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Children's rights in Islamic Sharia and international instruments: An analytical approach to ethical and legislative values

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Abstract

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This study provided a comparative analysis of the ethical and legislative frameworks governing children's rights in Islamic Sharia and international law, using the cases of three countries with distinct legal models: Kyrgyzstan,

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Egypt, and Malaysia. The aim of the research was to identify the systemic gap between normative declarations and the practical implementation of child protection in Muslim-majority societies. The study employed a qualitative methodology, including comparative analysis of international conventions, national legislation, doctrinal sources of Islamic law, and reports by international organisations. The findings demonstrated that Islamic doctrine – particularly through the prism of the higher objectives of Sharia (Maqasid al-Sharia) – offers a strong conceptual foundation for the protection of children's rights. At the same time, case study analysis revealed that the key obstacles to their realisation are legal pluralism (Kyrgyzstan); jurisdictional conflicts in dual legal systems (Malaysia); and enforcement difficulties even in codified systems (Egypt), especially in the fight against child marriage. Across all cases, the most vulnerable party is the girl child, whose rights to education, health, and free choice are often neglected. It was established that effective child protection requires not a mere replication of international standards, but the development of integrated strategies that harmonise secular legislation with correct interpretations of Sharia, engage religious leaders in promoting humanistic interpretations, and aim at transforming deeply rooted social attitudes. Research results may be used by legislative bodies to harmonise national laws with international standards, as well as by law enforcement and judicial authorities

Keywords: Maqasid al-Sharia; harmonisation of legal acts; dualist system; nafaqa; tarbiya

Introduction

In the context of contemporary globalisation and intensive cultural interaction, the question of harmonising universal human rights standards with national legal and religious traditions has gained exceptional relevance. This issue is particularly acute in the field of child protection, where the fate of millions of children is determined at the intersection of international obligations and deeply rooted socio-cultural norms. Their legal status, access to education, protection from harmful practices such as child marriage, and family relations are often regulated simultaneously by multiple normative systems. Understanding how these systems – international law and one of the world's major religio-legal doctrines, Islamic Sharia – interact, conflict, or complement one another is a key task for lawyers, policymakers, and human rights advocates seeking to safeguard the interests of children across diverse cultural contexts.

A society's attitude towards its youngest and most vulnerable members is one of the key indicators of its civilisational development and

humanistic values. This idea, reflected in the works of M. Freeman and P.E. Veerman (2021), underpins the modern global ideology of children's rights codified in the United Nations Convention on the Rights of the Child (UN CRC) (1989). This document established a universal standard whereby every child is recognised as an autonomous subject of rights requiring protection and the provision of optimal conditions for development. At the same time, the relevance of research in this area arises from the ongoing tension between the universality of international legal norms and the particularity of national legal systems, which remain strongly influenced by religious and cultural traditions. This dilemma is especially pronounced in Muslim societies, where the norms of Islamic Sharia play a central role in regulating family and social relations, creating a complex and multifaceted context for the implementation of children's rights.

The academic discourse on children's rights in Islam is both extensive and polarised. On the

one hand, as M. Houmine and K. Loudghiri (2023) argue, Islamic civilisation historically developed a comprehensive doctrine of child protection that is often underestimated or misinterpreted by Western scholars. This doctrine is grounded less in the concept of individual rights and more in the higher objectives of Sharia (Maqasid al-Sharia). According to studies by M.A. Firdaus and I. Iwan (2024), and L. Lisma and R. Nikmah (2021), these objectives encompass five fundamental values: the protection of faith (hifz al-din), life (hifz al-nafs), intellect (hifz al-'aql), lineage (hifz al-nasl), and property (hifz al-mal). Within this framework, the protection of children's rights is viewed as an inseparable part of preserving lineage and ensuring the healthy development of future generations. Research by M.H.M. Marwa *et al.* (2024) and Y. Yusefri *et al.* (2024), focusing on child labour, has empirically shown that the exploitation of children directly contravenes all five higher objectives of Sharia, as it endangers their lives, health, intellectual growth, and appropriate religious upbringing. At the same time, as S.S. Karimullah (2023) notes, the Islamic legal tradition is not monolithic; significant challenges stem from interpretative diversity, gender inequality, and social problems that hinder the full implementation of its protective principles.

In post-Soviet Central Asia, particularly in Kyrgyzstan, these issues are especially acute. As A. Chinara (2021) highlights, the protection of children in Kyrgyz society was historically governed by Sharia norms and customary law (adat), which were displaced during the Soviet period by a state-based institutional care system. After gaining independence, the country ratified the UN CRC, initiating a complex process of harmonising national legislation with international standards. However, research by N.Z. Osmonaliev *et al.* (2021) revealed that, despite the formal adoption of progressive laws, social problems such as poverty, unemployment, migration, and

domestic violence continue to create adverse conditions for children's development, while state institutions remain insufficiently effective. Similar challenges – gaps between legislation and practice – exist in other Muslim countries. Research by R.S.S. Qizi *et al.* (2024) in Uzbekistan showed that, despite the establishment of a comprehensive legal framework, implementation – especially in the digital age – requires continuous refinement. Transnational problems such as unregistered marriages and child sexual abuse have been analysed by F. Larhzizar (2024) and F. Hayati and L. Fidiawati (2025), who concluded that culturally adapted, comprehensive approaches are essential. Despite the significant body of literature on specific aspects of children's rights in Islam and in individual countries, a research gap has been identified: the absence of direct comparative empirical analysis systematically juxtaposing the ethical values of Islamic Sharia with the legislative values of international instruments, as well as their practical implementation in countries with varying models of interaction between secular and religious law.

