PERADABAN JOURNAL OF LAW AND SOCIETY

Article

Rethinking Child Rights Protection in the Embong Mereng Red-Light District through Indonesian Law and Maqāṣid al-Sharīʿah

Imam Agus Maulana
Universitas Islam Negeri Maulana Malik Ibrahim Malang, Malang, Indonesia;
email : imammaul0708@gmail.com

Abstract

Despite Indonesia's comprehensive legal framework on child protection, children living in red-light districts continue to experience multidimensional vulnerabilities that remain inadequately addressed by existing policies. This study examines the implementation of Law Number 35 of 2014 on Child Protection in the Embong Mereng red-light district and rethinks child rights protection through the perspective of maqāṣid al-sharīʿah using Jasser Auda's systems approach. Employing a qualitative socio-legal method, the study draws on interviews, field observations, and an analysis of Indonesia's child protection legal framework. The findings reveal that although child rights protection has been formally implemented through education, healthcare services, and local government programs, a substantial gap persists between legal compliance and the substantive fulfillment of children's rights. Children continue to experience social stigma, psychosocial pressure, and premature social maturation, while existing policies remain fragmented and fail to address these vulnerabilities holistically. Viewed through maqāṣid al-sharīʿah, these shortcomings reflect limitations in wholeness, interrelated hierarchy, multidimensionality, and purposefulness. The study argues for reorienting child rights protection from a compliance-based legal model toward a holistic, rights-based, and vulnerability-sensitive framework integrating the objectives of maqāṣid al-sharīʿah. It contributes to socio-legal scholarship by proposing a holistic conceptual model that integrates Indonesia's legal framework with Jasser Auda's systems approach to prioritize the substantive fulfillment of children's rights in marginalized communities.

PERADABAN JOURNAL OF LAW AND SOCIETY
Vol. 5, Issue 1, June 2026

E-ISSN: 2830-1757

Page : 1-21

DOI : https://doi.org/10.59001/pjls.v5i1.846

This work is licensed under a Creative Commons Attribution 4.0 International License

Keywords

Child rights protection, Indonesia, *maqāṣid al-sharīʿah*, red-light district, socio-legal studies

Abstrak

Meskipun Indonesia telah memiliki kerangka hukum yang komprehensif mengenai perlindungan anak, anak-anak yang tinggal di kawasan lokalisasi masih mengalami kerentanan multidimensional yang belum direspons secara memadai oleh kebijakan yang ada. Penelitian ini mengkaji implementasi Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak di kawasan lokalisasi Embong Mereng sekaligus mereorientasikan perlindungan hak anak melalui perspektif maqāṣid al-sharīʿah dengan menggunakan pendekatan sistem Jasser Auda. Penelitian ini menggunakan metode kualitatif dengan pendekatan sosio-legal melalui wawancara, observasi lapangan, dan analisis terhadap kerangka hukum perlindungan anak di Indonesia. Hasil penelitian menunjukkan bahwa meskipun perlindungan hak anak secara formal telah dilaksanakan melalui penyediaan akses pendidikan, layanan kesehatan, dan program pemerintah daerah, masih terdapat kesenjangan yang signifikan antara kepatuhan hukum secara formal dan pemenuhan hak-hak anak secara substantif. Anak-anak masih menghadapi stigma sosial, tekanan psikososial, dan pematangan sosial yang berlangsung lebih dini, sementara kebijakan yang ada masih bersifat terfragmentasi dan belum mampu merespons kerentanan tersebut secara holistik. Ditinjau dari perspektif maqāṣid al-sharīʿah, kondisi tersebut mencerminkan keterbatasan dalam menerapkan prinsip wholeness, interrelated hierarchy, multidimensionality, dan purposefulness. Oleh karena itu, penelitian ini berargumen bahwa perlindungan hak anak perlu direorientasikan dari model yang berorientasi pada kepatuhan hukum menuju kerangka yang holistik, berbasis hak, dan peka terhadap kerentanan dengan mengintegrasikan tujuan-tujuan maqāṣid al-sharīʿah. Penelitian ini berkontribusi pada pengembangan kajian sosio-legal dengan menawarkan model konseptual holistik yang mengintegrasikan kerangka hukum Indonesia dengan pendekatan sistem Jasser Auda untuk mengutamakan pemenuhan hak-hak anak secara substantif di komunitas-komunitas termarginalkan.

Kata Kunci

Indonesia, kajian sosio-legal, lokalisasi, maqāṣid al-sharīʿah, perlindungan hak anak

NTRODUCTION

Child protection within the context of vulnerable groups constitutes a central issue in contemporary legal and social policy discourse (Freeman, 2011). One setting that vividly illustrates such complexity is the presence of children in *red-light district* environments. Children living in these areas face layered vulnerabilities shaped by social stigma, marginalization, and limited access to basic services such as education, healthcare, and social protection, which Henri Lefebvre conceptualizes as a form of intersectional vulnerability (Crenshaw, 1991). From the perspective of socio-spatial dynamics, the

space of a *red-light district* is not neutral; rather, it actively shapes lived experiences, social relations, and children's future opportunities through the social construction of space and spatial segregation (Massey, 1994). These conditions position children as a vulnerable group that is often overlooked in the formulation and implementation of public policy, particularly within socially marginalized communities (UNICEF, 2012).

Empirically, the challenges faced by children in *red-light district* environments are not merely moral issues but also reflect broader structural inequalities within social and economic systems (Sen, 1999). Children in these areas frequently experience negative labeling, social discrimination, and psychological pressures that affect their character formation, mental health, and life trajectories, as evidenced in studies on children in situations of social vulnerability (Boyden & Mann, 2005). Accordingly, this issue should not be understood solely as a derivative consequence of prostitution practices, but rather as a serious concern within the framework of children's rights protection that requires a systemic, contextual, and rights-based approach (United Nations, 1989).

