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Reconstructing Abusive Guardianship through a *Mubādalah*-Based Child Protection Prototype: A Comparative Study of State Intervention in Indonesia and Malaysia

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Abstract: This article examines abusive guardianship in cases of sexual violence against children, in which parents or guardians who are supposed to provide protection instead become sources of threat to the victim's safety. Its objectives are to analyze the revocation of guardianship in Indonesia, compare it with child protection mechanisms in Malaysia, formulate a child protection model based on *mubādalah*, and develop the MAPAN-*Mubādalah* Prototype. This study employs a qualitative method using a socio-legal case study design and a comparative approach. Primary data were obtained through interviews, observations, and documentation, while secondary data were derived from court decisions, Indonesian and Malaysian regulations, Islamic family law literature, and child protection documents. The analysis draws on *mubādalah*, *maṣlaḥah mursalah*, and law as a tool of social engineering. The findings indicate that the revocation of guardianship reconstructs the authority of the guardian into a mandate of protection; the comparison between Indonesia and Malaysia underscores the importance of cross-institutional state intervention; the child protection model must integrate victim recovery, restrictions on guardianship authority, and state responsibility; and the MAPAN-*Mubādalah* Prototype offers a framework for detection, risk assessment, intervention, safe caregiving, monitoring, and policy reform. This article recommends technical guidelines, risk assessment, and institutional coordination to strengthen sustainable child protection policy reform in both Muslim-majority countries.

Keywords: Family Law, State Intervention, Child Violence, MAPAN-*Mubādalah*, Abusive Guardianship.

Abstrak: Artikel ini mengkaji perwalian abusif dalam kasus kekerasan seksual terhadap anak, ketika orang tua atau wali yang seharusnya melindungi justru menjadi sumber ancaman bagi keselamatan korban. Tujuannya adalah menganalisis pencabutan perwalian di Indonesia, membandingkannya dengan mekanisme perlindungan anak di Malaysia, merumuskan model perlindungan berbasis *mubādalah*, dan menyusun Prototype MAPAN-*Mubādalah*. Penelitian ini menggunakan metode kualitatif dengan desain *socio-legal case study* dan pendekatan komparatif. Data primer diperoleh melalui wawancara, observasi, dan dokumentasi data sekunder berasal dari putusan pengadilan, regulasi Indonesia-Malaysia, literatur hukum keluarga Islam, dan dokumen perlindungan anak. Analisis menggunakan *mubādalah*, *maṣlaḥah mursalah*, dan *law as a tool of social engineering*. Hasil penelitian menunjukkan bahwa pencabutan perwalian merekonstruksi kuasa wali menjadi amanah perlindungan; komparasi Indonesia-Malaysia menegaskan pentingnya intervensi negara lintas lembaga; model perlindungan anak harus mengintegrasikan pemulihan korban, pembatasan kuasa wali, dan tanggung jawab negara; serta Prototype MAPAN-*Mubādalah* menawarkan rancangan deteksi, asesmen risiko, intervensi, pengasuhan aman, monitoring, dan reformasi kebijakan. Artikel ini merekomendasikan pedoman teknis, asesmen risiko, dan koordinasi kelembagaan untuk memperkuat reformasi kebijakan perlindungan anak secara berkelanjutan di kedua negara Muslim tersebut.

Kata Kunci: Hukum Keluarga, Intervensi Negara, Kekerasan Anak, MAPAN-*Mubādalah*, Perwalian Abusif.

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Introduction

Sexual violence against children is a legal, social, and humanitarian issue that continues to challenge family protection systems across countries (Mahmood, et.al. 2025). This issue becomes more complex when the perpetrator comes from within the nuclear family, particularly a parent or a party who legally holds caregiving and guardianship authority, because the position of parents or close family members may create unequal power relations that silence the child and obstruct legal protection (Ramalia & Wahidah, 2024). In such a situation, the family, which is normatively viewed as a space of protection, may transform into a space of domination, fear, and trauma, especially when the criminal justice process has not fully ensured comprehensive protection and recovery for child victims of incestuous sexual violence (Sudarti et al., 2024). Recent scholarship on child sexual abuse affirms that the impact of sexual violence is not only related to physical injury, but also includes psychological disorders, social vulnerability, developmental barriers, and the loss of a child's sense of safety within family relations (Csorba et al., 2024). UNICEF Indonesia data also show that violence against children remains a structural issue requiring a more integrated protection response, especially because many victims do not immediately gain access to adequate recovery services (UNICEF Indonesia, 2025).

In Islamic family law, guardianship cannot be understood as an absolute right attached to parents without ethical and legal limits (Yunara, E., & Kemas, T. 2024). Guardianship is fundamentally a mandate to safeguard the child's safety, dignity, welfare, education, and future, because the authority of a guardian is legally directed to represent and protect the child's interests rather than to justify unrestricted parental control (Wahyudi et al., 2024)This mandate implies that parental or guardianship authority may be limited, reviewed, or revoked when it is exercised through negligence, abuse of power, or conduct that endangers the child's welfare and contradicts the principle of maṣlaḥah in Islamic family law (Sa'dan et al., 2022). This principle is consistent with the idea of the *best interests of the child*, which positions children as legal subjects who have the right to be heard, protected, and restored when they experience violence or neglect (Cashmore et al., 2023). This normative value also converges with the concepts of maṣlaḥah, maqāṣid al-sharīʿah, and *mubādalah*, because all three reject family relations built upon dominative power, violence, or subordination.

From the perspective of *maqāṣid al-sharīʿah*, family law must protect core human interests, including the preservation of life, intellect, lineage, dignity, and welfare, so that marital and parental relations are directed toward justice and mutual responsibility rather than discrimination or harm (Mubarok & Hermanto, 2023). In the same direction, *mubādalah* emphasizes reciprocal and proportional relations in the family, thereby rejecting domination, subordination, and violence as patterns that are incompatible with gender-responsive Islamic family law (Imtihanah, 2020). Guardianship that turns into a means of violence no longer reflects a protective function, but instead constitutes a deviation from the objectives of Islamic family law, which are oriented toward the protection of life, dignity, lineage, and the welfare of the child, while Islamic family law itself recognizes child protection through *ḥaḍānah*, *maqāṣid al-sharīʿah*, and the moral responsibility of parents (Banurea, 2025).

This study departs from a concrete phenomenon concerning the authority of the State Attorney (*Jaksa Pengacara Negara*) in revoking the guardianship rights of child victims of sexual violence within the jurisdiction of the High Prosecutor's Office in Indonesia, particularly in Lampung Province. This article shows that there are cases of sexual violence committed by a biological father against his own child, so that the revocation of guardianship rights is filed as a legal measure to protect the child from fear, trauma, and continuing threats. The object of this research is located at the Lampung High Prosecutor's Office, covering the Pringsewu District Prosecutor's Office, the Pesawaran District Prosecutor's Office, and the

West Lampung District Prosecutor's Office. The research data also show that the cases concerning the revocation of guardianship rights are related to several religious court decisions, including Decision Number 312/Pdt.G/2023/PA.Prw, Decision Number 593/Pdt.G/2024/PA.Gdt, and Decision Number 411/Pdt.G/2024/PA.Kr.

This phenomenon reveals a gap between *das sollen* and *das sein* in child protection. Normatively, parents are obliged to protect their children, and the state is obliged to guarantee the best interests of the child. Empirically, however, there are situations in which parents who should function as protectors instead become perpetrators of violence, causing guardianship to lose both its moral and legal legitimacy. The cases examined show that the State Attorney holds a strategic position to file lawsuits or applications for the revocation of guardianship rights through civil and state administrative law functions. However, this practice still faces obstacles, including the absence of comprehensive technical guidelines, weak inter-institutional synergy, and low public legal awareness. This condition demonstrates that the research problem lies not only in the presence or absence of state authority, but also in how such authority is constructed so that it can operate effectively, responsively, and with an orientation toward victim recovery.

This issue also has regional relevance because Indonesia and Malaysia both face child protection challenges in the context of Muslim societies, legal pluralism, and Islamic family law systems that coexist with modern state law. Malaysia serves as an important comparator because it has an Islamic family law system implemented through state-level *sharia*jurisdictions, while also possessing child protection instruments under national law. Official Malaysian statistics in 2024 recorded that children under the age of 18 numbered 9.14 million, or 26.9 percent of Malaysia's total population, indicating that child protection has significant social and policy relevance (Department of Statistics Malaysia, 2024). Recent cases of violence and alleged child exploitation in Malaysia also show that the state needs to be more strongly present when family institutions, social institutions, or community authorities fail to guarantee children's safety (Reuters, 2024).

The comparison between Indonesia and Malaysia is important because both countries provide a Southeast Asian context that enables this article to read guardianship not merely as a domestic legal category, but also as an issue of power relations, child protection, and state responsibility in contemporary Muslim societies. Indonesia presents an empirical example of the involvement of the State Attorney in revoking guardianship over child victims of sexual violence, while Malaysia provides a normative comparator regarding how Islamic family law and child protection instruments can be read within the framework of state intervention (Begum, 2024). This comparison is not intended to equate the institutional structures of the two countries, but to assess how the principles of child protection, the limitation of guardians' authority, and the presence of the state can be developed within a more just and responsive Islamic family law framework. Such comparative inquiry is relevant to current trends in Islamic family law studies, which increasingly place equality, the protection of vulnerable groups, and legal reform as central agendas (Ramadhita, 2023).

The urgency of this article lies in the need to reconstruct the concept of guardianship from a relation of power into a mandate of protection. This reconstruction is important because the term guardianship is still often read hierarchically, as though the guardian possesses dominant authority over the child. Such a reading risks ignoring the position of the child as a legal and moral subject with inherent dignity. The perspective of *mubādalah* offers a conceptual framework for rereading family relations as reciprocal, just, and oriented toward the welfare of all parties, especially the most vulnerable. In this context, *mubādalah* is not only used as a theory of gender equality, but also as an ethical-juridical approach to assessing whether guardianship relations truly provide protection or instead become instruments of domination. Studies on the *mubādalah* method in family law cases show that this approach

can assist judges and legal actors in reading family relations more fairly, contextually, and with a stronger orientation toward substantive protection (Nafi & Ali, 2024).

