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BEYOND PROHIBITION: RETHINKING ISLAMIC LEGAL PROTECTION AGAINST CHILD EXPLOITATION IN MINING INDUSTRIES

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ABSTRACT

Child labor in mining industries represents a critical intersection of hazardous work, regulatory limitations, and structurally embedded socio-economic coercion, despite the comprehensive international and national legal protections. This study aims to critically evaluate the effectiveness of legal protection against labor exploitation affecting children in mining and to reconstruct it through an integrated *maqasid al-shari'ah* and *fiqh al-mu'āmalah* framework. The research employs a normative legal method with a socio-legal orientation, examining international legal instruments, Indonesian legislation, and institutional reports. The findings reveal that legal frameworks such as the Convention on the Rights of the Child (CRC) and ILO Convention No. 182 establish clear prohibitions against hazardous child labor, yet their implementation remains ineffective in informal and extractive economic contexts. The persistence of child labor is structurally driven by poverty, weak enforcement, and supply-chain opacity, resulting in a systemic law–reality divide. Such labor relations constitute a defective form of *ijārah al-'amal*, characterized by the absence of valid *ahliyyah al-ada'*, the presence of *ikrah iqtisadi*, and the normalization of *zulm* within extractive economies. Accordingly, child labor in mining is conceptualized as a structural mafsadah that violates *al-maslahah al-daruriyyah*, particularly the protection of life, intellect, and future generations. The novelty of this study lies in integrating doctrinal legal analysis with *maqasid al-shari'ah*, *qawa'id fiqhiiyyah*, and socio-legal perspectives to reconceptualize labor exploitation as a systemic legal and ethical failure, thereby advancing a purpose-oriented framework for child protection.

Keywords: *child labor; ijārah; maqasid al-shari'ah; mining industries; socio-legal analysis*

ABSTRAK

Pekerja anak dalam industri pertambangan merepresentasikan titik temu yang krusial antara pekerjaan berbahaya, keterbatasan regulasi, dan tekanan sosial-ekonomi yang terstruktur, meskipun telah tersedia berbagai instrumen hukum internasional dan nasional yang komprehensif. Penelitian ini bertujuan untuk mengevaluasi secara kritis efektivitas perlindungan hukum terhadap eksploitasi tenaga kerja anak di sektor pertambangan serta merekonstruksinya melalui kerangka terpadu berbasis *maqasid al-shari'ah* dan *fiqh al-mu'āmalah*. Penelitian ini menggunakan metode hukum normatif dengan pendekatan sosio-legal, dengan menganalisis instrumen hukum internasional, peraturan perundang-undangan Indonesia, serta laporan institusional yang relevan. Hasil penelitian menunjukkan bahwa kerangka hukum seperti Konvensi Hak Anak (CRC) dan Konvensi ILO No. 182 telah secara tegas melarang pekerja anak dalam pekerjaan berbahaya, namun implementasinya masih belum efektif dalam konteks ekonomi informal dan sektor ekstraktif. Keberlangsungan pekerja anak tersebut didorong secara struktural oleh kemiskinan, lemahnya penegakan hukum, serta ketidaktransparanan rantai pasok, yang pada akhirnya menciptakan kesenjangan sistemik antara norma hukum dan realitas sosial. Relasi kerja tersebut dapat dipahami sebagai bentuk *ijārah al-'amal* yang cacat, ditandai oleh tidak terpenuhinya *ahliyyah al-ada'* (kecakapan hukum), adanya *ikrah iqtisadi* (paksaan ekonomi), serta normalisasi praktik *zulm* dalam ekonomi ekstraktif. Pekerja anak dalam pertambangan dikonseptualisasikan sebagai *mafsadah struktural* yang melanggar *al-maslahah al-daruriyyah*, khususnya dalam aspek perlindungan jiwa, akal, dan keberlanjutan generasi. Kebaruan penelitian ini terletak pada integrasi antara analisis hukum doktrinal dengan pendekatan *maqasid al-shari'ah*, *qawa'id fiqhiiyyah*, dan perspektif sosio-legal, sehingga menghasilkan rekonstruksi konseptual yang memandang eksploitasi tenaga kerja sebagai kegagalan sistemik hukum dan etika, sekaligus menawarkan kerangka perlindungan anak yang berorientasi pada tujuan (purpose-oriented framework).

