

Exploitation of Street Children as Beggars in Deli Serdang: Legal Review and *Siyasah Dusturiyah*

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Abstract. *Exploitation of street children is a crime that often occurs recently, many street children lose their freedom and do not have adequate protection from their family, region or government. With the existence of laws regarding the protection of children and women and related organizations, it is believed that the number of exploitation cases will decrease, children will receive clear legal protection and can be executed by state authorities to increase protection for children, especially street children. This research uses a juridically valid and experimental methodology. The aim of this research is to find out efforts to handle and protect street children as victims of exploitation from the Deli Serdang Regency regional regulation No.5 of 2021 and what the Islamic perspective is in handling cases of exploitation of street children which is studied from Siyasah Dusturiyah.*

Keywords: *Legal protection; Siyasah Dusturiyah; Street children.*

1. Introduction

In national and state life, small institutions cannot be separated, especially the family, which is the smallest unit in society, where a child is first educated and raised so that the child can develop and become at the forefront with his or her potential. Children are the buds of hope for a country that will continue the existence of the country and the Indonesian state, therein lies the fate of the country.¹Therefore, a child must receive love and good education from his family, especially his parents. To grow and develop into an intelligent child, he also needs sufficient guidance and training to help him. However, it is different when the child becomes a victim of "exploitation" carried out by his family, so that in the end the child becomes a street

¹Yuni Desymawati, Similar Investigations of Children in Regional Regulation No. 23 of 2002 and Islamic Regional Regulations (Purwokerto, 2007).

child, they certainly do not have the opportunities and rights they deserve as an educated child. Judging from the reference to the Big Indonesian Dictionary (KBBI), exploitation is abuse, use for one's own benefit, abuse, coercion due to the work of others. Acts of exploitation are actions that make children very afraid and hurt children's feelings. Children in emergencies, one of whom is exploited, social or real, must receive special protection from public officials, state institutions and the community.

Mentally, the street children who are exploited are young people who at a certain level need more mental strength and depth, while they have to struggle with the brutality of the street world and generally this will have negative impacts.²

If we look at the truth, children's basic rights have not been fully fulfilled, instead what is happening is that children's abilities are actually being exploited without caring about the child's condition. One way is to exploit children by involving them as laborers or homeless people, which in the end means their lives are threatened and neglected until some of the children become street children. As stated in Law No. 4 of 1979 concerning child welfare.³ What is meant by child is someone who is under 21 years of age and is not married. Street children cannot be separated from the young generation centered around the city. Street children are children who are belittled, belittled, and excluded from friendship or warmth because of conditions that force them to carry out certain activities, for example financial activities and daily activities. Problems related to street children are a common problem that occurs and is experienced by many in various countries, including Indonesia. This issue is a social issue which is certainly difficult to overcome because most of it includes issues of a principled nature. Apart from that, problems related to street children can give rise to various new problems in various areas which of course have many impacts and can cause problems for these street children. Street children often experience an unforgiving attitude, lack of understanding and lack of love from their parents, resulting in street children being forced to drop out of school and unable to carry out activities like other friends. This can affect their mental improvement as a young generation living in urban areas.

Exploitation of children often occurs among toddlers and street children by adults by welcoming them into poverty. This problem is a daily sight on various public roads, city transportation, train stations, conventional business sectors, and retail outlets. Improvements to the problem of street children in the Serdang Shop Regime in general do exist and have not been resolved, this can be seen from the presence of

²Suyanto, *Children's Social Issues* (Jakarta: Kencana Pranada Media Gathering, 2013).

³Zainal Asikin, *Principles of Work Regulations*, ed. PT. Raja Grafindo Persada (Jakarta, 2004).

street children at several points in Deli Serdang Regency. From information obtained by the North Sumatra Central Statistics Agency, it is known that the number of abandoned and street children in 2019 was 1,167 children, and this number continues to change. For the Medan city area, information was obtained from the 2019 Medan City Social Service

No	Year	Number of Street Children
1	2017	41 children
2	2018	36 children
3	2019	83 children
4	2020	127 children

This data shows that the presence of street children has increased, since the Corona virus pandemic, apart from the increase in the number of street children, it is also caused by ecological, family factors, dropping out of school, and reduced motivation of street children.

