

TASARRUF INVOLVING CHILDRENS PROPERTY: A FIQH- BASED ANALYSIS OF ISLAMIC PROPERTY MANAGEMENT

by Jana Publication & Research

Submission date: 10-Nov-2025 12:09PM (UTC+0700)

Submission ID: 2690365295

File name: IJAR-54696.pdf (544.25K)

Word count: 6606

Character count: 35077

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Manuscript Info

Manuscript History

Received: xxxxxxxxxxxxxxxx

Final Accepted: xxxxxxxxxxxxxx

Published: xxxxxxxxxxxxxxxx

Key words:-

Tasarruf, Children, Property
Management, Guardian (Wali), Trustee
(Wasi), Islamic Law (Shar')

Abstract

Every child has the right to own property, even though they may still be of a young age. However, their physical and mental limitations make them incapable of managing and administering property independently and in accordance with Islamic law (shar'). Therefore, this article discussed the management of children's property from an Islamic perspective by focusing on the legal principles and the roles of guardians (wali) and trustees (wasi) as administrators of such property. This qualitative study used the content analysis method drawing upon primary Islamic sources such as the al-Qur'an, Hadith, classical and contemporary juristic opinions, as well as other relevant documents. Findings indicate that children's property should be managed by guardians or trustees who are authoritative, trustworthy and possess a high level of integrity due to the children's physical and mental incapacity. Moreover, a child's eligibility to perform legal and religious obligations varies according to their developmental stages, beginning with the foetus, newborn, discerning child (mumayyiz), and those who have reached the age of puberty (baligh). Children who have yet to attain maturity are required to fulfil shar' obligations and will have their property administered by a responsible guardian or wasi. This study is significant as it clarifies property management principles and guidelines for children according to Islamic law to ensure that their welfare and best interests are safeguarded.

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Introduction:-

Islam encourages its followers to strive to acquire wealth and manage it responsibly to fulfil the obligations of sustaining their own livelihood, supporting their families and contributing to the development of the ummah. Muslims must realise that the blessings bestowed by Allah SWT in the form of wealth are a divine trust (amanah) that must be administered wisely in accordance with Shariah principles. This is because Allah SWT is the absolute owner of all possessions and riches in the universe, in every form, type and essence (Yazid & Iknor Azli, 2006).

The ability of individuals to manage matters, especially property or wealth in this case, varies from person to person. It depends on one's physical and mental capacity to administer property so that it can be effectively and systematically utilised in accordance with proper principles of wealth circulation. Among those included in the category of individuals who are unable to manage their own property are children, which is mainly due to their physical and mental immaturity and their incapacity to reason soundly (al-Shirbini, 1994). Their level of thinking is limited, especially among those who have not reached the age of discernment (mumayyiz) (Hasballah, 1992). They are incapable of weighing future benefits of risks and are generally driven by immediate pleasures or natural human inclinations. Hence, the management and administration of a child's property must be entrusted to an authorised, capable and competent party.

In this regard, the Shariah prescribes certain conditions for a person to be eligible to manage his or her own wealth, though not as a restriction of personal freedom but as a safeguard for one's welfare and property against misuse or exploitation by others. Therefore, if a child is permitted to conduct a tabarru' (voluntary gift) contract, the child would be highly vulnerable to deception due to the inability to reason wisely. A child might be induced by sweets or toys or gifts to depart with a piece of land or similar property (Mohammad Zaini & Muhammad Adib, 2006).

Islam prohibits such transactions in order to protect the child's welfare and best interests, even if their guardians or executors (wasi) consent to it, as they might have personal interests for the property to be transferred to another party. Children's rights must be safeguarded by an authorised guardian or executor to prevent exploitation and manipulation by irresponsible individuals, given the child's inherent vulnerability. This is intended to protect the property of children from any form of misappropriation. They also require a representative to manage the child's wealth so that it can be used effectively for the child's own benefit and that of society. The management of children's property, from the Shariah perspective, is a matter of great significance and warrants detailed discussion in this study. Information related to the management of children's property was comprehensively examined in order to achieve this objective.

