

**CHILD PARTICIPATION RIGHTS FRAMEWORKS AND THE ISLAMIC
JURISPRUDENCE: RECONCILING CONVERGENCE AND
IRRECONCILABLE DIVERGENCE**

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Abstract

The paper examines the tension between the Convention on the Rights of the Child (CRC) and Islamic law with respect to children's participation rights. While the CRC advances a model grounded in autonomy, self-expression, and individual freedoms, Islamic law embeds participation within a framework of parental authority, responsibility, and moral guidance. The paper using a doctrinal research methodology makes a comparative analysis to argue that the crux of the debate lies not in whether children may participate, but in how participation is structured: an almost unrestricted autonomy in the CRC versus a duty-oriented, guided participation in Islam. Under the Sharia, a pre-pubescent child lacks legal capacity to make consequential decisions; the expression of views is permitted but not codified as an enforceable right; and obedience to parents is foundational except where it entails sin. The paper finds that these differences yield divergent implications: freedoms of expression, religion, association, and privacy core to the CRC are circumscribed in Islam to safeguard spiritual and moral welfare. By highlighting these contrasts, the paper concludes that the study contributes to the discourse on reconciling international child rights frameworks with Islamic jurisprudence, clarifying both points of convergence and irreconcilable divergence.

Keywords: Child Autonomy, Child Participation Rights, Convention on the Rights of the Child (CRC), Islamic Law, Parental Authority.

1.0 Introduction

Among the rights enshrined in the *Convention on the Rights of the Child* (CRC), the child's right to participation is arguably the most controversial and the most challenging to implement.

¹ This is partly because it is often perceived, particularly outside the West, as an imposition of Western ideals of child upbringing on societies with distinct cultural, religious, and social norms.² Academic evaluations have confirmed that this right is deeply contested to. In practice, this rights is confronted with real world barriers revealing persistent limitation in implementing the right.³

This paper aims to interrogate the extent to which the concept of participation rights is alien or otherwise to Islamic legal thought. In doing so, it examines the meaning of "rights" as understood within both the Western legal tradition and the Islamic legal framework. It further considers the legal capacity of the child to make decisions under Islamic law, the centrality of the family in Islamic society, the duties and responsibilities of parents towards their children, and the reciprocal duties owed by children to their parents. These considerations provide the foundation for assessing the scope, application, and limitations of participation rights within an Islamic context.

2.0 Participation Rights of the Child: A Historical Overview

International recognition of the rights of the child can be traced to the adoption of the 1924 *Geneva Declaration of the Rights of the Child* by the League of Nations.⁴ Since then, several international instruments on child rights have been developed to promote

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¹ Lansdown, G. (2011) *Every Child's Right to Be Heard: A Resource Guide on the UN Committee on the Rights of the Child General Comment No. 12*. Save the Children UK and UNICEF.

² Ibid.

³ See for example Kay Tisdall, E., Morrison, F., & Warburton, J. (2021). *Challenging undue influence? Rethinking children's participation in contested child contact*. *Journal of Social Welfare & Family Law*, 43(1), 8–22.

⁴ League of Nations, *Geneva Declaration of the Rights of the Child*, 26 September 1924 <https://www.ohchr.org/en/instruments-mechanisms/instruments/geneva-declaration-rights-child-1924> accessed 12 August 2025.

and safeguard the welfare of children.⁵ Early instruments, however, primarily focused on *provision rights* those ensuring children's access to essential goods and services and *protection rights*, which shield children from harm, abuse, and exploitation.

A significant shift occurred in 1989 when the United Nations General Assembly adopted the *Convention on the Rights of the Child* (CRC).⁶ The CRC not only guarantees provision and protection rights, but also affirms *participation rights*, recognizing the child as an active subject with the capacity to express views in matters affecting them.⁷ According to the Committee on the rights of the Child General Comment 12 of 2009,⁸ the child is an active right holder. To date, the CRC remains the most widely ratified human rights treaty, providing a comprehensive framework for the recognition and enforcement of children's rights through its 54 articles.⁹

Participation rights first emerged explicitly in the CRC.¹⁰ Prior to its adoption, the rights of the child were subsumed within broader human rights instruments and were largely limited to social, economic, cultural, and political rights.¹¹ This reflected the prevailing perception of children as legally and socially incompetent, incapable of managing their

⁵ Geneva Declaration of the Rights of the Child (adopted 26 September 1924 by the League of Nations); Declaration of the Rights of the Child (adopted 20 November 1959) UNGA Res 1386(XIV); African Charter on the Rights and Welfare of the Child (adopted 11 July 1990, entered into force 29 November 1999) OAU Doc CAB/LEG/24.9/49.

⁶ United Nations General Assembly, *Convention on the Rights of the Child*, 20 November 1989, UNGA Res 44/25 <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> accessed 12 August 2025.

⁷ Convention on the Rights of the Child, adopted 20 November 1989, entered into force 2 September 1990, 1577 UNTS 3 (UN Doc. A/RES/44/25) assessed 12/8/2025.

⁸ see also *Committee on the Rights of the Child*, "General Comment No. 12 (2009): The Right of the Child to Be Heard", paras 1–2, accessible via Save the Children's Resource Centre (UNCRC), elaborating that Article 12 "addresses the legal and social status of children" and positions them as active rights-holders.

⁹ Hoefken, Stephanie & Marrone, Gianluca (2024). *Global adoption of children's rights: The Convention on the Rights of the Child as the most ratified UN treaty*. *International Journal of Human Rights*, **28**(2), 205–223. See also Malmström, M., & Lindahl, M. (2020). *Thirty years of the Convention on the Rights of the Child: Developments in child sexual abuse and exploitation*. *Child Abuse & Neglect*, **110**, 104399.

¹⁰ **Castro, Pablo & Hans, Sharon** (2022). *Understanding the emergence of children's participation rights through the CRC*. *International Journal of Children's Rights*, 30(1), pp. 23–42.

¹¹ United Nations General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, GA Res 217A (III); International Covenant on Civil and Political Rights, 16 December 1966, UNTS 999; International Covenant on Economic, Social and Cultural Rights, 16 December 1966, UNTS 993.

own affairs, and therefore in constant need of adult protection.¹² As a result, children were viewed primarily as passive recipients of rights rather than active participants in their own lives.

Over time, developments in the field of child rights advocacy highlighted the need to move beyond merely providing and protecting children's rights toward enabling children to exercise agency in matters affecting them. This shift in perspective gave rise to a distinct category of entitlements; *participation rights*, which affirm the child's right to be heard, to express opinions, and to have those opinions given due consideration in decisions concerning their welfare.

