

AN ISLAMIC CRIMINAL LAW PERSPECTIVE ON CHILD SEXUAL EXPLOITATION: ANALYSIS OF VERDICT NO. 40/PID.SUS/2024/PN.SIM

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Abstract

*This study aims to analyse the decision of the Simalungun District Court Number 40/Pid.Sus/2024/PN.SIM related to cases of sexual exploitation of children from the perspective of Islamic criminal law. In this case, the defendant was only sentenced to two years in prison, despite being proven to have knowingly exploited a minor through a digital application intermediary. This research uses a normative juridical approach by analysing legislation, Islamic criminal law literature, and court decisions. The results show that the verdict does not reflect substantive justice and is not in line with the principles of child protection in Law Number 35 of 2014 and *maqāṣid al-sharī'ah*. From an Islamic perspective, sexual exploitation of children is a serious offence that requires strict punishment to provide a deterrent effect. This research recommends the need for a fairer and more pro-victim legal approach to ensure optimal protection and benefit of children.*

Keywords: *Child Sexual Exploitation; Islamic Criminal Law; Substantive Justice; Child Protection; Maqāṣid al-Sharī'ah.*

INTRODUCTION

Children are a trust and a divine gift from Almighty God, inherently endowed with dignity and worth as complete human beings.¹ From the perspective of national life, children represent the future of a nation and the successors of its ideals.² Therefore, the state bears the responsibility to ensure every child's rights to survival, growth and development, participation, and protection from violence and discrimination. The well-

¹ Richard P Hiskes, "The Image of a Lesser God: Imago Dei and the Human Rights of Children," *Human Rights Quarterly* 45, no. 3 (2023): 513–32, <https://doi.org/10.1353/hrq.2023.a903337>.

² Ridha Fahmi Ananda et al., "Perlindungan Hukum Terhadap Anak Sebagai Korban Kejahatan Pelecehan Seksual Dalam Perspektif Viktimologi," *Locus Journal of Academic Literature Review* 2, no. 1 (2023): 52–65, <https://doi.org/10.56128/ljoalr.v2i1.125>.

being of a nation's children reflects the overall quality of that nation.³ It is thus the collective responsibility of the state, government, society, families, and parents to safeguard and care for children, recognizing their physical and psychological vulnerability, immaturity, and continued dependence on adult protection.

However, the protection and welfare of children remain significantly lacking in today's society. A general sense of apathy and willful ignorance has contributed to the continued vulnerability of children, particularly to acts of exploitation and trafficking.⁴ Children who are in emergency situations—such as those subjected to economic and/or sexual exploitation—are entitled to special protection by the government, state institutions, and the wider community.⁵ Article 66 of the Indonesian Child Protection Law explicitly states: "Special protection for children who are economically and/or sexually exploited is the obligation and responsibility of the government and the community." Furthermore, Article 76I declares: "Every person is prohibited from placing, allowing, committing, instructing, or participating in acts of economic and/or sexual exploitation of children."

Among the various forms of child exploitation in Indonesia, sexual exploitation is one of the most pressing issues. This condition indicates not only an economic crisis but, more severely, a moral crisis within the nation. Sexual Exploitation of Children, commonly referred to as SEC (or ESKA in Indonesian), constitutes a fundamental violation of children's rights. It involves acts of sexual violence perpetrated by adults or third parties who treat the child as a sexual object for their own gratification.⁶ Juanrico Titahelu categorizes such crimes not merely as "ordinary crimes" but rather as "extraordinary crimes." The distinction lies in that ordinary crimes are typically committed for specific

³ Imam Subaweh Arifin and Umi Rozah, "Konsep Doli In Capax Terhadap Anak Yang Berhadapan Dengan Hukum Di Masa Depan," *Jurnal Pembangunan Hukum Indonesia* 3, no. 1 (2021): 1-17, <https://doi.org/10.14710/jphi.v3i1.1-15>.

⁴ Indah Damayanti, Cokorde Istri Dian Laksmi Dewi, and Karyoto Karyoto, "Peran Hukum Dalam Mencegah Eksploitasi Anak Dalam Kerja Anak Dan Perdagangan Manusia," *Jurnal Sosial Dan Sains* 4, no. 6 (2024): 446-55, <https://doi.org/10.59188/jurnalsosains.v4i6.1372>.

