

**MUHAMMADIYAH COUNCIL OF SOCIAL WELFARE DEVELOPMENT (MPKS)  
AND NATIONAL CHILDCARE POLICIES VIEWED THROUGH QAWĀ'ID  
FIQHIYYAH**

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**Abstract**

*This article is a legal philosophy study, specifically examining the childcare policies formulated by Muhammadiyah Central Leadership. As a modernist Islamic movement, Muhammadiyah does not only prioritize religious texts (naş) in determining its policies. Indonesia national laws also serve as empirical factors in seeking scientific truth. This study aims to examine the relationship between organizational policies (living law) and state law (civil law), in order to address childcare issues through the philosophical foundations of Islamic law. This study uses qualitative method, data were collected through a literature review, with primary data obtained from the 2021 Muhammadiyah Central Leadership Guidelines on Muhammadiyah's Social Service Enterprises and Law Number 35 of 2014 concerning Child Protection, examined through their epistemological application. Furthermore, validation examined consistency among laws, Muhammadiyah policies, and Islamic legal scholarly perspectives. The data were analyzed through elaboration of Islamic legal philosophy, utilizing epistemological function of the study of qawā'id fiqhiyyah, sourced from Muhammad 'Abid al-Jabirī's work, Takwin al-'Aql al-'Arabī. The study reveals that Muhammadiyah's policies have a harmonious relationship with national laws related to the priority of childcare within family. This article proves epistemologically that qawā'id fiqhiyyah functions to understand the application of law based on development of religious texts.*

**Keywords:** *Qawā'id Fiqhiyyah*, Policy, Muhammadiyah, Child Welfare.

**Abstrak**

*Artikel ini merupakan kajian filsafat hukum yang secara khusus menelaah kebijakan kesejahteraan anak yang dirumuskan oleh Pimpinan Pusat Muhammadiyah. Sebagai gerakan Islam modernis, Muhammadiyah tidak hanya mengutamakan teks-teks keagamaan (naş) dalam menentukan kebijakannya. Hukum nasional yang berlaku di Indonesia juga menjadi faktor empiris dalam pencarian kebenaran ilmiah. Penelitian ini bertujuan mengkaji hubungan antara kebijakan organisasi (living law) dan hukum negara (civil law), dalam rangka menjawab isu kesejahteraan anak melalui landasan filosofis hukum Islam. Penelitian ini menerapkan metode kualitatif, data yang*

*dikumpulkan melalui studi kepustakaan, dengan data primer yang diperoleh dari Pedoman Pimpinan Pusat Muhammadiyah tahun 2021 tentang Usaha Pelayanan Sosial Muhammadiyah serta Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak dalam penerapan epistemologisnya. Selanjutnya, validasi dilakukan dengan cara mencermati kesesuaian antara peraturan perundang-undangan, kebijakan Muhammadiyah, dan pandangan keserjanaan hukum Islam. Data dianalisis melalui elaborasi filsafat hukum Islam dengan memanfaatkan fungsi epistemologis kajian qawā'id fiqhiyyah yang bersumber dari karya Muhammad 'Abid Al-Jabirī, Takwin al-'Aql al-'Arabī. Hasil penelitian menunjukkan bahwa kebijakan Muhammadiyah memiliki hubungan yang harmonis dengan hukum nasional, khususnya terkait prioritas pengasuhan anak dalam keluarga. Artikel ini membuktikan secara epistemologis bahwa qawā'id fiqhiyyah berfungsi untuk memahami penerapan hukum berdasarkan perkembangan teks-teks keagamaan.*

**Kata Kunci:** *Qawa'id Fiqhiyyah, Kebijakan, Muhammadiyah, Kesejahteraan Anak*

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## **A. Introduction**

Social welfare is one of the main issues underlying the birth of Muhammadiyah, the largest modernist Islamic organization in Indonesia. Although declared a religious-based organization, the Muhammadiyah movement tends to prioritize a philanthropic or even anthropocentric spirit. As Nakamura explained in his research in the 1980s, AR Fachruddin, then Chairman of the Muhammadiyah Central Leadership, confirmed that Muhammadiyah is not a Sufi organization (Bachtiar et al., 2025). Muhammadiyah also does not completely reject spiritual aspects, but they focus on implementing these spiritual values in a progressive direction.