Reconstruction through *mubādalah* is also necessary because the revocation of guardianship must not stop as an administrative act after violence has occurred. The revocation of guardianship must be understood as a legal correction of failed family relations, the restoration of victims' dignity, and the formation of a more sustainable child protection model. The *mubādalah* perspective enables this article to integrate three main dimensions: child protection, state intervention, and the renewal of Islamic family law. The relationship among the child, guardian, family, court, and state needs to be read as a network of reciprocal responsibilities. The state does not arbitrarily take over the family, but intervenes when family relations suffer serious damage and pose a threat to the child's safety. Recent scholarship on *qirā'ah mubādalah* in Muslim families affirms that family leadership needs to shift from hierarchical authority toward a moral responsibility of mutual care (Nugroho, 2025).

A number of previous studies have discussed child protection, guardianship, and Islamic family law, but they have not specifically connected the revocation of abusive guardianship, state intervention, the Indonesia–Malaysia comparison, and *mubādalah* theory within a single analytical framework. Dharma and Amar examine the principle of the *best interests of the child* in child guardianship cases and show that religious court judges can integrate juridical reasoning and the value of public welfare to guarantee children's well-being (Dharma & Amar, 2024). Simatupang discusses the paradox of state authority in supervising children's property in Indonesia, which is relevant for examining how the state may be present in child protection, but the study focuses more on property supervision rather than the revocation of guardianship due to sexual violence (Simatupang, 2023). Nafi and Ali examine *mubādalah* as an interpretive method for gender justice among religious judges in family law cases, but they do not place it within the issue of abusive guardianship and the protection of child victims of sexual violence (Nafi & Ali, 2024).

The novelty of this article lies in its conceptual and practical reading of abusive guardianship through the perspective of *mubādalah*, by positioning the practice of the State Attorney in Indonesia as an empirical entry point and Malaysia as an institutional comparator in child protection. Unlike previous studies that generally discuss guardianship, child protection, or sexual violence separately, this article integrates the revocation of guardianship, state intervention, and the renewal of Islamic family law into a single analytical framework. This novelty is strengthened through the formulation of the *MAPAN-Mubādalah* Prototype, or the *Mubādalah*-Based Child Protection Mandate Model, namely an initial child protection design that connects the detection of abusive guardianship, risk assessment, state intervention, transfer to safe caregiving, victim recovery, post-judgment monitoring, and policy reform.

Based on this background, this article addresses four main questions. First, how can the practice of revoking guardianship rights over child victims of sexual violence in Indonesia be read as a shift from guardianship as a relation of power toward guardianship as a mandate of protection from the perspective of *mubādalah*? Second, why is the comparison between Indonesia and Malaysia important for understanding the construction of Islamic family law in responding to abusive guardianship, child protection, and state responsibility? Third, what kind of protection model can be constructed through the integration of *mubādalah* principles, child protection, and state intervention for the renewal of Islamic family law in Indonesia and Malaysia? Fourth, how can the *MAPAN-Mubādalah* Prototype be formulated as an initial protection design for child victims of abusive guardianship that can be validated, institutionally tested, and developed into child protection guidelines within Islamic family law? These four questions show that the article does not merely explain the practice of

guardianship revocation, but also offers a theoretical construction and an initial design for child protection that is more reciprocal, transformative, and victim-oriented.

The significance of this article arises from the urgent need to respond to guardianship that has shifted from a mandate of protection into an instrument of violence. At the conceptual level, the reconstruction of abusive guardianship through *mubādalah* is important because it touches upon the foundational norms of family law: who is fit to protect the child, when a guardian's authority must be limited, how the state should intervene when the family fails to perform its protective function, and what institutional model can ensure the sustainable recovery of victims. An analogy with the theory of constitutional change may be used in a limited sense to emphasize that changes to foundational norms are always strategic because they determine the direction of legal system reform. John W. Burgess positioned constitutional change as an important mechanism in determining the development of a state's fundamental norms, while contemporary constitutional scholarship shows that written constitutions tend to be designed to be stable and difficult to amend (Tsebelis, 2025). In the context of this article, the renewal of Islamic family law is not understood as a change to the state constitution, but as a redesign of the fundamental norms of guardianship so that family law no longer protects abusive authority, but instead protects children's dignity, guarantees family justice, strengthens state responsibility, and opens space for testing the *MAPAN-Mubādalah* Prototype as an initial child protection model in contemporary Muslim societies.

Method

This article employs a qualitative method using a socio-legal case study design combined with a comparative approach. The qualitative method is appropriate because the study does not seek to statistically measure relationships among variables, but rather to interpret legal practices, institutional reasoning, and the construction of child protection in cases concerning the revocation of guardianship rights due to sexual violence. The socio-legal design enables the analysis to move beyond normative legal texts by examining how legal norms are implemented by law enforcement institutions in concrete cases involving child victims. The main case study is located in Indonesia, particularly within the jurisdiction of the Lampung High Prosecutor's Office, because this jurisdiction demonstrates an applied legal practice in which the State Attorney files a petition for the revocation of guardianship rights against a parent or guardian who has committed sexual violence against a child. Through this case, the article explores how prosecutorial authority, child protection principles, and Islamic family law values intersect in strengthening legal safeguards for children whose safety and dignity are threatened within the family environment.

The research sites include the Lampung High Prosecutor's Office, the Pringsewu District Prosecutor's Office, the Pesawaran District Prosecutor's Office, and the West Lampung District Prosecutor's Office. The selection of these sites is based on institutional relevance and the availability of cases that have been processed through the religious courts, including Decision Number 312/Pdt.G/2023/PA.Prw, Decision Number 593/Pdt.G/2024/PA.Gdt, and Decision Number 411/Pdt.G/2024/PA.Kr. The field data in the dissertation show that the research was conducted through observation, interviews, and documentation within the Lampung High Prosecutor's Office and several related district prosecutor's offices, while the documentary data include religious court decisions that serve as the basis for analysing the revocation of guardianship.

The primary data sources in this article derive from directed interviews with four informants from the State Attorney division for Civil and State Administrative Affairs within the Lampung High Prosecutor's Office, the Pringsewu District Prosecutor's Office, the Pesawaran District Prosecutor's Office, and the West Lampung District Prosecutor's Office. These informants were selected through purposive sampling because they possess

competence, institutional experience, and substantive involvement in the legal process of revoking children's guardianship rights. Interviews were used to explore case-filing procedures, the legal basis of consideration, technical obstacles, inter-agency coordination, and the orientation of child protection in the practice of the State Attorney. Observation was carried out by tracing institutional practices related to the handling of guardianship revocation within the jurisdiction of the Lampung High Prosecutor's Office, particularly to understand how state authority is exercised in cases where biological parents, who should function as protectors, instead become perpetrators of sexual violence. Documentation was conducted on court decisions, statutory regulations, relevant institutional files, and literature on Islamic family law and child protection. Secondary data were obtained from primary and secondary legal materials, including Indonesian statutory regulations, prosecutorial institutional regulations, court decisions, Islamic legal literature, journal articles, and Malaysian legal materials relevant to the issues of guardianship, child protection, and state intervention.

The Indonesia–Malaysia comparative approach is used to broaden the reading of this article from a local study into a regional analysis of child protection within Southeast Asian Islamic family law. Indonesia is positioned as the empirical case study because this article is grounded in field data concerning the authority of the State Attorney in revoking the guardianship rights of child victims of sexual violence. Malaysia is positioned as a normative and conceptual comparator through the examination of legal documents, child protection regulations, Islamic family law literature, and academic materials discussing the relationship between state authority, child protection, and guardianship in Muslim societies.

This comparison is not intended to equate the institutional structures of Indonesia and Malaysia, but rather to examine how two Muslim-majority countries in Southeast Asia construct the boundary between guardian authority, the best interests of the child, and state presence when guardianship turns into an abusive relationship. Data validity is maintained through source and technique triangulation, namely by comparing informants' statements, observation results, court decisions, legal norms, and academic literature. The validation process is also carried out by examining the consistency among case facts, the legal basis of the State Attorney's authority, judicial considerations, and child protection principles, so that the analysis is not merely normative but also grounded in verifiable institutional practice.

Data analysis is conducted inductively and qualitatively through three main stages: data reduction, thematic categorization, and theoretical interpretation. Field data and legal documents are first classified according to the themes of state authority, abusive guardianship, child protection, legal reasoning, social impact, and the need for Islamic family law reform. The data are then analysed using *mubādalah* theory as the main lens to read the shift of guardianship from a relation of power toward a reciprocal mandate of protection. The principle of *mubādalah* is used to assess whether the relationship among the child, guardian, family, court, and state reflects justice, reciprocal responsibility, and protection for vulnerable parties. The theory of *maṣlaḥah mursalah* is used as a supporting theory to assess the urgency of guardianship revocation as a legal measure that prevents harm and safeguards the child's safety, while *law as a tool for social engineering* is used to read state intervention as an instrument for transforming family law so that it becomes more responsive to sexual violence within the family. This analytical procedure is directed toward producing a *mubādalah*-based child protection model that integrates victim protection, the limitation of abusive guardian authority, and the strengthening of state responsibility in the reform of Islamic family law in Indonesia and Malaysia.

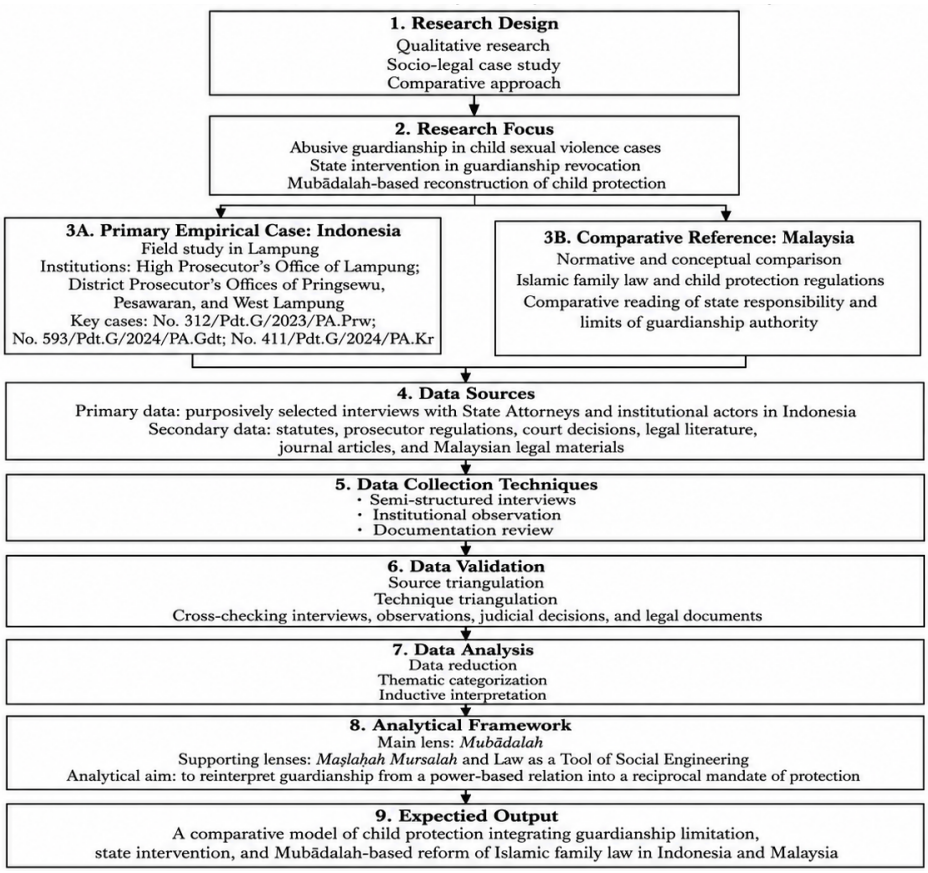

Figure 1: *Research Method Workflow*

Results

Map of Abusive Guardianship Cases and Sexual Violence against Children in Indonesia and Malaysia

