

# Legal Protection for Street Children in Connection With State Responsibility from the Pancasila Perspective

Sahat Maruli Tua Situmeang<sup>1</sup>, Musa Darwin Pane,<sup>2</sup> Subagyo Sri Utomo,<sup>3</sup> Diah  
Pudjiastuti<sup>4</sup>

Program Studi Ilmu Hukum Universitas Komputer Indonesia  
Program Studi Peradilan Pidana Universitas Wanita Internasional  
Email: [diahpudjiastuti@iwu.ac.id](mailto:diahpudjiastuti@iwu.ac.id)  
\*corresponding author

## Article info

Received: Jan 24, 2025

Revised: March 5, 2025

Accepted: April 27, 2025

DOI: <https://doi.org/10.31599/krtha.v19i1.3151>

**Abstract :** *This study aims to determine the legal protection of street children associated with state responsibility and to find out what efforts should be made by the government in dealing with the phenomenon of street children in order to realize social welfare in the perspective of Pancasila. The approach method in this research is a normative juridical approach. The specification of the research used descriptive analytical method. The results of this study conclude that the laws and regulations currently used to eradicate and overcome the rampant street children are not sufficient, namely the occurrence of a legal vacuum, especially in parenting patterns in their biological families, where the failure of parenting is manifested by violence experienced by children, both violence and violence. physically and psychologically as well as prevention of child marriage which results in victims. The efforts made by the government in alleviating and tackling street children are the establishment of a child social welfare program (PKSA), a child social welfare institution (LKSA), a child protection task force (Satgas PA), where these efforts are felt to be not optimal. Based on this, the authors are of the view that in order to realize social welfare in the perspective of Pancasila is through institutional strengthening of the Social Service and Child Protection Commission, as well as institutional strengthening both through government administration and non-government administration, such as strengthening the functions of the Rukun Tetangga and Rukun Warga as well as coaching the community in an effort to prevention of the phenomenon of street children as well as strengthening regulations, namely reformulation and reconstruction of policies reformulation of laws and regulations relating to child protection.*

**Keywords :** *Legal Protection, Street Children, State Responsibility, Pancasila*

**Abstrak :** Penelitian ini bertujuan untuk mengetahui perlindungan hukum terhadap anak jalanan dihubungkan dengan tanggung jawab negara dan untuk mengetahui upaya apa yang harus dilakukan oleh pemerintah dalam menangani fenomena anak jalanan guna mewujudkan kesejahteraan sosial dalam perspektif Pancasila. Metode pendekatan dalam penelitian ini adalah pendekatan yuridis normatif. Spesifikasi penelitian menggunakan metode deskriptif analitis. Hasil dari studi ini menyimpulkan bahwa peraturan perundang-undangan yang saat ini digunakan untuk mengentaskan dan menanggulangi maraknya anak jalanan belum cukup memadai, yakni terjadinya kekosongan hukum terutama dalam pola pengasuhan dalam keluarga biologisnya, dimana kegagalan pola asuh diwujudkan dengan kekerasan yang dialami oleh anak baik kekerasan secara fisik maupun psikis yang



berakibat timbulnya korban. Adapun upaya yang dilakukan oleh pemerintah dalam mengentaskan dan menanggulangi anak jalanan yaitu dibentuknya program kesejahteraan sosial anak (PKSA), lembaga kesejahteraan sosial anak (LKSA), satuan tugas perlindungan anak (Satgas PA), dimana upaya tersebut dirasakan belum optimal. Berdasarkan hal tersebut maka penulis berpandangan bahwa guna mewujudkan kesejahteraan sosial dalam perspektif Pancasila adalah melalui penguatan kelembagaan Dinas Sosial dan Komisi Perlindungan Anak, serta penguatan kelembagaan baik melalui administrasi pemerintahan maupun non administrasi pemerintahan seperti penguatan fungsi Rukun Tetangga dan Rukun Warga serta pembinaan terhadap masyarakat dalam upaya pencegahan terjadinya fenomena anak jalanan serta penguatan regulasi yakni reformulasi dan rekonstruksi kebijakan reformulasi peraturan perundang-undangan yang berkenaan dengan perlindungan anak.

**Kata kunci :** Perlindungan Hukum, Anak Jalanan, Tanggung Jawab Negara, Pancasila

## I. INTRODUCTION

As many as 2,800 social welfare problem cases (PMKS) in Bandung were disciplined throughout 2019. They are dominated by street musicians, vagrants, and beggars, as well as the elderly and street children.<sup>1</sup> The prevalence of street children cannot be separated from social welfare issues; both are closely related to each other and impact one another, like two sides of a coin that cannot be separated. Essentially, every child inherently possesses dignity, worth, and rights as a human being that must be upheld by everyone. The existence of street children, abandoned children, and children employed to beg on the streets constitutes a form of violence against children. In relation to this matter, street children are abandoned children who are vulnerable to discrimination and violence.<sup>2</sup>

In the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 NRI Constitution), protection for children is provided in Article 28B Paragraph (2), which states, "Every child has the right to live, grow, and develop, and has the right to protection from violence and discrimination." This is then implemented in the Child Protection Law, which explains in Article 1 Paragraph (2) that "Child Protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity, and receive protection from violence and discrimination." Therefore, it can be said that Indonesian positive law has regulated child protection, which also includes the fulfillment of rights that must be obtained by a child without discrimination.<sup>3</sup>

Thus, all provisions related to the operation of duties and authorities as well as policies issued by the government (executive) concerning the care and protection of children (especially abandoned children) should be implemented well by optimizing the state's responsibility in realizing the general welfare. This is as stated in Article 64 of Law Number 39 of 1999 concerning Human Rights, which mentions that every child has the

<sup>1</sup> <https://www.republika.co.id/berita/q562r6335/pmks-di-bandung-cenderung-meningkat>, diakses pada tanggal 27 April 2021

<sup>2</sup> Sukadi, I. (2013). Tanggung Jawab Negara Terhadap Anak Terlantar Dalam Operasionalisasi Pemerintah Di Bidang Perlindungan Hak Anak. *De Jure: Jurnal Hukum dan Syar'iah*, 5(2). hlm. 125

<sup>3</sup> Syahra, A. (2018). Aspek Hukum Tanggung Jawab Negara Terhadap Perlindungan Anak Terlantar Ditinjau dari Pasal 34 Ayat 1 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. *Jurnal Hukum Adigama*, 1(1), hlm. 2

right to protection from economic exploitation activities and any work that endangers themselves, thereby potentially disrupting their education, physical health, moral, social life, and spiritual mental well-being.