2.1 Participation Rights: Meaning and Context

Participation rights are a category of entitlements that set out the basic guiding principles for the enjoyment of all other rights by the child.¹³ They go to the very heart of recognizing the child as a human being and as an individual distinct from their parents, possessing legal rights comparable to those of adults.¹⁴ Through participation rights, the child becomes a rights holder, not merely a passive recipient of entitlements held in trust by parents.

The CRC conceptualizes participation as:

“An ongoing process of children's expression and active involvement in decision-making at different levels in matters that concern them. It requires information sharing and dialogue between children and adults based on mutual respect and requires that full consideration of their views be given, taking into account the child's age and maturity.” participation is considered as representing an ‘ongoing processes, which include

¹² Yanghee Lee, *Child participation and access to the United Nations Convention on the Rights of the Child*, keynote address, delivered at the Council of Europe seminar during the 12th ENOC Annual Conference, Dublin (11 November 2009).

¹³ Hanna, J. (2023). *Silent epistemologies: Theorizing children's participation rights*, *The International Journal of Children's Rights*, 31(4), 1–22.

¹⁴ Inness, M. (2022). *Conceptualizing Child Personhood: Autonomy and Agency in Children's Rights Discourse*, *Journal of Human Rights and Social Justice*, 45(2), pp. 98–115.

information-sharing and dialogue between children and adults based on mutual respect...”¹⁵ For instance *Convention on the Rights of the Child*, Article 12 recognizes the child’s right to express views freely and have them accorded due weight in all matters affecting them, *The Committee on the Rights of the Child, General Comment No. 12 (2009): The Right of the Child to Be Heard*, para. 6 defines participation as an ongoing process of dialogue and information sharing between children and adults.

Participation rights are therefore central to the entire framework of children’s rights. Denying a child the ability to express their views is, in effect, to deny them ownership of their rights, reducing them to passive observers rather than active stakeholders in decisions that affect them. This right grants the child a degree of autonomy to influence decisions that might otherwise be made solely by parents. Inevitably, it challenges traditional parental authority by re-casting the role of parents from unilateral decision-makers to advisors, negotiators, and, in some cases, representatives.¹⁶

Any discussion of participation rights necessarily begins with Article 12 of the CRC, which embodies one of its most important and most debated principles. Article 12 provides:

“State parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.”

From the outset, this provision imposes a positive obligation on States Parties to ensure that a child’s views are not only heard but are accorded due weight as a matter of right.¹⁷ Significantly, this shifts certain matters traditionally regarded as private family concerns into the public sphere, thereby subjecting them to legal scrutiny and state responsibility.

¹⁵ Kosher, H. (2024), *Children’s participation in everyday life: An international overview*, *Children & Society*, 38(2), pp. 112–124.

¹⁶ Organisation for Economic Co-operation and Development (OECD) (2023) *Child Participation in Decision-Making*. Paris: OECD Publishing. Available at: <https://www.oecd.org/> Accessed 12/8/2025.

¹⁷ Cashmore, J., Kong, P., & McLaine, M. (2023). *Children’s Participation in Care and Protection Decision-Making Matters*. *Laws*, 12(3), 49. This article critically highlights that Article 12 of the CRC establishes a dual state obligation.

According to Article 12, any child who is capable of forming his or her own views is assured of the right to express those views. Notably, the provision sets no specific age threshold for determining when a child is “capable” of forming such views. This reflects the recognition that children, even from an early age, can communicate opinions, whether verbally or through non-verbal means such as body language, facial expressions, drawings, or writing. As long as a child’s views can be conveyed and understood, they fall within the ambit of this right.¹⁸

2.1(1) Article 12 of the CRC, as further clarified in *General Comment No. 12 (2009) on the right of the child to be heard*,¹⁹ requires States Parties to “assure the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child,” with such views being given due weight in accordance with the child’s age and maturity.²⁰ This interpretation by the Committee on the Rights of the Child underscores that there is no fixed minimum age for the exercise of this right, and that capacity should be assessed individually.

Importantly, the right extends beyond mere expression: the child must be able to express views freely. This implies that the child should not be pressured, coerced, or manipulated into articulating an opinion.²¹ It also means that a child may choose to withhold their views entirely, as the CRC does not impose an obligation to speak but rather protects the freedom to do so.²² Creating an enabling environment, physically, socially, and emotionally, is therefore essential for the effective exercise of this right. Furthermore, “freely” in this context signifies that the opinion expressed must genuinely be the child’s own, untainted by adult influence, inducement, or intimidation. Any form of threat or

¹⁸ Kwok et al. (2024), *Verbal and non-verbal skills in early childhood: dimensionality, developmental trajectories, and gender differences*, *Frontiers in Psychology*, 15:1330334.

¹⁹ United Nations Committee on the Rights of the Child, *General Comment No. 12 (2009): The Right of the Child to be Heard*, UN Doc. CRC/C/GC/12 (20 July 2009).

²⁰ Wouter Vandenhoe, Ellen Desmet, Sara Lembrechts and Sara Marks (eds), *Children’s Rights in Practice: Realising the UN Convention on the Rights of the Child* (Edward Elgar 2024) ch.8.

²¹ Dahlgren & Jensen (2023), *Key factors for child participation – an empowerment model for active inclusion in participatory processes*, *Frontiers in Psychology*, 14:1247483.

²² Committee on the Rights of the Child, *General Comment No. 12: The right of the child to be heard*, UN Doc. CRC/C/GC/12 (20 July 2009), para. 16 and 22. Lundy, L., Kilkelly, U. & Byrne, B., *Incorporation of the United Nations Convention on the Rights of the Child in Law: A Comparative Review*, *International Journal of Children’s Rights*, 21(3), 2013, pp. 442–463. doi: 10.1163/15718182-55680028.

promise of benefit that might sway the child's view would undermine the integrity of this right.²³

The right to express views under Article 12 applies to all matters affecting the child. This broad formulation means there is no predetermined context in which the child is restricted or excluded from voicing an opinion, provided the matter—directly or indirectly impacts the child's life. A comprehensive understanding of the issue is not required; it is sufficient that the child possesses a basic awareness or appreciation of the matter at hand.

Crucially, the CRC assures the child that such views, once expressed, will be given due consideration as a matter of right. Here, the concept of the child's capacity becomes relevant. The weight accorded to the child's opinion must be assessed in light of their evolving capacities, taking into account factors such as age, maturity, and the nature of the decision to be made.

Participation rights have wide-ranging application. They extend to diverse settings, including the home, educational institutions, healthcare decision-making, political engagement, and judicial or administrative proceedings.²⁴ They may be exercised individually by a child or collectively by a group of children, depending on the context in which the issue arises.²⁵

In essence, Article 12 affirms the right of a child capable of forming their own views to have those views heard and given due consideration in matters affecting their life, proportionate to their capacity. This does not absolve adults of their responsibilities toward children, nor does it leave children to independently safeguard their own rights.

