

# Special Education in Islamic Law Perspective

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**Keywords:** Children with Special Needs, Islamic Education, Islamic Law.

**Abstract:** This article aims to describe the research of studies related to the right of education for children with special needs in the perspective of Islamic law. The study is done by reviewing literature sources of Islamic law, namely the Qur'an and Hadith, and the sources of the results of research published in scientific journals. The lay notion of the children with special needs should be separated from taklif law and empowerment. Therefore, the role of Islamic law in internalizing children with special needs is necessary to change the paradigm of negative community against them. Children with special needs in Islamic law are children who have physical disabilities or mental that generally impacts on their weak mind potential. However, Islamic law sees that these conditions do not abort their rights and obligations as Muslims in particular, and as human beings in general.

## 1 INTRODUCTION

Research on children with special needs in their rights and obligations in getting an education is a consensus in the United Nations program on Education for All, which of course implicitly includes the obligation to meet the educational rights of children with special needs. However, the program is already contained in the legislation in each member state of the UN as an arm of the UN program particularly in the developing countries such as Indonesia is still constrained by the culture of the people still regard the children with special needs as a madman or a child of a curse. Therefore, they are still less friendly with them. On the other hand, education for Children with Special Needs is a necessity as the portion that should exist in the present civilization. Thus, it is a cultural issue that must be touched in order to revise their understanding. In connection with it. Islam as the majority religion must be studied on how education for Children with Special Needs in Islamic legal point of view, is seen as an effective and applicable way to internalize the identity of Children with Special Needs in social institutions of society.

There are two main problems investigated in this present study. The first is the problem of unfriendly culture of the people to the children with special needs so they could not accommodate education for children with special needs programs optimally. The second is the concept of Islamic law concerning

education children with special needs which becomes the main focus in introducing them from Islamic point of view.

Furthermore, in relation to the above description, the references used in this study can be categorized in two forms, namely related to theories of the flexible and futuristic Islamic law and journals related to research.

Associated with the theories of Islamic law, this research will be directed at issues *mutlaq* and *muqayyad*, general and specific as rules that can be used to implement the common arguments become particularly relevant to what will be discussed (Abu Zahrah, n.d.). In addition, the issue of tasyri (the journey of history of the formation of Islamic law), cannot be excluded because it is closely related to the cause of the emergence of a law. Tasyri is a long-running picture of an implementation of law from the time of the Prophet's dissolution to his death. After that, ulama (scholars) formulate to develop law by relying on what has been made its foundation by Rasulullah SAW. (Rachmat Syafe'i, t.th.:99) In the process of tasyri, the Prophet through his hadith issued by Muslims where Islam is divided into 3 pillars (muslim, mukmin and muhsin) shows the obligation of Muslims who must be productive both personally and group to accommodate the problem into collective benefits as expected (Ibn Taimiyah, 1392 H : 2).

As for the research journals referenced is what was written by Salaymeh (2015) in his study of *Islamic Law*, that Islamic law provisionally assessed by the general public as a frightening figure, is actually a law that is flexible and is even able to accommodate diversity. Even al-Karasneh and Saleh (2010) in their study *Islamic perspective of creativity: A models for teachers of social studies as leaders* asserted that, learning based on The Qur'an could encourage optimism teachers to be more innovative and creative in developing learning, in addition will be a blessing because The Qur'an will continue to push the boundaries of creativity that meet Sharia. It is reaffirmed by Jaafar, et al. (2012) that teachers should act as *murabbi* (a guide) not just a knowledge transfer. Such teachers must develop properties of optimism to build a strong relationship between two parties. If so, where teachers can build the relationship with their students, then education meets the criteria as a means to inherit values. Related to this, Rafe'Zou'bi (2015) explains that educational science becomes a major component to inherit the quality and quantity of good values to the products and services. This occurs because Quran-based learning will touch the spirituality of teachers and learners. Dajani (2015) explained that The Qur'an-based learning will encourage spiritual level of learners to concentrate more in learning. However, all the results of these studies are still a general nature and not directly touch on key issues "of Special Education in the perspective of Islamic law." Therefore, this research will be directed at, is there the argument directly specifically, either from the Qur'an and Hadith as the sources of Islamic law, which touches directly on their education? This is the empty gap which is still considered as no specific research on this subject from the study of Islamic Law. This study will put forward and develop the theory of *'am* (general) and *khash* (specific), *muthlaq* (absolute) and *muqayyad*. After that, all the general propositions will be applicable by themselves.