The rights of children are fundamental rights that must be granted and obtained by children, whether they still have parents or not, including abandoned children. This is as stipulated in the CRC (Convention on the Rights of the Child) which has been ratified by the Indonesian government. Where there are 10 Absolute Rights of the Child, which include the right to protection, protection from all acts of violence and abuse. This is also emphasized in the basic rights of children, namely: the right to life, the right to growth and development, the right to participate, and the right to protection.<sup>4</sup> Considering this background, the author believes that the current legislation used to address and tackle the prevalence of street children is not adequate, particularly due to the legal vacuum in the parenting patterns within their biological families, where children experience both physical and psychological violence. This indicates a failure in child upbringing, resulting in victims. Therefore, it is important to conduct research to provide input to government policies in order to protect street children legally, as a state responsibility within the framework of the Pancasila state of law.

This is because children are the nation's generation and hold significant importance for the country, hence the importance of legal protection for children, by fulfilling the rights of neglected children through the implementation of Pancasila values in daily life, as a nation and state, so that there are no more cases of neglected children. However, in practice, this implementation does not run smoothly, where the components of the legal system related to legal protection for street children still show problems in the efforts of protection and law enforcement.

The discussion regarding the protection of street children is not a new topic; previous research has extensively studied the legal protection of street children, including:

1. Oktaviani Siti Rokhani and Natangsa Surbakti in 2018 with a thesis titled "The Problems of Street Children in a Child-Friendly City (A Case Study of Street Children in Surakarta City)
2. Widya Nusantara in 2014 with an article titled "Transformative Learning in Activities Assisting Street Children in Malang City
3. Ramdhan Gusli Pratama in 2017 with an article titled "Legal Protection for the Welfare of Street Children in Subang Regency.
4. Hanisa Ayu Solichin in 2017 with a thesis titled "The Role of the Social Service in Addressing Aibon Glue Counseling by Street Children in Makassar City from an Islamic Law Perspective
5. Siti Riza Azmiyati in 2014 with an article titled "An Overview of Substance Abuse among Street Children in Semarang City.

The first research discusses the driving factors for children to go onto the streets. The second study discusses the issues faced by street children through interview

---

<sup>4</sup> Fitri, A. N., Riana, A. W., & Fedryansyah, M. (2015). Perlindungan Hak-Hak Anak Dalam Upaya Peningkatan Kesejahteraan Anak. *Prosiding Penelitian Dan Pengabdian Kepada Masyarakat*, 2(1). hlm. 46-47

techniques, observation, and documentation studies, as well as through mentoring. The third research discusses the Subang district government's program to improve the welfare of street children's families. The fourth research discusses the role of the social services department in addressing the abuse of aibon glue by street children in the city of Makassar. The fifth study discusses the use of narcotics by street children on the streets, under bridges, at home, and in workplaces in groups. Meanwhile, the research conducted by the author focuses on the forms of protection for street children within positive law and the efforts of the government in addressing street children from the perspective of Pancasila. Based on the explanation of the background above, the issues to be researched are as follows: first, how legal protection for street children is related to state responsibility. Second, what efforts must be made by the government in addressing the phenomenon of street children to achieve social welfare from the perspective of Pancasila.

## II. RESEARCH METHOD

Referring to the title and problem formulation, this research falls into the category of research that uses a normative juridical approach, which is research conducted by examining library materials or secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. The research specification used is descriptive-analytical in nature, aiming to accurately describe,<sup>5</sup> namely to obtain a comprehensive and systematic overview of legal theories and the practice of positive law concerning the legal protection of street children in connection with the state's responsibility from the perspective of Pancasila. The data used in this research consists of secondary data, namely data or information obtained from the review of similar research documents that have been conducted previously, library materials such as books, literature, newspapers, magazines, journals, and archives relevant to the research to be discussed. In accordance with the methodological approach used in this research, which is normative legal research, the data collection activity in this study is conducted through the collection (documentation) of secondary data. The data collection technique is carried out through library research to gather and compile data related to the issues being studied. In analyzing the study data related to the research conducted by the author, qualitative normative analysis is used.<sup>6</sup>

## III. DISCUSSION

### Legal Protection for Street Children Linked to State Responsibility

Indonesia is a state of law based on Pancasila and the 1945 Constitution that upholds human rights and guarantees all citizens' rights equally in law and governance without exception.<sup>7</sup> As a country based on law and humanitarianism, Indonesia recognizes the existence of street children, and this recognition is clearly stated in Article 27

<sup>5</sup> Amiruddin dan Zainal Asikin, *Pengantar Metode Penelitian Hukum*, Raja Grafindo Persada, Jakarta, 2003, hlm. 25.

<sup>6</sup> Suharsimi Arikunto, *Prosedur Penelitian*, Rineksa Cipta, Jakarta, 2002, hlm. 9

<sup>7</sup> Priatmi Dharsono, K., & Hartanto, S. H. (2019). *Penerapan Asas Praduga Tak Bersalah Dalam Proses Penyidikan Tindak Pidana (Studi Kasus Di Polresta Klaten)* (Doctoral Dissertation, Universitas Muhammadiyah Surakarta).

paragraphs (1) and (2), Article 34 of the 1945 Constitution, and Law No. 4 of 1979 concerning Child Welfare<sup>8</sup>, where in the explanation it is mentioned that Pancasila is a way of life and the foundation of societal order.