The Fundamental Concept of Managing Children's Property According to Shariah:-

1. Terminology:-

The term 'mahjur' linguistically means 'prohibited' or 'prevented', whereas in Shariah terminology, it refers to the restriction imposed on handling financial matters (al-Shirbini, n.d.; al-Shirbini, 1994). According to Sultan al-'Ulama' (2010), mahjur is the prohibition of a person from managing a matter due to certain issues. Based on this definition, mahjur refers to the restriction imposed on an individual that restricts the individual from managing his or her own wealth due to specific circumstances that necessitate such prevention. These circumstances could include one being a child, physically or mentally compromised, insane, intellectually deficient, terminally ill and so forth.

Imam al-Shafi'i explained that foolishness (safah) refers to wasting resources, while weakness stems from the natural state of young children. Such individuals are incapable of rational thought and therefore must be represented by their parents in matters related to managing their wealth (al-Shirbini, 1994). Hence, if their property is not properly administered, it may be disadvantages to them and lead to its misuse in improper ways. Furthermore, fiqh jurists (fuqaha') have elaborated on the groups that fall under the category of mahjur 'alayh (those legally restricted from managing wealth). The majority of scholars classify them into six groups, namely children, the insane, intellectually weak (safih), bankrupt (muflis), sick and slaves (al-Shirbini, n.d.: 61). The mahjur 'alayh category also includes married women, individuals who have pawned their property and apostates (murtad) (Idris, 1983).

Based on these classifications, children are among those who lack the ability to manage themselves and their wealth, thus warranting proper attention and protection. The spirit of mutual assistance should prevail among Muslims so that those who are weak, such as children, can depend on those who are stronger and more capable, especially in matters related to wealth management.

2. The Basis of Legal Sanctions:-

Islam recognises individual ownership of property, including that of children. Allah SWT has commanded able and trustworthy guardians (wali) and executors (wasi) to administer and manage the property of children, since they belong to a vulnerable group, until they are capable of managing it themselves. This is based on the exhortations of Allah SWT in Surah al-Nisa', verse 5, meaning: "And do not give the weak-minded your property, which Allāh has made a means of sustenance for you, but provide for them with it and clothe them and speak to them words of appropriate kindness".

Allah SWT forbids those who are intellectually immature from engaging in tasarruf, which refers to the use or disposal of property granted by Allah SWT. Instead, it is the duty of the wali or wasi to manage the child's property for their own welfare. This is because children are yet to understand the proper use of wealth, and there is a risk that their property may be assigned to a third party or misused. According to the fuqaha, tasarruf refers to any act carried out by a person with intentions and Shariah has established certain rights to him. Tasarruf is divided into two types, namely tasarruf fi'li and tasarruf qauli. Tasarruf fi'li refers to actions performed by a person through his own physical effort, such as utilising barren land or receiving goods in a sale transaction. Whereas Tasarruf qauli refers to verbal transactions, such as sale and purchase, lease, partnership or endowment (waqf) (Zaydan, 1999). The term safih in the verse above refers to the prohibition on children to conduct tasarruf because they may engage in wasteful acts that result in harm or loss, as they are still too young to distinguish between what is right and wrong (Ibn Kathir, 1999). Therefore, it is necessary for a trustworthy and honest wali or wasi to manage the property of these children.

3. The Status of Guardians of Children's Property:-

The word wali originates from wilayah, meaning authority or guardianship over something. According to the terminology of the fuqaha, it refers to the authority granted by Shariah to a person to manage the affairs or property of those who are unable to do so themselves (Zaydan, 1999). According to Musa (1967), there are three types of wali, namely responsible only for the child's personal affairs, responsible only for the child's property, and one who manages both personal and property matters. Personal guardianship includes responsibilities such as providing sustenance, education and giving away one's hand in marriage, whereas property guardianship involves managing transactions such as sale and purchase, hibah, lease etc.

According to the Syafi'i school of thought, the order of lawful guardianship over a child's property begins with the father, followed by the paternal grandfather, then a person appointed by the father or grandfather, and finally, it falls under the authority of a qadhi (judge). However, according to the Maliki school, the order differs slightly, beginning with the father, followed by the brother, paternal uncle, a person appointed by the father, and lastly, the qadhi. The paternal grandfather does not automatically become the guardian of a property unless he has been specifically appointed by the father (al-Khafif, 2008; Zaydan, 1999). The term 'wasi' originates from the word wisayah, meaning entrusting or authorising someone to perform a duty after one's death, either to manage property or to care for children, disabled persons, or the intellectually challenged (safih). In this regard, a father is permitted to appoint a person to care for his child after his death if there is no grandfather to assume the role of protecting the child's welfare and interests (al-Shirbini, 1978).