One concrete practice implemented by Muhammadiyah in its early period was establishing a charity center. Muhammadiyah's founder, Ahmad Dahlan, was a social worker from civil society who sought to provide solutions to welfare issues. Ahmad Dahlan mentored children from underprivileged families in an effort to free the community from the fetters of civilizational backwardness (Saputra et al., 2021). As confirmed by GF Pijber, Muhammadiyah is considered an organization with an internal mission (L. Beck, 2019). namely, spreading and purifying Islamic teachings through projects that improve community life.

Soedja', a direct disciple of Ahmad Dahlan, is known as a pioneer of the institutionalized social welfare movement. His progressive views resulted in Muhammadiyah's first charitable enterprise, PKO (*Penolong Kesengsaraan Oemoem*), which focused on the economic, health, and social sectors. In just 11 years,

PKO succeeded in establishing a hospital, a poor house, and an orphanage (Iskandar et al., 2025). Specifically for the issue of child welfare, today Muhammadiyah handed over responsibility to the *Majelis Pembinaan Kesejahteraan Sosial* (MPKS, Council of Social Welfare Development), a division that regulates policies across all social enterprises. Technically, social services that address child welfare are the responsibility of the *Lembaga Kesejahteraan Sosial Anak* (LKSA, Child Welfare Institutions), which are spread across various regions in Indonesia.

In 2021, the Muhammadiyah Central Leadership Council (MPKS) issued policy No. 01/PED/I.0/B/2021 concerning Muhammadiyah Social Service Business Activities as a guideline for LKSA in implementing child care. This policy not only functions as a regulator of Muhammadiyah internal movements in carrying out its child welfare mission. In the legal paradigm, the values of Muhammadiyah policies are seen as living law in the social practices of its community (Living Law) (Zarianto & Adityarani, 2025). Moreover, during the 47th Mukhtamar Muhammadiyah – the highest congress – in Makassar 2015, an idea emerged called *Dar al-'Ahd wa al-Syahadah* (the state of agreement and witness). Where the word *al-Syahadah* (witness) signifies Muhammadiyah's obligation to contribute to nation-building activities, so that this involvement is what Muhammadiyah believes achieves the title of "witness over the people" (Bachtiar, 2020). Therefore, Muhammadiyah needs to demonstrate a strong commitment to the state and the national legal system, by harmonizing its policies with the laws and regulations (civil law) in force in Indonesia (Amsari, 2021).

Contextualization of the development of child welfare law in Indonesia demonstrates the need for an integrative approach between Muhammadiyah policies and national law (Saifullah et al., 2020). As a key actor in the discourse of Islamic thought in Indonesia, Muhammadiyah needs to elaborate on *qawā'id fiqhiyyah* in formulating legal harmonization. The position of *qawā'id fiqhiyyah* in the tradition of Islamic legal philosophy serves to consolidate universal rules on several legal topics that have been grouped thematically. Furthermore, *qawā'id fiqhiyyah*, as a legal literature that developed in the 13th-15th centuries AD, serves as a guideline for legal experts in deciding cases or issuing fatwas as long as they do not conflict with the Qur'an and Hadith (Bashori, 2020). However, how these fiqh principles are used as an approach to create legal harmonization still requires further examination.

*Qawā'id fiqhiyyah* studies of state legal documents have been carried out by previous researchers. Like Ansori (2022) who analyzed *qawā'id fiqhiyyah* on the Marriage Law in Indonesia. Epistemologically, Ansori (2022) proves that *qawā'id fiqhiyyah* can be used as a tool to understand and maintain divine messages

contained in religious texts (*naş*). This law is based on considerations of benefit and harm as determined by *qawā'id fiqhīyyah*. For example, regarding the harm of marriage to underage children, the law created a new law regarding marriage age limits (Ansori, 2022). Meanwhile, Dedi Mahruzani Nur Lubis (2020) understands the reasons for Religious Court Decisions through *qawā'id fiqhīyyah*, where there are judges who handle divorce cases.

