

Legal Consequences of Transferring Children's Assets in Trusteeship Without Involving The Heritage Treasure Hall As Trustee

Dewi Sulistianingsih^{1*}, *Dearn Meli Asih Sinaga*², *Yuli Prasetyo Adhi*³, *Rahmawati Mohd Yusoff*⁴

¹Faculty of Law, Universitas Negeri Semarang, Indonesia, Email: dewisulistianingsih21@mail.unnes.ac.id

²Faculty of Law, Universitas Negeri Semarang, Indonesia Email: dearn299@students.unnes.ac.id

³Faculty of Law, Universitas Diponegoro, Semarang, Indonesia, Email: yuliprasetyoadhi@lecturer.undip.ac.id

⁴Departemen of Law, Universiti Teknologi Mara (UiTM), Cawangan Johor, Malaysia, Email: rahmawatimy@uitm.edu.my

Article Information

Article History:

Received : 30-08-2023

Revised : 22-11-2023

Accepted : 27-11-2023

Published : 27-11-2023

Keyword:

Trustees;

Super intendent;

Heritage Hall;

Assets;

Abstract

The purposes of this research is to analyze legal protection for children in guardianship, which there is a transfer of assets in guardianship without involving Heritage Treasure Hall as supervisory trustees. The article will use a doctrinal research method to analyze the legal aspects of children guardianship. Guardianship is oversight of minors who are not under the authority of their parents so their legal position needs to be represented by a guardian. In a trusteeship, the guardian has rights and obligations over the life of the child under his guardianship and is responsible for the property of the child. In carrying out its role, under Article 366 of the Civil Code, the guardian is supervised by a supervisory guardian, in this case, the Heritage Treasure Hall. However, the Heritage Treasure Hall is less involved in trusteeship activities, especially in the transfer of children's assets in trust. Actions that do not involve the Heritage Treasure Hall will result in the termination of a guardian and all actions that have been taken may be cancelled.

Abstrak

Tujuan penelitian ini adalah untuk menganalisis perlindungan hukum terhadap anak dalam perwalian, yaitu terjadi pengalihan harta dalam perwalian tanpa melibatkan Balai Harta Peninggalan sebagai wali pengawas. Artikel ini akan menggunakan metode penelitian doktrinal untuk menganalisis aspek hukum perwalian anak. Perwalian merupakan suatu pengawasan terhadap anak dibawah umur yang tidak berada dalam kekuasaan orang tua, sehingga kedudukannya menurut hukum perlu diwakilkan oleh seorang wali. Dalam perwalian, wali memiliki hak dan kewajiban atas hidup anak dalam perwaliannya serta bertanggungjawab atas harta benda dari anak tersebut. Dalam menjalankan perannya, berdasarkan pasal 366 KUHPerdara wali diawasi oleh seorang wali pengawas yang dalam hal ini adalah Balai Harta Peninggalan. Akan tetapi pada faktanya, Balai Harta Peninggalan kurang dilibatkan dalam kegiatan perwalian, terlebih dalam peralihan harta anak dalam perwalian. Tindakan yang tidak melibatkan Balai Harta Peninggalan ini akan berdampak pada diberhentikannya seorang wali dan segala tindakan yang telah dilakukan dapat dibatalkan.

INTRODUCTION

Along with the progress and progress of the current era, the various problems that occur in human life are also increasing. Often the problems that come are unexpected and unexpected things will happen to them, so humans are not introspective to address the problems that come to them. Because humans are *homo socius*, it is only natural that humans will establish social relations with each other. The more interactions between human beings occur, the more patterns of social problems can be found. Every interaction that occurs between humans in social life will always have the potential for social problems to occur.

Human interaction will form groups, both on a small scale, namely the family, to a large scale, namely people in a country like Indonesia, to become part of the world's citizens¹. Human relations with each other must start from his own family. This is because the family is the smallest scale group that often interacts and is interdependent between one member and another. The family is part of a social group consisting of a mother, father, and children. Herbert Spencer argues that the family is an institutional structure, which means that each member of the family has different roles and functions². In Indonesia itself, it has become commonplace that when there is a problem among family members, the family will also be involved in finding a solution. Resolving problems in the family is not an easy thing to do. In most cases, attempts to resolve family problems end in deadlock, even mutual hostility between family members. On the other hand, there is a desire to resolve problems with the people closest to you. But, on the other hand, neither party was willing to give in to calm the commotion. As a result, small problems that can initially be compromised spread to other things and grow bigger, making them even more complicated.

Each member of the family has its problems. Several family problems can be resolved through discussion and finding solutions that are mutually agreed upon by all members. Family problems that are resolved amicably, in this case, are non-litigation, often occurring in the community because they are considered more

¹Riri Mela Lomika Siregar, "Curatele (Pengampuan), (Suatu Analisis Atas Penetapan Pengadilan Negeri Jakarta Selatan Nomor 94/Pdt.P/2008/PN.Jkt.Sel Dan Nomor 100/Pdt.P/2008/PN.Jkt.Sel)," 2009.

²Wan Nova Listia, "Anak Sebagai Makhluk Sosial," *Jurnal Bunga Rampai Usia Emas* 1, no. 1 (2015): 14–23, <https://jurnal.unimed.ac.id/2012/index.php/jhp/article/view/9278>.

efficient and do not spend a lot of energy, time, and money³. However, it is not uncommon for family problems to be resolved with legal assistance. In Indonesia, the court is a body that is often used as a step to solve problems related to law. Because in court a family problem related to the law can get legal certainty. One example of a family problem that is often addressed by legal assistance in court is inheritance. With various family conflicts, the problem that arises most often in the author's opinion is inheritance disputes. It can often be found in mass media reports, where siblings fight over the division of inheritance. Until you have to go to court.

Overall inheritance law is part of civil law and a small part of family law. The law of inheritance will be very close to human life because every human being will go through a life event, namely, death. As a result of this event, there will be legal events related to management issues and the continuation of the rights and obligations of someone who has died⁴. The consequences of these problems are regulated in inheritance law. In the inheritance law system in Indonesia, there is still a plurality of legal arrangements, so inheritance in Indonesia, is regulated in three legal systems namely the Western inheritance law system, the Islamic inheritance law system, and the customary inheritance law system. The plurality of the inheritance law system is influenced by the diversity of Indonesian society.

Inheritance arises because of the event of death. This event occurs in family members such as the father, mother, or child. If a family member dies and owns assets, what matters in the legal event is not the death, but the assets left behind by that person. In this event, it is necessary to know which parties are entitled to the inheritance of the heir's assets, and who is obliged to bear the debts left by the heir which are his obligations. People who have died and left assets are referred to as heirs. While the heir is someone who replaces the heir in a legal position to continue his wealth, either partially or completely to the wealth left behind⁵.