Efforts to nurture, develop, and enhance the welfare of children must be based on the philosophy of Pancasila with the aim of ensuring the continuity of life and the personality of the nation. Because children, whether spiritually, physically, or socially, do not yet have the ability to stand on their own, it becomes the duty of the previous generation to guarantee, nurture, and secure the interests of the child. The maintenance, guarantee, and safeguarding of these interests should be carried out by those who care for them under the supervision and guidance of the state, and if necessary, by the state itself. Starting from this obligation, those responsible for the care of the child are also required to protect them from disturbances that come from outside as well as from the child themselves.<sup>9</sup>

Legal protection based on Pancasila is the recognition and protection of human dignity and worth based on the values of divinity, humanity, unity, deliberation, and social justice. These values give rise to the recognition and protection of human rights, which manifest as individual and social beings in a unitary state that upholds the spirit of kinship to achieve common welfare. Legal protection (protection of the law) is an effort made by individuals, government institutions, or private entities aimed at realizing security, control, and fulfillment of a quality of life in accordance with human rights. In principle, legal protection does not differentiate based on gender, ethnicity, race, culture, or even the religion adhered to by each individual. This is emphasized in the system of state governance as stated in the explanation of the 1945 Constitution, which among other things states the principle, "Indonesia is a state based on law (*rechtstaat*) and the government is based on a constitutional system." (*hukum dasar*). Where the main element of a rule of law state is the recognition and legal protection of "fundamental rights."<sup>10</sup>

In addition, the protection of children has been established in the Declaration of the Rights of the Child 1979, which was later adopted by the UN as the Convention on the Rights of the Child (CRC) in 1989 in Geneva and has been ratified, approved, or signed by 192 countries, including Indonesia. The issue of the convention has resulted in a diligent commitment to prioritize children's rights, their survival, protection, and development.<sup>11</sup>

The concept of responsibility has actually been recognized in every legal system, both in national and international law. C. de Rover states, "*In any legal system, there must be liability for failure to observe obligations imposed by its rules.*" Municipal law distinguishes between civil and criminal liability based on deliberate or negligent acts or omissions that constitute

---

<sup>8</sup> Ananingsih, S. W. (1997). *Masalah Anak Jalanan Dan Penanganannya Kaitannya Dengan Pembangunan Nasional*. hlm. 10

<sup>9</sup> Undang-Undang Nomor 4 Tahun 1979 tentang Kesejahteraan Anak

<sup>10</sup> Sahat Maruli Tua Situmeang, *Penahanan Tersangka Disikresi Dalam Proses Peradilan Pidana*, Logoz Publishing, Bandung, 2019, hlm. 228

<sup>11</sup> Halim, S., Halim, P., Badruddin, S., & Djanggih, H. (2018). Perlindungan Hak Asasi Anak Jalanan Dalam Bidang Pendidikan Menurut Hukum Nasional Dan Konvensi Internasional. *Jurnal Hukum & Pembangunan*, 48(2), hlm. 362

an offense under that law. In international law, such liability is referred to as responsibility. Responsibility arises from the breach of any obligation owed under international law.<sup>12</sup> When translated freely, it means that in any legal system, there must be responsibility for the failure to comply with obligations imposed by its rules. The law distinguishes between civil and criminal liability based on deliberate or negligent actions or omissions that constitute a violation under that law. In international law, such responsibility is referred to as responsibility. Responsibility arises from the breach of any obligation owed under international law. Every state is morally bound to comply with the *Universal Declaration of Human Rights* and human rights conventions. States have the obligation to protect, fulfill, and promote the human rights of their citizens.<sup>13</sup> In addition, when linked to passive criminal acts, it refers to a condition or certain circumstance that imposes a legal obligation on an individual to perform a specific act. Failure to carry out this act constitutes a violation of their legal obligation or a criminal offense of neglecting a legal duty.<sup>14</sup>

State power is closely related to responsibility and obligation. From the perspective of the development of democratic states, these two aspects are integral elements of the concept of power. Today, it is nearly inconceivable for power to exist without being accompanied by responsibility and obligation, as the absence of these leads to a totalitarian state. Thus, power is invariably followed by both obligations and responsibilities, as they are consequentially interconnected. In a democracy, the effectiveness of governance is typically measured by two factors: the ability to manage political support for the government and the ability to implement policies that are felt and beneficial to the public.<sup>15</sup>

Efforts to provide legal protection for children can be understood as efforts to safeguard various freedoms and fundamental rights of children, as well as various interests related to their welfare. Thus, Barda Nawawi Arief states that the issue of legal protection for children encompasses a very broad scope.<sup>16</sup> Articles 4 through 18 of the Law on Child Protection regulate the rights and obligations of children, including, among others, the right to protection in emergency situations, the implementation of legal protection, and safeguarding anything related to the child's future.

Although there are currently numerous laws and regulations in Indonesia, these provisions have not been well-implemented. This is evident from the still high number of cases involving violence against children, both physical and psychological, sexual violence, economic exploitation, school dropouts, drug abuse, and juvenile delinquency. From

<sup>12</sup> Sujatmoko, A. (2005). *Tanggung jawab negara atas pelanggaran berat HAM: Indonesia, Timor Leste, dan lainnya*. Grasindo. hlm. 3-4.

