

Child Guardianship in the Perspective of a Compilation of Islamic Law: An Analysis of Judges' Considerations and the Protection of Children's Rights

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Article Info	Abstract
Received: 30-06-2026 Revised: 25-08-2026 Accepted: 28-08-2026 Published: 31-08-2026 Keywords: Child guardianship; Child rights; Guardian accountability; Legal protection; Property management	Child guardianship not only provides legal authority to the guardian, but also imposes an obligation to protect the child's personal interests and property after the court determination. This study aims to analyze the judge's considerations in the Determination of Case Number <i>116/Pdt.P/2023/PA. Kdr</i> in 2023, the implementation of the guardian's authority after the determination, as well as the protection of children's rights, especially in property management. The research uses a qualitative socio-legal case study design with an empirical approach and normative legal analysis. Data were obtained through interviews, observations, documentation, and legal material analysis, then analyzed qualitatively by comparing empirical findings against the Compilation of Islamic Law, Law Number 1 of 1974 concerning Marriage, and Government Regulation Number 29 of 2019. The results of the study show that the court determination has provided formal legal protection through certainty regarding the legal party representing the child. The implementation of guardianship also provides substantive benefits through meeting the needs of education and daily life. However, the protection of property rights is not optimal because it has not been supported by systematic asset registration, documentation of property changes, information disclosure, and adequate accountability. No evidence of misuse of property by guardians was found. The novelty of this study lies in the identification of gaps between legal authority of the guardian and post-appointment accountability, which suggests that the effectiveness of child protection depends on the continuity between the legitimacy of authority, the implementation of obligations, supervision, and accountability after determination.
Info Artikel	Abstrak
Kata Kunci: Akuntabilitas wali; Hak anak; Pengelolaan harta; Perlindungan hukum; Perwalian anak	Perwalian anak tidak hanya memberikan kewenangan hukum kepada wali, tetapi juga menimbulkan kewajiban untuk melindungi kepentingan pribadi dan harta anak setelah penetapan pengadilan. Penelitian ini bertujuan menganalisis pertimbangan hakim dalam Penetapan Perkara Nomor <i>116/Pdt.P/2023/PA.Kdr</i> Tahun 2023, pelaksanaan kewenangan wali setelah penetapan, serta perlindungan hak anak terutama dalam pengelolaan harta. Penelitian menggunakan desain qualitative socio-legal case study dengan pendekatan empiris dan analisis hukum normatif. Data diperoleh melalui wawancara,

observasi, dokumentasi, dan telaah bahan hukum, kemudian dianalisis secara kualitatif dengan membandingkan temuan empiris terhadap Kompilasi Hukum Islam, Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan, dan Peraturan Pemerintah Nomor 29 Tahun 2019. Hasil penelitian menunjukkan bahwa penetapan pengadilan telah memberikan perlindungan hukum formal melalui kepastian mengenai pihak yang sah mewakili anak. Pelaksanaan perwalian juga memberikan manfaat substantif melalui pemenuhan kebutuhan pendidikan dan kehidupan sehari-hari. Namun, perlindungan hak kekayaan belum optimal karena belum didukung pencatatan aset yang sistematis, dokumentasi perubahan harta, keterbukaan informasi, dan pertanggungjawaban yang memadai. Tidak ditemukan bukti penyalahgunaan harta oleh wali. Kebaruan penelitian ini terletak pada identifikasi kesenjangan antara legal authority of the guardian dan post-appointment accountability, yang menunjukkan bahwa efektivitas perlindungan anak bergantung pada kesinambungan antara legitimasi kewenangan, pelaksanaan kewajiban, pengawasan, dan akuntabilitas setelah penetapan.



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INTRODUCTION

Guardianship (al-wilāyah) in Islamic family law is a protection mechanism for children who do not yet have legal skills to act independently, both for their personal interests and for their rights and property (Aditia et al., 2025). In Islamic law in Indonesia, Article 107 of the Compilation of Islamic Law (KHI) stipulates that guardianship applies to children who are not yet 21 years old or have never been married and includes themselves and their assets (Compilation of Islamic Law, 2018). Therefore, guardianship is not only related to giving authority to guardians to represent children in legal actions, but also includes the responsibility to maintain the child's personal interests and property, especially when the parent is no longer able to carry out his or her role (Barends et al., 2026).