Accordingly, the purpose of this study was to conduct a comparative analytical examination of the ethical and legislative values underpinning child protection in Islamic Sharia and international instruments, and their practical application in Kyrgyzstan, Malaysia, and Egypt. This entailed analysing doctrinal foundations of children's rights in the Qur'an, the Sunnah, and the concept of Maqasid al-Sharia; undertaking a comparative analysis of the legislation of the three countries in key areas (origin, equality, education, protection against child marriage); identifying main conflicts and harmonisation points between international obligations and national practice; and developing recommendations for improving the child protection system in Kyrgyzstan based on identified challenges and successful international experience.

Materials and Methods

This research was conducted between July 2025 and August 2025 using a qualitative methodology. It is based on a comparative analysis of three case studies: Kyrgyzstan, Egypt, and Malaysia. These countries were selected because they represent three distinct models of interaction between state law and Islamic norms. Kyrgyzstan demonstrates a secular system with informal Sharia influence; Egypt represents an integrated model with codified Islamic law; and Malaysia exemplifies a dualist system with parallel secular and Sharia courts. The research design is descriptive-analytical, aiming to study, compare, and interpret the ethical and legislative frameworks regulating children's rights in the context of Islamic Sharia and international standards. Data collection was carried out through desk research, involving systematic selection and analysis of documentary sources only. The research materials were divided into four main categories. Firstly, international legal instruments – primarily the UN CRC (1989), which served as the benchmark for comparing international standards. Secondly, national legislation of the three countries. For Kyrgyzstan, this included the Constitution of the Kyrgyz Republic (2021), the Children's Code of the Kyrgyz Republic (2020), the Family Code of the Kyrgyz Republic (2003), the Labour Code of the Kyrgyz Republic (2025), and the Criminal Code of the Kyrgyz Republic (2021). Malaysia's framework was examined through the Federal Constitution of Malaysia (2020), the Law Reform (Marriage and Divorce) Act of Malaysia (1976), and the Islamic Family Law (Federal Territories) Act of Malaysia (1984). For Egypt, the Law No. 12 "The Child Law" (1996), Penal Code of Egypt (1937) were analysed. Thirdly, doctrinal sources of Islamic law – including specialised analytical and encyclopaedic works (Sharia: Islamic Law, 2025; UNICEF, 2025). The theoretical framework was reinforced by concepts such as "the best interests of the child" (Sormunen, 2016) and re-

views of child custody practices (Custody of Children Malaysia, 2025). The last one is empirical data – including the Multiple Indicator Cluster Survey (MICS) (UNICEF, 2019) and analytical reports by non-governmental organisations (NGOs) and international organisations (UNFPA, 2014; Girls Not Brides, 2025).

The analysis proceeded in several stages using a combination of methods. At the first stage, doctrinal analysis was applied to systematise and conceptualise the fundamental rights of the child in Islamic Sharia. At the second stage, normative-legal analysis was used to study international and national legislative acts, allowing for the identification of the formal legal framework of child protection in each of the selected countries and the extent of its harmonisation with international standards. At the final stage, the comparative method was employed, involving both cross-country comparison (Kyrgyzstan, Egypt, Malaysia) and juxtaposition of their *de jure* norms with the *de facto* situation described in analytical reports and statistical surveys. This approach made it possible to identify common challenges, the unique features of each legal system, and the deeper causes of the gap between legislative declarations and social realities.

Results

Children's rights in Islamic Sharia: Doctrinal foundations and diversity of interpretations.

The Islamic legal and ethical tradition regards children as both a blessing (*ni'ma*) and a sacred trust (*amana*) from God, which imposes on parents, guardians, and society as a whole a set of clearly defined duties concerning their protection and upbringing (Sharia: Islamic Law, 2025; UNICEF, 2025). Unlike Western concepts that are built on the idea of the individual's autonomous rights, Islamic doctrine frames children's rights through the lens of divine injunctions found in the Qur'an and the Sunnah (the practice of the

Prophet Muhammad) (Sharia: Islamic Law, 2025). At the same time, the application of these principles is not monolithic and varies significantly depending on the region and legal school (madhhab). In Gulf countries such as Saudi Arabia, Sharia is codified as a source of state law (UNICEF, 2025). In dualist systems such as Malaysia, it governs only the personal status of Muslims in parallel with secular legislation (UNICEF, 2025). In Central Asia, particularly Kyrgyzstan, Islam (predominantly of the Hanafi school) exists as part of cultural identity and social norms, often in syncretism with pre-Islamic customs, and is applied mostly at an informal level alongside secular law. This diversity of interpretation is crucial for understanding how universal Islamic principles are transformed into concrete practices of protecting – or conversely, violating – children’s rights.

A fundamental right, recognised even before birth, is the right to life. Islamic doctrine strictly prohibits infanticide, especially the killing of girls (wa’d al-banāt), which was a widespread practice in pre-Islamic Arabia (Sharia: Islamic Law, 2025). The Qur’an explicitly condemns such acts, emphasising divine providence: “Do not kill your children for fear of poverty. We provide sustenance for them and for you” (Qur’an, 17:31) (Sharia: Islamic Law, 2025). This right also extends to the prenatal period, where abortion after the soul has entered the foetus (commonly believed to occur on the 120th day) is considered a grave sin, permissible only in cases of direct threat to the mother’s life. Closely linked is the right to lineage (nasab), which forms the basis of a child’s identity in Islamic society. Nasab determines inheritance rights, maintenance, and social status; thus, Sharia attaches exceptional importance to legitimate origin within lawful marriage (Sharia: Islamic Law, 2025). Extra-marital relations (zina) are strictly prohibited, and a child born as a result of such a union often faces severe social stigmatisation (UNICEF, 2025). Another unique