<sup>13</sup> Ende Hasbi Nassarudin, *Kriminologi*, Bandung, CV. Pustaka Setia, 2016, hlm. 147

<sup>14</sup> <http://ahsanulwalidain.blogspot.com/2012/10/jenis-jenis-tindak-pidana.html>, diakses pada tanggal 25 April 2021

<sup>15</sup> Fahmi, S. (2011). Asas Tanggung Jawab Negara Sebagai Dasar Pelaksanaan Perlindungan dan Pengelolaan Lingkungan Hidup. *Jurnal Hukum Ius Quia Iustum*, 18(2), hlm. 217

<sup>16</sup> Sofyan, A. M., & Tenripadang, A. (2017). Ketentuan Hukum Perlindungan Hak Anak Jalanan Bidang Pendidikan. *DIKTUM: Jurnal Syariah dan Hukum*, 15(2), hlm. 232

January to July 2020, the Ministry of Women's Empowerment and Child Protection recorded at least 4,116 cases of violence against children.<sup>17</sup>

Street children have the right to protection, which is the state's responsibility in fulfilling children's rights as safeguarded by law and outlined in the constitution. The state, endowed with authority, should optimally exercise its role and powers through various mechanisms to support the realization of legal protection for street children, as embedded in the values of Pancasila, which must be implemented across various aspects of life. Therefore, the importance of sub-coordination, sub-supervision, and directed communication in implementing regulations aimed at creating a prosperous nation is crucial. This would reduce the phenomenon of street children, who essentially represent neglected children and highlight severe social inequalities—inequalities that are the root of larger issues such as the erosion of nationalism, high crime rates, and more. The Ministry of Social Affairs (Kemensos) recorded at least 8,937 cases involving street children in 2017. These cases included molestation, theft, abuse, rape, sexual exploitation, and alcohol abuse.<sup>18</sup>

Conceptually, vulnerable children are generally referred to by the specific term "children in especially difficult circumstances" (CEDC), which was later replaced with the term "children in need of special protection" (CNSP). In UN documents, several situations are considered vulnerable for children and thus require special protection efforts, including: (1) when children are in environments where their relationships with people around them, especially adults, are filled with violence or neglect, (2) when children are in areas experiencing armed conflict, (3) when children are in work environments, either informal or formal, where their development and growth are not given adequate attention and protection, (4) when children are engaged in high-risk work, (5) when children are involved in the use of psychoactive substances, (6) when children, due to their physical condition (disability), socio-economic status (lack of ID, birth certificate, poverty), or their parents' political situation, are vulnerable to various forms of discriminatory treatment, (7) children who, due to their marital status, are vulnerable to discriminatory actions, and (8) when children are facing legal conflicts and must deal with law enforcement and all its procedures.<sup>19</sup>

The harsh life on the streets forces street children to survive by doing whatever it takes. Sometimes, they experience sexual abuse in exchange for money, unaware that such events will influence their deviant behavior. If this is allowed to continue, according to Suyatno, social threats are right before their eyes, such as violence and neglect, falling into alcohol and drug abuse, contracting sexually transmitted diseases, sexual exploitation, and

<sup>17</sup> <https://nasional.kompas.com/read/2020/08/12/15410871/kementerian-pppa-catat-ada-4116-kasus-kekerasan-anak-dalam-7-bulan-terakhir?page=all#:~:text=Nahar%20menyebutkan%2C%20kekerasan%20yang%20terjadi,perdagangan%20orang%2C%20dan%20346%20penelantaran., diakses pada tanggal 27 April 2020>

<sup>18</sup> <https://www.republika.co.id/berita/nasional/umum/18/01/15/p2lhcc396-ini-kasuskasus-yang-dialami-anak-jalanan, diakses pada tanggal 30 April 2021>

<sup>19</sup> Suyanto, B. (2010). *Masalah sosial anak*. Kencana. hlm. 4-5

even being forced into prostitution.<sup>20</sup> Therefore, it is important to strengthen the institutional capacity of the Social Service, in addition to strengthening regulations through policy formulation to protect children's rights, especially in supervising parenting patterns within biological families, which are not yet regulated in positive law and have become the root cause of the emergence of street children. It is also crucial to strengthen the legal structure and promote the active role of society through increased understanding and the creation of a community that continuously learns.

**Figure 1**  
**Number of Child Complaint Cases**

RINCIAN TABEL DATA												
KASUS PENGADUAN ANAK BERDASARKAN KLASTER PERLINDUNGAN ANAK												
KOMISI PERLINDUNGAN ANAK INDONESIA												
TAHUN 2011 - 2020												
NO	KLASTER / BIDANG	TAHUN										JUMLAH
		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	
1	Sosial dan Anak Dalam Situasi Darurat	86	75	238	183	167	236	286	302	291	65	1929
2	Keluarga dan Pengasuhan Alternatif	416	633	931	921	822	857	714	857	896	963	8010
3	Agama dan Budaya	83	204	214	106	180	262	240	246	193	78	1806
4	Hak Sipil dan Partisipasi	37	42	79	76	110	137	173	147	108	38	947
5	Kesehatan dan Napza	227	265	446	368	381	383	325	364	344	46	3149
6	Pendidikan	276	522	371	461	538	427	428	451	321	1451	5246
7	Pornografi dan Cyber Crime	188	175	247	322	463	587	608	679	653	526	4448
8	Anak Berhadapan Hukum (ABH)	695	1413	1428	2208	1221	1314	1403	1434	1251	704	13071
9	Trafficking dan Eksploitasi	160	173	184	263	345	340	347	329	244	88	2473
10	Kasus Perlindungan Anak Lainnya	10	10	173	158	82	79	55	76	68	775	1486
TOTAL		2178	3512	4311	5066	4309	4622	4579	4885	4369	4734	42565
Data Masuk Pertanggal (31 Agustus 2020), Pukul 18.00 WIB												
Update Data : Tahun 2011 s/d Tahun 2020												

Source: <https://www.kpai.go.id>

Based on the image, it shows that the number of child abuse cases has increased year by year, although there has been a decrease in some years, the overall trend continues to rise, making child protection an issue of utmost importance.