²³ Ibid.

²⁴ Kosher, *Children's participation in everyday life: An international overview*, *Children & Society*, 2024.

²⁵ UNICEF (2018), *More than just a voice: What meaningful adolescent participation looks like and how to measure it*, *Data for Action Blog*, (data.unicef.org) last assessed 13/8/2025.

Rather, it calls for a collaborative approach in which adults work closely with children, guiding and supporting them in articulating their perspectives.²⁶

A common misconception is to interpret this provision as granting children full autonomy or absolute control over decision-making, regardless of the potential consequences.²⁷ In reality, the opportunity to express an opinion does not mean that the child's view is determinative; the final decision may still rest with the adult, provided the child's input has been genuinely considered.

Although Article 12 appears straightforward, its implications extend across the CRC, connecting to other general principles of the Convention.²⁸ For instance:

2.1(2) Art.2 The Right to Non Discrimination

States Parties are under article 2 are obliged to respect and ensure the rights in the Convention to every child without discrimination based on factors such as race, sex, language, religion, political opinion, national or social origin, disability, or any other status of the child or their family.²⁹

2.1(3) Art. 3 The Best Interest of the Child

In all actions concerning children whether undertaken by institutions, courts, administrative authorities, or legislative bodies the best interests of the child must be a primary consideration.³⁰ This principle also requires that services and institutions

²⁶ Woodman, J., 'Children's participation in child protection—How do practitioners understand children's participation in practice?' (2023) *Child & Family Social Work* 28(1) 40, 47 <https://doi.org/10.1111/cfs.12947>; Committee on the Rights of the Child, *General Comment No. 12 (2009) The Right of the Child to be Heard*, UN Doc CRC/C/GC/12, para 19.(assessed 13/5/2025).

²⁷ Haarberg, F. L., Križ, K., Løvlie, A. G. & Skivenes, M., *Balancing Paternalism and Child Centrism: A Nordic Population Study on Children's Rights in Child Protection*, *European Journal of Social Work*, published online 16 April 2025, DOI: 10.1080/13691457.2025.2485383. Available at: <https://doi.org/10.1080/13691457.2025.2485383> assessed 13/8/25.

²⁸ Montà, Chiara Carla (2023). *The meanings of 'child participation' in international and European policies on children's rights: A content analysis*, *International Journal of Children's Rights*, 31(4), pp. 703–723. Assessed 13/8/2025.

²⁹ Aoife Daly and Tòmas Murphy, 'The Committee on the Rights of the Child and Article 12: Applying the Lundy Model to Treaty Body Recommendations' (2024) *Leiden Journal of International Law*.

³⁰ Committee on the Rights of the Child, *General Comment No. 14 (2013): The Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (Art. 3, para. 1)*, UN Doc. CRC/C/GC/14 (29 May 2013), paras 32–40. Assessed 13/8/2025.

responsible for children meet standards relating to safety, health, staffing, and supervision.³¹

*Under Article 3(1) of the CRC, the best interests of the child must be a primary consideration' in all actions affecting them. This principle is further elaborated in **General Comment No. 14 (2013)**, which emphasizes that it is not only a substantive right but also a guiding interpretative principle and a procedural safeguard in decision-making processes.*

General Comment No. 14 (2013)³² clarifies that 'best interests' encompasses multiple dimensions including the child's views, identity, family environment, protection needs, vulnerabilities, access to health and education, and cultural or religious background each of which must be weighed alongside the child's evolving capacities.

The above general comment lends credence to the fact that article 12 is also closely tied to the CRC's provisions on civil rights and freedoms, particularly the allied articles.³³ One key example is:

2.1(4) Article.13 The Right to Freedom of Expression

This right includes the freedom to seek, receive, and impart information and ideas of all kinds whether orally, in writing, in art, or through other media of the child's choice. While this freedom is broad, it may be restricted by law where necessary to respect the rights or reputations of others, protect national security, public order, public health, or public morals.

³¹ Van der Walt, J.L. & Oosthuizen, I.J., "Three Perspectives on the Notion of 'the Best Interests of the Child'", *In die Skriflig / It's Written*, Vol. 58 No. 1 (2024), Art. a3054, <https://doi.org/10.4102/ids.v58i1.3054>.

³² Supra note 29.

³³ Gerison Lansdown, *Every Child's Right to be Heard: A Resource Guide on the UN Committee on the Rights of the Child General Comment No. 12* (Save the Children UK, 2011), p.31.

2.1(5) Article 14: The Right to Freedom of Thought, Conscience and Religion

- States Parties must respect the right of every child to freedom of thought, conscience, and religion.
- In exercising this right, the child is entitled to guidance from parents or, where applicable, legal guardians, in a manner consistent with their evolving capacities.
- The manifestation of religion or beliefs may only be restricted by laws necessary to protect public safety, order, health, morals, or the fundamental rights and freedoms of others.

2.1(6) Article 15: The Right to Freedom of Association

1. States Parties recognize the rights of the child to freedom of association and peaceful assembly.
2. Restrictions on these rights may only be imposed in accordance with the law and must be necessary in a democratic society, such as for the protection of national security, public safety, public order, public health, morals, or the rights and freedoms of others.

2.1(7) Article 16: The Right to Privacy

5. No child shall be subjected to arbitrary or unlawful interference with their privacy, family, home, or correspondence, nor to unlawful attacks on their honour and reputation.
6. Children are entitled to legal protection against such interference or attacks.

Taken together, these provisions alongside Article 12 form the core framework for the child's participation rights within the CRC. However, they have not escaped criticism. Many argue that these rights, particularly when viewed through the lens of participation, challenge deeply rooted cultural norms, disrupt traditional parent–child dynamics, and raise complex questions about the limits of a child's autonomy. Consequently, the

participation right has come to be regarded as one of the most controversial and difficult provisions of the CRC to implement in practice.³⁴

While the CRC sets out a comprehensive and progressive framework for children's participation rights, its implementation is often shaped and at times constrained by the cultural, religious, and legal traditions of different societies. In Muslim-majority contexts, the principles of the CRC must be understood in light of Islamic law (Sharia) and the broader moral framework derived from the Qur'an and Sunnah. These sources recognize the dignity, worth, and responsibilities of the child and also articulate participation within the bounds of communal values, family structure, and moral development.³⁵ A closer examination of Islamic teachings reveals both areas of convergence with the CRC and points of divergence, particularly in how participation rights are balanced with parental guidance and societal norms.³⁶

At this juncture, it is important to pause and consider Islam's perspective on participation rights. This is because, in order to gauge the extent to which these rights can be implemented in Muslim contexts, one must first understand the status of the child in Islam, the nature of the parent-child relationship, the concept of rights under Sharia, and the legal competence of the child to make decisions. Each of these elements plays a significant role in shaping the degree and manner in which a child may be involved in decision-making processes.

