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# Protection and Welfare of Orphans: "Relating the 1945 Constitution Article 34 Paragraph 1 with the Scope of Regional Government Based on the Theory of the Koran"

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#### **ABSTRACT**

This research discusses the implementation of the 1945 Constitution Article 34 Paragraph 1 in the policy of protecting orphans using a theoretical approach to the Koran. The research focus includes aspects of justice, compassion, social responsibility, social empowerment and the rights of orphans. Al-Qur'an theory is integrated to provide an ethical and moral basis for policy formation. Research findings show that holistic integration between the legal basis and the values of the Koran can optimize the protection of orphans. Alignment, empowerment and community participation are the keys to creating effective and meaningful policies. It is hoped that the results of this research can provide guidance for the development of policies for the protection of orphans that are better, fairer and based on Islamic values.

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#### 1. Introduction

The constitution is a fundamental legal document that regulates the state administration of a country or government. The basic law is often referred to as the constitution, and functions as the foundation for all laws and government institutions in a country. The definition of a constitution includes an understanding of the essence, objectives, structure and main functions in regulating the life of the nation and state. Like Article 34 Paragraph 1 of the 1945 Constitution which reads "The poor and neglected children are cared for by the state". Article 34 Paragraph 1 of the 1945 Constitution means that the poor and neglected children are cared for by the state which is implemented by the government, both the central government and regional governments. The benefits of the existence of a legal basis in the form of statutory regulations include: Binding the government, regional government and the community to play an active role and guaranteeing policy makers to have agreement in formulating the goals to be achieved (Maulinda & Ubaidullah, 2019). The theoretical basis for this title involves two main aspects: constitutional law represented by the 1945 Constitution Article 34 Paragraph 1 and the Al-Qur'an perspective on the protection and welfare of orphans.

Children are part of the young generation that will succeed the nation and one of the human resources that has a strategic role in forming a family so that it becomes better, so that it requires special guidance and protection in the process of children's growth and development both physically, mentally and in social life. Therefore, to achieve this, considerable attention is needed by the family. Because children are a young generation who will be beneficial in the future, both to their families and to society, so that they can become like that, we must be able

Vol. 15, No. 1, January 2024, Page: 806-815 ISSN: 1907-2341 (Print), ISSN: 2685-4031 (Online)

to educate children well and teach them Islamic law since they are still small (Kurniawan, 2022). Legally, the function of the State to care for abandoned children and concern for their future is contained in Article 34 Paragraph 1 of the 1945 Constitution and regulations for caring for abandoned children are contained in various laws based on the 1945 Constitution. The function of the State in caring for abandoned children can be realized in a solution if the government in making policies or laws and regulations must be interested in and take sides in the problem of abandoned children in Indonesia (Ambat, 2013). The education of orphans and abandoned children often ends in "dropping out of school" even though there is a lot of educational assistance for them, so that orphans should be able to compete in the academic world and work like children their age. Not to mention the problem that orphans often become victims of violence in society, as well as the very poor management of the assets of orphans and abandoned children in this country, so that a lot of property or social assistance for orphans has disappeared somewhere (Setiawati, 2019).

The protection and welfare of orphans is an important aspect in a civilized society. Orphans are a vulnerable group and need extra protection from the state and society. In the Indonesian context, Article 34 Paragraph 1 of the 1945 Constitution provides a strong legal basis for protecting the rights of orphans (Ariyadri, 2021). This article states that the state is responsible for developing all the potential of Indonesian children, including orphans, to achieve optimal welfare (Khoirunnisa et al., 2020). The importance of protecting orphans also includes the role of local governments in managing its scope. Local governments have a big responsibility to implement orphan protection policies that are in accordance with the principles of the Constitution (Nisah & Hamam, 2021). In field research, it is important to examine how regional governments carry out their responsibilities for the protection and welfare of orphans, as well as the extent to which the implementation of these policies is in accordance with the theoretical basis of the Koran. The Qur'an, as the main guidance for Muslims, provides moral and ethical guidance that can be the basis for forming policies for the protection of orphans (Hidayat & Fauzi, 2022).

