

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. Badrudin Ibrahim</i>	121

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

161

*Mutiah Hud and Prof. Dr. Mohd Akram Shair
Mohamed*

PROTECTING CHILDREN FROM PRODECURAL DIFFICULTIES RELATING TO CHILDREN'S EVIDENCE IN CHILD ABUSE CASES IN MALAYSIAN COURTS

Mutiah Hud and Prof. Dr. Mohd Akram Shair Mohamed

Introduction

Child abuse is a crime involving children as the victims. Because children are usually the victims in matters relating to child abuse, their evidence before the courts is not only important, they are also required for the purpose proving the guilt of the accused. This therefore raises the issue of admissibility of children's evidence and the court's proceedings to which children are subjected to. This leads to the issue whether the evidence of children in a particular case requires corroboration by way of other material evidence to prove the guilt of the accused. Judges in Malaysian courts appear strict on the application of the provisions of Evidence Act on the issue of corroboration. This appears not to protect children as victims of child abuse in many cases especially in cases relating to sexual abuse. This will ultimately lead to miscarriage of justice. This is more so when