

# Human Rights and Customary Law Analysis: Uncovering the Exploitation of Children and Women in Developing Countries

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**Abstract:** The research aims to highlight how traditional practices and norms, often ingrained in customary laws, contribute to systematic abuses and human rights violations. Utilizing a multidisciplinary approach, this study combines legal analysis, sociocultural examination, and case studies from various developing countries to provide a comprehensive understanding of the issue. Through qualitative methods, including interviews with affected individuals, reviews of existing legal frameworks, and analysis of human rights reports, the research identifies key patterns and factors that perpetuate exploitation. The findings reveal that while customary laws play a significant role in community governance and cultural identity, they often conflict with international human rights standards, leading to the marginalization and abuse of vulnerable groups, particularly children and women. Specific customary practices such as child marriages, forced labor, and gender-based violence are scrutinized to demonstrate the pervasive nature of these violations. The study underscores the urgent need for integrating human rights principles into customary legal systems to protect the most vulnerable and promote justice. Recommendations include comprehensive policy reforms that align customary laws with international human rights standards, education and awareness campaigns targeted at both local communities and policymakers, and the establishment of robust mechanisms for monitoring and enforcing human rights compliance within customary law frameworks. This research contributes to the broader discourse on human rights in developing countries by providing actionable insights and advocating for a balanced approach that respects cultural traditions while safeguarding fundamental human rights.

**Keywords:** Human Rights; Customary Law; Exploitation; Developing Countries

## 1. Introduction

In this ever-changing and complex world, the importance of child protection has become a major focus for many countries and international organisations. Children, as the most vulnerable individuals in society, are often the foremost victims of various forms of insecurity, exploitation and human rights violations. Therefore, efforts to ensure adequate protection for children have become an urgent moral imperative.<sup>1</sup> The United Nations Convention on the Rights of the Child (UNCRC), adopted in 1989, is an important milestone in underlining children's rights as an integral aspect of human rights. The UNCRC affirms children's right to live, grow and develop in a safe environment and have equal access to health care, education and legal protection. More than just beneficiaries, children are also agents of change in a country's social and economic development. Their participation in society, their education, and their contribution to innovation and creativity are

<sup>1</sup> Kamaruddin Kamaruddin, 'Widows' Rights and Customary Law: Addressing Responsive Law to Divorce Cases of Tolaki Community in Indonesia', *Mazahib* 22, no. 2 (7 December 2023): 283–308, <https://doi.org/10.21093/mj.v22i2.6154>.

important factors in the growth and development of a nation.<sup>2</sup> When we look at developing countries, the picture of the challenges faced by children becomes much more complex. Rampant poverty is one of the main issues that hinders children's access to basic services such as education and health. Armed conflicts, natural disasters and political instability also create unsafe environments for children, increasing their risk of exploitation, abuse and loss of rights.

Cultural and social factors also play a significant role in determining the circumstances of children in developing countries. The still common practice of child marriage, especially in some regions, leads to children engaging in age-inappropriate marriages and being at high risk of violence and oppression. Likewise, certain beliefs and traditions can influence people's perceptions of children's rights and hinder the effective implementation of child protection policies. (Otieno Ngira, 2021). In many developing countries, Islamic family law policies play a central role in regulating aspects of daily life, including issues relating to child protection. Islamic principles, which include the values of humanity, justice, and care for the weak, provide a strong foundation for child protection in the context of Islamic family law. Basic principles in Islam emphasise the importance of providing protection and good care to children. The Qur'an and hadith underscore the importance of meeting the physical, emotional and spiritual needs of children and guaranteeing their right to live and develop in a safe and loving environment. Islamic family law policies tend to provide clear guidance on children's rights, including the right to name, care, education and inheritance.<sup>3</sup>

The difference between Islamic family law and civil law in terms of child protection often lies in their approach to legal sources and underlying values. While civil law may be based on secular principles and positive law, Islamic family law more often draws references from the Qur'an, sunnah, and Islamic religious teachings. However, many developing countries face challenges in incorporating aspects of Islamic family law into existing civil law systems, so there are often complexities in the implementation and interpretation of child protection policies. Customary law, which is a traditional legal system that has developed in local communities over centuries, has a significant role in regulating people's lives in developing countries. In the context of child protection, customary law often plays an important role in determining the rights and obligations of families towards children. The influence of local culture, traditions and social structures greatly influences the formation of customary laws related to children.