The guardian's authority is accompanied by legal responsibility in taking care of himself and the property of the child under his guardianship. Article 110 of the KHI requires the guardian to take care of himself and the property of the party under his guardianship and to account for losses arising from his mistakes or negligence (Hakim et al., 2020). Article 51 of Law of the Republic of Indonesia Number 1 of 1974 also requires the guardian to take care of the child and his property and make a list of the child's assets during the guardianship period. Meanwhile, Government Regulation of the Republic of Indonesia Number 29 of 2019 concerning Terms and Procedures for the Appointment of Guardians places the protection of rights, the fulfillment of basic needs, and the best interests of children as the purpose of appointing guardians. The normative framework shows that the appointment of a person as a guardian is the beginning of the implementation of legal responsibilities, not the end of the process of protecting children's rights.

This problem can be seen in the Determination of Case Number 116/Pdt.P/2023/PA. Kdr in 2023 at the Kediri City Religious Court. This case is related to Saskia Hari Putri who lost her parents, Hariyono and Yayuk Mujianti, when she was 14 years old and then in the care of her uncle, Santoso bin Warsito. Santoso filed a guardianship application to obtain legal authority in representing Saskia's interests, especially in the management of the Taspen Dwiguna Sejahtera Fund on behalf of the late Yayuk Mujianti. The Kediri City Religious Court then designated Santoso as Saskia's guardian. The determination provides certainty regarding the authorities representing the

interests of the child, but the issue of protection does not stop at the legitimacy of the guardian's position.

In reality, Saskia's wealth is not limited to the Taspen Fund. The inheritance of her parents also includes the house and its contents, vehicles, certificates, and other assets that are part of her civil rights. Meanwhile, the determination of the guardianship has not described in detail the entire property and its management mechanism after the guardian's authority is granted. This condition raises problems regarding how the authority that has been legally granted is then implemented to ensure the management, recording, disclosure of information, and accountability for the child's property. In principle, the protection of children's rights is not enough to be assessed only from the determination of the guardian, but also needs to be examined from the implementation of the guardian's responsibilities after the determination. The problem is not solely about the legality of Santoso as a guardian, but about the relationship between the legal authority he obtained and the implementation of the obligation to protect the interests and rights of Saskia's property.

Previous research has discussed several aspects of child guardianship. Jakfar & Mukminin (2022) examined the determination of guardianship for the management of minors' assets at the Banda Aceh Syar'iyah Court and showed that the judge's consideration was based on Article 107 of the KHI by taking into account family relations and the interests of children. Utami & Indrawati (2022) emphasized that the authority of guardians must be accompanied by legal responsibility so that its implementation does not cause harm to children under guardianship. Wiranto et al. (2025) show that kinship relationships, the ability to meet children's needs, and the principle of the best interests of children are important considerations in determining the party responsible for children through court decisions. The results of Simatupang et al.'s research (2023) show that supervision of children's assets under guardianship still faces problems in its implementation, especially related to the running of the supervisory function after the establishment of guardianship. The study shows that research on guardianship has paid attention to the basis of judges' considerations, guardian authority, legal responsibilities, and children's interests, as well as supervision of children's assets. However, the research has not specifically linked the judge's considerations as the basis for granting authority, the exercise of authority by the guardian after determination, and the protection of children's rights in one concrete case, especially in the aspects of management, recording, information disclosure, and accountability for children's property.

On the basis of this gap, this study places guardianship as a legal protection process that does not stop at granting status and authority to guardians. The analysis is directed at the relationship between judges' considerations as the basis for granting authority, the implementation of guardian authority after determination, and the protection of children's rights, especially their assets. This position distinguishes this study from studies that focus more on the determination or authority of guardians, because this study assesses how this authority is realized through asset management, recording, information disclosure, and guardian accountability.