Based on these findings, the judge decides the case using *vis a vis* reasoning, such as whether there will be good or bad impacts, and preventing or overcoming them. However, Dedi Mahruzani Nur Lubis (2020) also sees the weakness of judges in using *qawā'id fiqhīyyah* across schools of thought. If we look at the decision, the judge was too dominant in considering the rules of jurisprudence in the Shafi'i school of thought. However, there are still offers from outside the Syafi'i school, for example the Imam Ahmad bin Hanbal school, which can directly justify personnel defects without holding many trials to investigate the case (Lubis, 2020). Thus, the two studies above show that *qawā'id fiqhīyyah* is an epistemo-Islamic legal logic plays an important role in developing policies.

This article seeks to explore the integration points surrounding child welfare, as outlined in Muhammadiyah's policy, and those outlined in national law. Each point, which harmonizes these two legal standings, is then based on arguments from the perspective of Islamic jurisprudence (*qawā'id fiqhīyyah*). The basic theory of *qawā'id fiqhīyyah* is drawn from the contributions of a contemporary Moroccan scholar of Islamic thought, Muhammad 'Abid Al-Jabirī, "*Takwin al-'Aql al-'Arabī*". His work allows this article to approach *qawā'id fiqhīyyah* not only across schools of thought but also by considering the background and development of this approach to Islamic legal philosophy. This is because, in addition to its commitment to the state, Muhammadiyah is also very open and moderate in considering various Islamic schools of thought in its policies (Zulian, 2022).

## **B. Research Method**

This research employs a qualitative method, with an Islamic legal philosophy approach. Characteristically, qualitative methods seek to understand the relationships between things resulting from dynamic processes (Raco, 2018). The specific Islamic legal philosophy used as an approach is the *qawā'id fiqhīyyah* reformed by Muhammad 'Abid Al-Jabirī in *Takwin al-'Aql al-'Arabī*. Literature review was used to collect legal document data and analytical tools. Primary data was obtained from Muhammadiyah Central Leadership Policy Number 01/PED/I.0/B/2021 concerning Muhammadiyah's Charity in the Field of Social Services and Legislation on Child Care and Social Welfare. Secondary data came from

various literature such as scientific journals, books, research publications, and other digital sources relevant to Islamic law and legal philosophy.

### **C. Discussion**

#### **1. *The Concept of Child Welfare according to Muhammadiyah***

Muhammadiyah's humanitarian mission is deeply rooted in the theological thinking of its founder, Ahmad Dahlan, who made Surah Al-Mā'ūn the primary foundation of his socio-religious movement. Ahmad Dahlan interpreted Surah Al-Mā'ūn not merely as a warning against neglecting orphans and the poor, but as a concrete call to build a just social structure. From this short surah, he formulated three main pillars of Muhammadiyah's humanitarian mission: healthcare, education, and social services (Inayati et al., 2024). These three aspects are not only part of Muhammadiyah's institutional charitable efforts but also form the framework of a progressive Islamic movement oriented towards concrete action (Nashir, 2016).

Ahmad Dahlan's interpretation of Surah Al-Ma'un raises the important idea that daily ritual worship cannot be separated from social worship. This is manifested in his advocacy for the marginalized, which in the Indonesian context includes abandoned children, the poor, and other vulnerable groups. In this view, true faith is not only seen in adherence to rituals, but also in real contributions to eradicating poverty and social injustice (Khoirudin, 2015). It is therefore not surprising that Muhammadiyah various charitable efforts, from the outset, have been directed toward responding to the social needs of the community through an inclusive and transformative approach.

Furthermore, Muhammadiyah recognizes that humanitarian social work cannot be optimally implemented without legal certainty and supporting regulations. Therefore, the organization is actively developing a zakat, infaq, sedekah, and waqf (ZISWAF) management system with a professional and legally based approach. In this regard, Muhammadiyah positions itself not only as an implementer of Islamic philanthropy but also as a driver of systemic change that emphasizes the importance of institutional governance for the welfare of the wider community (Mukhlisin, 2023). This demonstrates that the theological approach adopted by Ahmad Dahlan from the outset has strong relevance in the context of modern social policy.

