



RESILIENCE OF MUSLIMAH SEX WORKERS: FULFILMENT OF CHILDREN'S RIGHTS BASED ON *FIQH* *HADHANAH* AND THE CHILD PROTECTION LAW

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Abstract: This research study aims to further explore and delve into the resilience efforts of Muslimah sex workers in fulfilling their children's rights as mandated by Hadhanah jurisprudence and the Child Protection Law, which has become a living law in society. This is socio-legal research with a case study in *Wisata Karaoke* (ex-localization), Suko, Malang, Indonesia. The method of data collection used in this study is in-depth interviews with four *muslimah* prostitutes who have children, observation, and documentation. The results of this study indicate that Muslimah sex workers employ two resilience models in fulfilling their children's rights. The first resilience model involves placing their children in Islamic boarding schools (*pesantren*), considered authoritative childcare institutions. The second resilience model consists of entrusting their children to immediate family members, such as grandparents and aunts, who are perceived to be free from negative influences like promiscuity and alcohol consumption, which are commonly associated with the world of prostitution. Both resilience models are based on mitigation efforts to prevent their children from falling into the same cycle of prostitution as their mothers. This research contributes to becoming new policy material for scholars, government, legislators, and academics in initiating the formation of childcare institutions around ex-localizations as a guarantee of continuity, protection, and fulfillment of the rights of abandoned prostitutes' children.

Keywords: child protection; child rights fulfillment; *fiqh hadhanah*; Muslimah prostitutes.

Abstrak: Penelitian ini bertujuan untuk menggali lebih jauh dan mendalami upaya resiliensi pekerja seks muslimah dalam memenuhi hak-hak anak sebagaimana diamanatkan *fikih hadhanah* dan UU Perlindungan Anak yang telah menjadi hukum yang hidup di masyarakat. Penelitian ini merupakan penelitian sosio-legal dengan menggunakan studi kasus di Wisata Karaoke, Suko, Malang Indonesia. Metode

pengumpulan data yang digunakan dalam penelitian ini adalah wawancara mendalam dengan empat orang PSK muslimah yang memiliki anak, observasi, dan dokumentasi. Hasil penelitian menunjukkan bahwa terdapat dua model resiliensi yang dilakukan oleh pekerja seks muslimah dalam memenuhi hak-hak anaknya. *Pertama* melibatkan penempatan anak-anak mereka di pesantren, yang dianggap sebagai lembaga penitipan anak yang otoritatif. Model ketahanan yang *kedua* adalah mempercayakan anak-anak mereka kepada anggota keluarga dekat, seperti kakek-nenek dan bibi, yang dianggap steril dari pengaruh negatif seperti pergaulan bebas, konsumsi alkohol, dan lingkungan yang berkaitan dengan dunia prostitusi. Kedua model ketahanan tersebut didasarkan pada upaya mitigasi untuk mencegah anak-anak mereka terjerumus ke dalam siklus prostitusi yang sama dengan ibu mereka. Penelitian ini berkontribusi menjadi bahan kebijakan baru bagi para ulama, pemerintah, legislator, akademisi dalam menginisiasi terbentuknya lembaga-lembaga pengasuhan anak di sekitar eks lokalisasi sebagai jaminan keberlangsungan, perlindungan, dan pemenuhan hak-hak anak PSK yang ditelantarkan.

Kata Kunci: perlindungan anak; pemenuhan hak anak; fikih hadhanah; PSK Muslimah.



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INTRODUCTION

Sex workers often receive a negative stigma as a source of social immorality that ignores the fulfillment of children's rights. The family life of prostitute women is also usually seen as far from religion and closely linked to legal violations such as child trafficking, free sex, drugs, nightlife, and so on.¹ Therefore, this study aims to dismantle such pejorative stigma using various formulations of *hadhanah* jurisprudence and the Child Protection Law, which have become living laws in the childcare practices of sex workers. The mothers who work as sex workers at *Wisata Karaoke* (ex-localization) Suko have a distinctive social construction regarding the formulation of fulfilling children's rights. They emphasize the importance of religiosity, spirituality, and humanitarian values in the growth and development of children, as outlined in the *hadhanah* jurisprudence and the Child Protection Law.

¹ Sorge F., Thomas F., and Pasnik F., "Children and Sex Tourism," *Tropical Medicine and International Health*, 2009; Joseph C. Miller and Robert Edgar Conrad, "Children of God's Fire: A Documentary History of Black Slavery in Brazil," *The International Journal of African Historical Studies* 17, no. 4 (1984), <https://doi.org/10.2307/218932>; Georgia Zara et al., "Violence Against Prostitutes and Non-Prostitutes: An Analysis of Frequency, Variety and Severity," *Journal of Interpersonal Violence* 37, no. 15-16 (2022), <https://doi.org/10.1177/08862605211005145>.

