

## **‘Maqashid Al-Sharia’ Perspective for Character Building among Street Children in Makassar, South Sulawesi.**

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### **Abstract**

*Negative images to street children have raised attention for all those concerned about the street children's character building. This article discusses three basic problems; the street children reality in Makassar city, fostering and emergence of factors of street children and ‘maqashid al-sharia’ principles on character building for the street children in Makassar, South Sulawesi. In the perspective of ‘maqashid al-sharia’, the position of street children clearly has rules and normative legal basis. Fostering children's character has a fundamental meaning which is the basis of values to change the fate of children, as well as a comprehensive approach to man in spiritual education and noble character. This article meant to emphasize the role of ‘maqashid al-sharia’ perspectives in character building; therefore, street children of Makassar will struggle toward a better future.*

*Anak jalanan sering mendapat citra negatif, sehingga menjadi fokus perhatian dari semua pihak dalam upaya pembinaan karakter mereka. Artikel ini secara fokus membahas tiga pokok masalah antara lain; realitas anak jalanan Kota Makassar, faktor munculnya dan pembinaannya serta prinsip ‘maqashid al-syariah’ dalam pembinaan karakter anak jalanan di Kota Makassar. Dalam perspektif ‘maqashid al-syariah’, kedudukan anak jalanan di Kota Makassar secara jelas memiliki aturan dan landasan hukum normatif. Pembinaan karakter anak memiliki makna yang fundamental yaitu sebagai nilai dasar untuk melakukan perubahan nasib anak, serta sebagai pendekatan komprehensif bagi manusia dalam pendidikan rohani dan kemuliaan karakter. Artikel ini menganalisis perspektif ‘maqashid al-syariah’ dalam pembinaan karakter, sehingga anak jalanan di kota Makassar dapat berubah menuju masa depan yang cerah.*

**Keywords : character building; street children; maqashid al-Sharia**

## **A. Introduction**

Street children are one of the social welfare problems are closely linked to national issues. One of the reasons the incidence of it is caused by population growth that is not balanced with available jobs. If the state does not receive adequate attention and response, it will lead to impaired growth and development of children, either physically, spiritually, and socially.

According to the Indonesia Constitution of 1945, article 34, abandoned children were maintained by the state, it means that the government has responsibilities for the maintenance and development of abandoned children, including street children. Rights of abandoned children and street children is essentially the same as the rights of man in general as Presidential Decree No. 36 of 1990 on Ratification of the Convention on the Right of the Child (the Convention on the Rights of the Child) stating that they need get their rights as normal as befits children in general, the civil rights and freedoms, family environment and a choice of maintenance, basic health and welfare, education, culture, and special protection.

If the children in the community are good then it is definitely the community will be formed into a society that good anyway, further said: Islam states that children are the seeds that will grow to shape society in the future, then the maintenance and care of children or who termed with *hadhanah* be the responsibility of their parents. *Hadhanah* is the right of children that are still in toddler, because it requires supervision, custody, executing its affairs and those who educate, and her mother who is obliged to *hadhanah*.<sup>1</sup>

Street children as one element of neglected children are children who do not get the attention, protection, and maintenance as it should, resulting in abnormal personality development. The

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<sup>1</sup>Sayyid Sabiq, *Fiqh Sunnah*, Volume VIII (Bandung: PT. Al-Maarif, 1994), p. 160. Further explained here that it turns out that for young children have the right *hadhanah*, then the mother is required to do, if it is clear the children need them and no one else who could do it. This is intended to avoid child's right to maintenance and education wasted. If it turns out it's *hadhanah* can be handled to others, for instance the grandmother of her and she was willing to do it was her own mother did not want to, then the right of the mother to nurture (*hadhanah*) will fall by the grandmother because she deserves nourishes. This is because the grandmother also had the right *hadhanah*.

existence of street children due to neglect of family embodied in the inability of the family.