Kata Kunci: *pekerja anak; ijārah; maqasid al-shari'ah; industri pertambangan; analisis sosio-legal*

INTRODUCTION

Child labour in mining represents one of the most acute manifestations of legal failure in contexts where economic necessity, regulatory weakness, and informal production systems converge. The latest joint estimates by the International Labour Organization (ILO) and UNICEF indicate that 138 million children were engaged in child labour globally in 2024, including approximately 54 million in hazardous work that threatens their health, safety, and development. While these figures are cross-sectoral, mining occupies a distinct legal and moral position due to the intensity of its risks. ILO standards consistently classify mining as a paradigmatic form of hazardous work, as it involves underground extraction, toxic exposure, excessive physical burden, and structurally unsafe environments. Earlier sector-specific estimates further indicate that around one million children are involved in mining and quarrying activities worldwide, particularly within artisanal and small-scale mining systems characterized by minimal regulatory oversight (Ainun et al., 2021; Khunaefi et al., 2022; Nisa, 2021). These conditions reveal that mining is not merely another sector of child labour, but a concentrated site where the limits of legal protection become most visible.

Existing scholarship has addressed this issue from multiple angles. Empirical studies have documented the severe physical, psychological, and developmental harms experienced by children in mining environments (Allan-Blitz et al., 2022; Bansah & Adonteng-Kissi, 2024; Landrigan et al., 2022; Schwartz et al., 2021), while legal analyses have highlighted weaknesses in enforcement and institutional coordination within child protection regimes (Amandha et al., 2022; Njieassam, 2022; Utari et al., 2023). Parallel to this, a growing body of literature has applied *maqasid al-shari'ah* as a normative framework for evaluating child welfare and labor protection in Indonesia (Habibi et al., 2024; Harun et al., 2024; Yusefri et al., 2024). However, these approaches largely remain either sector-neutral or normatively general. They tend to assess legal adequacy at a macro level without sufficiently engaging the specific structural conditions of high-risk industries such as mining. Moreover, *maqasid*-based studies often rely heavily on the fivefold protection framework (*hifz al-din, al-nafs, al-'aql, al-nasl, al-māl*) without integrating operational concepts from *uṣūl fiqh* and *fiqh al-mu'āmalah*, such as *ijārah, ahliyyah, gharar*, and *ikrāb* (Ilyas, 2020; Mohd et al., 2018; Ullah & Rafiq, 2021). As a result, child labor is frequently framed as a normative deviation rather than as a structurally embedded legal problem.

This study departs from previous works by situating child labor in mining within a more integrated analytical framework that combines positive law, *maqasid al-shari'ah*, and socio-legal analysis. It asks three interrelated questions: to what extent do existing international and Indonesian legal frameworks effectively regulate hazardous child labor in mining; why do these norms fail to operate in practice despite their formal clarity; and how can a *maqasid*-oriented approach—supplemented by *fiqh al-mu'āmalah* and *qawa'id fiqhiyyah*—offer a more coherent reconstruction of legal protection. These questions are grounded in a doctrinal reading of Article 32 of the Convention on the Rights of the Child, ILO Convention No. 182, and Indonesian legislation, particularly Law No. 13 of 2003 on Manpower and Law No. 35 of 2014 on Child Protection, while also engaging the structural realities of informal mining economies.

This article argues that child labor in mining should not be understood merely as a problem of non-compliance, but as a manifestation of structural *mafsadah* within a defective legal-economic order. From a *maqasid* perspective, such practices violate *al-maslahah al-daruriyyah*, particularly the protection of life (*hifẓ al-nafs*), intellect (*hifẓ al-'aql*), and lineage (*hifẓ al-nasl*). From a *fiqh al-mu'āmalah* perspective, the labor relation itself can be conceptualized as an invalid or defective form of *ijarah al-'amal*, due to the absence of valid *ahliyyah al-adā'*, the presence of *ikrah iqtisādī*, and the prevalence of *gharar* in working conditions and compensation. These conditions reflect a broader failure to apply fundamental legal principles such as *al-darar yuzāl* (harm must be removed) and *dar' al-mafāsīd muqaddam 'alā jalb al-masalib* (preventing harm takes precedence over obtaining benefit). Accordingly, the contribution of this study lies in moving beyond descriptive legal critique toward a purpose-oriented reconstruction of child protection, in which law is evaluated not only by its formal norms but by its capacity to realize justice within structurally unequal socio-economic conditions.