Based on these problems, this study aims to analyze the considerations of the judges of the Kediri City Religious Court in the Determination of Case Number *116/Pdt.P/2023/PA*. In 2023, the Ministry of Defense analyzed the implementation of Santoso bin Warsito's authority as a guardian, especially in the management of the interests and assets of Saskia Hari Putri, and evaluated the protection of children's rights after the determination of guardianship. The analysis was directed at meeting the needs of children, asset management, information disclosure, and guardian accountability based on the perspective of the Compilation of Islamic Law. With this position, the study differentiated the formal protection obtained through the determination of guardians from substantive protection reflected in the implementation of guardianship obligations. The court's determination provides the basis for legal authority, while the effectiveness of the

protection of children's rights depends on how the authority is exercised and accounted for after the determination.

RESEARCH METHOD

This study uses a qualitative socio-legal case study design with an empirical approach and normative legal analysis. The socio-legal approach is used to examine guardianship not only based on the legal provisions that govern it, but also based on its implementation in practice (Banakar & Travers, 2005). The qualitative approach is used to gain an understanding of judges' considerations in appointing guardians, the exercise of guardianship authority after court determination, and the protection of children's rights during the guardianship period (Webley, 2010). Normative legal analysis is used to assess empirical findings based on the Compilation of Islamic Law, Law Number 1 of 1974 concerning Marriage, Government Regulation Number 29 of 2019 concerning Terms and Procedures for the Appointment of Guardians, and other legal provisions related to child guardianship.

This study uses a case study that focuses on the Determination of Case Number *116/Pdt.P/2023/PA. Kdr* in 2023 at the Kediri City Religious Court. This case was chosen because it allows the study to analyze the relationship between the judge's consideration in determining a guardian, the legal authority born through the determination of the court, and the exercise of that authority after the determination. The guardianship application is related to the management of Saskia Hari Putri's civil rights, including the Taspen Fund, while the inheritance of her parents also includes the house and its contents, vehicles, certificates, and other assets. The court's determination does not elaborate in detail on all of the assets or the implementation of the guardian's obligations after the determination. This condition makes this case relevant to examine the relationship between the granting of guardianship authority and the protection of children's rights after the authority is exercised.

The research was carried out at the Kediri City Religious Court and in the environment where Santoso bin Warsito lived as a guardian as determined through Case Determination Number *116/Pdt.P/2023/PA. Kdr* Year 2023. The Kediri City Religious Court is the location to obtain data on the examination process and considerations in the determination of guardianship, while the environment where the guardian lives is used to obtain data on the implementation of guardianship after the determination of the court. The focus of the research is directed at three interrelated aspects, namely the judge's consideration in determining guardianship, the implementation of guardian authority after determination, especially in the management of children's interests and property, and the protection of Saskia's rights during the guardianship period.

The research data consisted of primary data and secondary data. The main informants of the research were the judge of the Kediri City Religious Court related to the guardianship case and Santoso bin Warsito as the guardian determined by the court. The judge became the source of information about the examination process, legal basis, and considerations in determining the guardian, while Santoso provided information about the reasons for submitting the application and the implementation of the guardian's authority and responsibilities after the determination. The research data was also supplemented by information from Saskia Hari Putri as a child under guardianship and Umi as a family member who knew the conditions of the implementation of the guardianship. Information from Saskia was used to understand the conditions of parenting, sense of security, fulfillment of needs, and her knowledge about her parents' inheritance, while information from Umi was used to complete data on family conditions and changes in assets related to inheritance.

Primary data was obtained through interviews and field observations. Interviews were conducted informally with questions directed at the main issues of the research. Interviews with the judge were directed to obtain information about the case examination process, legal basis, and considerations in the determination of guardianship. The interview with Santoso was directed to the reasons for submitting the application, the exercise of authority after the determination, the fulfillment of Saskia's needs, and the management of her parents' inheritance. The interview with Saskia was used to obtain information about the condition of parenting, sense of security during the guardianship period, the fulfillment of her needs, and her knowledge of her parents' inheritance. The information from Umi was used to complete information about the family's condition and changes in assets found during the research.

Observations were carried out at the Kediri City Religious Court and the environment where the guardian lives. Observations in court were directed at the practice of guardianship applications and interactions related to the settlement of guardianship cases. Observations in the environment where the guardian resides were used to obtain an overview of the factual conditions of the implementation of guardianship after the determination of the court. Observation data was used to complement the information obtained through interviews and documentation regarding the conditions of the implementation of guardian authority and child protection during the guardianship period.