⁵ Sheila Ramaswamy and Shekhar Seshadri, "Children on the Brink: Risks for Child Protection, Sexual Abuse, and Related Mental Health Problems in the COVID-19 Pandemic," *Indian Journal of Psychiatry* 62, no. 3 (2020): 404-13.

⁶ Rusmilawati Windari, "Penanggulangan Eksploitasi Seksual Komersial Anak (ESKA) Berdasarkan Global-Local Based Approach (Glocalization)," *Soumatara Law Review* 2, no. 2 (2019): 282-96, <https://doi.org/10.22216/soumlaw.v2i2.4369>.

purposes against specific victims, often through individual or group actions using conventional methods.⁷ In contrast, extraordinary crimes are systematic, widespread, and organized, involving deliberate planning and the use of resources grounded in scientific or technological capabilities.

A case of child sexual exploitation occurred in Simalungun Regency, as documented in Court Decision No. 40/Pid.Sus/2024/PN.SIM. The case involved a 14-year-and-4-month-old female child who became the victim of sexual exploitation by a defendant identified by the initials SA, and another child witness, NS. The exploitation took place across several locations, including Hotel MCA on SM Raja Street, and other venues within Simalungun. The victim was first exploited on August 3, 2023, at Hotel Prima Jaya, followed by two more instances on August 4, and finally on August 6 at Hotel MCA. In each incident, the victim was paid IDR 300,000 by the men involved. (Court Decision No. 40/Pid.Sus/2024/PN.SIM)

The defendant acted as an intermediary between the victim and male clients seeking sexual services. NS was also involved, indicating that the exploitation was not conducted by a single individual but was instead a collaborative effort aimed at financial gain through illegal means. As a result of these actions, the child victim suffered severe consequences, including psychological trauma, physical health issues such as bleeding, deep feelings of shame, and the long-term threat of a shattered future due to the traumatic experience. (Court Decision No. 40/Pid.Sus/2024/PN.SIM).

This study aims to analyze and review the aforementioned court ruling (Decision No. 40/Pid.Sus/2024/PN.SIM), with a focus on examining the legal elements of child sexual exploitation from the perspective of Islamic criminal law. Furthermore, it seeks to assess the application of Islamic criminal principles to such crimes within the context of Simalungun Regency. By analyzing Islamic legal views alongside Indonesia's prevailing laws and regulations, this study aspires to provide a deeper understanding of the legal protections necessary to address and prevent such crimes, as well as to offer practical

⁷ Neri Widya Ramailis, "Cyber Crime Dan Potensi Munculnya Viktimisasi Perempuan Di Era Teknologi Industri 4.0," *Sisi Lain Realita* 5, no. 01 (2020): 1-20, [https://doi.org/10.25299/sisilainrealita.2020.vol5\(01\).6381](https://doi.org/10.25299/sisilainrealita.2020.vol5(01).6381).

recommendations for law enforcement officers and policymakers in their efforts to protect children from sexual exploitation.

Literatur Review

1. Definition of Child Sexual Exploitation

The term *exploitation*, as defined in Law Number 21 of 2007 on the Eradication of the Crime of Human Trafficking,⁸ Article 2 paragraph (1), refers to: "Exploitation is any act, whether with or without the victim's consent, that includes but is not limited to prostitution, forced labor or services, slavery or practices similar to slavery, oppression, extortion, physical or sexual exploitation, exploitation of reproductive organs, or illegal transplantation of organs and/or bodily tissues, or the use of a person's labor or capabilities by another party for material or immaterial gain."

Meanwhile, the term *sexual exploitation* is further defined in Article 1 paragraph (8) of the same law as: "Sexual exploitation refers to any form of utilization of the sexual organs or other body parts of the victim for profit, including but not limited to acts of prostitution and sexual abuse." Sexual exploitation may also be interpreted as acts of prostitution, which involve temporary sexual relations, generally with multiple partners, in exchange for financial or other compensation. According to Purnomo and Siregar (as cited by Bagong Suyanto, 2013), prostitution is the act of a woman offering her body to multiple men for financial compensation in order to satisfy the sexual desires of the paying party, conducted outside the framework of marriage.