right, enshrined in the Qur’an, is the right to breastfeeding (rada’a) for a full two years. This is seen not only as a source of health but also as a mechanism establishing milk kinship, which has legal consequences, such as prohibiting marriage between milk-siblings (Sharia: Islamic Law, 2025). Throughout childhood, Sharia imposes on the father an unconditional legal duty of financial maintenance (nafaqa) (Sharia: Islamic Law, 2025). This obligation includes food, clothing, housing, and medical care in accordance with the family’s social status, and it is independent of the mother’s financial condition. If the father is unable to provide, responsibility passes to other male relatives, creating a system of collective support. The right to upbringing and education (tarbiya) is comprehensive, encompassing both religious and secular learning. The pursuit of knowledge (‘ilm) is considered a religious duty for all Muslims, regardless of gender, as confirmed by the famous hadith: “Seeking knowledge is an obligation upon every Muslim” (Sharia: Islamic Law, 2025). Parents are obliged to teach children the fundamentals of faith, morality, and the skills necessary for a full life. The principle of justice (‘adl) requires parents to treat all their children equally and impartially, forbidding preference for sons over daughters in either emotional support or material benefits. All forms of abuse are condemned; while disciplinary measures are permitted, they must not be degrading or cause physical harm (Sharia: Islamic Law, 2025).

One of the most debated aspects, where interpretations of Sharia diverge most strongly, is the issue of marriage. Islamic jurisprudence (fiqh) links marital capacity to the attainment of physical and intellectual maturity (bulugh and rushd), rather than to a specific chronological age (UNICEF, 2025). Historically, the onset of puberty was often regarded as sufficient for marriage. This classical interpretation is still used in some conservative communities, including in Kyrgyzstan,

to justify child marriages concluded by religious rites, which directly contradict the modern understanding of the best interests of the child and their right to education and healthy development (Sormunen, 2016). At the same time, many contemporary Islamic scholars stress that the true purpose of marriage is the creation of a stable family based on love (*mawadda*) and mercy (*rahma*), which is impossible without full psychological and social maturity of both partners. They argue that setting a minimum marriage age by the state (for example, 18 years) does not

contradict the spirit of Sharia but rather protects the family institution and prevents harm (*darar*), one of the higher principles of Islamic law. Thus, the divergences in the practice of protecting children's rights in Muslim countries stem less from the provisions of Sharia itself than from the ongoing struggle between wrong and correct interpretations in the contemporary world. For clarity, a comparative summary of doctrinal approaches in Islamic law and modern international standards regarding children's rights is presented below (Table 1).

Table 1. Comparative analysis of key children's rights: Islamic Sharia Doctrine vs. the UN CRC

Field of Rights	Principles of Islamic Sharia	Corresponding Standards of the CRC
Right to life and health	<ul style="list-style-type: none"> ➤ Absolute sanctity of life from conception. ➤ Prohibition of infanticide (<i>wa'd al-banāt</i>). ➤ Right to breastfeeding (<i>rada'a</i>) for up to two years. 	<ul style="list-style-type: none"> ➤ Inherent right to life, survival, and healthy development (Art. 6). ➤ Right to the highest attainable standard of health services (Art. 24).
Right to identity and family	<ul style="list-style-type: none"> ➤ Right to lawful origin (<i>nasab</i>) and lineage. ➤ Right to a good name. ➤ Parents' duty to care for the child. 	<ul style="list-style-type: none"> ➤ Right to a name and nationality from birth (Art. 7). ➤ Right to preserve identity (Art. 8). ➤ Right not to be separated from parents against their will (Art. 9).
Right to maintenance and welfare	<ul style="list-style-type: none"> ➤ Father's unconditional duty of financial support (<i>nafaqa</i>): food, clothing, housing, medical care. 	<ul style="list-style-type: none"> ➤ Right to an adequate standard of living for physical, mental, spiritual, moral, and social development (Art. 27).
Right to education and development	<ul style="list-style-type: none"> ➤ Duty to seek knowledge (<i>'ilm</i>) for both sexes. ➤ Holistic upbringing (<i>tarbiya</i>), including moral, spiritual, and intellectual development. 	<ul style="list-style-type: none"> ➤ Right to education; introduction of free and compulsory primary education (Art. 28). ➤ Education directed to the development of the child's personality, talents, mental and physical abilities (Art. 29).
Marriage and readiness for family life	<ul style="list-style-type: none"> ➤ Marital capacity linked to physical and intellectual maturity (<i>bulugh</i> and <i>rushd</i>), not a fixed age. 	<ul style="list-style-type: none"> ➤ States Parties must take all effective measures to abolish child marriage. General Comment No. 4 to the CRC recommends a minimum age of 18.
Protection from violence and injustice	<ul style="list-style-type: none"> ➤ Prohibition of abuse. ➤ Principle of fair and equal treatment of all children (<i>'adl</i>). 	<ul style="list-style-type: none"> ➤ Protection from all forms of physical and psychological violence, abuse, or neglect (Art. 19). ➤ Principle of non-discrimination (Art. 2).

Source: compiled by the authors based on UN CRC (1989), Sharia: Islamic Law (2025), UNICEF (2025)

Thus, the Islamic legal tradition offers a comprehensive and ethically grounded doctrine of children's rights, based on the duties of parents and society. However, as the analysis demonstrates, the universality of these principles encounters diverse interpretations and models of implementation across national contexts. A central field of debate remains the issue

of marital age, where traditional interpretations of physical maturity conflict with the modern understanding of the best interests of the child. This highlights that the actual state of child protection in Muslim societies is determined less by the provisions of Sharia itself than by the ongoing contest between conservative and reformist interpretations.