³Inayatul Makhfiroh, "Efektivitas Mediasi Non Litigasi Dalam Penyelesaian Permasalahan Keluarga" (Institut Agama Islam Negeri Raden INTAN (IAIN), 2017).

⁴Hasanudin, "Perbandingan Pembagian Waris Menurut Kitab Undang-Undang Hukum Perdata (BW) Dan Pembagian Waris Menurut Hukum Islam," *Fakultas Hukum* (Muhammadiyah Palembang, 2015).

⁵Tedjosaputro, *Hukum Waris Menurut Kitab UU Hukum Perdata* (PT. Pustaka Angkasa, 1991).

Apart from inheritance, family problems that are often resolved through legal assistance are related to guardianship. In the Civil Code, guardianship is regulated in Chapter XV Articles 330-418a, which contains the notion of a minor up to the discussion of the Treasure Hall. Guardianship is the supervision of the child's personality and management of the assets of a minor child whose position is not under the authority of the parents. So it can be concluded that a child where one of his parents has died or his parents have divorced, then this child is under guardianship. For children whose position is out of wedlock, then due to the absence of parental authority, these children are always under guardianship⁶.

Talking about child guardianship, cannot be separated from the discussion regarding children, child protection, and the age limit of children. This becomes important to know when the position of a child is placed under guardianship and can be held accountable for his or her actions⁷. Child custody often goes hand in hand with inheritance. In terms of inheritance, the placement of guardians for minors is very important. This can be seen when the parents of a minor child die, this child will receive an inheritance from the parents, and in such circumstances, a guardian is needed to represent the child. So as a result of this guardianship, a child is expected to get justice and legal certainty over the inheritance of his parents.

Justice and legal certainty are things that need to be strived for in protecting children, including children under guardianship to prevent abuse which can result in unwanted adverse impacts in the implementation of child protection⁸. There are two forms of child protection, which are as follows⁹: (a) Juridical protection of children, a form of protection in criminal law and civil law; (b) Non-judicial protection of children, a form of protection in the fields of education, health, and social affairs.

⁶Titik Triwukan Tutik, *Hukum Perdata Dalam Sistem Hukum Nasional* (Jakarta: Kencana, 2011).

⁷Alisa Kamal, "Perwalian Pengurusan Harta Warisan Anak Di Bawah Umur Menurut Hukum Perdata (Studi Kasus Di Kelurahan Kandis Kota Kecamatan Simpang Belutu Kabupaten Siak)," *JOM Fakultas Hukum Universitas Riau VI*, no. 2 (2019): 2-3.

⁸Yulita Dwi Pratiwi, "Harmonisasi Perlindungan Harta Kekayaan Anak Dalam Perwalian Melalui Penguatan Peran Wali Pengawas," *Jurnal Suara Hukum 1*, no. 1 (2019): 61.

⁹Maidin Gultom, *Perlindungan Hukum Terhadap Anak Dalam Sistem Peradilan Pidana Anak Di Indonesia* (Bandung: Refika Aditama, 2003).

In general, minors or immature children cannot fulfill their rights personally, so to help fulfill children's rights and protect children, a child needs adults, especially parents, as the party to represent them. An example of concrete evidence of juridical child protection in the civil field is guardianship. Guardianship here is defined as the authority to carry out certain legal actions for the interests and rights of a child whose parents have died. The guardian in the trust must care for and look after the child under his guardianship, as well as take care of all the inheritance owned by the child properly and fully responsible. The guardian also has the role of maintaining and caring for all of the child's property starting from the appointment of someone as the guardian of a child and recording all changes in the child's property.

Guardianship can be carried out by one of the parents who is given the power to become guardian or a third party if both parents have had their powers as parents revoked. In every case of guardianship law, in conditions where a child does not have a guardian, then at the request of one of the interested parties or by order of his office, the judge can appoint a guardian¹⁰. A guardian is given the authority to manage and manage children and the children's assets under their guardianship. The authority given to a guardian must also be accompanied by supervision over the implementation of that authority so that the authority held is not exercised arbitrarily. In general, all forms of possible abuse of authority must be prevented to minimize the occurrence of abuse, so that in this case the state has guaranteed protection for every child under guardianship¹¹.

According to the Civil Code in Indonesia, guardianship is divided into 3 types, namely¹²: First, guardianship by the oldest living parent. Article 354 of the Civil Code. Article 345 of the Civil Code states: "If one of the

¹⁰ Taufik H. Simatupang, "Disharmoni Peraturan Perundang-Undangan Di Bidang Pengawasan Perwalian Di Indonesia (Lintas Sejarah Dari Hukum Kolonial Ke Hukum Nasional)," *Jurnal Penelitian Hukum De Jure* 20, no. 2 (2020): 221, [http://download.garuda.kemdikbud.go.id/article.php?article=1717851&val=10487&title=Disharmoni Peraturan Perundang-Undangan di Bidang Pengawasan Perwalian di Indonesia Lintas Sejarah dari Hukum Kolonial ke Hukum Nasional](http://download.garuda.kemdikbud.go.id/article.php?article=1717851&val=10487&title=Disharmoni%20Peraturan%20Perundang-Undangan%20di%20Bidang%20Pengawasan%20Perwalian%20di%20Indonesia%20Lintas%20Sejarah%20dari%20Hukum%20Kolonial%20ke%20Hukum%20Nasional).

¹¹ Shela Natasha, "Rekonstruksi Eksistensi Balai Harta Peninggalan Sebagai Wali Pengawas Melalui Harmonisasi Peraturan Hukum Tentang Perwalian," *Majalah Hukum Nasional* 49, no. 2 (2019): 131–160, <http://mhn.bphn.go.id/index.php/MHN/article/view/34>.

¹² Agung Maradona, "Analisis Yuridis Pasal 330 Ayat (3) Kuhperdata Dalam Proses Perwalian Anak Kandung Di Bawah Umur Yang Melakukan Perbuatan Hukum," *Keadilan Progresif* 9, no. 2 (2018), <https://core.ac.uk/download/pdf/236340631.pdf>.