In relation to the fulfillment of children's rights and protection from all forms of interference or harmful treatment, the legal provisions are stipulated in Law Number 23 of 2002 on Child Protection, particularly Article 13, which states: "Every child, while under the care of parents, guardians, or any other party responsible for the child's care, is entitled to protection from discriminatory treatment, exploitation – both economic and sexual – neglect, cruelty, violence, abuse, injustice, and any other harmful actions."

⁸ Rifatul Akmaliah Rachman and Nur Aida, "Tindak Pidana Perdagangan Orang Ilegal Ditinjau Dari UU Nomor 21 Tahun 2007 Tentang Pemberantasan Tindak Pidana Perdagangan Orang," *Jim: Jurnal Ilmiah Mahasiswa Pendidikan Sejarah* 8, no. 4 (2023): 4761–79, <https://doi.org/10.24815/jimps.v8i4.26908>.

Special protection for children who are exploited economically or sexually is a duty and responsibility of both the government and society.

2. Types of child exploitation

Child sexual exploitation represents a critical intersection of legal, psychological, and sociological issues that endanger children's physical and mental well-being.⁹ This form of exploitation, particularly when tied to economic motives, reflects how vulnerable children are subjected to systemic abuse for the benefit of others. The Indonesian legal framework, especially Law No. 23 of 2002 on Child Protection, defines and regulates these exploitative acts, underlining the connection between economic and sexual exploitation.¹⁰ This interconnectedness highlights that exploitation rarely occurs in isolation, often blending coercion, manipulation, and neglect into a single continuum of abuse. Understanding this multidimensional exploitation is essential for designing effective legal, social, and preventive interventions.

A recurrent pattern in the literature focuses on the various forms of economic exploitation against children, as delineated by Siti Musdah Mulia (2005). The legal classification includes child prostitution for profit, forced labor, slavery or analogous practices, oppression, extortion, and unlawful organ harvesting. These practices emphasize how children are commodified for material gain in ways that severely violate their rights and dignity. Law No. 23 of 2002 also considers such economic exploitation as a criminal offense. This alignment of legal and academic perspectives demonstrates a growing concern for the economic dimensions of child vulnerability, especially in impoverished or unstable environments.

Another dominant research pattern centers on child sexual exploitation, which encompasses the use of a child's body for sexual gratification or profit. According to Indonesian law and Siti Musdah Mulia's classification, this includes child prostitution, molestation, pornography, and online sexual abuse. These exploitative acts are not only

⁹ Made Fiorentina Yana Putri and Diah Ratna Sari Hariyanto, "Perlindungan Hukum Anak Sebagai Korban Eksploitasi Seksual Berdasarkan UU No 35 Tahun 2014 Tentang Perlindungan Anak," *Jurnal Interpretasi Hukum* 4, no. 1 (2023): 100–107, <https://doi.org/10.22225/juinhum.4.1.6546.100-107>.

¹⁰ Muhammad Ngazis and Surahman Surahman, "Legal Protection Against Child Exploitation in the Digital Era Based on the Perspective of Justice," *Jurnal Meta-Yuridis* 7, no. 1 (2024): 34–47, <https://doi.org/10.26877/m-y.v7i1.17963>.

driven by economic motives but also reflect deeper issues of power imbalance, societal negligence, and technological misuse. Studies consistently show that the commercial sexual exploitation of children causes long-term psychological trauma and hinders their development. The literature has therefore increasingly focused on identifying structural and digital mechanisms that perpetuate these abuses.

Legal studies have elaborated on the core elements constituting child exploitation under Article 88 of Law No. 23 of 2002, which include the perpetrator, the act of sexual or economic exploitation, and the intent to profit. Scholars emphasize that perpetrators are legally accountable and that the state holds the obligation to protect children from such acts.¹¹ Additionally, the law mandates parents and guardians to be the primary agents in safeguarding children against abuse. Legal literature and statutory interpretations thus converge on the urgency of preventive and punitive mechanisms to ensure child protection within both the family and societal structures.