Legal regulation and practical implementation of children's rights in Kyrgyzstan.

Analysis of the legal system and socio-cultural context of Kyrgyzstan identifies it as a unique case study, characterised by a profound conflict between formally proclaimed secular, democratic values and the strong influence of Islamic and traditional (adat) norms on social relations. This duality creates a complex and contradictory system in which children's rights, though enshrined in legislation in line with international standards, are systematically violated in practice due to the dominance of informal institutions. At the formal legal (de jure) level, Kyrgyzstan demonstrates full commitment to international standards of child protection. The country has ratified key international documents, including the UN CRC (1989), which, under Article 6 of the Constitution of the Kyrgyz Republic (2021), forms part of the national legal system with superior authority. The primary national legal instrument in this field is the Children's Code of the Kyrgyz Republic (2020). A detailed analysis of its provisions shows that it almost entirely reproduces the core principles of the CRC. In particular, the Code guarantees the child's fundamental right to life and healthy development, the right to a name, nationality, and preservation of identity, the right to equality and protection from all forms of discrimination, as well as the rights to education, healthcare, and protection from economic exploitation, violence, and abuse. The Family Code of the Kyrgyz Republic (2003) establishes a uniform minimum marriage age of 18 for both men and women, fully in line with international recommendations. The Labour Code of the Kyrgyz Republic (2025) and Criminal Code of the Kyrgyz Republic (2021) contain provisions prohibiting the worst forms of child labour and establishing criminal liability for offences against children. Thus, at the level of written law, Kyrgyzstan has created a comprehensive and progressive child protection framework.

However, analysis of the de facto situation reveals a systemic gap between legislative declarations and social reality, particularly in rural areas and conservative communities where patriarchal norms prevail. This gap is most evident in the issue of child marriage. Despite the Family Code's 18-year age requirement, statistical data confirm the persistence of this practice: 13% of girls in Kyrgyzstan marry before the age of 18 (Girls Not Brides, 2025). UNICEF's MICS (2019) highlights strong regional disparities: in rural areas the figure reaches 16%, compared with 9% in urban centres, pointing to the stronger influence of traditional norms outside major cities. One of the key factors sustaining child marriage is the practice of bride kidnapping (ala kachuu), which persists despite its criminalisation (Criminal Code of the Kyrgyz Republic, 2021). Law enforcement remains weak, as sociological factors – including community pressure on victims to avoid public shame and the widespread belief in the need to “preserve family honour” through subsequent marriage – result in low reporting rates (UNICEF, 2019). Studies by UNFPA (2014) show that a significant proportion of early marriages directly result from abductions. Thus, criminal law prohibitions are neutralised by social norms, which reframe a crime as a legitimate form of marriage. In parallel, religious marriage ceremonies (nikah) involving minors are widely practised. These ceremonies, conducted by local religious figures, confer social and religious legitimacy on unions that are legally void under the Family Code of the Kyrgyz Republic (2003). The legal consequences for underage girls are extremely negative. Without an official marriage certificate, they are deprived of rights guaranteed under secular law, such as entitlement to jointly acquired property, inheritance rights, and the ability to claim child maintenance in case of separation. This creates a parallel system of family regulation that removes a

significant number of children from state protection. This issue is directly linked to violations of the child's right to education, guaranteed by the Children's Code of the Kyrgyz Republic (2020). There is a clear correlation between education level and prevalence of child marriage: among women without education, 26% were married in childhood, compared with only 4% among those with higher education. Upon entering an early – albeit unofficial – marriage, girls almost invariably abandon their education, as they assume full reproductive and domestic responsibilities, reinforcing cycles of poverty and gender inequality (UNICEF, 2019).

Another area of conflicting norms is protection from violence. Despite the Criminal Code of the Kyrgyz Republic (2021) provisions against abuse, physical punishment is widely perceived in public consciousness as a legitimate and necessary component of upbringing (*tarbiya*). This creates a high level of tolerance towards domestic violence. Seeking help from state authorities is often stigmatised by the community as unwelcome interference in private affairs. As a result, institutions mandated to protect children remain passive due to a lack of complaints, and cases of violence remain latent (UNICEF, 2019). Moreover, the authority of the formal legal system is undermined by the functioning of informal justice institutions such as *aksakal* (elder councils). In resolving family disputes, they rely primarily on customary law (*adat*) and local interpretations of Islamic norms, often prioritising the preservation of social order and patriarchal hierarchy over the individual rights of children enshrined in the Children's Code of the Kyrgyz Republic (2020). This legal pluralism fragments the legal space and creates a situation where, for a large segment of the population, secular law is perceived as optional, while actual regulation of social life takes place on the basis of tradition and religious beliefs.

Children's rights in Egypt and Malaysia: A comparative analysis of integrated and dualist models. The analysis of the legal systems of Egypt and Malaysia reveals two fundamentally different approaches to incorporating the norms of Islamic Sharia into national legislation, which directly affects the scope and mechanisms of child protection. Egypt represents an integrated legal model, where Sharia principles are codified and incorporated into the national civil law, particularly within personal status legislation. Malaysia, by contrast, operates under a dualist system, where secular law (based on English common law) exists in parallel with a separate system of Sharia courts for Muslims. These structural differences give rise to unique challenges and conflicts when attempting to harmonise national law with international standards, such as the UN CRC (1989). Both countries ratified the CRC (1989), but with significant reservations reflecting their determination to preserve the priority of Islamic norms in family law – although the nature of these reservations differs.