Traditional values inherent in the culture, such as obedience to family authority and the family's obligation to protect and maintain the honour and dignity of the family, are often reflected in customary laws related to children.<sup>4</sup> It is important to recognise that customary law is not always in line with internationally recognised principles of human rights or child protection. While customary law plays an important role in maintaining social and cultural stability in developing countries, it is also important to ensure that the child protection policies implemented reflect universal human rights principles, while taking into account the uniqueness of local cultures and traditions. This demands a delicate balance between maintaining cultural identity and guaranteeing equal rights and protection for all children.<sup>5</sup>

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<sup>2</sup> Maria Heimer, Elisabet Näsman, and Joakim Palme, 'Vulnerable Children's Rights to Participation, Protection, and Provision: The Process of Defining the Problem in Swedish Child and Family Welfare', *Child & Family Social Work* 23, no. 2 (May 2018): 316–23, <https://doi.org/10.1111/cfs.12424>.

<sup>3</sup> Anak Agung Istri Ari Atu Dewi et al., 'The Role of Human Rights and Customary Law to Prevent Early Childhood Marriage in Indonesia', *Sriwijaya Law Review* 6, no. 2 (19 July 2022): 268, <https://doi.org/10.28946/slrev.Vol6.Iss2.1885.pp268-285>.

<sup>4</sup> Andry Harijanto, Siti Hatikasari, and Juliet Musabula, 'The Model of Legal Protection for Children Victims of Domestic Violence Based on Justice', *Journal of Human Rights, Culture and Legal System* 2, no. 2 (30 July 2022): 100–112, <https://doi.org/10.53955/jhcls.v2i2.33>.

<sup>5</sup> Muiyiwa Adigun, 'The Implementation of the African Charter on Human and Peoples' Rights and the Convention on the Rights of the Child in Nigeria: The Creation of Irresponsible Parents and Dutiful Children?', *The Journal of Legal Pluralism and Unofficial Law* 51, no. 3 (2 September 2019): 320–49, <https://doi.org/10.1080/07329113.2019.1675988>.

This research aims to investigate the intersection of human rights and customary law in developing countries, with a specific focus on uncovering the exploitation of children and women. It seeks to identify and analyze how traditional practices entrenched in customary laws contribute to systematic human rights abuses, such as child marriages, forced labor, and gender-based violence. By evaluating existing legal frameworks and cultural norms, the study aims to uncover the justifications and conflicts between customary practices and international human rights standards, highlighting their impact on marginalized groups. Through detailed case studies from diverse developing contexts, the research intends to provide empirical evidence of the implications of customary laws on the rights and welfare of children and women. Ultimately, the research aims to propose policy recommendations that promote the integration of human rights principles into customary legal systems, advocate for awareness campaigns, and suggest mechanisms for monitoring and enforcing compliance with human rights standards within these frameworks.

## 2. Method

The research methodology employed in this study adopts an in-depth qualitative approach, aiming to provide a nuanced understanding of the intersection between human rights and customary law in developing countries, specifically focusing on the exploitation of children and women. This qualitative approach is chosen for its ability to capture the complexities and contextual nuances inherent in legal and cultural practices, particularly within diverse societal settings where customary laws often coexist with formal legal systems. Central to this methodology is the utilization of detailed case studies drawn from various developing contexts. These case studies will involve thorough examination and analysis of specific instances where customary legal norms intersect with human rights concerns, such as child marriages, forced labor, and gender-based violence. By focusing on real-world examples, the study seeks to illustrate the practical implications and consequences of these legal and cultural dynamics on the lives and rights of vulnerable populations.

Case studies, comprehensive literature reviews will be conducted to establish a theoretical framework and contextual background. This involves examining existing scholarly works, legal texts, and human rights reports to provide a solid foundation for understanding the historical, legal, and cultural underpinnings of customary law and its impact on human rights. The research methodology includes in-depth interviews with key stakeholders and experts in the field of human rights, customary law, and international law. These interviews will provide valuable insights into local perspectives, societal attitudes, and the implementation of customary legal practices concerning human rights issues. By engaging with diverse voices and viewpoints, the study aims to enrich its analysis and provide a comprehensive perspective on the complexities surrounding customary law and human rights. Through this qualitative approach, the study ultimately aims to generate findings that contribute to both academic discourse and policy-making efforts. It seeks to propose actionable recommendations for integrating human rights principles into customary legal systems, advocating for reforms that uphold dignity, equality, and justice for all individuals, particularly children and women, who are most vulnerable to exploitation within developing country contexts.