Despite the depth of legal and conceptual understanding in previous studies, existing literature often lacks empirical investigations into the lived experiences of exploited children and the effectiveness of law enforcement in real cases. Moreover, there is limited research on how local cultural values and socioeconomic factors influence the prevalence and reporting of child exploitation. While the laws are comprehensive, the translation of legal norms into practical protections remains underexplored. This reveals a gap in the literature concerning the interplay between legal formalism and social realities, particularly in marginalized communities

3. Child exploitation in national law and Islamic criminal law

The issue of child exploitation is a critical concern that intersects both positive criminal law and Islamic criminal law, reflecting the urgency of safeguarding children's rights from sexual and economic abuse. Indonesian positive law outlines strict sanctions for acts of child exploitation, while Islamic criminal law classifies such actions as grave

¹¹ Anik Iftitah et al., "Pertanggungjawaban Hukum Anak Dalam Pelaku Tindak Pidana Berat: Pendekatan, Dampak, Dan Implikasi Dalam Sistem Peradilan Anak," *Birokrasi: Jurnal Ilmu Hukum Dan Tata Negara* 1, no. 2 (2023): 152–67, <https://doi.org/10.55606/birokrasi.v1i2.592>.

violations of human dignity and morality.¹² Both legal frameworks emphasize the protection of minors, albeit with different legal foundations and terminologies. These frameworks demonstrate a shared objective: to uphold the dignity of children and to punish perpetrators firmly.

Several studies have focused on the enforcement of positive criminal law in Indonesia, particularly after the enactment of Law No. 35 of 2014 which amends Law No. 23 of 2002 on Child Protection. This legal provision strictly prohibits any form of economic or sexual exploitation of children. Articles 76I and 88 of this law impose criminal sanctions including imprisonment and heavy fines. This legal framework reflects the state's commitment to child protection and the deterrence of such crimes. Scholars often examine how effectively this law is implemented and how well it serves its purpose of offering justice to victims and punishment for offenders.

On the other hand, research on Islamic criminal law addresses child exploitation, particularly sexual violence, as a serious violation that may fall under the categories of *zinā* or rape (*al-wath'u bil-ikrāh*). Islamic jurisprudence distinguishes between consensual illicit sexual acts and forced ones, with rape involving coercion and meriting severe punishment (*ḥadd*).¹³ Studies refer to classical jurists like Al-Mawardi, who emphasized that women who are raped are victims, not offenders, and therefore should not be punished for *zinā*. This body of research highlights Islam's commitment to justice for victims and its protection of human dignity.

Further scholarship focuses on scriptural and doctrinal interpretations, such as the Qur'an's prohibition against forcing women into prostitution, as found in Surah An-Nūr verse 33. Researchers interpret this verse as a foundational text supporting the legal and moral obligation to protect women from sexual exploitation.¹⁴ Works like *Kitāb al-Fiqh*

¹² Fuadi Isnawan, "Islamic Approach to Violations against the Sanctity of the Deceased: A Case Study on Necrophilia in Islam," *Fikri: Jurnal Kajian Agama, Sosial Dan Budaya* 9, no. 2 (2024): 367–93, <https://doi.org/10.25217/jf.v9i2.5100>.

¹³ Ika Agustini, Rofiqur Rachman, and Ruly Haryandra, "Perlindungan Hukum Terhadap Korban Kekerasan Seksual: Kajian Kebijakan Hukum Pidana Indonesia Dan Hukum Pidana Islam," *Rechtenstudent Journal* 2, no. 3 (2021): 342–55, <https://doi.org/10.35719/rch.v2i3.89>.

¹⁴ Bannan Naelin Najihah, Muhamad Fajar, and Abd Muid Nawawi, "Eksplorasi Seksual Dalam Perspektif Alquran (Analisis Teologi Pembebasan Perempuan Asghar Ali Engineer)," *Al Burhan: Jurnal Kajian Ilmu Dan Pengembangan Budaya Al-Qur'an* 24, no. 1 (2024): 83–107.

‘ala al-Madhāhib al-Arba‘ah by Al-Jazīrī also serve as references for understanding Islamic legal responses to sexual violence.¹⁵ These studies often advocate for the integration of compassion and justice, emphasizing victims' rights to legal protection and psychological recovery.

Despite these valuable contributions, there remains a significant gap in integrative research that systematically compares the approaches of positive criminal law and Islamic criminal law in addressing child sexual exploitation. Most existing studies analyze each legal system in isolation, without examining how they might inform or complement each other in pluralistic societies like Indonesia. Additionally, there is a need for empirical studies exploring how these legal frameworks are applied in real-world legal cases, especially in areas where religious and state laws intersect or conflict.