According to al-Khafif (2008), a wasi is the caretaker or overseer of a child's property bequeathed after the death of the child's guardian. Hence, a wasi is obligated to protect the property as if it were his own by striving to maintain and increase its value and fulfil all obligatory financial duties related to the property, such as paying zakat, 'ushur, and kharaj. Nevertheless, for any contract ('aqd) that involves both benefit and potential harm to the child, the wali or wasi may only exercise tasarruf if it clearly serves the child's best interest, such as engaging in fair and non-excessive transactions. However, for contracts that bring definite harm, such as accepting gifts, bequests, guarantees (kafalah), or any form of gratuitous transaction ('aqd tabarru'), the wali or wasi is not permitted to act, as this would involve taking undue advantage of the child's property (Zaydan, 1999).

A child may begin to manage one's own property and engage in transactions (mu'amalah) once the child has reached the age of puberty (baligh) and has proven to possess sound judgement and good character when managing wealth and religion (rashid). When a child has reached puberty and attained full intellectual maturity (al-rushd), then the property may be entrusted to the child for self-management. However, if the child demonstrates maturity but has not yet reached puberty, the transfer of property must be deferred until the child attains puberty (al-Shatiri, 1997).

Guardianship over a child's property legally ends at the age of eighteen; however, if a person has reached puberty but is yet to achieve full maturity, guardianship must continue on the presumption that the child remains intellectually challenged or yet to meet full intellectual capacity (safih). Conversely, if a sixteen-year-old is already employed and earning an income, they are allowed to manage their own earnings, as long as they are not excessive or irresponsible. The court retains the authority to impose restrictions on such management in the child's best interest (Abu Zahrah, 1999).

In this context, there are individuals deemed incompetent or lacking in intellectual capacity concerning legal matters, referred to as al-suf'ah or al-sufaha' (Hasballah, 1992). Hence, Islam commands that the wali or wasi of a child who has reached puberty must first assess the child's capability to manage financial or business transactions (mu'amalah) to ensure that no wastage or exploitation occurs. The wali or wasi bears full responsibility for managing the child's property; however, this responsibility ceases once the child has attained puberty, becomes intellectually sound, mature and accountable (mukallaf) (Sabiq, 1983; al-Zuhayli, 1995).

Guardianship over the property of those characterised as children, insane or lacking intellectual capacity must be exercised in full. However, for individuals with physical impairments, such as muteness, blindness or deafness, guardianship applies only to the extent of providing assistance rather than complete overall control. The management of property belonging to an insane or intellectually challenged person begins from the moment the cause of insanity or intellectual deficiency arises and ends once the person has recovered (Wan Asma' & Sarirah, 2014).

Discussion on Legal Capacity (Ahliyyah) of Children Pertaining to Property Management:-

Al-Ahliyyah, from a linguistic aspect, refers to eligibility or competence, whereas according to Shariah, it refers to a person's capacity to qualify for rights or obligations prescribed by Islamic law, as well as the validity and soundness of their legal actions (tasarruf) (al-Zuhayli, 1986). According to Zaydan (1999), al-ahliyyah signifies a person's qualification to assume all rights and responsibilities imposed by Shariah, which means that an individual is capable of assuming obligations towards others, receive rights from others, and effectively exercise them. This capacity comprises two main categories, namely ahliyyat al-wujub (capacity for acquiring rights) and ahliyyat al-ada' (capacity for performing of legal acts) (al-Zuhayli, 1986; Abu Zahrah, 1997).

1. Ahliyyat al-Wujub:-

Ahliyyat al-wujub refers to a person's legal capacity to acquire rights and bear obligations as stipulated in Shariah law (al-Zuhayli, 1986). This capacity exists by virtue of being human, regardless of one's age, gender or status, including whether one is an adult, child, mumayyiz (discerning minor), non-mumayyiz, male or female, free or enslaved. Individuals in this category are accountable for fulfilling their Shariah obligations until death. According to the Hanafi school of thought, this capacity continues even after death and until debts and bequests are settled posthumously (Abu Zahrah, 1997).