The dualism of Malaysia's legal system is a constant source of legal conflicts, especially in the area of family law. The Federal Constitution of Malaysia (2020) grants state-level Sharia courts exclusive jurisdiction over matters relating to the personal status of Muslims, while civil courts deal with non-Muslims. This creates situations where a child's rights may differ drastically depending on the religious affiliation of their parents. Malaysia has entered reservations to key CRC (1989), notably Article 14, which guarantees freedom of thought, conscience, and religion. This reservation safeguards the constitutional status of Islam and, in practice, means that a child born into a Muslim family is automatically identified as Muslim and has no right to change religion. This creates complex identity issues and undermines the child's right to self-determination guaranteed by international standards. One of the most acute

problems arising from legal dualism is the issue of the minimum age for marriage. For non-Muslims, the Law Reform (Marriage and Divorce) Act 1976 of Malaysia (1976) sets the minimum marriage age at 18. However, for Islamic Family Law (Federal Territories) Act 1984 of Malaysia (1984) establishes the minimum at 18 for men and 16 for women. Critically, the law permits the state Chief Minister or a Sharia court judge to authorise the marriage of a girl under 16 if, in their view, such a marriage will not cause her harm. This provision is a direct application of classical fiqh doctrine, which links marital capacity to physical maturity (bulugh) rather than chronological age. Although Sharia requires the consent of both parties to marriage, in practice the consent of a minor girl may be nominal due to family pressure. This creates a legal pathway for child marriages, directly contradicting international standards and drawing constant criticism from human rights organisations. Custody (hadana) and guardianship (wilaya) of children are also regulated by Sharia courts. Typically, custody of young children is awarded to the mother, while the father remains the legal guardian responsible for financial support and major decisions (Custody of Children Malaysia, 2025). Problems arise in cases of interfaith marriages, particularly when one parent (usually the father) converts to Islam. In such cases, he may petition the Sharia court for custody of the children to raise them as Muslims. The civil court handling the case for the non-Muslim parent often declines jurisdiction, creating a legal vacuum. The child becomes caught in the middle of a jurisdictional conflict, and the principle of the child's best interests is ignored (Sormunen, 2016).

Egypt's legal system, rooted in the French civil law tradition, has incorporated Sharia norms (primarily from the Hanafi school) (Sharia: Islamic Law, 2025) directly into state personal status legislation. Unlike Malaysia, there is no parallel judiciary; instead, specialised family courts

apply a single codified law for all Muslims. Egypt ratified the CRC (1989), but with a general reservation stipulating that no provision of the Convention may contravene Islamic Sharia. A major achievement in child protection in Egypt was the adoption of the Law of Egypt No. 12 "The Child Law" (1996), which established a single minimum marriage age of 18 for both sexes. This reform represents an example of state-led *ijtihad* (independent legal reasoning), aimed at realising the higher objectives of Sharia (maqasid), particularly the prevention of harm (darar) associated with early marriage. By prohibiting official registration of underage marriages, the state does not ban religious ceremonies but deprives such unions of legal validity, making them more difficult to contract. Nonetheless, the problem of unregistered child marriages, particularly in rural areas, remains, although the prevalence is lower than in countries with looser regulation (UNICEF, 2025). Egypt also demonstrates active state policy in combating harmful traditional practices, notably female genital mutilation (FGM) (UNICEF, 2025). This practice, which has no basis in Islamic primary sources, was explicitly criminalised by Egyptian law. In particular, the Penal Code of Egypt (1937) as amended by Law No. 78 "On Amending Some Provisions of the Penal Code" (2016) and Law of Egypt No. 10 (2021), prescribes punishment both for medical practitioners who perform the procedure and for family members who initiate it. This illustrates how the state employs secular criminal law to protect the child's fundamental right to health and bodily integrity, fully consistent with the Sharia principle of preserving life (*hifz al-nafs*). In matters of identity and family relations, Egyptian law adheres strictly to Sharia norms. The right to lineage (*nasab*) is central. Adoption, which involves changing a child's surname and granting the rights of a biological heir, is prohibited (TTE Gulf Management Consultancy, 2025). Instead, the *kafala* system allows a child

to be raised and supported without altering their biological lineage. This creates difficulties for Egyptian children travelling abroad to countries where adoption, not kafala, is legally required.

A comparative analysis of the three case-study countries highlights significant differences in legal models and key aspects of child protection, summarised in Table 2.

Table 1. Comparative analysis of the legal status of children in Kyrgyzstan, Egypt, and Malaysia

Parameter	Kyrgyzstan	Egypt	Malaysia
Legal system	Secular law (civil law family) with strong influence of informal religious and customary norms.	Integrated system: civil law, with Sharia as the main source for codified personal status legislation.	Dualist system: parallel existence of secular (common) law and Sharia court system for Muslims.
CRC status	Ratified without reservations.	Ratified with a general reservation on the supremacy of Islamic Sharia.	Ratified with reservations to key articles (incl. freedom of religion, education, marriage age).
Minimum legal marriage age	18 for all.	18 (for registered marriages).	18 for non-Muslims. 16 for Muslim girls (with Sharia court/judge's permission for earlier).
Adoption	Permitted under the Family Code.	Prohibited. Kafala applies, preserving the child's biological lineage.	Permitted for non-Muslims. For Muslims, kafala applies.
Main challenge in child rights	Deep gap between progressive secular legislation and social practices (child marriage, <i>ala kachuu</i>) regulated by informal norms.	Combating deeply rooted harmful practices (unregistered child marriages, FGM) despite progressive legislation.	Jurisdictional conflicts between civil and Sharia courts, creating legal uncertainty for children, especially in interfaith families.