To address these gaps, future research should aim to develop a comparative legal framework that bridges positive criminal law and Islamic criminal law regarding child exploitation. This approach would provide a more holistic understanding of legal protections available for victims, while also offering practical insights for policymakers, judges, and social workers. By examining the strengths and limitations of both systems in tandem, such research can contribute to more effective, just, and culturally sensitive legal responses to child sexual exploitation in Indonesia.

METHOD

This research uses a normative juridical approach, which is an approach that starts from the applicable legal norms both in the Indonesian positive legal system and in Islamic law. The data sources used consist of primary legal materials such as the Child Protection Law, the Criminal Code (KUHP), and Decision Number 40/Pid.Sus/2024/PN.SIM. In addition, this research also refers to secondary legal materials such as Islamic criminal law literature, fiqh jinayah books, journals, and relevant previous research results. Data collection techniques were conducted through library research, by examining in depth the contents of the decision and relevant legal texts. Data analysis was conducted qualitatively, namely by describing, interpreting, and

¹⁵ Abdurrahman Al-Jazīrī, *Al-Fiqh ‘Ala Al-Mazāhib Al-Arba‘Ah* (Cairo: Dār al-Ḥadīṣ, 2015).

evaluating court decisions based on the principles of Islamic criminal law, especially related to the concepts of *jarimah*, *uqubah*, and *maqāṣid al-sharī'ah*. This research aims to provide a normative solution to the imbalance between formal and moral justice in law enforcement.

RESULT AND DISCUSSION

1. State Responsibility and Legal Protection of Children

The verdict in case No. 40/Pid.Sus/2024/PN-SIM, which sentenced the defendant to only two years of imprisonment for the sexual exploitation of a child, reflects a significant disparity between substantive justice and formal justice within the criminal justice system. According to Gustav Radbruch's Legal Philosophy, the law should uphold three key values: justice (*Gerechtigkeit*), legal certainty (*Rechtssicherheit*), and expediency or benefit (*Zweckmäßigkeit*).¹⁶ While legal certainty was formally achieved through the application of relevant articles in the Child Protection Law, the principles of justice and social benefit appear to have been neglected.¹⁷ The imposed punishment does not correspond to the gravity of the crime, which severely harmed the victim both psychologically and physically.¹⁸ This discrepancy highlights a failure to uphold the holistic aims of justice in addressing crimes against vulnerable populations.

When analyzed through Soerjono Soekanto's Theory of Child Protection, this case underscores the state's responsibility to provide maximum legal protection to children, given their inherently vulnerable status. A verdict that does not prioritize the rights and welfare of the child victim indicates a judicial failure to act as a guardian of children's

¹⁶ Andi Hakim Lubis, "Initiating the Paradigm of Transitive Legal Consideration: An Endeavor to Maintain the Dignity of Judges Through Decisions," *Judex Laguens* 2, no. 3 (2024): 382–98, <https://doi.org/10.25216/ikahi.2.3.12.2024.382-398>.

¹⁷ Priska Khairunnisa and Rasji Rasji, "Menilik Penjatuhan Sanksi Kumulatif Terhadap Tindak Pidana Yang Dilakukan Oleh Anak Yang Berhadapan Dengan Hukum Ditinjau Dari Perspektif Kepastian Hukum," *Ranah Research: Journal of Multidisciplinary Research and Development* 6, no. 4 (2024): 990–1001, <https://doi.org/10.38035/rj.v6i4.935>.

¹⁸ Lisa Mery, Asrul Aswar, and Dewi Astrid Winata Winata, "Analasis Hukum Tindak Pidana Pencabulan Terhadap Anak (Studi Putusan Nomor 167/Pid. Sus/2021/PN. Bulukumba)," *Pledoi Law Jurnal* 1, no. 03 (2023): 147–62.

rights.¹⁹ The child in this case suffered repeated exploitation, with the defendant deliberately and systematically using the *Michat* application to commercialize her for sexual purposes. The leniency of the sentence creates a dangerous legal precedent that undermines deterrence and could encourage similar offenses in the future. This outcome signals a systemic weakness in safeguarding children and calls into question the effectiveness of current legal enforcement mechanisms in protecting minors from sexual crimes.