³⁴ See *Beyond the familiar challenges for children and young people's participation rights: the potential of activism*, Children & Society (2021), see also Committee on the Rights of the Child, *Concluding Observations on the combined third and fourth periodic reports of Nigeria*, UN Doc. CRC/C/NGA/CO/3-4 (21 June 2010), **last assessed 13/8/2025**.

³⁵ Many sources could be cited here, but for space these are referenced See Qur'an 17:70; Qur'an 2:233; Qur'an 65:6-7; Abu Dawood, Sunan, no. 495; Qur'an 31:13-19.

³⁶ The CRC's recognition of the child's dignity and worth (Art. 12) parallels the Qur'anic affirmation, "*We have certainly honoured the children of Adam*" (Q. 17:70). The principle of ensuring the child's best interests and protection from harm (Art. 3; Art. 19) is reflected in "*...No mother should be made to suffer because of her child, nor father because of his child...*" (Q. 2:233). The right to an adequate standard of living (Art. 27) is echoed in "*...upon the father is the duty of provision and clothing for them according to what is acceptable...*" (Q. 2:233; cf. Q. 65:6-7). The CRC's aim of developing the child's personality, talents, and moral sense (Art. 29) aligns with Islamic guidance on gradual moral and spiritual training (Hadith, Abu Dawood, no. 495). The provisions on participation and evolving capacities (Arts. 5 and 12) correspond with the Qur'anic model of Luqman's counsel to his son (Q. 31:13-19), illustrating respectful guidance within family and community values.

3.0 Islam and the Importance of Family in a Child's Life

Islam is not merely a religion in the narrow sense but a comprehensive way of life that leaves no aspect of human existence unattended.³⁷ On the issue of family life, the sharia accords great significance to the family as a social institution. The Qur'an states:

"We have created man from water and have appointed for him ties of family and kinship; and Allah is watchful over all that you do".³⁸

The sharia provides clear guidance on how the family should be constituted and maintained built upon love, mercy, and tranquility between spouses.³⁹ A home grounded in these values offers a strong and stable foundation for its members. By contrast, homes characterized by violence, abuse, and injustice are described metaphorically in the Qur'an as "the frailest of houses", akin to the house of the spider.⁴⁰

In *sharia* worldview, the family is the basic unit of the (society) *Ummah* and the only legitimate source of procreation.⁴¹ Thus, *sharia* stipulates rules governing relationships within the family, defining the rights and duties of spouses toward one another and the mutual rights and obligations between parents and children. It is important to note that the sharia conception of the family rests upon a valid marriage between a man and a woman, as opposed to certain contemporary definitions of family which may include cohabiting partners,⁴² same-sex parents,⁴³ or other non-traditional arrangements.⁴⁴

³⁷ **Mohammad Hashim Kamali**, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 2003), p. 2. Qur'an 5:3, Abdullah Yusuf Ali, *The Meaning of the Holy Qur'an* [Atlanta: Amana Publications, 1995]).

³⁸ Q25:54 Abdullah Yusuf Ali, **The Holy Qur'an: English Translation and Commentary** (Atlanta: Kazi Publications, 1995).

³⁹ See *Qur'an*, 17:70 (dignity and worth), 30:21 (love, mercy, and tranquility between spouses), 4:34 (maintenance and protection), and 2:233 (feeding and upbringing of children), trans. Abdullah Yusuf Ali (Atlanta: Kazi Publications, 1995). 17:70 (dignity and worth), 30:21 (love, mercy, and tranquility between spouses).

⁴⁰ Qur'an 29:41, trans. Abdullah Yusuf Ali, *The Meaning of the Holy Qur'an*, new ed. (Atlanta: Amana Publications, 1995).

⁴¹ Qur'an 4:1–5 trans. Abdullah Yusuf Ali, *The Meaning of the Holy Qur'an*, new ed. (Atlanta: Amana Publications, 1995).

⁴² Quran 24.33 Abdullah Yusuf Ali, *The Meaning of the Holy Quran*, new ed. (Atlanta: Amana Publications, 1995).

3.1 The Parent- Child Relation

The bond between parents and children is repeatedly pictured and emphasized in the Qur'an. The Quran models parenting which depict rights of children, kindness to children by parents and concern for their welfare and upbringing. This relationship commences with the unborn child who is accorded rights, rights which are unparalleled in western notion of child rights.⁴⁵ The extent of relationship between parent and child is strong that Allah (SWT) swears by it:

*"And by the parent and that which he begot."*⁴⁶ Also another verse in the Quran condemns killing the girl child⁴⁷

Another verse also notes:

"Between parents and their children, none knows which will be of benefit to the other."
(Qur'an 4:11)

These verses capture the deep affection, care, and mutual attachment inherent in the parent-child relationship. The parental love for a child is a natural instinct, and the Qur'an even likens it to the human attachment to property, which reflects both value and a sense of protection. In a narrated hadith, it is said that

"Every one of you is a shepherd and every one of you will be asked about his flock. The ruler is a shepherd over his people and will be asked about them. A man is a shepherd over the members of his household and will be asked about them. A woman is a shepherd over her husband's house and his children and will be asked about them...."

⁴³ Qur'ān 7:80–81 Abdullah Yusuf Ali, *The Meaning of the Holy Qur'an*, new ed. (Atlanta : Amana Publications, 10th edn, 1995).

⁴⁴ **The Holy Qur'an**, 5:5 (Abdullah Yusuf Ali trans., Amana Publications, 1995, Atlanta).

⁴⁵ Zakiyya Haruna, "The Rights of the Child under Islamic Law" (Unpublished paper presented at the School of Postgraduate Studies, Bayero University, Kano, 2014).

⁴⁶ Qur'an 90:3, Abdullah Yusuf Ali, *The meaning of the Holy Qur'an: Text, Translation and Commentary* (1995 ed., Atlanta).

⁴⁷ Qur'an 81:8–9 Abdullah Yusuf Ali, *The meaning of the Holy Qur'an: Text, Translation and Commentary* (1995 ed., Atlanta).

The Qur'an also provides guiding principles for maintaining this relationship in justice and compassion:

“No parent shall be made to suffer because of their child, nor a child because of its parent”.⁴⁸

This injunction underscores that neither party should cause harm to the other, whether physical, emotional, or otherwise. It reflects the broader Islamic legal maxim:

“There should be neither harm nor reciprocation of harm.”⁴⁹

This balance between mutual rights and responsibilities is the ethical foundation upon which children's participation in family and community life must be understood within the sharia framework.