**Figure 2**  
**Number of Elementary School Dropouts 2019/2020**

<sup>20</sup> J., S., Suaib, E., Yusuf, B. (2015). Anak jalanan: latar belakang, dinamika sosial, dan jaringan. Indonesia: Leutika Prio. hlm. 3



No.	Provinsi Province	Laki-laki (L) / Male (M)			Perempuan (P) / Female (F)			L+P/M+F		
		Negeri Public	Swasta Private	Subjml Sub Tot.	Negeri Public	Swasta Private	Subjml Sub Tot.	Negeri Public	Swasta Private	Jumlah Total
1	Prov. D.K.I. Jakarta	506	290	796	423	273	696	929	563	1,492
2	Prov. Jawa Barat	2,844	453	3,297	2,313	420	2,733	5,157	873	6,030
3	Prov. Jawa Tengah	2,173	226	2,399	1,643	161	1,804	3,816	387	4,203
4	Prov. D.I. Yogyakarta	69	63	132	44	45	89	113	108	221
5	Prov. Jawa Timur	2,312	466	2,778	1,733	408	2,141	4,045	874	4,919
6	Prov. Aceh	642	59	701	566	58	624	1,208	117	1,325
7	Prov. Sumatera Utara	1,754	434	2,188	1,545	373	1,918	3,299	807	4,106
8	Prov. Sumatera Barat	752	63	815	477	31	508	1,229	94	1,323
9	Prov. Riau	773	179	952	578	146	724	1,351	325	1,676
10	Prov. Jambi	432	44	476	375	38	413	807	82	889
11	Prov. Sumatera Selatan	1,385	140	1,525	1,085	89	1,174	2,470	229	2,699
12	Prov. Lampung	893	69	962	689	60	749	1,582	129	1,711
13	Prov. Kalimantan Barat	812	75	887	585	65	650	1,397	140	1,537
14	Prov. Kalimantan Tengah	383	69	452	314	34	348	697	103	800
15	Prov. Kalimantan Selatan	446	44	490	363	26	389	809	70	879
16	Prov. Kalimantan Timur	602	52	654	409	45	454	1,011	97	1,108
17	Prov. Sulawesi Utara	260	155	415	184	144	328	444	299	743
18	Prov. Sulawesi Tengah	569	145	714	400	99	499	969	244	1,213
19	Prov. Sulawesi Selatan	1,646	117	1,763	1,215	114	1,329	2,861	231	3,092
20	Prov. Sulawesi Tenggara	726	29	755	599	22	621	1,325	51	1,376
21	Prov. Maluku	476	145	621	419	114	533	895	259	1,154
22	Prov. Bali	147	17	164	126	6	132	273	23	296
23	Prov. Nusa Tenggara Barat	936	68	1,004	754	57	811	1,690	125	1,815
24	Prov. Nusa Tenggara Timur	1,153	746	1,899	854	591	1,445	2,007	1,337	3,344
25	Prov. Papua	1,557	926	2,483	1,190	757	1,947	2,747	1,683	4,430
26	Prov. Bengkulu	306	33	339	209	21	230	515	54	569
27	Prov. Maluku Utara	626	65	691	490	64	554	1,116	129	1,245
28	Prov. Banten	715	143	858	572	124	696	1,287	267	1,554
29	Prov. Kepulauan Bangka Belitung	239	14	253	146	6	152	385	20	405
30	Prov. Gorontalo	382	9	391	247	5	252	629	14	643
31	Prov. Kepulauan Riau	132	120	252	119	99	218	251	219	470
32	Prov. Papua Barat	381	206	587	307	151	458	688	357	1,045
33	Prov. Sulawesi Barat	452	3	455	359	3	362	811	6	817
34	Prov. Kalimantan Utara	152	7	159	148	7	155	300	14	314
<b>Indonesia</b>		<b>27,633</b>	<b>5,674</b>	<b>33,307</b>	<b>21,480</b>	<b>4,656</b>	<b>26,136</b>	<b>49,113</b>	<b>10,330</b>	<b>59,443</b>

Sumber: <http://statistik.data.kemdikbud.go.id/>

Based on the image, the number of school dropouts is significant, which means that the fulfillment of children's right to education has not been effectively implemented. This can be linked to various government aids, such as food assistance, cash social assistance, village fund BLT, free electricity, pre-employment cards, employee salary subsidies, micro-business BLT, as well as programs like the Family Welfare Savings Program, Indonesia Smart Program, National Health Insurance (JKN-KIS), Family Hope Program (PKH), and Non-Cash Food Assistance (Rastra), which are manifestations of the government's commitment to addressing national welfare issues.

This shows that the state, through its functions, duties, and authority, has the capacity to protect children as the nation's future generation, realized through various policies and legal protections embedded in various regulations. From a structural perspective, the government has the authority to strengthen both government and non-government institutions, such as neighborhood associations and community units, to optimize coordination functions, serve as a bridge for aspirations between the community and local governments, and mediate the resolution of issues faced by citizens.<sup>21</sup> Thus, the issue of public welfare, as the root cause of the phenomenon of street children, can be prevented through the strengthening of institutions and active community involvement in efforts to prevent economic exploitation of children, which is clearly protected by law through various regulations.

<sup>21</sup> Zuhdi, S., Ferizko, A., & Melinda, P. (2019). Penguatan Kelembagaan Rukun Tetangga Dan Rukun Warga (Rt/Rw) Di Kelurahan Rintis Kecamatan Lima Puluh Kota Pekanbaru Baru. *Jurnal Manajemen Pelayanan Publik*, 3(1), hlm. 49

In the first principle, which contains the value of belief in God, it signifies cooperation among adherents of different religions. The second principle of Pancasila, which contains the value of humanity, illustrates that humans should treat others as beings of the One Almighty God. This means that through mutual respect and appreciation, the existence of neighbors in the smaller community will have their issues addressed with empathy by providing better employment opportunities and promoting religious understanding in the community about the importance of helping one another. The third principle, which contains the value of unity, shows that prioritizing the interests of the community over personal interests fosters mutual assistance or gotong royong, manifested through various aspects such as helping provide opportunities for a more decent life. The fourth principle, which contains the value of democracy, reflects that deliberation to reach consensus is essential in preventing the phenomenon of street children. The fifth principle, which contains the value of justice, represents mutual assistance in every neighborhood unit as a form of achieving social justice for all Indonesian citizens. Based on this, the responsibility of the state in carrying out legal protection for street children has great potential to prevent the emergence of the street children phenomenon, in line with the state's duty to protect children.

