriented towards the public interest. This mandate cannot be realized simply through policy formulation; it must be realized through effective, consistent, and sustainable implementation. Therefore, the state needs to conduct ongoing policy evaluations, strengthen oversight systems, and improve coordination and institutional capacity so that child protection can be more responsive to community needs. Furthermore, the concept of public interest in Fiqh Siyasa demands a comprehensive approach to child protection efforts, one that focuses not solely on handling cases as they occur but also emphasizes prevention and sustainable system development. This approach must include strengthening character education, raising awareness of children's rights, and establishing a safe and child-friendly school culture. Furthermore, an effective oversight system and easily accessible reporting mechanisms are needed to detect potential violence early. Thus, it can be concluded that the concept of power in Fiqh Siyasa provides a strong normative foundation for the state in carrying out its responsibilities towards child protection. However, the practical implementation of this concept still requires strengthening, particularly in terms of oversight, inter-agency

coordination, and consistent policy implementation. Therefore, the state needs to continue improving the child protection system to align it with the principle of welfare, the primary objective of Fiqh Siyasa (Islamic jurisprudence), so that child protection efforts can be implemented more optimally and sustainably. (Jafat, 2018).

## 2. Principles of Protection of Elementary School Children from the Perspective of the Qur'an

Child protection from an Islamic perspective has a solid normative foundation derived from the Qur'an, the primary guideline for Muslims. In Islamic teachings, children are viewed as a trust that must be properly guarded, cared for, and nurtured, not only as individuals but also as part of the continuity of generations. Therefore, efforts to protect children are not merely a moral obligation but also a collective social and religious responsibility, including by the state as the authority holder. The concept of child protection in Islam encompasses broad dimensions, encompassing spiritual, social, and humanitarian aspects. This principle emphasizes the importance of maintaining the continuity of generations to prevent them from being in a weak condition, whether physically, mentally, or socially, so that children can develop optimally. Child protection is not only related to meeting basic needs, but also includes creating a safe and conducive environment. This is reflected in QS. An-Nisa verse 9:

وَلْيَخْشَ الَّذِينَ لَوْ تَرَكَوْا مِنْ خَلْفِهِمْ ذُرِّيَّةً ضِعَافًا خَافُوا عَلَيْهِمْ فَلْيَتَّقُوا اللَّهَ وَلْيَقُولُوا قَوْلًا سَدِيدًا

Meaning: *"And fear Allah those who should leave weak offspring behind those whose welfare they fear."*

This verse emphasizes the importance of responsibility in preparing the next generation to avoid vulnerability. In the context of child protection, this includes efforts to prevent violence, discrimination, and unfair treatment. This responsibility is not only inherent in individuals but also collective, including the role of the state in formulating policies that ensure children's welfare, particularly in primary education settings. In the context of education, these values can be implemented by creating a safe learning environment that supports children's holistic development. Schools serve not only as a place to impart knowledge but also as a platform for character formation. Furthermore, this verse emphasizes the importance of a preventive approach in child protection efforts, namely through early preventive measures, such as instilling moral values, raising awareness of children's rights, and creating a safe environment. This approach aligns with the concept of child protection in modern law, which emphasizes prevention strategies. Furthermore, the Quran also affirms that every human being possesses inherent dignity:

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ

Meaning: *"And indeed We have glorified Adam's children and grandchildren."*

This verse emphasizes that every child has dignity and honor that must be protected, making any form of violence against children a violation of humanitarian values. Therefore, child protection is not only oriented towards preventing violence but also encompasses the fulfillment of the right to education, health, and a social environment that supports optimal child development. Therefore, the concept of child protection in the Qur'an is comprehensive. However, the reality that cases of violence against children in elementary schools still occur indicates a gap between normative values and actual practice (Rahayu, 2024). This indicates that child protection values have not been fully internalized in the education system or state policy. From a Fiqh Siyasa perspective, this condition reflects that the implementation of the state's mandate to protect vulnerable groups has not been optimal. Integration of Qur'anic values into child protection policies can be achieved through strengthening character education, increasing the capacity of educators, and establishing a school culture that upholds humanitarian values. Family and community involvement also plays a crucial role in ensuring the consistent implementation of these values. Furthermore, a religious values-based approach can strengthen policy legitimacy while increasing public moral awareness. Thus, child protection does not only stop at the normative level, but can be realized as a sustainable social practice, even though its implementation still requires strengthening through more responsive and consistent policies. Top of Form