RESEARCH METHOD

The unit of analysis in this study comprises a multi-layered corpus of normative legal texts, Islamic legal doctrines, and socio-legal evidence relating to labor exploitation affecting children in hazardous sectors, particularly mining industries (Aljurjani et al., 2025; Khunaefi et al., 2022; Nisa, 2021). This corpus is deliberately constructed to capture not only the formal structure of positive law but also the underlying ethical and juridical principles embedded within *maqasid al-shari'ah*, *uṣūl fiqh*, and *fiqh al-mu'āmalah*. In this respect, the study does

not treat child labor merely as a regulatory issue but as a legal relationship (*‘alāqah ta’ aqdiyyah*) that may be assessed through concepts such as *ijārah al-’amal*, *abliyyah*, *ujrah*, and *ikrah*. This multi-dimensional approach is essential because child labor in mining operates simultaneously within formal legal regimes and informal socio-economic structures, requiring an analytical framework that bridges doctrinal and contextual dimensions.

Table 1. Data Corpus

No	Data Type	Corpus Example	Source
1	International Legal Sources	ILO Convention No. 138 & 182; CRC Article 32	International Labour Organization, United Nations
2	National Legislation	Law No. 13/2003 on Manpower; Law No. 35/2014 on Child Protection	Government of Indonesia
3	Islamic Legal Sources	Al-Shāḥībī’s <i>al-Muwāfaqāt</i> ; maqasid and uṣūl fiqh literature	Classical & contemporary academic works
4	Institutional Reports	Hazardous child labour in mining and extractive sectors	ILO, UNICEF
5	Scholarly Articles	Socio-legal and economic analyses of child labour	Scopus-indexed journals

This study employs a normative legal research design with a conceptual and socio-legal orientation (Saptaji et al., 2024; Utari et al., 2023). Unlike conventional maqasid-based studies that primarily rely on the fivefold protection framework (*al-masalib al-khamsah*), this research extends the analytical scope by incorporating qawā’id fiqhiyyah and fiqh al-mu’āmalah constructs to examine the validity and structure of labor relations. The normative dimension enables a systematic interpretation of legal texts governing child labor, while the socio-legal dimension situates these norms within the structural realities of informal mining economies. This integrated design allows the study to move beyond descriptive evaluation toward a more rigorous legal reconstruction of child protection.

The evidentiary base is organized into three categories: primary legal materials, secondary doctrinal materials, and institutional empirical sources. Primary materials include the Convention on the Rights of the Child (CRC), ILO Conventions No. 138 and No. 182, and Indonesian statutory law, particularly Law No. 13 of 2003 and Law No. 35 of 2014. Secondary materials consist of peer-reviewed scholarship on child labour, maqasid al-sharī’ah, and Islamic legal theory, including discussions on *maslahah mu’tabarah*, *maslahah*

mulghab, and *maslahah mursalah*. Institutional reports from the ILO and UNICEF are used to provide empirically grounded insights into hazardous child labor. This triangulation ensures that the analysis is anchored in legally authoritative and empirically credible sources.

Data collection was conducted through a systematic document analysis method, involving the identification, selection, and classification of relevant legal and scholarly materials (Lutfhiah et al., 2022; Samuel et al., 2025). Legal documents were obtained from official legal repositories, while academic sources were drawn from indexed databases such as Scopus and Web of Science. Institutional reports were selected based on authority, recency, and relevance to mining-related child labor. This approach is methodologically appropriate for normative legal research, as it allows for the comprehensive mapping of legal norms and theoretical constructs without reliance on primary field data. At the same time, it ensures that the analysis remains grounded in verifiable and authoritative sources.