The Sharia recognizes the child as an autonomous being, independent of its parents in accountability before Allah (SWT). This principle is grounded in the Qur'anic verse:

*“Neither would the father bear the burden of his child, nor does the child bear the burden of the parent.”*⁵⁰

This establishes that both parents and children are individually responsible for their deeds before Allah, and that parents are not “owners” of their children. Rather, children are a trust (*amanah*) from Allah (SWT), entrusted to the care and guidance of their parents. For instance, the Qur'an affirms the individual moral agency and accountability of every human being, irrespective of their familial ties. On the Day of Judgment, no parent will

⁴⁸ Qur'an 2:233, Abdullah Yusuf Ali, *The Meaning of the Holy Qur'an: Text, Translation and Commentary* (1995 ed., Atlanta).

⁴⁹ Mālik ibn Anas, *Al-Muwatta'* (Arabic-English edn, trans. Aisha Abdurrahman Bewley, Diwan Press, 2014) Book 31 (Business Transactions), Hadith no. 31.13 Muḥammad ibn Yā'qūb Ibn Mājah, *Sunan Ibn Mājah*, English trans. (Darussalam), vol. 3, Book 13 (The Chapters on Rulings), Hadith no. 2340 and recognized as one of the five universal legal maxims in Islamic jurisprudence.

⁵⁰ Quran 6.164 (Abdullah Yusuf Ali trans., Amana Publications, 1995, Atlanta).

be able to intercede for their child, nor will a child bear the burden of a parent. As the Qur'an states:

“On the Day when a man will flee from his brother, and his mother and his father, and his spouse and his children; every man that Day will have enough to make him heedless of others.”⁵¹

This vivid depiction underscores that while Sharia grants the family a central role in nurturing and protecting the child, it equally recognises the child as an autonomous moral subject, directly responsible before God. The child's rights in Sharia are thus God-given entitlements, not contingent upon parental will, and their moral duties are independent of parental responsibility⁵²

Despite this autonomy before Allah, Islam takes into account the dependent and vulnerable nature of the child and imposes upon parents the duty of upbringing, care, and development. The Qur'an lays down clear directives regarding parental responsibilities toward children. For instance, it instructs the father to provide maintenance for the child in accordance with his means,⁵³ enjoins the mother to suckle the child for a recommended period of two years,⁵⁴ and assigns to the father the duty of ensuring the child's education and proper upbringing.⁵⁵

Beyond physical care, parents bear a critical duty to ensure the child's moral and spiritual upbringing instilling the knowledge of Allah (SWT), love for the Prophet (SAW), and readiness to strive in the cause of Islam (*jihad*) within its ethical and lawful bounds.

⁵¹ Qur'an 80:34–37, (Abdallah Yusuf Ali trans., Atlanta: Amana Publications, 1995, Atlanta)

⁵² Ibn al-Qayyim (d. 751 AH) notes in *Tuhfat al-Mawdūd* that the child's right to life, lineage, maintenance, and education is a *shar'ī* obligation on the parents, “not as a favour from them, but as a trust (amānah) placed by God.” Ibn al-Qayyim al-Jawziyyah, *Tuhfat al-Mawdūd bi-Aḥkām al-Mawlūd* (ed. Muḥammad 'Abd al-Qādir, Cairo: Dār al-Ḥadīth, 1991)p.229. See also Shihāb al-Dīn al-Qarāfī, *Kitāb al-Furūq aw Anwār al-Burūq fī Anwā' al-Furūq*, 3rd ed. (Cairo: Dār al-Salām, 2010), vol. 1, p. 165.

⁵³ **The Holy Qur'an, 65:7** (Abdullah Yusuf Ali trans., Amana Publications, 1995, Atlanta).

⁵⁴ **The Holy Qur'an, 2:233** (Abdullah Yusuf Ali trans., Amana Publications, 1995, Atlanta).

⁵⁵ Ibn 'Ābidīn, *Radd al-Muḥtār 'ala al-Durr al-Mukhtār*, vol. 5, p. 493 (Dār al-Fikr, 2000).

The fulfilment of these duties has consequences not only in this world but also in the Hereafter. Parents are therefore instructed to treat children with love, compassion, and consideration for their age and capability.

3.2 Childhood Development within the Framework of Sharia

A hadith narrated by Ali (RA) divides childhood into three distinct seven-year stages:

*“The child is a master for seven years, a slave for seven years, and a vizier for seven years. If he grows into good character by the age of twenty-one, well and good; otherwise, leave him alone, for you have discharged your responsibility before Allah.”*⁵⁶

Islamic scholars interpret these stages as follows:

3.2(1) First Stage (0–7 years) *The King*

At this stage, the child is to be served, nurtured, and given attention to basic needs—feeding, clothing, health, and nutrition. Play is essential for mental and emotional development, and formal instruction is not required. However, parental behavior remains highly influential; children internalize the manners and conduct they observe.⁵⁷

3.2(2) Second Stage (7–14 years) *The Slave*

By this age, the child attains *ahliyya* (discernment) and can distinguish between right and wrong. This is the period for strict moral and religious training (*tarbiyya*), character building, and discipline. The child must obey parents, teachers, and guardians, and secular knowledge alongside religious education should be imparted to equip the child with skills for a halal livelihood. On non-essential matters such as clothing or shoes

⁵⁶ Muḥammad ibn Abī al-Dunyā, *Mawsū‘at Ibn Abī al-Dunyā* (ed. Muḥammad Ṣāliḥ Farīd, Cairo, 1998); Muḥammad ibn Mukarram ibn Manẓūr al-Anṣārī, *Makarim al-Akhlaq* (ed. Sayyid Muḥammad ‘Alī al-Namrāwī; Cairo: Dār al-Ma‘ārif, 1409 AH/1989 CE). Al-Tirmidhī, *Jāmi‘ al-Tirmidhī*, Kitāb al-Birr wa ‘l-Ṣilah, bāb mā jā’a fī ta’dīb al-walad,

⁵⁷ Niken Kusuma Hapsari, “Stimulating Child Development: Prophetic Parenting Viewpoint”, *Sunan Kalijaga International Journal on Islamic Educational Research (SKIJIER)*, Vol 6 No. 2 (2022), DOI 10.14421/skijier.2022.62.06. Assessed 13/8/2025.

parents may allow limited choice, provided it does not interfere with discipline or Islamic upbringing.⁵⁸

3.2(3) Third Stage (14–21 years) *The Adviser*

By this stage, the child is presumed to be a responsible young adult. Parents should now treat the child as a friend and advisor, providing guidance in decision-making rather than imposing strict control. The child will begin making independent choices that shape his or her adult life, though still lacking the wisdom and experience of full maturity.⁵⁹

These stages mark the child's progression from carefree dependence, to reasoned responsibility, and ultimately to intellectual maturity. In this framework, Islamic parenting moves from provision and nurture, to structured discipline, and finally to collaborative guidance ensuring the child's autonomy is balanced with moral grounding.