### 3. State Responsibility for the Protection of Primary School Children from the Siyasa Fiqh Perspective

From the perspective of Fiqh Siyasa, child protection is not only interpreted as a moral obligation, but also as a state responsibility that must be realized through concrete and implementable public policies. The state, as the holder of authority, has the authority to regulate community life to create social order and protect the public interest, including vulnerable groups such as children who need special protection. Therefore, the role of the state is not limited to the normative level, but must be actively realized in ensuring the safety and welfare of children through policies that support their protection. Al-Mawardi's thinking in Al-Ahkam al-Sultaniyyah emphasizes that the implementation of power must be based on the principles of justice and welfare as the primary goals of government. In this context, the protection of elementary school children is an inseparable part of the state's responsibility in maintaining social balance while realizing the welfare of society as a whole. The concept of *ahl al-halli wa al-aqdi* put forward by Al-Mawardi shows that the policy-making process is not carried out unilaterally by the authorities, but through collective deliberation with parties who possess competence, integrity, and concern for the public interest. This group plays a strategic role in formulating policies that not only have legal legitimacy but also bring benefits to the community. This is explained as follows:

فَأَمَّا أَهْلُ الْحَلِّ وَالْعَقْدِ فَهُمْ الَّذِينَ تَنْبُتُ بِهِمُ الْإِمَامَةُ، وَيَنْعَقِدُ بِاخْتِيَارِهِمْ، وَهُمْ أَهْلُ الْإِجْتِهَادِ وَالرَّأْيِ وَالْحِكْمَةِ، الَّذِينَ يَقْدِرُونَ عَلَى اخْتِيَارِ الْأَصْلَحِ لِلْأُمَّةِ وَتَدْبِيرِ مَصَالِحِهَا

Meaning: "Ahl al-Halli wa al-Aqdi are the people through whom the Imamate can be established and through whose choice the authority is exercised. They are the people who possess the capacity for *ijtihad*, insight, and wisdom, capable of choosing what is best for the people and managing their well-being." (Al-Mawardi, 2020).

This concept demonstrates that in the classical Islamic system of government, a collective and rational decision-making mechanism was recognized, involving various parties with capacity and integrity in determining policy direction. This emphasizes that power is not exercised in an authoritarian manner, but rather through a deliberative process aimed at producing just and welfare-oriented decisions. In a modern context, this function can be analogized with the role of legislative institutions that formulate public policy through a deliberative process that considers various social, political, and legal aspects. From the perspective of *siyasa dusturiyah*, the state's responsibility does not stop at the formation of regulations as legal products, but also includes the implementation and oversight of policies to ensure they run effectively and in accordance with predetermined objectives. Therefore, child protection requires support in the form of a strong and sustainable oversight system, targeted prevention policies, and responsive handling mechanisms for various forms of violence. Furthermore, child protection is also closely related to the objectives of *maqasid al-shari'ah*, particularly in safeguarding the soul (*hifz al-nafs*) and safeguarding offspring (*hifz al-nasl*), which emphasizes the importance of maintaining human safety while ensuring the continuity of generations. Thus, the state's efforts to create a safe educational environment can be understood as part of the implementation of sharia values that are oriented towards the welfare of the community (Putra et al., 2025).

The state's role in protecting society is not limited to political aspects but also encompasses moral and religious dimensions as part of the leadership mandate. From the perspective of *Fiqh Siyasa*, power is not merely administrative but has ethical and spiritual dimensions that require rulers to use it to achieve the public good. This responsibility includes protecting vulnerable groups, including children. This principle aligns with the leadership practices of Umar ibn Khattab, who emphasized social justice and attention to vulnerable groups. In the context of child protection, the state needs to ensure that education policies can guarantee the safety of children in schools through the implementation of anti-violence policies, the provision of adequate counseling services, and the strengthening of ongoing monitoring systems (Fauzi, 2022). Furthermore, increasing the capacity and awareness of educators is a crucial factor in handling cases of violence appropriately and responsively. Therefore, child protection in primary education environments is a manifestation of the implementation of state responsibility from the perspective of *siyasa dusturiyah*, which is not only normative but also practical (Sagara et al., 2024).