two parents dies, then the guardianship of children who are not yet adults, by law shall be assumed by the parent who lives the longest, only this has not been released or removed from the authority of the parents" If When the father dies and the mother is pregnant, the Heritage Center (BHP) becomes the custodian (curator) of the child in the womb. Such a curator is called a "curator ventris". When a baby is born, the mother by law becomes the guardian and the Inheritance Agency (BHP) becomes the supervisor. If the mother remarries, her husband by law becomes the participant's guardian and together with his wife is jointly and severally responsible for the actions committed after the marriage took place. For guardians according to law (*wetterlijk voogdij*) it starts from the moment the event that gives rise to the guardianship occurs, for example the death of one of the parents. For illegitimate children who are automatically recognized as under the guardianship of the father/mother who recognizes them, the parent who first recognizes them is the guardian (Article 352 paragraph (3) of the Civil Code). If the confession of the father and mother is made jointly, the father is the guardian. Second, guardianship appointed by the father or mother by will or by authentic deed. Article 355 (1) of the Civil Code determines that each parent who exercises parental authority or guardianship over one or more children has the right to appoint a guardian over their children if after he or she dies the guardianship is not in the good parent's hands. by itself or because of a judge's decision as intended in Article 353 (5) of the Civil Code. For guardians appointed by parents (*terstamentaire voogdij*/testamentary guardian) starting from the moment the parent dies and after the guardian declares that he or she accepts the appointment. Third, guardianship appointed by a judge. Article 359 of the Civil Code stipulates that for all people who are not under parental authority and whose guardianship is not regulated in a legal manner, the District Court must appoint a guardian after hearing or legally summoning their blood and blood relatives (*preparation*). For guardians appointed by a judge (*datieve voogdij*) it starts from the time of appointment if he is present at the appointment. If he is absent, guardianship begins from the time he is notified

A guardian's powers can be revoked if he neglects his obligations or he behaves badly. Apart from that, a guardian is obliged to compensate for damage to the child's property under his guardianship if it turns out that due to his negligence

or his actions, there is damage to the child's property. A guardian must be an honest, fair and well-behaved person who has an obligation to look after the child and the child's property under his or her guardianship. If the guardian neglects his obligations, it is possible to revoke his powers and transfer them to another party¹³. In carrying out their duties and roles, a guardian will receive supervision from a supervisory guardian. In the Indonesian legal system, the agency that supervises trusts is the Heritage Treasure Hall. Heritage Treasure Hall abbreviated as HTH is an extension of the state in providing guarantees for the protection of children under guardianship. In terms of organizational structure, Heritage Treasure Hall is a government agency under the auspices of the Ministry of Law and Human Rights, precisely under the Directorate of Civil Affairs, and the Directorate General of General Legal Administration. Article 366 of the Civil Code states that one of the duties of the Heritage Treasure Hall is to become the supervising trustee in a trust. The supervising guardian in guardianship must represent the interests of the child under guardianship if during the guardianship the guardian conflicts with the interests of the child¹⁴. The Heritage Treasure Hall as the supervising guardian in the trust must provide direction to the child's guardian to carry out what duties and obligations he must carry out, including the guardian's obligation to carry out an inventory of the assets of all inheritance that falls to the guardian child.

In the process of supervising the guardianship, disharmony often occurs between the guardian and the supervisory guardian, when the guardian feels that the guardianship process is over when there is a court order. The child's guardian is often negligent in notifying the Heritage Treasure Hall about the occurrence of the guardianship process. This is due to the lack of court decisions that include the guardian's obligation to make notifications to the Heritage Treasure Hall as the supervising trustee. Notification to HTH is to guarantee the best interests of the

¹³ Nurhotia Harahap, "Perwalian Anak Dalam Tinjauan Kompilasi Hukum Islam," *Jurnal El-Qanuny* 4, no. 1 (2018): 116–129, <https://jurnal.iain-padangsidiempuan.ac.id/index.php/elqanuniy/article/view/1831>.

¹⁴Wendi Yoanda, "Akibat Hukum Peralihan Hak Atas Tanah Milik Anak Tanpa Persetujuan Penetapan Perwalian Dari Pengadilan (Studi Putusan Pengadilan Negeri Malang No. 217/Pdt.G/2017/PN.Mlg)," *Jurnal SOMASI (Sosial Humaniora Komunikasi)* 1, no. 1 (2020): 129–134.

child in all aspects, including in supervising legal actions carried out by guardians concerning the child's rights.

The opportunity for the transfer of children's assets in a trust can be carried out by the guardian without supervision from HTH. For example, the transfer of assets in the form of buying and selling, in carrying out the sales process can be carried out only based on formal conditions such as the establishment of guardianship and the existence of a selling permit, so that there is a great opportunity for a guardian to sell the assets of a child under his guardianship without supervision from the Heritage Treasure Hall¹⁵. Such acts will continue to occur in trusts as long as there are no strict regulations regarding HTH involvement in the transfer of children's assets in trusts. Based on this, it is necessary to conduct a study.

The focus of this paper is on an analysis of the state's responsibility in providing legal protection to children in trusteeship and the legal consequences of transferring the assets of children in trusts without involving the Heritage Treasure Hall as supervising trustees.

RESEARCH METHOD

Writing in this study uses a type of normative juridical research. What is called normative juridical is a study that uses the concept of law as what is written in the law (Law in the book) or law is conceptualized as a rule or norm that becomes a view in behaving¹⁶. So it can be concluded that normative juridical research is research that uses library materials as a source of research, often known as (Library research). The approach method used in this research consists of based on three types of approaches, a statue approach, by researching research materials from legislation that regulates the transfer of children's assets in guardianship without supervision from the Heritage Treasure Hall (HTH), secondly a conceptual approach, by examining practical concepts regarding guardianship, and a comparative approach by comparing the legal arrangements regarding guardianship

¹⁵Siti Hafsah Ramadhany, "Tanggungjawab Balai Harta Peninggalan Selaku Wali Pengawas Terhadap Harta Anak Di Bawah Umur (Studi Mengenai Eksistensi Balai Harta Peninggalan Medan Sebagai Wali Pengawas)" (Universitas Sumatera Utara, 2004).

¹⁶ Amiruddin & Zaenal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: PT. RajaGrafindo Persada, 2016).

in Indonesia with those in the European Union. Collecting data from various literature is the basis for research by searching for regulations and literature related to the legal issues being studied. Such data collection is referred to as data collection using document studies.

After all the data has been collected in one section, then the data will be analyzed and reviewed qualitatively. The data analyzed will be presented in the form of a systematic description by explaining the relationship between the data that has been collected. The nature of this research is descriptive analysis, which is a scope of research that describes and describes concretely the problems examined in this study.

RESULT AND DISCUSSION

A. State responsibility in providing legal protection to children in guardianship

Children are a blessing for a husband and wife as well as a blessing for a country and nation. The holder of the destiny of a nation falls on children as the next generation and as a determinant of where the future of a nation will be taken. Children are human resources who have the potential to continue the ideals of the Indonesian nation in the future, children requires coaching to ensure growth physically, socially and mentally in a gradual and balanced manner¹⁷. Recognizing how important a child is for a nation and state in the future, it is necessary to have legal protection from the state and all levels of society to take part in this activity. Legal protection is a form of protection for the legal subject itself which can be carried out preventively and repressively. It can be said that legal protection is a concept of a legal function that can provide guarantees for certainty, justice, and benefits for every legal subject, including a child.