## 3. Analysis or Discussion

### 3.1. Policy Implementation of Islamic Family Law and Customary Law

The level of adoption and integration of Islamic family law and customary law policies in the national legal system is a crucial first step in ensuring their effectiveness in protecting children's rights. Through a careful and rigorous approach, this research will explore the extent to which national governments and legal institutions accept and implement such policies in their legal

structures. This involves an in-depth understanding of the legislative processes, regulations and concrete steps taken by government agencies to integrate the principles of Islamic family law and customary law into the existing legal framework. In this analysis, it is necessary to consider not only the existence of such policies in legal texts, but also the extent to which they are implemented in actual practice by the judicial system and other relevant institutions.<sup>6</sup>

It is important to analyse the level of policy integration of Islamic family law and customary law into the national legal system as a whole. This integration process not only includes formal efforts to accommodate the principles of Islamic family law and customary law into existing laws, but also includes concrete measures to ensure consistency and harmonisation with existing civil law. In this regard, the research will explore whether there are tensions or conflicts between these three legal frameworks, as well as how they affect the implementation and enforcement of the law as a whole. In this process, it is also important to consider how the policy is understood and applied by actors on the ground, including judges, lawyers, and government officials responsible for law enforcement. Different perceptions and interpretations of Islamic family law and customary law can be a challenge in trying to smoothly integrate them into the national legal system. Therefore, this research will attempt to understand the social and political dynamics behind the policy implementation of Islamic family law and customary law, as well as the factors that influence their adoption rate and integration in the national legal system.<sup>7</sup>

The implementation of Islamic family law and customary law policies in practice is an important stage in ensuring their effectiveness in protecting children's rights. In an in-depth analysis, it is necessary to study how these policies are implemented in daily reality, including monitoring mechanisms, law enforcement, and accessibility for the community. This process involves exploring how the policy is translated into concrete actions by relevant institutions, including government agencies, law enforcement officials and civil society organisations. In implementing Islamic family law and customary law policies, it is important to pay attention to how the monitoring process is conducted to ensure that the policies are implemented in accordance with the intended objectives and principles. This includes developing effective monitoring mechanisms to evaluate policy implementation, determining relevant performance indicators, and collecting the necessary data to track progress and achievements.<sup>8</sup>

The enforcement aspect also plays a key role in policy implementation. This includes the concrete steps taken by law enforcement officials to enforce the policy, including enforcement of rules, investigation of violations, and enforcement of sanctions against lawbreakers. In this context, it is important to evaluate the effectiveness of the law enforcement system in handling cases of violations of children's rights under the Islamic family law and customary law frameworks. The accessibility of policies to the community is also an important consideration in assessing their implementation. This includes the availability of information on children's rights and existing protection mechanisms, as well as the ease of community access to necessary services and assistance. Therefore, it is necessary to evaluate the extent to which Islamic family law and customary law policies are accessible to the community, especially by vulnerable groups such as children from poor families or remote areas.<sup>9</sup>

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<sup>6</sup> Jane Diala, 'THE CHILD IN A CHILD: CHILD MARRIAGE AND LOST IDENTITY IN SOUTHERN AFRICA', *Pravni Vjesnik* 35, no. 1 (April 2019), <https://doi.org/10.25234/pv/5729>.

<sup>7</sup> Emily Keddell, 'Algorithmic Justice in Child Protection: Statistical Fairness, Social Justice and the Implications for Practice', *Social Sciences* 8, no. 10 (8 October 2019): 281, <https://doi.org/10.3390/socsci8100281>.

<sup>8</sup> Tommie Forslund et al., 'Attachment Goes to Court: Child Protection and Custody Issues', *Attachment & Human Development* 24, no. 1 (2 January 2022): 1–52, <https://doi.org/10.1080/14616734.2020.1840762>.

