

## Effectiveness Of Child Protection Law In Fulfilling The Right To Child Custody (Hadhanah) In Kudus Indonesia

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**Abstract.** The protection of children's rights is a fundamental aspect in the Indonesian legal system, as stipulated in Law Number 23 of 2002 concerning Child Protection. In this context, the fulfillment of child custody (hadhanah) is one of the crucial issues to be studied, especially in areas that have complex social and cultural dynamics such as Kudus Regency Indonesia. This study aims to analyze the effectiveness of legal implementation in ensuring the fulfillment of child custody in the region. Using legal research methods and qualitative approaches, data was obtained through structured interviews with 15 informants spread across 9 sub-districts in Kudus Regency Indonesia. The results of the study show that there is still a significant gap between the applicable legal norms and the reality in the field. Various cases of violence against children, economic exploitation, and neglect of basic rights such as access to education and health are still often found. Some of the factors that affect the effectiveness of child protection include low public awareness of the importance of children's rights, the lack of active role of local governments, and the limited family economy which has implications for the neglect of children's rights. Therefore, this study recommends increasing the intensity of legal socialization to the community, strengthening the role of child protection institutions, and optimizing child protection policies that are preventive and responsive. These findings are expected to be strategic considerations for policymakers, legal practitioners, and the wider community in strengthening the child protection system comprehensively in Kudus Regency Indonesia.

**Keywords:** Child protection, children's rights, effectiveness, Kudus Regency.

**Abstrak.** Perlindungan hak anak merupakan aspek fundamental dalam sistem hukum Indonesia, sebagaimana yang diatur dalam Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak. Dalam konteks ini, pemenuhan hak asuh anak (hadhanah) menjadi salah satu isu krusial yang menarik untuk dikaji, terutama di daerah dengan dinamika sosial dan budaya yang kompleks seperti Kabupaten Kudus, Indonesia. Penelitian ini bertujuan untuk menganalisis efektivitas implementasi hukum dalam menjamin pemenuhan hak asuh anak di wilayah tersebut. Dengan menggunakan metode penelitian hukum dan pendekatan kualitatif, data diperoleh melalui wawancara terstruktur dengan 15 informan yang tersebar di 9 kecamatan di Kabupaten Kudus, Indonesia. Hasil penelitian menunjukkan bahwa masih terdapat kesenjangan yang cukup signifikan antara norma hukum yang berlaku dengan kenyataan di lapangan. Berbagai kasus kekerasan terhadap anak, eksploitasi ekonomi dan pengabaian hak-hak dasar seperti akses pendidikan dan kesehatan masih sering ditemukan. Beberapa faktor yang mempengaruhi efektivitas perlindungan anak antara lain rendahnya kesadaran masyarakat akan pentingnya hak anak, minimnya peran aktif pemerintah daerah, dan terbatasnya perekonomian keluarga yang berimplikasi pada pengabaian hak anak. Oleh karena itu, penelitian ini merekomendasikan peningkatan intensitas sosialisasi hukum kepada masyarakat, penguatan peran lembaga perlindungan anak, dan optimalisasi kebijakan perlindungan anak yang bersifat preventif dan responsif. Temuan ini diharapkan dapat menjadi pertimbangan strategis bagi para pembuat kebijakan, praktisi hukum, dan masyarakat luas dalam memperkuat sistem perlindungan anak secara komprehensif di Kabupaten Kudus, Indonesia.

**Kata Kunci:** Perlindungan anak, hak anak, efektivitas, Kabupaten Kudus.

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## INTRODUCTION

Child protection is one of the important aspects of social and legal development in Indonesia. Law Number 23 of 2002 concerning Child Protection is expected to provide a strong legal basis to protect children's rights.<sup>1</sup> Children as the next generation of the nation have the right to receive protection, nurturing, and proper education.<sup>2</sup> However, there are still many challenges in fulfilling it, such as custody disputes, violence against children, and low public understanding of children's rights. However, in practice, there are still many challenges faced in fulfilling these rights. Cases of custody disputes, violence against children, and lack of public understanding of children's rights are issues that need serious attention. According to Data on child protection cases from complaints to KPAI in 2023, that there are 1,800 cases of PHA (Fulfillment of Children's Rights) and PKA (Special Protection for Children) cases per September 2023.