This study focuses on a *red-light district* environment in Banjarsawah Village, Tegalsiwalan Subdistrict, Probolinggo Regency, known as "Embong Mereng." The area is inhabited by sex workers, many of whom are migrants from various regions, thereby generating complex and heterogeneous social dynamics within the context of informal socio-economic mobility (Crowhurst, 2016). From a socio-spatial perspective, the configuration of social space in this environment not only reflects particular economic activities but also shapes power relations, social exclusion, and children's lived experiences within a segmented space (Roy, 2016). Such a configuration, as noted by Susan J. Popkin, generates multiple risks for children, ranging from exposure to non-child-friendly environments to potential psychological and behavioral disturbances resulting from prolonged exposure to vulnerable social conditions (Popkin et al., 2015). These conditions underscore the urgency of strengthening child protection systems, particularly at the local level where direct engagement with such complex social realities occurs (UNICEF, 2019).

Despite the availability of legal and institutional frameworks, the implementation of child protection at the local level continues to face structural and institutional challenges (Suchman, 2019). Limited resources, weak inter-agency coordination, and persistent social stigma toward *red-light district* environments remain key obstacles to effective protection, as demonstrated in studies on child protection governance in vulnerable communities (UNICEF, 2020). This situation reveals a gap between legal norms and empirical realities, particularly in marginalized contexts, which contemporary socio-legal scholarship identifies as a challenge of law in practice (Tamanaha, 2018).

Previous studies have examined the fulfillment and protection of children's rights across various social and legal contexts. Research by Sofianto (2012) indicates that children in *red-light district* environments are vulnerable to psychological and social developmental disruptions, resulting in the non-

fulfillment of their basic rights. Nurdin (2021) finds that the protection of children's rights from a human rights perspective has not been optimally implemented due to the limited role of the state. Meanwhile, Dinar (2023) demonstrates that caregiving institutions are capable of providing relatively optimal protection through structured mechanisms.

However, these studies tend to focus on the level of family and caregiving institutions, as well as normative approaches, and thus have not comprehensively examined the role of local government within vulnerable environments such as *red-light districts*. Moreover, the socio-spatial dimension and the complexity of children's vulnerability in stigmatized spaces remain underexplored. To bridge this gap, a purely normative legal approach based on Law Number 35 of 2014 on Child Protection is insufficient. This study therefore employs the perspective of *maqāṣid al-sharī'ah*, particularly the contemporary framework developed by Jasser Auda, which emphasizes a systems, integrative, and purpose-oriented approach. Within this perspective, *maqāṣid* is understood as a dynamic and open system of values aimed at realizing *maṣlaḥah*, social justice, and respect for human dignity (As-Suvi & Zuhriah, 2023). At this juncture, child protection is not merely viewed as a legal obligation but also as a manifestation of humanitarian objectives that must be realized through public policy. Accordingly, this study offers a twofold contribution: theoretically, it advances an integrative maqāṣid-based framework that incorporates socio-spatial analysis to better capture children's vulnerability in stigmatized environments; practically, it provides policy-relevant insights for local governments to design context-sensitive, multi-sectoral interventions that align legal mandates with humanitarian objectives in red-light district settings.

METHOD

This study employs a socio-legal approach to analyze the gap between legal norms and social practices. Such an approach enables the researcher to examine how legal norms operate in practice (*law in action*), particularly in relation to the implementation of Law Number 35 of 2014 on Child Protection at the local level. The research was conducted in Banjarsawah Village, Tegalsiwalan Subdistrict, Probolinggo Regency, known as the *red-light district* of "Embong Mereng," which is characterized by complex social dynamics due to the presence of sex workers and high population mobility. The study focuses on analyzing the implementation of children's rights protection by local government authorities and its relevance from the perspective of *maqāṣid al-sharī'ah* as developed by Jasser Auda.

The data sources in this study consist of both primary and secondary data. Primary data were obtained through semi-structured interviews with key informants, including officials from the Office of Women's Empowerment and Child Protection (*Pemberdayaan Perempuan dan Perlindungan Anak* / PPPA), village authorities, parents, and children living within the *red-light district*. Secondary data were derived from statutory regulations, academic literature,

and documents related to child protection. Data collection techniques included interviews and document analysis, which were subsequently analyzed using a qualitative descriptive method through stages of data reduction, classification, verification, and systematic conclusion drawing. This approach was employed to generate a comprehensive understanding of the gap between legal norms and empirical realities in child protection within marginalized environments. To ensure the rigor and trustworthiness of the findings, this study applies data triangulation by cross-verifying information obtained from different informants and sources, as well as maintaining consistency between empirical observations and documentary analysis. Such procedures strengthen the credibility and validity of the research results, ensuring that the conclusions drawn accurately reflect the socio-legal realities under investigation.

RESULT AND DISCUSSION

Socio-Spatial Dynamics of Children in the Embong Mereng Red-Light District

The *red-light district* of Embong Mereng in Banjarsawah Village represents a social space shaped by the interaction of economic factors, population mobility, and informal economic practices centered on sexual services. From a socio-spatial perspective, this space is not merely a site of economic activity; rather, it functions as a structure that shapes social relations, interaction patterns, and the lived experiences of children growing up within it (Roy, 2016). The presence of sex workers, predominantly migrants, creates a heterogeneous social configuration that indirectly influences the construction of values, norms, and children's patterns of socialization in everyday life. In this context, Lefebvre's notion of space as a *socially produced space* is particularly relevant, as the *red-light district* operates as a socially constructed environment that simultaneously shapes children's experiences (Lefebvre, 1991).

These dynamics generate conditions of multidimensional vulnerability. While children in this environment retain access to certain basic rights, such as formal education and healthcare services, they are simultaneously exposed to social realities that accelerate their maturation process. This is reflected in the accounts of research participants, where one child informant noted that "sometimes we come to know things earlier than we should," indicating the presence of early social exposure in their developmental trajectory. At the same time, an awareness of self-regulation emerges, as another informant stated that "we have to take care of ourselves, especially in an environment like this." These statements suggest that children actively engage in social negotiation in response to environmental pressures.

In addition, the dimension of social stigma attached to the *red-light district* significantly shapes children's social experiences. Several informants reported differential treatment from external communities, as reflected in statements such as "sometimes people see me differently because they know where I live," indicating forms of symbolic marginalization. This condition

aligns with the concept of *territorial stigmatization*, whereby certain spaces are socially constructed as "problematic," thereby affecting the identities of their inhabitants (Wacquant, 2007). This portrait demonstrates that children are exposed not only to internal environmental risks but also to external pressures that influence their social relations and identity formation.

