


Legal Protection for Children as Heirs as Reviewed in Indonesian Family Law

Taufika Hidayati

Law, Faculty of Law, Pembinaan Masyarakat Indonesia University, Medan. Indonesia

Article Info	ABSTRACT
<p>Keywords: Children, family law, inheritance rights, legal protection</p>	<p>This study examines legal protection for children as heirs in the Indonesian family law system. Disparities in the treatment of children in various inheritance law systems applicable in Indonesia create legal uncertainty that has the potential to harm the interests of children. Using a normative juridical method with a legislative and case-based approach, the study found that the protection of children's inheritance rights is still fragmented in several legal systems that are sometimes contradictory. Harmonization of regulations is needed to place the principle of the best interests of the child as the primary consideration in the settlement of inheritance disputes, including strengthening the role of guardianship institutions in supervising the management of the inheritance of minors.</p>
<p>This is an open access article under the CC BY-NC license</p> 	<p>Corresponding Author: Taufika Hidayati Law, Faculty of Law, Pembinaan Masyarakat Indonesia University, Medan. Indonesia taufikahidayati30@gmail.com</p>

INTRODUCTION

Legal protection for children is a fundamental issue in the family law systems of various countries, including Indonesia. Talking about children means discussing the future, how children will survive to fulfill their welfare, the implementation of their rights and obligations as a form of protection for children's rights. (Simbolon, 2016) In the context of inheritance rights, children as the next generation of the family have a strategic position that requires adequate legal protection to ensure that their civil rights are fulfilled (Maramis et al., 2024) .

Recent studies show that there's a gap in how children's inheritance rights are protected in Indonesia. Minors aren't legally competent, so their rights are often overlooked in inheritance distribution or disputes, and they often need a guardian and court decisions to protect their rights. (*Penjualan Tanah Warisan*, 2025). Meanwhile, Carwan, in his research, states the development of pluralism in inheritance law in Indonesia, stating that the absence of a national inheritance law that provides comprehensive regulation poses challenges in terms of legal certainty for heirs, especially children as the next generation. (Carwan & Sari Indah Lestari, 2023). As in Abdul Hakim's research on the weak supervision of the management of children's inheritance by guardianship institutions , it is often misused by guardians, who generally sell assets that are the rights of minors under the pretext of paying for their education. This is mainly due to the lack of effective control mechanisms over guardians who manage the assets of minors, which has the potential to lead to abuse and injustice in the use of these inherited assets (Hakim et al., 2020).

The debate over the position of children in Indonesian inheritance law is closely related to Hazairin's view, which proposes pluralism and a bilateral system as a form of adapting inheritance law to Indonesia's cultural diversity and the true teachings of Islam, thereby incorporating strong elements of social and cultural justice. (Riyanda, 2025). The protection of inheritance rights for minors in Indonesia is regulated through the provisions of the Civil Code and child protection regulations, which emphasize the need for supervision and implementation of inheritance rights through guardianship procedures and distribution of assets in accordance with the rights of the child. (Poputra et al., 2023) Minors are not only considered legal subjects who do not yet have full legal capacity, but also as parties who are vulnerable to various actions that can harm their rights, especially inheritance rights.

The legal system in Indonesia provides special protection through guardianship mechanisms and supervision of inheritance management. This protection is regulated in various positive legal instruments such as the Civil Code (KUHPerdata), Law Number 1 of 1974 concerning Marriage, Law Number 7 of 1989 concerning Religious Courts, and the Compilation of Islamic Law (KHI) for those who are Muslim.

The phenomenon of inheritance disputes involving minors often arises in society, especially in relation to the management of inherited assets that do not meet the principles of justice and legal certainty. The case that is the focus of this study is Court Decision Number 009/Pdt.P/2018/PA.TBK, which was decided by the Tanjung Balai Karimun Religious Court. This case raises the issue of legal protection of the inheritance rights of minors through the appointment of a guardian who is authorized to manage and supervise the inheritance assets that are the rights of these children (Decision Number 0009/Pdt.P/2018/PA.TBK, 2018).