The theoretical basis of the Qur'an can be the main pillar in assessing the extent to which the policy for protecting orphans in a region is in accordance with Islamic values. Therefore, this field research aims to explore and link the implementation of the 1945 Constitution Article 34 Paragraph 1 with the scope of regional government in the context of the protection and welfare of orphans, by taking the perspective and principles contained in the Al-Qur'an (Masyhari, 2017). The importance of this research does not only lie in the legal and governmental aspects, but also in the humanitarian and moral aspects. Through an in-depth understanding of the implementation of orphan protection policies linked to the theoretical basis of the Koran, it is hoped that innovative solutions can be found that can improve the welfare of orphans in Indonesia. Thus, this research is not only an academic study, but also a concrete contribution to improving the protection and welfare of orphans as an integral part of sustainable development at the local and national levels (Yuniarlin, 2022).

This field research becomes increasingly relevant considering the complex challenges faced by orphans in this modern era. Globalization, social change and economic dynamics can have a significant impact on the condition of orphans (education and development of orphans, therefore, an in-depth understanding of how regional governments deal with these changes in the context of orphan protection is very important. Not only for evaluating policies existing ones, but also to identify new needs that may arise and formulate relevant solutions (Alawiyah, 2023) .In the perspective of the Qur'an, the protection of orphans does not only stop at material aspects, but also includes spiritual and psychological aspects. The Qur'an emphasizes the

Vol. 15, No. 1, January 2024, Page: 806-815 ISSN: 1907-2341 (Print), ISSN: 2685-4031 (Online)

importance of providing love, attention and holistic education to orphans (Musyafiq et al., 2022). Therefore, in this research, not only local government policies and programs in providing material support will be evaluated, but also how they ensure that orphans receive attention and education that includes spiritual and psychological aspects. Apart from that, the role of society and religious institutions is also a key factor in efforts to protect and welfare orphans (Mahmuda, 2018). Active involvement of the community and religious institutions can strengthen the implementation of local government policies. Therefore, this research will include an analysis of the role of society and religious institutions in supporting orphans and how this collaboration can be improved to achieve more optimal results in the protection and welfare of orphans. Thus, it is hoped that this research can provide a comprehensive and in-depth view of the protection and welfare of orphans, as well as provide a basis for improving policy and implementation in the future.

#### 2. Method

The qualitative method that can be used in this research is a case study. In the context of the protection and welfare of orphans, case studies can help to explore this holistically. This research can select several regions that represent the diversity of social, economic and cultural conditions in Indonesia. Through in-depth interviews with local stakeholders, direct observations, and analysis of related documents, this research can explore how Article 34 Paragraph 1 of the 1945 Constitution is implemented in the context of the protection and welfare of orphans in a particular area. In addition, this qualitative approach also makes it possible to interpret and relate field findings to the theoretical basis of the Koran, allowing researchers to explore moral, ethical and spiritual aspects in the protection and welfare of orphans from an Islamic religious perspective.

Research methods are widely understood as a scientific process that takes place in a structured manner, starting from determining the topic, collecting data, and analyzing data, with the aim of obtaining a deep understanding of the topic or issue being researched. This research is a type of field research, which aims to observe symptoms or events that occur in a community group. Therefore, the approach used in this research can also be called a case study, which aims to provide a qualitative description of the observed phenomenon. The data sources used in this research are primary data and secondary data. Primary data sources are collected directly from the main source by going through the stages of observation, interviews, surveys, and so on. Meanwhile, secondary data was obtained from various other sources including articles, journals, photos and drawings. Meanwhile, analysis is used to systematically analyze the collected data.

In addition, collecting literature related to the implementation of orphan protection policies at the local government level as well as the relevant theoretical basis of the Koran. Document analysis will help in evaluating the extent to which the policy reflects the principles of the 1945 Constitution and the values of the Koran. By combining these methods, research can provide a comprehensive picture of the relationship between the 1945 Constitution Article 34 Paragraph 1, policy implementation at the regional government level, and the theoretical basis of the Koran in the context of the protection and welfare of orphans in Indonesia.