Hasb Allah (1959) classified ahliyyat al-wujub into two categories, namely ahliyyat al-wujub al-naqisah (imperfect capacity) and ahliyyat al-wujub al-kamilah (complete capacity). Ahliyyat al-wujub al-naqisah refers to a person's ability to appreciate rights stipulated in Shariah law without bearing any corresponding duties or obligations, similar to a foetus in the womb that possesses rights to inheritance, wills and endowments (waqf), yet is not subject to obligations. Meanwhile, ahliyyat al-wujub al-kamilah attaches full capacity to an individual, both in entitlement to rights and its ensuing obligations (al-Zuhayli, 1995). This category applies to human beings from birth until death, as long as life persists. Such persons own the right to inherit and be inherited from, receive maintenance from their own property, and to bear other Shariah-mandated duties as complete human beings. This is similar to a newborn who has the right to inherit from parents or relatives and is also liable, through the actions of administrators, guardians or parents, to observe obligations, such as zakat al-fitr or zakat al-mal, according to some ulema's opinions (Amir, 1997). Nonetheless, ahliyyat al-wujub develops progressively in accordance with stages of human life, such as from the formation of a foetus, to the non-mumayyiz stage, mumayyiz stage, and finally to adulthood. During the foetal stage, ahliyyat al-wujub remains incomplete and becomes perfected only upon birth as a human being (Abu Zahrah, 1997).

2. Ahliyyat al-Ada':-

Ahliyyat al-ada' refers to a person's capacity to perform Shariah-compliant acts, as well as the qualification to implement or engage in legally recognized actions that produce Shariah consequences, such as determining whether

an act is valid or invalid, and halal or haram (Hasb Allah, 1959). According to al-Zuhayli (1986), ahliyyat al-ada' attests whether an individual is qualified for executing obligations, whereby the words and actions have legal and religious implications. This means that if a person performs an act of worship, the act will be counted and discharges the ensuing obligation; conversely, if he causes harm or damage, he is liable for punishment or compensation, either in physical or material form. Zaydan (1999) asserted that a person possessing ahliyyat al-ada' must take responsibility for all his actions. This capacity is divided into two categories, namely ahliyyat al-ada' al-naqisah (imperfect performance capacity) and ahliyyat al-ada' al-kamilah (complete performance capacity) (Zaydan, 1999).

Ahliyyat al-ada' al-naqisah refers to the eligibility to receive rights but an incomplete capacity to implement. At this stage, a person may engage in certain acts or transactions but cannot perform all of them independently, such as mu'amalat-related matters (civil dealings), which requires a guardian or representative to manage specific affairs. This group includes children in the mumayyiz category (Mahmasani, 1967).

According to the majority of scholars, children reach the age of discernment (mumayyiz) at around seven years old. A mumayyiz child can typically differentiate between good and bad, recognize cleanliness and impurity, and manage basic personal needs, such as dressing by oneself. The insane (majnoon) are also classified in this category, as they lack full mental capacity or possess impaired reasoning; thus, they cannot be legally accountable (Zaydan, 2006). Their transactions (tasarruf) are divided into three types based on potential benefit or harm, as elaborated below:

- Contracts that provide pure benefit: Transactions (muamalah) that confer benefit are considered valid and enforceable. Al-Ruyani and al-Jurjani affirmed that children may accept gifts (hibah), while al-Mawardi added that they could receive wills (wasiyyah) and hibah (al-Shirbini, 1978). Hence, mumayyiz children can receive gifts, wills and donations, as these actions are beneficial and do not expose them to harm or loss.
- Contracts that entail pure risk or harm: Mumayyiz children are prohibited from engaging in tabarru' contracts (involving voluntary transfer of ownership, such as gifts, waqf, charity or lending or 'ariyah), since such transactions involve transfer of ownership without consideration ('iwad). The Hanafi and Shafi'i schools of thought hold that 'ariyah contracts executed by a child, guardian or executor are invalid, in order to safeguard the child's interests (al-Asrushani, n.d.: 255; al-Shirbini, 1978).
- Contracts that may yield either benefit or harm to the child: Tasarruf and idarah contracts involve contracts related to sale and purchase, lease, mortgage, agricultural project partnership (muzara'ah), irrigation partnership (musaqah), and other dealings that may result in profit or loss. According to the Hanafi school of thought, such contracts are valid if approved by the child's guardian or executor. However, the Shafi'i school of thought deems them invalid until the child reaches puberty, since a mumayyiz child is still not legally accountable (mukallaf) (Ibn Qudamah, 1997). This restriction is intended to protect children from exploitation by irresponsible parties (al-Bukhari, n.d.). Nonetheless, the Hanafi school of thought regards such contracts as makruh (discouraged) rather than void, though still legally defective (fasid) (Zaydan, 1999).