Secondary data was obtained through the study of Case Determination Number 116/Pdt.P/2023/PA. Kdr in 2023, Compilation of Islamic Law, Law of the Republic of Indonesia Number 1 of 1974, Government Regulation of the Republic of Indonesia Number 29 of 2019 concerning Terms and Procedures for the Appointment of Guardians, as well as scientific literature relevant to child guardianship, child property management, and protection of children's rights in Islamic law and national law. Case determination is used to identify the facts of the case and the legal considerations underlying the granting of authority to guardians. The provisions in the Compilation of Islamic Law and laws and regulations are used as a normative basis for assessing the exercise of the authority and responsibility of the guardian for the interests and property of the child.

Data collection is carried out through observation, interviews, and documentation. Documentation is carried out by examining the determination of the case, legal provisions, and other documents related to child guardianship. The data from the interview results are read together with Case Determination Number 116/Pdt.P/2023/PA. Kdr in 2023 to identify the relationship between the considerations underlying the granting of guardianship authority and the exercise of that authority after the determination of the court. Observation data is used to complete the reading of the factual conditions of the implementation of the guardianship, while legal materials are used as a basis for assessing the suitability between the exercise of guardianship authority and the legal obligations attached to the guardianship.

Data analysis was carried out qualitatively through several stages. First, data from interviews, observations, and documentation were identified based on the focus of the research. Second, the data were grouped into categories of judges' considerations, the exercise of guardian authority, and the protection of children's rights. Third, empirical findings were compared with the Compilation of Islamic Law, Law Number 1 of 1974 concerning Marriage, Government Regulation Number 29 of 2019 concerning Terms and Procedures for Appointment of Guardians, and other related legal provisions. The results of the comparison were then interpreted to assess the implementation of guardian responsibilities and the protection of children's rights after the establishment of guardianship. The validity of the data was checked through increased diligence, triangulation, and peer discussion. Increased diligence was carried out through re-examination of data and

documentation related to the research findings. Triangulation is used as a check on research data by considering information obtained through interviews, observations, and documentation. Peer discussions are used to help examine interpretations of research data and findings.

RESULTS AND DISCUSSION

Determination of Child Guardianship and Judge's Consideration

The results of the research on the Determination of Case Number *116/Pdt.P/2023/PA. The KDR* in 2023 shows that the application for guardianship was submitted by Santoso bin Warsito to be designated as the guardian of Saskia Hari Putri, who was still 14 years old at the time. The application was submitted after Saskia's parents died, so a party who can legally represent her interests in carrying out civil actions is needed. Normatively, this condition is the basis for the need for guardianship because Article 107 of the KHI places children who are not yet 21 years old and unmarried in the scope of guardianship that includes themselves as well as their assets. This condition is related to the concept of *wilāyah* which places guardianship as an authority to protect personal interests as well as children's property. In the context of property, *wilāyah 'alā al-māl* provides a basis for guardians to represent children who do not have legal skills in managing their wealth interests (Möller, 2015). In the case of Saskia, the need for guardianship arises not only because of the absence of parents, but also because there are civil interests that require legal representation, especially in relation to the Taspen fund on behalf of the late Yayuk Mujianti. The death of both parents and Saskia's age are not only part of the chronology of the case, but are the underlying legal facts of the need for a guardian who can legally act in her interests.

The Kediri City Religious Court granted the request and appointed Santoso as the guardian of Saskia Hari Putri. The judge's consideration rested not only on the family relationship between the applicant and Saskia's parents, but also on the evidence of the death of both parents and Santoso's readiness to carry out his responsibilities as a guardian. Kinship relationships are relevant in determining prospective guardians, but they are not in themselves sufficient to show the feasibility of a person to run guardianship. Article 3 and Article 4 of Government Regulation of the Republic of Indonesia Number 29 of 2019 show that even though the child's family is prioritized as guardian, the prospective guardian must still meet the requirements regarding physical and mental condition, behavior, economic ability, willingness to run guardianship, and proximity to the child.

