

ISLAMIC FAMILY LAW

DEMYSTIFYING SHARIAH IN THE PROTECTION OF CHILDREN'S RIGHTS

VOLUME III

ZALEHA KAMARUDDIN

IIUM Press

INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA



**ISLAMIC FAMILY LAW:
DEMYSTIFYING SHARI'AH IN THE
PROTECTION OF CHILDREN'S
RIGHTS**

VOLUME III

Editor
Zaleha Kamaruddin



IIUM Press
International Islamic University Malaysia

Published by:
IIUM Press
International Islamic University Malaysia

First Edition, 2011
©IIUM Press, IIUM

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without any prior written permission of the publisher.

Perpustakaan Negara Malaysia
Cataloguing-in-Publication Data

Zaleha Kamaruddin
Islamic Family Law: Demystifying Shariah in the
protection of children right/ Zaleha Kamaruddin

ISBN: 978-967-418-024-9

Member of Majlis Penerbitan Ilmiah Malaysia – MAPIM
(Malaysian Scholarly Publishing Council)

IIUM PRINTING SDN.BHD.
No. 1, Jalan Industri Batu Caves 1/3
Taman Perindustrian Batu Caves
Batu Caves Centre Point
68100 Batu Caves
Selangor Darul Ehsan

TABLE OF CONTENTS

Preface	ix
An Insight to Legal Protection of Children: Demystifying <i>Shari'ah</i> in the Protection of Children's Rights	xi
1. The Legal Rights of Muslim Children in Polygamous Marriages <i>Mazbah Termizi and Prof. Dato' Sri Dr. Zaleha Kamaruddin</i>	1
2. Maintenance of Illegitimate Child by Biological Father in Islamic Law: An Analysis <i>Tam Peck Shen and Assoc. Prof. Dr. Azizah Mohamad</i>	31
3. Sterilisation of Mentally Disabled Children: Justice or Violation of Individual's Right? <i>Nasiibah Ramli and Prof. Dr. Puteri Nemie Jahn Kassim</i>	61
4. The Right to Abortion with Special Reference to Rape Victim: An Islamic Perspective <i>Win Syuhada and Assistant Prof. Dr. Mohammad Ismail Mohd. Yunus</i>	99
5. Incest: A Threat to Children and Selected Solutions <i>Khairul Nizam Che Yassin and Assistant Prof. Dr. Badruddin Ibrahim</i>	121

6. **Protecting Children from Procedural Difficulties
Relating to Children's Evidence in Child Abuse
Cases in Malaysian Courts**

161

*Muti'ah Hud and Prof. Dr. Mohd Akram Shair
Mohamed*

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