Despite its critical insights, this study is limited by its reliance on a single judicial decision as the primary data source, which may not capture the broader judicial trends in handling cases of child sexual exploitation. The discussion does not include perspectives from judges, legal practitioners, or policymakers involved in the case, which could have enriched the analysis of the rationale behind the lenient sentencing. Furthermore, the study does not examine whether appeals or further legal remedies were pursued, which limits the assessment of the long-term legal implications and the full trajectory of justice in this particular case. These limitations suggest the need for caution when generalizing the findings to other similar cases across Indonesia.

Future research should explore comparative analyses of sentencing patterns in cases of child sexual exploitation across various jurisdictions in Indonesia to assess consistency and fairness in judicial responses. In addition, interdisciplinary studies involving legal, psychological, and social perspectives could provide a more comprehensive understanding of the impact of judicial decisions on victims and society. Investigating the implementation and enforcement of the Child Protection Law, particularly in local courts, would also be valuable in identifying gaps between legal theory and practice. Such studies could inform policy recommendations aimed at strengthening legal protection for children and ensuring that justice systems uphold both the letter and the spirit of the law.

2. Islamic Criminal Law Perspective on Child Sexual Exploitation: Principles, Punishments, and State Responsibilities

¹⁹ Dedy Sumardi, Mansari Mansari, and Maulana Fickry Albaba, "Restoratif Justice, Diversi Dan Peradilan Anak Pasca Putusan Mahkamah Konstitusi Nomor 110/Puu-X/2012," *LEGITIMASI: Jurnal Hukum Pidana Dan Politik Hukum* 11, no. 2 (2022): 248–65, <https://doi.org/10.22373/legitimasi.v11i2.16010>.

According to Islamic criminal law, sexual exploitation of children is categorized as a serious offense (*jarimah ghilzah*) encompassing elements of zina (fornication/adultery), coercion (*ikrah*), and *tajrīḥ al-‘irdh* (violation of honor). Within the Islamic framework, not only should perpetrators be severely punished—whether through *hadd* or *ta’zir* sanctions—but the state also bears the obligation to safeguard public welfare (*maslahah*) and protect vulnerable groups, including children. Islamic criminal law emphasizes *al-maṣlahah al-‘āmmah* (the public interest), thus lenient punishments such as the one imposed in this case fail to fulfill the objectives of shariah in preserving honor (*ḥifẓ al-‘irdh*) and life (*ḥifẓ al-nafs*).

Sexual exploitation of children is a grave offense both under Indonesian positive law and Islamic criminal jurisprudence.²⁰ In the context of the case study of Verdict No. 40/Pid.Sus/2024/PN-Sim, this crime involves the abuse of power and domination over a child, culminating in sexual exploitation—a profound violation of the child’s rights. Principally, Islamic criminal law regards the protection of human dignity and honor, including that of children, as integral components of the *maqāṣid al-sharī’ah*, the essential objectives underpinning Islamic legal rulings.

In Islam, sexual crimes against children are not merely viewed as violations of legal norms but also as breaches against the innate purity (*fitrah*) of human beings.²¹ Children are regarded as beings who must be protected due to their incomplete capacity for self-defense and immature intellect. Consequently, perpetrators of child sexual exploitation are considered to have committed a severe form of injustice (*zulm*) and must be subjected to stringent penalties to protect society from wider moral corruption.

Within Islamic criminal law, sexual offenses are classified into various categories of *jarā’im* depending on the elements involved.²² If the act fulfills the criteria of zina and is

²⁰ Ainul Masruroh and Mahmutarom Mahmutarom, “Safeguarding Children from Online Sexual Exploitation: A Legal and Maqāṣid Al-Sharī’ah Approach,” *Islamica: Jurnal Studi Keislaman* 19, no. 1 (2024): 168–98, <https://doi.org/10.15642/islamica.2024.19.1.168-198>.

²¹ Hardiman Wirahmat and Nur Alfiyani, “Pertentangan Legal Hukum LGBT Tinjauan Perspektif Sosial Dan Nilai Keagamaan,” *SPECTRUM: Journal of Gender and Children Studies* 3, no. 1 (2023): 32–47, <https://doi.org/10.30984/spectrum.v3i1.677>.

