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Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Legal Protection of Children's Rights in the Transfer of Land Rights

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Abstract. *Land rights transfers can occur through sale, exchange, donation, donation, joint ownership, inheritance, endowment, and court decisions. If a child holds land rights, their rights must be respected and protected for their survival. Therefore, it is urgent to conduct research on the legal protection of children's rights in land rights transfers, addressing the legal protection of children's rights in land rights transfers, the obstacles to such legal protection, and how to address these obstacles. This research uses a sociological legal approach, utilizing both primary and secondary data. Primary data were obtained through field research and interviews with relevant parties. Secondary data, consisting of primary legal materials (legislation and binding court decisions), secondary legal materials, and tertiary legal materials, were obtained through literature and document studies. These data were then analyzed qualitatively. Based on the research results, it can be concluded that to protect children's rights in the transfer of land rights, in principle, land owned by a child cannot be transferred before he or she is an adult, except under the condition that it is in the interests of the child, it is urgent and there is a decision from the district court or religious court. The obstacles that occur in the legal protection of children's rights are: there has not been a determination of a guardian in the event that the parent dies, then the solution is to submit a decision to the court; not a child in a legal marriage, the solution is to carry out isbat nikah in court; parents or guardians are not trustworthy, then the solution must be supervision from an authorized institution.*

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1. Introduction

Land constitutes one of the most significant forms of property because it possesses economic, social, and legal value. In certain circumstances, children may acquire land rights through inheritance, grants, gifts, or other lawful mechanisms. Although children may legally hold property rights, their limited legal capacity creates particular vulnerabilities when their land becomes the subject of a transfer. The sale, release, exchange, or other disposition of land owned by a child may have long-term consequences for the child's economic security and future welfare. Consequently, the transfer of children's land rights requires a specific legal protection framework that balances the authority of parents or guardians with the fundamental rights and interests of the child.

The legal status of children as landholders raises an important distinction between ownership and the authority to manage property. Parents or guardians may be responsible for administering a child's assets, but such responsibility should not automatically confer unrestricted authority to dispose of the child's land. Guardianship must instead operate within the principle of the best interests of the child. Judicial supervision therefore becomes an essential mechanism for examining whether a proposed transfer is necessary, reasonable, and genuinely beneficial to the child. Court authorization can provide an independent safeguard against conflicts of interest, unauthorized transactions, and the misuse of children's property.

However, formal judicial authorization and administrative procedures alone may not be sufficient to guarantee effective protection. The complexity of land transactions, inheritance arrangements, guardianship relationships, and property administration requires a more comprehensive legal framework. Legal reconstruction should therefore strengthen preventive verification, guardian accountability, professional due diligence, land registration, and post-transfer monitoring. Such mechanisms are necessary to ensure that the disposal of a child's land is assessed not merely according to formal validity but also according to its substantive consequences for the child's present and future welfare.

This article examines the legal protection of children's rights in the transfer of land rights through three interconnected dimensions: the legal status and protection of children's land rights, guardianship and judicial supervision in land transfers, and the reconstruction of child-centred legal protection mechanisms. It argues that an effective framework must place the best interests of the child at the centre of property administration and land transfer processes while simultaneously ensuring legal certainty, accountability, and protection against exploitation.

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2. Research Methods

This research uses a sociological legal approach, utilizing both primary and secondary data. Primary data were obtained through field research and interviews with relevant parties. Secondary data, consisting of primary legal materials (legislation and binding court decisions), secondary legal materials, and tertiary legal materials, were obtained through literature and document studies.

3. Results and Discussion

3.1. Legal Status and Protection of Children's Land Rights

Children's land rights constitute an important component of property rights that require specific legal protection because children generally lack full legal capacity to independently perform legal acts. Ownership or entitlement to land may arise through inheritance, grants, gifts, or other lawful transfers. Although children may legally hold property rights, their limited capacity creates a potential vulnerability, particularly when land registered in their name becomes the subject of a sale, transfer, encumbrance, or other disposition. Consequently, the legal system must ensure that the exercise of rights over children's land does not result in the loss or unlawful reduction of their property interests.

The legal status of a child's ownership should be distinguished from the authority of parents or guardians to administer the property. Parents may have responsibility for managing a child's assets, but such responsibility does not automatically provide unrestricted authority to dispose of the child's land. The distinction between administration and disposition is essential because a transfer of land can produce permanent legal and economic consequences for the child. Any exercise of parental or guardianship authority must therefore be directed toward protecting the child's welfare rather than satisfying the personal interests of the parent or guardian.