In regard to acts of worship ('ibadah), the mumayyiz child's worship is valid if the essential conditions and pillars of faith are fulfilled, even though it is not obligatory on the child. Likewise, in mu'amalat-related matters, transactions beneficial to the child, such as receiving gifts or zakat, are valid even without the guardian's consent (Zaydan, 2006).

Ahliyyat al-ada' al-kamilah is the criterion to perform duties, meaning the ability to discharge all Shariah-related obligations once the child attains puberty (bulugh) and of sound intellect ('aql). Such children are free to act according to their own will, although they might face risks as a consequence. This qualification is attained at the maturity and of sound judgment (rushd) stage (Hasb Allah, 1964). In this context, rushd refers to children who have attained intellectual and moral maturity, or the ability to think rationally and distinguish between right and wrong. It signifies that a child has fulfilled the ahliyyat al-ada' al-kamilah criteria by reaching puberty and being of sound mind (Ibn Kathir, 2000; al-Zuhayli, 1996). Hence, such children can make independent decisions and exercise sound judgment as fully responsible adults. Conversely, an insane (majnoon) adult does not fall under the ahliyyat al-ada' al-kamilah category but is classified under ahliyyat al-ada' al-naqisah, akin to a mumayyiz child. Ahliyyat al-ada' refers to child who is bound by taklif (religious accountability), whereby such a child is obliged to perform acts of worship, such as prayer, fasting and others. Consequently, every action committed by this child is subject to corresponding legal rulings, such as murder being punishable by qisas (retaliatory punishment), adultery by hudud (fixed penalties) and theft by amputation.

Based on the explanation above, it is evident that a child's eligibility to receive and fulfil the requirements of Shariah, whether concerning matters of muamalat (transactions) or ibadah (worship), is classified according to the child's developmental stages, which begins with the foetus stage in the womb, followed by a newborn, discerning child (mumayyiz), and finally, a mature child. Nevertheless, for children who are incapable of fulfilling Shari'ah obligations, such as muamalat transactions, the role of a wali (guardian) or wasi (executor) is established to facilitate the management of their affairs.

Managing the Property of Children:-

1. Providing Adequate Maintenance:-

Islam places great emphasis on the protection and welfare of children. Proper care ensures their safety and wellbeing in this world as well as the Hereafter. Wealth, though a source of necessity and pride for humankind, can lead to deleterious effects if misused. Hence, guardians, guided by integrity and trustworthiness, bear a crucial responsibility in managing the property of children. The Prophet Muhammad PBUH acknowledged the difficulty and challenges of safeguarding the property of orphans, especially those who lack the capacity to manage it properly themselves. This responsibility, however, must be undertaken by those who are capable, especially the close relatives, such as the grandfather, siblings, mother, uncle, stepfather, aunt, or other next of kin. The Prophet Muhammad PBUH had advised his companion Abu Dharr, by exhorting: "O Dharr, I see you as a weak man, and I love for you what I love for myself. Do not become a leader over two (people), and do not be a guardian of an orphan" (Abu Dawud, *Sunan Abi Dawud*, Kitab al-Wasaya, Bab Ma Ja'a fi al-Dukhul fi al-Wasaya, no. 2868).

The property of children should be spent appropriately, basically according to their essential needs, which includes food, clothing, shelter and other necessities. According to Ibn 'Abidin (1966) and Ibn Nujaym (1997), scholars of the Hanafi school of thought affirm that obligatory maintenance (nafkah) or necessities for children include food, clothing and accommodation. In today's globalised world, education has become an essential need for children. As guardians, it is a duty to ensure that children under their care receive proper education, especially Islamic education (Ibn Qayyim al-Jawziyyah, 1983). This is because Islamic education constitutes a form of worship that demonstrates unconditional obedience and allegiance to the Creator. The Prophet Muhammad PBUH exhorted: "Teaching good manners to a child is better than giving a measure of charity" (al-Tirmidhi, *Sunan al-Tirmidhi*, Kitab al-Birr wa al-Silah, Bab Ma Ja'a fi Adab al-Walad, no. 1951).