The research findings in Indonesia show that the revocation of guardianship rights over child victims of sexual violence in Lampung Province emerged from situations in which biological parents no longer performed their protective function toward their children. The field data indicate that the cases examined are related to three religious court decisions, namely Decision of the Pringsewu Religious Court Number 312/Pdt.G/2023/PA.Prw, Decision of the Gedong Tataan Religious Court Number 593/Pdt.G/2024/PA.Gdt, and Decision of the Krui Religious Court Number 411/Pdt.G/2024/PA.Kr. These three cases reveal a relatively similar pattern, namely the existence of unsafe family relations, the loss of parents' moral and legal eligibility to act as guardians, and the need for state intervention so that children do not remain under the authority of parties who endanger their safety and psychological development.

In the Pringsewu case, the court revoked the parental authority of the defendant and placed the child under the guardianship of the biological mother. The ruling demonstrates that the biological relationship between parent and child does not automatically guarantee the suitability of guardianship when a parent is proven or deemed incapable of ensuring the child's safety. The case data in Decision No. 312/Pdt.G/2023/Prw indicate that the biological mother was considered eligible to serve as guardian, whereas the defendant lost guardianship authority because he was proven to have engaged in improper and inhumane conduct toward the child (Redaksi Netizenku, 2023). The ruling also shows that the revocation of guardianship has a protective function, namely severing a legal caregiving relationship that endangers the child and creating space for safer care. In this context, the revocation of guardianship is not merely an administrative measure, but a form of legal protection aimed at securing the child from the risk of repeated violence, in line with the view that the revocation of parental

authority may constitute a civil legal consequence when parents commit violence or serious neglect against children (Hartanto et al., 2021).

The map of Indonesian cases also shows that the revocation of guardianship rights discussed in this article does not concern ordinary guardianship matters, but cases that directly intersect with sexual violence within the family. The revocation of guardianship is used not only to regulate caregiving status, but also to terminate power relations that may prolong the child's trauma. In the context of violence against children, the revocation of custody is considered urgent when the holder of custody fails to properly fulfil the responsibilities of care and protection in accordance with the principle of the child's best interests (Fauziyah & Setyorini, 2025). From the three cases examined, three dominant elements emerge: the existence of sexual violence or acts that threaten the child's safety, the incapacity of parents to fulfil caregiving obligations, and the urgent need to transfer child protection to a safer party. This pattern is consistent with the study by Sholehudin and Maharani, which shows that cases of violence against children in Indonesia continue to face challenges in applying the principle of the *best interests of the child*, particularly when victims are situated within closed family relations and are vulnerable to social pressure (Sholehudin & Maharani, 2025).

Comparative data from Malaysia indicate that sexual violence against children is also a serious issue within the child protection system. Based on data presented in the written response of the Malaysian Minister of Women, Family and Community Development, the Social Welfare Department recorded 4,469 cases of violence against children in 2023 and 2,240 cases up to August 2024; within the category of sexual violence, female victims constituted the majority, accounting for 92.3 percent in 2023 and 91.2 percent up to August 2024 (Ova, 2024). Data from the Royal Malaysia Police also recorded 5,401 cases of sexual crimes against children in 2023 and 2,059 cases from January to April 2024. These figures demonstrate that child protection in Malaysia is not merely a normative issue, but also an empirical problem marked by a significant caseload, particularly because sexual crimes against children encompass various categories, including rape, incest, molestation, child pornography, *child grooming*, and sexual communication with children (New Straits Times, 2024).

The Malaysian data also show that children's vulnerability does not arise only within biological families, but may also occur within caregiving institutions. In 2024, Malaysian authorities rescued hundreds of children from charity homes allegedly linked to violence, exploitation, and sexual abuse; Reuters reported that more than 400 children and adolescents were rescued from charity homes allegedly operated by Global Ikhwan Services and Business, with allegations of neglect, sexual abuse, and exploitation (Latiff & Azhar, 2024). The United Nations Committee on the Rights of the Child subsequently highlighted issues of alternative care, child protection, and the need to strengthen Malaysia's monitoring system. This finding is important because it demonstrates that failures in child protection may occur in two spaces simultaneously, namely the family sphere and the institutional sphere; therefore, strengthening child protection needs to include the mapping of caregiving institutions, supervision of registered and unregistered institutions, and the expansion of family- and community-based care (Committee on the Rights of the Child, 2026). Indonesian and Malaysian data similarly show that children may be placed in vulnerable situations precisely within relationships that are socially assumed to function as spaces of protection.

Table 1. Summary of Data on Abusive Guardianship Cases and Child Protection in Indonesia and Malaysia

Country	Data Basis	Main Findings	Meaning of the Findings
Indonesia	Three religious court decisions in Lampung and interviews with State Attorneys	The revocation of guardianship occurred because the guardian/parent was no longer deemed fit to protect the	Guardianship turns into a space of risk when family relations no longer

		child, particularly in the context of sexual violence within the family.	guarantee the child's safety.
Malaysia	Data from KPWKM, PDRM, and child protection documents	There are thousands of cases of violence and sexual crimes against children, with female victims dominating sexual violence cases.	Sexual violence against children is a structural issue that requires a cross-institutional protection system.
Indonesia–Malaysia	Comparison of case data and institutional documents	Both countries face children's vulnerability within family spaces and/or caregiving institutions.	State presence becomes an empirical necessity when caregiving relations fail to guarantee children's safety.

Institutional Data on State Intervention in Child Protection

Field findings in Indonesia show that the State Attorney (*Jaksa Pengacara Negara*, JPN) holds a strategic position in cases involving the revocation of guardianship rights over child victims of sexual violence. Interviews were conducted with officials from the Civil and State Administrative Affairs divisions at the Lampung High Prosecutor's Office, the Pringsewu District Prosecutor's Office, the Pesawaran District Prosecutor's Office, and the West Lampung District Prosecutor's Office. The informants shared the view that the JPN may file an application for the release or dismissal of parental authority when parents are no longer fit to exercise guardianship. These interview sites were selected because the jurisdiction of the Lampung High Prosecutor's Office contains concrete cases involving the revocation of guardianship over child victims of sexual violence that have been processed through the religious courts.

The Assistant for Civil and State Administrative Affairs at the Lampung High Prosecutor's Office explained: "The State Attorney has the authority to file an application for the release or dismissal of parental authority in cases concerning the revocation of guardianship rights over child victims of sexual violence, provided that it is based on applicable legal provisions and directed toward protecting the best interests of the child" (Interview with the Assistant for Civil and State Administrative Affairs at the Lampung High Prosecutor's Office, 2025).

This statement indicates that the authority of the JPN is not understood merely as the state's litigation function in civil matters, but also as an instrument of child protection when family relations are no longer capable of ensuring the victim's safety. This position is important because the revocation of guardianship in cases of sexual violence does not only concern a change in the legal status of caregiving, but also constitutes a corrective measure against parents' failure to perform their protective function.

Interview data also show that the legal basis used by the JPN in the Lampung region is relatively uniform. An informant from the Lampung High Prosecutor's Office stated that the implementation of JPN authority in cases involving the revocation of guardianship rights over child victims of sexual violence is grounded in Article 319a of the Indonesian Civil Code, Article 49 of the Marriage Law, Articles 30 and 30C of the Prosecutor's Office Law, and Regulation of the Prosecutor's Office of the Republic of Indonesia Number 7 of 2021. These legal bases enable the Prosecutor's Office to act in civil matters in the best interests of the child, both inside and outside the court. This finding shows that state intervention in Indonesia operates through civil and state administrative channels, not only through the criminal punishment of perpetrators (JPN Lampung Interview Data, 2025).

The Head of the Civil and State Administrative Affairs Section of the Pringsewu District Prosecutor's Office stated:

> "*The handling of sexual violence cases against children basically already has procedural standards through general regulations, such as the Criminal Procedure Code, the Child Protection Law, and the Prosecutor's Office Law. After a criminal judgment has obtained*

permanent legal force, the case file may be transferred to the Civil and State Administrative Affairs Division to follow up on an application for the release or dismissal of parental authority over child victims of sexual violence" (Interview with the Head of the Civil and State Administrative Affairs Section of the Pringsewu District Prosecutor's Office, 2025).

This statement shows that the revocation of guardianship operates through continuity between criminal proceedings and civil proceedings. Criminal proceedings function to prove the act of violence, whereas civil proceedings through the JPN function to ensure the child's protection status after the criminal case has been decided. Meanwhile, the Head of the Civil and State Administrative Affairs Section of the Pesawaran District Prosecutor's Office emphasized:

"*The revocation of guardianship rights over child victims of sexual violence is a form of state presence in realizing justice and legal certainty when parents commit sexual violence against their biological children. Therefore, an application for the revocation of guardianship rights needs to be filed in the best interests of the child*" (Interview with the Head of the Civil and State Administrative Affairs Section of the Pesawaran District Prosecutor's Office, 2025).

This quotation shows that the revocation of guardianship is positioned as the state's response to the abuse of family relations. Biological parents are not automatically viewed as the most suitable parties to hold guardianship authority when their actions instead destroy the child's sense of safety. The Subsection Head for Civil and State Administrative Affairs at the West Lampung District Prosecutor's Office explained:

"*The revocation of guardianship rights over child victims of sexual violence is carried out as a responsibility and mandate of the law. This step is regarded as a manifestation of the state's presence in providing security and protection to children who become victims of sexual violence committed by their biological parents*" (Interview with the Subsection Head for Civil and State Administrative Affairs at the West Lampung District Prosecutor's Office, 2025).