A small number of the sex workers interviewed at *Suko Wisata Karaoke* exhibit a strong sense of responsibility and commitment to providing proper childcare.² The maternal instincts of these sex workers serve as a fundamental asset for offering love and care comparable to that of other mothers. None of the fundamental rights of children, as regulated in *Hadhanah* jurisprudence and the Child Protection Law, are violated. Although the sex workers at *Suko Wisata Karaoke* may not be aware of the existence of *hadhanah* jurisprudence and the Child Protection Law when the researcher confirmed issues related to children's rights within *hadhanah* jurisprudence, the sex workers interviewed affirmed that the only provision they violate is providing sustenance from work that contravenes sharia.

However, other provisions of *hadhanah* jurisprudence are well observed. This includes performing the *adzan* when a child is born, holding the *walimatul aqiqah* celebration, giving a good name, providing exclusive breastfeeding, offering education and religion, even placing children in Islamic boarding schools, and entrusting childcare to close family members deemed free from immorality.³ In contrast, their understanding of childcare under the Child Protection Law is comprehensive. None of the provisions from Articles 4 to 18 and Article 26, which address children's rights and parental obligations, are violated. This situation underscores the importance of this study.

Theoretically, the mitigation and resilience efforts made by some sex workers at *Suko Wisata Karaoke*, align with Norrington's study titled "Does Parental Sexual Behavior Influence 'Parental Fitness' and Child Custody Determinations?".⁴ Norrington's findings indicate that the commercial sex work conducted by mothers does not directly lead to moral degradation in their children. Instead, such moral degradation often arises from the negative stigmatization faced by sex workers in society, which subsequently creates discrimination against their children. Norrington's findings are theoretically aligned with the discoveries made by Peled and Parker.⁵ A study that discusses the relationships and dilemmas faced by sex worker mothers in their efforts to provide the best environment for their children's development while continuing to work in a profession often considered taboo by society.

² Mawar et al, "Interview," July 2022.

³ Anggrek et al, "Interview," July 2022.

⁴ Janette Norrington, *Does Parental Sexual Behavior Influence "Parental Fitness" and Child Custody Determinations?* (Ronald E. McNair Post-Baccalaureate Degree Program, 2011).

⁵ Einat Peled and Ayelet Parker, "The Mothering Experiences of Sex-trafficked Women: Between Here and There." *American Journal of Orthopsychiatry* 83, no. 4 (2013): 576.

Additionally, the child-rearing patterns of sex worker mothers at *Suko Wisata Karaoke* also corroborate the findings of Pardeshi and Bhattacharya regarding the quality of childcare among vulnerable children whose parents work as sex workers, particularly amid low economic and educational conditions. In their study, they state that a strategy employed by sex worker mothers to prevent their children from entering the world of prostitution is to place their children with guardians or authoritative educational institutions.⁶

This study is socio-legal research with a case study. As Wheeler and Thomas said, socio-legal studies apply an alternative approach to examining the existence of law.⁷ This article aims to deeply analyze the resilience efforts of Muslimah sex workers in fulfilling their children's rights as mandated by *hadhanah* jurisprudence (*fiqh hadhanah*) and the Child Protection Law, which has become a living law in society. This research was conducted in *Wisata Karaoke*, Suko, Malang, Indonesia. The method of data collection used in this study is in-depth interviews with four prostitutes' mothers, observation, and documentation.

HADHANAH CONCEPTION IN ISLAMIC LAW PERSPECTIVE

In the study of *fiqh*, the issue of child care is referred to as "hadhanah." The Islamic jurists define "hadhanah" as taking care of minor or non-discerning children without any command from them, providing something that promotes their well-being, protecting them from harm and corruption, and educating them physically, spiritually, and intellectually so that they can stand on their own in facing life and taking responsibility.⁸

Scholars view legal *hadhanah* as obligatory. This is because if the person being cared for (the child) is abandoned, it will damage the child's condition.⁹ Likewise, the majority of ulama believe that if there is a divorce between a husband and wife

⁶ Pardeshi Geeta and Suan Bhattacharya, "Child Rearing Practices amongst Brothel Based Commercial Sex Workers," *Indian Journal of Medical Sciences* 60, no. 7 (2006): 288-95.

⁷ Sally Wheeler, "Socio-Legal Studies in 2020," *Journal of Law and Society* 47, no. S2 (2020), <https://doi.org/10.1111/jols.12267>.

⁸ Sayyid Sabiq, "Fiqh Al-Sunnah, Jilid Ke-2," *Damaskus: Dar Al-Fiqr H* 1404 (1980); Salsabila Firdausia, "Hadhanah In the Concept of Compilation of Islamic Law And Law," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 20, no. 2 (2020), <https://doi.org/10.19109/nurani.v20i2.4849>; Ahmad Fausi and Imanuddin Abil Fida, "Child Protection According to Islamic Law and Formal Law," *USRAH: Jurnal Hukum Keluarga Islam* 2, no. 2 (2022), <https://doi.org/10.46773/usrah.v2i2.447>; Mohamad Hoirul Anam, "Konsep Perlindungan Anak Dalam Fiqh Hadlanah Dan Uu No. 23 Tahun 2002 J.O Uu No. 35 Tahun 2014," *MOMENTUM: Jurnal Sosial Dan Keagamaan* 9, no. 1 (2020): 63-80, <https://doi.org/10.29062/mmt.v9i1.67>.