Source: compiled by the authors based on Constitution of the Kyrgyz Republic (2021), Law of Egypt No. 12 "The Child Law" (1996), Federal Constitution of Malaysia (2020)

Thus, comparative analysis shows that although both countries are guided by Sharia principles, their legal models produce different outcomes. Malaysia's dualism generates overt jurisdictional conflicts and legal uncertainty, especially for children in interfaith families. Egypt's integrated system is more consistent, with the state playing an active role in reforming legislation (as in the case of marriage age and FGM) (UNICEF, 2025), seeking to adapt traditional norms to modern child protection requirements. Nevertheless, in both countries, the main challenge remains the gap between formal law and deeply entrenched social practices.

Strategic directions for improving the child protection system in the Kyrgyz Republic: From legal pluralism to an integrated approach. The analysis of children's rights in Kyrgyzstan reveals a fundamental gap between

progressive secular legislation and social practices, which are largely governed by informal religious and customary norms. This legal pluralism – where state laws are disregarded in favour of traditions – presents the key challenge undermining enforcement efforts. The recommendations below aim to develop a comprehensive, integrated approach, not opposing secular and religious norms but harmonising them, strengthening state institutions by engaging communities, and transforming the social attitudes underpinning child rights violations. A priority task is to establish constructive dialogue between state institutions and religious communities to overcome misinterpretations of Islamic law used to justify harmful practices. It is recommended that mandatory educational programmes for local imams and religious leaders (*moldo*) be introduced at state level. These programmes should be based

on a clear explanation of the higher objectives of Sharia (Maqasid al-Sharia), particularly principles such as the preservation of life (hifz al-nafs), lineage (hifz al-nasl), and intellect (hifz al-'aql). Training should demonstrate that these objectives fully align with state laws prohibiting child marriage and guaranteeing the right to education. Special emphasis should be placed on clarifying that marriage in Islam requires not only physical maturity (bulugh) but also full psychological and social readiness (rushd), which is impossible in childhood. To prevent child marriage in practice, legislation should require religious leaders to conduct marriage ceremonies (nikah) only after presentation of an official state marriage certificate. This measure does not prohibit the religious rite but makes it directly dependent on compliance with secular law, particularly age requirements, thereby curbing the legitimisation of unlawful unions. Strengthening state institutions also requires enhancing their legitimacy in the eyes of local communities, which often perceive police and social services as external and repressive (Syzdykov *et al.*, 2025). To overcome this mistrust, it is recommended to integrate state protection mechanisms into the social fabric through the creation of community advisers or mediators, chosen from respected local figures, including women. These individuals could act as intermediaries between the population and law enforcement in cases of domestic violence or forced marriage, in a culturally acceptable way, reducing the under-reporting of such crimes confirmed by statistics. At the same time, nationwide information campaigns should be developed, using dual arguments. For example, a campaign against child marriage should invoke not only the relevant legal codes but also Islamic ethical principles, quoting the Qur'an and Sunnah (Sharia: Islamic Law, 2025) that emphasise the importance of girls' education and prohibit harm (darar). This approach uses the authority of

religion to reinforce the goals of the secular state. Long-term change requires systematic efforts to empower girls and transform social attitudes. Given the strong correlation between poverty and child marriage, it is recommended that state programmes be introduced to provide economic incentives for girls from low-income rural families – such as educational grants, scholarships, or vocational training schemes – that offer a real alternative to early marriage. Simultaneously, school curricula should include compulsory courses explaining basic human rights, gender equality, and the negative consequences of harmful practices (Khamzina *et al.*, 2020; Oleksandrivna *et al.*, 2023). A crucial component is the involvement of positive male role models – respected community leaders, elders, and fathers – who publicly oppose bride kidnapping and support their daughters' rights to education and self-realisation. This directly challenges the patriarchal stereotypes underpinning the problem.

Finally, while dialogue and preventive measures are important, the state must not neglect legal enforcement mechanisms in cases of serious child rights violations that constitute criminal offences. Specialised training should be provided regularly for police, prosecutors, and judges on the classification and investigation of cases of bride kidnapping (ala kachuu) and forced marriage. Emphasis should be placed on overcoming the stereotype that this is a “cultural tradition” and on applying the relevant provisions of the Criminal Code of the Kyrgyz Republic (2021) as serious crimes against personal freedom and dignity. It is also recommended to establish an effective and accessible mechanism for judicial annulment of marriages contracted under coercion and to guarantee victims free legal assistance and psychological rehabilitation. Only such a comprehensive approach – combining harmonisation of norms, community engagement, women's empowerment, and effective law enforcement – can bridge

the gap between law and reality, ensuring genuine protection of children's rights in Kyrgyzstan.

Discussion

The results of this study, which analysed children's rights in Kyrgyzstan, Egypt, and Malaysia, reveal a fundamental tension between the protective ideals enshrined both in international law and in the doctrine of Islamic Sharia, and the complex reality of their practical implementation. This gap stems not from the absence of legal norms but rather from their multiplicity and competition in conditions of legal pluralism, where official state law coexists with powerful social, cultural, and religious norms. The purpose of this discussion is to interpret the findings through the lens of enforcement challenges, the progressive potential of the Maqasid al-Sharia concept, and the central role of education and upbringing (*tarbiya*) as key elements in addressing existing gaps. In this regard, the findings resonate with broader educational research demonstrating that the violation of children's rights often occurs not only through explicit physical harm but also through systemic psychological pressure embedded in educational environments. J.-K. Chung (2023), in a systematic analysis of school violence, shows that authority-based psychological pressure from teachers and peers may function as a normalized practice, thereby undermining the very protective ideals formally proclaimed in legal and moral frameworks.