Protection of children is carried out in accordance with their needs so that it does not appear excessive or protection of children is carried out by paying attention to the impact on the environment and the children themselves, so that protection of children is carried out in a rational, responsible and beneficial manner that is carried

¹⁷ Laurensius Arliman S, "Perlindungan Hukum Bagi Anak Dalam Perspektif Pancasila Dan Bela Negara," *UNIFIKASI: Jurnal Ilmu Hukum* 5, no. 1 (2018): 58, <https://journal.uniku.ac.id/index.php/unifikasi/article/view/754/625>.

out effectively and efficiently. So, the meaning of child protection efforts is a creative effort that enables children to live independently, namely that children have the ability and willingness to exercise their rights and carry out their obligations as children¹⁸.

Indonesia already has regulations to protect, prosper and fulfill children's rights. This is important for the continuity of child protection activities and preventing abuses that lead to undesirable negative consequences in child protection efforts¹⁹. Legal protection for children refers to the provisions of Law Number 35 of The Year 2014 concerning Child Protection. Government Regulation in Lieu of Law Number 1 of The Year 2016 concerning Child Protection also states that the state's efforts through the government in guaranteeing protection are by providing legal protection to children. Legal protection for children can be interpreted as legal protection efforts in various aspects such as freedom and protection of children's human rights, and all interests related to child welfare²⁰. Protection of minors has a good impact not only on the child but also on the parents or guardians and the government. Thus, it is necessary to have clear coordination for cooperation in realizing protection for children to prevent an imbalance in overall protection treatment.

Child protection is divided into two parts²¹:

a. Legal protection of children

Juridical protection is divided into two, namely public law protection and civil law protection.

b. Non-legal protection of children.

Non-juridical protection is divided into three namely protection in the social, health, and education fields.

¹⁸ M. F. Said, "Perlindungan Hukum Terhadap Anak Dalam Perspektif Hak Asasi Manusia [Legal Protection of Children in the Perspective of Human Rights] □," *Jurnal Cendekia Hukum* 4, no. 1 (2018): 141–152, <http://e-jurnal.stih-pm.ac.id/index.php/cendekiahukum/article/view/97/110>.

¹⁹ Imam Sukadi, "Tanggung Jawab Negara Terhadap Anak Terlantar Dalam Operasionalisasi Pemerintah Di Bidang Perlindungan Hak Anak," *De Jure: Jurnal Hukum dan Syar'iah* 5, no. 2 (2013): 117–133, <https://ejournal.uin-malang.ac.id/index.php/syariah/article/view/3003>.

²⁰ Muhammad Naufal, Luthfi 1 □, and Yohanes Suwanto, "Perlindungan Hukum Bagi Anak Dibawah Umur Sebagai Pelaku Tindak Pidana Dalam Persidangan Anak Menurut Peraturan Perundang-Undangan," *Jurnal Demokrasi dan Ketahanan Nasional* / 1, no. 1 (2022): 107.

²¹ Gultom, *Perlindungan Hukum Terhadap Anak Dalam Sistem Peradilan Pidana Anak Di Indonesia*.

Child protection is not only carried out when caught in criminal law problems but can be carried out in all aspects, for example, the protection of minors. As stipulated in Article 22 of Law Number 23 of The Year 2002 concerning Child Protection, those who are obliged to provide and be responsible for administering good protection by providing support for facilities, infrastructure, and the availability of human resources are the state, central government, and regional governments. The form of state responsibility in providing legal protection for minors is by presenting a guardianship system.

In Indonesia, childcare is still pluralistic. All use different legal perspectives in making decisions, namely the Civil Code (CC), Customary Law, Compilation of Islamic Law (CIL), and different customs that live in society to solve guardianship issues. Children who are underage and not under the supervision of their parents, then the child is under guardianship. Because the child is included in the category of minors, the child is considered legally incompetent. Competence itself is one of the requirements to act within the law. Legally incompetent people are regulated in Article 1330 of the Civil Code, namely: minors and people who are put under guardianship. So a person's maturity is a benchmark in determining whether a person can or has not taken legal action.

Trusteeship has not been specifically regulated in the legal system in Indonesia. However, when viewed from the provisions of the Civil Code, guardianship is part of family law because the scope regulated in it is family members who are related to one another. In addition to the Civil Code, other regulations governing guardianship include Law Number 35 of The Year 2014 concerning Amendments to Law Number 23 of The Year 2002 concerning Child Protection, Government Regulation Number 29 of The Year 2019 concerning Requirements and Procedures for Appointing Guardians, and related laws other.

Two things lead to the existence of a trusteeship²²:

1. Because of The Law

According to the provisions of the law, guardianship occurs because one of the parents of the child has died, so the parent who is still alive will directly become

²² Simatupang, "Disharmoni Peraturan Perundang-Undangan Di Bidang Pengawasan Perwalian Di Indonesia (Lintas Sejarah Dari Hukum Kolonial Ke Hukum Nasional)."

the guardian for his children; children born out of wedlock will be under the guardianship of biological parents who recognize the child; and a child who does not have a guardian, and because of a request from one of the parties who has an interest or because of position order, the judge will appoint a guardian for the child.

2. Because of The Testament Order (*testamentaire voogdij*)

Guardianship by will is a condition where one of the parents of a minor child appoints another person as the guardian of the child, which is then made in a will, and this can be done if the child's parents are still alive and due to certain things can not be the guardian of their child.

Legal measures and solutions that can be taken against guardians who neglect their obligations and responsibilities. Sanctions must be enforced, including warnings, fines or criminal penalties²³. So far there have been no real efforts to protect or supervise children under guardianship. However, the form of protection is only limited to the articles that regulate children's rights, because supervision is not strictly regulated and is only limited to regulating children's rights and the responsibilities of a guardian, so there is no strict supervision. Currently, the state's role in providing legal protection for minors who are not under the control of their parents is by providing a guardian for the child. For minors who are under the authority of a guardian, the state is obliged to provide legal protection by guaranteeing the fulfillment of the rights of a child under guardianship. For the sake of implementing a good trusteeship system in Indonesia, the state appoints the Heritage Treasure Hall (HTH) as the supervising trustee in the trust. This is done as a preventive measure for abuse of power by a guardian²⁴. Article 366 of the Civil Code stipulates that whenever there is a trusteeship, the Heritage Treasure Hall is assigned as the supervising guardian.

The function and main task of the Heritage Treasure Hall in trusteeship is to supervise the performance of a guardian whether in carrying out his duties he has carried it out properly or not, as well as providing input to the guardian so that he

²³ Nurul Fadilla Utami and Septi Indrawati, "Perlindungan Hukum Terhadap Anak Dalam Perwalian Dan Tanggung Jawab Seorang Wali," *Amnesti Jurnal Hukum* 4, no. 1 (2022): 62–70, <http://jurnal.umpwr.ac.id/index.php/amnesti/article/view/1479>.