This case is interesting to analyze not only because of its formal legal aspects, but also because it provides an overview of how the religious court, as a judicial institution, functions in protecting the rights and interests of minors. Guardianship in this case is an important instrument in ensuring that the inheritance, which should belong to the children, is not misused or controlled by unauthorized parties. This is in accordance with the principle of child protection as stipulated in Law Number 35 of 2014 concerning Child Protection, which emphasizes the obligation of the state, family, and society to provide the best protection for children. (Undang - Undang Nomor 35 Tahun 2014., 2014)

Court Decision Number 009/Pdt.P/2018/PA.TBK is an important decision issued by the Tanjung Balai Karimun Religious Court on February 27, 2018. This case stems from a petition filed by a mother requesting guardianship of her three minor children after the death of her husband, the late N alias Dj. This petition not only focused on the appointment of a guardian, but also related to a dispute over the distribution of inheritance assets that were allegedly controlled and sold by the deceased's siblings without the knowledge of the rightful heirs.

This study aims to analyze how legal protection of the inheritance rights of minors is implemented in the context of Indonesian judicial practice, with a focus on Court Decision Number 009/Pdt.P/2018/PA.TBK. Specifically, this study seeks to answer how the national legal framework and Islamic norms shape the protection of children who are heirs, how the guardianship mechanism functions to guarantee these rights, and how the implementation of

the Tanjung Balai Karimun Religious Court's decision protects the interests of children, including aspects of access to inheritance and the involvement of guardians in its management and distribution.

The results of this study are expected to contribute significantly to the development of Indonesian family law, particularly in efforts to protect children's inheritance rights, and to serve as a reference for policymakers in formulating legal instruments that are more responsive to the interests of children.

METHODS

This study uses a normative juridical method with a case approach, analyzing legal documents in the form of court decisions and related regulations. (Anggraeni & Meilinda, 2024) The data used includes primary sources such as draft laws, applicable laws and regulations, parliamentary meeting minutes, and relevant court decisions. Secondary sources include books, scientific journals, articles, and other academic works discussing inheritance law and legal policy issues in Indonesia. Data collection techniques were carried out through documentary studies of relevant legal and policy materials to provide a comprehensive understanding of efforts to unify inheritance law amid the existing pluralism of legal systems. (Oska Denu Triatmaja, n.d.) This study examines legal protection for children as heirs in the Indonesian family law system, which adheres to legal pluralism. This approach makes it possible to understand the legal context and application of regulations in specific cases as a representation of the protection of inheritance rights of minors in Indonesia. Through this analysis, it is hoped that constructive recommendations can be obtained for improving the implementation of legal protection in the future.

The legal materials used in this study consist of three types. Primary legal materials include legislation such as the Civil Code, Marriage Law, Child Protection Law, Compilation of Islamic Law, as well as relevant court and Constitutional Court decisions. Specifically for Constitutional Court decisions, this study pays particular attention to Court Decision Number 009/Pdt.P/2018/PA.TBK, which has a significant impact on children's inheritance rights in the Indonesian legal system.

RESULTS AND DISCUSSION

Case and Legal Analysis

This sub chapter systematically examines Court Decision No. 009/Pdt.P/2018/PA.TBK and analyzes how legal mechanisms are applied to protect the inheritance rights of minors. First, a brief chronology of the case covers the death of the testator, the petition for guardianship of three minor children, and the efforts to prove the case through authentic evidence such as marriage certificates, birth certificates, family cards, and letters of inheritance.

Second, the relevant legal framework includes the Civil Code, KHI, and Child Protection Law, which establish the foundation for the protection of inheritance rights for minors, as well as the principle of guardianship in Islamic law as regulated in relevant legislation.

Third, an analysis of the nature of guardianship as a protective instrument—how the appointment of a guardian by the court ensures that children's rights to inheritance are protected when their parents are deceased, and how the management of inheritance is directed towards the best interests of the child.

Fourth, evaluation of evidence: authentic documents, witnesses, and evidentiary procedures according to divorce and inheritance law, as well as how the strength of evidence contributes to the legitimacy of the verdict. Fifth, the impact of the decision on the dynamics of inheritance law at the practical level, including how the ruling affects the distribution of inheritance and the costs of the case borne by the applicant, as well as its implications for access to justice for the children involved.

Sixth, discussions regarding the limitations of implementing decisions in the field, such as potential disputes between heirs, uncertainty regarding the status of inherited assets that are sometimes spread across several parties, and the need for a mechanism to supervise the appointment of guardians so that children's rights remain protected. Seventh, reflections on the balance between family interests and legal certainty, as well as how the precedent set by this case could shape religious court practices in similar cases in the future.