Furthermore, child protection is closely related to the state's obligation to prevent injustice, particularly against vulnerable groups. From the perspective of *Fiqh Siyasa*, power serves not only as a tool for regulation but also as a means to protect society from various forms of injustice. Therefore, the continued occurrence of cases of violence in elementary schools indicates that the implementation of child protection has not been optimal. The state's responsibility cannot stop at the formation of regulations, such as Law Number 35 of 2014, but must also be realized through the concrete implementation of policies in educational practice. The state is required to ensure that schools are safe, inclusive, and violence-free spaces through effective supervision, inter-institutional coordination, and capacity building of educators. Therefore, when linked to Article 54 of Law Number 35 of 2014, the state's responsibility is not merely normative but must be

realized sustainably in practice. From the perspective of Fiqh Siyasah, this is part of the mandate of power to realize the public good. If this implementation is not optimal, it indicates that the state's mandate has not been fully fulfilled. According to Al-Mawardi's thinking, this condition indicates that the state's role in realizing public welfare is not yet optimal, so that the function of protecting children still needs strengthening to be in line with the principles of justice and responsibility in Fiqh Siyasah.

## **Conclusion**

Based on the research results, it can be concluded that the state's responsibility in providing protection for elementary school children has been supported by a strong legal basis, both from a positive legal perspective and in the study of Fiqh Siyasah. Normatively, the provisions in Law Number 35 of 2014, particularly Article 54, have provided a clear and binding basis regarding the state's obligation to protect children from various forms of violence in educational environments, and serve as guidelines for education providers in Creating a safe and child-friendly learning environment is an important part of child protection. From the perspective of Fiqh Siyasah, this responsibility is included in the mandate of power that must be carried out by the state to provide benefits and protect vulnerable groups, including children. Thus, child protection occupies a very fundamental and mandatory position, both within the national legal framework and in Islamic values. However, the research results show that the implementation of child protection in elementary education environments has not been running optimally. This is evident in the still high number of cases of violence against children in schools, whether in the form of physical, verbal, or psychological, which indicates a gap between legal norms and practice in the field. This condition also indicates that the policies that have been formulated have not been fully effective in their implementation.

Various factors contribute to this situation, including a weak oversight system, lack of coordination between institutions, and limited human resource capacity. Consequently, the state's responsibility as a trustee has not been fully implemented, both in terms of oversight, coordination, and the effectiveness of policy implementation. From a Fiqh Siyasah perspective, this situation reflects that the principle of public interest, as the primary objective of the exercise of power, has not been optimally achieved. The state is not only required to establish regulations as a legal basis, but must also ensure that every policy can be implemented effectively, consistently, and sustainably, and can provide real benefits to society. Therefore, more comprehensive and integrated steps are needed to strengthen child protection in basic education environments, through strengthening oversight mechanisms, increasing coordination between institutions, and developing prevention-oriented policies. Furthermore, increasing the capacity of educators and optimizing the role of the community are also important elements in supporting the effectiveness of child protection. Therefore, the state's responsibility to protect children cannot stop at the normative level alone, but must be realized in practice, so that the goal of child protection as part of constitutional rights can be optimally achieved.