From the foregoing, it is clear that the initial studies are not yet led to specific special education that is touched by Islamic law. Studies that simply state that neither the teacher nor learners should put forward religious life with The Qur'an-based learning, which in turn will be psychologically controlling in creating educative situation.

Then, as previously described, it is clear that there is an empty space on the small number of people examined from the perspective of Islamic law. Therefore, this study is urgently needed for two reasons: *first* that Islam as the majority turned out to speak directly about the special education certainly

break the assumption that the children with special needs are unnecessary studied and empowered. *Second*, the need for research that Islam also had a concept that is more straightforward about the children with special needs, which in turn will help to realize education for all which is led by the United Nations through its member countries in the world through a religious approach to the method of formation of social regulations.

## 2 METHOD

This study used qualitative approach with literature study method (library research), or in other terms this research used content analysis. This method is needed to explain the concepts of the principles of Islamic law in this case relating to how the actual legal status of children with special needs in the field of education, which in turn can be directed to the Special Education issues in Islamic law.

The approach used in the process *istidlâl* and *istinbath al-Ahkam* through deductive and inductive approach as the tools in analyzing the content of this research.

Because this study is literature, in addition to The Qur'an and Hadith, then the source of the data are divided into the research result books and journals as attached in the Bibliography.

## 3 RESULTS AND DISCUSSION

As pointed out in advance that in general this study has not been widely studied by researchers, where in the Islamic world in general has not been much researched children with special needs in perspective of Islamic law while culturally, the general public still see that the children with special needs are a madman or a result of the curse that is detached from nature as beings learn that apart from the obligation to learn and being learned. Therefore, due to the lack of Islamic legal research on these Special Needs Children, most of the Muslim countries, culturally, have little regard for their rights in education. The evidences are Salend (2011) said that inclusion is the sense of openness that should lead to a diversity of students, family, teachers and even the membership of the community to jointly create schools and other social institutions based on acceptance. Correspondingly, Frederickson and Tony Cline (2009) emphasize their sense of community and diversity. Al-Khateeb et al. (2016) state that there are 42 studies related to the inclusion of children with

developmental disabilities in the Arab countries which have been published. More than two-thirds of these studies were conducted in the United Arab Emirates (UAE), Jordan, and Saudi Arabia, with the results of this study showed that relatively little has been done. Tekin (2015) stated that for their own legal education for children with special needs is still being argued. In fact, they include countries that are still in the stage of developing this education, therefore, required the preparation of teachers (Lari, 1992).

Based on above explanation, few studies were conducted based on Islamic law for Muslim countries (Keller, Al-Hendawi, & Abuelhassan, 2016). Even in this case, Islamic schools in the United States did not have programs in support of Children with Special Needs (Al-Lawati & Hunsaker, 2007). However, the actual views that are based on research results are generally associated with successful learning based on the interaction with the Qur'an or the minimum limit make religion as a basis for learning has been a lot done. Thus, as stated by Hasan & Zailaini (2013), this study aimed to find the reality of completion The Qur'an in its role in Islamic education. Likewise related to their health care, Isgandarova (2012) stated that Muslim scholars also maintained for the health based on the Qur'an. Likewise, Farouk, et.al. (2015) see that food in the process of Islamic education is considerable concern.

In short, it can be concluded that the awareness to make the Qur'an in particular and Islam in general used in the learning process has been found in some studies. However, when Islamic education was linked to special education, this is nothing new to the world of Islam. There are two benefits when the studies addressed how Special Education in Islam. Firstly, Islam as the majority religion will teach people that

religion has the concept of didactic and methodical in handling them. Secondly, through direct religious approach, the internalization of religious values to the society will change their perspective towards children with special needs from being friendly to receiving and being sympathetic so that learning and empowerment programs would be well managed.