Legal analysis of this case reveals that the appointment of a guardian for minors is a legal response that is consistent with the objective of child protection, and recognizes that guardians act as legal representatives who must act on behalf of children in matters of proving inheritance rights, management, and distribution. (Aditia et al., 2025)

From a theoretical perspective, this case confirms the integration between positive legal norms and relevant Sharia principles, so that the protection of children's inheritance rights is not only formal in nature, but also oriented towards the best interests of the child. In practical terms, this ruling illustrates the importance of authentic evidence and credible witnesses in forming the legal basis for guardianship and inheritance distribution, and highlights the need for ongoing evaluation of the implementation of the ruling to ensure the sustainability of child rights protection. This research has implications for child protection policies and procedural reforms related to evidence and inheritance management to make them more transparent and accountable.

The main references underlying this analysis include the legal basis for guardianship and the protection of inheritance rights of minors, as well as documentation of relevant court decisions. Court decision 009/Pdt.P/2018/PA.TBK provides empirical data on how the court formulates its decision on guardianship and the imposition of court costs in accordance with applicable legal provisions. In addition, theoretical sources on child protection and inheritance rights provide a conceptual framework for evaluating the effectiveness of judicial practices in protecting children's rights.

Legal Protection of Minors' Inheritance Rights

Legal protection of minors' inheritance rights is a crucial pillar in both Islamic family law and civil law in Indonesia. Minors are classified as heirs who require special protection due to their incomplete legal capacity and dependence on their parents or guardians to represent their legal interests. The Indonesian constitution, through the Civil Code and the KHI as well as child protection regulations, affirms that children's inheritance rights must be upheld in a

fair and transparent manner, with mechanisms in place to oversee the implementation of these rights by parties with legal responsibility. The primary protector of children's inheritance rights is the legislative intent that emphasizes the best interests of the child, the accountability of guardians, and clear and continuously monitored inheritance management.

Guardians have an obligation to protect, care for, and seek to develop these assets for the benefit of the child's future. The transfer of guardianship responsibilities seeks to fulfill the rights of the child as best as possible.. (Erie & Putri, 2025). In practice, guardianship is an important instrument for ensuring that children's inheritance rights are not neglected when their parents have died or are no longer able to exercise their rights and obligations as essential heirs. Case Study Court Decision Number 009/Pdt.P/2018/PA.TBK illustrates how the court of first instance applied this principle of protection. This case highlights how a guardianship petition was filed for the three minor children of the deceased and how authentic evidence in the form of a marriage certificate, death certificate, family card, and birth certificate was used to support the eligibility for the appointment of a guardian. In addition, the decision emphasizes that the appointment of a guardian not only protects personal inheritance rights, but also facilitates the fair distribution of inheritance, so that the children's rights to the inheritance can be protected until they reach legal age. This practice is in line with the national legal framework that guarantees the best interests of the child and the principle of distributive justice in inheritance.

The presence of a strict formal verification mechanism including the use of verified witnesses and reinforcement through authentic documents is the basis for the legitimacy of the appointment of a guardian. The accuracy of legal administration in this case has a direct impact on the sustainability of the protection of children's inheritance rights. For example, strong evidence helps avoid further disputes between heirs over the distribution of assets, thereby maintaining family stability and reducing the risk of long-term conflict. Practical challenges that often arise include disputes over ownership of inherited assets, limited access to information about inherited assets, and the need for a post-guardianship appointment monitoring mechanism to ensure compliance with the court's decision. Therefore, legal protection of the inheritance of minors requires synergy between clear regulations, the institutional capacity of the courts, and assistance mechanisms for guardians in carrying out their duties. (Undang Undang Nomor 1 Tahun 1974, n.d.)(Undang - Undang Nomor 35 Tahun 2014., 2014).

Indonesia The expected outcomes of this study include strengthening understanding of how legal protection of the inheritance rights of minors is implemented in concrete terms in judicial practice, identifying obstacles to implementation, and policy recommendations that can improve transparency, accountability, and legal certainty for children as heirs. Theoretically, this analysis will enrich the literature on Legal Protection for Minor Heirs by highlighting the synergy between positive law and Islamic principles in the context of Indonesia's national legal system. (Kusuma, 2023; Setiawan, 2024).