Child Victims of sexual crimes with a total of 252 cases accounted for 14.0% of the total cases, showing that sexual crimes against children are one of the most urgent issues that need to be addressed.<sup>3</sup> In addition, there were 141 cases of children victims of physical and/or psychological violence, which contributed 7.8%, reflecting the need to pay attention to children who experience physical and psychological violence.<sup>4</sup> Other child-specific protection cases, with 46 cases (2.6%), covered a wide range of situations that required special protection, but did not fall into more specific categories.<sup>5</sup> There were 33 cases (1.8%) of children facing the law (as perpetrators), indicating that there were children involved in the legal system as perpetrators, which

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<sup>1</sup> Yelse Maya Wulandari, "Pengaruh Penerapan Undang-Undang Perlindungan Anak Terhadap Penurunan Kasus Kekerasan Pada Anak Di Indonesia," *Verdict: Journal of Law Science* 2, no. 2 (2024): 112–22, <https://doi.org/https://doi.org/10.59011/vjlaws.2.2.2024.112-122>.

<sup>2</sup> Saeideh Seddighi Hamed Seddighi, Ibrahim Salmani, Mohhamad Hossein Javadi, "Child Abuse in Natural Disasters and Conflicts: A Systematic Review," *Disasters* 22, no. 1 (2017): 211–27, <https://doi.org/https://doi.org/10.1177/1524838019835973>.

<sup>3</sup> Syahrizal Efendi Lubis, "Factors Causing Sexual Violence Against Children in Medan City" *Jurnal Ilmiah MAKSITEK* 6, no. 1 (2021): 58–68, <https://makarioz.sciencemakarioz.org/index.php/JIM/article/view/233>.

<sup>4</sup> Hairul Hudaya, "PSYCHOLOGICAL VIOLENCE IN THE DOMESTIC (Perspective of the PKDRT Law and Hadith)," *Musawa: Journal of Gender and Islamic Studies* 16, no. 1 (2017): 53–65.

<sup>5</sup> Sheptia Elliza, "Legal Protection of Children and Women from Sexual Abuse," *Nomos : Journal of Legal Research* 2, no. 3 (2022): 121–28, <https://doi.org/10.56393/nomos.v1i5.600>.

required a rehabilitative approach.<sup>6</sup> In addition, children victims of pornography and cybercrime with 31 cases (1.7%) show an increased risk of children to cybercrime.<sup>7</sup> The case of children who are victims of treatment and neglect, which reached 23 cases (1.3%), shows that there are children who experience ill-treatment or neglect from adults.<sup>8</sup>

In the midst of these challenges, Law Number 23 of 2002 provides a clear legal framework regarding child protection. However, the effectiveness of its implementation in the field is often questioned. In Kudus Regency, despite efforts from the government and related institutions to implement this law, there is still a gap between the policy and the reality. For example, 11 cases (0.6%) of children as economically and/or sexually exploited were recorded, and 7 cases (0.4%) of children who were victims of stigmatization and labeling, indicating that social stigma can have a negative impact on children.

There were some research relating to the child protection and the fulfillment of children's right. Researcher Amanda Tikha Santriati with the title Protection of the Right to Education of Abandoned Children According to the Child Protection Law, that every child also has the right to an education that enables them to develop their personality according to their interests, talents, and intelligence levels. Amanda's research focuses on children's educational rights, while this research focuses on childcare rights.<sup>9</sup> The next research was conducted by Tyas Retno Wulan et al with the title Model for the Protection of Children of Migrant Workers in Malaysia. The results of the study show that the problems faced by migrant workers in Malaysia include children who do not have population documents (birth certificates and passports), making it difficult to access education and health. The parties that have been

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<sup>6</sup> R. Sholikhudin and B. Handayanti, "Perlindungan Hukum Terhadap Anak Dari Tindak Pidana Kekerasan Berdasarkan Undang-Undang Republik Indonesia Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak," *Kultura : Jurnal Ilmu Sosial Dan Humaniora* 2, no. 2 (2024): 255–64, <http://jurnal.kolibi.org/index.php/kultura/article/view/1035/961>.