²⁴ Shela Natasha, "Existence Reconstruction Of Probate Court As Trustee Overseer Through Harmonization Of Regulations On Trusteeship," *Majalah Hukum Nasional* 49, no. 2 (2019): 131–160.

can carry out his obligations as well as possible²⁵. This is the contents of the provisions of Article 366 of the Civil Code. The state through HTH in protecting children in guardianship must²⁶:

1. Swearing a guardian and making oath news;
2. Order the guardian of the child to register the assets brought by the child from his parents;
3. Supervise the guardian in making a list of the child's assets;
4. HTH must act as a party representing the interests of the minor child if their interests are violated by the guardian;
5. Ask the guardian of the child to provide adequate guarantees for the assets of the child under the guardianship;
6. Ask for accountability from a guardian;
7. Giving power of attorney to the guardian to act as a party representing the child, both on the plaintiff's and the defendant's side;
8. Provide a statement to the judge regarding whether or not it is beneficial to sell the child's assets in the trust for the benefit of the child;
9. Provide recommendations to judges to terminate a guardian and recommend candidates for substitute guardians for minors; and
10. Attending separation and distribution of children's assets in a trust.

In any trusteeship, the appointment of a supervising guardian must be carried out. So if there is a trusteeship and the HTH is not aware of the existence of the trust, the trustee can be dismissed. The legal actions carried out by the guardian are not absolute, unlimited control when carrying out the guardianship. Guardians can be fired and even compensated for losses if they carry out actions that are considered detrimental to the child²⁷. The supervisory guardian should play an

²⁵Pratiwi, "Harmonisasi Perlindungan Harta Kekayaan Anak Dalam Perwalian Melalui Penguatan Peran Wali Pengawas."

²⁶Tengku Erwinsyahbana Desi Yani, "Perlindungan Hukum Terhadap Harta Warisan Anak Melalui Revitalisasi Balai Harta Peninggalan," *Jurnal Notarius Program Studi Kenotariatan Pascasarjana UMSU* 1, no. 1 (2022): 16, <https://jurnal.umsu.ac.id/index.php/notarius/article/view/10702>.

²⁷Shela Natasha, "Rekonstruksi Eksistensi Balai Harta Peninggalan Sebagai Wali Pengawas Melalui Harmonisasi Peraturan Hukum Tentang Perwalian."

important role in ensuring the continued fulfillment of the civil rights of children under guardianship²⁸.

The revitalization of the Heritage Hall must begin by replacing the regulations regarding BHP which have existed for hundreds of years, because they are a product of the Dutch colonial era, which are no longer relevant to the current situation and conditions. Revitalization of the Inheritance Property Center as a supervising guardian is given as much space as possible to be able, for example, to hold land documents that are inherited assets from children, so that these assets are not sold or pawned by the guardian, not for the benefit of the child. For this reason, new regulations are needed that can provide this space for the Heritage Hall. The Inheritance Office must also be given the authority to request details of various material expenditures from the guardian, so that they can know whether the expenditure is for their needs or for the guardian's needs²⁹.

Similar to Indonesia, the European Union also regulates the child guardianship system into legal regulations in its member countries. In European Union member states they usually define in law only generally the role and responsibilities of a guardian. In essence, a guardian's duties are to ensure that the child receives care, accommodation, education and health care, manage the child's finances and carry out legal representation. In contrast to Indonesia, where a guardian is often a relative of a child, in the European Union generally a guardian is a social worker, legal or psychology professional, or institutional employee³⁰. As in the Netherlands, Nidos guardians are young professionals registered with the Supervisory Authority of the Youth Quality Register Foundation. And they must comply with a professional code and their registration must be renewed every five years. In contrast to other European Union member countries, Poland regulates that guardianship can only be carried out by individuals. This is because the child's

²⁸ Ibid.

²⁹ Desi Yani, "Perlindungan Hukum Terhadap Harta Warisan Anak Melalui Revitalisasi Balai Harta Peninggalan."

³⁰ European Union Agency for Fundamental Rights, "*Guardianship Systems For Children Deprived of Parental Care in the European Union - With a particular focus on their role in responding to child trafficking*", Publications Office of the European Union (2022).

parents have not formally lost their responsibility as parents, so they cannot appoint a guardian over the child. In Spain, guardianship is divided into two³¹:

1. Civil guardianship (Articles 222 to 228 of the Civil Code) a guardian is appointed from the child's family environment;
2. Administrative guardianship, if there is no civil guardian, then guardianship is carried out by an authorized public official (Articles 172 to 174 of the Civil Code).

The European Union regulates a guardianship system in family law which is usually in accordance with the rights and obligations of parents to care for the personality, rights and benefits of children as well as managing their assets. For example, in Greece, Law 4554/2018 regulates clearly and in detail what duties a guardian must carry out. One of the main duties of a guardian regulated in European law is the legal representation of the child. Guardians are obliged to assist children in all legal actions based on their limited legal capacity, by becoming the child's representative in civil, criminal and administrative proceedings. In principle, the rights and obligations of a guardian have been determined in the laws and regulations of each member country³².

B. Legal consequences of transferring the child's assets in a trust without involving the Heritage Treasures Hall (HTH) as the supervising trustee

In principle, guardianship is a means to protect and personally take care of a minor with the child's assets. The incompetence of a minor makes a child unable to take legal action against himself or herself, including in managing the child's assets. So that a guardian is needed to manage the assets of the child under his or her guardianship.

A guardian is someone who cares for/guards/fulfills children's needs, including protection, education, food and health³³. Guardianship of a person is a

³¹ *Ibid*

³² European Union Agency For Fundamental Rights, *“Guardianship systems for children deprived of parental care in the European Union With a particular focus on their role in responding to child trafficking”*, Publications Office of the European Union, (2015).

³³ Eva Cahyana Dewi, “Tinjauan Yuridis Mengenai Perwalian Anak Yatim Piatu Yang Masih Dibawah Umur,” *Perspektif Hukum* 20, no. 2 (2020): 162–279, <https://perspektif-hukum.hangtuah.ac.id/index.php/jurnal/article/view/83>.

person's power to regulate and be responsible for the needs of someone under his or her control in terms of personal needs such as marriage, education, health and so on. Meanwhile, guardianship over property is a person's power to manage and be responsible for maintaining property and carrying out transactions regarding that property³⁴. The provisions regarding guardian obligations regulated in the Civil Code are complete and detailed, and can be said to concern all the interests of minor children who are under guardianship. Thus, if the guardian's obligations as stipulated in the Civil Code are carried out, he will be able to protect the child under guardianship, both regarding the child's personality and his property³⁵.

Trusteeship is a legal act that creates consequences in the form of rights and obligations. Thus, in carrying out trust activities must follow applicable legal provisions. In carrying out trust activities, not everything goes well. This is because a guardian often does not know what rights and obligations he should have for a child under his guardianship, whether they are following the applicable provisions or not. Such circumstances lead to actions that deviate from the purpose of holding a trusteeship.