Muhammadiyah humanitarian missions is not only reactive to social issues but also proactive in establishing a modern and sustainable social structure. Through the Child Welfare and Child Protection Program (MPKS), Muhammadiyah is expanding its movement to mainstream the protection of

vulnerable children. This effort is further strengthened by a mission that supports social welfare values in the 2021 MPKS policy. Technically, the implementation of this MPKS policy is delegated to the Child Welfare and LKSA. According to Chapter I of the Muhammadiyah Child Care Guidelines (2021), the identity of the LKSA is to act as a child service center that integrates professionalism, quality service, and Islamic principles into its care practices (Ihsan et al., 2021).

This identity makes LKSA a care institution and a primary reference for protecting and fulfilling children's rights, particularly for those who are socially and economically vulnerable. With a well-organized institutional structure and human resources equipped with Islamic education and social skills training, LKSA Muhammadiyah has developed into an institution that provides not only care but also character education based on Islamic values.

The 2021 MPKS policy, specifically Article 14 paragraph 3, affirms Muhammadiyah commitment to upholding the best interests of children. This point emphasizes the importance of respecting children's participation in decision-making processes concerning their lives and ensuring optimal child development. Furthermore, the MPKS emphasizes that separation of children from their families should be avoided whenever possible, unless it is truly in the child's best interests.

The legitimacy of this policy is further emphasized in Article 15, which states that the location of the Child Welfare Institution (LKSA) must be as close as possible to the child's original residence. This provision aims to minimize the psychosocial impact of separating children from the social and cultural environment that has shaped their identity. Furthermore, Article 16 of the MPKS states that foster care in the form of a boarding school or living in an LKSA should be a last resort. In this regard, Muhammadiyah does not position foster care within the LKSA as the primary solution, but rather as an alternative if all family strengthening efforts have been exhausted and have yielded no results.

In accordance with this policy, LKSA are also required to develop a care plan and clear timeframes for each child in their care. Periodic evaluations are conducted as a form of accountability for fulfilling children's rights. These evaluations are also aimed at identifying potential reunification opportunities, or reunions, for children with their families, to prevent institutional care from becoming permanent, as outlined in Chapter III of the Muhammadiyah Child Care Guidelines (2021).

To prevent early separation of children from their families, the MPKS, through the LKSA, has also developed a family-strengthening approach known

as Family Assistance. This assistance provides social, economic, and educational support to vulnerable families, empowering them to care for and meet their children's basic needs. Family Assistance is a priority model for social interventions, as it aligns with Chapter IV of the Muhammadiyah Child Care Guidelines (2021), which seeks to strengthen the role of the family as the primary institution in childcare. This strategy demonstrates the LKSA's strong preventive role through family empowerment.

## **2. Analysis of Child Welfare in the Muhammadiyah Council of Social Welfare Development (MPKS) and National Laws reviewed through *Qawā'id Fiqhiyyah***

Harmonization between the role of MPKS policy, national laws, and Islamic values through *qawā'id fiqhiyyah* is crucial that children's welfare is not only legal and formal, but also based on ethics and the principle of the welfare of the community (Ali, 2010). In practice, MPKS manages *Amal Usaha Muhammadiyah* (AUM, Muhammadiyah Social Enterprise) by emphasizing institutional accreditation, improving service quality, and strengthening social networks. This role is complementary to the state, filling service gaps, providing religious-based guidance, and supporting public policy (MPKS PP Muhammadiyah, 2023).

However, MPKS faces challenges, such as limited resources, the need for professional staff (psychologists, social workers), and demands for compliance with national legal standards (Burhani, 2010). However, socio-religious legitimacy of Muhammadiyah, provides a strategic advantage for MPKS in moving society towards better child welfare. For components of society such as MPKS, this law provides space for participation as well as an obligation to comply with child protection service standards, including accreditation, legal protection, and coordination with the government (Article 59A of Law Number 35 of 2014, 2014).