Implications and Recommendations

The main implication of Court Decision Number 009/Pdt.P/2018/PA.TBK is the strengthening of the protection of the inheritance rights of minors through a legal and effective guardianship mechanism. Legally, the decision confirms that guardianship is a protective

instrument that allows the management of inherited assets by a guardian who is competent to fulfill the best interests of the child, especially in the context of complex inheritances that have the potential to cause disputes between heirs. The practical implications include increased legal certainty for children who are heirs, increased accountability for asset management by guardians, and more targeted enforcement of inheritance rights when parents have passed away. This is in line with the national legal framework that emphasizes the protection of the rights of minors in the context of inheritance asset management, as stipulated in the Civil Code, KHI, and the Child Protection Law. In addition, this stipulation emphasizes the role of religious courts as institutions with absolute authority to resolve issues of guardianship and the utilization of inherited assets for children, thereby minimizing the opportunity for abuse of inheritance rights by irresponsible parties.

The social implications of this ruling include increased public trust in the judicial system and greater legal certainty for families facing inheritance issues. Justice for minors is not only viewed formally, but also through the actual implementation of inheritance rights protection and the prevention of unfair practices that could harm children's rights. However, challenges in the field, such as property ownership disputes, lack of transparency in the management of inherited property, and limited institutional resources, need to be addressed through more targeted policies. (Maramis et al., 2024).

Recommendations that can be considered include improving the regulatory framework related to guardianship of minors and inheritance management, with a focus on stricter verification procedures and more explicit guardian evaluation standards. Consideration should be given to establishing operational guidelines that regulate practical steps in the verification process, asset allocation, and the guardian's obligation to report periodically to the court. Strengthening post-appointment supervision of guardians is also important, including mechanisms for periodic evaluation of the state of the inheritance, the welfare of the child, and compliance with court orders. Transparency of information regarding the status of inheritance distribution and allocation of children's property rights needs to be implemented without compromising the confidentiality of identities in accordance with data protection provisions, in order to increase accountability and prevent future conflicts. Training for guardians on financial management, accountability, and professional ethics is also recommended to improve the quality of the implementation of decisions. Finally, further empirical studies are needed to assess the long-term impact of guardianship decisions on child welfare and family stability, so that the resulting policies are truly evidence-based and relevant to the dynamics of practice in the field.

CONCLUSION

Research on Legal Protection of Minors' Inheritance in the context of case study Court Decision Number 009/Pdt.P/2018/PA.TBK shows that the guardianship mechanism is an essential instrument for protecting the inheritance rights of minors. Legally, the decision underlines the absolute authority of the religious court in appointing a guardian for minors when there is no guardian appointed by the parents, and emphasizes that the guardian is tasked with protecting inheritance rights, managing inherited assets, and promoting the best interests of the

child. This finding is in line with the national legal framework that integrates the Civil Code, KHI, and Islamic norms, so that the protection of children's inheritance rights is not only formal but also substantively relevant to the future welfare of these children. Strong evidence—through authentic documents such as marriage certificates, birth certificates, family cards, and letters of inheritance strengthens the legitimacy of the decision and minimizes the risk of abuse of inheritance rights by other parties. In addition, the appointment of a guardian serves as a preventive measure against internal family conflicts by normalizing the distribution of inheritance according to each child's rights, thereby increasing legal certainty and long-term family stability.

Socially, the implications of this ruling involve increasing public confidence in the effectiveness of the judicial system in protecting children's rights, as well as emphasizing the protection of inheritance rights as part of comprehensive child protection. Implementation challenges remain, including disputes over property ownership, dynamics among heirs, and challenges in ensuring transparency in the management of inherited property by guardians. Therefore, evidence-based policy measures are needed to strengthen the child protection ecosystem in the area of inheritance. Policy recommendations consistent with the research findings include strengthening regulations related to guardianship of minors and inheritance management, with the establishment of operational guidelines for the selection and appointment of guardians. It is also recommended to strengthen post-appointment supervision through periodic evaluations of compliance with court decisions, the status of inherited assets, and the welfare of children, involving relevant institutions such as courts, notaries, and inheritance offices. Transparency of information regarding the status of inheritance and the allocation of children's property rights needs to be improved while protecting the confidentiality of identities in accordance with data protection policies. Regular training for guardians on financial management, accountability, and professional ethics is also important to ensure that the implementation of decisions is carried out professionally and accountably. Finally, further empirical studies are needed to assess the long-term impact of guardian appointments on child welfare and family stability, so that public policy can be adjusted based on evidence and the dynamics of practice in various jurisdictions.