### 3. Results and Discussion

Movement of concern for the government and the community of the 9 Seroja hamlets towards the poor, abandoned children and orphans

Movement refers to the action or process of moving or changing the position of an object or individual. In general, movements can occur in various contexts, such as physical, political,

Vol. 15, No. 1, January 2024, Page: 806-815 ISSN: 1907-2341 (Print), ISSN: 2685-4031 (Online)

social, or economic. In any context, movement is often the focus of attention because it can reflect the dynamics, changes, or evolution that occur within a system or society. The following is a movement program as a form of government concern for the poor, abandoned children and orphans.

Before running the program, it must begin with a discussion with the community attended by religious leaders, community leaders, government figures, the mosque BKM and the local mosque youth association. In this meeting, they will discuss the program created by the regional government, namely the head of the environment or often called Mr. Kepling, and determine the implementation of the work program. The main objective of this discussion is to ensure the smooth implementation of the program and the formation of the committee. Apart from that, the researcher also conducted an interview with Mr Murdani who served as chairman of the work program activities (interview 15, February 2024).



Figure 1. Discussion with the entire community

After holding discussions with religious leaders, the committee and village officials have agreed and determined the implementation and work program. Based on the research results, a work program was implemented in 2020 and the program offered rice compensation and free MDTA education (interview 8, February 2024).

The main objective of the program is to provide care, education and guidance to orphans and abandoned children to improve their quality of life and help them become independent and contribute positively to society. Activities for physical and mental maintenance, education, skills, religious development, moral self-development and community empowerment. Dusun 9 Seroja has several programs that are always created every year to provide rights and care for the poor, orphans and neglected children. Among them are:

### 1. Compensation rice

The government and local communities have implemented a rice donation program because rice has an important role in many cultures and is an important source of carbohydrates in the daily diet for most of the population in various countries, especially in Asia. Rice can be cooked in various ways, such as boiling, processing it into rice, or used as a base for other foods such as porridge or cakes. Apart from that, rice also has various types and varieties depending on its origin, nutritional content, and characteristics, such as white rice, brown rice, basmati rice, and so on.

Vol. 15, No. 1, January 2024, Page: 806-815 ISSN: 1907-2341 (Print), ISSN: 2685-4031 (Online)





Figure 2. Listing contributors, weighing and generalizing



Figure 3. Distributing rice to the community

#### 2. MDTA is free

The condition of orphans and abandoned children causes them to lose hope of living their lives, especially for underprivileged orphans. Orphans are children whose father has died. Religious education is a type of education that provides knowledge, understanding and values related to a particular religion or belief to individuals or groups. The main aim of religious education is to form attitudes, beliefs and behavior that are in accordance with the teachings of the religion being studied. Religious education is often an integral part of the education system in many countries, especially where religion plays an important role in people's lives. However, the role and forms of religious education can vary significantly between different countries. Some countries may have religious education integrated into the public school curriculum, while others may provide the option for religious education outside of school or even provide no religious education at all in their formal education system. In dealing with the problem of children not receiving education, the government and the community came up with the idea of building a free MDTA.



Figure 4. MDTA location

Vol. 15, No. 1, January 2024, Page: 806-815 ISSN: 1907-2341 (Print), ISSN: 2685-4031 (Online)

The government divides this task between teenagers or young people and fathers. The team of teenagers is tasked with collecting money from house 1 and other houses. This activity is carried out every Sunday morning starting from 08.00-11.00 WIB. Then all the money collected is combined and can generate up to 2-5 million in one quotation. Meanwhile, the gentlemen's team acts in terms of collecting donors, monitoring and development. Gentlemen, you only take people who have become the main funding targets in building this MDTA in terms of plots. Your team **only** moves when they receive calls from donors and proposals are submitted.



Figure 5. Delivery of funds from donors

#### DISCUSSION

Article 34 of the 1945 Constitution explains that the poor and neglected children are cared for by the state. Meanwhile, the poor and neglected children are still a big problem for the Indonesian people. In Indonesia, it is estimated that the number of abandoned children reaches 7.1 million. In 2024, the number of poor people (people with monthly per capita expenditure below the Poverty Line) in Indonesia will reach 28.95 million people (9.82 percent).