This statement affirms that the revocation of guardianship has a protective dimension that goes beyond a change in legal status. The state is present not only to revoke the authority of an abusive guardian, but also to provide safety, protection, and legal certainty for child victims of sexual violence.

In the Malaysian context, state intervention in child protection operates through a system that emphasizes social protection, policing, and court pathways. UNICEF Malaysia explains that the handling of violence against children involves legal instruments such as the *Child Act 2001*, the *Sexual Offences Against Children Act 2017*, and the *Sexual Offences Against Children (Amendment) Act 2023*. The Social Welfare Department has a child protection mandate, while the Royal Malaysia Police plays a role in criminal investigations. The reporting mechanism is positioned as an entry point toward support and access to justice, but UNICEF Malaysia also emphasizes that reporting alone is insufficient without a coordinated child protection system (UNICEF Malaysia, 2024).

Malaysian regulatory data show the strengthening of protection for child victims of sexual violence through legal reform. The *Sexual Offences Against Children (Amendment) Act 2023* expands the scope of offences against children, including technology-facilitated sexual violence and child sexual exploitation. In 2025, the *Special Guidelines for Handling Child Sexual Offence Cases* also emphasized the need for minimum standards in handling child sexual offence cases, from initial reporting, protection of victims and families, criminal proceedings, to inter-agency coordination (BHEUU & UNICEF Malaysia, 2025). These data show that Malaysia has more explicit guidelines in handling child sexual violence, whereas Indonesian data indicate the need for more specific technical guidelines for the JPN in guardianship revocation cases.

Table 2. Forms of State Intervention Based on Indonesian Findings and Malaysian Data

Aspect	Indonesia	Malaysia
Main actors	State Attorney, Religious Courts, child protection institutions, social agencies	Social Welfare Department, Royal Malaysia Police, courts, child protection teams
Intervention pathway	Lawsuit or application for the revocation/release of parental authority through the court	Reporting, investigation, social protection, criminal proceedings, and child protection intervention
Main data basis	Three cases in Lampung and interviews with State Attorneys	KPWKM/PDRM data, *Child Act 2001*, SOAC 2017, 2023 amendments, 2025 guidelines
Institutional findings	The JPN can serve as the state's representative, but still requires clearer technical implementation	The protection system is more structured across institutions, but still faces a high caseload and risks of supervisory failure

Patterns of Case Consideration, Evidence, and Handling Obstacles

Findings from court decision documents in Indonesia show that the revocation of guardianship is based on a combination of event facts, legal evidence, witness testimony, and an assessment of parents' suitability as guardians. In the Pringsewu case, the judge granted the claim by *verstek*, revoked the defendant's parental authority, and placed the child under the guardianship of the biological mother. The decision also contained the consideration that a guardian's policy must be based on the welfare of the child under his or her guardianship. These data show that case consideration does not stop at the biological relationship between parent and child, but moves toward assessing whether the parent is still able to ensure the child's safety and welfare (Religious Court Decision Data, 2023).

In the Gedong Tataan case, documentary data show that the Pesawaran District Prosecutor's Office acted as the plaintiff based on a Special Power of Attorney registered at the Gedong Tataan Religious Court. The lawsuit was filed because the defendant was deemed incapable or unable to fulfil the obligation to care for and educate the child due to his improper conduct, based on Article 319a of the Indonesian Civil Code and Article 49 paragraph (1) letter b of the Marriage Law. These data show that guardianship revocation cases have a relatively clear formal pattern: there is the state as plaintiff, there are civil and marriage law bases, there is a parental condition deemed unfit, and there is a request for protection through the religious court (Gedong Tataan Religious Court Decision Data, 2024).

Interview data show that the main obstacles in Indonesian cases lie in evidence, coordination, availability of resources, and the absence of specific technical guidelines. The Assistant for Civil and State Administrative Affairs at the Lampung High Prosecutor's Office explained:

> "*The limited number of State Attorneys who have special expertise in handling civil cases in the field of marriage law, particularly those involving children, is often disproportionate to the number of cases that must be handled. In addition, budget limitations for investigation, evidence collection, and victim assistance also hinder optimal law enforcement efforts*" (Interview with the Assistant for Civil and State Administrative Affairs at the Lampung High Prosecutor's Office, 2025).

This statement indicates that obstacles to guardianship revocation do not arise only from legal norms, but also from institutional capacity. Cases involving the guardianship of child victims of sexual violence require expertise in family law, understanding of child protection, sensitivity to victims' trauma, and cross-sectoral coordination. The Head of the Civil and State Administrative Affairs Section of the Lampung High Prosecutor's Office stated:

> "*Evidence in cases of sexual violence or psychological violence is often complex and time-consuming. Evidence frequently depends on the testimony of victims who are still experiencing trauma and may find it difficult to provide consistent statements, while physical evidence is often difficult to find or has already disappeared*" (Interview with the

Head of the Civil and State Administrative Affairs Section of the Lampung High Prosecutor's Office, 2025).

This statement shows that cases involving the revocation of guardianship over child victims of sexual violence have evidentiary characteristics that differ from ordinary civil family cases. Victim testimony becomes highly important, but the victim's traumatic condition requires that the process of fact-finding be conducted carefully and in a child-friendly manner. The limitations of physical evidence also require the JPN to rely on expert testimony, supporting documents, and indirect evidence. Non-legal obstacles also appear strongly in the field data. The Heads of the Civil and State Administrative Affairs Sections at district prosecutor's offices within the jurisdiction of the Lampung High Prosecutor's Office explained:

> "*Lack of understanding or resistance from family and community members toward the legal process may become an obstacle in handling cases. In some cases, family members are reluctant to provide support or even attempt to obstruct the legal process because of social stigma, pressure from the perpetrator, or concern about negative impacts on the family*" (Interview with the Heads of the Civil and State Administrative Affairs Sections at district prosecutor's offices within the jurisdiction of the Lampung High Prosecutor's Office, 2025).

This quotation shows that the revocation of guardianship in cases of sexual violence within the family does not only face legal problems, but also social problems arising from a culture of silence, family pressure, victim stigma, and relational dependence between victims and perpetrators. The Assistant for Civil and State Administrative Affairs at the Lampung High Prosecutor's Office emphasized:

> "*The absence of specific regulations concerning the prosecutor's authority in revoking children's guardianship rights may hinder the effectiveness of the State Attorney. This condition causes the State Attorney to wait for a Special Power of Attorney from the High Prosecutor's Office, the Office of Religious Affairs, or the community before being able to act*" (Interview with the Assistant for Civil and State Administrative Affairs at the Lampung High Prosecutor's Office, 2025).

This statement shows that regulatory obstacles constitute one of the crucial points in child protection. The need for child protection is urgent, but JPN legal action still depends on a particular administrative mandate. These data explain why the revocation of guardianship over child victims of sexual violence requires clearer technical guidelines, particularly to avoid delays in action when children are in dangerous situations.

In the Malaysian context, obstacles in handling child sexual violence cases are more visible in inter-agency coordination, victim recovery, and supervision of caregiving facilities. The *Special Guidelines for Handling Child Sexual Offence Cases*emphasize that cases of sexual violence against children must be handled in a timely, sensitive, and effective manner, and must ensure that child victims and their families obtain protection from the initial report until the criminal process is completed (BHEUU & UNICEF Malaysia, 2025). The report of the United Nations Committee on the Rights of the Child on Malaysia also underlines the issues of alternative care, child protection, and the need for reform in the supervision system of caregiving institutions (OHCHR, 2026). Malaysian data show that more complete regulation still requires strong implementation oversight.

Table 3. Patterns of Handling Obstacles Based on Findings from Indonesia and Malaysia

Category of Obstacles	Indonesia	Malaysia
Legal obstacles	There are no specific technical guidelines on the authority of the State Attorney (*Jaksa Pengacara Negara*, JPN) in revoking	Legal instruments and guidelines already exist, but implementation still requires cross-institutional coordination.

	guardianship over child victims of sexual violence.	
Evidentiary obstacles	Testimony from traumatized victims, uncooperative witnesses, difficulty obtaining physical evidence, and the need for expert evidence.	Evidence in child sexual violence cases requires child-friendly procedures and protection for child witnesses.
Social obstacles	Stigma, family pressure, community resistance, and fear of the consequences of guardianship revocation.	Risks of violence within families and caregiving institutions, as well as the need for supervision of protection facilities.
Institutional obstacles	Coordination among the Prosecutor's Office, police, DPPA, Ministry of Social Affairs, LPSK, and other institutions has not yet been fully integrated.	Coordination among social welfare services, the police, courts, and recovery services constitutes a primary need.

Legal and Social Impacts Following Child Protection Intervention

Research findings in Indonesia show that the revocation of guardianship rights produces a direct legal impact in the form of the transfer of caregiving authority and the strengthening of formal protection for the child. The child is no longer under the authority of a guardian deemed unfit, while another safer party may be appointed as guardian or holder of caregiving authority. In the Pringsewu case, the child was transferred under the guardianship of the biological mother. These data demonstrate that the revocation of guardianship has a concrete protective function, namely removing the child from a harmful relational structure and providing a legal basis for alternative caregiving (Religious Court Decision Data, 2023).

The social impact following the revocation of guardianship is more complex than the formal legal impact. The research data show that children and families face changes in family structure, psychological pressure, social stigma, and the need for long-term recovery. A decision revoking guardianship does not automatically erase the child's trauma, but it becomes an entry point for restoring a sense of safety and reorganizing caregiving relations. Field data also show that child recovery requires psychological support, social assistance, and coordination among the Prosecutor's Office, social agencies, child protection institutions, law enforcement authorities, and health services (Field Research Data, 2025). The Head of the Civil and State Administrative Affairs Section of the Pringsewu District Prosecutor's Office, the Head of the Civil and State Administrative Affairs Section of the Pesawaran District Prosecutor's Office, and the Subsection Head for Civil and State Administrative Affairs of the West Lampung District Prosecutor's Office placed the same emphasis:

> "*The success of the State Attorney in resolving cases involving the revocation of children's guardianship requires good cooperation between prosecutors, the police, courts, social institutions, and local governments. Effective coordination ensures that all parties share the same understanding of the objectives and legal procedures for protecting the best interests of the child*" (Interview with officials from the Civil and State Administrative Affairs divisions of the Pringsewu District Prosecutor's Office, the Pesawaran District Prosecutor's Office, and the West Lampung District Prosecutor's Office, 2025).