<sup>7</sup> Kartika Hardiyanti and Yana Indawati, "Perlindungan Bagi Anak Korban Cyberbullying: Studi Di Komisi Perlindungan Anak Indonesia Daerah (Kpaid) Jawa Timur," *SIBATIK JOURNAL: Jurnal Ilmiah Bidang Sosial, Ekonomi, Budaya, Teknologi, Dan Pendidikan* 2, no. 4 (2023): 1179–98, <https://doi.org/10.54443/sibatik.v2i4.763>.

<sup>8</sup> joko setyono aulia hamida, "Analisis Kritis Perlindungan Terhadap Anak Korban Kekerasan Dalam Rumah Tangga: Kajian Perbandingan Hukum," *Jurnal Pembangunan Hukum Indonesia* 4, no. 1 (2022): 73–88.

<sup>9</sup> Amanda Tikha Santriati, "Perlindungan Hak Pendidikan Anak Terlantar Menurut Undang Undang Perlindungan Anak," *El-Wahdah: Jurnal Pendidikan* 1, no. 1 (2020): 1–13.

considered to contribute to protecting them are the Consulate, the Teachers at CLC, the Ministry of Education and Culture. Companies that employ their parents are expected to contribute more.<sup>10</sup> Meanwhile, the author's research focuses on Law Number 23 of 2002 concerning Child Protection on the fulfillment of the right to custody of children involving people who are around the children's residence in Kudus Regency as a form of the effectiveness or not of the Law in the Kudus community.

This study aims to evaluate the extent to which Law Number 23 of 2002 can be effectively implemented in Kudus Regency, as well as identify factors that affect the success or failure in the protection of child custody. Thus, the results of this study are expected to provide constructive recommendations for policymakers, legal practitioners, and the community in an effort to improve child protection in Kudus Regency.

## RESEARCH METHODS

This study uses empirical legal research with a qualitative approach. Empirical legal research was chosen because it aims to analyze the effectiveness of law implementation in the context of social reality in the field. A qualitative approach is used to deeply understand the social phenomena that occur related to the fulfillment of children's rights and child protection in Kudus Regency. The research was conducted in Kudus Regency, focusing on 9 sub-districts in the region, namely Bae, Dawe, Gebog, Jati, Jekulo, Kaliwungu, Kudus, Mejobo, and Undaan. Kudus City is a district in Central Java that is known as a santri city, the center of the kretek industry, and has a strong Islamic historical heritage through the figure of Sunan Kudus. The selection of this location is based on the social and cultural dynamics typical of Kudus Regency, as well as the reported cases of violence and dissatisfaction in the fulfillment of children's rights. Although the number of cases in Kudus is not among the highest in Central Java, the rate of reporting of violence against children shows consistency

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<sup>10</sup> Tyas Retno Wulan et al., "Model Perlindungan Anak-Anak Pekerja Migran Di Malaysia," *Prosiding Konferensi Nasional Sosiologi (PKNS)* 1, no. 1 (2023): 472–76, <https://www.pkns.portalapssi.id/index.php/pkns/article/view/76>.

from year to year.<sup>11</sup> This shows the existence of repetitive but not extreme social phenomena, so it is relevant to be studied from the perspective of prevention and early intervention. The object of this research is the implementation of article 26 of Law Number 23 of 2002 concerning Child Protection in the fulfillment of child custody rights (hadhanah) in the community of Kudus Regency.

Primary data was obtained through structured interviews with 15 informants (15 informants are considered sufficient to achieve data saturation, i.e. the point at which significant new information no longer appears) spread across 9 sub-districts in Kudus Regency (Each sub-district has different social and cultural characteristics. By covering all sub-districts, researchers can understand the local context that influences violence against children, including customary norms, informal reporting systems, and community responses to violence). Informants are selected purposively, including parents, children, and parties involved in child protection (such as teachers, community leaders, and government officials). Secondary data is obtained from official documents such as KPAI (Indonesian Child Protection Commission) reports, laws, local regulations, and previous studies relevant to the research topic. Interviews are conducted using pre-prepared interview guidelines. The questions focused on the informants' experiences related to the fulfillment of children's rights, the violence experienced, and the role of parents and the government in child protection. The data obtained from interviews and observations were analyzed qualitatively using thematic analysis techniques. The data is categorized based on emerging themes, such as the fulfillment of children's rights, violence against children, the role of parents, and the role of the government. To ensure the validity of the data, triangulation was carried out by comparing the results of interviews, observations, and document studies. This aims to get a comprehensive and accurate picture of the implementation of the child protection law in Kudus Regency.