The principle of the best interests of the child provides an important normative foundation for determining whether a proposed transaction involving a child's land should be permitted. A transfer may potentially be justified where it is genuinely necessary for the child's education, healthcare, housing, or other essential needs. Conversely, transactions undertaken primarily for the financial benefit of parents, relatives, or other third parties should receive strict scrutiny. The existence of parental consent alone should not be regarded as sufficient justification when the transaction substantially affects the child's property rights.

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Legal protection also requires institutional safeguards. Where a guardian seeks to transfer a child's land, judicial authorization may function as an important mechanism for preventing conflicts of interest and unauthorized disposal. Judicial review allows the competent authority to examine the purpose of the transaction, the child's circumstances, the value of the land, and the proposed use of the proceeds. Such supervision ensures that guardianship operates as a protective institution rather than becoming a mechanism through which children's property can be controlled without accountability.

Land registration provides an additional dimension of protection by establishing legal certainty regarding ownership and the history of transfers. Accurate registration can prevent unauthorized transactions, identify the legitimate holder of rights, and reduce disputes involving inherited property. Where land is acquired through inheritance, the child's status as an heir should be clearly established before any subsequent transaction takes place. Documentation concerning inheritance, guardianship, and authorization should therefore be carefully verified by the relevant authorities.

Ultimately, protecting children's land rights requires a child-centred approach that combines substantive and procedural safeguards. The legal system should not merely determine whether a transfer satisfies formal requirements but should also assess whether the transaction protects the child's long-term interests. Through effective guardianship, judicial supervision, transparent land registration, and consistent application of the best-interests principle, children's property rights can be protected against exploitation and unauthorized disposal. Such mechanisms are essential to ensuring that the child's legal status as a landholder remains meaningful and that property inherited or acquired during childhood continues to serve the child's welfare and future interests.

3.2. Guardianship and Judicial Supervision in the Transfer of Land Owned by Children

Guardianship plays a fundamental role in protecting the property rights of children who have not yet attained full legal capacity. In the context of land ownership, guardians may be required to represent children in legal and administrative matters because minors generally cannot independently perform legal acts concerning their property. However, the authority of a guardian should not be interpreted as an unrestricted power to sell, transfer, mortgage, or otherwise dispose of land belonging to a child. Because land constitutes an important economic asset and may represent inherited wealth, any transaction involving a child's land requires heightened legal protection and careful supervision.

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The distinction between managing and disposing of a child's property is particularly important. A guardian may administer land for the benefit of the child, but a transfer of ownership creates substantially more serious consequences because it may permanently deprive the child of an important asset. Therefore, guardianship authority should always be exercised according to the best interests of the child. The guardian must demonstrate that any proposed transfer is necessary, reasonable, and beneficial to the child's welfare rather than motivated by the personal economic interests of the guardian or other family members.

Judicial supervision provides an essential safeguard against potential conflicts of interest. Before authorizing the transfer of land owned by a minor, the court should examine the legal status of the property, the identity and authority of the guardian, the reason for the proposed transaction, the value of the land, and the intended use of the proceeds. Judicial authorization should not function merely as an administrative requirement. It should constitute a substantive mechanism through which the court determines whether the transaction genuinely protects the child's interests.

The best-interests-of-the-child principle should consequently become the central consideration in judicial assessment. A land transfer may be considered necessary where the proceeds are required for education, healthcare, housing, or other essential needs of the child. Conversely, a transaction designed primarily to settle the debts or financial obligations of parents or relatives should receive particularly strict scrutiny. The court should also consider whether alternative solutions exist that would protect the child's land ownership while addressing the underlying financial need.

Professional actors involved in land transactions also have an important protective function. Notaries, Land Deed Officials, and land administration authorities should carefully verify the identity of the child, the guardian's legal authority, relevant inheritance documents, court authorization where required, and the legality of the proposed transaction. Such verification can prevent unauthorized transfers and reduce the possibility of fraudulent or exploitative transactions involving minors.

Effective protection should continue after a transfer has been authorized. The proceeds obtained from the disposal of a child's land should be appropriately safeguarded and used for purposes consistent with the child's welfare. Accountability mechanisms can therefore ensure that guardians do not misuse funds obtained from transactions involving children's property.

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Ultimately, guardianship and judicial supervision should operate as complementary mechanisms for protecting children's land rights. Guardians provide necessary legal representation, while courts provide independent oversight of significant property decisions. A child-centred framework requires both institutions to ensure that the transfer of land is not merely formally valid but substantively justified by the child's best interests. Strengthening judicial scrutiny, guardian accountability, professional verification, and post-transaction monitoring can therefore provide stronger legal protection for children against unauthorized or exploitative disposal of their land assets.