Relating to that, the position of the children in the present era must be positioned within the principles of the justice system and without distinguishes it from the others, so that materialize in helping each others. Thus, the existence of street children is considered as the impact of urban poverty, and there is no doubt that the emergence of street children is a product of structural poverty, such as economic and social problems of culture. That is why, so that Islam prioritizes absolute equality among humans in the capacity of humanitarian, human rights and freedoms are free gifts of God to His servant, the difference is the difference in levels of income and human law of dialectics material. It is understood that the concept of child protection intact, thorough, and comprehensive are obligation to provide protection to children based on the principles of non-discrimination, the principle of the best interests of the child, the principle of the right to life, survival and development, and the principle of respect for the child's opinion.

The lives of street children with a variety of characteristics become the hallmark that distinguishes it from other communities. The negative image that has been attached to street children become the focus of attention of all parties concerned to development efforts and development character of the street children. Work environment or association of street children away from their families and continue to deal with the rigors of life make them grow and develop in accordance with the demands of the environment.

Based on the description above, it is interesting to study and further analysis of the problems of street children character building of the *maqashid al-Syariah* perspective, especially in the city of Makassar. This article discusses three principal focus among other problems; Makassar reality of street children, and fostering the emergence of factors and principles of the *maqashid al-Syariah* to build street children's character in the city of Makassar.

The research methodology used in this article starts from the determination of the location and the type of research, the approach based on the theories of science approach of sharia and other disciplines that support such a rationalistic approach, phenomenological, theologically normative and sociological that covered in it a multidisciplinary approach, whose data refer to field

research. Thus the main source of data obtained directly from study sites by taking the population and sample. The procedure of collecting data through observation, interviews, questionnaires, and documentation. Processing and analysis of qualitative data and analyzed in tabular form by dividing the resulting data with the frequency distribution.

## **B. The reality of street children in Makassar**

Street children commonly found in the city of Makassar, is not a new social phenomenon of large cities. Street children, who are part of the community outskirts child. As for the situation of street children in the city of Makassar in terms of quantity, it seems increasingly growing every year if not taken seriously. As a general overview, the situation of street children in Makassar for today can be seen in the following table:

*Table 1. Condition of Street Children by District Region in Makassar*

No	Districts	Street Children	
		Male	Female
1	Rappocini	118	16
2	Tamalate	137	80
3	Makassar	153	95
4	Mariso	125	61
5	Mamajang	122	71
6	Ujungpandang	110	48
7	Tallo	121	32
8	Manggala	114	16
9	Panakkukang	161	97
10	Wajo	113	16
11	Bontoala	111	32
12	Ujung Tanah	19	8
13	Tamalanrea	112	13
14	Biringkanayya	113	15
Amounts		1629	600
Total		2229	

Source: Department of Social and Welfare of Makassar, 2014.

Based on data from the table above, it is understood that street children in Makassar amounted to 2229 people, in terms of gender that most are male, which amounted to 1 629 people, while women amounted to 600 people. In terms of territory, then the highest in the district of Panakkukang, namely 161 men and 97 women. The least discovered regions of street children is in the district of Ujung Tanah, where only 19 men and 8 women.

In reality the amount of street children in Makassar indeed growing. The following figures can at least be used as a benchmark. According to data from the LPA South Sulawesi and Yapta-U, the number of street children in Makassar, in 2009, 'only' 1,155 people. They are scattered in at least 25 (twenty five) points of concentration, namely: Pasar Karuwisi, Jembatan Penyeberangan Pongtiku, Pasar Terong, Jl. Masjid Raya, Pekuburan Panaikang, Jl. Gunung Bawakaraeng-Veteran, Jl. Gunung Salahutu-Kerung-kerung, Jl. Sungai Saddang-Veteran, Jl. Landak-Veteran, Rumah Sakit Labuang Baji-Jl. Kakatua, Veteran Selatan-Jl. Sam Ratulangi, Matahari Maricaya, Pelabuhan Soekarno-Hatta, Pantai Losari, Tempat Pelelangan Ikan (TPI) Rajawali, Sari Laut-Jl. Nusantara, Pekuburan Dadi, Lapangan Karebosi, Makasa-Alfa, Jl. Letjen Hertasning, Pasar Tamamaung, Terminal Panaikang, Kilometer 4 and Makassar Mall.