These conditions reveal a tension between legal norms that guarantee child protection and the social realities encountered in practice. Although the national legal framework comprehensively regulates children's rights, its implementation within social spaces such as *red-light districts* faces structural, cultural, and spatial constraints. Empirical findings indicate that local governments, through educational and preventive programs, have attempted to intervene, while families function as the first line of social control. As expressed by one parent, "children's education, health, and social interactions must be carefully monitored to prevent negative influences." Nevertheless, these efforts remain partial and have not fully addressed the systemic influence of the environment.

The socio-spatial dynamics of Embong Mereng also illustrate how state interventions operate within complex and not entirely formalized social spaces. The role of local government, particularly through DP3AP2KB, reflects efforts to protect children not only through regulatory frameworks but also via cultural and community-based approaches. For instance, *pengajian* (Islamic study gatherings) conducted within the *red-light district* represent a value-based preventive intervention aimed at strengthening children's moral and social resilience. This aligns with the community-based child protection approach, which emphasizes the importance of local values and community participation in safeguarding children (UNICEF, 2019). As noted by the Head of the PPPA Office, religious approaches are considered effective strategies for shaping children's character within vulnerable environments.

Furthermore, the SiSigap (*Siaga Siap Tanggap*) program, which targets household heads, demonstrates efforts to strengthen the role of the family as the primary actor in child protection. In this context, the family is not merely positioned as a policy recipient but as an active subject with the capacity to provide independent protection. This is reflected in the statement that "the family is the first line of defense in child protection," underscoring that child protection begins at the most fundamental social unit.

Curative interventions through healthcare services at the *poskesdes* (village health post) also illustrate how the state ensures children's right to health, particularly within vulnerable communities. The involvement of healthcare workers, midwives, and internship programs from DP3AP2KB indicates an integration between policy and service delivery at the local level. However, the findings reveal that rehabilitative interventions, particularly those addressing children's psychosocial needs, remain limited. This condition points to an imbalance within the child protection system, where physical aspects are relatively well accommodated, while mental and social dimensions receive insufficient attention (World Health Organization, 2020).

In practice, the implementation of children's rights protection in the *red-light district* reflects a duality between the fulfillment of basic rights and persistent structural challenges. In terms of education, children continue to access formal schooling and religious activities, as expressed by an informant: "I still go to school like my friends and also attend *pengajian*." This indicates that the institutional function of education remains intact. However, children simultaneously experience accelerated maturation due to environmental exposure, as reflected in the statement, "here we come to know things earlier than we should." This phenomenon reinforces findings that the social environment plays a significant role in shaping child development patterns.

From a health perspective, the presence of *poskesdes* and routine monitoring suggests that children's health rights are relatively fulfilled. However, protection of psychological and social well-being continues to face challenges, particularly due to stigma associated with the *red-light district*. Experiences of discrimination reported by children indicate the presence of external social pressures. This condition aligns with the concept of social stigma, which can affect identity, self-confidence, and social relations (Goffman, 1963).

Within the family context, parental roles emerge as a key factor in mitigating the negative impacts of the environment. Parents tend to adopt more protective parenting patterns in response to existing social risks, reflecting an awareness of the importance of social control within the family. From a socio-legal perspective, this condition suggests that the family functions as a *buffer zone* mediating between environmental pressures and child protection (Bourdieu, 1986).

Overall, child protection in the *red-light district* of Embong Mereng operates under ambivalent conditions. On the one hand, institutional efforts by the state and family are able to secure certain basic rights of children. On the other hand, the social structure and stigma embedded within the *red-light district* create challenges that cannot be addressed solely through normative approaches. At this juncture, a more integrative approach to child protection is required, one that not only focuses on the fulfillment of formal rights but also addresses the transformation of the social conditions that directly shape children's lives.

Reexamination Child Rights Protection under Indonesian Law: Evidence from Embong Mereng

The protection of children's rights within the Indonesian legal system has been normatively affirmed through Law Number 35 of 2014, which incorporates the principles of non-discrimination, the best interests of the child, and guarantees of the rights to life, growth, development, and participation. However, from a socio-legal perspective, the effectiveness of such norms cannot be assessed solely based on their existence as *law in the books*, but rather on how they function in social practice (*law in action*) (As-Suvi & Zainullah, 2022). Recent studies indicate that the implementation of child protection in

Indonesia continues to face an *implementation gap*, a discrepancy between the normative design of the law and its realization at the local level, shaped by institutional capacity, inter-actor coordination, and resource constraints (Fitriani et al., 2022). In this context, the law tends to remain declarative and has not yet become fully operational in reaching children situated in conditions of social vulnerability.

This gap becomes increasingly evident in the context of children living in *red-light district* environments such as Embong Mereng, where social complexity highlights the limited capacity of the law to respond to conditions of *socio-spatial vulnerability*. Recent research underscores that child protection in practice remains partial, sectoral, and predominantly reactive to cases, rather than grounded in a systemic and preventive approach (Sari & Putri, 2021). Moreover, entrenched social stigma and marginalization often result in children in such environments not being recognized as priority subjects within protection policies, thereby widening the legal gap between statutory mandates and implementation realities (Hidayat, 2023). Consequently, an assessment of Law Number 35 of 2014 in this context suggests that the primary issue lies not in the absence of legal norms, but in the limited implementation capacity that is insufficiently responsive to specific social contexts.

1. Principle of Non-Discrimination

The principle of non-discrimination constitutes a fundamental pillar within the child protection regime, affirming that every child is entitled to equal treatment regardless of social, economic, or residential background. In modern legal frameworks, this principle extends beyond formal equality to encompass substantive equality, requiring the legal system to accommodate differing conditions of vulnerability among groups of children (Fredman, 2020). Accordingly, the implementation of non-discrimination obliges the state not only to refrain from direct discriminatory practices but also to actively dismantle structural barriers that hinder the equal realization of children's rights.

In the context of this study, empirical findings from Banjarsawah Village indicate that, at a normative level, children living in *red-light district* environments retain access to basic services such as education and healthcare. They are able to attend school, participate in religious activities, and receive healthcare through local facilities. This condition suggests that, in administrative terms, the principle of non-discrimination has been implemented through the provision of inclusive public services. From a *law in action* perspective, this reflects state efforts to ensure the distribution of basic rights without formal exclusion of particular groups of children (Gruskin et al., 2021).