3.3. Legal Reconstruction for Child-Centred Land Transfer Protection

The protection of children's rights in land transfers requires a legal framework that goes beyond formal compliance with administrative and contractual requirements. Children constitute a particularly vulnerable category of property holders because they generally lack full legal capacity to independently manage or dispose of their assets. When land is inherited or registered in a child's name, the possibility of unauthorized transfer, conflicts of interest, or misuse by parents and guardians creates a significant legal concern. Therefore, the reconstruction of land transfer regulations should place the best interests of the child at the centre of every legal decision involving the disposal of children's land.

The first element of legal reconstruction should be the strengthening of preventive safeguards. Before a transfer is approved, relevant authorities should verify the child's legal status, ownership documents, inheritance rights, identity and authority of the guardian, and the legitimate purpose of the proposed transaction. A guardian should be required to demonstrate that the transfer is necessary and proportionate to the child's needs. This approach would prevent guardianship from becoming a mechanism for exercising unrestricted control over a child's property. Where the land represents inherited property, all relevant heirs and the child's specific interest should also be clearly identified before any transaction is permitted.

Judicial supervision should constitute an essential component of this reconstructed framework. Court authorization should not be treated as a purely procedural formality but as a substantive assessment of whether the proposed transfer genuinely serves the child's welfare. Courts should examine the economic value of the land, the reasons for disposal, the child's current and future needs, and whether less intrusive alternatives are available. A transaction should be authorized only when the benefits to the child clearly outweigh the consequences of losing the land.

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The reconstruction should also strengthen the accountability of guardians and other professionals involved in land transactions. Parents or guardians who manage children's property should be subject to clear fiduciary-like responsibilities, including duties of care, loyalty, transparency, and proper administration. Notaries, Land Deed Officials, and land administration authorities should independently verify the legal basis for the transfer and refuse transactions that lack the required authorization or appear inconsistent with the child's interests. Digital land administration systems could further support this process by recording information concerning minors' ownership and relevant restrictions on transfer.

Protection should continue after the transaction has been completed. Where a court authorizes the sale of children's land, the proceeds should be placed under appropriate safeguards and used exclusively for purposes benefiting the child. Periodic reporting or judicial monitoring may be necessary where the transaction involves substantial assets. This post-transaction supervision can reduce the risk that proceeds are diverted for the personal benefit of guardians or other parties.

Ultimately, legal reconstruction should establish a comprehensive child-centred model that combines preventive verification, judicial authorization, guardian accountability, professional due diligence, secure land registration, and post-transfer monitoring. The validity of a land transfer involving a child should therefore be assessed not only through formal legal requirements but also through its substantive impact on the child's present and future welfare. Such an approach would strengthen legal certainty while ensuring that property law operates consistently with the fundamental principle that children's rights and interests deserve heightened protection.

4. Conclusion

The protection of children's rights in the transfer of land rights requires a comprehensive legal framework that recognizes children as legitimate holders of property rights while acknowledging their limited legal capacity to independently perform legal acts. The analysis demonstrates that children's land rights may arise through inheritance, grants, gifts, or other lawful mechanisms, but the vulnerability associated with minority creates significant risks when their property becomes subject to transfer. Consequently, parental or guardianship authority should not be interpreted as an unrestricted power to dispose of children's land. The administration of children's property must always be directed toward protecting their welfare, economic security, and future interests. Guardianship and judicial supervision constitute essential safeguards in preventing

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unauthorized or exploitative transactions. Guardians may represent children in legal matters, but significant transactions involving children's land should be subject to independent scrutiny. Judicial authorization should function as a substantive protection mechanism rather than a mere administrative formality. Courts should examine the purpose of the proposed transfer, the value and status of the land, the child's present and future needs, and whether the transaction genuinely serves the child's best interests. Professional actors involved in land transactions should likewise conduct appropriate verification to ensure that the guardian possesses legitimate authority and that all legal requirements have been fulfilled. The study further demonstrates the need for legal reconstruction toward a child-centred land transfer framework. Protection should encompass preventive verification, judicial oversight, guardian accountability, professional due diligence, accurate land registration, and post-transfer monitoring. Where the transfer of land is authorized, the proceeds should be safeguarded and used exclusively for purposes that benefit the child. These mechanisms can reduce the risk of property exploitation and ensure that legal authority is exercised responsibly. Ultimately, effective protection of children's land rights requires a shift from purely formal legality toward substantive child-centred protection. A land transfer involving a child should not be considered legitimate solely because procedural requirements have been satisfied; its impact on the child's welfare and long-term property interests must also be evaluated. Integrating the best-interests principle with strong judicial supervision, accountable guardianship, and reliable land administration can strengthen both legal certainty and children's substantive rights. Such an approach ensures that the legal system protects children not merely as passive objects of legal representation, but as rights holders whose property interests deserve heightened and sustained protection.