This collective statement shows that the revocation of guardianship over child victims of sexual violence cannot be handled by a single institution in isolation. The JPN has an important role in filing cases, but the effectiveness of child protection depends on support from the police, courts, social institutions, local governments, psychologists, and social workers.

Malaysian data show that child protection intervention also does not stop at law enforcement. UNICEF Malaysia emphasizes that reporting mechanisms, hotlines, and complaint portals are important entry points in cases of violence against children, but such

mechanisms must be followed by psychosocial support, access to justice, welfare services, and institutional coordination (UNICEF Malaysia, 2024). Malaysia's 2025 guidelines also position the recovery and reintegration of child victims as part of the handling of child sexual violence cases, so that legal intervention must be connected to social protection and victim assistance (BHEUU & UNICEF Malaysia, 2025).

The comparison of Indonesian and Malaysian data shows that state intervention has two sides. On the one hand, state intervention provides formal protection, a legal basis for caregiving, and access to the justice process. On the other hand, such intervention requires a longer recovery system because child victims face trauma, stigma, and post-case vulnerability. Indonesian data demonstrate the importance of clarifying JPN authority so that guardianship revocation can be carried out effectively. Malaysian data demonstrate the importance of coordinating social, criminal, and child protection services after a case is reported. Both show that child protection in cases of abusive guardianship is not sufficiently determined by the success of proceedings in court, but also by the state's ability to ensure that children obtain safe caregiving, psychological recovery, and sustained protection.

Table 4. Summary of Research Findings

Dimension of Findings	Indonesia	Malaysia
Form of case	Revocation of guardianship due to sexual violence committed by a biological parent.	Sexual violence against children and cases of violence within families/caregiving institutions.
Main data	Three religious court decisions and interviews with State Attorneys in Lampung.	KPWKM/PDRM statistics, UNICEF Malaysia documents, guidelines for handling child sexual violence, and OHCHR reports.
State actors	JPN, Religious Courts, police, social agencies, and child protection institutions.	JKM/DSW, PDRM, courts, child protection teams, and social services.
Obstacles	Technical guidelines are not yet specific, evidence is difficult, family resistance exists, and coordination is weak.	High caseloads, the need for service coordination, and risks of violence in alternative care.
Impacts	Transfer of guardianship, formal protection, and recovery from child trauma.	Strengthening of reporting, criminal handling, social protection, and the need for supervisory reform.

Discussion

From Guardianship as a Relation of Power toward Guardianship as a Mandate of Protection from the Perspective of *Mubādalah*

The research findings show that the revocation of guardianship rights over child victims of sexual violence in Indonesia cannot be understood merely as an administrative legal act. This practice represents a fundamental shift in understanding guardianship: from hierarchical family authority toward a mandate of protection that can be examined ethically, juridically, and socially. In the cases studied, biological parents who normatively should serve as protectors instead became sources of threat to their children. This condition causes the moral basis of guardianship to collapse, because the caregiving relationship no longer produces a sense of safety, but instead generates trauma, fear, and repeated vulnerability . The research data show that the revocation of guardianship by the State Attorney is directed toward restoring child protection, severing harmful power relations, and ensuring that children do not continue to remain under the authority of parties who commit violence.

From the perspective of *mubādalah*, family relations cannot be built through the logic of domination, ownership, or unilateral authority. *Mubādalah* views human relations as

reciprocal relationships that demand justice, mutuality, responsibility, and protection of the dignity of all parties. This concept has a strong basis in the Qur'an, including QS. al-Tawbah [9]: 71: وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ which means "*Believing men and believing women are allies and protectors of one another*." This verse is important because the word *awliyā'* does not only refer to spiritual closeness, but also to the function of mutual care, protection, and moral responsibility. In the context of child guardianship, this verse shows that family authority must not be understood as one-directional power, but as a reciprocal responsibility of protection. The study by Sholikin, Khairuddin, and Samsudin shows that *mubādalah* emphasizes reciprocity, justice, shared responsibility, child protection, and the *best interests of the child* as foundations for the renewal of Islamic family law (Sholikin et al., 2025).

Guardianship in Islam is fundamentally an *amānah*, not an absolute right. This principle is affirmed in QS. al-Nisā' [4]: 58: إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا which means "*Indeed, Allah commands you to deliver trusts to those entitled to them*." This verse may be read as a normative basis that every authority entrusted to human beings must be exercised in accordance with the purpose of that trust. Guardianship over a child is morally valid when the guardian performs the functions of protection, caregiving, education, and preservation of the child's dignity. A guardian who commits sexual violence against a child does not only violate positive law, but also betrays the substance of *amānah*. At this point, the revocation of guardianship must not be viewed as an act that destroys the family, but as an act intended to save the purpose of the family from the abuse of power.

This interpretation explains the causal relationship underlying the research findings. Sexual violence committed by a biological parent transforms the family structure from a space of protection into a space of risk. This transformation gives rise to legal consequences in the form of the loss of guardianship eligibility, social consequences in the form of trauma and stigma, and institutional consequences in the form of the need for state intervention through the State Attorney (*Jaksa Pengacara Negara*, JPN) and the court. The impact of sexual violence against children includes profound psychological, social, and physical consequences, including trauma, behavioral disorders, and social stigma that may hinder the victim's recovery (Batian & Hartanto, 2024). In the cases examined, the judges did not merely preserve the biological relationship between father and child, but assessed whether the parent remained fit to perform the protective function.

The decisions revoking guardianship rights from the father and transferring child protection to the mother demonstrate that the court moved from the logic of biological status toward the logic of the child's welfare and safety. The research data also show that the three decisions of the Religious Courts of Pringsewu, Gedong Tataan, and Krui placed the child's safety as the basis for considering the revocation of guardianship, consistent with studies on legal protection for child victims of sexual violence committed by parents, which emphasize the importance of the principle of the *best interests of the child* in the physical, psychological, and social recovery of victims (Silaban et al., 2026).

An important reflection from these findings is that guardianship maintained solely on the basis of biological ties can become dangerous when the law fails to distinguish between protective authority and abusive authority. The greatest risk of this failure is that children may be forced to remain within relationships that threaten their physical and psychological safety. Within the framework of *mubādalah*, guardianship must not position children as passive objects who are required to submit to parental power. Children must be positioned as dignified subjects who possess the right to protection, safety, and recovery; normatively, children are understood as legal subjects whose rights must be protected by the state, the family, society, and law enforcement authorities (Permana & Hosnah, 2025). Thus, the revocation of guardianship in cases of sexual violence constitutes a legal correction of family

relations that have failed to uphold the principles of reciprocity and protection, because the concept of *mubādalah* can be extended from marital relations to patterns of childrearing that place children within relationships that are equal, dignified, and non-discriminatory (Adib & Mujahidah, 2021).

This analysis is consistent with the study by Yasin, Abdul Rahman, Ab. Ghani, and Belal, which affirms that guardians, from the perspective of Islamic law, are obliged to prioritize children's welfare and are responsible for protecting children from harm. This study is important because it demonstrates that the discretion of guardians does not stand freely, but is bound by the objectives of *maqāṣid al-sharī'ah* and the obligation to protect children from harm (Yasin et al., 2024). The distinction is that the present study does not merely discuss guardians' responsibilities within a normative framework, but shows how the state, through the JPN, can correct guardianship when a biological guardian becomes a perpetrator of violence. The novelty of this study lies in the use of *mubādalah* as an analytical lens to read the revocation of guardianship as a transformation of relations: from paternal authority that may potentially become dominative toward a mandate of protection that can be examined, limited, and revoked when it endangers the child, in line with the authority of the JPN in civil family matters to file applications for the release of parental authority or the dismissal of guardians in the interests of the child (Putra et al., 2025).

The analytical contribution of this section is the affirmation that *mubādalah* can be expanded from the study of husband–wife relations to parent child, state family, and law–victim relations. This expansion is important because much violence against children occurs not in unfamiliar spaces, but in domestic spaces protected by narratives of family honor. The study by Ismawati, Harefa, Herlina, Hertini, and Lolita on the social reintegration of child victims of sexual violence shows that sexual violence within the family has long-term consequences for children's psychological well-being, social functioning, and identity formation; fragmented and short-term protection systems are inadequate to address victims' needs (Ismawati et al., 2026). This finding strengthens the argument that the revocation of guardianship must be understood as an entry point for recovery, not the end of protection, because the *mubādalah* approach to childrearing emphasizes reciprocity, partnership, and the fulfilment of benefit for all parties in the relationship, including children as parties who must be given a safe space to grow and recover (Werdiningsih, 2020).

The action plan that may be formulated from this analysis is the need to establish a child-protection-based standard for evaluating guardianship eligibility. This standard should include indicators of violence, neglect, exploitation, psychological threats, the guardian's ability to ensure the child's safety, and the readiness of alternative care. At the practical level, the JPN, religious courts, police, psychologists, social workers, and child protection institutions need to develop shared guidelines for assessing when guardianship transforms into an abusive relationship; in social work practice, the handling of child victims of sexual violence requires cross-professional networks involving psychologists, psychiatrists, physicians, prosecutors, police officers, social workers, and protection institutions so that services do not become fragmented (Tintin et al., 2020). In this way, *mubādalah* does not remain merely an ethical theory, but becomes an operational basis for reorganizing guardianship as a mandate of protection that sides with the child, particularly because evaluations of victim assistance services demonstrate the importance of responsiveness, sufficient expert personnel, privacy protection, safe-house facilities, and psychological recovery as indicators of successful protection for child victims of sexual violence (Harahap et al., 2026).

The Significance of the Indonesia–Malaysia Comparison in Understanding Abusive Guardianship, Child Protection, and State Responsibility

The comparison between Indonesia and Malaysia is important because both countries have large Muslim populations, Islamic family law systems, and child protection instruments, yet they demonstrate different institutional designs in connecting family norms, child protection, and state intervention. In this article, Indonesia provides an empirical example of the role of the State Attorney (*Jaksa Pengacara Negara*, JPN) in filing for the revocation of guardianship over child victims of sexual violence. Malaysia offers a normative and institutional comparison through a child protection system involving the courts, the police, the Social Welfare Department, and legal instruments such as the *Child Act 2001* and the *Sexual Offences Against Children Act 2017*, which were later strengthened through the 2023 amendments. Jauhari's study shows that child protection law in Indonesia and Malaysia similarly regulates the responsibilities of the state, family, and parents, but differs in the model of codification and the distribution of child protection legal instruments (Jauhari, 2013). This comparison does not aim to determine which country is better, but to understand how Islamic family law responds to the failure of the family to protect children, particularly because recent comparative studies also indicate differences in legal approaches and the implementation of child protection policies in both countries (Ajurni & Sari, 2024).