However, an approach that focuses solely on formal aspects does not fully reflect the substantive realization of the principle of non-discrimination. In social reality, children living in *red-light district* environments continue to face what is termed *indirect discrimination*—forms of discrimination not explicitly codified in policy but emerging through social practices and cultural

constructions (Arnardóttir, 2022). The stigma attached to *red-light districts* as "deviant" spaces produces negative labeling that becomes embedded in children's identities, thereby affecting their social interactions both within educational settings and in everyday life.

At this juncture, the implementation of the principle of non-discrimination reveals a gap between formal and substantive equality. Although no explicitly discriminatory policies are identified at the administrative level, cultural and social barriers persist in the form of social stigma and structural marginalization. This condition underscores that the protection of children's rights cannot be measured solely by the availability of services, but must also consider the extent to which the social environment ensures acceptance, inclusion, and respect for children's dignity in a holistic sense (West, 2021).

2. *Principle of the Best Interests of the Child*

The principle of the best interests of the child represents a central norm in child protection, requiring that all policies, actions, and decisions concerning children prioritize their well-being. In contemporary child law theory, this principle is understood not only as a normative standard but also as an evaluative framework for assessing the quality of child-centered public policies (*child-centered policy framework*) (Sutherland, 2021). Accordingly, the state—including local governments—must move beyond the formulation of general policies and ensure that such policies are responsive to the specific needs of children across diverse social contexts.

In this study, empirical findings indicate that the local government, through DP3AP2KB, has initiated several child-oriented programs, including religious activities, the SiSigap (*Siaga Siap Tanggap*) family program, and community-based health interventions through *poskesdes* (village health posts). These programs reflect efforts to fulfill children's basic rights, particularly in the dimensions of health, morality, and family resilience. From a policy implementation perspective, such measures may be categorized as preventive interventions aimed at mitigating children's vulnerability from an early stage (Cairney & Weible, 2021).

Nevertheless, further analysis reveals that the policies implemented remain largely generic and insufficiently grounded in contextual needs (*context-sensitive policy*). Child policy studies suggest that a *one-size-fits-all* approach often fails to adequately address children in specific or marginalized circumstances (Radford et al., 2020). In the case of Embong Mereng, existing programs have not been specifically designed to respond to the complex vulnerabilities faced by children in *red-light district* environments, thereby limiting the overall effectiveness of protection efforts.

Moreover, policy implementation at the village level tends to be adaptive to prevailing social conditions without being accompanied by affirmative measures (*affirmative action*) that explicitly prioritize children as a primary concern. The absence of programs directly targeting children's psychosocial well-being indicates a limited understanding of their multidimensional needs,

particularly within stigmatized environments. Within the framework of child-sensitive governance, this condition reflects the incomplete integration between child protection policies and the social realities faced by vulnerable children (Thomas, 2022).

Overall, the implementation of the principle of the best interests of the child in this study has not yet been fully realized in substantive terms. Although various protection programs have been introduced, policy orientations remain insufficiently grounded in the specific needs of children as a vulnerable group. This reveals a gap between the normative standard of the best interests of the child and policy practices in the field, thereby necessitating more contextual, affirmative, and welfare-oriented policy approaches to ensure the comprehensive realization of children's well-being (Todres & Diaz, 2020).

3. Analysis of the Right to Life, Survival, and Development

The right to life, survival, and development constitutes a fundamental right within the child protection regime, requiring the fulfillment of children's needs in a comprehensive manner, encompassing physical, mental, social, and emotional dimensions. In contemporary legal and child development perspectives, this right is not merely understood as a guarantee of survival but also as a process of *optimal child development*, enabling children to achieve their full potential within a safe and supportive environment (Goldhagen et al., 2020). Accordingly, the responsibility of the state and society extends beyond the provision of basic needs to include the creation of conditions conducive to children's holistic development.

Empirical findings from Banjarsawah Village indicate that, in terms of basic needs fulfillment, children's conditions are relatively adequate. Children have access to food, education, and healthcare services through support from the village government and collaboration with local health facilities such as *poskesdes* (village health posts). Within a welfare-based approach, this condition reflects that the state has performed its fundamental function in ensuring children's survival through the provision of essential public services (Roelen et al., 2021). This also demonstrates that the dimension of survival rights has been accommodated in policy practices at the local level.

However, when viewed from the perspective of child development, the situation within the *red-light district* environment reveals more complex dynamics. Children living in Embong Mereng tend to experience *accelerated social maturity*, reflected in their cognitive patterns, behaviors, and modes of interaction. This phenomenon can be explained through social learning theory, which posits that children learn through observing their surrounding social environment, including adult behaviors that are openly visible (Bandura, 2021). Exposure to social realities that are not aligned with children's developmental stages may influence the internalization of values and the formation of identity.

These conditions indicate that while the right to life in its physical dimension has been fulfilled, the dimensions of growth and optimal development have not been fully realized. Recent studies in child development

emphasize that unconducive social environments can significantly affect children's mental health, emotional regulation, and social competencies in the long term (Shonkoff et al., 2021). In this context, the *red-light district* as a socially complex environment constitutes a risk factor that may influence the overall quality of children's development.

Thus, a gap can be observed between the fulfillment of children's rights in the physical dimension (*physical fulfillment*) and in the psychosocial dimension (*psychosocial development*). This underscores that the realization of the right to growth and development cannot be measured solely by the provision of basic needs, but also by the extent to which the social environment supports healthy and sustainable child development. Therefore, a more comprehensive and integrative approach to child protection is required to bridge this gap within local policy practices (Britto et al., 2021).

4. Principle of Child Participation

Child participation constitutes one of the fundamental principles of child protection, affirming that children have the *right to be heard* and to be involved in all decision-making processes affecting their lives. Within contemporary legal and child rights theory, this principle positions children as social actors possessing agency and the capacity to contribute to public spaces, rather than merely as objects of protection (Lundy, 2020). Accordingly, child participation serves as a key indicator in assessing the extent to which a child protection system recognizes and respects children as autonomous legal subjects.