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<sup>11</sup> DP3AKB JawaTengah, "Jumlah Anak (Usia 0-18 Tahun) Korban Kekerasan Per Kabupaten/Kota Di Provinsi Jawa Tengah, 2022-2024," bps.go.id, 2025, <https://jateng.bps.go.id/id/statistics-table/2/MTAyNiMy/jumlah-anak-usia-0-18-tahun-korban-kekerasan-per-kabupaten-kota-di-provinsi-jawa-tengah.html>.

## RESULTS AND DISCUSSION

### Child Protection in the Family: An Analysis of Parenting, Right to Opinion, and Verbal Violence in Kudus Regency

Child protection is a vital component in efforts to realize the welfare of future generations.<sup>12</sup> One of the key aspects of child protection lies in the fulfillment of custody rights, which encompasses the responsibility of parents or guardians to ensure the physical, psychological, social, and spiritual development of children.<sup>13</sup> In Indonesia, the importance of children's rights has been given legal legitimacy through Law Number 23 of 2002 concerning Child Protection. Specifically, this study focuses on Article 26 of the law, which emphasizes the obligation of parents to nurture, care for, and protect children, including fostering their character, morals, and education.<sup>14</sup> This provision serves as the foundation for analyzing how custody is implemented in practice, particularly in relation to parental involvement and the quality of care provided to children.

In the local context, Kudus Regency as one of the regions in Central Java Province shows its own dynamics in the implementation of child custody. Although Kudus is known as a strong religious and cultural area, challenges in fulfilling custody still arise, especially due to social dynamics such as parental migration due to work, divorce, and post-pandemic socio-economic impacts. This situation demands serious attention to the parenting style applied by parents and the surrounding environment, because non-adaptive parenting can have a negative impact on children's development.<sup>15</sup>

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<sup>12</sup> Sara Pérez-Hernando and Nuria Fuentes-Peláez, "The Potential of Networks for Families in the Child Protection System: A Systematic Review," *Social Sciences* 9, no. 5 (2020), <https://doi.org/10.3390/SOCSCI9050070>.

<sup>13</sup> Syaiful Anwar Al-Mansyuri Ahmad Rusyaid Idris, Muhammad Khusaini, "Contemporary Islamic Law in Indonesia: The Fulfillment of Child Custody Rights in Divorce Cases Caused by Early Marriage," *MILRev: Metro Islamic Law Review* 3, no. 1 (2024): 1–21, <https://doi.org/https://doi.org/10.32332/milrev.v3i1.8907>.

<sup>14</sup> Muh. Imron Abraham, Wulanmas A.P.G Frederick, and Syamsia Midu, "Perlindungan Hukum Terhadap Eksploitasi Anak Di Bawah Umur Ditinjau Dari Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang perlindungan Anak," *Sam Ratulangi Journal of Linguistic Studies* 11, no. 4 (2023): 5.

<sup>15</sup> Jaegoo Lee Irang Kim, Sarah Dababnah, "The Influence of Race and Ethnicity on the Relationship between Family Resilience and Parenting Stress in Caregivers of Children with Autism," *Journal of Autism and Developmental Disorders* 50 (2020): 650–58.

The fulfillment of custody is not only concerned with the physical presence of parents around the child, but also about the quality of the interaction that is built between them.<sup>16</sup> Children need emotional presence, value guidance, and role models from parents as part of the process of forming their personal identity and social character.<sup>17</sup> In some cases, even if the child lives with his parents, less effective emotional relationships and communication create gaps in healthy parenting. Therefore, the child protection approach at the local level needs to look at the non-material aspects that contribute to shaping the quality of custody.

Research on the fulfillment of child custody in Kudus as a form of implementation of Law Number 23 of 2002 concerning Child Protection is very relevant. The data collection method used structured interview guidelines. The sample of respondents in this study is 15 people spread across 9 sub-districts in Kudus Regency. Based on research, it was found that parental involvement in the formation of children's social spirit has a significant influence on children's development. It shows that parental involvement in the formation of social psychology affects children's development.<sup>18</sup> Based on the results of the study, it was found that parental involvement in the formation of children's social psyche has a significant influence on child development.<sup>19</sup> During the pandemic, children's social interaction with the outside environment became limited, so the role of parents in shaping children's social psyche became more important. Parents who actively accompany their children, teach social values, and provide examples of positive behavior tend to have children who are better able to adapt to changing situations.<sup>20</sup> This shows that the role of parents is not only limited to fulfilling physical needs, but also in shaping the child's character and personality.