#### **Efforts That Must Be Made by the Government in Addressing the Phenomenon of Street Children to Achieve Social Welfare from the Perspective of Pancasila**

Responsibility arises because of a right, which is an authority owned to carry out something in accordance with laws and regulations, and an obligation, which is something based on necessity. According to the Indonesian Dictionary, responsibility is the condition of being required to bear everything or the function of accepting a burden as a result of one's own actions or the actions of others. Thus, responsibility is the condition of being required to bear everything that results from one's authority, which is power that is legitimized by law.<sup>22</sup>

Therefore, responsibility arising from authority and obligations that have received legal legitimacy must be carried out optimally through strategies that maximize government authority and involve active community participation. This aims to realize the values of Pancasila in community, national, and state life, as reflected in government duties which, according to Rasyid, are grouped into 7 (seven) aspects:<sup>23</sup>

- a. To guarantee the security of the country from any potential external attacks and to prevent internal rebellions that could overthrow the legitimate government through violent means.
- b. To maintain order by preventing conflicts among community members and ensuring that any changes occurring within society take place peacefully.
- c. To ensure the fair treatment of all community members, regardless of their background or status.

<sup>22</sup> Sudjana, S. *Dinamika Dan Perkembangan Peraturan Pada Masa Pandemi Covid 19 Dalam Perspektif Tanggung Jawab Negara*. *Krtha Bhayangkara*, 15(2), Hlm. 205

<sup>23</sup> Cendika, H. W. (2017). *Peran Pemerintah Dalam Mengatasi Masalah Anak Jalanan Yang Bekerja Dalam Perspektif Ekonomi Islam (Studi Pada Dinas Pemerintah Kota Bandar Lampung)* (Doctoral dissertation, UIN Raden Intan Lampung). hlm. 33-34

- d. To carry out public works and provide services in areas that cannot be handled by non-governmental organizations or would be more effectively managed by the government.
- e. To make efforts to improve social welfare; to assist the poor and care for the disabled, elderly, and abandoned children; to house and direct homeless individuals to productive sectors, and similar initiatives.
- f. To implement economic policies that benefit the broader society, such as controlling inflation, encouraging the creation of new jobs, advancing domestic and international trade, and other policies that directly ensure the enhancement of the country's and society's economic resilience.
- g. To implement policies to preserve natural resources and the environment, such as water, land, and forests.

Based on the government duties outlined above, legal protection for street children is the responsibility of the state. Viewed from the current legal framework and policies, legal protection for the phenomenon of street children is conducive to promoting children's rights, but there are still some gaps. This legal framework must designate government agencies with clear duties, authority, and responsibility for handling and providing child protection services. Indonesia also faces challenges in ensuring alignment between local governments and the central government regarding child protection policies. Local governments must adopt a system-based approach that prioritizes child protection as a form of positive participation. The lack of clear authority designation for child protection services at the provincial and district levels has led to fragmented and poorly coordinated actions. Local governments seem to lack focus in allocating adequate budgets for child protection, and the capacity for implementation is generally weak.<sup>24</sup>

In line with Padmo Wahyono's opinion, which states that to examine a Pancasila state of law, it must begin from the principle of kinship as outlined in the 1945 Constitution, the priority of the kinship principle is the welfare of the people, while still respecting human dignity. Article 33 of the 1945 Constitution distinctly reflects this principle of kinship, where the most important thing is the prosperity of society, not individual prosperity, although individuals may strive as long as it does not interfere with the well-being of others. Padmo emphasizes three functions of law from the perspective of the kinship principle, namely: (1) upholding democracy according to the formulation of the seven main points of the state government system in the explanation of the 1945 Constitution; (2) realizing social justice as stipulated in Article 33 of the 1945 Constitution; and (3) upholding humanitarian values based on the belief in One God and implementing it in a just and civilized manner.<sup>25</sup>

The urgency of the implementation of handling by the government is a step in maintaining the objectives of Islamic law, which is applied in a legal jurisdiction as follows: First, the benefit of preserving life. Islam regulates the implementation of human rights guarantees, making the government responsible to the people, and obligating the

<sup>24</sup> Roza, D., & Arliman, L. (2018). Peran Pemerintah Daerah untuk Mewujudkan Kota Layak Anak di Indonesia. *Jurnal Hukum Ins Quia Iustum*, 25(1), hlm. 202

<sup>25</sup> Andrieansjah, S. T., & SH, M. (2021). *Hak Desain Industri Berdasarkan Penilaian Kebaruan Desain Industri*. Penerbit Alumni. hlm. 20

government to attend to the affairs of everyone under its authority, protecting them, providing knowledge, safeguarding the right to life, and ensuring their dignity is not destroyed. Second, the benefit of preserving lineage. Third, the benefit of preserving wealth.<sup>26</sup>

The current efforts of the government in terms of legal protection through the improvement of social welfare include the establishment of the Child Social Welfare Program (PKSA), which is a form of social service aimed at meeting the needs of children in a directed, integrated, and sustainable manner carried out by the government and society. This includes the establishment of shelters or LKSA (Child Social Welfare Institutions). Additionally, there is the Child Protection Task Force (Satgas PA) formed by the government, which aims to fulfill children's rights.<sup>27</sup>

In addition, there is also the Street Children Care Community (KPAJ), a community that has a great sense of concern for street children. Their form of care involves direct action on the streets, sharing with them, teaching street children who have dropped out of school, and working selflessly.<sup>28</sup> The meaning is that street children do not need to be pitied; they only need to be cared for and given skills through individual awareness. Personal awareness means allowing them to find the best way to live without forcing them to leave their habitat, which is the social setting that has made their lives more meaningful. Generally, they cannot be forced to be taught repentance, noble values, or etiquette, because they are likely to embrace them on their own when they need them.<sup>29</sup>