## References

- Al-Mawardi, A.-H. (2020). *Al-Ahkam As-Sultaniyyah*.
- Anggreni, D., & Fitriyani. (2024). PERLINDUNGAN HUKUM TERHADAP ANAK KORBAN KEKERASAN SEKSUAL DALAM KELUARGA (Studi Kasus Dinas Pemberdayaan Perempuan Dan Perlindungan Anak Kabupaten Musi Rawas) Devi. *Delarev Lakidende Law Riview*, 3(1), 557–567.
- Anwar, I. M., Zarzani, R. ., & Aspan, H. (2025). THE ROLE OF THE STATE IN EFFORTS TO PROTECT CHILDREN'S RIGHTS FROM THE PERSPECTIVE OF LAW NUMBER 35 OF 2014 CONCERNING CHILD PROTECTION. *International Journal of Synergy in Law, Criminal, and Justice (IJSJCJ)*, II, 515–527.
- Bariah, O. (2018). Children Protection In Islamic Law Perspectives. *Journal Of Islamic Law*, 1(2), 15–25.
- Chandra, B., & Andiko, T. (2020). Islamic Family and Child Protection Law's Perspective On Violence Against Children. *MIZANI: Wacana Hukum, Ekonomi, Dan Keagamaan*, 7(2), 148–169.
- Djanggih, H. (2018). Konsepsi Perlindungan Hukum Bagi Anak sebagai Korban Kejahatan Siber Melalui Pendekatan Penal dan Non Penal. *MIMBAR HUKUM*, 30, 316–330.
- Elvira Ginting, & Muhammad Syukri Albani. (2019). UU Nomor 35 Tahun 2014 tentang Perlindungan Anak Ditinjau dari Maqashid Syari'ah terhadap Kekerasan yang Dilakukan Orang Tua (Studi Kasus di Kabupaten Sibolga). *DIKTUM: Jurnal Syariah Dan Hukum*, 10(1), 1–37. <https://doi.org/10.35905/diktum.v17i1.669>
- Fauzi, M. A. (2022). Maqasid al-Shari'ah and Child Protection Laws: A Comparative Study of State Obligations. *Journal of Shariah Law Research*, 7(2), 155–172. <https://doi.org/10.22452/jslr.v7i2.4>
- Hidayat, R. (2023). Analisis Siyasah Dusturiyah terhadap Implementasi Undang-Undang Perlindungan Anak di Lingkungan Sekolah. *Jurnal Konstitusi & Demokrasi*, 3(1), 22–40. <https://doi.org/10.22437/jkd.v3i1.21054>
- Ibrahim, N. (2023). Siyasah Syar'iyah dalam Perlindungan Hak Anak di Era Digital. *Al-Imarah: Jurnal Pemerintahan Dan Politik Islam*, 8(1), 55–74. <https://doi.org/10.29300/imr.v8i1.8901>
- Jafat, A. W. (2018). Fiqh Siyasah Dalam Perspektif Al-Qur'an Dan Al-Hadist. *Al Ijarah : Jurnal Pemerintahan Dan Politik Islam*, 3(1), 18–28.
- Jones, T. C., Sumbu, T., & Rorie, R. E. (2023). Sanksi Bagi Guru Sebagai Pelaku Tindakan Kekerasan Seksual Terhadap Siswa Pasca Pengesahan Undang- Undang Nomor 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual. *Lex Privatum*, XII(1), 1–12.
- Kayowuan Lewoleba, K., & Helmi Fahrozi, M. (2020). Studi Faktor-Faktor Terjadinya Tindak Kekerasan Seksual Pada Anak-Anak. *Esensi Hukum*, 2(1), 27–48. <https://doi.org/10.35586/esensihukum.v2i1.20>
- Kusuma, W. (2023). The Role of Waliyul Amri in Ensuring Child Safety in Elementary Schools: A Juridical Analysis. *Journal of Islamic Legal Studies*, 9(2), 210–228. <https://doi.org/10.18860/jils.v9i2.21445>
- Mansir, F. (2022). Pendidikan dan Perlindungan Anak di Sekolah: Upaya Perlindungan dan Pencegahan Serta Penanganan di Indonesia. *Elementary: Jurnal Ilmiah Pendidikan Dasar*, 8(1), 15. <https://doi.org/10.32332/elementary.v8i1.3370>