In Islamic rules, the younger generation is one of the trusts that must be protected and educated with religious knowledge. Islam has ordered that children must be well cared for, which is why killing one's own child for any reason is haram, especially because of fear of giving up (poor) in making ends meet. In the Al-Qur'an surah An-Nisa verse: 9*"And let those who fear Allah leave behind them weak children whose welfare they fear. Therefore, let them fear Allah and let them speak the right words."* When parents have truly prepared themselves intellectually and equipped to become parents, then the child will get the privileges, even though he does not come from a financially well-off family, when he is ready to educate in a trust from Allah and by relying on him. Nya, they don't have to worry about hardships all their lives. Because Allah himself will provide for the sustenance of each of his servants.

From this basis, researchers are interested in conducting research related to how the lives of street children are exploited as wellefforts to handle and provide protection for street children as victims of exploitation, as well as how Islam views handling cases of exploitation of street children which are studied from *Siyasah Dusturiyah*.

2. Research Methods

Research methods are the main steps used by researchers to get answers to the problems posed. This journal uses a juridical-empirical legal approach (socio-legal

research). The juridical approach is an approach that refers to applicable laws and regulations. A type of empirical legal research that analyzes a problem that exists in society itself, supported by data and facts in the field⁴. The information collection procedure used is a written study, which is supported by field information through perception. To determine the information and data needed for this exploration, the creator decided on the location of this research in Galang District, Deli Serdang Regency.

The information obtained from this research comes from books and research results that have topics that are in accordance with what the researcher is doing. The procedure for examining the information and data used in this research is subjective information. Information obtained from interviews and documentation is described for additional investigation, which can then be recorded to become related research material.

3. Result and Discussion

3.1. Exploitation of Street Children

The exploitation of children in the world of work has actually been mentioned in Law of the Republic of Indonesia no. 13 of 2003 concerning Employment which also interprets the meaning of child, namely: "Every person under 18 years of age is a child. Apart from that, article 68 states that business actors are prohibited from taking advantage of children. Article 68 allows children aged 13-15 years to do light work as long as it does not interfere with their mental and social development. Furthermore, this legal regulation underlines that entrepreneurs who employ children in light work must fulfill the following requirements: written consent from parents/guardians, a maximum working time of three hours, work carried out during the day so as not to interfere with school hours, welfare and security while working, and positive and clear work relationships and children are given wages based on applicable regulations. Even though there is legislation prohibiting children from working in any industry, financial need and the lack of options, such as school, continue to cause or encourage children to work. This law stipulates sanctions for violators of the law. Violation of the worst work provisions for children is punishable by a maximum imprisonment of two to five years or a maximum fine of IDR 200 million to IDR 500 million. Meanwhile, violations of minor labor regulations are threatened with imprisonment for 1-4 years and/or a fine of at least 100 million rupiah and a maximum of 400 million rupiah.

⁴A.Burhan, Legal Article Method (Jakarta: Rineka Cipta, 2001).

Of the street children we managed to meet in several areas in Deli Serdang Regency, there were 5 children of various ages ranging from the smallest 10 years - 20 years and all of them clearly did not continue their education. After we chatted with them, they understood their purpose behind working and chose to stop going to school, because they needed to help with family life and help pay their parents' obligations, there are children who are confused because of their living needs. Separated people finally decide to look for their character in the city, as well as young people who are deliberately influenced by other people, the separation of their parents, and become poor people (homeless) again for money reasons.⁵.

3.2. Legal Protection of Street Children

The important thing that you need to pay attention to as parents and guardians in laws and regulations relating to children is that the consequences of their implementation are linked to various variables, for example financial, socio-political and social conditions of society. In various guidelines and regulations there are differences in child care guidelines, this is caused by various factors which are important principles contained in the objectives behind statutory regulations relating to conditions and guarantees of child protection.

The young generation who will continue the noble ideals of the country, future leaders of the nation and as a source of hope for the past, needs to have the widest possible opportunity to develop and develop well, both deeply, in the true sense. and socially. Child protection is an effort and development from all levels of society in various positions and positions, who from now on are fully aware of how important the young generation is for the nation and state. If they have grown significantly, mentally and socially, an open door has emerged to replace the previous generation.

Child welfare is all efforts made to create conditions so that every child can take advantage of opportunities and obligations towards the development and progress of the younger generation, both mentally and socially. Child safety is an illustration of equality in everyday society. Therefore, protection of children is necessary in various areas of state and public activities. Children's affirmation practices have significant results, both according to written and unwritten standards. The law is a guarantee of children's walking safety. Arif Gosita stated that legal guarantees must be sought to progress child security activities and to prevent anomalies that cause

⁵Interview with Street Children (Deli Serdang Regency, 2023).

undesirable negative consequences in the implementation of child security.⁶

Implementation of child protection is carried out in a reasonable, skillful and valuable manner, representing a useful and effective effort. Efforts to protect children must not result in lack of energy, development, and other things that cause dependence on other people and uncontrolled behavior, so that children cannot exercise freedom and fulfill their responsibilities. Protection for children can be divided into 2 (two) parts, with the following details:

- (a) Young juridical security, which considers guarantees in the field of general guidelines and in the field of general guidelines;
- (b) Non-juridical certification for younger ages, such as protection in the social sector, government assistance sector, school sector.