<sup>9</sup> Nur Rochaeti and Nurul Muthia, 'Socio-Legal Study of Community Participation in Restorative Justice of Children in Conflict with the Law in Indonesia', *International Journal of Criminology and Sociology* 10 (1 February 2021): 293–98, <https://doi.org/10.6000/1929-4409.2021.10.35>.

Practical implementation, it is also important to investigate the existing institutional and administrative support for Islamic family law and customary law policies. This includes assessing the role of governmental and non-governmental institutions in supporting the implementation of such policies, as well as the extent to which the public administration system is able to provide the necessary resources to effectively implement the policies. Factors such as budget availability, personnel training and administrative infrastructure are important considerations in evaluating existing institutional support. Through a better understanding of the practical implementation and institutional support for Islamic family law and customary law policies, we can identify the challenges that may be faced in carrying out these policies and evaluate their level of effectiveness in protecting children. This analysis can also help in formulating better policy recommendations and more effective intervention strategies to strengthen the implementation of Islamic family law and customary law policies in child protection in developing countries.

### 3.2. Challenges in Protecting Children Under Islamic and Customary Family Law Policies

The incompatibility of Islamic family law and customary law policies with human rights standards is one of the main challenges in protecting children in developing countries. In an in-depth discussion of this issue, it is important to recognise the complexity and depth of the impact of such mismatches on child protection. First of all, these discrepancies can arise due to differences in the underlying principles of Islamic family law and customary law compared to internationally recognised human rights standards. For example, in some Islamic family law contexts, there are provisions that may not be fully in line with a child's right to be protected from all forms of violence, exploitation or discrimination.<sup>10</sup>

It can also arise from different interpretations of existing legal values and principles. Each group or institution may have a different understanding of how the law should be applied in their specific context. This can lead to ambiguity or inconsistency in the treatment of children, especially in sensitive matters such as early marriage, girls' rights, or the treatment of children with disabilities. Cultural and social aspects also play a role in creating discrepancies between Islamic family law policies, customary law and human rights standards. Traditional values, social norms and religious beliefs can influence the way people understand and apply the law in their daily lives. This often creates a gap between expectations and realities in child protection. For example, in some societies, practices that may be contrary to human rights, such as child labour or marital arrangements governed by Islamic family law policies or customary law, are maintained because they are considered an integral part of their culture and traditions.<sup>11</sup>

Cultural and social barriers are often a major challenge in implementing child protection under Islamic and customary family law frameworks in developing countries. An in-depth analysis of these barriers is essential to understanding the complexities and dynamics affecting child protection in society. One of the barriers that may be faced is the stigmatisation of offences or deviations from existing social or cultural norms. In some cases, child protection measures may be perceived as unwanted outside interventions by the local community, which may result in resistance or even rejection of child protection policy implementation. Limited resources are also an important factor that can hinder the effective implementation of Islamic family law and customary law policies. This includes limited funding to support child protection programmes, the number of personnel available to oversee and enforce policies, and the infrastructure required to provide services and support to children who need them. These limitations are often serious

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<sup>10</sup> Kumedi Ja'far et al., 'Reconstruction of Pregnancy Marriage Legality in Indonesia', *International Journal of Criminology and Sociology* 9 (5 April 2022): 1082–90, <https://doi.org/10.6000/1929-4409.2020.09.125>.

<sup>11</sup> Ashley M. Price et al., 'BNT162b2 Protection against the Omicron Variant in Children and Adolescents', *New England Journal of Medicine* 386, no. 20 (19 May 2022): 1899–1909, <https://doi.org/10.1056/NEJMoa2202826>.

constraints, especially in developing countries that face major economic challenges and other pressing priorities.<sup>12</sup>

Addressing cultural and social barriers requires a holistic and integrated approach. This includes efforts to educate communities about the importance of child protection and reduce stigma towards government interventions aimed at protecting children. (Maregn et al., 2023). Prevention and intervention measures tailored to the local cultural and social context can also help build community support and engagement in child protection efforts. To address resource limitations, efforts are needed to increase budget allocations for child protection programmes, improve the capacity of personnel involved in policy implementation, and strengthen the infrastructure that supports the provision of child protection services. This requires strong commitment and coordination between governments, international agencies and the private sector to ensure that sufficient resources are allocated and used effectively to protect children in developing countries. By addressing cultural, social and resource constraints, it is hoped that the implementation of Islamic family law and customary law policies can become more effective in protecting children's rights around the world.