Children are an inseparable part of a society or nation. They belong to the younger generation and the nation's successors who are very important for the country. Children are also one of the human resources that have an important role in the formation of a family, so special guidance and care to accompany the child's growth and development process, both in terms of the child's physical, mental and social life, is very necessary. To achieve these things requires a lot of attention from the family towards the child. Because it is hoped that he will become the next generation who will be useful in the future both in the family corridor, the surrounding community and can contribute to his country. Therefore, as an educator, caregiver and someone who cares for children, you must be able to educate them properly and correctly, and also not forget to instill Islamic values in them from a young age (Alawiyah, 2023).

Children as God's trust must always be looked after and protected because in children there is dignity and rights as human beings which must be upheld, as well as orphans are human figures who have a special and noble position in the sight of Allah SWT (Ihsan & Anis, 2021).

Meaning: "O you who believe, indeed among your wives and children there are those who are enemies to you, so be careful of them; and if you forgive and are polite and forgive (them), then indeed, Allah is Most Forgiving, Most Merciful." (QS At-Taghabun verse 14).

Protection of orphans, orphans and the poor is carried out based on several principles, such as Islam, humanity, social justice, non-discrimination, welfare, solidarity, empowerment and the best interests of children. In this context, the protection of orphans is an important part of the legal system regulated in the 1945 Constitution Article 34 Paragraph 1 concerning Child

Vol. 15, No. 1, January 2024, Page: 806-815 ISSN: 1907-2341 (Print), ISSN: 2685-4031 (Online)

Protection. This law emphasizes that child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop and participate optimally in accordance with human dignity. The protection of orphans and orphans is also regulated in Law No. 35 of 2014 which provides guarantees for the fulfillment of children's rights. Apart from that, social protection for orphaned children who are victims of the Covid-19 pandemic is very important to ensure their growth and development towards adulthood. This social protection effort is a social responsibility that involves the role of society in supporting the growth and development of orphaned children. With a strong legal basis and principles that prioritize the best interests of orphaned children, efforts to protect them become an important focus in the legal and social systems to ensure their rights and welfare are well protected.

Literature studies and document analysis show that the implementation of the 1945 Constitution Article 34 paragraph 1 which reads "The 1945 Constitution of the Republic of Indonesia mandates the state's obligation to care for the poor and neglected children. For the poor and neglected children as intended in the 1945 Constitution of the Republic of Indonesia, the Government and Regional governments provide social rehabilitation, social security, social empowerment and social protection as a manifestation of the implementation of the state's obligations in ensuring the fulfillment of the rights to the basic needs of poor and underprivileged citizens." In the policy of protecting orphans in regional government, there are still several obstacles. Although this article affirms the state's responsibility towards children, its interpretation and implementation at the local level varies (Chen et al., 2023). Some regions show strong commitment, while others still need improvement in formulating and implementing more effective policies. Field case studies in several regions reveal significant differences in the implementation of orphan protection policies. Factors such as the level of community participation, support from religious institutions, and the level of local government awareness are the main determinants of the success of orphan protection programs (Wahyudin & Jamil, nd). Regions that have strong collaboration between government, society and religious institutions tend to achieve better results. The verses of the Qur'an relating to orphans and the poor are as follows:

Meaning: "About this world and the hereafter. And they ask you about orphans, saying: It is good to manage their affairs properly, and if you associate with them, then they are your brothers; and Allah knows those who cause damage from those who make improvements. And if Allah wills, surely He can bring you difficulties. Indeed, Allah is All-Mighty, All-Wise." (QS. Al-Baqarah: 220)

In this verse of the Koran, Allah states that orphans are considered brothers to Muslims. Allah wants that the kindness we show to orphans will be answered with kindness too. On the other hand, if we behave badly towards them, Allah will expect difficulties as a consequence.

#### An-Nisaa Verse 36

Meaning: "And worship Allah and do not associate anything with Him. And do good to parents, relatives, orphans, the poor, close and distant neighbors, colleagues, ibn you have servants and servants. Indeed, Allah does not like people who are arrogant and proud of themselves." (QS. An-Nisaa: 36)

Vol. 15, No. 1, January 2024, Page: 806-815 ISSN: 1907-2341 (Print), ISSN: 2685-4031 (Online)

In this verse of the Koran, Allah wants Muslims to behave well towards orphans. This is because kind actions towards them can help lighten the burdens of life, eliminate suffering, and improve human status.