Article 1 Number 2 of the Child Protection Law Number 23 of 2002 underlines that youth security is all forms of efforts to guarantee and protect teenagers and their opportunities to live, be creative, work and have interests. Its ideals are compatible with human dignity, and secure from cruelty and division. Child welfare can also be interpreted as all efforts aimed at preventing, recovering and including children who experience abuse, brutality and neglect of children, to ensure children's strength and general development and progress, both sincerely, mentally and socially. . Arif Gosita understands that child protection is an effort to protect the younger generation so they can fulfill their opportunities and commitments.

Child safety benefits children and their parents as well as public authorities, so coordinated child safety cooperation must be held to prevent errors in overall child welfare activities. Regarding this matter, Abdul Hakim Garuda Nusantara said: "The issue of legal child protection is one side of efforts to protect Indonesia's young generation. This problem cannot be approached juridically, but requires a broader, unambiguous and social philosophy.

Child protection should continue to be aimed at comprehensive efforts that make children into individuals who deserve extraordinary attention. Regarding this matter, Abdul Hakim Garuda Nusantara, former Chairman of KomnasHAM RI, said that this problem cannot be resolved legally, but requires a broader strategy, especially regarding finance and social issues. In line with this, Shanti Dellyana said that protection is a work that creates conditions where every child can fulfill their rights

⁶Arif Gosita, *Child Safety Problems* (Jakarta: Akademi Pressindo, 1989)).

and commitments.⁷

The explanation behind the implementation of child protection is as follows: (1) Philosophical reasoning, especially Pancasila, which is the basis for justifying implementation in various fields of family, local, state and community activities, as well as philosophical explanations behind the implementation of child protection. ; (2) The moral foundation, especially the implementation of child protection must be in accordance with the relevant ethical qualities, to prevent unusual behavior in specialist practice, power and strength in the implementation of child protection; (3) Juridical Place; The implementation of child protection must be based on the 1945 Constitution and other appropriate guidelines and regulations. The use of these juridical reasons should be integrative, namely a plan to utilize guidelines and regulations from various related legal fields.

The execution and protection of children living on city streets in accordance with the Deli Serdang Regional Regulations is quite good, but has not been able to address local issues as a whole in addressing the problem of street children. For this situation, the implementation of security for street children carried out by public authorities through prevention, outreach, satisfaction, privilege and social justice has been running in accordance with regional regulations and child outreach techniques, this can be seen from local regional institutions (foundations) in their efforts in managing street children, so that the number of street children is always decreasing. Although there are still obstacles both internal and external to the government's efforts to protect street children.

Deli Serdang Regency Regional Regulation Number 5 of 2021 concerning Protection of Street Children is a legal regulation for implementing good and wide-reaching child safety. With the presence of the Deli Serdang Regency PERDA Number 5 of 2021, it can be used as a reference and handling of street children's problems in the Deli Serdang Regency area, guided by regulations regarding the fulfillment of street children's rights, one of which is by really focusing on the surrounding environment and feeling good and in accordance with the needs of street children. In CHAPTER I General Regulations Article 1 No. 15, weak neglected children are children whose needs for mental direction, appropriate clothing, food, protection, welfare, schooling, physical and social administration are not met. No.16 Street children are children whose lives are unpredictable and invest most of their energy outside the home to earn money in the city or public places. No.30 Exploitation of children is any act involving children in activities that can harm or endanger the child's safety with

⁷Nasution AHG, Possibilities for the Security of the Young Generation (Jakarta: Rajawali, 2006).

the aim of empowering other people to gain financial, sexual, social or political gain, including with the assumption that there is a limitation or elimination of the child's opportunities in get his right to obtain their rights has been regulated in Deli Serdang Regency PERDA No.5 of 2021 Article 4 Part III, commitments and obligations of the regional government, local community, parents and families.

Several other articles in Law Number 39 of 1999 concerning Basic Freedoms which contain regulations regarding guarantees for the younger generation, especially guarantees for children as laborers, are Article 64 and Article 65. Article 64 reads: "every child has the special right to receive protection from economic exploitation and any work that endangers him, so as to hinder his schooling, actual welfare, ethics, public activity and his mental and spiritual life." Anyone is prohibited from exploiting and involving children in types of work that are clearly bad.