⁹ Wahbah Az-Zuhaili, *Fiqh Islam Wa Adillatuhu*, Jilid 8 (Damaskus: Dar al-Fikr, 1984).

who already have children, then the person who has the most right to care for the child is the wife (the child's mother).¹⁰

Theoretically, in Islamic law, there are several requirements related to the care of children that the caregiver must possess. In general, someone who carries out child care must meet the following criteria:¹¹ 1) *Baligh* (adult); 2) Sensible (rational); 3) Can be trusted to hold the trust and good character; 4) Can educate correctly; 5) Muslim; 6) Not married; and 7) Free (independent).

CHILD PROTECTION LAWS IN INDONESIA

In the Indonesian context, the provisions on child protection are regulated in Law No. 23 of 2002 Concerning Child Protection, which was later amended by Law No. 35 of 2014 on Amendments to Law No. 23 of 2002 Concerning Child Protection. However, the law provides a broader perspective on the provisions of *fiqh hadhanah* and the complexity of parenting in Indonesia.¹² The Child Protection Laws themselves are enacted to protect the rights and obligations of the child, which can be seen in the content of the Child Protection Laws. This law consists of 14 chapters, which generally govern the general provisions, the purpose, rights, and obligations of the child, the duties and responsibilities, the position of the child, custody, guardianship, parenting, and adoption of the child, the implementation of protection, the role of the community, the child protection commission, the criminal provisions, the transition provisions, and the closing provisions.

Even though legal instruments have been owned, in the course of its passage, Law Number 23 of 2002 Concerning Child Protection has not been able to run effectively due to overlaps between sectoral laws and regulations related to the definition of children. On the other hand, the rampant crimes against children in society, one of which is sexual crimes, require increased commitment from the Government, Local Government, and the community, as well as all stakeholders

¹⁰ Masadah -, "Hadhanah Dalam Prespektif Imam Madhab Dan Kompilasi Hukum Islam Serta Pengaruhnya Terhadap Pendidikan Anak," *DINAMIKA: Jurnal Kajian Pendidikan Dan Keislaman* 5, no. 2 (2020), <https://doi.org/10.32764/dinamika.v5i2.1030>; Sherry Farmer, "Effects of Parental Separation and Divorce on Children," *Treating Couples: The Intersystem Model of the Marriage Council of Philadelphia* 14, no. 2 (2013): 258-84, <https://doi.org/10.4324/9780203776575>.

¹¹ Syaikh Kamil Muhammad Muhammad Uwaidah and Yaikh Kamil, "Al-Jami' fii Fiqhi an-Nisa', Terj," *M. Abdul Ghoffar EM, Fiqih Wanita, Jakarta Timur: Pustaka Al-Kautsar*, 2006; Gamal Akhyar and Muatsyah AMD, "Status Muslim Sebagai Syarat Hadhanah (Studi Pendapat Imam Al-Ghazali)," *Media Syari'ah* 20, no. 2 (2020), <https://doi.org/10.22373/jms.v20i2.6513>.

¹² Ahmad Tang, "Hak-Hak Anak Dalam Pasal 54 UU No. 35 Tahun 2014 Tentang Perlindungan Anak," *Jurnal Al-Qayyimah* 2, no. 2 (2020): 98-111, <https://doi.org/10.30863/aqym.v2i2.654>; Anam, "Konsep Perlindungan Anak Dalam Fiqh Hadlanah dan UU No. 23 Tahun 2002 jo UU No. 35 Tahun 2014."

related to the implementation of Child Protection.¹³ For the effectiveness of monitoring the implementation of child protection, an independent institution is needed, and it is expected to support the government and regional governments in implementing child protection.

Amendments to Law Number 23 of 2002 concerning Child Protection also emphasize the need to enforce criminal sanctions and fines for perpetrators of crimes against children, to provide a deterrent effect, and to encourage concrete steps to restore physical, psychological, and social back to child victims and children's perpetrators. This needs to be done to prevent child victims and child perpetrators of crimes in the future from becoming perpetrators of the same crime.

Law No.35 of 2014 on Amendments to Law 23 of 2002 Concerning Child Protection states that parents are responsible for maintaining, protecting, and fostering children's lives towards adulthood. So, in principle, children have the right to be cared for by their parents because they are the ones most responsible for the growth and development of the child. Parents also have a unique bond that cannot be replaced by anything or anyone.¹⁴

This unique bond will then affect the growth and development of the child until the child becomes an adult. If this unique bond produces a cheerful color, the child's growth can develop its potential optimally. Conversely, if the peculiarity of the child's relationship with parents is incised in negative color, it will potentially significantly impact the child's future.

MUSLIMAH PROSTITUTES AND PARENTING RESILIENCE STYLE IN *FIQH HADHANAH*: AN EXPERIENCE FROM INDONESIA

In Surabaya, a Dolly alley hosted hundreds of Commercial Sex Workers who were later disbanded. Then, there was *Suko* localization in Malang Regency, which dissolved and metamorphosed into *Wisata Karaoke*. The sex workers with their nightlife seems far removed from the portrait of a mother's personality who is

¹³ Elly Nurlia, Nurul Nursyiam, and Said Ariyan, "Policy Implementation of Law No. 35 of 2014 Regarding Child Protection in Cibeber District, Lebak Regency," *Riwayat: Educational Journal of History and Humanities* 6, no. 2 (2023), <https://doi.org/10.24815/jr.v6i2.31623>.