- Manurung, H., Ahmad, A., & Arif, Z. (2025). Analisis Yuridis Tindak Pidana Eksploitasi Seksual Terhadap Anak (Studi Putusan Nomor 2207/Pid. Sus/2022/Pn Medan). *Jurnal Darma Agung*, 33(2), 198–205.
- Mawardy, I., & Adityo, D. R. (2024). EFEKTIVITAS UNDANG-UNDANG RI NO.35 TAHUN 2014 TENTANG PERLINDUNGAN ANAK PASCA PERISTIWA TINDAK KEKERASAN ANAK DI SEKOLAH DASAR (Studi di SD Negeri 1 Jenggolo Kepanjen Jawa Timur). *Mitsaq Islamic Family Law Journal*, 2, 256–270.
- Mestika, H. F., Mukarromah, M., & Hien, T. L. (2022). Kajian Yuridis terhadap Perlindungan Hukum Anak dari Kekerasan berdasarkan Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak: Studi Kasus di Purwokerto, Indonesia. *The Digest: Journal of Jurisprudence and Legisprudence*, 3, 139–172.
- Mubarok, N. (2022). State Responsibility for Child Protection in Indonesia: A Fiqh Siyasa Perspective. *Journal of Islamic Law Studies*, 5(1), 45–62. <https://doi.org/10.21580/jils.v5i1.9231>
- Muhaimin. (2020). *Metode Penelitian Hukum*. Mataram University Press.
- Pratama, A. B., & Sari, I. P. (2023). Constitutional Protection of Children’s Rights in the Indonesian Education System. *Indonesian Journal of Constitutional Law*, 7(2), 115–134. <https://doi.org/10.31078/ijcl723>
- Priyambudi, T., Wijaya, A. U., & Purwati, A. (2023). PERLINDUNGAN HUKUM TERHADAP ANAK KORBAN KEKERASAN SEKSUAL DI INDONESIA Teguh. *JURNAL ILMU HUKUM WIJAYA PUTRA*, 1, 116–125.
- Putra, S. R., Ihsan, R. I., Muhammad, F., & Mursalin, A. (2025). Hukum Islam dan perlindungan keluarga. *Al- Zayn: Jurnal Ilmu Sosial Dan Hukum*, 3, 10801–10813.
- Rahayu, S. (2024). Evaluation of Law No. 35 of 2014 on State Responsibility for Basic Education Access. *Indonesian Journal of Law and Society*, 5(1), 12–29. <https://doi.org/10.19184/ijls.v5i1.40122>
- Sagara, B., Mahessa, A., Pratama, R. A., Ardinata, F., & Wismanto. (2024). Siyasa Syariyah dan Fiqih Siyasa. *Jurnal Penelitian Multidisiplin*, 2, 380–386.
- Saleh, A., & Evendia, M. (2020). *Hukum Perlindungan Anak* (A. ade Firmansyah (ed.); 1st ed.). Pusaka Media.
- Setiawan, H. (2024). Legal Harmonization of International Child Rights Conventions into Indonesian National Law. *Global Journal of Law and Humanity*, 2(1), 44–59. <https://doi.org/10.5678/gjlh.v2i1.1042>
- Soekanto, S. (1977). Kesadaran Hukum Dan kepastian Hukum. *Jurnal Hukum & Pembangunan*, 7(6), 462–470.
- Solikin, N. (2019). *Buku Pengantar metodologi Penelitian Hukum* (T. Q. Media (ed.); Cetakan pe). CV. Penerbit Qiara Media.
- Sunusi, S. M. (2024). Hak Dan Perlindungan Anak Dalam Pendidikan Islam Muhammad. *Educational Journal: General and Specific Research*, 4(1), 179–186.
- Supriyanto, A. (2011). PERSPEKTIF INDONESIA MENGENAI HAK-HAK ASASI ANAK: REFLEKSI ATAS UNDANG-UNDANG DAN KONVENSI INTERNASIONAL TERKAIT. *MIMBAR HUKUM*, 1–237.
- Suryani, D. (2023). Legal Accountability of Educational Institutions in Preventing Violence Against Children. *Journal of Law and Policy Reform*, 4(3), 301–318. <https://doi.org/10.14710/jlpr.4.3.301-318>

- UU 35. (2014). Undang - Undang Nomor 35 Tahun 2014 tentang Perubahan Atas Undang – Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak. *UU Perlindungan Anak*, 1–66.
- UUD. (1945). *UNDANG-UNDANG DASAR NEGARA REPUBLIK INDONESIA 1945*. 1(1).
- Wida Nur Hanita, Aris Prio Agus Santoso, & Kresna Agung Yudhianto. (2024). Implementasi Pasal 54 Undang-Undang No 35 Tahun 2014 Pada Anak Yang Menjadi Korban Bullying di Kota Surakarta. *Amandemen: Jurnal Ilmu Pertahanan, Politik Dan Hukum Indonesia*, 1(4), 39–57. <https://doi.org/10.62383/amandemen.v1i4.480>
- Widiarty, S. W. (2024). Buku Ajar Metode Penelitian Hukum. In M. Tajuddin (Ed.), *Publika Global Media*. Publika Global Media.
- Zulfa, M., & Rohman, A. (2024). The Welfare State and Child Protection: Integrating Islamic Law and Positive Law in Indonesia. *International Journal of Islamic Thought*, 13(1), 88–105. <https://doi.org/10.24035/ijit.13.2024.256>