²² Moh Khasan, “From Textuality To Universality The Evolution of Hirābah Crimes in Islamic Jurisprudence,” *Al-Jami’ah: Journal of Islamic Studies* 59, no. 1 (2021): 1–32, <https://doi.org/10.14421/ajis.2021.59.1.1-32>.

committed against a child, it may fall under *hudūd* crimes with severe prescribed punishments. However, in most cases of child sexual exploitation involving violence, deception, or abuse of authority, contemporary Islamic jurists tend to classify such acts as *ta'zīr* crimes, whose penalties are determined by state authorities to realize public benefit and prevent harm.

Verdict No. 40/Pid.Sus/2024/PN-Sim provides a concrete illustration of how the Indonesian judicial system addresses cases of child sexual exploitation. The judge sentenced the defendant under Article 76D in conjunction with Article 81 of Law No. 35 of 2014 concerning Child Protection. This demonstrates that positive law affords legal protection to child victims of sexual crimes. Nevertheless, from an Islamic criminal law perspective, it is crucial to evaluate whether the sentence reflects substantive justice and the *maqāṣid al-sharī'ah*.

The *maqāṣid al-sharī'ah* relevant to child sexual crimes encompass the protection of life (*ḥifẓ al-nafs*), honor and lineage (*ḥifẓ al-'irdh wa al-nasl*), and intellect (*'aql*). These core objectives are directly threatened by such offenses.²³ Accordingly, Islamic criminal law demands enforcement measures that are not only retributive but also preventive and rehabilitative. The state's role extends beyond punishing offenders to ensuring the psychological and social recovery of victims, as well as preventing recurrence through education and strengthening child protection systems.

In contemporary Islamic legal studies, numerous scholars emphasize the integration of sharia values with modern judicial systems to address contemporary crimes such as child sexual exploitation. Abd al-Qadir 'Audah, for example, in *At-Tasyrī' al-Jinā'ī al-Islāmī*, stresses that the principal function of Islamic criminal law is to maintain social and moral stability through just, proportional, and effective punishments. Therefore, in cases of child sexual exploitation, incarceration alone is insufficient; punishments must also serve as effective deterrents and provide maximal protection for victims.²⁴

²³ Syahrul Nizam and Mulham Jaki Asti, "Is There Any Rukḥṣah in Performing Praying During Covid-19? Maqashid Sharia Analysis," *Mazahibuna* 3, no. 1 (July 2021): 98–117, <https://doi.org/10.24252/MH.V3I1.19687>.

²⁴ 'Abdul Qadir 'Audah, *Al-Tasyrī' Al-Jina'i Al-Islami; Muqaranan Bi Al-Qanun Al-Wadh'i*, Jil. II, II (Kairo: Maktabah al-Taufiqiyah, 2013).

Furthermore, Islamic criminal law upholds the principle of holistic justice (*al-'adālah al-shāmilah*), which includes justice for victims, society, and even offenders. Justice is understood not merely as retribution but also as restoration of social order disrupted by the crime. Hence, beyond criminal sanctions, perpetrators may be required to provide compensation (*diya al-'irdh*) or moral reparations to victims as forms of social and spiritual accountability.

In conclusion, the above analysis demonstrates that Islamic criminal law provides a robust normative and moral foundation for addressing the crime of child sexual exploitation. While the Simeulue District Court's verdict is an important step in enforcing positive law, from the *maqāṣid* perspective, the Islamic judicial system should continue to evolve to better prioritize victim protection and comprehensive social justice.

CONCLUSION

Verdict No. 40/Pid.Sus/2024/PN-SIM reveals a significant imbalance between the severe offense committed by the defendant – namely, the sexual exploitation of a child – and the criminal sanction imposed by the court. The two-year imprisonment sentence fails to embody a sense of justice for the victim, who endures long-lasting physical, psychological, and social repercussions as a result of this grievous crime. From a normative perspective, Law No. 35 of 2014 on Child Protection and the Law on the Eradication of Human Trafficking explicitly establish a robust legal framework for imposing stringent penalties on perpetrators of child sexual exploitation. The leniency of this punishment raises concerns regarding the judiciary's commitment to ensuring maximal legal protection for children, who constitute a vulnerable population. Accordingly, this verdict should prompt a critical evaluation among law enforcement agencies to ensure that legal enforcement transcends mere formalism and genuinely upholds substantive justice – prioritizing the safeguarding of victims and the prevention of future offenses of a similar nature.

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