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<sup>16</sup> Handyka Prayogi Lesmono, "Fulfillment of Child Custody Rights After Divorce According to Law Number 35 of 2014 Concerning Child," *Yurisdiksi: Jurnal Wacana Hukum Dan Sains* 20, no. 1 (2024): 143–54, <https://doi.org/https://doi.org/10.55173/yurisdiksi.v20i1.236>.

<sup>17</sup> Ribka Hernita Sitepu, "The Role of Parents in Children's Character Education," *Harmoni Journal of Pancasila and Citizenship Education* 1, no. 1 (2024): 1–15. Feby Dwiki Darmawan and Dodik Setiawan Nur Heriyanto. "Invoking International Human Rights Law To Prevent Statelessness Of International Refugee Children Born In Indonesia". *Prophetic Law Review*, 5(1) (2023): 22–41. <https://doi.org/10.20885/PLR.vol5.iss1.art2>

<sup>18</sup> Irang Kim, Sarah Dababnah, "The Influence of Race and Ethnicity on the Relationship between Family Resilience and Parenting Stress in Caregivers of Children with Autism."

<sup>19</sup> Agung, "Interviewed" (2023).

<sup>20</sup> Lin Ma Tang, Yu, Shaomei Li and Yan Li Zheng, Yuxin, "The Effects of Mother-Father Relationships on Children's Social-Emotional Competence: The Chain Mediating Model of Parental Emotional Expression and Parent-

However, research also reveals that not all parents are able to fulfill their child's custody rights optimally. Some respondents admitted that they had difficulty dividing their time between work, household responsibilities, and childcare. This condition is exacerbated by economic pressures and uncertainty arising from problems, which makes some parents more susceptible to stress and burnout. As a result, parental attention and involvement in supporting children's social development is reduced, which has the potential to hinder children's growth and development holistically.

The involvement of parents in the management of children's social and psychological character, such as fostering a sense of concern for others, plays an important role in preventing deviant behavior that is not in accordance with moral norms and moral values. A social spirit formed early on will help children understand the importance of empathy, sharing, and respecting others. However, based on research data, it was found that only 25% or as many as 5 informants and 15% or as many as 3 informants were often invited by their parents to share with others. This shows that most parents have not consistently involved their children in activities that can foster their social spirit.

Furthermore, the research data revealed that 40% or as many as 8 informants were not always invited to share with others, while 15% or as many as 3 informants were rarely invited, and 5% or as many as 1 informant was never invited at all. This condition indicates that most of the children, namely as many as 12 informants, do not have a good social psyche. The low involvement of parents in fostering children's social spirit can have an impact on the development of children's character, including the potential for deviant behavior that is not in accordance with the prevailing moral norms and values in society. One of the causes of low parental involvement in growing children's social spirit is the lack of social spirit owned by parents themselves.<sup>21</sup> Parents who do not have the habit of sharing or caring for others tend not to teach these values to their

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Child Attachment,” *Children and Youth Services Review*, 2023, 107227, <https://doi.org/https://doi.org/10.1016/j.childyouth.2023.107227>.

<sup>21</sup> A. Venta J.H. Walker, A. Bautista, M. Cuervo, “Parental Divorce and Family Transitions,” in *Encyclopedia of Adolescence (Second Edition)* (Academic Press, 2024), <https://doi.org/https://doi.org/10.1016/B978-0-323-96023-6.00046-4>.



children. In addition, financial problems are also an inhibiting factor. Many parents find it difficult economically so their focus is more on meeting basic needs, such as food and education, rather than teaching social values such as sharing with others.<sup>22</sup>