### 3.3. Continuity and Inconsistency between Islamic Family Law Policy and Customary Law with Civil Law

The continuity between legal frameworks, such as Islamic family law, customary law and civil law, is a critical aspect of ensuring effective child protection in developing countries. An in-depth analysis of this continuum allows for a better understanding of how these three legal frameworks interact with each other and affect child protection as a whole. One aspect to note is where there is alignment or dissonance between these three legal frameworks in the context of child protection. For example, in some cases, the principles of Islamic family law or customary law may be in line with internationally recognised children's rights, while in other cases, there could be conflict between these legal provisions and universally recognised human rights standards. Investigating legal consistency in child protection under these three legal frameworks, it is important to understand how alignment or incongruence between these legal provisions affects their practical application. For example, if there is a discrepancy between Islamic family law and civil law provisions regarding the minimum age of marriage, this may lead to confusion in law enforcement and provide a loophole for child rights violations. Conversely, alignment between these three legal frameworks can facilitate the practical implementation of child protection and create a more consistent and reliable legal environment.<sup>13</sup>

In analysing legal consistency, it is also necessary to consider its practical implementation.<sup>14</sup> While there is harmony between Islamic family law, customary law and civil law in theory, how the policies are applied in practice can be a decisive factor in their effectiveness in protecting children. This could involve evaluating the compliance of the community, law enforcement officials and the judicial system with the provisions of the law. For example, are cases of child rights violations being taken seriously by the justice system? Are government agencies allocating sufficient resources to effectively implement child protection policies. An in-depth analysis of the continuity between legal frameworks as well as the legal consistency in child protection under these three legal frameworks is essential to identify areas where improvements are needed and to formulate more effective

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<sup>12</sup> Marlina and Mahmud Mulyadi, 'Building Restorative Justice in Gampong as a Bottom-up Legitimation of the Protection of Children in Conflict with the Law in Indonesia: Case Study in Aceh', *Cogent Social Sciences* 10, no. 1 (31 December 2024): 2347410, <https://doi.org/10.1080/23311886.2024.2347410>.

<sup>13</sup> Brid Featherstone et al., 'Poverty, Inequality, Child Abuse and Neglect: Changing the Conversation across the UK in Child Protection?', *Children and Youth Services Review* 97 (February 2019): 127–33, <https://doi.org/10.1016/j.childyouth.2017.06.009>.

<sup>14</sup> Brid Featherstone et al., 'Let's Stop Feeding the Risk Monster: Towards a Social Model of "Child Protection"', *Families, Relationships and Societies* 7, no. 1 (March 2018): 07–22, <https://doi.org/10.1332/204674316X14552878034622>.

strategies for protecting children's rights in developing countries. By understanding the complexities and dynamics of the relationship between Islamic family law, customary law and civil law in the context of child protection, we can direct efforts towards a more inclusive and equitable legal system for children.<sup>15</sup>

Policy harmonisation is an important step in achieving more effective and consistent child protection in developing countries. Discussions on harmonisation include efforts to unify or integrate the principles of Islamic family law and customary law with existing civil laws. These harmonisation measures aim to create a more comprehensive and aligned legal framework to protect children's rights, without overriding important local values or traditions. Examples of policy harmonisation may include revising or improving laws to accommodate important aspects of Islamic family law or customary law that strengthen child protection, as well as ensuring conformity with internationally recognised human rights standards. In this harmonisation process, conflicts of law often arise between existing Islamic family law, customary law and civil law. An in-depth analysis of these conflicts of law is needed to understand their dynamics and impact on child protection at the national and local levels.<sup>16</sup>

Legal conflicts can arise due to differences in the principles or provisions contained in these three legal frameworks. For example, when it comes to determining child custody after divorce, Islamic family law and civil law may have different approaches, which can create discrepancies or lack of clarity in their application.<sup>17</sup> The impact of this conflict of laws can be very significant in the context of child protection. Conflicts between Islamic family law, customary law and civil law can lead to confusion in law enforcement, uncertainty in children's rights and obligations, and the potential for child rights violations. Therefore, it is important to conduct a careful analysis of these conflicts of law and seek appropriate solutions to minimise their negative impact on child protection. In addressing conflicts of law, there needs to be an open dialogue between the various parties involved, including the government, legislative bodies, legal institutions and civil society. Concrete steps such as the revision of laws, development of mediation mechanisms, or legal counselling to communities can help reduce legal conflicts and improve consistency in child protection. Thus, this conflict of law analysis is important in formulating more effective strategies to achieve better child protection in developing countries.