By the time the child reaches the age of 21, Islam considers that the parents' obligation of upbringing has been discharged, and the child is now fully responsible for his own life.⁶⁰ These age-based demarcations are not merely social guidelines; they are legally significant in the context of Sharia. In Islamic law, both rights and duties are tied to the concept of legal competence (*ahliyya*), which determines the individual's capacity to make decisions, enter into binding agreements, and be held accountable for actions.

A person who possesses full *ahliyya* enjoys complete authority over their person and property and bears full responsibility for their actions and omissions. Islamic jurisprudence divides *ahliyya* into two main categories:

- i. Ahliyyatul Wujooḥ – Legal competence for acquiring rights.
- ii. Ahliyyatul Aḍāa – Legal competence for executing duties.

⁵⁸ National Association for the Education of Young Children (NAEYC), *Developmentally Appropriate Practice in Early and Middle Childhood* (NAEYC 2020) <https://www.naeyc.org/resources/position-statements/dap/principles> accessed 15/8/2025.

⁵⁹ A Longitudinal Examination of Perceived Parent Behavior and Positive Youth Development: Child-Driven Effects (2020), *Sociology* 10(10): 369.

⁶⁰ Ibn Qudāmah, *al-Mughnī*, vol. 9 (Riyadh: Dār ‘Ālam al-Kutub, 1997), 429.

Each of these may be complete (*kaamil*) or incomplete (*naaqis*), depending on whether all the necessary conditions are present. The most fundamental condition is intellect (*‘aql*), closely paired with puberty (*buloogh*). Although exceptional intelligence without *buloogh* or *buloogh* without sound intellect does not result in complete competence, puberty is generally treated as a proxy for intellectual maturity, given its association with the emergence of abstract reasoning and rational thought.⁶¹

Under *sharia*, boys and girls are presumed to reach puberty, and thus potential legal competence, by age 15.⁶² Yet even before that, a child who demonstrates sound judgment (*rushd*) may be permitted to make certain decisions that do not expose them to harm. Actions with potential for harm, however, require parental or guardian approval to be valid, a safeguard rooted in the Qur’anic instruction regarding the testing of orphans’ capacity before granting them control over their property.⁶³

The concept of *ahliyya* links directly to the notion of “rights.”⁶⁴ While the Western legal tradition frames rights primarily as entitlements,⁶⁵ Islamic discourse uses the Qur’anic term *haqq*, which appears over 280 times, often in the context of justice, duty, and rightful share.⁶⁶ Though both traditions recognize the idea of rights, Islamic thought places greater emphasis on the corresponding duties and responsibilities, viewing rights not as absolute personal claims but as moral trusts regulated by divine law.⁶⁷

⁶¹ Imran Ahsan Khan Nyazee, *Outlines of Islamic Jurisprudence* (Islamic Texts Society, 2000), pp. 39–40.

⁶² Ibn Qudāmah, *al-Mughnī*, vol. 9 (Riyadh: Dār ‘Ālam al-Kutub, 1997), 429. Yahyā b. Sharaf al-Nawawī, *al-Majmū‘ Sharḥ al-Muhadhdhab*, vol. 3 (Beirut: Dār al-Fikr, 1997), 149; Muḥammad Amīn Ibn ‘Ābidīn, *Radd al-Muḥtār ‘alā al-Durr al-Mukhtār*, vol. 3 (Beirut: Dār al-Fikr, 2000), 137.

⁶³ The Holy Qur’ān, 4:6 (Yusuf Ali trans., Amana Publications, 2001).

⁶⁴ Wahbah al-Zuhaylī, *al-Fiqh al-Islāmī wa Adillatuh*, vol. 4 (Damascus: Dār al-Fikr, 1984), 2815–2820, Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, 3rd ed. (Cambridge: Islamic Texts Society, 2003), 473–478.

⁶⁵ See Wesley Newcomb Hohfeld’s conceptual distinction in *Fundamental Legal Conceptions as Applied in Judicial Reasoning* (1919), Ronald Dworkin’s *Taking Rights Seriously* (1977).

⁶⁶ See al-Rāghib al-Aṣfahānī, *Mufradāt Alfāz al-Qur’ān*, s.v. “ḥaqq, al-Juwaynī, *al-Burhān fī Uṣūl al-Fiqh*, vol. 2.

⁶⁷ Zakīyya Haruna, *Human Rights in Islam: A Maqāṣid al-Sharī‘a Perspective* (unpublished manuscript, on file with author).

4.0 The Child's Obligations to Parents in Islamic Law

According to sharia, just as parents have duties toward their children in respect of upbringing and moral training, children also bear duties toward their parents. Foremost among these is the duty of **obedience**.⁶⁸ The Qur'an commands "*Your Lord has decreed that you worship none but Him and that you be dutiful to your parents.*"⁶⁹

Similarly, the Prophet is reported to have said "*The gravest of sins are: associating partners with Allah, then disobedience to one's parents, and giving false testimony.*"⁷⁰

Even when a child reaches the age of majority and acquires the right to manage his or her own affairs, Islam requires continued kindness and respect toward parents.⁷¹ The Qur'an prohibits speaking to them in words of contempt or showing irritation, even in old age. Obedience to parents remains binding except where it entails disobedience to Allah.⁷² Al-Ṭabarī⁷³ explains that "*uff*" refers to **even the slightest expression of annoyance**, whether verbal, such as saying "ugh" or "ah," or non-verbal, such as sighing or frowning, which the verse strictly forbids as a form of disrespect to parents, especially in their old age. Discussing on this also while Ibn Kathīr⁷⁴ similarly notes that the prohibition encompasses **all minor and major forms of harm or disrespect**, whether through speech, tone, gesture, or behaviour, emphasising that the believer is obliged to speak to parents gently and honourably in every circumstance

⁶⁸ See Imām al-Nawawī, *Sharḥ Ṣaḥīḥ Muslim*, vol. 2, ḥadīth no. 650; Ibn Ḥajar al-ʿAsqalānī, *Fath al-Bārī*, vol. 10, p. 406; al-Qurṭubī, *al-Jāmiʿ li-Aḥkām al-Qurʾān*, vol. 10, p. 239 (on Qur'an 17:23).