The fragmented treatment of street children is due to the fact that the programs for handling street children that have been carried out so far are generally still fractional, not on track, there is no cooperation between coordinators for handling street children either within the government or between the government and the programs implemented together with other stakeholders (private sector), NGOs, etc.) is not sustainable. This situation means that programs for handling street children will never touch the root of the problem.⁸

Treatment of street children must refer to the three main targets of social security, namely preventing and reducing the dangers experienced by the community in order to avoid extreme despair and escape poverty, destitution and financial imbalance as well as empowering disadvantaged groups to have a dignified way of life.⁹

3.3. Review of *Siyasah Dusturiyah*

The Islamic religion, which regulates all human life as a whole, all of which originates from the Al-Qur'an Karim, provides answers to every problem, for example state issues according to Islamic views, discussion of fiqh *Siyasah Dusturiyah* is limited by the regulations expected by law. to the extent that conformity to strict standards constitutes recognition of the superiority of human beings to meet their needs. According to the structure of the language itself, *Siyasah Dusturiyah* consists of two words, namely "siyasah" and "dusturiyah". The word siyasah semantically comes

⁸HSuyatna, "Rejuvenation of the Parenting Model for Street Adolescents in a Safe House," *Sociology and Political Theory* (2011).

⁹E. Suharto, *Poverty and Social Security in Indonesia* (Bandung: Alfabeta, 2009).

from the word "sasa" which means to organize, supervise and regulate or political governance and strategy making.

In terms of expression (terminology), the word *siyasah* according to Sheikh Abdul Wahab Khalaf's view is a legal arrangement that regulates the basic relationships and beneficial relationships between welcomed individuals which are created to keep things under control and be useful and direct the situation. Meanwhile, "dusturiyah" itself linguistically comes from the word element which means various individuals in a country, both those that are written (constitution) and those that are not written (convention).

The scope of *Siyasah Dusturiyah* fiqh covers very broad and complex everyday problems. In the overall explanation of the clarification of *Siyasah Dusturiyah* includes discussions such as;

- a. The privileges and commitments of the Imamate
- b. Individuals and the privileges they obtain,
- c. Bai'at
- d. Waliyul Ahdi
- e. The issue of representation
- f. The problem of ahlul halli wal aqdi,
- g. Wiarah issues and their comparisons

Fiqh *Siyasah Dusturiyah* seen from another side can be separated into:

1. *Siyasah Tasyri'ah* contains issues of ahlul hali wal aqdi, individual (people) issues. Relations between Muslims and non-Muslims in one country, such as the Constitution, Implementation Guidelines, Provincial Guidelines, etc.
2. The field of *Siyasah Tanfidiyah* includes issues of imamate, issues of bai'ah, wizarah, waliy al-hadi, and others.
3. The field of *Siyasah Qadla'iyah* contains legal issues.
4. The field of *Siyasah Idariyah* includes authoritative and labor issues.

The main source of *Dusturiyah* fiqh is the Al-Qur'an AL-Karim, especially the parts related to the principles of social life. The Qur'an is God's revelation which contains God's expressions which are helpers for us Muslims in all areas of life, especially in social and state life.

4. Conclusion

The implementation of security for street children assisted by public authorities through measures of prevention, outreach, fulfillment of freedom and social trust has been running in accordance with Regional Regulations and the methodology for outreach to street children, something that can be seen from the efforts of local regional governments in their efforts in managing street children, so that There is always a decrease in the number of street children. The fragmented treatment of street children is caused by the program for handling street children that has been implemented so far is generally still fractional, not on track (not right on target), the absence of cooperative staff in the coordinators of caring for street children both within public authorities and between public authorities and different partners internal to the government and between the government and the Program implemented together with other stakeholders (private sector, NGOs, etc.) are not sustainable. This situation means that programs for handling street children will never touch the root of the problem. The review of *Siyasah Dusturiyah* in handling cases of exploitation of street children is intended to explain the legal order created to maintain order and the interests of society as well as regulate the conditions governing the basic relations and cooperative relations between members of society in the state, whether written (constitution) or not, all of which are based on The guide to life for Muslims is Al-Quran Al Karim.

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Interview on Street Children. Regency of Deli Serdang, 2023.

Interview result

NAME	SOCIAL STATUS	AGE
Risky	Street children	10 years old
Randi	Street children	17 years old
Wawan	Street children	19 years old
Selamet	Street children	17 years old