Based on data from the Social Service Office of South Sulawesi on social welfare problems (PMKS) in 2000, the amount of street children in South Sulawesi 4,809 people, most or many as 1,065 children are in Makassar. In 2014, the amount of street children based on data from the Social Service of Makassar has grown to 2,229 people. These data, only a prediction that is monitored from the pockets of street children per district. However, this data is not an exact figure given their high mobility. It could be, children from districts A operates in the district B, and vice versa.

The data from the Social Service of Makassar shows that there were 17 concentration points of street children. They are not only located in red light and the main streets but also in shopping malls, post offices, terminals and even at Masjid al-Markaz al-Islami. More than three thousand street children, as many as 240 children to do activities at a red light. Head of Social Services of Makassar states from that amount, 94 of whom are still in school and doing productive activities, such as selling drinks, food or newspapers. The latest data

issued by BAPPEDA of Makassar shows that in 2014 the amount of street children has increased to 2,229 children. This amount does not include abandoned children in various places that reach about 2,000 anyway.<sup>2</sup>

Research results on the street children, beggars and the homeless conducted by Yaspindo in cooperation with Bappeda of Makassar, in 2010, found that there are differences in child professions of each location. In 2014-2015, this trend is still ongoing. If around Jl. Masjid Raya, an average of street children are work as beggars, at the intersection of Jl. New Saddang river-Jl. Veteran more heterogeneous, ie, as beggars, buskers and hawkers. At the crossroad of Jl. Urip Sumoharjo-Jl. A.P. Pettarani predominantly as beggars and hawkers, at Jl. Sultan Alauddin mostly beggars and buskers. While at Jl. Metro Tanjung Bunga and surrounding areas, more work as shoe polishers, hawkers and buskers.

Agus Bali from Yapta-U said that 80% of street children in Makassar was 12 years old, 20% are aged between 12-16 years. For the female street children, usually at the age of 12 years when they stop begging because of be ashamed or choose another job. Yapta-U research results in 2010 shows different tendencies on street children male and female. When the male street children will change 'profession' of beggars became hawkers before the age of 12 years, the female street children changed 'profession' of beggars become sex workers. (for female street children will be discussed in a separate section). Most of the street children have worked more than one year by an average of working time of more than 5 hours a day.<sup>3</sup>

Street children as mentioned, predominantly living as beggars, singers, pickers, shoeshine, cleaning parked vehicles, sellers of newspapers, and other than that, according to Arsyad Tamal that they are children by whatever reason, do not get a decent place in the difficulty of life. They are all children who by reason of economic, social, cultural, political, have lost their basic rights as children. Even so, they have provided the inspiration for a number of parties in advance of Makassar, because the government makes the community

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<sup>2</sup>Ibrahim Shaleh, Chief of Social Service of Makassar , *interview*, 9<sup>th</sup> October 2014.

<sup>3</sup>Agus Baldi, Chairman of LSM Yapta-U of Makassar branch, *interview*, 4<sup>th</sup> October 2014.

of street children to think in the position of street children together into development. One of the efforts undertaken by the government in the rehabilitation program of children and provide intensive guidance to them to achieve a prosperous future. <sup>4</sup>

General mapping on street children in Makassar can be grouped into two categories. First, the of street children who have a community. They still have a parent, there is a place to stay although at the edges of the aisle as the urban. Most work as hawkers. Second, the vagrants of street children. They have broken relationships with parents and other family members. During the 24 hour live and work on the streets or porch-patio stores.

## **B. The Factors of Street Children Emergence and Its Development Program in Makassar**

Based on observations in several locations in the city of Makassar, the street children commonly found and some of their living as labor or child workers are clearly visible and can be found in the fish auction place (TPI) Rajawali and Paotere, as the seller of plastic bag makers and water. They can also be found in the Pelabuhan Kayu Bangkoa as porters of goods in inter-island boat or motor boat. They can also be found at Soekarno-Hatta Port as hawkers, also in the streets of the city as a pedicab driver. They are part of a community of the street children.