⁶⁹ The Holy Qur'an, 17:23 (Abdullah Yusuf Ali trans., 2001 ed., Amana Publications).

⁷⁰ Ṣaḥīḥ al-Bukhārī, Kitāb al-Adab, Bāb Ḥusn al-Ṣuḥbah maʿa al-Wālidayn, ḥadīth no. 5976; Ṣaḥīḥ Muslim, Kitāb al-Imān, Bāb al-Kabāʾir wa Akbaruhā, ḥadīth no. 87.

⁷¹ Al-Nawawī, *Sharḥ Ṣaḥīḥ Muslim*, vol. 2 (Beirut: Dār al-Maʿrifah, n.d.), 221–223; Ibn Ḥajar al-ʿAsqalānī, *Fath al-Bārī*, vol. 10 (Cairo: Dār al-Rayān li al-Turāth, 1986), 402–404; Muḥammad ibn Ibrāhīm al-Tuwajjirī, *Al-Mawsūʿah al-Fiqhiyyah al-Muyassarrah*, vol. 4 (Riyadh: Maktabat al-Rushd, 2007), 122–123.

⁷² Qurʾān 17:23 (ʿAbdullāh Yusuf ʿAlī trans, *The Meaning of the Holy Qurʾān*, Amana Publications 1995, 10th edn).

⁷³ Al-Ṭabarī, *Jāmiʿ al-Bayān ʿan Taʾwīl Āy al-Qurʾān*, vol. 15, ed. Aḥmad Muḥammad Shākir (Cairo: Dār al-Maʿārif, 1954).

⁷⁴ Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm*, vol. 5 (Dār al-Kutub al-ʿIlmiyyah 1998) 87–89, commentary on Q. 17:23.

5.0 Sharia Perspective on Article 12 of the Convention on the Rights of the Child and Related Provisions

Article 12 of the Convention on the Rights of the Child (CRC) provides that children capable of forming their own views have the right to express them freely in all matters affecting them, with such views being given due weight according to age and maturity. As reaffirmed in *General Comment No. 12 (2009)*, the CRC does not prescribe any specific age limit for when a child may express his or her views; instead, the determining factor is the child's ability to form those views. The sharia, by contrast, generally attributes decision-making capacity to the age of seven,⁷⁵ when the child attains the status of *mumayyiz*. All the four Sunni schools recognize the age of seven as the threshold of *tamayyuz* in various legal contexts, such as custody disputes, training in worship, and certain contractual capacities and also when he or she is able to discern right from wrong.⁷⁶ Jean Piaget's **Concrete Operational Stage** (ages **7 to 11**) in western discourse, highlights that children begin to think **logically and systematically** about concrete situations—they can handle concepts like **conservation, classification, and perspective-taking** for the first time. This maps closely to the Islamic understanding that by age seven, a child is cognitively ready to distinguish right from wrong (*mumayyiz*), aligning traditional Islamic insight with present-day cognitive science.

This is when a child begins to develop a clear sense of right and wrong (*tamyeez*). At this stage, the child is considered *mumayyiz* (discerning) and may make simple, non-harmful decisions. All important matters such as marriage, property transactions, or other consequential legal acts remain under parental authority, although the child's opinion may be sought. Under Sharia, all consequential legal acts such as marriage, property transactions, or contractual decisions remain under parental or guardian authority. The Shāfi'ī School, while maintaining the guardian's role, stipulates that the consent of a post-pubescent virgin must be sought before marriage. The Shāfi'ī jurist al-Nawawī

⁷⁵ See al-Kāsānī, *Badā'i' al-Ṣanā'i' fī Tartīb al-Sharā'i'*, vol. 4, p. 30; al-Nawawī, *Al-Majmū' Sharḥ al-Muhadhdhab*, vol. 3, p. 90; Ibn Qudāmah, *Al-Mughnī*, vol. 8, p. 190; Abū Dāwūd, *Sunan*, no. 495; Aḥmad b. Ḥanbal, *Musnad*, vol. 2, p. 180.

⁷⁶ **Piaget, Jean.** *The Child's Conception of the World*. New York: Harcourt, Brace & Company, 1929.

similarly affirms that a virgin's consent is only required after puberty, whereas before puberty the guardian's discretion prevails⁷⁷

Under Sharia, all important matters such as marriage, property transactions, or other consequential legal acts—remain under parental authority, although the child's opinion may be sought in certain instances. For example, the consent of a virgin girl must be obtained before a marriage contract is concluded, and in cases of *kafālah* (guardianship), a child who has reached the age of seven may choose with which parent to reside.

This recognition of the child's evolving capacity within Islamic law provides a useful platform for engaging with the normative framework of Article 12 of the Convention on the Rights of the Child (CRC). While *Sharia* maintains the overarching authority of parents in major legal matters, it also accommodates situations in which the child's views are considered and accorded significance, particularly once the stage of discernment (*tamayyuz*) is reached. Against this background, it becomes pertinent to examine how the core components of Article 12 namely, the child's right to express views freely and the requirement to give those views due weight resonate with, or diverge from, Islamic legal principles. The following sections will, therefore, break down these elements and appraise them through an Islamic juristic lens.

5.1 Expression of views

Under the Sharia, the child's ability to express views is not framed as an inherent legal **right** but rather as a **privilege**. This understanding is Contrary to the western notion as depicted by Wesley Newcomb Hohfeld⁷⁸ in conceptual distinction, where he analyzes rights as claim-rights or entitlements that impose correlative duties on others. Similarly, Ronald Dworkin⁷⁹ argues that legal rights are not just privileges but "trumps" against collective decision-making drawing attention to their status as protected entitlements in

⁷⁷ This is based on the ḥadīth reported in *Ṣaḥīḥ al-Bukhārī*, Kitāb al-Nikāḥ, Bāb Isti'dhān al-Bikr wal-Tha'yib fī Anfusiḥinna (ḥadīth no. 5136), also Al-Nawawis (*al-Majmū' Sharḥ al-Muhadhdhab*, vol. 17, pp. 356–358, Dār al-Fikr).

⁷⁸ Wesley Newcomb Hohfeld, *Fundamental Legal Conceptions as Applied in Judicial Reasoning and Other Legal Essays* (Walter Wheeler Cook ed, Yale University Press 1919).

⁷⁹ Ronald Dworkin, *Taking Rights Seriously* (Harvard University Press 1977).

liberal legal theory. Under the Sharia, parents have the correlative right to express their own views on matters affecting the child, while the child has the duty to listen and comply, except where obedience would amount to disobedience to Allah. For example Ibn Qudāmah,⁸⁰ discusses that a minor's consent is not legally binding in property transactions and other consequential acts, except where the Sharī'ah expressly recognises it (e.g., choice of guardian at age seven). Also Al-Nawawī,⁸¹ opines same on the requirement of seeking a post-pubescent virgin's consent before marriage, noting that this is an exception within the broader framework of *wilāyah*.