Therefore, just as other children deserve adequate needs and necessities, orphans are equally entitled to the same in order to ensure their survival and happiness. Islamic law outlines clear principles for guardians pertaining to the management of property belonging to children under their care. It is imperative that guardians act with a high level of responsibility to protect these children's welfare and prevent neglect or exploitation, which have been sadly evident in cases where these orphaned children have been forced into begging or other forms of hardship.

2. Prohibition of the Excessive Use of Property:-

Guardians are reminded not to extravagantly spend or consume the wealth of children under their care, even for the children's own needs. Such conduct amounts to exploitation and injustice towards the child. Allah SWT exhorted in Surah al-Nisa', verse 10: "Indeed, those who devour the property of orphans unjustly are only consuming fire into their bellies. And they will be burned in a Blaze [i.e., Hellfire]".

However, Islamic scholars believe that it is permissible for a guardian who is poor to moderately and justly use an orphan's property, in proportion to the guardian's responsibility in managing and developing it. However, if he uses more than what is reasonable, then the guardian is deemed to have transgressed the decree. This is consistent with Allah SWT's exhortation in Surah al-Nisa', verse 6: "And test the orphans [in their abilities] until they reach marriageable age. Then if you perceive in them sound judgement, release their property to them. And do not consume it excessively and quickly, [anticipating] that they will grow up. And whoever, [when acting as guardian], is self-sufficient should refrain [from taking a fee]; and whoever is poor - let him take according to what is acceptable. Then when you release their property to them, bring witnesses upon them. And sufficient is Allāh as the Reckoner".

The phrase 'consume according to what is acceptable' (bil-ma'ruf) has been interpreted in four ways, namely taking a portion from the child's property as a loan to be repaid later with one's own wealth, using only what is necessary, without extravagance, taking an amount equivalent to fair compensation for services rendered in managing the orphan's affairs and taking from the property only in cases of dire necessity. This means that if the guardian later

gains sufficient wealth, he must repay the amount taken from the child's property. However, if he remains unable, the portion he had taken is considered halal for him (Ibn al-Jawzi, 1965).

Islam strictly forbids wealthy guardians from taking or consuming the property of orphans. Tantawi (n.d.) explained in his tafsir that unjustly consuming an orphan's property, whether through inheritance or while entrusted to him for its management, is among the gravest sins in Islam. Allah SWT uses the term *zulm* (injustice) to emphasise the severity of such an act, as it exploits those who are weak and defenceless. Hence, the affluent are obliged to help the underprivileged, including orphans, by providing them with sustenance and wealth to ensure that they live with dignity and do not suffer from hunger or the lack of everyday necessities (Muhsin, 2003).

Islam also strictly prohibits guardians from unlawfully consuming, using or mixing the orphan's property with their own wealth, which is deemed as a major sin. Allah SWT exhorted in Surah al-Nisa', verse 2, meaning: "And give to the orphans their properties and do not substitute the defective [of your own] for the good [of theirs]. And do not consume their properties into your own. Indeed, that is ever a great sin". Therefore, the property of orphans must be preserved, protected and developed solely for their own benefit and future needs.

3. Handing Over Property after the Child Has Reached Maturity and is of Sound Mind:-

The guardian's duty of care to an orphan entrusted to him includes providing food basic necessities, as well as responsibly managing the orphan's property until the orphan becomes capable of handling one's own affairs. This responsibility is clearly mentioned in Surah al-Nisa', verse 6: "And test the orphans [in their abilities] until they reach marriageable age. Then if you perceive in them sound judgement, release their property to them. And do not consume it excessively and quickly, [anticipating] that they will grow up. And whoever, [when acting as guardian], is self-sufficient should refrain [from taking a fee]; and whoever is poor - let him take according to what is acceptable. Then when you release their property to them, bring witnesses upon them. And sufficient is Allāh as Reckoner".