Almost in every occasion of activities concerning children, the issue of of street children is always prominent, even if sometimes discussed in that forum regarding the issue of the other children. But still, the problem of street children raised. Though the problems children are still hidden problems are no less serious to talked about long. The amount of attention to the problem of street children make the city government to include the issue of street children as one of Rehabilitation and Social Protection Program in Strategic Plan of Makassar.

Various causes are interrelated as described, when described in a table will look like the table below. Although there is no separation of space, does not mean that the external factors that have linkages by

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<sup>4</sup>Arsyad Tamal, Chief of Rehabilitation Section of Social Service of Makassar, *interview*, tanggal 18<sup>th</sup> October 2014.

the government policy that have nothing to do with the culturally causes. Both of these factors actually have a relationship of mutual influence.

*Table 2. The linkage Factors Causes of Street Children in Makassar*

Contributing Factors	External (Structural)	Internal (Cultural)
Driver	<ul style="list-style-type: none"><li>• The economic crisis</li><li>• Poverty</li><li>• Urbanization</li><li>• Dropping Out of School</li><li>• Suffer / descendants of lepers</li></ul>	<ul style="list-style-type: none"><li>• The mindset of parents</li><li>• Unequal gender relations</li><li>• Less attention by parents / family</li><li>• Domestic violence</li></ul>
Attractor	<ul style="list-style-type: none"><li>• The absence of The Play Space</li></ul>	<ul style="list-style-type: none"><li>• Forced by someone</li><li>• Invitation by friends</li><li>• Seasonal</li><li>• Opportunities to earn easy money.</li></ul>

Based on the the table above, it is understood that the difficulty of handling the street children, especially since the issue of the street children is a problem that does not stand alone, that there are push and pull factors by a variety of structural and cultural reasons. When it is said that the city of Makassar as the urban center then the of course difficult to circumvent the problem of beggars. Moreover, the crisis is continuing and most parents are not able to meet the needs of their young lives. So, to be able to live, the children are required to go to the streets to beg.

On the other hand, the actions carried out the raids against the beggars which is have the legal basis so can not be considered to violate children's rights or human rights. These raids should be the responsibility of village officials and instruments at lower levels, ie RW / RT. It is they, which is are closest to the people. So they must be proactive in fostering communities. At the same time, the Government is actively pointing RW / RT as the responsible party. It is impossible for government personnel to provide guidance if it is not supported by the district nor the city government, especially when 90% of the citizens is poor.



The impression that the street children were unmanageable, is not always true. The proof is, they just want to be fostered, educated and guided to the right path. Including religious approach in the development of the street children becomes an integral part of the effort to empower them. This is important as Marimin statement, Mayor of Makassar expert staff;

The problem of street children can not be resolved without the cooperation of all parties. If the efforts made by the government without the support of parents and community or religious leaders, the of street children is hard to overcome although the guidance always been conducted, the cause that the of street children due to the lack of parental control, and also economic factors, even government oversight is less stringent because of the limited fund.<sup>5</sup>

Actually, there are many activities ever conducted of various parties as guiding and empowering the street children. The activities, there were conducted by each NGO in collaboration with government agencies and the business community as well as other observers of children. In addition to guidance religious, economic empowerment and improvement of skills, as already mentioned, also made the alternative education, cultural arts activities and others.

### **C. The principle of maqashid al-Syariah in Character Building of Street Children in Makassar**

In Islamic law, there are some children's rights were fundamental, among others: the right to life (Q.S. al-Maidah: 30-32), the right to freedom (Q.S. al-Shura: 4), the right to equality (Q.S.al-Ahqaf: 19), the right to justice (Q.S. al-Nisa: 49), the right to protection against tyranny (Q.S. al-Ahzab: 58), the right to protection from persecution (Reported by Ibn Majah with the Sanad Sahih), the right to shelter (Q.S. al-Tawbah: 6), and the right to receive education (Q.S. al-Isra: 23-24).