In brief, the findings of this study show that Indonesia tends to emphasize the path of judicial intervention through the JPN and the religious courts in cases involving the revocation of guardianship, whereas Malaysia gives greater prominence to a child protection system connected to reporting, investigation, social services, and court mechanisms. This difference is important because it indicates that the principle of child protection cannot be assessed merely from the existence of norms, but must be tested through mechanisms of implementation. Putri, Judiasih, and Kusmayanti state that Indonesia and Malaysia both recognize the principle of the *best interest of the child*, yet the influence of this principle is largely determined by how the legal system connects the determination of rights, the execution of judgments, and state authority. Their study shows that Indonesia tends to strengthen the declarative dimension through court decisions, whereas Malaysia places greater emphasis on the relationship between determination, enforcement, and legal consequences (Putri et al., 2026). This difference is also consistent with comparative research on the law enforcement of child sexual exploitation in Indonesia and Malaysia, which affirms that the effectiveness of child protection depends not only on the completeness of legal norms, but also on institutional commitment, the sensitivity of law enforcement officers, and psychosocial support for victims (Sulaeman et al., 2025).

The interpretation of this comparison shows that the main weakness of child protection does not always lie in the absence of norms, but rather in the gap between norms and implementation. In the Indonesian context, the existence of the JPN opens an important pathway for the state to intervene in abusive guardianship. However, the research data indicate that the JPN still requires technical strengthening, inter-institutional coordination, and operational regulation in order to act more quickly and measurably in cases involving the revocation of guardianship over child victims of sexual violence. The study by Hidayat, Adhan S, Febrianto, and Tobing on the role of the JPN in guardianship law enforcement demonstrates that the effectiveness of JPN authority is strongly influenced by internal and external factors, including institutional support, coordination, and understanding of the protection of children's civil rights (Hidayat et al., 2026). The recommendations in the research data emphasize the need for technical guidelines that explicitly regulate the procedures and limits of JPN authority in cases involving the revocation of guardianship rights over child victims of sexual violence, because the revocation of parental authority requires a legal basis, eligibility

indicators, and post-judgment protective follow-up so that children are not returned to harmful situations (Nugraha, 2025).

The comparison with Malaysia helps clarify this problematic point. Malaysia has a child protection system that appears more visibly as an institutional network, yet it continues to face implementation challenges. Abdul Jumaat's study on the *Sexual Offences Against Children Act 2017* shows that Malaysian law provides a significant opportunity to strengthen child protection and perpetrator accountability, but still contains weaknesses that need to be addressed in order to effectively protect child victims of sexual violence (Abdul Jumaat, 2024). This demonstrates that strong regulation still requires institutional sensitivity, courage in law enforcement, recovery mechanisms, and consistent oversight. Therefore, the comparative lesson from Malaysia should not be understood as a mechanical transplantation of a model into Indonesia, but rather as a basis for reorganizing the relationship between legal determination, the implementation of protection, and victim recovery, particularly because the 2023 amendments to the *Sexual Offences Against Children Act 2017* also show that normative reform must be followed by resources, legal aid, investigation, prosecution, and effective judicial processes (Hamin et al., 2025).

From the perspective of *mubādalah*, the comparison between Indonesia and Malaysia shows that child protection requires a reciprocal relationship between the family and the state. The state does not replace the family under normal circumstances, but it is obliged to intervene when the family becomes a space of violence. The Qur'anic basis for this can be read through QS. al-Nisā' [4]: 135: يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ بِالْقِسْطِ which means "*O you who believe, be steadfast in upholding justice.*" This verse contains a command to uphold justice even when confronting close relations, family ties, or powerful social structures. In cases of abusive guardianship, the state must not remain neutral toward violence committed in the name of family authority. Justice requires the state to side with the safety of the victim, not with the formal status of the perpetrator as a parent or guardian.

The causal analysis of the comparison between Indonesia and Malaysia reveals three key points. First, abusive guardianship emerges when family authority is not controlled by the principle of protection. Second, child victims tend to face double barriers because the perpetrator is located within a close relationship, while the family often conceals the case in order to preserve its reputation. Third, the state needs to establish intervention mechanisms that not only punish perpetrators, but also secure caregiving status, restore victims, and prevent repeated violence.

The study by Fatkhurrokhman, Assaiq, and Wastuti on the practice of post-incest marriage shows that attempts to conceal family shame may sacrifice children's rights, contradict *ḥifẓ al-nafs*, *ḥifẓ al-nasl*, and *ḥifẓ al-'irḍ*, and require reform of Islamic family law that prioritizes child protection (Fatkhurrokhman et al., 2025). This finding is relevant to the present article because abusive guardianship often persists not because the law justifies it, but because family culture delays or refuses the disclosure of violence.

The comparison also demonstrates the novelty of this study in relation to previous scholarship. Many studies have discussed the *best interests of the child*, *ḥaḍānah*, *wilāyah*, or Islamic family law reform from a normative perspective. This article moves further by positioning the practice of the State Attorney (*Jaksa Pengacara Negara*, JPN) in Indonesia as an empirical case study and then comparing it with Malaysia's child protection design. Its main novelty lies in the integration of three elements: the revocation of abusive guardianship, state intervention, and *mubādalah* as a theory of reciprocal relations. Within this framework, the Indonesia–Malaysia comparison does not merely produce a mapping of legal differences, but also generates a critical question: has Islamic family law sufficiently protected children when biological guardians become sources of threat?

The contribution of this section is to offer a comparative reading that does not stop at the comparison of statutory provisions. Comparison must assess whether norms actually work for victims. In their Indonesia–Malaysia comparative study on child sexual exploitation, Sulaeman, Harefa, and Bakhtiar affirm that the effectiveness of law depends not only on the completeness of legal rules, but also on institutional commitment, the sensitivity of law enforcement officers, and psychosocial support for victims (Sulaeman et al., 2025). (Appisi International) This finding strengthens the position of this article that Islamic family law needs to move from normative justice toward operational justice, namely justice that is truly capable of moving children from dangerous situations into safe caregiving arrangements.

The action that can be formulated from this comparison is the strengthening of cross-national child protection mechanisms within the Southeast Asian framework. Indonesia can strengthen the technical guidelines for the JPN and clarify coordination among the Prosecutor's Office, religious courts, the police, child protection agencies, social workers, and psychologists. Malaysia can continue strengthening the supervision of caregiving facilities, victim recovery, and certainty of inter-institutional coordination. Both countries can share lessons on risk assessment standards, the transfer of guardianship, the protection of child witnesses, and post-case recovery. Thus, the Indonesia–Malaysia comparison is important not only for academic purposes, but also as a basis for formulating child protection policy within contemporary Islamic family law.

Mubādalah-Based Child Protection Model, Child Protection, and State Intervention for the Reform of Islamic Family Law

Based on the research findings and comparative analysis, the protection model that can be constructed is a *mubādalah*-based child protection model that integrates four components: identification of abusive guardianship, limitation or revocation of guardian authority, measured state intervention, and sustained victim recovery. This model is built upon the fact that the revocation of guardianship cannot be understood merely as a matter of legal status, because the root of the problem lies in the breakdown of protective relations within the family. The research data show that the JPN contributes to strengthening the orientation of child protection in family law, encourages the principle of the child's best interests so that it does not remain merely a declarative norm, expands the presence of the state in family supervision, and strengthens collaboration with child protection institutions, law enforcement authorities, and social agencies.

This model begins from the reflection that Islamic family law must not only preserve the stability of the family structure, but must also have the courage to correct the family structure when violence occurs within it. In many cases, the family is viewed as a private space that should not be excessively touched by the state. The findings of this article instead show that the privatization of the family can be dangerous when it is used to conceal sexual violence against children. *Mubādalah* changes this perspective by positioning all parties within the family as dignified subjects. Children are not the property of their parents, but a trust that must be protected. Parents are not absolute holders of authority, but parties entrusted with responsibility. The state is not an intruder into the family, but a guardian of justice when the family fails to perform its protective function.

The Qur'anic basis of this model can be read through QS. al-Naḥl [16]: 90: إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالإِحْسَانِ which means "Indeed, Allah commands justice and goodness." This verse shows that Islamic law must not stop at formal legality, but must bring forth *'adl* and *iḥsān*. In the context of guardianship, *'adl* requires the revocation of guardian authority that endangers the child, while *iḥsān* requires the humane recovery of the victim. The *mubādalah*-based child protection model therefore does not only ask who is formally entitled to become a guardian, but who is genuinely capable of providing safety, affection, stability, and recovery for the child.

Operationally, this model can be formulated in four stages. The first stage is the identification of abusive guardianship through an assessment of sexual violence, physical violence, psychological violence, neglect, exploitation, or serious threats against the child. The second stage is legal intervention through the JPN, the court, or child protection institutions to file for the limitation, revocation, or transfer of guardianship. The third stage is safe caregiving through the appointment of a substitute guardian, a safe family, a protection institution, or a verified alternative caregiving mechanism. The fourth stage is sustained recovery through counselling, legal assistance, social support, health services, and post-judgment supervision. These stages affirm that the revocation of guardianship is the beginning of protection, not the end of state responsibility.

Prototype of the *Mubādalah*-Based Child Protection Model

Based on the research findings, this article offers the Prototype of the *Mubādalah*-Based Child Protection Model as an initial design for protecting child victims of abusive guardianship within Islamic family law. This prototype is constructed as an experimental model that can be used to validate the concept, test institutional workflows, and evaluate the feasibility of integrating the principles of *mubādalah*, child protection, and state intervention. The empirical basis of this prototype rests on the finding that the State Attorney has an important role in revoking the guardianship rights of child victims of sexual violence, strengthening inter-institutional synergy, and encouraging a family law system that is more responsive to the best interests of the child. In the comparative context, this prototype also takes into account Malaysia's experience, which places child protection through more coordinated social, police, court, and child sexual violence handling guideline pathways.

This prototype is named "MAPAN-Mubādalah", an abbreviation for *Model Amanah Perlindungan Anak Berbasis Mubādalah*, or the *Mubādalah*-Based Child Protection Mandate Model. The term "*amānah*" is chosen because guardianship in Islamic family law is not positioned as an absolute right of parents, but as a mandate of protection that must be tested through the child's safety, dignity, and welfare. This model operates on the basic principle that guardianship relations may be maintained only when they provide protection. When such relations turn into violence, exploitation, neglect, or threats against the child, the state is obliged to intervene to limit, revoke, or transfer guardianship to a safer party.