The results of the interview with the judge of the Kediri City Religious Court reinforced this. The assessment of prospective guardians also considers the ability to provide religious education and understanding, physical and mental health conditions, and the welfare and safety of the child while in the care of the guardian. These aspects are examined through documents and witness statements. Solikhah et al. (2024) also show that the determination of guardians needs to consider the feasibility and ability of prospective guardians as well as the interests of the child. In line with that, Damanik et al. (2025) found that in guardianship cases, the ability of the surrogate guardian and the best interests of the child are part of the judge's consideration, including when the guardianship is related to the management of inheritance and Taspen. In this context, family relationships are one of the relevant bases in the determination of guardians, but the eligibility of prospective guardians still needs to be assessed based on their ability to carry out guardianship responsibilities and protect the best interests of the child.

The relationship between the facts of the case and the legal requirements shows that each element has a function in the consideration of the determination of guardianship. The death of both parents causes Saskia's interests to no longer be represented by her parents, while the age of 14 shows that Saskia does not yet have the full capacity to carry out legal action independently. Santoso's position as a close family provides a priority basis to be considered, but his eligibility still

depends on the ability to carry out parenting and protection responsibilities. Therefore, the determination of guardianship cannot be understood only as a ratification of kinship relationships, but as a verification process for parties who are considered capable of exercising authority for the benefit of the child.

The purpose of the application is also an important part of the examination of the case. The results of the interview with the judge showed that Santoso's application was mainly related to the need to obtain the authority to take care of Saskia's civil rights derived from her parents' inheritance, including pension funds. Although the application departed from these needs, the legal consequences of determining guardianship were not limited to the management of Taspen funds. Article 107 paragraph (2) of the KHI places guardianship on oneself and children's property, so that the authority born through the determination also carries responsibility for Saskia's interests more broadly. The court's determination provides certainty regarding the legal parties acting on Saskia's behalf in carrying out legal actions as long as she does not have full competence to act independently.

In the construction of guardianship law, the court determination functions as a mechanism of juridical verification for the party who will carry out the guardianship. Wahyudi (2019) explained that the determination of guardianship is necessary to provide a basis for legal certainty in the implementation of the guardianship relationship, while Lubis (2026) points out that the implementation of the guardianship function without a valid basis for determination does not automatically give birth to the status of a legal guardian. In the Saskia case, the examination by the Kediri City Religious Court ensured that Santoso's appointment was not only based on the guardianship that had taken place factually, but was also based on the court's assessment through the applicable legal mechanism. The determination gave legitimacy to Santoso as a legally authorized party to represent Saskia's interests. At this stage, the protection that is formed is mainly in the form of formal protection through certainty regarding the party who has the legal authority to act on behalf of the child.

In the perspective of *Maqāṣid al-Syar'ah*, the determination of guardianship can be understood as an instrument to safeguard the interests of children who are no longer under the authority of their parents (Shāṭibī, 1920). In the case of Saskia, the granting of authority to Santoso provides a legal basis to protect the child's personal interests and property as covered by guardianship in Article 107 paragraph (2) of the KHI. In the *ḥ ifẓ al-mal* aspect, the determination gives initial legitimacy to the guardian to take care of the child's property, while the effectiveness of the protection subsequently depends on the implementation of the guardian's obligations during the guardianship period. The findings show that the judge's consideration has resulted in certainty regarding the party who legally exercises the guardianship of Saskia. However, the granting of this authority also gives birth to responsibilities whose implementation needs to be assessed after the determination. The protection of Saskia's rights is not only determined by the validity of Santoso's appointment as a guardian, but also by how this authority is used to fulfill the interests of the child and manage the property to which she is entitled. The determination of Santoso provides a formal basis for protection, while the substantive fulfillment of Saskia's rights is still determined by the implementation of guardianship obligations, supervision mechanisms, and accountability during the guardianship period.

Implementation of Guardianship and Accountability in the Management of Children's Assets

After the guardianship authority was given to Santoso bin Warsito, the legal issue in the case of Saskia Hari Putri shifted from the legitimacy of the guardian to the way the authority is exercised

over the child's property. Property management is not enough to assess the use or control of assets, but from the extent to which the guardian's actions are able to maintain the benefits, value, traceability, and accountability of the child's property rights. AlMajed (2025) places the management of children's assets or inheritances by guardians as a form of *duty of care* that aims to protect children from exploitation and the risk of financial decision-making that they have not been able to make independently. This view emphasizes that authority over assets is always accompanied by responsibility to ensure that every management action remains oriented to the interests of the child and can be accounted for. In the case of Saskia, the problem can be seen in how Santoso uses his assets to meet the needs of his children while maintaining the existence of assets, recording changes that have occurred, and accounting for their management during the guardianship period.