The concept of a child bringing a legal claim against parents also, as contemplated in Article 12, is alien to Islamic law. Classical jurists generally held that a minor may not independently initiate legal proceedings against a parent, as the guardian (*walī*) retains the authority to represent and manage the child's affairs. Ibn Qudāmah notes:⁸² "The father's guardianship over the child is established in all matters of person and property, and the minor has no independent disposal of these without the father's consent". Similarly, al-Kāsānī⁸³ states that in *ḥaḍānah* (custody) disputes, "the minor has no claim (*da'wā*) unless made through a guardian"

5.2 Due weight to views

While the CRC envisages giving due consideration to a child's views, in Islam the parent retains the final decision-making authority, in line with the parental duty to safeguard the child's welfare in both worldly and spiritual terms. For instance, The Qur'ān commands thus: "*O you who believe! Save yourselves and your families from a Fire whose fuel is people and stones...*"⁸⁴ and records Luqmān's counsel to his son on faith, morality, and

⁸⁰ Ibn Qudāmah, *al-Mughnī*, vol. 8, pp. 190–192 (Beirut: Dār al-Fikr, n.d.).

⁸¹ Yahyā ibn Sharaf al-Nawawī *al-Majmū' Sharḥ al-Muhadhdhab*, vol. 17, pp. 356–358 (Beirut: Dār al-Fikr, n.d.).

⁸² Ibn Qudamah (*al-Mughnī*, vol. 6, pp. 610–611, Dār 'Ālam al-Kutub).

⁸³ Al-Kāsānī, 'Alā' al-Dīn Abī Bakr ibn Mas'ūd. *Badā'i' al-Ṣanā'i' fī Tartīb al-Sharā'i'*, vol. 6, p. 126 (Beirut: Dār al-Kutub al-'Ilmiyyah, n.d.).

⁸⁴ Qur'ān 66:6 (Abdullah Yusuf Ali, *The Meaning of the Holy Qur'an*, 11th edn, Amana Publications 2004).

conduct.⁸⁵ Classical jurists, such as al-Qurṭubī,⁸⁶ cite these verses as establishing that parents are ultimately responsible for the child's guidance and well-being, which justifies their final authority in consequential decisions affecting the child.

5.3 Evolving Capacities

Islam recognises evolving capacity by dividing childhood into phases. From birth to approximately 14 years, the child lacks competence to make important decisions independently. Upon reaching 15, the child may acquire full competence (*ahliyyah al-adā'*) if found to possess sound reasoning (*rushd*).⁸⁷

From the above, three key observations emerge: first, a pre-pubescent child is considered a minor under Islamic law and lacks the capacity to make consequential decisions. Second, the expression of views is treated as a **privilege** rather than a legal right in the Western sense, meaning that parental consultation may occur but the final decision rests with the guardian. Third, the duty of obedience to parents remains paramount, except in cases where such obedience would entail committing a sin.

6.0 The Unregulated Articles and Dangers Inherent in the Unregulation

Regarding the other related articles, Article 13 (freedom of expression), **Article 14** (freedom of thought, conscience, and religion), **Article 15** (freedom of association), and **Article 16** (right to privacy) are framed in a manner that minimises or excludes parental authority to set limits on the child's conduct. In these provisions, restrictions are primarily legal rather than parental.

This framework potentially undermines essential parental oversight in Islam. For instance, freedoms such as expression and access to information may allow unregulated

⁸⁵ Qur'ān 31:13–19 (Abdullah Yusuf Ali, *The Meaning of the Holy Qur'an*, 11th edn, Amana Publications 2004).

⁸⁶ Al-Qurṭubī, *al-Jāmi' li-Aḥkām al-Qur'ān*, vol. 14, pp. 182–183, Dār al-Kutub al-Miṣriyyah).

⁸⁷ Al-Sarakhsī, Shams al-Dīn. *Al-Mabsūṭ*, vol. 30, p. 8 (Beirut: Dār al-Ma'rifah, 1989); Ibn 'Abidīn, Muḥammad Amīn. *Radd al-Muḥtār 'alā al-Durr al-Mukhtār*, vol. 4, pp. 98–99 (Beirut: Dār al-Fikr, 2000).

exposure to harmful content, including pornography. Similarly, the freedom of religion could permit a Muslim child to neglect obligatory practices such as prayer, fasting, or Islamic dress, leaving no avenue for parental guidance or enforcement. The freedom of association might expose children to morally corrupt or prohibited groups, including those advocating promiscuity or same-sex relationships. Even the right to privacy could limit parents' ability to monitor communications or online activity, thereby constraining their capacity to safeguard the child's welfare.

According to the sharia parents are divinely charged with safeguarding themselves and their families from the Hellfire⁸⁸ and raising their children in accordance with Islamic injunctions. A Muslim child is presumed to be Muslim and must be nurtured accordingly.

Parental control over the child's moral and religious development is therefore not merely a cultural expectation but a religious duty, essential for the child's worldly well-being and eternal salvation. Correspondingly, the child bears a continuing duty of obedience and kindness toward the parents as part of fulfilling Islamic obligations.

Conclusion

The discussion demonstrates that the CRC and Sharia frameworks share a common recognition of the child's rights and capacity to express views, yet they differ fundamentally in approach. While the CRC emphasizes autonomy and rights-based participation, Sharia situates participation within a framework of moral duties, parental guidance, and obedience to Allah (SWT) and to its parents. The balance between freedom and responsibility is central to the Islamic model, whereas the CRC prioritizes the child's individual voice.

This divergence highlights a key tension in international law and comparative legal studies: the potential friction between globally recognized human rights norms and religiously grounded legal traditions. The Islamic approach does not negate participation;

⁸⁸ Qur'an 66:6, trans. Abdullah Yusuf Ali, *The Holy Qur'an: Text, Translation and Commentary* (Atlanta, GA: Amana Publications, 1995).

rather, it contextualizes it, ensuring that the child's exercise of agency does not compromise moral, spiritual, or social responsibilities.

This study contributes to scholarship by clarifying how participation rights can be interpreted through different legal and ethical lenses. It underscores the importance of understanding cultural and religious contexts when implementing international child rights instruments. Additionally, by juxtaposing CRC provisions with Sharia principles, the research provides a nuanced framework for policymakers, scholars, and practitioners seeking to reconcile universal child rights with Islamic legal ethics.