¹⁴ Alberto Alegre, "Parenting Styles and Children's Emotional Intelligence: What Do We Know?," *The Family Journal* 19, no. 1 (2011): 56-62, <https://doi.org/10.1177/1066480710387486>; Tria Novasari and I made Suwanda, "Pengaruh Pola Asuh Orang Tua Terhadap Perilaku Sosial (Studi Pada Siswa Kelas X SMKN 5 Surabaya)," *Kajian Moral Dan Kewarganegaraan* 03, no. 04 (2016): 1991-2005; Qurrotu Ayun, "Pola Asuh Orang Tua Dan Metode Pengasuhan Dalam Membentuk Kepribadian Anak," *ThufuLA: Jurnal Inovasi Pendidikan Guru Raudhatul Athfal* 5, no. 1 (2017): 102, <https://doi.org/10.21043/thufula.v5i1.2421>; Darmawansyah Darmawansyah, "Peran Orang Tua Dalam Mendidik Anak Ditinjau Dari Hukum Islam," *Musawa: Journal for Gender Studies* 11, no. 2 (2020), <https://doi.org/10.24239/msw.v11i2.475>.

responsible for teaching religious values. This stigma cannot be entirely justified. This is because, based on research conducted by researchers through in-depth interviews and direct observations in the field, it was found that a different side of the life of prostitutes is in contrast to what has been labeled with them. Moreover, prostitutes and pimps who have been impressed closely with the world of trafficking, it turns out that the other side of their lives cannot be separated from their responsibility for Islamic care and education. This research tries to portray this landscape.

Researchers here are not to punish the *halal* or *harams* (allowed or forbidden) or their profession because, from any religious perspective, its existence cannot be justified. But, this research tries to reveal the other side of their awareness as prostitutes in giving attention and affection to their children. In this study, researchers deliberately disguised the informants' identities to protect the informants' privacy. Four informants were willing to be interviewed by researchers. They are *Mawar*, *Melati*, *Anggrek*, and *Seroja*, *Muslimah* prostitutes.¹⁵ Even though the Suko brothel has been disbanded, researchers have received much information that the localization still exists behind the scenes.

Mawar, a prostitute born in 1984, now works as a relation assistant (usually abbreviated as *Purel/LC*) in the former localization. For Mawar, the fortnightly and seven-monthly pregnancy rituals are a form of gratitude for the gifts God has given in the form of children. This effort was made by the woman born in Pasuruan as a prayer that could be a spiritual asset for her child's future, Rendy (18 years old).¹⁶

Mawar's parenting style as a prostitute goes beyond the parenting patterns of the Muslim community in general. Since childhood, Mawar has educated her children with knowledge. However, Mawar realized she was limited in instilling spiritual values and proper care for her children. Therefore, Mawar entrusted Rendy's care to a *pesantren* in East Java, Indonesia.¹⁷ Nobody would have thought that a child born to a former prostitute turned out to be able to make reasonably good academic achievements in the style of a *pesantren*. Based on Mawar's narrative, her son often won typical *pesantren* competitions at the regional and provincial levels, reading the *kitab kuning* and memorizing the Qur'an.¹⁸

¹⁵ The names are initials to maintain the privacy of the informants.

¹⁶ Mawar, "Personal Communication," July 2022.

¹⁷ Mawar, "Personal Communication," July 2022.

¹⁸ Mawar, "Personal Communication," July 2022.

This portrait describes the life of *fiqh hadhanah* Mawar as a prostitute living in her cognitive and action system. Mawar often feels embarrassed as a mother when her son invites her to pray *tahajud*. In the interview, she admitted a spiritual gap between what she does and the righteousness that continues to form in her son's personality. Mawar did not think that her self-care through the *pesantren* (boarding school) had shaped Rendy's character as a religious person.

Her background as a Muslim woman influences Mawar's efforts to maintain the quality of her child's care. The identity of a Muslim woman and her profession as a prostitute are two opposing identities. It is as if a prostitute who is connected to a circle of immorality is not compatible with the specifications and qualifications of a Muslim woman who obeys God's rules as formulated in *fiqh*. It is precisely at this point that this study is as interesting as the study conducted by Nur Syam. According to him, the prostitutes who live in Dolly's alley still adhere to religious values even though, on the other hand, the female prostitutes are considered religious violators. In this context, Carl Gustav Jung stated that every human being is a homo religious who needs religion as a way of life.