In the perspective of Islamic law, children with special needs have similar position in law. They have the same rights and obligations to get education. The difference lies in the method and approach of teaching the students. Therefore, Ashaari, et.al. (2012) believes that Islam espoused by one fifth of the world's population needs to be studied to address methodologies and approaches that are sustainably relevance as a response to globalization. In regard to this, started from 1970, *Ulama* have seriously discuss this failure and have advised many plans to address the weaknesses, one of which encourages a variety of ways to improve teaching and learning Islamic studies. They were touched with the objectives of sharia called as *maqashid sharia*. Maqashid Sharia is a noble goal to protect humans without discrimination (Abdullah, 2012). In connection with that, Sulayman (2014) states that they are entitled and obliged to obtain moral.

Therefore, back to the issue in advance that the need for immediate review of this law of educating of children with special needs from the perspective of The Qur'an and the hadith directly so culturally internalization with do understanding of this religion approach can be realized.

In The Qur'an, the following conversation about children with special needs rights and obligations in education and empowerment can be seen in the following table:

Table 1: Name of people with special needs in the Quran.

NO.	Name / Academic Term	Name in the Qur'an Literature
1	Mental retarded	سفيه (QS. 2 : 282 )
2	Mental Disabilities / Autis, etc.	لايستطيع ان يمشي (QS.2 : 282)
3	Deaf	صم ( QS. 2:171)
4	Speech impaired	بكم (Qs. 17 : 97)
5	Blind	أعمى (Qs. 80 : 2), الأبرص و الأكمه (QS.3 : 49)
6	Physical disability	ضعيف (Qs.2: 282), الأعرج (QS.24 :61)

Meanwhile in Hadith:

عَنْ أَنَسِ أَنَّ امْرَأَةً كَانَتْ فِي عَقْلِهَا شَيْءٌ فَقَالَتْ يَا رَسُولَ اللَّهِ إِنَّ لِي إِلَيْكَ  
« يَا أُمَّ فُلَانِ انظري أَيْ السُّبُكَةِ ثُبُتَتْ حَتَّى  
« ففُخِّلَا مَعَهَا فِي بَعْضِ الطَّرِيقِ حَتَّى فَرَّغَتْ مِنْ حَاجَتِهَا (أَخْرَجَهُ مُسْلِمٌ)

“It was narrated that a woman with special needs expressed in Rasulullah Saw that, O Messenger of Allah! I have need of you. He replied, O ummu Fulan, consider what your confusion became, and please what you want that I will meet your needs. Then the

prophet managed to take her to some streets until it met their needs. (Hadith issued by Muslim).

As for the hadith, the Prophet said:

: عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ : عَنْ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ :  
عَنِ الْمَجْنُونِ حَتَّى يَبْرَأَ، أَوْ يَعْقِلَ (أَخْرَجَهُ أَحْمَدُ)

“Pen is lifted from three: the sleeper wakes up, and the child until he grows, and the insane until he recovers, or unreasonable” (Hadith issued by Ahmad).

This hadith talked about the loss of law of three groups of people: first, the insane until he recovers, two people sleeping until he wakes up and the third is a child until he is *baligh*. However, in general, people always rely children with special needs on one of the above three conditions for the issue of his wits. Therefore, as outlined in advance, sense (Aql) in the Hadith above should be interpreted as consciousness by which man can be aware to understand. More sense (Aql) of meaning in the Qur'an can be seen in some of the following verses, which are in QS.2: 164, QS. 29:63, QS.22: 46.

إِنَّ فِي خَلْقِ السَّمَاوَاتِ وَالْأَرْضِ وَاخْتِلَافِ اللَّيْلِ وَالنَّهَارِ وَالْمَلَائِكَةِ الَّتِي تَجْرِي فِي  
الْبُحْرِ يَأْتِيَنَّ النَّاسَ وَمَا أَنْزَلَ اللَّهُ مِنَ السَّمَاءِ مِنْ مَاءٍ فَأَحْيَا بِهِ الْأَرْضَ بَعْدَ مَوْتِهَا وَبَثَّ  
فِيهَا مِنْ كُلِّ دَابَّةٍ وَتَصْرِيفِ الرِّيَّاحِ وَالسَّحَابِ الْمُسَخَّرِ بَيْنَ السَّمَاءِ وَالْأَرْضِ لآيَاتٍ لِقَوْمٍ  
يَعْقِلُونَ (164)

“Behold! In the creation of the heavens and the earth; In the alternation of the night and the day; In the sailing of the ships through the ocean for the profit of mankind; In the rain which Allah Sends down from the skies, and the life which He gives therewith to an earth that is dead; In the beasts of all kinds that He scatters through the earth; In the change of the winds, and the clouds which They Trail like their slaves between the sky and the earth;- (Here) indeed are Signs for a people that are wise.” (QS.2:164).