The data analysis proceeds through three interrelated stages: doctrinal legal analysis, maqasid evaluation, and socio-legal interpretation. First, doctrinal analysis identifies normative gaps, inconsistencies, and limitations within existing legal frameworks. Second, maqasid analysis evaluates these norms against the hierarchy of *al-masalih*, particularly *al-maslahah al-daruriyah*, while also applying key legal maxims such as *al-darar yuzal* (harm must be eliminated) and *dar' al-mafasid muqaddam 'ala jalb al-masalih* (preventing harm takes precedence over securing benefit). Third, the study incorporates fiqh al-mu'āmalah analysis by examining child labor relations as potentially defective forms of *ijārah al-'amal*, focusing on issues of *ahliyyah al-adā'*, *gharar*, and *ikrah iqtisādī*. Finally, socio-legal interpretation contextualizes these findings within broader economic structures, including informality, poverty, and supply-chain opacity. This layered analytical framework enables a comprehensive understanding of child labor in mining as both a legal violation and a form of structural mafsadah, thereby supporting a more holistic reconstruction of child protection frameworks.

FINDINGS AND DISCUSSION

Normative Gaps in Legal Protection Frameworks

The findings reveal that the legal protection framework governing labor exploitation affecting children in mining industries is characterized not by the absence of norms, but by a dense yet fragmented regulatory architecture operating across international and national levels. International instruments such as the Convention on the Rights of the Child (CRC)

and ILO Conventions No. 138 and 182 establish a strong and unequivocal prohibition against hazardous child labor. Similarly, Indonesian legislation—particularly Law No. 13 of 2003 on Manpower and Law No. 35 of 2014 on Child Protection—articulates explicit restrictions and protective mandates. However, when these frameworks are examined in their operational context, a consistent pattern emerges: the normative structure is robust in principle yet limited in its capacity to produce effective protection.

In terms of doctrinal perspective, this condition reflects a fundamental tension between normative sufficiency and operational deficiency (Amandha et al., 2022; Bahy et al., 2024; Njieassam, 2022). Article 32 of the CRC imposes a clear obligation on states to protect children from economic exploitation and hazardous work, while ILO Convention No. 182 classifies mining as one of the worst forms of child labor requiring immediate elimination. Yet the continued presence of children in mining environments indicates that these norms fail to translate into enforceable safeguards. This disjunction may be interpreted through the lens of *qawā'id fiqhiyyah*, particularly the principle *al-darar yuzāl* (harm must be eliminated). The persistence of hazardous child labor suggests not merely a failure of compliance, but a failure to operationalize the legal obligation to remove harm, thereby transforming clear prohibitions into largely declarative norms.

At the national level, Indonesia has already established a strong legal baseline. Article 68 of Law No. 13 of 2003 explicitly states that “*entrepreneurs are prohibited from employing children,*” while the broader child protection regime mandates the safeguarding of children’s welfare and development. However, the effectiveness of these norms is structurally constrained by the nature of labor relations in mining sectors. In artisanal and small-scale mining, labor is often organized through informal, family-based arrangements, where children are not legally recognized as workers but socially constructed as “*helpers.*” Such arrangements obscure the underlying contractual relation (*ijārah al-'amal*) and conceal fundamental defects within it, including the absence of valid *ahliyyah al-ada'* (legal capacity) and the presence of implicit *ikrah iqtisādī* (economic coercion) (Arpangi et al., 2025; Fadhilah & Pitrotussaadah, 2025; Kunarti et al., 2024). Consequently, the legal system fails to recognize and regulate what is, in substance, a defective and exploitative labor relation.

This regulatory limitation is further intensified by territorial and institutional constraints. Labor inspection systems—central to the enforcement of statutory protections—are significantly weakened in remote mining areas, where state presence is limited. This produces an access-to-remedy gap, as enforcement mechanisms rely heavily on

reporting and institutional accessibility, both of which are structurally absent in vulnerable communities. This condition contradicts the principle *dar' al-mafāsīd muqaddam 'alā jalb al-masalib*, as the legal system fails to prioritize the prevention of harm in contexts where harm is both foreseeable and recurrent (Ilyas, 2020; Mohd et al., 2018; Ullah & Rafiq, 2021).

Moreover, the diffusion of responsibility across informal and opaque supply chains further undermines accountability. Existing legal frameworks tend to focus on direct employment relationships, while mining economies often operate through multi-layered networks involving intermediaries, informal actors, and unregulated transactions (Friday, 2016; Metta et al., 2023; Teku, 2025). This creates a structural gap in which economic benefits are distributed across the chain, while legal responsibility remains fragmented. In such conditions, exploitation is sustained not through explicit legal violations alone, but through systemic invisibility and regulatory fragmentation.