Article 14 paragraph (1) letter d of the Government Regulation of the Republic of Indonesia Number 29 of 2019 places the management of children's property for the needs of children as one of the obligations of the guardian. In practice, Santoso explained that part of the pension fund of the deceased Yayuk Mujianti that had been taken care of after the establishment of the guardianship was used to finance Saskia's education and daily needs. The use shows that part of the property has been used in accordance with the interests of the child, not just in the custody of the guardian. In terms of the purpose of use, Santoso's actions can be considered in line with the obligation to manage the assets because the benefits of the funds are directly received by Saskia. However, the suitability of the purpose of use does not remove the obligation of the guardian to ensure that the use and change of the property can be recorded and accounted for. Without adequate records, the intended use remains difficult to trace as part of accountable asset management.

In the perspective of *Maqāṣid al-Syarī'ah*, the management of Saskia's property is not sufficiently assessed from the benefits of funds that have been used for education and daily needs. The principle of *ḥifẓ al-māl* also requires that the property that is still in the control of the guardian is maintained in its existence, value, and traceability during the guardianship period. Huzaimah & Tamudin (2024) place the protection of children's material rights as part of *maqāṣid al-daruriyyāt* through *ḥifẓ al-māl*, while Sabreen (2021) asserts that the guardian's authority over children's property is limited by the interests of the child and the obligation to maintain property as long as the child is not able to manage it independently. This shows that the use of property for Saskia's needs and the maintenance of assets cannot be separated as two independent obligations. Therefore, the use of property for Saskia's needs cannot be separated from the obligation to maintain the existence and value of property that is still her right. Property can be used to meet current needs, but its use must still be measurable and traceable so as not to reduce the protection of Saskia's economic rights during the guardianship period.

The results of the study show that the management of Saskia's assets has not been supported by systematic special records of all types, conditions, and changes in assets during the trust period. In fact, Article 51 paragraph (4) of Law of the Republic of Indonesia Number 1 of 1974 requires the guardian to make a list of the child's assets at the beginning of the trust and record any changes to it. A similar obligation is also reflected in Article 110 of the KHI which places the management and accountability of assets as part of the guardian's responsibility (Compilation of Islamic Law, 2018). In Saskia's case, the absence of adequate records cannot be positioned as evidence of abuse. The research did not obtain evidence to show that Saskia's assets were used for Santoso's personal interests. The problem lies in the limited administrative evidence that can clearly show how the condition, changes, and use of each asset during the trust period. Without a regular list of assets and records of changes, the management becomes difficult to verify and be accounted for transparently, even if there is no evidence of misuse by the trustee.

The problem of asset traceability can be seen in the change of one of Saskia's assets in the form of a Honda Beat motorcycle based on Umi's information that it has been sold and then replaced with a vehicle that is considered better. Article 110 paragraph (2) of the KHI limits the actions of the guardian to bind, burden, or alienate the child's property, unless the action is in the best interest of the child or cannot be avoided (Compilation of Islamic Law, 2018). In the case of Saskia, the research has not obtained adequate information regarding the reason for the sale of the vehicle, the value of the transaction, the source of funds for the replacement vehicle, and the ownership status of the replacement vehicle as part of Saskia's property. The lack of information makes it difficult to assess the change in assets in its entirety, especially to ensure whether the value of Saskia's assets is maintained after the old vehicle is transferred. This problem does not necessarily indicate an abuse of authority by Santoso, but it shows that the history of asset changes has not been adequately documented. In fact, Article 110 paragraph (4) of the KHI demands accountability for the management of children's assets, so the change from the old vehicle to a replacement vehicle should be explained through records showing the reason, value, source of financing, and ownership status.

Accountability for property management is also related to the disclosure of information about assets that are Saskia's right. The results of the study show that when asked about her parents' inheritance, Saskia only mentioned the house and did not provide further information when asked about other goods or securities. Information about motorcycles was actually provided by Umi. Although the management authority is with the guardian during the trust period, the property is still related to Saskia's property rights so that information about the type, existence, and change of assets is an important part of protecting her rights. The limited information received by Saskia shows that the transparency of asset management has not fully run in line with the guardian's authority in managing assets. The disclosure of information in this context not only gives Saskia an understanding of the assets to which she is entitled, but also supports the traceability of assets and accountability for their management during the trust period.