Given the still high number of street children, this means that the current laws and regulations are not sufficiently accommodating in addressing and alleviating the issue of street children. For example, Article 26 paragraph (1) of Law No. 23 of 2003 on Child Protection outlines the duties and responsibilities of parents, which state that parents are obliged and responsible for: (a) caring for, raising, educating, and protecting their children; (b) fostering the growth and development of their children in accordance with their abilities, talents, and interests; and (c) preventing child marriages. Furthermore, in Article 20 paragraph (1) and (2), it is stated that if parents neglect their duties, supervisory actions may be taken or parental custody can be revoked through a court decision. However, in practice, the implementation of these provisions is not effective, even though the potential for street children stems from the failure of the parenting pattern by their biological parents. Therefore, a strategy is needed to harmonize and optimize various legal systems, including strengthening regulations, enforcing strong law enforcement, and creating a legal culture that adheres to principles, ethics, and rules through strengthening grassroots institutions such as Neighborhood Associations (RT) and Community Associations (RW), as well as active community involvement in preventing the phenomenon of street children, who represent the future generation of the nation. This is because the phenomenon of street children cannot be solved merely by returning them

<sup>26</sup> Ika Wahyu, F. (2018). *Tinjauan Maslahat Terhadap Upaya-Upaya Pemerintah Dalam Penertiban Tuna Sosial Dan Anak Jalanan Di Ponorogo Pada Perda Nomor 5 Tahun 2011* (Doctoral dissertation, IAIN Ponorogo). hlm. 77-80

<sup>27</sup> Tundzirawati, T., & Rusyidi, B. (2015). Upaya Peningkatan Kesejahteraan Sosial Anak Jalanan. *Prosiding Penelitian dan Pengabdian kepada Masyarakat*, 2(1). hlm. 23

<sup>28</sup> Haris, A. T. C. (2020). *Solidaritas Sosial dalam Pembinaan Anak Jalanan*. Penerbit LeutikaPrio. hlm. 5

<sup>29</sup> Merajut kembali keindonesiaan kita. (2007). Indonesia: Gramedia Pustaka Utama. hlm. 192

to their families, as some of these children end up on the streets because they are instructed by their parents. As P. Wijayanti stated in her research, parents are one of the factors that push children into the streets. This can be observed when parents bring their children to earn income on the streets.

In addition, based on a study conducted by UNICEF on children categorized as "children of the street," it shows that their motivation to live on the streets is not merely due to economic pressure from their household, but also because of violence and the breakdown of their parents' family life. For these children, although life on the streets is just as harsh, it is seen as a better alternative compared to living in a family environment filled with violence that they cannot escape. On the streets, these children can run away from the threat of violence, but in their families, they have to accept their fate when beaten by the adults around them. As Irwanto stated, children are often vulnerable points within families to be subjected to arbitrary treatment.<sup>30</sup>

Therefore, there is a need for continuous and sustainable guidance efforts, as well as evaluation, as a form of change. This is done considering that the current regulations used to address and tackle the widespread issue of street children are not sufficient, particularly with the legal vacuum in the parenting model within the biological family, where violence experienced by children, both physical and psychological, indicates a failure in child-rearing, resulting in victims. Therefore, it is important to conduct research to provide input for government policies in the context of legal protection for street children as a state responsibility in the perspective of a Pancasila-based rule of law.

#### IV. CONCLUSION

The state has the responsibility to protect its citizens. Through its authority to formulate policies for the protection of children, especially street children, it is important to consider both the structural components of law and the legal culture in the effort to provide legal protection for street children, which is currently perceived to be inadequate. In other words, the existing laws and regulations aimed at eradicating and addressing the issue of street children are not sufficient, as there is a legal void that leads to the proliferation of street children who become victims. From the perspective of Pancasila, specifically the fifth principle of social justice for all Indonesian people, the implementation of policies for street children reflects the government's insufficient efforts in addressing the phenomenon of street children to achieve social welfare as envisioned by Pancasila. Therefore, it is essential to strengthen governmental institutions such as the Social Service, the Indonesian Child Protection Commission (KPAI), as well as non-governmental institutions such as neighborhood and community organizations, to optimize coordination, act as a bridge for aspirations between the community and local government, and mediate the resolution of issues faced by citizens. This will help address the root cause of the phenomenon of street children by preventing it through the strengthening of both government and non-government institutions, as well as the active role of the community in preventing the economic exploitation of children, even though economic factors are not the sole cause of street children. Furthermore, existing programs

---

<sup>30</sup> Bagong Suyanto, *Sosiologi Anak*. (2019). (n.p.): Kencana. hlm. 123

for the welfare of street children, such as the Child Social Welfare Program (PKSA), the Child Social Welfare Institution (LKSA), and the Child Protection Task Force (Satgas PA), are still necessary, but their management needs to identify the root causes so that treatment can be tailored to the specific reasons for a child becoming a street child.