Taken together, these findings demonstrate that the problem of child labor in mining is not primarily normative but structural. The persistence of hazardous labor despite strong legal prohibitions reflects what can be conceptualized as a normative–implementation disjunction, where legal density fails to produce protective effectiveness. Within a *maqasid al-shari'ah* framework, this condition constitutes a form of systemic or structural mafsadah, in which the objectives of protecting life (*hifẓ al-nafs*), intellect (*hifẓ al-'aql*), and lineage (*hifẓ al-nasl*) are simultaneously undermined (Njieassam, 2022; Saptaji et al., 2024; Utari et al., 2023). More fundamentally, the failure to regulate defective labor relations rooted in *ijarah ghayr ṣahihah* (invalid contractual structures) reveals that the gap is not only legal but also epistemic. It reflects a misalignment between the formal structure of law and the socio-economic realities it seeks to govern, thereby necessitating a shift from rule-based prohibition toward a more integrated and purpose-oriented framework of child protection.

Child Labor as Structural Mafsadah: A Maqasid al-Shari'ah Evaluation

Building upon the identification of normative gaps in legal protection frameworks, this section advances the analysis by repositioning labor exploitation affecting children in mining industries within an integrated maqasid al-shari'ah and fiqh al-mu'amalah framework. Rather than treating such labor merely as a violation of statutory provisions, this study conceptualizes it as a form of structural mafsadah—that is, a systemic and reproduced condition of harm that undermines the fundamental objectives of Islamic law (*maqasid al-shari'ah*). This conceptualization is grounded not only in international legal standards, such

as Article 32(1) of the Convention on the Rights of the Child (CRC) and ILO Convention No. 182, but also in Islamic legal principles governing harm, contractual validity, and economic justice. In this sense, the issue is not limited to illegality, but extends to the existence of defective socio-economic relations that continuously generate harm.

The contradiction becomes particularly visible at the level of *hifz al-nafs* (protection of life), where the legal category of hazardous work corresponds directly to the material realities of mining. Article 3(d) of ILO Convention No. 182 defines hazardous child labor as work “likely to harm the health, safety or morals of children,” including underground work, exposure to toxic substances, and physically dangerous environments. These elements are not incidental to mining but constitute its operational core, especially within artisanal and small-scale mining. They represent not episodic harm but a *mafsadah mubaqqaqah* (actual and realized harm) (Habibi et al., 2024; Harun et al., 2024; Yusefri et al., 2024). The persistence of children in such environments reflects a failure to implement the juristic maxim *al-darar yuzal*, as harm is neither prevented nor removed, but instead normalized within production processes.

Based on *fiqh al-mu’ amalah* perspective, this condition may be further analyzed through the concept of *ijarah al-’amal* (labor contract) (Fadhilah & Pitrotussaadah, 2025; Kunarti et al., 2024). In principle, a valid *ijarah* requires clear contractual terms, just compensation (*ujrah*), and the legal capacity (*ahliyyah al-adā’*) of the contracting parties. In the context of child labor in mining, these conditions are systematically absent. Children, by definition, possess limited or incomplete legal capacity, rendering their participation in contractual labor relations inherently problematic. Moreover, the presence of economic coercion (*ikrah iqtisādī*), driven by poverty and household dependency, undermines the element of voluntary consent (*riḍā*), while unsafe and unpredictable working conditions introduce significant *gharar* (uncertainty) into the labor relation. As such, the labor arrangement cannot be regarded as a valid *ijarah sahibah*, but rather as a defective or invalid contractual structure (*ijarah ghayr ṣahīḥah*), thereby constituting not only a legal violation but also a form of *ẓulm* (injustice).

The same structural pattern extends to *hifz al-’aql* (protection of intellect). Article 32(1) of the CRC explicitly prohibits work that interferes with a child’s education or harms their mental and developmental well-being. In mining contexts, however, labor participation often results in school absenteeism, early dropout, and diminished cognitive capacity due to physical exhaustion and prolonged exposure to hazardous environments. This represents a violation of *al-maslahah al-daruriyah*, as the preservation of intellectual development is a

fundamental condition for human flourishing (Ilyas, 2020; Mohd et al., 2018). Importantly, the harm here is not only immediate but cumulative, constituting what may be described as *mafsadah muta'addiyah* (transmitted and expanding harm), as its effects extend beyond the present into future life trajectories.