The guardian must take care of himself and the property under his guardianship, namely the child. Children who will get the inheritance of their parents must be represented by their guardian. As a result of the inheritance obtained by a child from his parents can fulfill a sense of justice and legal certainty³⁶.

One of these deviant circumstances is the transfer of children's assets under guardianship by a guardian without the approval of the Heritage Treasure Hall. An example is the transfer of a child's property in a trust in the form of land. Often the transfer of land rights that have ownership rights from an immature child, the Land Titles Registrar and the Land Office usually transfer the property only based on a

³⁴ Khoirul Anwar Habibi Al Amin, Masrokhin, "Konsep Perwalian Dalam Al- Qur'an," *Shakhsiyah Burhaniyah: Jurnal Penelitian Hukum Islam* 6, no. 1 (2021): 268, <https://scholar.archive.org/work/6lfxhbjdknf7beehxjdbowd52m/access/wayback/http://ejournal.unhasy.ac.id/index.php/ShakhsiyahBurhaniyah/article/download/1642/1167>.

³⁵ Endang Heriyani and Prihati Yuniarlin, "Fungsi BHP Sebagai Wali Pengawas Terhadap Anak Di Bawah Perwalian Dalam Rangka Perlindungan Anak (Studi Kasus Di Bhp Semarang)," *Jurnal Media Hukum* 22, no. 2 (2015), <https://journal.umy.ac.id/index.php/jmh/article/view/1333>.

³⁶ Windha Auliana Yusra, "Pengurusan Harta Warisan Anak Di Bawah Umur Yang Berada Di Bawah Perwalian (Studi Penetapan Pengadilan Agama Medan Nomor 4/Pdt.P/2015/Pa.Mdn)," *Premise Law Journal* 2 (2016).

guardianship determination from the District Court (DC)³⁷. In general, a guardianship stipulation issued by a District Court (DC) only stipulates a guardian/party representing an immature child and contains permission for the transfer of rights, in this case, it can be in the form of selling or guaranteeing the property of the immature child and never include the Supervisory Treasure Hall as the supervisory trustee.

In the case of transferring a child's assets in a trusteeship, requests for permission to sell by the guardian to the District Court are often carried out without involving the role of the Heritage Treasure Hall and the District Court grants the request without hearing a recommendation from the Heritage Treasure Hall. Also in the case of separation and distribution of children's assets in a trust carried out by a Notary, basically the Notary is obliged to notify the Heritage Treasure Hall regarding the separation and distribution of assets because the Heritage Treasure Hall is the supervising guardian of the child in the trust. These provisions are often ignored by Notaries, so it is rare to find reports from Notaries to the Heritage Treasure Hall regarding the separation and distribution of children's assets in trusteeship³⁸. The lack of involvement of the Heritage Treasure Hall with the District Court shows that the existence of the Heritage Treasure Hall is increasingly blurred.

In the case of a transfer of children's assets under guardianship, a permit for the transfer of rights (sell or collateral) for the immature child's assets must be made with a determination of a sale and purchase permit accompanied by a letter of approval from the Heritage Treasure Hall requested by the guardian of the child, this following Article 366 of the Civil Code. So that if the activity of transferring assets under guardianship is carried out without the supervision of the Heritage Treasure Hall as the supervising trustee, then following the contents of Articles 373, 380, 381, and 418 of the Civil Code, the guardian can be fired or terminated, so that all actions taken by the guardian involving the rights of the child under his

³⁷Yunanto, *Syarat Dan Tata Cara Pelaksanaan Hubungan Usaha Antara Bank Dengan Wali Dan Pengampu* (Semarang, 2021).

³⁸Bernardo Da Cruz, "Pelaksanaan Kewenangan Balai Harta Peninggalan Dalam Rangka Pengawasan Terhadap Hata Warisan Anak" (Universitas Islam Sultan Agung, 2021).

guardianship can be canceled³⁹. All losses resulting from actions that harm the child in his guardianship carried out by the guardian are the responsibility of the guardian.

Not always the transfer of children's assets in a trust is an act that is prohibited. A guardian can use the child's assets, including by selling or guaranteeing the assets of the child under his guardianship, to pursue the interests of the child⁴⁰. If a guardian uses a child's property under his or her guardianship for the benefit of the child, to provide for his daily life or educational expenses, of course, the Heritage Treasure Hall will grant permission. However, for a request to transfer the assets of the child, a guardian must obtain prior approval from the Heritage Treasure Hall. This is done so that the Heritage Treasure Hall can carry out supervision in advance, whether the transfer is actually made for the benefit of the child or only for the personal benefit of the guardian.

As with the problems mentioned above, it can be seen that the Heritage Treasure Hall in carrying out its functions related to the transfer of children's assets in guardianship is not optimal, because it conflicts with regulations that do not provide strict legal sanctions to a guardian who takes an action that is not following the provisions of the law⁴¹. Obstacles that occur are minimal human resources, facilities and work infrastructure, there are no sanctions if a violation occurs by the guardian. In response to the problems that occur above, it is necessary to improve the legislation and related bureaucracy in accordance with society and the initial goal, namely legal services. So that optimal performance can be achieved as it should be so that the public knows about the existence of the Heritage Center in legal services⁴².

There are no strict legal sanctions for a guardian who has been appointed as guardian in the Civil Code. The Inheritance Property Office as a supervising

³⁹Yunanto, *Syarat Dan Tata Cara Pelaksanaan Hubungan Usaha Antara Bank Dengan Wali Dan Pengampu*.

⁴⁰Rhenal Kokronegoro, "Analisis Yuridis Penetapan Wali Badan Yg Ngawas Oleh Bhp Dalam Rangka Melindungi Wewenang Keperdataan Anak (Contoh Putusan Nomor: 0014/Pdt.P/2015/Pa.Mn).," *Jurnal Hukum Adigama* 1, no. 2 (2018): 902–928.

⁴¹Desi Yani, "Perlindungan Hukum Terhadap Harta Warisan Anak Melalui Revitalisasi Balai Harta Peninggalan."

⁴²Nurhidayah A. Hambali and Subehan Khalik, "Eksistensi Balai Harta Peninggalan Dalam Penanganan Kasus Kewarisan Anak," *Iqtishaduna: Jurnal Ilmiah Mahasiswa Hukum Ekonomi Syari'ah* 1, no. 1 (2019): 31, <https://journal3.uin-alauddin.ac.id/index.php/iqtishaduna/article/view/10938>.

guardian finds it difficult to order a guardian to implement the rules in guardianship, especially the provisions of Article 127 of the Civil Code regarding the revocation and registration of assets of underage children which must be carried out by a guardian. This obligation is often ignored, some even refuse to do it for unclear reasons⁴³. Various regulations regarding the Inheritance Hall which are still sectoral in nature are spread across several Indonesian laws and "inheritance" regulations from the Netherlands which make it difficult for ordinary people to know about the Inheritance Hall Institution and maximize the functions, duties and authority of the Inheritance Hall until now. Therefore, it would be better if the Draft Law on Heritage Halls is immediately passed into law by the central government so that these regulations can be codified into one legal rule in the form of a law⁴⁴. So that problems regarding the transfer of children's assets in trusts that do not involve the oversight of the Heritage Treasure Hall do not recur, it is necessary to have new rules that are more stringent regarding the functions and roles of the Heritage Treasure Hall. Considering that the rules related to the duties, authorities, roles, and functions of the Heritage Treasure Hall were products of the Dutch colonial era, it is necessary to update the regulatory provisions relating to the Heritage Treasure Hall. Legal repositioning and reconstruction are needed in the renewal of civil law in Indonesia so that in the future the functions, duties, roles, and authorities of the Heritage Treasure Hall can provide clearer and more tangible services to the public, especially in making decisions or determining assets and bankruptcy⁴⁵.