In Marx Weber's perspective, the motive for the rose action cannot be separated from her *Verstegen* as a Muslim woman. Mawar believes that a pious child is an ideal that must be realized in her life, even though she works as a prostitute. Mawar's choice to entrust her child to an Islamic boarding school was also confirmed by Norrington, who said that society's negative stigma towards children of prostitutes must be mitigated through authoritative institutions such as Islamic boarding schools in the Indonesian context.¹⁹

A different portrait can be seen in Melati's parenting style as a prostitute born in Donomulyo in 1984. Melati, who was divorced by her husband and became a single parent, decided to entrust the care of her child to her sister. Melati realized that with her position as a prostitute, it was impossible to take over the care of her child in an environment that was not conducive. Melati's awareness of entrusting the custody of her child to her sister is part of her responsibility as a parent to provide the best education for her child's future.²⁰

Melati also expresses the spiritual celebration of welcoming pregnancy in *fortnightly* and *seven-monthly* rituals, although with limited conditions. However, Melati did all this so that her child could be better than herself later.²¹ When viewed

¹⁹ Norrington, *Does Parental Sexual Behavior Influence "Parental Fitness" and Child Custody Determinations?*

²⁰ Melati, "Personal Communication," August 2022.

²¹ Melati, "Personal Communication," August 2022.

from the perspective of *fiqh hadhanah*, Melati's effort to entrust the care of her baby to her older sister is the right step. This is because, from the perspective of classical scholars, childcare must be cared for by the mother or father. However, if both are not possible, the right of parenting can be taken over by the closest relatives of the mother, such as the mother's mother (grandmother) and so on, then the father's mother (grandmother) and upward. Then, the mother's sibling sister, the daughter of the sister of the same mother, and the daughter of the sister of the same father. Then, the daughter of a sibling brother, the daughter of the brother of the same mother. Then, the aunt from the mother who is the sibling with the mother, the aunt from the mother who has the same father as the mother, and the aunt from the father who has the same father as the mother. Then, the aunt from the father who is the sibling with the mother, the aunt from the father who has the same mother as the mother, and the aunt from the father who has the same father as the mother.²²

Based on the hierarchy above, Melati does not entrust her child care to her mother because her parents have died. Thus, the closest right of the *hadhin* is to her sister. In her capacity as a former prostitute, Melati is self-aware of her personality background and cannot take a position *hadhin* (parents who take care of her).

In line with the experience expressed by Melati in parenting, Anggrek, a woman born in Banyuwangi in 1989, also did the same thing, namely shifting responsibility for the care of her child to her mother in Banyuwangi.²³ Anggrek's choice to entrust child custody to her mother was the right decision and followed the provisions contained in the narrative of classical *fiqh*.²⁴ From Anggrek's knowledge, the child is entrusted by the Almighty. Consequently, the child must get a good education and upbringing in a good place. According to her, the profession she is living in today as a prostitute does not allow her to live in one house and provide direct care for her child.²⁵ This is because the former localization environment in Wisata Karaoke, Suko, where she currently lives, is a place that can harm her child's future. Thus, it was the right decision for Anggrek to take a nurturing distance from her child. Even though she is a prostitute, Anggrek is still a mother who has the instincts of being a parent in general, who is aspiring for her child to become a godly and good person with various limitations. Again, it is the

²² Uwaidah and Kamil, "Al-Jami' fii Fiqhi an-Nisa', Terj."

²³ Anggrek, "Personal Communication," August 2023.

²⁴ Uwaidah and Kamil, "Al-Jami' fii Fiqhi an-Nisa', Terj."

²⁵ Anggrek, "Interview." "Personal Communication," August 2023.

picture that further legitimizes the existence of another side of the life of a prostitute with *fiqh hadhanah*, even though it is in the form of simple parenting (childcare).

A life that is not much different from Anggrek is also experienced by Seroja, a woman who is a victim of early marriage. Seroja's involvement in the night world began after the death of her husband in an accident, with the consequence that the responsibility for earning a living lay on Seroja's shoulders. Born in 2000 at a young age, Seroja has a beautiful face with charming curves. Starting from a friend's invitation to work in a nightclub, Seroja finally falls into a black hole filled with darkness.²⁶ The tsunami in Palu forced Seroja to move to Malang to fulfill his role as the family's economic support. Seroja made all these efforts for nothing other than the future of her son's education. The long-distance does not cause Seroja to be absent from the care and education of her child. Spiritual messages, kindness, motivation, and advice are always constructed even though Seroja is in a former localization environment. This condition can be an anomaly during life and the bustle of the night world Seroja is engaged in. Not infrequently, Seroja asked about her child's academic development progress. Seroja admitted that she was a lousy mother.²⁷ However, Seroja is still a mother figure with a motherly spirit who wants to always protect her child from all evil influences such as promiscuity and drugs.

As a prostitute, Seroja may be ridiculed and insulted. But in her capacity as a mother, Seroja is still a mother whose love never goes out like the sun shining on the world. Although Seroja's child is not as potential and pious as Rendy, who memorized the Qur'an, Mawar's son, the landscape of Seroja's upbringing for their children with various limitations strengthened the other side of the figure of the prostitute with the bustle of the norms of *fiqh hadhanah* were living in her consciousness as parents.

The Qur'an and Hadith, the sources of authoritative Islamic law, have outlined the guidelines for childcare.²⁸ Some of the provisions stated in the Qur'an regarding child custody have indeed outlined that their capacity as a nightclub hostess does not meet the predetermined standard. The parenting relay requires the existence of righteousness, faith, and a noble character. It has the spirit to keep himself and his family away from the pain of hellfire, as stipulated in Surah an-Nisa verse 9, al-Anfal

²⁶ Seroja, "Interview," August 2023.