The 1945 Constitution of the Republic of Indonesia (UUD 1945) explicitly states in Article 28B paragraph (2) that every child has the right to survive, grow and develop and has the right to protection from violence and discrimination. This is the constitutional basis that children's welfare is a fundamental right that must be guaranteed by the state (The 1945 Constitution of the Republic of Indonesia in One Text, 1945). According to Al-Jabirī, the approach used to examine normative issues must be based on a moral value system to assess reality. This normative perspective tends to be reductive because it limits reason to the prevailing value framework, thus making understanding social issues subjective (Aunillah, 2022).

This provision demonstrates that the state places moral and humanitarian values as the primary foundation in formulating child protection, while also

demonstrating how normative reasoning forms the basis for formulating public policy. Thus, the normative perspective, as criticized by Al-Jabirī, in certain contexts, such as child welfare, becomes a crucial instrument in establishing social justice and guaranteeing the fundamental rights of citizens. Therefore, examining child welfare policy requires an Islamic legal philosophy approach that accommodates morals and realities, such as *qawā'id fihiyyah*.

*Qawā'id fihiyyah* are Islamic legal principles that are universal in nature and serve as a reference in determining the law on various problems that are not explained in detail in the Qur'an or Hadith. (As-Sa'di, 2024). In the context of child welfare, *qawā'id fihiyyah* not only provides normative direction, but also becomes a methodological basis for resolving contemporary issues that have not been explicitly discussed in sharia texts. Some important principles that are relevant to children's welfare include; (1) *al-umūr bi maqāṣidihā* (all matters depend on the goal), (2) *al-masyaqqah tajlib al-taysir* (difficulty brings ease), (3) *al-'ādah al-muḥakkamah* (customs can be used as a legal basis), (4) *mā lā yudraku kulluh lā yutraku kulluh* (what cannot be done all, should not be left all), and (5) *al-farḍu afdalu min an-nafal* (what is obligatory is more important than what is sunnah).

*Al-umūr bi maqāṣidihā* (all matters depend on the objective) emphasizes the importance of the intention and goal of the child's well-being, and must be based on the goal of ensuring the child's best interests. This means that the care, education, and legal protection of children should not be understood merely as administrative or social obligations, but rather as a manifestation of a moral commitment to achieving their well-being. This principle also emphasizes that the goal of protecting the child's dignity, rights, and future is more important than mere legal formalities or institutional procedures. (An-Nawawi, 2009).

The principle of *al-masyaqqah tajlib al-taysir* (difficulty brings ease) legitimizes the need for children to be given special access in difficult situations to ensure their rights are fulfilled. For example, providing inclusive educational facilities for children with disabilities, or affirmative action policies for orphans and the poor so they have the same learning opportunities as other children (Mubarok, 2002). Could be seen as an applied form of this principle.

The economic limitations faced by pre-prosperous families are a form of *masyaqqah* (difficulty) that demands easy solutions, including in terms of education and care. In the history of fiqh thought, figures such as Abu Ḥanifah are known for trying to explore legal solutions that eliminate the burden on individuals due to certain conditions that burden them (Al-Jabirī, 1989). Thus, the application of this rule in parenting not only encourages fair treatment of

children from disadvantaged backgrounds, but is also in line with the spirit of fiqh which is responsive to social reality.

The principle of *al-'ādah al-muḥakkamah* (custom can be used as a legal basis) can provide room for adapting child protection programs to local culture, as long as they do not conflict with sharia principles. This is important in designing contextual social policies, for example, childcare practices in Muhammadiyah orphanages that are adapted to Indonesian family values (Djazuli, 2019). In this context, childcare is not solely the responsibility of the nuclear family, but can be delegated or shared with extended family or close relatives who, although not related by blood, share strong emotional and social ties. This reflects the flexibility of custom in accommodating the real needs of society.