The dimension of *hifz al-nasl* (protection of lineage and future generation) further reveals the intergenerational nature of this harm. Legal frameworks at both international and national levels are premised on the protection of children as future social actors. However, the integration of children into hazardous labor systems disrupts this objective by limiting their educational attainment and future economic opportunities. This condition reproduces cycles of poverty and vulnerability, thereby constituting an intergenerational *mafsadah*. In this context, economic justifications for child labor—often framed as necessary for household survival—must be critically assessed. These justifications fall within the category of *maslahah mulghabah*, as they contradict established legal prohibitions and fail to meet the criteria of legitimate benefit (Aljurjani et al., 2025; Ullah & Rafiq, 2021).

The dimension of *hifz al-mal* (protection of just economic order) highlights the broader structural context in which child labor is embedded. While legal frameworks prohibit hazardous child labor, informal mining economies continue to extract value from children's vulnerability. This reflects a violation of the principle that wealth must be acquired through lawful and non-destructive means (Arpangi et al., 2025; Baskoro & Mada, 2025). Moreover, the fragmentation of responsibility across supply chains—where employers, intermediaries, and market actors operate without clear accountability—creates a governance *mafsadah*. In such systems, economic benefit is preserved while harm is externalized to the most vulnerable actors, namely children. This condition is incompatible with the *maqasid* principle that economic activity must uphold justice and prevent harm.

These dimensions confirm that child labor in mining constitutes a compound and structural *mafsadah*, characterized by overlapping violations of life, intellect, lineage, wealth, and human dignity (*karāmah insāniyyah*). The harm is not incidental but systemic, produced by the interaction of poverty, informality, weak enforcement, and extractive economic incentives. In this sense, the persistence of child labor reflects not merely a failure of legal compliance, but a deeper failure to realize the ethical and purposive foundations of law. By integrating *maqasid al-shari'ah* with *fiqh al-mu'amalah* and socio-legal analysis, this study advances a more comprehensive framework that moves beyond formal prohibition toward a substantive conception of justice and protection.

The Law–Reality Divide: Socio-Economic Drivers of Child Labor in Mining

While previous findings have demonstrated the existence of robust legal norms and their limited operational effectiveness, this section deepens the analysis by examining the law–reality divide through the socio-economic structures that sustain labor exploitation affecting children in mining industries. At the international level, Article 32(1) of the Convention on the Rights of the Child (CRC) establishes a clear prohibition against economic exploitation and hazardous work, a position reinforced by ILO Convention No. 182, which classifies mining as one of the worst forms of child labour. Nevertheless, global evidence—indicating that approximately 138 million children remain in child labour, including 54 million in hazardous conditions—demonstrates a persistent gap between normative prohibition and empirical reality. This gap suggests that legal norms, however robust, are insufficient when they are not embedded within the socio-economic conditions they seek to regulate.

At the national level, Indonesia has codified strong protective provisions. Article 68 of Law No. 13 of 2003 prohibits the employment of children, while Law No. 35 of 2014 guarantees protection from exploitation and ensures children’s development. However, these norms encounter significant limitations in informal mining contexts, where labor relations are not structured through formal contractual arrangements but through kinship, dependency, and survival-based participation. This condition obscures the underlying nature of the labor relation as a form of *ijārah al-ʿamal* (Fadhilah & Pitrotussaadah, 2025; Kunarti et al., 2024). In such contexts, the absence of formal recognition does not eliminate the legal character of the relation; rather, it conceals a fundamentally defective contract, characterized by the lack of *ahliyyah al-adaʿ* and the presence of implicit *ikerāh iqtisādī*. What appears socially as familial assistance is, in substance, a coerced economic arrangement lacking the essential elements of valid contractual consent.

This condition is further reinforced by the role of social norms and customary practices within mining communities. The normalization of child participation in labor reflects what may be understood through the maxim *al-ʿādah muhakkamah* (custom is legally recognized), yet such recognition is not absolute. In uṣūl fiqh, custom is only valid insofar as it does not contradict established legal principles. In the present context, the normalization of child labor constitutes a form of *ʿādah fāsidah* (corrupt custom), as it directly contradicts both positive law and the maqāsid al-sharīʿah (Barakzaei & Mohammadi, 2024; Nuroniyah et al., 2025).