وَلَمَّا سَأَلْتَهُمْ مَنْ أَنْزَلَ مِنَ السَّمَاءِ مَاءً فَأَحْيَا بِهِ الْأَرْضَ مِنْ بَعْدِ مَوْتِهَا يَقُولُونَ اللَّهُ  
قُلِ الْحَمْدُ لِلَّهِ بَلْ أَكْثَرُهُمْ لَا يَعْقِلُونَ (63)

“And if indeed Thou ask them who it is that Sends down rain from the sky, and gives life therewith to the earth after its death, they will certainly reply, "(Allah)!" say, "Praise be to Allah." but Most of them understand not.” (QS.29:63).

أَقْلَمَ يَسِيرُوا فِي الْأَرْضِ فَتَكُونَ لَهُمْ قُلُوبٌ يَعْقِلُونَ بِمَا أَوْادَانِ يَسْمَعُونَ  
بِمَا فَافَتْهَا لَا تَعْمَى الْأَبْصَارُ وَلَكِنْ تَعْمَى الْقُلُوبُ الَّتِي فِي الصُّدُورِ (46)

“Do they not travel through the land, so that their hearts (and minds) may thus learn wisdom and their ears may thus learn to hear? Truly it is not their eyes that are blind, but their hearts which are in their breasts.” (QS.22:46).

From the verses above, sense (*aql*) in the Qur'an is not one organ in the human body so that he can understand, but more than that, the sense must be defined as consciousness. This sense (*aql*), corresponding with what is presented Iqbal. For him, Intellect must be defined with a heart which can understand reality and knowledge are essential. Therefore, all the sensory reality should be subject to this essential knowledge (Bilgrame, 1982). In conjunction with this, the awareness it can be divided into two, namely the awareness that relies on brain development which was then called the consciousness mechanic by Iqbal called the awareness of sensory, and the second is the awareness *ruhiyah* which is based on clarity of his heart that kept Forged. In connection with this, the awareness *ruhiyah* is a supervising mechanical consciousness. Because of that, people sleeping, people are crazy and children, they still have a sense in terms of his brain is still running as a container of consciousness while it is being crushed (not optimal). People who sleep, he dissolves in his sleeping so crushed consciousness. While a madman, he was soluble in an uncontrolled emotions so crushed his consciousness. As for the little ones are those who were proceeding up the consciousness bit by bit along with the development of his brain into a container of consciousness that continues to grow with it.

From the above description, children with special needs are not madmen, but they are those whose brain development was hampered. Thus, a difference in children with special needs with madmen is for children with special needs disturbed his hardware while madman disturbed his software. Therefore, the pattern on their education must be preceded the physical therapy in addition to mental therapy.

From the above description, children with special needs are not included in what is called the Hadith issued by Ahmad above. The Prophet gives them special attention and involved them in activities of daily life. This was seen when he educates and galvanizes Abdullah ibn Umm Maktum who was a blind man to pray on time and always become “the muezzin” at every entrance prayer time.

## 4 CONCLUSION

Children with special needs in Islamic law are children who have physical disabilities or weak mental that potentially impact on their mind. However, Islamic law sees that these conditions do not abort their rights and obligations as Muslims in particular, and as human beings in general. Children with special needs, according to the law, especially in Indonesia are those who have difficulties in following the learning process because of physical, emotional, mental, social, and / or have the potential intelligence and special talents. Children with Special Needs are recognized in Islamic law, or legislation. Education for Children with Special Needs is a necessity and has a positive prospect in line with the principles of Islamic law, which is in line with *maqashid Sharia*, and in line with the principles of democratic education and thorough.

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