#### **BIBLIOGRAPHY**

Amiruddin dan Zainal Asikin, *Pengantar Metode Penelitian Hukum*, Raja Grafindo Persada, Jakarta, 2003

- Ananingsih, S. W. (1997). Masalah Anak Jalanan Dan Penanganannya Kaitannya Dengan Pembangunan Nasional.
- Andrieansjah, S. T., & SH, M. (2021). *Hak Desain Industri Berdasarkan Penilaian Kebaruan Desain Industri*. Penerbit Alumnus.
- Arifani, M. A., Sari, A. L., & Rifkah, R. (2018). Aplikasi regulasi pembinaan anak jalanan oleh Dinas Sosial dan penanggulangan kemiskinan Kota Bandung. *JISPO Jurnal Ilmu Sosial dan Ilmu Politik*, 8(2),
- Bagong Suyanto, Sosiologi Anak. (2019). (n.p.): Kencana
- Cendika, H. W. (2017). *Peran Pemerintah Dalam Mengatasi Masalah Anak Jalanan Yang Bekerja Dalam Perspektif Ekonomi Islam (Studi Pada Dinas Pemerintah Kota Bandar Lampung)* (Doctoral dissertation, UIN Raden Intan Lampung).
- Ende Hasbi Nassarudin, *Kriminologi*, Bandung, CV. Pustaka Setia, 2016
- Fahmi, S. (2011). Asas Tanggung Jawab Negara Sebagai Dasar Pelaksanaan Perlindungan dan Pengelolaan Lingkungan Hidup. *Jurnal Hukum Ius Quia Iustum*, 18(2),
- Fitri, A. N., Riana, A. W., & Fedryansyah, M. (2015). Perlindungan Hak-Hak Anak Dalam Upaya Peningkatan Kesejahteraan Anak. *Prosiding Penelitian Dan Pengabdian Kepada Masyarakat*, 2(1).
- Haling, S., Halim, P., Badruddin, S., & Djanggih, H. (2018). Perlindungan Hak Asasi Anak Jalanan Dalam Bidang Pendidikan Menurut Hukum Nasional Dan Konvensi Internasional. *Jurnal Hukum & Pembangunan*, 48(2),
- Hamengku Buwono X, Merajut kembali keindonesiaan kita. (2007). Indonesia: Gramedia Pustaka Utama.
- Haris, A. T. C. (2020). *Solidaritas Sosial dalam Pembinaan Anak Jalanan*. Penerbit LeutikaPrio.
- Hidayat, M. A., Anwar, A., & Hidayah, N. (2017). Pendidikan Non Formal Dalam Meningkatkan Keterampilan Anak Jalanan. *EDUDEENA: Journal of Islamic Religious Education*, 1(1).
- <http://ahsanulwalidain.blogspot.com/2012/10/jenis-jenis-tindak-pidana.html>, diakses pada tanggal 25 April 2021
- <https://nasional.kompas.com/read/2020/08/12/15410871/kementerian-pppa-catat-ada-4116-kasus-kekerasan-anak-dalam-7-bulan-terakhir?page=all#:~:text=Nahar%20menyebutkan%2C%20kekerasan%20yang%20terjadi,perdagangan%20orang%2C%20dan%20346%20penelantaran.>, diakses pada tanggal 27 April 2020
- <https://www.republika.co.id/berita/nasional/umum/18/01/15/p2lhcc396-ini-kasuskasus-yang-dialami-anak-jalanan>, diakses pada tanggal 30 April 2021
- <https://www.republika.co.id/berita/q562r6335/pmks-di-bandung-cenderung-meningkat>, diakses pada tanggal 27 April 2021
- Ika Wahyu, F. (2018). *Tinjauan Masalah Terhadap Upaya-Upaya Pemerintah Dalam Penertiban Tuna Sosial Dan Anak Jalanan Di Ponorogo Pada Perda Nomor 5 Tahun 2011* (Doctoral dissertation, IAIN Ponorogo).
- J., S., Suaib, E., Yusuf, B. (2015). Anak jalanan: latar belakang, dinamika sosial, dan jaringan. Indonesia: Leutika Prio

Priatmi Dharsono, K., & Hartanto, S. H. (2019). *Penerapan Asas Praduga Tak Bersalah Dalam Proses Penyidikan Tindak Pidana (Studi Kasus Di Polresta Klaten)* (Doctoral Dissertation, Universitas Muhammadiyah Surakarta).

Roza, D., & Arliman, L. (2018). Peran Pemerintah Daerah untuk Mewujudkan Kota Layak Anak di Indonesia. *Jurnal Hukum Ius Quia Iustum*, 25(1),

Sahat Maruli Tua Situmeang, *Penahanan Tersangka Diskresi Dalam Proses Peradilan Pidana*, Logoz Publishing, Bandung, 2019,

Sofyan, A. M., & Tenripadang, A. (2017). Ketentuan Hukum Perlindungan Hak Anak Jalanan Bidang Pendidikan. *DIKTUM: Jurnal Syariah dan Hukum*, 15(2),

Sudjana, S. Dinamika Dan Perkembangan Peraturan Pada Masa Pandemi Covid 19 Dalam Perspektif Tanggung Jawab Negara. *Krtha Bhayangkara*, 15(2), 197-222.

Suharsimi Arikunto, *Prosedur Penelitian*, Rineksa Cipta, Jakarta, 2002

Sujatmoko, A. (2005). *Tanggung jawab negara atas pelanggaran berat HAM: Indonesia, Timor Leste, dan lainnya*. Grasindo.

Sukadi, I. (2013). Tanggung Jawab Negara Terhadap Anak Terlantar Dalam Operasionalisasi Pemerintah Di Bidang Perlindungan Hak Anak. *De Jure: Jurnal Hukum dan Syar'iah*, 5(2).

Suyanto, B. (2010). *Masalah sosial anak*. Kencana

Syahra, A. (2018). Aspek Hukum Tanggung Jawab Negara Terhadap Perlindungan Anak Terlantar Ditinjau dari Pasal 34 Ayat 1 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. *Jurnal Hukum Adigama*, 1(1),

Tundzirawati, T., & Rusyidi, B. (2015). Upaya Peningkatkan Kesejahteraan Sosial Anak Jalanan. *Prosiding Penelitian dan Pengabdian kepada Masyarakat*, 2(1).

Zuhdi, S., Ferizko, A., & Melinda, P. (2019). Penguatan Kelembagaan Rukun Tetangga Dan Rukun Warga (Rt/Rw) Di Kelurahan Rintis Kecamatan Lima Puluh Kota Pekanbaru Baru. *Jurnal Manajemen Pelayanan Publik*, 3(1)