The inconsistency of information regarding obligations related to the legacy of Saskia's parents shows that there is a problem in the traceability of information about assets and obligations. In the initial interview, Santoso mentioned the existence of obligations to Bank Jatim, while in the next interview Santoso mentioned Bank BTN. These differences are not enough to show the misuse of assets, but it causes difficulties in ascertaining the type and status of obligations that are actually attached to the legacy. Pratiwi (2019) emphasized that the management of children's assets requires inventory, recording changes, and accountability so that the state of the assets and the actions of the guardians can be clearly traced. In Saskia's case, inconsistencies in information about these obligations have the potential to hinder verification of the number of obligations and their effect on the value of the assets to which the child is entitled. Transparency in asset management does not only include clarity about assets, but also clarity about obligations that can affect the net value of assets that are the rights of children.

The use of part of the assets for education and daily needs shows that Santoso's management has provided direct benefits to Saskia. However, these benefits go hand in hand with a number of problems in the aspects of asset registration, documentation of asset changes, information disclosure, and consistency of information regarding obligations related to legacies. Neman (2021) emphasized that the guardian's authority over the child's personal and property is always accompanied by a legal responsibility to carry out the guardianship properly and prevent losses to the child. In Saskia's case, the research did not obtain evidence showing the use of the child's property for the personal interests of the guardian, so the identified problems are more appropriately placed on management accountability rather than abuse of authority. The absence of

adequate recording and documentation makes the use, changes, and conditions of assets difficult to trace thoroughly. The implementation of the trust shows benefits in the aspect of asset utilization for the benefit of Saskia, but the accountability of its management still needs to be strengthened through recording, documentation of asset changes, and verifiable accountability. These findings are the basis for assessing the gap between the legal authority of the guardian and the supervisory and accountability mechanisms after determination.

Legal Protection Gap and Its Implications for Children's Rights

The results of the study show that the protection of Saskia Hari Putri takes place in two dimensions that do not fully run at the same level. Determination of Case Number 116/Pdt.P/2023/PA. The Ministry of Interior in 2023 has provided formal legal protection by designating Santoso bin Warsito as the legally authorized party to represent Saskia's interests after the death of her parents. At the implementation level, substantive protection can also be seen from the fulfillment of educational needs and daily needs as well as the conditions of parenting that are declared safe by Saskia. However, the protection of property rights has not been supported in a balanced manner by asset registration, documentation of property changes, information disclosure, and adequate accountability mechanisms. This condition shows that certainty regarding the position of the guardian is the basis for protection, but its effectiveness is still determined by the implementation of the guardian's obligations after the determination.

The difference between these two dimensions shows that there is an implementable gap between the legal authority of the guardian and post-determination accountability. This gap is not caused by the absence of norms regarding guardian obligations, because KHI, Law Number 1 of 1974 concerning Marriage, and Government Regulation Number 29 of 2019 have regulated the responsibility of guardians towards themselves and children's property. The problem lies in how these obligations are operationalized after the authority is granted, in line with the research of Simatupang et al. (2023) which shows that the implementation of supervision of children's assets in guardianships in Indonesia has not been running optimally even though the supervisory authority already has a legal basis. In the Saskia case, the court's determination does not describe all inheritance assets and guardianships' obligations in their management in detail. The results of the interview with the judge also show the view that ideally the determination of guardianship includes the child's assets as well as the rights and obligations of the guardian to support protection in the future. The legal gap referred to in this study is not in the absence of norms, but the distance between *the legal authority of the guardian* that has been formed through the determination and *post-appointment accountability* that has not been fully implemented in the implementation of guardianship.

The implications of this gap can be seen from Saskia's position as the owner of rights. The results of the interview showed that Saskia felt safe in the foster care environment, but had limited knowledge about the purpose of the guardianship application and the inheritance of her parents. According to Toros & Falch-Eriksen (2025), children's involvement in the protection process is still often limited, especially in terms of information, understanding, and participation in decision-making that affects their lives. When asked about the property she knew, Saskia only mentioned the house and did not provide further information about other assets. These findings show that the protection of the child's self is not automatically followed by the same openness to his property rights. Substantive protection is not enough to measure the fulfillment of life needs and a sense of security, but also from the extent to which the child's economic interests are protected through the management of assets that can be known, traced, and accounted for.