#### 4. Social and Cultural Impact of Human Rights and Customary Law in Child Protection

The influence of cultural values and social norms is an important factor influencing child protection under human right and customary law frameworks in developing countries. In this context, there is a need for an in-depth exploration of how local cultural values and social norms influence perceptions and practices related to child protection. Cultural values are often a key foundation in the formation of human right and customary law policies, and therefore, understanding their influence is crucial. For example, in some cultures, the concept of strong family authority can affect children's rights, such as the right to participate in decision-making or the right to protection from

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<sup>15</sup> Hoko Horii, 'Legal Reasoning for Legitimation of Child Marriage in West Java: Accommodation of Local Norms at Islamic Courts and the Paradox of Child Protection', *Journal of Human Rights Practice* 12, no. 3 (25 February 2021): 501–23, <https://doi.org/10.1093/jhuman/huaa041>.

<sup>16</sup> Hoko Horii, 'Pluralistic Legal System, Pluralistic Human Rights?: Teenage Pregnancy, Child Marriage and Legal Institutions in Bali', *The Journal of Legal Pluralism and Unofficial Law* 51, no. 3 (2 September 2019): 292–319, <https://doi.org/10.1080/07329113.2019.1683429>.

<sup>17</sup> Harry Ferguson, 'Making Home Visits: Creativity and the Embodied Practices of Home Visiting in Social Work and Child Protection', *Qualitative Social Work* 17, no. 1 (January 2018): 65–80, <https://doi.org/10.1177/1473325016656751>.

violence. The influence of these cultural values is reflected in the implementation of human right and customary law policies in everyday life. In some cases, strong cultural values can strengthen child protection by providing a strong framework for respecting and protecting children's rights. However, in other cases, patriarchal or authoritarian cultural values can be an obstacle to child protection by encouraging practices that are incompatible with internationally recognised human rights standards.

The role of family and community in protecting children under the framework of Islamic family law and customary law. The family is often considered to be the first and most important environment for children, and therefore, understanding the role of the family in protecting children is crucial. Families can provide strong support for child protection through education, fulfilment of basic needs, and the establishment of a safe and supportive environment. However, on the other hand, families can also be a source of potential risk for children, especially if there are cases of abuse or violence within the family environment. In addition to the family, the community also plays an important role in protecting children. The community can provide social and moral support to families in child protection efforts, as well as provide the necessary support networks and services for children who need them.

The community can also be a source of obstacles to child protection if there is stigma or indifference to cases of child abuse. Therefore, it is important to investigate the complex dynamics between families, communities and legal frameworks in protecting children in developing countries, and identify effective strategies to strengthen the positive role of families and communities in child protection efforts. Analysing the adaptation of Islamic family law and customary law policies to social and cultural changes is particularly important in the context of child protection in developing countries. Social and cultural changes that occur in society often affect the dynamics of child protection and require an appropriate response from the existing legal framework. Therefore, it is necessary to analyse in depth how Islamic and customary family law policies adapt to these changes, and their impact on child protection. One aspect that needs to be considered is how the policies adjust to changes in values, social norms and evolving cultural demands.<sup>18</sup>

For example, with the rise of the human rights movement and awareness of the importance of gender equality, Islamic family law and customary law policies may need to be adjusted to reflect these values and ensure that the rights of children, especially girls, are adequately protected. On the other hand, factors such as urbanisation, globalisation and modernisation may also affect family and community dynamics, which then require policy adjustments to ensure effective child protection. In conducting policy adaptation analyses, it is important to carefully consider how these changes affect children's rights and well-being. For example, in cases where social and cultural changes lead to increased risks of child exploitation or domestic violence, Islamic family law and customary law policies may need to be adjusted to address these new challenges. Similarly, policy adaptation may also involve improving children's access to education, health and protection services appropriate to their needs. Furthermore, in conducting this analysis, it is also necessary to consider how responses to these social and cultural changes may create differential impacts for children from different walks of life, including vulnerable children such as children with disabilities, poor children, or children from minority groups. By understanding the complexity of these dynamics, we can formulate more responsive and inclusive policies to protect children's rights in developing countries.<sup>19</sup>

The empowerment of women and children is a foundational aspect in the context of child protection under human rights and customary law frameworks in developing countries.