The practical difficulties in implementing children's rights identified in the case-study countries are reflected in the broader context of Muslim societies. As shown in the work of M. Muhammadong *et al.* (2024), the dynamics of enforcing Islamic norms are the subject of constant social debate, with both supporters and opponents, shaped by deep socio-cultural factors. Even in countries with formalised systems of religious courts, as demonstrated by R. Rohmawati

and A. Rofiq (2021), legal uncertainty arises due to differing judicial approaches to interpreting the law. They found that depending on whether a judge is pragmatic, conservative, or progressive, rulings on the civil rights of a child born outside marriage can range from complete denial of protection to partial or near-full recognition of rights – leaving such children in a state of extreme legal vulnerability. This problem is compounded by a lack of specialised knowledge among legal practitioners. As B.S. Panjaitan *et al.* (2024) note, there is an urgent need to reform legislation to strengthen the role of Sharia lawyers in religious courts to prevent harm to Muslim clients' interests. Similar procedural and legislative gaps are highlighted in the study by W.B. Yusof (2024), which, using Malaysia as an example, shows that the absence of clear standard operating procedures (SOPs) for children in conflict with Sharia criminal law at the pre-trial stage constitutes a serious legislative gap and necessitates the urgent development of such standards to ensure consistency and fairness. Thus, the findings of this study align with the conclusion reached by L. Lisma and R. Nikmah (2021), namely, that the mere existence of law does not guarantee its effective application; the effectiveness of child protection systems depends on consistency in judicial practice and clarity of procedural mechanisms.

In response to these challenges, as modern scholarship demonstrates, the concept of Maqasid al-Sharia is gaining increasing relevance as a methodological framework for the reform of Islamic law. As I. Afiyah (2025) notes, this concept allows for the harmonisation of Islamic legal instruments with the achievement of the global Sustainable Development Goals. Its application to the issue of child labour, as analysed in detail by M.H.M. Marwa *et al.* (2024), clearly shows that the practice of exploiting children contradicts all five principles of Maqasid, as it undermines their religious and moral upbringing, physical health,

intellectual development, and dignity. A similar approach is adopted by D.N. Indah and S. Zuhdi (2022) in their analysis of the “childfree” phenomenon, while M.A. Firdaus and I. Iwan (2024) emphasise the necessity of state presence in protecting children through the mechanism of guardianship grounded in the principles of Maqasid. However, this theoretical potential of Maqasid stands in sharp contrast with the results of this research. It was found that in practice, particularly in Kyrgyzstan and Malaysia, narrow, traditionalist interpretations of fiqh concerning the age of marriage (linking it solely to physical maturity, bulugh) prevail over the higher objectives of Maqasid – protecting life, intellect, and the child’s future. Moreover, the idea expressed by I.Z. Asyiqin *et al.* (2024) that Sharia prohibits contracts involving excessive uncertainty (gharar) may be extrapolated to the findings of this study. It was revealed that the legal status of a child from an unregistered religious marriage in Kyrgyzstan, or caught in a jurisdictional conflict in Malaysia, constitutes a state of extreme gharar, since their future rights are indeterminate. This demonstrates that the results of this research empirically confirm the existence of a gulf between the progressive potential of Islamic law described in the scholarly literature and its regressive interpretation in practice. At the same time, the analysis shows that legal reforms are insufficient without deep socio-cultural change through education and upbringing. A.N. Saputri *et al.* (2022) underline the urgent need to instil Islamic ethics and morality (akhlaq) from early childhood. As M.A. Ramli (2022) demonstrates, this process requires a holistic approach, including teaching methods based on example, play, and storytelling. The central role of the family as the first and most important educator is highlighted by S.I.S. Al-Hawary *et al.* (2023), who stress that a healthy family environment is essential for cultivating moral virtues. At the same time, research on faith-based

educational institutions suggests that schools themselves may function either as protective or harmful environments for children. J.-K. Chung (2025), analysing the educational roles of a Christian school, demonstrates that religious education can contribute positively to moral development only when institutional authority is exercised through care, responsibility, and protection rather than coercion or discipline-driven control. Yet the results of this study reveal how harmful practices undermine this educational ideal. It was found that in Kyrgyzstan and Malaysia, child marriages justified by tradition effectively terminate girls’ education, directly contradicting Islam’s obligation to pursue knowledge (‘ilm). As D. Istiyani *et al.* (2024) point out, educational practice also suffers from routine approaches and the neglect of child psychology. This echoes the findings of this research, where it was shown that religious marriage ceremonies (nikah) in Kyrgyzstan are often performed as a formality, without awareness of their destructive consequences for the child, reducing them to a routine devoid of deeper moral meaning. Therefore, as A. Nurhuda (2023) argues, new models of upbringing are required, sensitive to cultural and religious values. For example, C. Mahfud *et al.* (2023) propose an Islamic education model for children with disabilities based on an authoritative rather than authoritarian style. M. Huda (2021) reminds us of the importance of respect as a central educational value, while Y.K. Saputra *et al.* (2023) show how specific methods – such as Qur’an memorisation (tahfiz) – can support moral formation. Even in multireligious environments, as S. Futaqi and A.A. Yenuri (2023) demonstrate, religious rituals can serve as tools for building intercultural awareness. The findings of this study, however, demonstrate the absence of such adaptive approaches in the examined contexts, where rigid and harmful practices are prioritised over flexible educational models.