Thus, the persistence of child labor is not merely a legal gap but a socio-normative condition in which unlawful practices are culturally internalized and thereby insulated from legal intervention.

The developmental dimension of this law–reality divide further illustrates the inadequacy of formal legal protection. Although Article 32(1) of the CRC explicitly prohibits work that interferes with education, empirical evidence demonstrates high levels of school absenteeism and dropout among children engaged in mining. From an Islamic legal perspective, this reflects a failure to secure *hifz al-aql*, not only at the level of prohibition but at the level of capability (Ilyas, 2020; Mohd et al., 2018; Ullah & Rafiq, 2021). The harm is compounded by working conditions characterized by fatigue, uncertainty, and exposure to danger, all of which introduce elements of *gharar* into the child’s life trajectory. In this sense, the law fails not only to prevent harm but also to preserve the conditions necessary for intellectual and human development.

Territorial and institutional limitations further deepen this divide. Enforcement mechanisms, particularly labor inspection systems, are significantly weakened in remote mining areas, resulting in minimal state presence. This produces an access-to-remedy gap, where violations remain unreported and unaddressed. From a *maqasid* perspective, such conditions reflect a failure to operationalize the principle *al-darar yuzal*, as harm is allowed to persist due to institutional incapacity (Habibi et al., 2024; Yusefri et al., 2024). Moreover, the reliance on complaint-based enforcement assumes a level of agency and legal awareness that is absent among vulnerable populations, particularly children who lack both *abliyyah al-ada’* and the practical means to assert their rights.

At a deeper structural level, the law–reality divide is sustained by economic systems that normalize exploitation. Poverty, limited access to welfare, and insecure livelihoods create conditions in which child labor becomes economically rational, even if legally prohibited. This condition may be understood as a form of *ikrah ghayr mubashir* (indirect coercion), where individuals are compelled by structural conditions rather than explicit force (Arpangi et al., 2025; Fadhilah & Pitrotussaadah, 2025). Such coercion undermines the validity of any apparent consent and transforms labor participation into a necessity rather than a choice. In addition, the opacity of mining supply chains disperses responsibility across multiple actors, creating a situation in which economic benefit is preserved while accountability is diffused. This results in a systemic form of *zulm*, in which harm is embedded within the structure of production rather than confined to individual actors.

These findings confirm that the persistence of child labor in mining is not the result of normative deficiency but of structural incompatibility between legal frameworks and socio-economic realities. The resulting law–reality divide is therefore not incidental but systemic, produced by the interaction of informality, poverty, weak enforcement, and cultural normalization. In terms of a *maqasid al-shari'ah*, this condition represents a continuation of structural mafsadah, where the objectives of law are undermined not through absence but through misalignment (Habibi et al., 2024; Yusefri et al., 2024). Accordingly, effective child protection requires not only legal prohibition but also a reconstruction of the socio-economic and institutional conditions that enable exploitation, ensuring that legal norms are capable of functioning within the realities they seek to govern.

Discussion

The findings of this study indicate that the legal regime governing labor exploitation affecting children in mining does not suffer from normative deficiency but from a fundamental failure of realization. International instruments such as the Convention on the Rights of the Child and ILO Convention No. 182, as well as national provisions including Article 68 of Law No. 13 of 2003, already articulate clear prohibitions against hazardous child labour. However, the persistence of such practices demonstrates that legal clarity alone does not guarantee legal effectiveness (Jayuska et al., 2025). What emerges is a structural disjunction in which law operates as a normative statement rather than as an effective mechanism of protection. This suggests that the problem is not located in the absence of regulation, but in the inability of legal frameworks to function within the socio-economic environments they seek to govern.

This disjunction reflects a deeper incompatibility between legal design and socio-economic reality. Labour law is typically constructed upon assumptions of formal employment, identifiable contractual relations, and enforceable obligations. Yet in mining contexts, labour is embedded within informal, dispersed, and often family-based systems, where contractual visibility is minimal. From a *fiqh al-mu'amalah* perspective, such conditions obscure the existence of *ijarah al-'amal* relations and conceal their structural defects (Fadhilah & Pitrotussaadah, 2025; Kunarti et al., 2024), including the absence of valid *abliyyah al-ada'* and the presence of implicit *ikrah iqtisadi*. In this sense, the persistence of child labour is not merely a failure of enforcement but a manifestation of structurally invalid contractual relations that remain legally unrecognized.