The protection gap also has an institutional dimension. The results of the interview with the judge showed that the relationship between the Kediri City Religious Court and the Heritage Center

in the supervision of children's assets is still passive and there is no concrete cooperation mechanism. According to Kothari et al. (2022), child protection requires collaboration between institutions supported by strong relationships, resource exchange, and common goals. The judge even considers the cooperation important so that the details of the child's property can be recorded and the protection can be continued after the determination. This condition is relevant to Article 13 of Government Regulation of the Republic of Indonesia Number 29 of 2019 which requires the registrar to submit a copy of the determination regarding the appointment of guardians to population administration agencies, social services, and agencies that carry out heritage property affairs. This norm shows that protection after determination basically has a cross-institutional dimension. The granting of authority to guardians needs to be supported by a mechanism that allows the implementation of obligations and the management of children's assets to be monitored on an ongoing basis.

Supervision of children's assets is necessary so that the guardian's actions in asset management can be verified and accounted for. Pratiwi (2019) places the guardian as part of the protection of children's assets, while research on the Legacy Estate Center shows the importance of accountability for the expenditure and management of children's assets during the guardianship period. Leonetti (2025), in the context of a parenting case in New Zealand, shows that the absence of a follow-up mechanism after a court order takes effect causes the child's condition to not be monitored on an ongoing basis. In Saskia's case, the main problem does not lie in the validity of the appointment of Santoso as a guardian, but in the continuity of protection after the authority is granted. The principle of the best interests of the child should function not only at the stage of choosing a guardian, but also as a standard for assessing how authority is exercised during the guardianship.

Formal and substantive protection are two elements that complement each other in assessing the effectiveness of guardianship. Formal protection is needed to provide certainty regarding the legal party representing the child, while substantive protection determines whether the authority really results in the fulfillment of personal interests and the protection of children's property rights. In the case of Saskia, concrete benefits have been seen in the aspects of parenting and meeting needs. Findings regarding asset registration, documentation of property changes, information disclosure, and supervision mechanisms show that the protection of property rights still needs strengthening. The contribution of this study lies in the finding that the determination of guardians does not by itself solve the problem of child protection. The effectiveness of protection depends on the continuity between the legitimacy of authority, the implementation of obligations, supervision, and accountability after determination.

CONCLUSION.

Determination of Case Number 116/Pdt.P/2023/PA. The Ministry of Justice in 2023 has provided formal legal protection for Saskia Hari Putri through certainty regarding Santoso bin Warsito as the legally authorized party to represent her interests after her parents died. The judge's consideration is based on the need for a guardian for children who are not capable of acting legally, family relationships, and the eligibility of prospective guardians while still paying attention to the best interests of the child. In its implementation, the guardianship has provided substantive benefits in the aspects of parenting and meeting needs, including the use of part of the inheritance funds for Saskia's education and daily needs. However, the protection of property rights has not been fully optimal because asset management has not been supported by systematic asset registration, documentation of asset changes, information disclosure, and adequately verifiable accountability.

This condition does not show an abuse of authority by the guardian, but shows weaknesses in the accountability aspect of asset management.

The findings of this study show that the gap in legal protection in guardianship cases does not lie in the absence of norms, but in the lack of alignment of *the legal authority of the guardian* given through court determination with *post-appointment accountability* in the implementation of guardianship. The determination of guardianship provides a legal basis for the exercise of guardianship authority, but does not by itself guarantee the protection of children's personal interests and property rights if it is not accompanied by asset registration, information disclosure, supervision, and sustainable accountability. The contribution of this research lies in the understanding that the effectiveness of child protection in guardianship is determined by the continuity between the legitimacy of the guardian's authority, the implementation of his obligations, and supervision after determination. Strengthening asset inventory, documentation of asset changes, interagency coordination, and guardian accountability mechanisms are needed to ensure that the protection of children's personal interests and property rights continues during the guardianship period in accordance with the principle of the best interests of the child.

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