Al-Jabirī thought highlights that *qawā'id fiqhiyyah* should not be based solely on theoretical constructs detached from social reality. He critiques how fiqh has historically been applied, for example, through Imam Syafi'i rational model, which does not ignore custom as a legitimate source of law in practice (Al-Jabirī, 1989). Custom, in fact, reinforces the application of Islamic law. Therefore, in the context of poor families, parenting based on deeply rooted local customs can be a concrete implementation of the principle of *al-'ādah muḥakkamah*, where children's needs to grow up in a supportive environment are met even outside the framework of the formal nuclear family.

MPKS also raised the concept of “foster care”, which is an alternative care that involves the kinship system. In the prophetic tradition, the concept of foster care is the same as Yusuf being cared for by Zulaikha and Qitḥir in the royal family, Musa being cared for by Asiyah and Fir'aun, and Maryam being cared for by Zakaria. Prophet Muhammad PBUH was cared for for four years by Halimatus Sa'diyah, there were also Companions who lived and were cared for by the Prophet PBUH such as Annas bin Malik, Zaid bin Haritsah, and Ali bin Abi Ṭalib. The kinship system does not only involve blood relations but relatives from social and cultural backgrounds.

Foster care borrowed the Islamic term *kafalah*, meaning to care for, maintain, guarantee, or bear (Muhamad, 2024). *Kafalah* remains a family-based tradition of fostering abandoned children in Middle Eastern and North African countries. Similar traditions have existed in the Indonesian archipelago, but these family-based fostering traditions are under threat of being abandoned. For example, there are terms such as “*nganger*” or “*mupon*” in Javanese society, “*ngukut anak*” in Sundanese, “*ninik mamak*” in Minang tradition, and what is known in Maluku as “*mata rumah*” (household care).

In fact, if this tradition remains sustainable, it can be used as a legal force for family-based parenting as per the principle of *al-'ādatu muḥakkamah* (Zahid, 2022). In this context, al-Jabirī's approach becomes relevant, where the study of tradition is conducted within a modern framework. According to Al-Jabirī, this approach can free scholars from the weaknesses caused by its ahistorical nature and lack of relevance to the contemporary context. Thus, reconnecting local traditions such as kafalah with the demands and contemporary realities of Muslims becomes possible and meaningful (Muhamad, 2024).

Furthermore, the principle of *mā lā yudraku kulluh lā yutraku kulluh* (whatever cannot be done all, do not leave all) implies doing something according to one's ability without leaving anything else entirely. The MPKS policy does not necessarily force child care to be in the nuclear family or to place children in LKSA. This policy is optional according to the nuclear family's caregiving capabilities. As Surah Al-Baqarah: 220 requires Muslims to take responsibility for caring for orphans (including those interpreted as children in vulnerable situations) with good services. Therefore, the policy includes alternative care.

The final principle, *al-farḍu afdalu min an-nafal* (what is obligatory is superior to what is recommended), legitimizes LKSA ability to provide services without separating children from their natural environment. This principle then emphasizes that what is obligatory takes precedence over what is recommended. As stated in the *Kompilasi Hukum Islam* (KHI, Compilation of Islamic Law), parents are obligated to provide care for their children, so this obligation takes precedence over care provided at LKSA. This policy encourages the family institution to fulfill its obligations.

#### **D. Conclusion**

This analysis shows that Muhammadiyah, through the MPKS, plays a crucial role in strengthening child welfare in Indonesia. Its role encompasses fostering, providing family-based social services, and public advocacy. National law provides a formal legal framework that must be adhered to, while *qawā'id fiqhiyyah* provides a solution-oriented ethical basis with the primary goal of child welfare. All three can complement each other to ensure more comprehensive child protection, not only legal and formal, but also grounded in religious and social values.

Furthermore, this harmonization affirms that child welfare is a shared responsibility between the state, society, and religion. By strengthening coordination, enhancing institutional capacity, and integrating the principles of *qawā'id fiqhiyyah* to fairness, justice, and equality. Legal and social practice, child welfare can be achieved sustainably. Therefore, child welfare policies that prioritize

family-based care are part of Muhammadiyah's and the nation's efforts to realize social welfare in Indonesia. For Muhammadiyah specifically, contributing to national development aims to earn the title of "witnesses over the people."

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