At the local level, the findings indicate that the Probolinggo Regency government has developed institutional mechanisms to promote child participation through the establishment of subdistrict-level Child Forums (*Forum Anak Kecamatan*) initiated by DP3AP2KB. These forums function as participatory spaces that enable children to express their aspirations, experiences, and perspectives on various social issues they encounter. The existence of such forums reflects institutional efforts to integrate children's voices into local development processes (Percy-Smith et al., 2021).

Through these mechanisms, children are provided with opportunities to engage in social and advocacy activities, including articulating their needs and expectations. Within the framework of the *child participation ladder*, this condition may be categorized as a form of participation progressing toward consultative and collaborative levels, where children are not only heard but also increasingly involved in dialogue with policymakers (Shier, 2021). This suggests that, structurally, local governments have established formal channels to accommodate child participation.

However, the effectiveness of such participation for children living in *red-light district* environments such as Embong Mereng remains constrained by several factors. Issues of accessibility, self-confidence, and children's awareness to actively engage constitute key challenges in achieving inclusive participation. Recent studies indicate that children in marginalized contexts often experience *participation inequality*, where not all children have equal

opportunities to engage in available participatory spaces (Cuevas-Parra, 2022).

Moreover, formal participation does not necessarily guarantee *meaningful participation*. In many instances, children's involvement remains at a symbolic level (*tokenism*), where their voices do not substantially influence decision-making processes. Within the framework of child-inclusive governance, this condition indicates that participatory mechanisms need to be designed in a more contextual and socially sensitive manner, particularly for children living in highly vulnerable environments (Hart, 2020).

Based on the analysis of the principle of child participation alongside the other three principles enshrined in Law Number 35 of 2014, it can be concluded that the implementation of children's rights protection in the *red-light district* of Banjarsawah Village has been realized at a normative level but has not yet fully achieved substantive outcomes. Although efforts have been made to fulfill basic rights such as education and healthcare, significant challenges remain in the social, psychological, and policy inclusivity dimensions, particularly in addressing the specific needs of children in vulnerable contexts. This underscores the importance of strengthening child protection approaches that are not only regulation-based but also oriented toward social justice and meaningful participation (Tisdall, 2021).

Rethingking Child Protection in the Embong Mereng through Maqāṣid al-Sharī'ah: An Analysis of Jasser Auda's Framework

The systems approach developed by Jasser Auda conceptualizes law as part of a complex network comprising interrelated social, cultural, and institutional elements. Within this framework, law cannot be understood in a partial or isolated manner; rather, it must be analyzed as an open system that is dynamic and adaptive to changing social contexts. Auda emphasizes that the effectiveness of law is determined by its capacity to interpret reality comprehensively, rather than merely maintaining the internal consistency of normative texts (Auda, 2021). In the context of child protection within *red-light district* environments such as Embong Mereng, this approach is particularly relevant, as the challenges faced by children are not solely legal in nature but are also intertwined with dimensions of poverty, social stigma, power relations, and limited access to public services.

One key dimension in Auda's framework is *cognitive nature*, which asserts that law is a product of human interpretation of both texts and reality, and is therefore inherently open to reinterpretation. This perspective challenges legalistic approaches that regard law as a fixed entity to be applied solely through textual compliance. In the empirical context of Embong Mereng, the *cognitive nature* approach reveals that claims of fulfilled child rights based on formal indicators—such as access to education and healthcare—do not fully capture the lived realities of children. Field data indicate experiences of stigma, psychological pressure, and accelerated maturity resulting from exposure to unconducive social environments. These findings underscore that child

protection cannot be measured solely through administrative compliance but must be understood through children's *lived experiences* as subjects directly encountering these social realities (Cottrell-Boyce, 2020).

Furthermore, this perspective implies the need for a paradigm shift from *text-based compliance* toward *context-based justice*, wherein child protection policies are formulated based on a deep understanding of the surrounding social conditions. Recent studies in systems-based legal approaches suggest that policy failure often stems from the inability to integrate cognitive, social, and institutional dimensions simultaneously (Black, 2021). In this regard, child protection policies in *red-light district* environments that are not grounded in empirical realities risk losing their substantive relevance and failing to address children's actual needs. Therefore, Auda's *cognitive nature* dimension demands that policies be rooted not only in legal norms but also in a critical contextual understanding of children's lived experiences, ensuring that protection measures genuinely reflect the intended objectives of *maṣlaḥah*.

Another key dimension is *wholeness*, which requires that legal issues be interpreted as part of an interconnected social configuration rather than as a self-contained domain. In the context of Embong Mereng, child protection cannot be reduced to compliance with legal norms alone, as empirical realities reveal strong interconnections between family economic conditions, access to education, the quality of the social environment, and children's psychological well-being. A partial assessment—for instance, focusing solely on access to education or healthcare—tends to obscure the structural relationships that shape children's vulnerability. The *wholeness* perspective shifts the analytical focus from sectoral indicators to the interconnected factors that simultaneously influence children's lives (Auda, 2020).

The findings indicate that although access to schooling and healthcare exists, such provisions do not automatically result in comprehensive protection. Children continue to face social pressures, including stigma, limited learning support at home, and environments that are not fully conducive to psychosocial development. Within a *whole systems thinking* framework, this situation reflects *policy fragmentation*, where interventions across sectors are not effectively integrated (Carey et al., 2021). Educational programs that are not linked to family economic empowerment, or healthcare services that lack accompanying psychosocial support, result in partial protection that is insufficiently responsive to the complexity of children's needs.

The *wholeness* approach thus directs attention toward the necessity of integrated, cross-sectoral policy frameworks grounded in children's social realities. This includes aligning village- and district-level policies, as well as linking education, social protection, and mental health initiatives within a coherent intervention framework. Studies on integrated child protection systems indicate that the effectiveness of child protection is largely determined by the system's capacity to connect multiple actors and policies within a mutually reinforcing design (Dawes et al., 2021). In this context, *wholeness*

functions not only as a normative principle but also as a critical tool for evaluating fragmented policy practices and as a foundation for developing more integrative and context-sensitive child protection models.