According to the verse above, testing the orphan does not mean directly giving them possession of their property, nor is it merely about assessing their intellect and opinions to determine whether they think they can manage it. Rather, 'testing' here refers to guiding them in religious and worldly matters by training them in areas of good conduct, obedience, and exposing them to experiences in reflection, action and trading, until they are inclined towards good behaviour and actions. When they attain the stage of maturity (the age of marriage) and are capable of effectively applying what they have learned, they are then considered to have attained full maturity.

According to the consensus of esteemed scholars (ijma' 'ulama'), Ibn Jarir explained that if a child has attained a sound intellect and demonstrates competence in managing property, then the judge (hakim) or guardian (wali) no longer has the right to restrict the child from using its wealth. Such a child may also claim and utilize what rightfully belongs to it, even if the child has committed immoral religious acts. However, not all sinners (fasiq) should have their property withheld, as doing so could infringe upon their dignity. Hence, if a person's immorality involves financial misconduct, such as squandering wealth on alcohol or prostitution, then it is obligatory to restrict them from managing their property. However, if the sin concerns religious disobedience unrelated to wealth, such as eating during the day in the month of Ramadan, their property should not be withheld (al-Sabuni, 1999).

Allah SWT commanded that witnesses be present during the handover of property to such individuals, as mentioned in Surah al-Nisa', verse 5, because this serves as a precaution against injustice or misappropriation of the orphan's wealth; "And do not give the weak-minded your property, which Allāh has made a means of sustenance for you, but provide for them with it and clothe them and speak to them words of appropriate kindness. Then when you hand over to them their property, bring witnesses upon them".

4. Payment of Zakat:-

Most Islamic scholars agree that it is obligatory to pay zakat on the wealth belonging to children, including orphans, provided that the wealth meets the required haul (one lunar year) and nisab (minimum threshold). The criteria applied are the same as those imposed on adults (al-Qaradawi, 1969). Allah SWT exhorted in Surah al-Tawbah (9: 103): "Take, [O Muhammad], from their wealth a charity by which you purify them and cause them increase, and invoke [Allah's blessings] upon them. Indeed, your invocations are reassurance for them. And Allāh is Hearing and Knowing".

Children are also included under the jurisdiction of shar' rulings through this act of worship involving wealth, irrespective of their young age or immature reasoning. According to the Hanafi school of thought, as well as the opinions of 'Ali and Ibn 'Abbas, zakat is not obligatory on the wealth of children and the insane, since they lack full intellectual capacity, except for zakat on crops and fruits. This is because zakat is considered an act of worship that must be performed by the guardian or wali on the child's behalf (al-Qaradawi, 1969; Masyhur, 2002). In another context, Allah SWT commanded guardians to invest or expand the wealth of orphans through trade or other lawful means that could yield profit, so that the wealth does not diminish merely due to the regular payment of zakat.

Meanwhile, the wealthy and capable must obey Allah SWT's command by paying zakat and distributing it among the poor and needy. This act not only carries immense spiritual reward but also strengthens the bonds of Islamic brotherhood and builds mutual assistance among Muslims. Therefore, if orphans belong to the category of the poor, they are entitled to receive zakat as they fall under one of the eight rightful recipients (asnaf) of zakat designated by Allah SWT.

Conclusion:-

Therefore, the conclusion is that if a child is incapable of managing or administering its wealth, a guardian or trustee (wasi) should be appointed as the custodian to safeguard the property until the child reaches the age of eighteen. However, if a child attains puberty (baligh) but has yet to reach intellectual maturity (al-rushd), the guardian's responsibility over the child's wealth should continue. Conversely, if the child reaches the age of sixteen and is already employed or financially capable, it has the right to manage and handle its own assets. In the context of managing children's property, Islam does not grant children the absolute freedom to use their property as they please. Any financial transaction involving the property, whether selling, spending or otherwise, must only be conducted when it serves the best interest (maslahah) of the child. The appointed guardian must ensure that expenditures are reasonable, the property is managed prudently, wealth is handed over once the child attains puberty and possess sound judgment (al-rushd), while the obligation to pay zakat is duly fulfilled on their behalf.

Acknowledgement:-

This study was financed by Dana Pecutan Penerbitan and Dana Insentif Penerbitan from Faculty of Islamic Studies, Universiti Kebangsaan Malaysia.

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