CONCLUSION

The state plays a major role in protecting and guaranteeing the rights of a minor. Trust is a facility established by the government to guarantee the protection and fulfillment of the rights of minors, through the existence of a guardian. The guardian must carry out maintenance and provide education for children under his

⁴³ Elisabeth Nurhaini Butarbutar Ingat Riang Tafonao, "Pelaksanaan Tugas Balai Harta Peninggalan Kota Medan Selaku Wali Pengawas Warisan Anak," *Jurnal Profile Huku* 1, no. 2 (2023): 71–80, <https://ejournal.ust.ac.id/index.php/JPH/article/view/3153>.

⁴⁴ A. Hambali and Khalik, "Eksistensi Balai Harta Peninggalan Dalam Penanganan Kasus Kewarisan Anak."

⁴⁵ Taufik H. Simatupang, "Eksistensi Dan Efektivitas Pelaksanaan Tugas Balai Harta Peninggalan Di Indonesia," *Jurnal Penelitian Hukum De Jure* 18, no. 3 (2018): 397.

guardianship following the ability of the guardian's assets and can be a representative of the minor child to act in all civil actions following Article 383 of the Civil Code. In addition, the guardian must manage and take care of all the assets brought by the child in the trust. To ensure that the trust goes well, it is necessary to have an oversight in the trust. The Heritage Treasure Hall is the supervising trustee in the trust. In the Criminal Code, it is explained that the functions and duties of the Heritage Treasure Hall regarding guardianship are to carry out supervision in protecting both the child's personality and his or her property. Even so, the involvement of the Heritage Treasure Hall as supervising guardian in the trust is still going well, especially in terms of transferring the property rights of minors. The transfer of assets of children in trusts carried out by guardians often does not involve the Heritage Treasure Hall in transferring these rights. The act of transferring the assets of a minor carried out by a guardian without supervision from the Heritage Treasure Hall can result in the termination of the guardian as guardian of a minor and actions involving the child's rights can be canceled. Furthermore, all losses arising from the transfer of the child's assets in the trust become the responsibility of the guardian.

BIBLIOGRAPHY

Textbook:

Tedjosaputro. *Hukum Waris Menurut Kitab UU Hukum Perdata*. PT. Pustaka Angkasa, 1991.

Tutik, Titik Triwukan. *Hukum Perdata Dalam Sistem Hukum Nasional*. Jakarta: Kencana, 2011.

Yunanto. *Syarat Dan Tata Cara Pelaksanaan Hubungan Usaha Antara Bank Dengan Wali Dan Pengampu*. Semarang, 2021.

Journals:

A. Hambali, Nurhidayah, and Subehan Khalik. "Eksistensi Balai Harta Peninggalan Dalam Penanganan Kasus Kewarisan Anak." *Iqtishaduna: Jurnal Ilmiah Mahasiswa Hukum Ekonomi Syari'ah* 1, no. 1 (2019): 31. <https://journal3.uin-alauddin.ac.id/index.php/iqtishaduna/article/view/10938>.

Amiruddin & Zaenal Asikin. *Pengantar Metode Penelitian Hukum*. Jakarta: PT. RajaGrafindo Persada, 2016.

- Cokronegoro, Rhenal. "Analisis Yuridis Penetapan Wali Badan Yg Ngawas Oleh Bhp Dalam Rangka Melindungi Wewenang Keperdataan Anak (Contoh Putusan Nomor: 0014/Pdt.P/2015/Pa.Mn)." *Jurnal Hukum Adigama* 1, no. 2 (2018): 902–928.
- Cruz, Bernardo Da. "Pelaksanaan Kewenangan Balai Harta Peninggalan Dalam Rangka Pengawasan Terhadap Hata Warisan Anak." Universitas Islam Sultan Agung, 2021.
- Desi Yani, Tengku Erwinsyahbana. "Perlindungan Hukum Terhadap Harta Warisan Anak Melalui Revitalisasi Balai Harta Peninggalan." *Jurnal Notarius Program Studi Kenotariatan Pascasarjana UMSU* 1, no. 1 (2022): 16. <https://jurnal.umsu.ac.id/index.php/notarius/article/view/10702>.
- Dewi, Eva Cahyana. "Tinjauan Yuridis Mengenai Perwalian Anak Yatim Piatu Yang Masih Dibawah Umur." *Perspektif Hukum* 20, no. 2 (2020): 162–279. <https://perspektif-hukum.hangtuah.ac.id/index.php/jurnal/article/view/83>.
- Fadilla Utami, Nurul, and Septi Indrawati. "Perlindungan Hukum Terhadap Anak Dalam Perwalian Dan Tanggung Jawab Seorang Wali." *Amnesti Jurnal Hukum* 4, no. 1 (2022): 62–70. <http://jurnal.umpwr.ac.id/index.php/amnesti/article/view/1479>.
- Gultom, Maidin. *Perlindungan Hukum Terhadap Anak Dalam Sistem Peradilan Pidana Anak Di Indonesia*. Bandung: Refika Aditama, 2003.
- Habibi Al Amin, Masrokhin, Khoirul Anwar. "Konsep Perwalian Dalam Al-Qur'an." *Shakhsiyah Burhaniyah: Jurnal Penelitian Hukum Islam* 6, no. 1 (2021): 268. <https://scholar.archive.org/work/6lfxhbjdknf7beehxjdbowd52m/access/wayback/http://ejournal.unhasy.ac.id/index.php/ShakhsiyahBurhaniyah/article/download/1642/1167>.
- Harahap, Nurhotia. "Perwalian Anak Dalam Tinjauan Kompilasi Hukum Islam." *Jurnal El-Qanuny* 4, no. 1 (2018): 116–129. <https://jurnal.iain-padangsidempuan.ac.id/index.php/elqanuniy/article/view/1831>.
- Hasanudin. "Perbandingan Pembagian Waris Menurut Kitab Undang-Undang Hukum Perdata (BW) Dan Pembagian Waris Menurut Hukum Islam." *Fakultas Hukum*. Muhammadiyah Palembang, 2015.
- Heriyani, Endang, and Prihati Yuniarlin. "Fungsi BHP Sebagai Wali Pengawas Terhadap Anak Di Bawah Perwalian Dalam Rangka Perlindungan Anak (Studi Kasus Di Bhp Semarang)." *Jurnal Media Hukum* 22, no. 2 (2015). <https://journal.umy.ac.id/index.php/jmh/article/view/1333>.
- Ingat Riang Tafonao, Elisabeth Nurhaini Butarbutar. "Pelaksanaan Tugas Balai Harta Peninggalan Kota Medan Selaku Wali Pengawas Warisan Anak."