²⁷ Seroja, "Interview," August 2023.

²⁸ Siti Rohmah and Azka Rasyad Alfatdi, "From Living Law to National Law: Theoretical Reconstruction of Applying Islamic Law in Indonesia," 2022.

verse 67, and at-Tahrim verse 6.²⁹ Because of this spiritual inadequacy, they know they should not take the right of *hadhin*. However, directly., they choose to pour attention from afar as an alternative *hadhanah* effort to their children.

As nightclub hostesses Seroja, Mawar, Anggrek, and Melati, they have never known the term fiqh *hadhanah*. As nightclub hostesses, they are often stigmatized as immoral. However, in the obligation of *hadhanah*, they remain fulfilled, and most importantly, they are not parents who do not care and love.

MUSLIMAH PROSTITUTES AND PARENTING RESILIENCE STYLE IN CHILD PROTECTION LAWS: AN EXPERIENCE FROM INDONESIA

The fulfillment of children's rights in the legal standing construction of humanist philosophy focuses on treating children as individuals with inherent dignity and rights. The philosophy of humanism prioritizes human values, justice, and equality in treating all individuals, including children.³⁰

Jean Jacques Rousseau argued that fulfilling children's rights is a fundamental right inherent in every human individual.³¹ In the philosophy of humanism, laws regarding human values do not look at age limits. At this point, international law regarding the fulfillment of children is regulated in the Universal Declaration of Human Rights.

On another level, Hugo Grotius, as a figure in international law who adheres to natural law philosophy, also provides theoretical justification regarding the urgency of fulfilling children's rights from the perspective of international law.³² According to him, human rights are part of natural law inherent in human existence as rational creatures. Favorable laws or government decisions cannot abolish human rights because they are rights given by nature or God to all individuals, including the rights granted to every child born.³³

²⁹ Uwaidah and Kamil, "Al-Jami'fii Fiqhi an-Nisa', Terj."

³⁰ Iman Jauhari et al., "The Qur'an and Islamic Legal Perspectives on Child Protection," *Pharos Journal of Theology* 104, no. 4 (2023), <https://doi.org/10.46222/pharosjot.104.417>; Muharrani Muharrani et al., "Children's Rights In A Quasi-Broken Home Family: Islamic Law Versus Child Protection Law," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 9, no. 1 (2024), <https://doi.org/10.22373/petita.v9i1.284>.

³¹ Styo Mahendra Wasita Aji et al., "Jean Jacques Rousseau: Kehidupan, Pemikiran Pendidikan, Dan Tinjauan Pendidikan Di Indonesia," *Briliant: Jurnal Riset Dan Konseptual* 8, no. 1 (2023), <https://doi.org/10.28926/briliant.v8i1.930>.

³² Wasidipa Maulana Firdaus, Dominikus Rato, and Fendi Setyawan, "Kajian Kritis Pembentukan Peradilan Pidana Adat Khusus Anak Dalam Sistem Peradilan Pidana Anak (Pemikiran Filsafat Hugo Grotius)," *SEIKAT: Jurnal Ilmu Sosial, Politik Dan Hukum* 2, no. 3 (2023), <https://doi.org/10.55681/seikat.v2i3.573>.

³³ Sharon Achinstein, "A Common Humanity? From Poetry to Philosophy in Hugo Grotius," *Renaissance Quarterly* 76, no. 1 (2023), <https://doi.org/10.1017/rqx.2022.441>.

From the various legal standing constructions of humanist philosophy and natural law philosophy above regarding the fulfillment of children's rights, unconsciously, this has been implemented in living law by the experience of female prostitutes in the Suko Wisata Karaoke environment. In reality, the lives of female prostitutes, who are considered to be closely related to the lives of child traffickers, have legal, sociological anomalies that deconstruct general postulates about the relationship between female prostitutes and children. This is based on the interviews conducted by researchers with Mawar, Melati, Sekar, and Seroja, who have a distinctive parenting pattern in fulfilling their children's rights despite their condition, which is considered the trash of society.

The concern of prostitute women in meeting the needs of their children is a natural attitude of a mother towards her children. Even though the female sex workers at the Wisata Karaoke Suko never understood the formulations of the international law regarding children, which is the material source as well as the formal ratification of the Child Protection Law in Indonesia, in living law, the female sex workers can carry out their responsibilities as intended. Which is mandated in the Universal Declaration of Human Rights. Because according to Eugen Ehrlich, living law is a living law that is firmly adhered to by the people of an area that cannot simply be uprooted by power.³⁴

This research has exciting findings based on interviews and observations conducted by researchers in the field. Namely, in living law, the female sex workers at the Wisata karaoke Suko have unconsciously made various fundamental provisions in the Child Protection Law, a living law in their daily care for their children.

In their interviews, Mawar, Melati, Anggrek, and Seroja confirmed article 26, which discusses the importance of parents' obligations and responsibilities towards their children as part of their child's upbringing. This effort aligns with the childcare efforts carried out by Mawar, Melati, Anggrek, and Seroja. In the social construction of prostitute women in the Suko Wisata Karaoke environment, children are a gift from God who must be cared for, protected, educated, nurtured, and encouraged to continue to develop.