Thus, the discussion of findings allows us to conclude that effective protection of children's rights in Muslim-majority countries requires a comprehensive, synergistic approach. It is necessary to overcome not only legislative gaps but also the negative effects of misguided religious dogmas and economic interests, which – as Y. Sopyan *et al.* (2023) show – can lead to exploitative practices such as child marriage, often facilitated by third parties such as marriage brokers. These conclusions fully correspond with the findings of this study on Kyrgyzstan, where economic factors and community pressure are often decisive. At the same time, as S.S. Karimullah (2023) notes, the flexibility of Islamic law and the growing role of social activists create opportunities for positive change and social transformation. The results of this research provide a foundation for such changes, as they identify concrete problems requiring intervention. Only the combined efforts of the state, progressive religious leaders, civil society organisations, and families can ensure the creation of an environment for sustainable social development and youth empowerment, thereby realising the protective ideals of both international law and Islamic Sharia.

Conclusions

This study of children's rights in Kyrgyzstan, Egypt, and Malaysia through the prism of Islamic Sharia and international instruments confirms the central thesis of a significant gap between normative ideals and practical reality. It has been established that the key challenge is not a confrontation between "religious" and "secular" law, but rather the complex interaction under legal pluralism, where the effectiveness of child protection depends less on the quality of the laws themselves and more on the state's ability to implement them, the interpretation of religious norms, and the influence of deeply rooted socio-cultural factors. The research has

shown that Islamic legal doctrine – especially when analysed through the concept of Maqasid al-Sharia – provides a powerful and comprehensive foundation for child protection, encompassing rights to life, health, identity, education, and welfare. The comparative findings from the three countries demonstrate varied approaches to harmonisation. Kyrgyzstan represents a model where progressive secular legislation proves largely ineffective due to the dominance of informal customary and religious practices, leading to widespread child marriage and weak responses to violence. Malaysia's dualist legal system produces jurisdictional conflicts that leave children, particularly in interfaith families, in a state of legal uncertainty. Egypt, meanwhile, exemplifies an integrated model, where the state codifies Sharia norms and seeks to adapt them to modern requirements, as seen in the establishment of a minimum marriage age, though enforcement challenges persist. These findings confirm that gaps in child protection stem not only from legislative shortcomings but also from inconsistent judicial practice and insufficient expertise among practitioners operating at the intersection of secular and religious law.

The practical implications of this study point to the inefficiency of purely centralised approaches to reform. Real improvement in children's welfare requires comprehensive strategies that combine legislative reform with broad community-level initiatives. This includes educational programmes for religious leaders, parents, and children, promoting progressive, child-centred interpretations of Islam. At the theoretical level, the research underscores the importance of using the Maqasid al-Sharia framework as an analytical tool capable of reconciling Islamic law with international human rights standards, revealing their potential synergy in achieving the shared goal of child welfare. A limitation of this study is its focus on only three countries, which

prevents broader generalisation to the entire Muslim world. Future research could expand the geographical scope and examine specific issues more deeply, such as developing Islamic models of education for children with special needs or assessing the effectiveness of religious education in multicultural societies. In conclusion, effective child protection in the studied contexts requires not the opposition of secular law and Sharia, but their harmonisation. This entails creating a holistic and functional justice system in which the protective mechanisms of both normative traditions are integrated to meet international obligations while remaining consistent with the socio-cultural values of society.

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Future research should broaden its geographical scope and focus on the role of Islamic educational models – particularly in inclusive and multicultural contexts – to better understand and enhance child protection at the intersection of Sharia and international human rights.

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Анотація

У дослідженні було запропоновано порівняльний аналіз етичних та законодавчих рамок, що регулюють права дітей в ісламському шариаті та міжнародному праві, використовуючи випадки трьох країн з різними правовими моделями: Киргизстану, Єгипту та Малайзії. Метою дослідження було окреслення системного розриву між нормативними деклараціями та практичним впровадженням захисту дітей у суспільствах з мусульманською більшістю. У дослідженні використовувалася якісна методологія, включаючи порівняльний аналіз міжнародних конвенцій, національного законодавства, доктринальних джерел ісламського права та звітів міжнародних організацій. Результати дослідження показали, що ісламська доктрина, зокрема крізь призму вищих цілей шариату (Макасид аш-Шаріат), пропонує міцну концептуальну основу для захисту прав дітей. Водночас аналіз тематичних досліджень показав, що ключовими перешкодами для їх реалізації є правовий плюралізм (Киргизстан); юрисдикційні конфлікти в подвійних правових системах (Малайзія); та труднощі із забезпеченням дотримання навіть у кодифікованих системах (Єгипет), особливо у боротьбі з дитячими шлюбами. У всіх випадках найбільш вразливою стороною є дівчинка, чії права на освіту, охорону здоров'я та вільний вибір часто нехтуються. Було встановлено, що

ефективний захист дітей вимагає не простого відтворення міжнародних стандартів, а розробки комплексних стратегій, які гармонізують світське законодавство з правильними тлумаченнями шаріату, залучають релігійних лідерів до просування гуманістичних тлумачень та спрямовані на трансформацію глибоко вкорінених соціальних установок. Результати дослідження можуть бути використані законодавчими органами для гармонізації національного законодавства з міжнародними стандартами, а також правоохоронними та судовими органами

Ключові слова: Макасід аш-Шаріат; гармонізація правових актів; дуалістична система; нафака; тарбія