In *maqashid al-Syariah*, including maintaining the descendants or the next generation, in order that human survival can be maintained existence. Therefore God obliges parents to care for and educate their

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<sup>5</sup>Marimin, Makassar Mayor Expert Staff, interview, 5<sup>th</sup> June 2012

children<sup>6</sup> and He ordered the community to care for orphans or the street children that have no parents and lives hard. So that people is not neglect their existence when everyone is busy with their own affairs. Islam requires giving attention to the guidance children's character.<sup>7</sup>

Fostering children's character is also attached to the community, that means that the acts of the protection of children's rights, relies heavily on the wishes of the people that want to do good. Social behaviors such it can not be called or be grouped into a legal act, but rather shows the behavior and practice of religious life or as a result of the compensation value of the humanitarian community towards children's rights. Child is the hope and expectation of parents that will continue the development of the nation. Abdullah Bin Abdul Muhsin al-Turki said that:

Childhood is the period of sowing, the establishment of piles, establish the foundations, that can be called as well as period of the formation of character, personality, and character of a human being, so they are in the future have the strength and ability and be able to stand strong in building their life.<sup>8</sup>

The teachings of Islam considered children as a mandate of Allah. are entrusted to their parents. "The term mandate it is implementation of mandatory to face and treat it seriously, carefully, thoroughly and carefully. As a trust, children must be kept, guided and directed aligned with what is mandated".<sup>9</sup> Children's rights are absolute, that inviolable, and it is the duty of parents that have been outlined in Islam.<sup>10</sup>

According to M. Yahya Harahap, what is meant by maintenance of children, are the responsibility of the parents to

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<sup>6</sup>Abū Ishaq al-Syātibiy, *al-Muwāfaqāt fī Ushūl al-Syarī'ah*, juz II (Bairūt: Dār al-Ma'rifah, t.th), p. 6.

<sup>7</sup>Ibnu Anshori, *Perlindungan Anak dalam Agama Islam* (Jakarta, Komisi Perlindungan Anak Indonesia, 2006), h.81.

<sup>8</sup>Abdul Rozak Husein, *Hak-hak Anak dalam Islam* (Jakarta: Fikahati Aneska, 1992), p. 13

<sup>9</sup>Muhammad Ali Quthb, *Sang Anak dalam Naungan Pendidikan Islam*, terj. Bafarum Abubakar (Bandung: Diponegoro, 1998), p. 11

<sup>10</sup>Abdul Rozak Husein, *Hak-hak Anak Dalam Islam*, p. 49.

supervise, provide appropriate services and provide for the child's life. Childcare also be monitoring, services and provide living for the child are to be continuous until they are adults.<sup>11</sup>

The existence of that responsibility because there are relation between a child and their parents based on consanguinity. According to customary law, the legal consequences of the existence of parent and child are: 1) obligation of the parents to take care of their children; 2) on the marriage of the daughter, the father becomes the guardian; 3) the prohibition of marriage between children and their parents.<sup>12</sup>

In the Islamic view of obligation of the parents towards the survival and child education is a mandate entrusted to the child's parents. But according to Bismar Siregar, "It's a lot of the parents that have children, but he forgot that the child is a blessing, a blessing and at the same time trust of Allah swt."<sup>13</sup>

For that the parents is not only take care of the children in terms of superficial, but include a broad sense, the achievement of a balance between body and soul and self protection from disease.<sup>14</sup> Because of it the children are creation of God should be respected and honored. As the command of Allah swt. in Q.S. al-Isra': 70;

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ وَحَمَلْنَاهُمْ فِي الْبَرِّ وَالْبَحْرِ وَرَزَقْنَاهُمْ مِنَ الطَّيِّبَاتِ وَفَضَّلْنَاهُمْ عَلَى كَثِيرٍ مِمَّنْ خَلَقْنَا تَفْضِيلًا

“And We have certainly honored the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what We have created, with [definite] preference.”

The verse asserts that the children of Adam must be honored, and the parents are responsible before God for their children's education. Because they are the generation that will continue the

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<sup>11</sup>M. Yahya Harahap, *Hukum Perkawinan Nasional* (Cet I; Medan: Trading Co., 1975), p.123.