³⁴ Dmitrii E. Serebrennikov, "D.E. Serebrennikov [Rev.] Ehrlich E. Fundamental Principles of the Sociology of Law. [Russ. Ed.: Erlich O. Osnovopolozhenie Sociologii Prava. Transl. from Germ. by M.V. Antonov; Ed. by V.G. Grafskiy, Yu.I. Grevtsov. St Petersburg: OOO 'Universitetskii Izdatel'skii Konsortsium' Publ., 2011.]," *Sociological Journal* 26, no. 1 (2020), <https://doi.org/10.19181/socjour.2020.26.1.7059>.

Furthermore, Article 4 of Law Number 23 of 2002 concerning Child Protection states that "everyone has the right to live, grow, develop and participate appropriately by human dignity, and to receive protection from violence and discrimination." These provisions align with the results of the researchers' interviews with Mawar, Melati, Anggrek, and Seroja. They said that "children are a trust from God who must be looked after. Therefore, children must be loved with love so that my child does not experience social discrimination, so I entrusted my child to an Islamic boarding school, and I entrusted to my mother and grandmother, which is far from the karaoke tourist attraction."

What Mawar, Melati, Anggrek, and Seroja did was also confirmed by Norrington in his study, who said that children would experience difficulties in their growth and development in the environment of sex worker parents because of the bad stigma of the work of sex workers parents would discriminate against children socially. So, entrusting them to other family members and an authoritative institution that can accommodate these vulnerable children is a solution.³⁵

At the same level, they give their children names full of meaning as a constitutional right of every child born in this world. Mothers, such as Mawar, Melati, Anggrek, and Seroja, see naming as a manifestation of hopes and dreams for their children's future, as reflected in their children's names, namely Rendy, Panji, and Sekar. They said, "The name given to a child is a hope and dream for the child." This action is in line with the provisions of Article 5, which states that "every child has the right to a name as personal identity and citizenship status."

What Mawar, Melati, Anggrek, and Seroja did shows their intense motivation and dreams for social mobility for their children in the future. DeWolf also confirmed that mothers of commercial sex workers who choose to become parents do not instead show resilience and motivation to improve their lives, including the conditions and future of their children.

After giving names that have special meaning to their children, Mawar, Melati, Anggrek, and Seroja ensure that the children's rights are by Article 6, which confirms that "the right of every child to worship according to his beliefs, thoughts, and express themselves according to their level of intelligence and age, under the guidance of their parents or guardians." In their interview, they said, "We understand that the environment in which we work is not good for the growth and

³⁵ Julie E. DeWolf, "Sex Workers and the Best Interests of Their Children: Issues Faced by Sex Workers Involved in Custody and Access Legal Proceedings," *Windsor Yearbook of Access to Justice* 37, no. 1 (2022), <https://doi.org/10.22329/wyaj.v37i1.7280>.

development of children, both in terms of religion and intelligence level." So, they emphasize the importance of introducing their children to values relevant to their beliefs. For example, their children are entrusted to Islamic boarding schools, given education to become nurses, and sent to schools far from potentially damaging environments such as prostitution.

Even from infancy, before children enter formal education, they have the right to obtain health services and social security for their physical, mental, spiritual, and social needs, as regulated in Article 8 of the Child Protection Law: "Every child has the right to receive health and social security services by physical, mental, spiritual and social needs." Mawar, Melati, Anggrek, and Seroja have implemented this provision by providing breast milk and immunizing their children to maintain and fulfill their health and physical rights. Mentally, spiritually, and socially, Mawar, Melati, Anggrek, and Seroja also try to keep their children away from the local environment, hoping their mother's work environment will not negatively influence them.

Gowri Vijayakumar also emphasized that Mawar, Melati, Anggrek, and Seroja fulfill their health, physical, spiritual, and social rights towards their children. According to him, apart from the parents' work as sex workers, on the one hand, it adds to economic difficulties, and on the other hand, sex workers also provide support and financial needs for his family.³⁶

Furthermore, Article 10 stipulates that "Every child has the right to express and hear their opinion, receive, seek and provide information according to his level of intelligence and age for the sake of his development by values. about decency and propriety." This action is also reflected in the efforts of Mawar, Melati, Anggrek, and Seroja, where their children are given access to education from elementary school to university. This shows their commitment to providing opportunities for children to develop according to their potential. And their values conform to social norms.

By providing access to education, Melati, Mawar, Anggrek, and Seroja respect children's rights to express opinions and develop themselves according to their intelligence and age. This reflects respect for the values of decency and propriety, which are essential aspects of universal morality. In addition, by providing access to education that covers all levels, these mothers help their children realize their potential and become positive contributing members of society.

³⁶ Gowri Vijayakumar, "Labors of Love: Sex, Work, and Good Mothering in the Globalizing City," *Signs* 47, no. 3 (2022), <https://doi.org/10.1086/717700>.