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<sup>18</sup> Maxine McKinney De Royston et al., “‘I’m a Teacher, I’m Gonna Always Protect You’: Understanding Black Educators’ Protection of Black Children”, *American Educational Research Journal* 58, no. 1 (February 2021): 68–106, <https://doi.org/10.3102/0002831220921119>.

<sup>19</sup> Stephen S S Teo and Glenys Griffiths, ‘Child Protection in the Time of COVID -19’, *Journal of Paediatrics and Child Health* 56, no. 6 (June 2020): 838–40, <https://doi.org/10.1111/jpc.14916>.

Understanding how this empowerment positively impacts child protection requires examining the complex interactions among various social, cultural, and legal factors. One crucial aspect to consider is how empowering women opens doors to improved living conditions for children. Women who have greater access to education, decent work, and economic resources are more likely to provide a safe, stable, and supportive environment for their children. Inclusive and quality education for women not only enhances economic opportunities and family well-being but also reduces the risks of poverty and child exploitation. Additionally, women's empowerment strengthens their role as agents of change in society, promoting positive values such as gender equality, non-violence, and respect for human rights, all of which contribute significantly to overall child protection.<sup>20</sup> Child empowerment also plays a pivotal role in protecting themselves from various risks and threats in their environment. Empowered children who are aware of their rights, possess strong social skills, and have a sense of self-confidence are better equipped to navigate challenges and make informed decisions for their well-being. Therefore, education that fosters awareness of children's rights, enhances interpersonal skills, and addresses issues such as violence, exploitation, and abuse is essential in building a resilient and protected generation.<sup>21</sup>

Implementing the concept of women's and children's empowerment under the framework of human rights and customary law often encounters challenges and obstacles that need to be addressed. Cultural norms that perpetuate patriarchal attitudes and inadequate social structures can impede efforts to empower women and children effectively. Moreover, discrepancies between traditional values and human rights principles may hinder progress in strengthening child protection. Overcoming these barriers requires comprehensive legal reforms, social advocacy campaigns, and educational programs aimed at creating an inclusive and equitable environment for women and children in developing countries. Strengthening the empowerment of women and children not only ensures better protection of their rights but also fosters a more just, inclusive, and sustainable society for the future development and well-being of children.

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<sup>20</sup> Widodo Dwi Putro, 'Human Rights and Its Contested Legal Paradigm', *Journal of Southeast Asian Human Rights* 7, no. 2 (31 December 2023): 250, <https://doi.org/10.19184/jseahr.v7i2.39308>.

<sup>21</sup> Eileen Munro, 'Decision-making under Uncertainty in Child Protection: Creating a Just and Learning Culture', *Child & Family Social Work* 24, no. 1 (February 2019): 123–30, <https://doi.org/10.1111/cfs.12589>.

## 5. Conclusion

Based on the above discussion, the author concludes that a thorough exploration of policy implementation under Islamic family law and customary law in developing countries reveals a landscape fraught with complex challenges and potential in safeguarding children's rights. These legal frameworks, deeply rooted in local cultural values and social norms, exert a profound influence on social and familial structures. However, integrating and implementing these policies often face significant hurdles, particularly in aligning with universally recognized human rights standards. Nonetheless, efforts to strengthen policy implementation are crucial for enhancing children's welfare and fostering social harmony. The importance of harmonizing legal policies to create a cohesive framework for child protection is emphasized, despite challenges in ensuring alignment with human rights principles. Empowering women and children emerges as pivotal in reinforcing initiatives aimed at protecting children. Initiatives promoting gender equality, improving access to education, and enhancing economic resources are crucial but hindered by obstacles such as strong cultural disparities and resource limitations. Effective collaboration among governments, legal institutions, civil society, and international organizations is essential in overcoming these challenges and enhancing global efforts in child protection. This collaborative approach is indispensable for managing the complexities of policy adaptation and implementation, thereby ensuring a safer and more inclusive future for children in developing countries amid evolving socio-political landscapes.

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