<sup>12</sup>Soerjono Soekanto, *Hukum Adat Indonesia* (Jakarta: Rajawali, 1981), p. 4.

<sup>13</sup>Bismar Siregar, *Renungan Hukum dan Iman* (Jakarta: Fikira, 1988), p. 28.

<sup>14</sup>Dewan Ulama Al-Azhar, *Perawatan Anak*, terj. Alawiyah Abdurrahman (Jakarta: Al-Bayan, 1991), p. 34.

struggle of religion and the inheritors of the earth. Therefore, if the education of the the children is good, then their parents will be happy, both in this world and in the hereafter. Conversely, if the parents neglect towards the children education, so they will suffer from the world to the afterlife.

Therefore, the person is obliged to preserve themselves from the things that inappropriate, as well as the first carry out the religious orders well. Because children are more likely to imitate and follow customs that exist in the environment. That is, to educate children with behavioral examples directly it's better than just the advice in the form of speech. So, if parents have a habit of doing things well, then the child will be a pious man. Because of since childhood has been taught by good things; instill the value of tawhid, educate to pray, educate good attitudes, educate to being honest and do justice for the children, while the parents must also do better by providing a protective justice for their children.

In addition to the legal protection theory as the main theory, several other theories as theoretical support or discourse are used as well, namely *hadhanah* theory and the theory of wali

Supporting theory or discourse second are *hadhanah* theory,<sup>15</sup> which is the theory that analyzes and explains the custody, caring, nurturing and protecting the children's rights. According to Wahbah al Zuhaily, said *hadhanah* in terms of syara is "the right to educate children for the person that has the custody or care, or educate or maintaining those who can not take care of themselves and keep them away from cases that could destroy it, because they can not distinguish between good and bad."<sup>16</sup>

Al-San'āni explained that under Islamic law the maintenance of children mentioned with al-hadīnah which is masdar of al-*hadhanah* word that means caring or nurturing infants (*hadhanah* al-sabīyya). In term meaning, *hadhanah* is the maintenance of children who are not able to stand alone, the cost of education and the maintenance of all

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<sup>15</sup>Sayyid Sabiq, *op. cit.*, p. 160 mentioned that *hadhanah* comes from word *hidhan* means gut and just like: *hadhana al-thayru baidhahu*, means: that bird tucked the egg under their wings. Similarly, the female (mother) that clutching their children, take care of the children who are still little is an obligatory.

<sup>16</sup>Wahbah al Zuhaily, *al-Fiqh al-Islami wa Adillatuhu*, juz VII (Damaskus: Dār al-Fikr, t.th.), p. 897-898.

life-threatening. According to Muhammad Jawad Mughniyah, *hadhanah* has absolutely nothing to do with the custody of children, whether relating with marriage nor anything concerning his property. *Hadhanah* is solely about the case in the sense of educating children and nourishes the caregiver that requires a woman to take care of them until they become an adult.<sup>17</sup>

Based on the description above, it is understood that *hadhanah* is nurturing children, younger men or women or who are older but not yet *tamyiz*, without orders from him, providing something that makes goodness, keeping them from something destructive, physically, spiritually and intellectually, enable them to stand alone to face the life and can take responsibility when they are an adult.

Furthermore, as a supporting theory in analyzing the guidance of children character is guardian theory (The Theory of Wali). If the the parents (biological parents) was considered incompetent or no longer able to perform the obligation to maintain and educate their children as parents, then their power is powers revoked. According to Article 50 paragraph (1) of Law No. 1 of 1974 on Marriage, the implementation of child care will be taken care of by an appointed guardian. So guardianship occurs as a result of the revocation of the power of the parents towards their children. Also commonly occurs when both parents died, so in this case the children must be under guardianship. Generally, in patrilineal society, children abandoned by their parents would be automatically under the guardianship of relatives of their father, if in a matrilineal society, children abandoned by their parents are under the guardianship of his mother's relatives,

The power of appointed guardians is equal with the powers that become the responsibility of the parents, which includes personal and property that are in their ward. The appointment of a guardian can be carried out with a will by her parents and also with the appointment by the court as specified in Article 53 paragraph (2) of Law No. 1 of 1974. The children trust established by the court due to (1) if the children are not under the authority of the parents, (2) if they are not under the authority, the court should appoint another person to become guardian, (3) or it could be because the child's parents right have been deprived, while an appointed guardian can not carry out obligations.