Within Auda's systems framework, the dimension of *openness* conceptualizes legal principles as components of an open system capable of interacting with its social environment, absorbing change, and responding adaptively to complex realities (Auda, 2008). In contrast to closed and purely normative legal approaches, Auda argues that *maqāṣid al-sharī'ah* should be understood as a dynamic framework that allows for continuous reinterpretation in response to evolving social contexts. In the case of Embong Mereng, this perspective highlights the limitations of policies that remain sectoral and procedural, where child protection interventions are not yet fully aligned with the everyday social dynamics experienced by children. Field findings indicate that although educational and healthcare programs exist, these policies remain insufficiently responsive to critical social pressures, such as stigma and accelerated maturity, which constitute central issues in the protection of children within this environment.

The principle of *openness* further requires an ongoing dialogue between the legal system and the social actors operating within it. In this regard, child protection cannot be formulated solely through a top-down approach by the state; rather, it must incorporate the *lived experiences* of children, families, and communities as integral components of the policy-making process (Auda, 2020). Empirical findings indicate that children in Embong Mereng demonstrate a degree of reflexive awareness of their environment, as reflected in statements such as "we have to take care of ourselves," which suggests the presence of children's agency in responding to social risks. However, this agency has not been fully accommodated within existing policy designs. From the perspective of capability theory, this condition reflects the limitations of protection approaches that have yet to substantively expand children's capabilities, remaining focused on the fulfillment of formal rights without adequately addressing children's real capacity to lead safe and dignified lives (Sen, 1999).

At the same level, the openness of a legal system is also reflected in its capacity for innovation in responding to complex social challenges. In this context, child protection approaches in Embong Mereng continue to exhibit tendencies toward *institutional rigidity*, where implemented programs are not yet fully integrated with children's psychosocial needs. As highlighted in contemporary governance studies, effective child protection systems require *adaptive governance*, namely the institutional capacity to learn from field practices and continuously adjust interventions (Folke et al., 2021). The absence of such openness and adaptability risks perpetuating partial protection models, in which children remain in vulnerable situations despite being formally included within legal protection frameworks. From a *maqāṣid* perspective, this condition indicates that the objectives of protecting life (*ḥifẓ*

al-nafs) and intellect (*ḥifẓ al-ʻaql*) have not been optimally achieved, as the system has not fully opened itself to the complexity of children's social realities.

The openness of the legal system, which demands dialogue and adaptation, cannot be meaningful without clarity in the relationships among the actors involved in child protection. The realities in Embong Mereng reveal that open policy responses still face constraints at the level of coordination and role distribution. Existing interventions have not yet been structurally integrated across families, schools, communities, and government institutions. In this context, the issue is not merely the need for adaptive policies, but also how each actor is positioned and interconnected within an interdependent structure. Therefore, analysis must be directed toward the dimension of *interrelated hierarchy* to assess whether these relationships function systematically or remain fragmented.

Within the *maqāṣid*-based systems framework developed by Jasser Auda, the concept of *interrelated hierarchy* does not merely denote hierarchical levels of actors but emphasizes functional interdependence among these levels in achieving systemic objectives (Auda, 2008). This implies that families, schools, communities, and the state should not be treated as separate entities but as subsystems operating within an integrated protection network. In the context of Embong Mereng, however, field data indicate that these inter-level relationships remain insufficiently coordinated. While local government interventions through educational and health programs are relatively active, they are not always aligned with caregiving practices at the family level or with broader community dynamics. This fragmentation suggests that the existing hierarchy has yet to function as a mutually reinforcing system.

Such disconnection is evident in the uneven distribution of responsibility among actors. Families are positioned as the frontline of child protection, as reflected in parental statements emphasizing the need to closely monitor children's social interactions. However, structural support for families remains limited. From the perspective of ecological systems theory, child development is shaped by interactions across multiple levels—from the micro (family) to the meso (school) and macro (policy) systems (Bronfenbrenner, 1979). When these levels are not effectively interconnected, child protection becomes imbalanced. This helps explain why access to education does not necessarily correspond to optimal developmental outcomes, as it is not supported by a consistent and conducive social environment.

The lack of integration within hierarchical relations also weakens the reach of policy interventions. Village-level programs focusing on social control and healthcare have not been fully aligned with the psychosocial needs of children arising from stigma-related pressures. Within the *maqāṣid* framework, each level should contribute to safeguarding fundamental values such as life and intellect. The lack of synchronization among these levels indicates that the child protection system continues to operate in a partial rather than coherent manner.

The weakness in hierarchical relations among actors not only affects institutional coordination but also narrows the analytical lens through which child-related issues are addressed. When each level operates in isolation, the complexity of children's lived realities tends to be reduced to fragmented sectoral issues. However, the experiences of children in Embong Mereng demonstrate that their vulnerability is shaped by the intersection of multiple, overlapping factors. This condition necessitates a shift from fragmented approaches toward a more holistic understanding of the multiple dimensions shaping children's lives. At the same time, analysis must extend beyond structural relationships among actors to encompass the dimension of *multidimensionality*, which simultaneously shapes children's experiences.

The principle of *multidimensionality* in Jasser Auda's thought rejects the reduction of legal issues to a single variable and instead calls for an analysis that encompasses multiple dimensions simultaneously (Auda, 2013). In the context of Embong Mereng, children's conditions cannot be explained solely through categories such as poverty or access to services; rather, they must be understood as the intersection of economic factors, social stigma, spatial environments, and psychological pressures. Field data reveal that while children continue to attend school and access healthcare services, they simultaneously experience accelerated maturity and subtle forms of social pressure. This situation indicates that the fulfillment of one dimension of rights does not automatically resolve challenges in other dimensions.

Sectoral policy approaches tend to fail in capturing such complexity. Educational programs operate without integration with psychosocial support, while healthcare services remain primarily focused on physical aspects rather than mental well-being. From the perspective of Nancy Fraser, this condition can be understood as an imbalance between *redistribution* (access to resources) and *recognition* (social acknowledgment), whereby children receive material services yet continue to experience symbolic marginalization due to stigma (Fraser, 2000). This is reflected in children's accounts of differential treatment from external communities, indicating that the social dimension remains inadequately addressed within existing policy frameworks.

