

ISLAMIC FAMILY LAW

DEMYSTIFIYING SHARIAH IN THE PROTECTION OF CHILDREN'S RIGHTS

VOLUME III

ZALEHA KAMARUDDIN



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Editor Zaleha Kamaruddin



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TO THE CHILDREN OF THE WORLD

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Mutiah Hud and Prof. Dr. Mohd Akram Shair Mohamed

PREFACE

It is my sincere pleasure to introduce this volume of six papers presented at a series of seminars organised from 2002-2005 by postgraduate students taking the course Comparative Family Laws. The role played by these students, both direct and indirectly, in the research of Islamic Family Laws sets an intellectual platform to discuss critical issues in relation to children's protection from a comparative perspective. Six lecturers in relevant areas were roped in to further refine the papers. Since this papers were written from 2002-2005 and law being a dynamic and ever changing discipline, it needs to be updated.

Realising the need for fresh outlooks on a number of doctrinal as well as juristic issues, this collection of essays cover a wide range on matters concerning children's rights from various dimensions of Islamic perspective. Moreover, seeing how the field of Islamic Family Law has evolved over the last century from the resulting modernisation, it seems to me imperative to create this series of books that distilled the vast reservoir of data in a more manageable format for researchers, educators and students alike.

The aim of this book is to provide, in one volume, a study of aspects of Islamic Family Law that are still being debated. This effort has proven to be constructive in the enhancement of its intellectual dimensions in different disciplines of knowledge as well as to solve the problems faced by Muslims in this challenging new millennium. It is hoped that readers in Malaysia and elsewhere will benefit from the contents of this book, and disseminate the ideas to improve the implementation of Islamic Family Law. I am hopeful that this book will provide the necessary harmonisation of Shari'ah and civil laws for the benefit of the Ummah.

Finally, I cannot but mention with gratitude all the paper contributors who had given invaluable effort in creating this volume. My hope is that they will continue to play an active role in the expansion of the field of Islamic Family Law. A special note of gratitude is owed to Sr. Nur Sarah Baharudin for assisting me in the birth of this book. Last but not least, my appreciation goes to Bro. Ibrahim Alkali, Sr. Rasheeda and the publisher, without which this project would never be completed.

Prof. Dato' Sri Dr. Zaleha Kamaruddin

Rector

International Islamic University Malaysia

AN INSIGHT TO LEGAL PROTECTION OF CHILDREN: DEMYSTIFYING SHARI'AH IN THE PROTECTION OF CHILDREN'S RIGHTS

Prof. Dato' Sri Dr. Zaleha Kamaruddin

Ever since the First World War ended, the protection of children has emerged as a central concern on the political agenda of the international community. The first conscious effort at setting a legal framework for the protection of children was the Minimum Age (Industry) Convention adopted by the International Labour Organisation (ILO) in 1919. However, it was the Geneva Declaration on the Rights of the Child, adopted in 1924, that employed the language of "rights" when dealing with the protection of children for the very first time. The following years witnessed the evolution of more elaborate legal instruments for the protection of the rights of