Table 5. MAPAN-*Mubādalah* Prototype in the Protection of Child Victims of Abusive Guardianship

Prototype Component	Main Function	Implementing Actors	Eligibility Indicators
1. Detection of Abusive Guardianship	Identifying sexual violence, physical violence, psychological violence, neglect, exploitation, or serious threats against the child.	Safe family members, community, schools, child protection agencies, police, social workers.	There are reports, preliminary evidence, victim testimony, indications of trauma, or situations that endanger the child.
2. Child Risk Assessment	Assessing the level of danger faced by the child and determining the need for immediate protection.	Psychologists, social workers, child protection institutions, police, JPN, courts.	The child is in an unsafe condition, the guardian is suspected or proven to be the perpetrator, and urgent legal action is required.
3. Activation of State Intervention	Mobilizing state authority to limit, revoke, or transfer guardianship.	Indonesia: JPN, Religious Courts, police, DPPA, social services. Malaysia: JKM, PDRM, courts, child protection institutions.	There is a legal basis, evidence of abuse of guardianship, and the need to guarantee the *best interests of the child*.
4. Transfer to Safe Caregiving	Placing the child with a safer party after abusive	Biological mother, safe family members, substitute	The child is no longer under the authority of the perpetrator and obtains a

	guardianship is terminated.	guardian, protection institution, court.	stable caregiving environment.
5. Victim Recovery	Ensuring the child's psychological, social, legal, educational, and health recovery.	Psychologists, social workers, health services, legal assistants, child protection institutions.	The child receives counselling, legal assistance, access to education, health services, and regular monitoring.
6. Post-Judgment Monitoring and Evaluation	Ensuring that the judgment revoking guardianship truly protects the child in the long term.	Courts, JPN, social services, child protection institutions, local governments.	There is regular monitoring, child development reporting, evaluation of the substitute guardian, and prevention of repeated violence.
7. Policy Reform	Transforming case findings into a basis for reforming Islamic family law and child protection.	Government, Prosecutor's Office, Supreme Court, legislators, academics, civil society organizations.	Technical guidelines, risk assessment standards, cross-institutional protocols, and sustainable child protection mechanisms are formulated.

The *MAPAN-Mubādalah* prototype operates through a gradual sequence consisting of detection, assessment, intervention, transfer of caregiving, recovery, monitoring, and policy reform. At the detection stage, abusive guardianship is not assessed merely by the presence or absence of physical violence, but also by sexual threats, psychological pressure, the victim's fear, and the guardian's inability to create a sense of safety. This stage is important because many cases of sexual violence against children occur within closed family spaces, where reporting, monitoring, and review mechanisms often determine whether child protection systems can respond effectively (Nikku & Azman, 2014). In such a context, early detection becomes the entry point to ensure that children do not remain trapped in harmful relationships, particularly because prevention and response strategies for sexual violence against young children require early identification, professional training, and multi-sectoral collaboration (Luqman Tri A & Dwi Tanto, 2025).

The risk assessment stage functions as an instrument to ensure that state intervention is carried out carefully, yet without delay. This assessment examines who the perpetrator is, how the child is positioned, whether the child still lives with the perpetrator, who the prospective substitute guardian is, and what form of recovery is most urgent. Risk assessment is important to prevent two equally dangerous possibilities: the state acting too late so that the child remains under threat, or the state acting without sufficient data so that protection becomes mistargeted. Studies on child maltreatment in Malaysia show that the burden, correlates, and consequences of maltreatment require evidence-based identification rather than reliance solely on reported cases (Ahmed et al., 2015). Similarly, Indonesian governance studies on child violence indicate that protection efforts require policy analysis, collaborative governance, reporting, protection, assistance, prosecution, and victim recovery as interconnected mechanisms (Ayusazky & Dewi, 2023).

The activation of state intervention constitutes the core of this prototype. In the Indonesian context, activation may be carried out through the State Attorney (*Jaksa Pengacara Negara*, JPN), who files an application or lawsuit for the revocation of guardianship rights before the court. In the Malaysian context, activation may be conducted through the child protection system involving the Social Welfare Department, the police, the court, and child protection legal instruments. These different institutional actors do not alter the basic principle that the state must intervene when family relations transform into a source of violence. Malaysian socio-legal research on children beyond parental control shows that the *Child Act 2001* enables welfare officers and the Court for Children to intervene through

case handling, rehabilitation, and reintegration mechanisms (Nong et al., 2025). Accordingly, this prototype is adaptive: it can be applied within the Indonesian system through the JPN and religious courts, while also being compared with the Malaysian system, which gives greater prominence to social protection pathways and inter-agency coordination in responding to child abuse and sexual offences (Rahayu et al., 2022).

The stage of transferring children to safe caregiving emphasizes that the revocation of guardianship must not stop at releasing the child from the authority of an abusive guardian. The child must immediately be placed in a safe caregiving environment, whether with the biological mother, a suitable close relative, a substitute guardian, or a protection institution that meets appropriate standards. Comparative studies on child protection systems in Indonesia and Malaysia show that protection is meaningful only when legal norms are connected to practical arrangements that ensure the fulfilment of children's rights and welfare (Abdul Latief et al., 2022). Such transfer must consider the child's psychological stability, healthy emotional bonds, the prospective guardian's ability to protect the child, and post-judgment supervision. Without a measurable transfer of caregiving, the revocation of guardianship risks producing only a change in legal status without guaranteeing real recovery for the child, especially because *ḥaḍānah* in Islamic law must be read through the protection of life, lineage, and child welfare (Faizzati, 2024).

The victim recovery stage is the main feature that distinguishes this prototype from family law models oriented merely toward judicial decisions. Child victims of sexual violence do not only need the termination of legal relations with an abusive guardian, but also psychological recovery, social assistance, health services, educational protection, and legal assistance. Research on protection and rehabilitation for victims of violence in Indonesia shows that rehabilitation requires medical services, legal aid, law enforcement services, social reintegration, shelter services, home security, and counselling (Purwanti, 2017). From the perspective of *mubādalah*, such recovery is part of the reciprocal responsibility among the family, the state, and society. Children must not be forced to bear alone the consequences of adults' failure to fulfil the mandate of protection, particularly because victim restoration in sexual violence cases requires a regulatory framework that is feasible, enforceable, and oriented toward recovery rather than merely punishment (Purwadi et al., 2024).

The post-judgment monitoring and evaluation stage functions to examine whether the revocation of guardianship truly provides long-term protection. Evaluation may be conducted within three months, six months, and twelve months after the judgment. The assessed indicators include the safety of the child's residence, school continuity, psychological condition, relationship with the substitute guardian, access to health services, and the absence of intimidation from the perpetrator or the perpetrator's family. This stage is important because sexual violence against children often leaves long-term impacts that cannot be resolved solely through a court judgment. Studies on child sexual violence in South Sulawesi show that judges emphasize child protection, psychological well-being, rehabilitation, and the prevention of repeated harm when adjudicating gender-based crimes involving children (Saidah et al., 2026). In addition, research on the reality of sexual violence indicates that low reporting awareness, power relations, closeness to perpetrators, and negative social stereotypes can obstruct justice and prolong victim vulnerability after legal proceedings (Supraptiningsih et al., 2026).

The policy reform stage becomes the final output of the *MAPAN-Mubādalah* prototype. Every case involving the revocation of guardianship over child victims of sexual violence must be treated as a learning basis for improving regulation and institutional practice. In the Indonesian context, this prototype encourages the need for specific technical guidelines for the JPN so that it can act more quickly and measurably in cases involving the revocation of guardianship over child victims of sexual violence. Research on legal reform in sexual violence

cases in Indonesia shows that victim-centred justice requires not only legislation, but also institutional resources, trained law enforcement officers, and support services that prevent revictimization (Triantono, 2025). The research data indicate that strengthening JPN authority, inter-agency coordination, and the formulation of technical policies are essential needs for enabling the state to implement child protection more effectively. In the Malaysian context, this prototype may be used to assess the effectiveness of coordination among social services, the police, courts, and child protection mechanisms in cases of sexual violence involving families or caregiving institutions, because collaborative governance is necessary to bridge the gap between reported cases and effective legal or psychological intervention (Sunarto et al., 2026).

Conceptually, the *MAPAN-Mubādalah* prototype has three functions. First, it has a concept-validation function, namely testing whether *mubādalah* can be used to understand guardianship as a mandate of protection rather than dominative power. Second, it has an operational-testing function, namely examining whether state intervention can be designed within a clear sequence, beginning with case detection and ending with victim recovery. The reconstruction of family law norms through *qirā'ah mubādalah* demonstrates that relational justice must dismantle hierarchical authority and place vulnerable parties within fair and reciprocal legal relations (Kadarisman et al., 2025). Third, it has a feasibility-evaluation function, namely assessing whether this model can be applied within the Indonesian system and used as a comparator for child protection mechanisms in Malaysia. With these three functions, this prototype is not merely a normative idea, but an initial design that can be tested in institutional practice, particularly because child protection requires special legal enforcement that responds to physical, psychological, and social harms experienced by children (Priscillia et al., 2022).

The *MAPAN-Mubādalah* prototype constitutes the novelty of this article because it does not merely discuss guardianship, *ḥaḍānah*, *wilāyah*, or the *best interests of the child* as abstract legal norms. Previous studies have generally focused on normative comparisons of Islamic family law, statutory child protection, or the role of courts in determining custody and guardianship. Comparative scholarship on Indonesia and Malaysia has shown differences in the legal foundations and institutional arrangements of child protection, but it has not yet developed a staged operational model that connects abusive guardianship, state intervention, safe caregiving transfer, and victim recovery within a reciprocal theoretical framework (Abdul Latief et al., 2022). Thus, this article differs from previous research by positioning the revocation of guardianship not as a final legal remedy, but as one component of a broader protection cycle that begins with detection and ends with policy reform, while also integrating Islamic legal ethics, child protection governance, and institutional responsibility (Mera et al., 2024).