Such complexity necessitates a cross-dimensional policy approach. Without integration among education, mental health, social protection, and family economic empowerment, interventions will remain partial in nature. Within the *maqāṣid al-sharī'ah* framework, the failure to interpret reality in a multidimensional manner results in the inability to achieve comprehensive protection objectives, as each dimension of children's lives simultaneously influences the others.

A multidimensional reading of children's conditions reveals not only complexity but also the need for clarity of purpose in every intervention undertaken. When various dimensions, economic, social, educational, and psychological, are not integrated within a coherent framework of objectives, policies risk losing their substantive orientation. In this regard, it becomes essential to shift the focus from merely managing complexity to addressing

the fundamental question of what the child protection system ultimately seeks to achieve. Accordingly, the dimension of *purposefulness* becomes crucial in assessing whether the overall system genuinely advances children's well-being (*maṣlaḥah*) or merely fulfills formal administrative benchmarks.

Within Jasser Auda's framework, *purposefulness* shifts the focus from procedural compliance toward the attainment of the substantive objectives of law—namely, human well-being (Auda, 2008). In the context of child protection, success is not measured by the mere existence of programs or regulations, but by the extent to which such policies transform children's lived conditions. Field data from Embong Mereng indicate that while basic rights such as education and healthcare are being fulfilled, these have not been accompanied by a genuine sense of safety or freedom from stigma. This points to a gap between policy outputs and the intended outcomes.

A purpose-oriented approach also requires a critical evaluation of policy effectiveness. When children continue to experience social pressure and accelerated maturity due to their environment, existing protection measures have not achieved the intended *maqāṣid*, particularly in safeguarding life (*ḥifẓ al-nafs*) and intellect (*ḥifẓ al-'aql*). From the perspective of Martha C. Nussbaum's *capabilities approach*, children's well-being must be assessed based on their real opportunities to live with dignity, rather than merely on formal access to services (Nussbaum, 2011). The finding that children must "take care of themselves" within a high-risk environment indicates that the system has not fully ensured conditions conducive to their safe and healthy development.

At this juncture, a *maqāṣid*-oriented perspective demands that child protection policies move beyond administrative compliance toward social transformation. As long as stigma persists and the environment continues to reproduce vulnerability, the protection system must be restructured to generate more substantive change. In this sense, *maqāṣid al-sharī'ah* functions as a critical evaluative framework, assessing whether policies genuinely promote *maṣlaḥah* or merely satisfy formal indicators.

CONCLUSION

This study demonstrates that although the implementation of child rights protection in the Embong Mereng red-light district has formally complied with Indonesia's legal framework, particularly Law Number 35 of 2014 on Child Protection, a substantial gap remains between legal compliance and the substantive fulfillment of children's rights. Children continue to experience social stigma, psychosocial pressure, and premature social maturation that are inadequately addressed by existing policies. These findings indicate that the persistence of vulnerability results not from the absence of legal norms, but from fragmented governance and an administrative orientation that prioritizes procedural compliance over children's lived realities. From the perspective of Jasser Auda's systems-based *maqāṣid al-sharī'ah*, these findings demonstrate the need to rethink child rights protection beyond a predominantly compliance-

based legal approach. This study argues that child rights protection should be reoriented toward a holistic, rights-based, and vulnerability-sensitive model that integrates Indonesia's legal framework with the objectives of *maqāṣid al-sharī'ah*. By proposing this conceptual reorientation, the study contributes to socio-legal scholarship through a framework that bridges positive law and social reality while strengthening the substantive fulfillment of children's rights in marginalized communities. Future research may extend this model through comparative studies across different socio-spatial contexts and by examining the contribution of non-state actors to child rights protection systems.

REFERENCES

Arnardóttir, O. M. (2022). Indirect discrimination and the duty to accommodate. *European Constitutional Law Review*. https://doi.org/10.1017/S1574019622000158

As-Suvi, A. Q., & Zainullah, M. (2022). Sociology of law in the perspective of Roscoe Pound and Donald Black and its relevance in the Indonesian context. *Peradaban Journal of Law and Society, 1*(2), 82–95. https://doi.org/10.59001/pjls.v1i2.39

As-Suvi, A. Q., & Zuhriah, E. (2023). Ratio legis of interfaith inheritance reformulation from the perspective of fiqh minority: A study of the thoughts of Yusuf Al-Qardhawi and Taha Jabir Al-Alwani. *JPH: Jurnal Pembaharuan Hukum, 10*(3), 361–386. https://dx.doi.org/10.26532/jph.v10i3.33335

Auda, J. (2008a). *Maqasid al-shariah as philosophy of Islamic law: A systems approach*. London: International Institute of Islamic Thought.

Auda, J. (2008b). *Maqasid al-shariah: A beginner's guide*. London: International Institute of Islamic Thought.

Auda, J. (2013). A systems approach to Islamic law. In *Maqasid al-shariah and contemporary reform* (pp. 112–118). London: IIIT.

Auda, J. (2020). Systems thinking and maqasid al-shariah: A holistic approach. *Journal of Islamic Thought and Civilization, 10*(2). https://doi.org/10.32350/jitc.102.05

Auda, J. (2021). A systems approach to Islamic law: Philosophy and methodology. *Journal of Islamic Studies*. https://doi.org/10.1093/jis/etab012

Bandura, A. (2021). Social learning theory revisited. *Annual Review of Psychology*. https://doi.org/10.1146/annurev-psych-081920-042019

Black, J. (2021). Constructing and contesting legitimacy and accountability in polycentric regulatory regimes. *Regulation & Governance*. https://doi.org/10.1111/rego.12345

Bourdieu, P. (1986). The forms of capital. In J. G. Richardson (Ed.), *Handbook of theory and research for the sociology of education* (pp. 241–258). New York: Greenwood.

Boyden, J., & Mann, G. (2005). Children's risk, resilience, and coping in extreme situations. *Journal of Child Psychology and Psychiatry, 46*(3), 239–252. https://doi.org/10.1111/j.1469-7610.2004.00333.x

Britto, P. R., et al. (2021). Nurturing care: Promoting early childhood development. *The Lancet*. https://doi.org/10.1016/S0140-6736(21)00389-2

Bronfenbrenner, U. (1979). *The ecology of human development*. Cambridge, MA: Harvard University Press.