Meaning: "And they give the food they like to the poor, orphans and captives." (QS. Al-Insan: 8)

This verse tells Muslims to consistently provide food to orphans. Apart from that, the purpose of this verse is that humans are always willing to help orphans and the poor.

Al-Qur'an theory provides a deep ethical and moral foundation in the understanding and implementation of orphan protection policies. The Qur'an emphasizes the principles of justice, compassion and social responsibility as the main guidelines for Muslims. In the context of implementing Article 34 Paragraph 1 of the 1945 Constitution, Al-Qur'an theory provides an important spiritual dimension, viewing orphans as a trust and shared responsibility of society and the state. The Qur'an emphasizes the principle of justice as the basis for responding to the needs of orphans. The implementation of this article must reflect the fair distribution of resources and the implementation of policies that avoid discrimination. The Qur'an emphasizes the rights of orphans to receive fair and equal treatment in all aspects of their lives, including the rights to education, health and happiness. Al-Qur'an theory highlights the importance of compassion and social roles in the protection of orphans. The government and regional governments, in accordance with Article 34 Paragraph 1, are expected to provide loving guidance and support to orphans. The Qur'an emphasizes the importance of forming a society that cares and empathizes with the condition of orphans, and invites them to share their good fortune with them. Al-Qur'an theory places social responsibility as the main pillar in protecting orphans. Article 34 Paragraph 1 of the 1945 Constitution mandates the state's responsibility to care for the poor and neglected children, and the theory of the Koran strengthens these values. The government and regional governments are expected to carry out their social responsibilities through social rehabilitation, social security, social empowerment and social protection. Social empowerment, as emphasized by Article 34 Paragraph 1 of the 1945 Constitution, can be seen from the perspective of the Qur'an as an effort to give orphans the strength to be independent and contribute positively to society. The Qur'an provides a deep understanding of the rights of orphans to develop and empower themselves, and the implementation of orphan protection policies must include this aspect.

Social protection, as stated in the 1945 Constitution Article 34 Paragraph 1, is a real manifestation of the state's obligations. The Qur'an emphasizes the obligation of Muslims to involve themselves in social protection, and this can be interpreted as a call for the government and regional governments to implement a holistic and inclusive orphan protection system. The Qur'an teaches siding with orphans as a high value. Implementation of Article 34 Paragraph 1 must reflect this alignment through specific policies and programs to meet the special needs of orphans. Legal and social protection must be a priority, in line with the principles of justice and partiality taught by the Koran. Al-Qur'an theory offers the principles of muamalah (social relations) that can be applied in the protection of orphans. The concepts of mutual respect, mutual assistance, and concern for the needs of orphans are values that can form an ethical basis in orphan protection policies. The Qur'an emphasizes the role of society in protecting orphans. Implementation of Article 34 Paragraph 1 must accommodate active community participation, strengthen social solidarity, and integrate Islamic social principles into orphan protection policies. The implementation of the 1945 Constitution Article 34 Paragraph 1, based on the

Vol. 15, No. 1, January 2024, Page: 806-815 ISSN: 1907-2341 (Print), ISSN: 2685-4031 (Online)

theory of the Koran, also highlights the importance of strengthening religion and morals in forming the character of orphans. The Koran teaches Islamic values. :

#### 4. Conclusion

This research provides an in-depth understanding of the implementation of the 1945 Constitution Article 34 Paragraph 1 in the protection of orphans in regional government, in line with the theoretical basis of the Koran. Recommendations are given to increase policy consistency, strengthen the integration of Islamic values, and increase collaboration between government, society and religious institutions in efforts to protect and welfare orphans. By considering the various aspects that have been discussed, it can be concluded that efforts to protect and welfare orphans require a holistic approach. Policy implementation must be supported by a deep understanding of the local context, the integrity of Islamic values, collaboration between all stakeholders, and increased community involvement. By understanding and applying Al-Qur'an theory, the implementation of Article 34 Paragraph 1 can create more meaningful and comprehensive protection for orphans. The active involvement of the government, regional government and the community determines the success of this policy. It is hoped that the results of this research can provide a basis for developing policies that prioritize the rights, welfare and justice for orphans, in line with the teachings of the Koran and Islamic values.

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