The novelty of this article lies in three interrelated contributions. First, it expands *mubādalah* beyond the study of husband–wife relations and applies it to parent–child, state–family, and law–victim relations. Second, it formulates *MAPAN-Mubādalah* as a prototype that can be operationalized through detection, risk assessment, state intervention, safe caregiving transfer, recovery, monitoring, and policy reform. Third, it offers a comparative Indonesia–Malaysia framework that does not merely compare legal provisions, but evaluates whether institutional mechanisms are capable of moving children from abusive authority toward safe and restorative care. This contribution is important because Islamic family law reform must be oriented toward the protection of vulnerable parties and not remain confined to doctrinal reconstruction (Ramadhan et al., 2025). Accordingly, the article's novelty is the formulation of a reciprocal, child-centred, and institutionally testable model for reconstructing guardianship in cases of sexual violence, so that guardianship can be

understood as an accountable mandate of protection that may be examined, limited, transferred, or revoked when it endangers the child (Finch et al., 2021).

From the analysis above, this prototype demonstrates that the reform of Islamic family law cannot be carried out merely through changes in terminology or the addition of declarative norms. Reform must reach the concrete workflow of child protection. *Mubādalah* provides an ethical foundation that every family relationship must be built upon reciprocity, protection, and respect for human dignity. Child protection provides a substantive standard that the safety and recovery of victims must be prioritized. State intervention provides the institutional instrument through which these principles can be implemented. Together, these three elements form a mutually complementary model: *mubādalah* provides the ethical direction, child protection provides the victim-oriented orientation, and the state provides the coercive force of law.

Accordingly, the *MAPAN-Mubādalah* prototype represents an initial form of innovation in child protection within Islamic family law. This model can be further tested through expert validation, case simulation, limited institutional trials, and evaluation of its application in cases involving the revocation of guardianship over child victims of sexual violence. If further developed, this prototype may serve as a basis for formulating technical guidelines for the State Attorney (*Jaksa Pengacara Negara*, JPN) in Indonesia, an instrument for assessing the risks of abusive guardianship, and a comparative framework for child protection in Muslim societies in Southeast Asia.

The *MAPAN-Mubādalah* model must also be understood as an integration of *mubādalah*, *maṣlaḥah*, and the *best interests of the child*. *Mubādalah* provides a relational principle that children, families, the state, and legal institutions must be situated within a network of reciprocal responsibility. *Maṣlaḥah* provides a substantive measure that legal action must prevent harm and generate real benefit for children. The *best interests of the child* provides a universal standard that all decisions concerning children must prioritize their safety, development, and dignity. Putri, Judiasih, and Kusmayanti affirm that child protection in Islamic family law must move beyond normative provisions and be realized within a legal framework that ensures children's welfare in concrete terms, particularly through *ḥifẓ al-nafs* and *ḥifẓ al-nasl* (Putri et al., 2026).

This model differs from child protection approaches that rely solely on the criminal punishment of perpetrators. Criminal punishment is indeed important, but it does not automatically resolve the status of guardianship, caregiving, trauma, stigma, and the victim's living needs. In the cases examined, the role of the JPN becomes important because it bridges criminal proceedings and the civil protection of children. The JPN can ensure that children do not return to the authority of the perpetrator after the criminal case has been concluded. This is where the distinctive contribution of this study lies. This article shows that Islamic family law needs to integrate the mechanism of guardianship revocation with victim recovery, rather than merely imposing sanctions on perpetrators. Research on the social reintegration of child victims of sexual violence also emphasizes the importance of institutional support, inter-agency collaboration, and community involvement in breaking the cycle of intergenerational violence (Ismawati et al., 2026).

The causal analysis of the comparison between Indonesia and Malaysia reveals three key points. First, abusive guardianship emerges when family authority is not controlled by the principle of protection. Second, child victims tend to face double barriers because the perpetrator is located within a close relationship, while the family often conceals the case in order to preserve its reputation. Third, the state needs to establish intervention mechanisms that not only punish perpetrators, but also secure caregiving status, restore victims, and prevent repeated violence. The study by Tursilarini, Udiati, Irmawan, Cahyono, Suryani, and Vayed shows that incest against children in Indonesia is rooted in family dysfunction, the

weak effectiveness of the legal system, and the insufficient strength of comprehensive prevention efforts to protect children's psychology and future (Tursilarini et al., 2024). The study by Fatkhurrokhman, Assaiq, and Wastuti on the practice of post-incest marriage shows that attempts to conceal family shame may sacrifice children's rights, contradict *ḥifẓ al-nafs*, *ḥifẓ al-nasl*, and *ḥifẓ al-'irḍ*, and require reform of Islamic family law that prioritizes child protection (Fatkhurrokhman et al., 2025). This finding is relevant to the present article because abusive guardianship often persists not because the law justifies it, but because family culture delays or refuses the disclosure of violence.

The comparison also demonstrates the novelty of this study in relation to previous scholarship. Many studies have discussed the *best interests of the child*, *ḥaḍānah*, *wilāyah*, or Islamic family law reform from a normative perspective. This article moves further by positioning the practice of the State Attorney (*Jaksa Pengacara Negara*, JPN) in Indonesia as an empirical case study and then comparing it with Malaysia's child protection design. The study by Ramadhan, Rohman, Hayati, and Azizah shows that studies of *ḥaḍānah* and *wilāyah* in Islamic family law need to be reconstructed by integrating the principle of the *best interests of the child*, *maqāṣid al-sharī'ah*, and cross-jurisdictional standards of child welfare (Ramadhan et al., 2025). Its main novelty lies in the integration of three elements: the revocation of abusive guardianship, state intervention, and *mubādalah* as a theory of reciprocal relations. Within this framework, the Indonesia–Malaysia comparison does not merely produce a mapping of legal differences, but also generates a critical question: has Islamic family law sufficiently protected children when biological guardians become sources of threat, particularly when *mubādalah* values in religious court practice can be directed toward developing Islamic family law that is more responsive, just, and oriented toward non-oppressive relations (Aprilia, 2024).

The contribution of this section is to offer a comparative reading that does not stop at the comparison of statutory provisions. Comparison must assess whether norms actually work for victims. In their Indonesia–Malaysia comparative study on child sexual exploitation, Sulaeman, Harefa, and Bakhtiar affirm that the effectiveness of law depends not only on the completeness of legal rules, but also on institutional commitment, the sensitivity of law enforcement officers, and psychosocial support for victims (Sulaeman et al., 2025). This finding strengthens the position of this article that Islamic family law needs to move from normative justice toward operational justice, namely justice that is truly capable of moving children from dangerous situations into safe caregiving arrangements. This is also consistent with the study by Utari, Kamal, Ramada, Sumardiana, and Nunna, which emphasizes that legal protection for child victims of sexual violence in Asian countries is not sufficient if it is based only on punishment, but must shift toward a victim-centered approach, be trauma-sensitive, and be supported by multidisciplinary services (Utari et al., 2026).

The action that can be formulated from this comparison is the strengthening of cross-national child protection mechanisms within the Southeast Asian framework. Indonesia can strengthen the technical guidelines for the JPN and clarify coordination among the Prosecutor's Office, religious courts, the police, child protection agencies, social workers, and psychologists. Malaysia can continue strengthening the supervision of caregiving facilities, victim recovery, and certainty of inter-institutional coordination. The study by Khalil, Marzaniar, Ratnawati, Zamharira, and Muazzinah on the performance of child protection policies in Southeast Asia shows that sexual violence, domestic violence, cyber violence, exploitation, and neglect remain dominant issues that require a child protection policy model based on rights fulfilment and stronger law enforcement (Khalil et al., 2025). Both countries can share lessons on risk assessment standards, the transfer of guardianship, the protection of child witnesses, and post-case recovery. Thus, the Indonesia–Malaysia comparison is important not only for academic purposes, but also as a basis for formulating child protection

policy within contemporary Islamic family law, because Malaysia's experience shows that operational guidelines in cases of child sexual violence need binding force, proactive measures, and clear coordination so that protection does not stop at written norms (Abdul Jumaat & Omoola, 2023).

Conclusion

This study concludes that the practice of revoking guardianship rights over child victims of sexual violence in Indonesia demonstrates an important shift in Islamic family law, namely from guardianship as a relation of power toward guardianship as a mandate of protection. The biological relationship between parents and children can no longer serve as the sole basis for maintaining guardianship authority when the guardian is proven or reasonably deemed to endanger the child's safety. From the perspective of *mubādalah*, guardianship has legitimacy only when it is exercised to protect the dignity, sense of safety, and welfare of the child. Therefore, the involvement of the State Attorney (*Jaksa Pengacara Negara*, JPN) in the revocation of guardianship is not merely a procedural act, but a form of legal correction of family relations that have transformed into a space of violence. The comparison between Indonesia and Malaysia shows that child protection in cases of abusive guardianship requires the active presence of the state, although its institutional form may differ according to the legal design of each country. Indonesia demonstrates a model of intervention through the State Attorney and the religious courts, whereas Malaysia demonstrates the strengthening of protection through social, police, court, and more coordinated child protection mechanisms. This comparison affirms that Islamic family law cannot be understood merely as an instrument for regulating private family relations, but also as an instrument of social justice that must be capable of limiting guardian authority, protecting children, and ensuring victim recovery.

This study also concludes that the child protection model within Islamic family law needs to be built through the integration of *mubādalah* principles, child protection, and state intervention. This integration produces a protection framework that does not merely ask who is formally entitled to become a guardian, but who is genuinely capable of providing safety, affection, stability, and recovery for the child. Accordingly, the main contribution of this article lies in expanding *mubādalah* theory from the study of equality relations within the family toward the study of protection for child victims of sexual violence, particularly when guardianship relations deviate into abusive relations. As a contribution of novelty, this study offers the *MAPAN-Mubādalah* Prototype, or the *Mubādalah*-Based Child Protection Mandate Model, as an initial design for protecting child victims of abusive guardianship. This prototype contains a sequence of detecting abusive guardianship, risk assessment, activation of state intervention, transfer to safe caregiving, victim recovery, post-judgment monitoring, and policy reform. This model shows that the reform of Islamic family law cannot be carried out merely through the affirmation of norms, but must be translated into institutional mechanisms that can be tested, validated, and developed. Thus, this article contributes to the development of religious, social, and cultural studies through a new reading of guardianship as a reciprocal, transformative, and victim-oriented mandate of protection.

This study recommends strengthening technical guidelines for the State Attorney in cases involving the revocation of guardianship rights over child victims of sexual violence, accompanied by clearer coordination mechanisms among courts, the police, child protection agencies, social workers, psychologists, and victim service institutions. The *MAPAN-Mubādalah* Prototype needs to be further tested through expert validation, case simulation, and limited institutional trials so that it can be developed into an instrument for assessing the risks of abusive guardianship and a policy model for child protection within Islamic family law in Indonesia and Malaysia.

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