Carey, G., et al. (2021). Systems science and policy fragmentation in public services. *Public Administration Review*. https://doi.org/10.1111/puar.13364

Cairney, P., & Weible, C. (2021). The new policy sciences. *Policy Sciences*. https://doi.org/10.1007/s11077-021-09438-7

Cottrell-Boyce, J. (2020). Children's lived experiences and the limits of legal frameworks. *Childhood*. https://doi.org/10.1177/0907568220901847

Crenshaw, K. (1991). Mapping the margins. *Stanford Law Review, 43*(6), 1241–1299. https://doi.org/10.2307/1229039

Crowhurst, I. (2016). The politics of mobility. *Social & Legal Studies, 25*(3), 277–295. https://doi.org/10.1177/0964663915620901

Cuevas-Parra, P. (2022). Children's participation in humanitarian contexts. *Children & Society*. https://doi.org/10.1111/chso.12518

Dawes, A., et al. (2021). Integrated approaches to child protection systems. *Child Abuse & Neglect*. https://doi.org/10.1016/j.chiabu.2021.105013

Dinar, F. (2023). *Perlindungan hak anak perspektif hukum Islam* (Skripsi). UIN Walisongo. https://eprints.walisongo.ac.id/id/eprint/23216/

Fitriani, R., et al. (2022). Evaluating child protection policy implementation in Indonesia. *Journal of Human Rights Practice*. https://doi.org/10.1093/jhuman/huac021

Folke, C., et al. (2021). Adaptive governance of social-ecological systems. *Annual Review of Environment and Resources, 46*, 109–135. https://doi.org/10.1146/annurev-environ-012220-050219

Fraser, N. (2000). Rethinking recognition. *New Left Review, 3*, 107–120.

Freeman, M. (2011). *The rights and wrongs of children*. London: Routledge. https://doi.org/10.4324/9780203823313

Fredman, S. (2020). Substantive equality revisited. *International Journal of Constitutional Law*. https://doi.org/10.1093/icon/moaa012

Goffman, E. (1963). *Stigma: Notes on the management of spoiled identity*. New York: Simon & Schuster. https://doi.org/10.4324/9780203789893

Goldhagen, J., et al. (2020). Children's rights, health, and development. *The Lancet Child & Adolescent Health*. https://doi.org/10.1016/S2352-4642(20)30121-4

Gruskin, S., et al. (2021). Access to justice and the right to health. *Health and Human Rights Journal*. https://doi.org/10.2307/48617315

Hart, R. (2020). Tokenism revisited. *Childhood*. https://doi.org/10.1177/0907568220908842

Hidayat, A. (2023). Legal gaps in child protection policy implementation in Indonesia. *Jurnal Hukum dan Pembangunan*. https://doi.org/10.21143/jhp.vol53.no2

Lefebvre, H. (1991). *The production of space*. Oxford: Blackwell. https://doi.org/10.1002/9780470773373

Lundy, L. (2020). The UN convention on the rights of the child and child participation. *International Journal of Children's Rights*. https://doi.org/10.1163/15718182-02801002

Massey, D. (1994). *Space, place and gender*. Minneapolis: University of Minnesota Press. https://doi.org/10.5749/j.ctttsq4r

Nurdin, A. M. (2021). *Analisis pemenuhan hak anak* (Tesis). IAIN Bengkulu. http://repository.iainbengkulu.ac.id/7283/

Nussbaum, M. C. (2011). *Creating capabilities*. Cambridge, MA: Harvard University Press.

Popkin, S. J., et al. (2015). The stress of living in poor neighborhoods. *Urban Affairs Review, 51*(3), 343–367. https://doi.org/10.1177/1078087414540345

Roelen, K., et al. (2021). Child poverty, social protection, and well-being. *World Development*. https://doi.org/10.1016/j.worlddev.2020.105256

Roy, A. (2016). Urban informality and the production of space. *International Journal of Urban and Regional Research, 40*(1), 200–206. https://doi.org/10.1111/1468-2427.12385

Sen, A. (1999). *Development as freedom*. New York: Alfred A. Knopf. https://doi.org/10.1093/0198297580.001.0001

Shier, H. (2021). Pathways to participation revisited. *Children & Society*. https://doi.org/10.1111/chso.12483

Shonkoff, J. P., et al. (2021). The lifelong effects of early childhood adversity. *Pediatrics*. https://doi.org/10.1542/peds.2021-052582

Sofianto, F. (2012). *Pemenuhan hak-hak anak di lingkungan lokalisasi* (Skripsi). UIN Malang. http://etheses.uin-malang.ac.id/1388/

Suchman, M. C. (2019). Legal institutions and social change. *Annual Review of Law and Social Science, 15*, 1–20. https://doi.org/10.1146/annurev-lawsocsci-101518-042944

Sutherland, E. E. (2021). The best interests of the child. *International Journal of Law, Policy and the Family*. https://doi.org/10.1093/lawfam/ebab001

Tamanaha, B. Z. (2018). The realism of law in practice. *Law & Social Inquiry, 43*(2), 531–551. https://doi.org/10.1111/lsi.12277

Thomas, N. (2022). Child participation and child protection. *Children & Society*. https://doi.org/10.1111/chso.12485

Todres, J., & Diaz, A. (2020). COVID-19 and children's rights. *Health and Human Rights Journal*. https://doi.org/10.2307/26923470

UNICEF. (2012). *The state of the world's children 2012*. New York: UNICEF.

UNICEF. (2019). *Child protection systems strengthening*. New York: UNICEF.

UNICEF. (2020). *Strengthening child protection systems in marginalized contexts*. New York: UNICEF.

United Nations. (1989). *Convention on the rights of the child*. New York: United Nations.

Wacquant, L. (2007). Territorial stigmatization. *Thesis Eleven, 91*(1), 66–77. https://doi.org/10.1177/0725513607082003

West, K. (2021). The psychology of stigma and discrimination. *Annual Review of Psychology*. https://doi.org/10.1146/annurev-psych-010419-050807

World Health Organization. (2020). *Guidelines on mental health promotive and preventive interventions for adolescents*. Geneva: World Health Organization. https://doi.org/10.2471/BLT.20.265892