REFERENCE

- Aditia, F., Amalia, L., & Abas, M. (2025). Perlindungan Hukum Terhadap Hak Waris Anak dibawah Umur dalam Penyelesaian Sengketa Utang Piutang Ayahnya yang telah Meninggal Dunia (Study Kasus Putusan PN Makasar No . 273 / Pdt . P / 2025). *JIHHP: Jurnal Ilmu Hukum, Humaniora Dan Politik*, 6(1), 617–628.
- Anggraeni, N. D., & Meilinda, F. P. (2024). Politik Hukum Dalam Pembentukan Hukum Waris Nasional di Indonesia: Antara Keberagaman Sistem dan Tuntutan Unifikasi. *Jurnal Studi Hukum Islam*, 13(2), 65–69. website: <http://journal.um-surabaya.ac.id/index.php/Maqasid>
- Carwan, & Sari Indah Lestari. (2023). Perkembangan Aneka Warna Hukum (Rechtbedeling) di Indonesia: Pluralisme Hukum Waris di Indonesia. *Journal Syntax Idea*, 5(12), 2388–2389. <https://doi.org/10.46799/syntax->

- Erie, D., & Putri, S. (2025). Perlindungan Hukum Terhadap Penguasaan Harta Waris Anak Yatim Oleh Wali. *Bustanul Fuqaha: Jurnal Bidang Hukum Islam*, 6(2), 237–254. <https://doi.org/10.36701/bustanul.v6i2.2025.PENDAHULUAN>
- Hakim, A., Risdalina, R., & Sagala, E. (2020). Kedudukan Wali Anak Dibawah Umur Terhadap Harta Warisan Menurut Hukum Islam. *Jurnal Ilmiah Advokasi*, 8(2), 49–58. <https://doi.org/10.36987/jiad.v8i2.1778>
- Maramis, F. F., Maramis, R. A., & H. Soepeno, M. (2024). Perlindungan Hukum Bagi Ahli Waris Yang Belum Dewasa Dalam Sistem Hukum Perdata Di Indonesia. *Lex Privatum*, 14(4), 1–17. <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/59008>
- Oska Denu Triatmaja. (n.d.). *artikel disversi*. <https://siplawfirm.id/mengenal-apa-itu-diversi-dalam-hal-anak-yang-berhadapan-dengan-hukum/>
- Penjualan Tanah Warisan*. (2025). Jamdatun. <https://halojpn.kejaksaan.go.id/publik/d/permohonan/2025-N25S>
- Poputra, A. A., Maramis, R., & Roeroe, S. D. L. (2023). Perlindungan Hukum Terkait Hak Waris Anak Yang Belum Dewasa Akibat Ditinggal Mati Kedua Orang Tua. *Lex Administratum*, 2024(1), 1–13. <https://ejournal.unsrat.ac.id/v3/index.php/administratum/article/view/57828/47514>
- Undang - Undang Nomor 35 Tahun 2014., UU Perlindungan Anak 48 (2014). <https://peraturan.bpk.go.id/Home/Details/38723/uu-no-35-tahun-2014>
- Riyanda, A. R. (2025). Reformasi Hukum Waris: Memadukan Aspek Adat dan Agama demi Mewujudkan Keadilan dalam Pembagian Warisan. *Jurnal El-Thawalib*, 6(1), 85–96. <https://jurnal.uinsyahada.ac.id/index.php/thawalib/article/viewFile/10567/pdf>
- Simbolon, L. A. (2016). Partisipasi Masyarakat di dalam Perlindungan Anak yang Berkelanjutan Sebagai Bentuk Kesadaran Hukum. *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)*, 3(2), 310–329. <https://doi.org/10.22304/pjih.v3n2.a5>
- Undang Undang Nomor 1 Tahun 1974. <https://peraturan.bpk.go.id/Details/47406/uu-no-1-tahun-1974>