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<sup>17</sup>Muhammad Jawad Mughniyah, *al-Fiqh 'alā Mazāhib khamsah*, terj. Afif Muhammad (Jakarta: Basrie Press, 1994), p. 133.

The authority of a guardian's authority as described above are similar with the duties and obligation of parental authority, namely (1) to take care the children that are under guardianship, (2) maintaining the wealth of children that are under guardianship, (3) must be respect the religion professed by the children that are under guardianship, absolutely not allowed forcing the child to convert to correspond with the child's caregivers. Against the assets of the child, the guardian has the obligation to (1) create a list of property of the child clearly and in detail, (2) records all changes that occur on the property of the children under guardianship, (3) responsible for all calculations and activities due to the negligence of the guardian (4) prohibited from transferring the rights or pawn goods owned by the children under a guardian's authority, unless desirable by the child.<sup>18</sup>

When in reality, the appointed guardian is not doing their job properly, or has a bad faith in taking care of possessions of the children who are under guardianship, the guardianship rights can be revoked. Procedures and the revocation is by apply to the local Religious Court. In Article 35 of Law No. 1 of 1974 on Marriage mentioned, (1) The trustee authority may be deprived, (2) in terms of power of a guardian is revoked, the court may appoint another person as guardian.

Article 35 Compilation of Islamic Law and strengthened by Article 109 stated that the Religious Court may revoke custody of a person or legal entity and move it to another party by the request of relatives when appointed guardian is drinker, gamblers, spender, crazy and or neglecting or abusing their rights and authority as trustee for the sake of those that are under guardianship. Thus the rights and obligations as a trustee, either from family, society and government are legal mandatory *hadhanah* of the rights of children. Therefore, the development of *hadhanah* law is an extension of the sense of maintaining interpretation of something that hurt and damage both physical and spiritual destruction, that the development of *hadhanah* to people whose condition is weak in the broad sense and requires legal protection to deal with life.<sup>19</sup>

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<sup>18</sup>Indonesia Republic, *Indonesia Republic Law No 1 year 1974 about marriage*, article 48.

<sup>19</sup>Iman Jauhari, *Hak-hak Anak dalam Hukum Islam* (Jakarta: Pustaka Bangsa Press, 2003), p.48

## **D. Conclusions**

Based on the arguments which have been raised, some conclusions can be found as follows:

The character building of the street children in the perspective of history in the city of Makassar are faced with life environment that is incompatible with the process of forming their character. Because regardless of the control and surveillance of the parents. Whereas in the process of growth in children is necessary the guidance and supervision from their parents and have to instill feelings of love and affection to their children, feelings of love and affection that is embodied in the form of fulfilling children's needs both physical and spiritual, as well as protecting children from violence and discrimination will good influence on the development of the child so that the child mentally strong and tough, and capital to achieve success in life.

In the perspective of of the *maqashid al-Syariah*, the position of street children in the city of Makassar clearly has its rules and the legal basis of normative, in the view of Islam fostering children's character has significance which is fundamental that as the basis of values and paradigms to change the life of the street children. Fostering an integrated system ranging from household environment, the community and the government the city of Makassar by early treatment on the the village level in phases based on priority. Handling on the the parish level, not only will help in terms of services and social rehabilitation but also can prevent children who can potentially take to the streets. Furthermore, building a comprehensible understanding on position of the child in life through the development of religious, economic empowerment and improvement of skills through alternative education, cultural arts activities and others have been conducted by the government the city of Makassar. The government can conduct a coordinated approach by all the elements, especially NGOs and other observers of the street children with a variety of activities that attempts the guidance and empowering the street children.

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