- Jurnal Profile Huku* 1, no. 2 (2023): 71–80.
<https://ejournal.ust.ac.id/index.php/JPH/article/view/3153>.
- Kamal, Alisa. “Perwalian Pengurusan Harta Warisan Anak Di Bawah Umur Menurut Hukum Perdata (Studi Kasus Di Kelurahan Kandis Kota Kecamatan Simpang Belutu Kabupaten Siak).” *JOM Fakultas Hukum Universitas Riau* VI, no. 2 (2019): 2–3.
- Listia, Wan Nova. “Anak Sebagai MakhluK Sosial.” *Jurnal Bunga Rampai Usia Emas* 1, no. 1 (2015): 14–23.
<https://jurnal.unimed.ac.id/2012/index.php/jhp/article/view/9278>.
- Makhfiroh, Inayatul. “Efektivitas Mediasi Non Litigasi Dalam Penyelesaian Permasalahan Keluarga.” Institut Agama Islam Negeri Raden INTAN (IAIN), 2017.
- Maradona, Agung. “Analisis Yuridis Pasal 330 Ayat (3) Kuhperdata Dalam Proses Perwalian Anak Kandung Di Bawah Umur Yang Melakukan Perbuatan Hukum.” *Keadilan Progresif* 9, no. 2 (2018).
<https://core.ac.uk/download/pdf/236340631.pdf>.
- Natasha, Shela. “Existence Reconstruction Of Probate Court As Trustee Overseer Through Harmonization Of Regulations On Trusteeship.” *Majalah Hukum Nasional* 49, no. 2 (2019): 131–160.
- Naufal, Muhammad, Luthfi 1□, and Yohanes Suwanto. “Perlindungan Hukum Bagi Anak Dibawah Umur Sebagai Pelaku Tindak Pidana Dalam Persidangan Anak Menurut Peraturan Perundang-Undangan.” *Jurnal Demokrasi dan Ketahanan Nasional* / 1, no. 1 (2022): 107.
- Pratiwi, Yulita Dwi. “Harmonisasi Perlindungan Harta Kekayaan Anak Dalam Perwalian Melalui Penguatan Peran Wali Pengawas.” *Jurnal Suara Hukum* 1, no. 1 (2019): 61.
- Ramadhany, Siti Hafisah. “Tanggungjawab Balai Harta Peninggalan Selaku Wali Pengawas Terhadap Harta Anak Di Bawah Umur (Studi Mengenai Eksistensi Balai Harta Peninggalan Medan Sebagai Wali Pengawas).” Universitas Sumatera Utara, 2004.
- S, Laurensius Arliman. “Perlindungan Hukum Bagi Anak Dalam Perspektif Pancasila Dan Bela Negara.” *UNIFIKASI: Jurnal Ilmu Hukum* 5, no. 1 (2018): 58.
<https://journal.uniku.ac.id/index.php/unifikasi/article/view/754/625>.
- Said, M. F. “Perlindungan Hukum Terhadap Anak Dalam Perspektif Hak Asasi Manusia [Legal Protection of Children in the Perspective of Human Rights]□.” *Jurnal Cendekia Hukum* 4, no. 1 (2018): 141–152. <http://e-jurnal.stih-pm.ac.id/index.php/cendekiahukum/article/view/97/110>.

- Shela Natasha. “Rekonstruksi Eksistensi Balai Harta Peninggalan Sebagai Wali Pengawas Melalui Harmonisasi Peraturan Hukum Tentang Perwalian.” *Majalah Hukum Nasional* 49, no. 2 (2019): 131–160. <http://mhn.bphn.go.id/index.php/MHN/article/view/34>.
- Simatupang, Taufik H. “Disharmoni Peraturan Perundang-Undangan Di Bidang Pengawasan Perwalian Di Indonesia (Lintas Sejarah Dari Hukum Kolonial Ke Hukum Nasional).” *Jurnal Penelitian Hukum De Jure* 20, no. 2 (2020): 221. [http://download.garuda.kemdikbud.go.id/article.php?article=1717851&val=10487&title=Disharmoni Peraturan Perundang-Undangan di Bidang Pengawasan Perwalian di Indonesia Lintas Sejarah dari Hukum Kolonial ke Hukum Nasional](http://download.garuda.kemdikbud.go.id/article.php?article=1717851&val=10487&title=Disharmoni%20Peraturan%20Perundang-Undangan%20di%20Bidang%20Pengawasan%20Perwalian%20di%20Indonesia%20Lintas%20Sejarah%20dari%20Hukum%20Kolonial%20ke%20Hukum%20Nasional).
- . “Eksistensi Dan Efektivitas Pelaksanaan Tugas Balai Harta Peninggalan Di Indonesia.” *Jurnal Penelitian Hukum De Jure* 18, no. 3 (2018): 397.
- Siregar, Riri Mela Lomika. “Curatele (Pengampuan), (Suatu Analisis Atas Penetapan Pengadilan Negeri Jakarta Selatan Nomor 94/Pdt.P/2008/PN.Jkt.Sel Dan Nomor 100/Pdt.P/2008/PN.Jkt.Sel),” 2009.
- Sukadi, Imam. “Tanggung Jawab Negara Terhadap Anak Terlantar Dalam Operasionalisasi Pemerintah Di Bidang Perlindungan Hak Anak.” *De Jure: Jurnal Hukum dan Syar’iah* 5, no. 2 (2013): 117–133. <https://ejournal.uin-malang.ac.id/index.php/syariah/article/view/3003>.
- Yoanda, Wendi. “Akibat Hukum Peralihan Hak Atas Tanah Milik Anak Tanpa Persetujuan Penetapan Perwalian Dari Pengadilan (Studi Putusan Pengadilan Negeri Malang No. 217/Pdt.G/2017/PN.Mlg).” *Jurnal SOMASI (Sosial Humaniora Komunikasi)* 1, no. 1 (2020): 129–134.
- Yusra, Windha Auliana. “Pengurusan Harta Warisan Anak Di Bawah Umur Yang Berada Di Bawah Perwalian (Studi Penetapan Pengadilan Agama Medan Nomor 4/Pdt.P/2015/Pa.Mdn).” *Premise Law Journal* 2 (2016).