Furthermore, Article 11 states, "Every child has the right to rest and utilize free time, socialize with children of the same age, play, have recreation and be creative by their interests, talents, and level of intelligence for the sake of self-development." Mawar, Melati, Anggrek, and Seroja have implemented this provision by keeping their children away from the local environment. Some were placed in huts; others were entrusted to family members such as their friends, grandfathers, and grandmothers. This action shows their concern for ensuring children have a supportive environment to express and develop according to their needs.

The parenting style they lovingly apply to their children aims to prevent them from becoming like them. They seriously fulfill various children's rights by those regulated by law. Their parenting patterns are far from exploitative, discriminatory, and unfair amid their condition, which is vulnerable to the world of child trafficking. Indirectly, they have complied with the rules in Article 13.

Constitutionally, both nationally and internationally, the UN organizations, which are members of the OHCHR and the Child Protection Commission, should be the parents of every child born in this world and have the obligation to provide universal protection and grace for them. However, the disaster of humanitarian conflicts in various countries after the birth of the United Nations (UN) continues today. From humanitarian conflicts in Middle Eastern countries to Asia, it is not uncommon for the biggest victims of these conflicts to be children and women, as an example of the recent conflict between Israel and Palestine. Of the 6,086 victims, there were 3,760 child victims. This means that the fulfillment of children's rights has failed to be fulfilled by the UN through the OHCHR on the one hand and failed to be carried out by the Child Protection Commission in Indonesia on the other hand. According to the international constitution, children in Palestine have become orphans because they have lost their legal protection, as have various victims of child violence that have occurred in Indonesia, around 11,868 violence.

The landscape of fulfilling children's rights in the context of international and national law has not become living law in the cognition and affection system of OHCHR law enforcement and the Child Protection Commission. This landscape is inversely proportional to what the mothers of prostitutes do in the Suko Wisata Karaoke area, which is considered to be closely related to trafficking but instead provides care and protection for their children amidst their vulnerable personal and social conditions. This portrait further confirms that fulfilling children's rights cannot only be resolved with formal legal approaches but also requires cultural

approaches as carried out by female sex workers in the Suko Wisata Karaoke environment.

This research confirms the theoretical findings expressed by Peled and Parker, who reviewed the relationships and polemics faced by a mother to provide the best environment for the development of her children while still carrying out work often considered taboo by society. These findings illustrate the conformity with the parenting patterns implemented by Mawar, Melati, Anggrek, and Seroja, who face unique challenges in carrying out their role as mothers amid their work.

In this context, the subjectivity of the experiences of female prostitutes in the Suko Wisata Karaoke environment becomes an exciting example of an anomaly to study from the perspective of legal sociology and legal anthropology. So, this subjective experience can be used as a role model for fulfilling children's rights according to living law in international and national contexts. So, the various experiences of prostitute women regarding their parenting style can be an alternative consideration in drafting the Child Protection Law in both global and national contexts.

Mawar, Melati, Anggrek, and Seroja's actions in ensuring their children's rights fulfill a solid commitment to the principles of the Child Protection Law. They have consistently ensured their children receive fundamental rights such as education, protection, and development opportunities. Even though they face complex and limited environmental challenges, they still struggle to provide the best for their children.

This phenomenon is proof that although the stigma towards prostitutes tends to be negative, Mawar, Melati, Anggrek, and Seroja have proven that they are capable of being responsible as parents. They have exceeded any expectations that may be imposed by law, demonstrating extraordinary dedication to the well-being and future of their children. The various efforts made for their children confirm that despite complex backgrounds, parents like them can still provide their children with the necessary love, attention, and protection.

CONCLUSION

The resilience of Muslim sex workers in fulfilling their children's rights under Hadhanah jurisprudence and the Child Protection Law is configured within the traditions of child rights fulfillment that live in the community. Despite their position as Muslim sex workers, who are often stigmatized as neglectful of their children's rights according to religious provisions in Hadhanah jurisprudence and

state provisions in the Child Protection Law, their maternal instincts drive them to continually mitigate the potential future harm to their children born to sex workers. Muslim sex workers employ at least two resilience models in fulfilling their children's rights. The first model involves sex worker mothers choosing Islamic boarding schools (*pesantren*) as places for their children's care and education. In this resilience model, it is found that the children's religious and educational needs are well met, and they even excel academically at the *pesantren* despite being born to sex workers. The second resilience model involves sex worker mothers entrusting the care and education of their children to their immediate families while maintaining remote control over their children's growth and development and fulfilling their rights. In this model, some children excel, while others perform averagely. Both childcare models aim to preserve the religious purity of the children, preventing them from falling into prostitution like their parents. These childcare models operate under the spirit of the *hadhanah* jurisprudence and the Child Protection Law, which are living laws in Indonesia. Although sex workers may not be aware of the normative details of *hadhanah* jurisprudence and child protection law as guidelines for parenting, in practice, they have met the fundamental rights and needs of their children.

Academically, this study has contributed to becoming new policy material for ulama, government, legislators, and academics to initiate the formation of childcare institutions around former localities as a guarantee of resilience, protection, and fulfillment of the rights of abandoned prostitutes' children. Also, there is a need for counseling and assistance regarding the importance of protecting and fulfilling children's rights for female prostitutes who have underage children.

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