The maqasid al-shari'ah framework further reveals that this legal failure is simultaneously a failure of purpose. Existing legal norms already aim to protect children from harm, yet their inability to prevent hazardous labour indicates a breakdown in achieving *al-maslahah al-daruriyah*, particularly the protection of life and intellect (Amandha et al., 2022; Bahy et al., 2024; Utari et al., 2023). By conceptualizing child labour in mining as a form of structural mafsadah, the analysis shifts the focus from isolated violations to sustained and multidimensional harm. This reconceptualization is significant because it moves beyond conventional maqasid applications that merely assess compliance, toward an evaluative framework that examines whether legal systems are capable of realizing their intended ethical objectives.

At a structural level, this condition is sustained by the interaction between economic incentives and fragmented governance systems. Informal mining economies generate demand for flexible and low-cost labour, while regulatory institutions remain divided across multiple sectors, including labour law, social welfare, and child protection. The lack of institutional integration weakens accountability and allows exploitative practices to persist. From an usul fiqh perspective, this reflects a failure to operationalize the maxim *dar' al-mafasid muqaddam 'ala jalb al-masalih*, as legal systems prioritize economic continuity over the systematic prevention of harm (Aljurjani et al., 2025; Ilyas, 2020; Ullah & Rafiq, 2021). Consequently, the persistence of child labour cannot be understood solely as a legal violation, but as a structural outcome of misaligned institutional priorities.

The socio-economic dimension further clarifies that legal prohibition alone is insufficient to eliminate child labour in mining. In contexts characterized by poverty, limited educational access, and weak social protection, children's participation in labour is often framed as an economic necessity rather than a legal transgression. From an Islamic legal perspective, such conditions constitute a form of *ikrah ghayr mubashir*, where coercion arises not from direct force but from structural constraints (Arpangi et al., 2025; Fadhilah & Pitrotussaadah, 2025). This undermines the validity of any apparent consent and reinforces the characterization of child labour as a defective form of *ijarah*. Without addressing these underlying conditions, legal frameworks risk functioning reactively, intervening after harm occurs rather than preventing its structural causes.

These findings collectively indicate that the law–reality divide in child labour is not incidental but systemic. Informality, weak enforcement, cultural normalization, and opaque supply chains create a configuration in which exploitation becomes both economically

rational and socially tolerated. This condition cannot be resolved through incremental legal reform alone. Instead, it requires a reorientation of legal frameworks toward a more integrated model that combines normative prohibition with socio-economic intervention and ethical accountability. By integrating *maqasid al-shari'ah* with *fiqh al-mu'amalah* and socio-legal analysis, this study contributes a more comprehensive approach to child protection—one that evaluates law not only in terms of its formal norms but also in terms of its capacity to function within the realities it seeks to regulate. In this sense, the originality of this study lies in repositioning child labour in mining as a problem of structural legal failure, rather than merely a question of regulatory adequacy.

CONCLUSION

This study establishes that the persistence of labor exploitation affecting children in mining industries stems not from a deficit of legal norms, but from a structural failure in their realization within informal and extractive economic systems. By integrating international legal standards with a *maqasid al-shari'ah* and *fiqh al-mu'amalah* framework, the research reconceptualizes child labour as a form of structural mafsadah, characterized by defective labour relations (*ijarah ghayr sahibah*), impaired legal capacity (*abliyyah*), and systemic coercion (*ikrah iqtisadi*). The principal contribution lies in advancing a purpose-oriented analytical model that moves beyond compliance-based evaluation toward assessing whether legal systems effectively secure *al-maslahah al-daruriyah*, thereby offering a more rigorous framework for evaluating child protection regimes.

Despite these contributions, the study is limited by its reliance on normative and secondary data, which cannot fully capture the complexity of socio-economic interactions within mining communities. Institutional reports, while authoritative, remain insufficient to account for localized practices and informal labour dynamics. Future research should therefore incorporate field-based socio-legal inquiry in artisanal and small-scale mining contexts to examine how legal norms, coercion, and customary practices interact at the community level. Further work is also required to operationalize *maqasid*-based frameworks into concrete regulatory and welfare mechanisms, ensuring that ethical principles are translated into enforceable policies capable of addressing the structural drivers of exploitation.

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