5. References

Journals:

Alex Suhartanto, Weppy Susetiyo, and M. Taufan Perdana Putra. "Analisis Yuridis Permohonan Perwalian oleh Orang Tua dalam Pengurusan Izin Penjualan Tanah Harta Waris Anak di Bawah Umur: Studi Putusan Nomor 199/Pdt.P/2025/PN Blt." *Jurnal Riset Rumpun Ilmu Sosial, Politik dan Humaniora* 5, no. 2 (2026): 49–54.
<https://doi.org/10.55606/jurrish.v5i2.7083>.

Ayu Indirakirana, Komang Febrinayanti Dantes, and Muhamad Jodi Setianto. "Implementasi Perwalian terhadap Anak di Bawah Umur pada Pelaksanaan Peralihan Hak Milik atas Tanah karena Jual Beli di Kota Singaraja." *Jurnal Komunitas Yustisia* 5, no. 2 (2022): 414–430.
<https://doi.org/10.23887/jatayu.v5i2.51635>.



LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

D. Galih Bagus S. "Analisis Pertimbangan Hakim Penetapan Wali untuk Izin Jual Berupa Warisan Sebidang Tanah Milik Anak di Bawah Umur (Perkara Perdata Nomor: 17/Pdt.P/2022/PN.Tjk)." *Maleo Law Journal* 7, no. 2 (2023). <https://doi.org/10.56338/mlj.v7i2.3565>.

Desi Yani and Tengku Erwinsyahbana. "Perlindungan Hukum terhadap Harta Warisan Anak melalui Revitalisasi Balai Harta Peninggalan (BHP)." *Jurnal Notarius* 1, no. 1 (2022): 10–20.

Lucky Putri Selomitha and Andria Luhur Prakoso. "Kajian Yuridis Peralihan Hak Atas Tanah Milik Anak yang Masih di Bawah Umur." *Mimbar Keadilan* 15, no. 2 (2022): 256–268. <https://doi.org/10.30996/mk.v15i2.6761>.

Redyana Lutfianidha, Ferika Nurfransiska, and Khoirun Nisak. "Tinjauan Yuridis terhadap Perwalian dalam Transaksi Penjualan Harta Anak di Bawah Umur: Studi Penetapan 313/Pdt.P/2023/PN Dps." *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 2 (2026): 5282–5291. <https://doi.org/10.61104/alz.v4i2.5008>.

Widarko and Arief Syahrul Alam. "Peran Balai Harta Peninggalan pada Proses Peralihan Hak Atas Tanah Ahli Waris di Bawah Umur." *Law and Humanity* 3, no. 2 (2025): 153–169. <https://doi.org/10.37504/lh.v3i2.758>.

Yulita Dwi Pratiwi. "Harmonisasi Perlindungan Harta Kekayaan Anak dalam Perwalian melalui Penguatan Peran Wali Pengawas." *Jurnal Suara Hukum* 1, no. 1 (2019): 61–90. <https://doi.org/10.26740/jsh.v1n1.p61-90>.

Yuri Etika Ayu Muktia and Yulies Tiena Masriani. "Penetapan Perwalian terhadap Proses Jual Beli Tanah Waris yang Ahli Warisnya Anak di Bawah Umur (Study Penetapan Pengadilan Negeri Kendal No. 247/Pdt.P/2019/PN.Kdl)." *Notary Law Research*.

Zahra Apritania Jati. "Peralihan Hak Atas Tanah yang Dimiliki Anak oleh Orang yang Bertindak sebagai Wali." *Jurnal Ilmu Hukum: ALETHEA* 4, no. 2 (2021): 115–130. <https://doi.org/10.24246/alethea.vol4.no2.p115-130>.

Books:

Adrian Sutedi. *Peralihan Hak Atas Tanah dan Pendaftarannya*. Jakarta: Sinar Grafika, 2023.

Boedi Harsono. *Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya*. Jakarta: Djambatan, 2008.

Maidin Gultom. *Perlindungan Hukum terhadap Anak dalam Sistem Peradilan Pidana Anak di Indonesia*. Bandung: Refika Aditama, 2013.



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Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Soetojo Prawirohamidjojo and Marthalena Pohan. *Hukum Orang dan Keluarga (Personen en Familie-Recht)*. Surabaya: Airlangga University Press, 2008.

Subekti. *Pokok-Pokok Hukum Perdata*. Jakarta: Intermasa, 2003.