The opportunity to express opinions for children is important to do.<sup>23,24</sup> This is so that children dare to express their opinions and can think critically. However, this ability does not appear instantly, but rather requires constant stimulation from parents. Parents play an important role in creating an environment that supports children to learn and apply their skills to express opinions effectively. Without this support, children may have difficulty developing the confidence and analytical skills necessary in daily life. Based on research, it was found that 35% or as many as 7 informants were often given the opportunity to express their opinions, while 10% or as many as 2 informants were always given the opportunity. On the other hand, 25% or as many as 5 informants are only occasionally given the opportunity, and 25% or as many as 5 other informants rarely get the opportunity to express their opinions. In fact, 5% or as many as 1 informant was never given a chance at all.<sup>25</sup> This data shows that many children still do not get enough space to develop the ability to express opinions, which can hinder the growth of their confidence and critical thinking skills. This is due to the low level of parental trust in children and parents' experiences in the past. The experience of parents who were in the light age was not given the opportunity to express their opinions by parents.<sup>26</sup>

One of the reasons for the low opportunity for children to express their opinions is the lack of parental trust in their children's abilities. In addition, parents' past experiences also affect their parenting style. Many parents were not given the opportunity to

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<sup>22</sup> Moh Usman, "Sinkronisasi Regulasi Tentang Hak Ekonomi Anak Di Indonesia Dengan Convention on The Rights of Child/Synchronization Of Regulation on Children's Economic Rights in Indonesia With The Convention on The Rights of The Child," *De Jure: Jurnal Hukum Dan Syariat* 12, no. 2 (2020): 214–26, <https://doi.org/https://doi.org/10.18860/j-fsh.v12i2.7661>.

<sup>23</sup> Abraham, Frederick, and Midu, "Perlindungan Hukum Terhadap Eksploitasi Anak Di Bawah Umur Ditinjau Dari Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang perlindungan Anak."

<sup>24</sup> Wulan et al., "Model Perlindungan Anak-Anak Pekerja Migran Di Malaysia."

<sup>25</sup> Mr X, "Personal Interview."

<sup>26</sup> Hans Ivers Dorotheé Charest-Belzile, Sylvie Drapeau, "Parental Engagement in Child Protection Services: A Multidimensional, Longitudinal and Interactive Framework," *Children and Youth Services Review* 116 (2022), <https://doi.org/https://doi.org/10.1016/j.childyouth.2020.105162>.

express their opinions by their parents in the past, so this is carried over in their parenting patterns for their children today. To overcome this, a paradigm shift is needed among parents, that giving children the opportunity to have an opinion is not only important, but also part of the learning process that will shape the child's character and abilities in the future.

In addition, there was data on the finding of verbal violence as the highest percentage of 35% or as many as 7 informants admitted to being yelled at by their parents. 25% or as many as 5 informants admitted to being compared to other children by their parents. 25% or as many as 5 informants admitted to being slapped by their parents. 10% or as many as 2 informants admitted to being grabbed by their parents. 5% or as many as 1 informant admitted to being slapped by their parents.<sup>27</sup> This is caused by situations that occur suddenly, emotional disturbances of parents who are sometimes unstable.

The fulfillment of children's rights to be able to live comfortably according to their age is not fully fulfilled.<sup>28</sup> This can be seen from the data from the above research that verbal and nonverbal violence received by children from parents still occurs.<sup>29</sup> The cause of this is the increasing burden experienced by parents is emotional instability and the parents' feelings are more or less uncontrollable.<sup>30</sup> In fact, the right to live without violence and get protection is a basic right that must be fulfilled by every child. This condition is a serious challenge that needs to be overcome immediately so that children can grow optimally.

One of the main causes of violence against children is the heavy burden experienced by parents, especially in unstable situations such as the pandemic. Emotional instability and uncontrollable parental feelings are often triggers for acts of violence, both verbal and nonverbal. Parents who are supposed to be the main protectors and supporters for

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<sup>27</sup> Mr. J, "Personal Interview."

<sup>28</sup> Jo Dillon, "Wishes and Feelings?: Misunderstandings and Missed Opportunities for Participation in Child Protection Proceedings," *Child and Family Social Work* 26, no. 4 (2021): 664–76, <https://doi.org/10.1111/cfs.12847>.

<sup>29</sup> Mina Moghtaderi et al., "احساس خدکیر آهزی گز بز اثر بخشی بست در هیاه یز هبئی بز ریکزد هئیت," *Quarterly Journal of Health Psychology* 8, no. 32, 1 هئیب هقتنری ی تئیبی

<sup>30</sup> Rita Richter Nunes, "Participation in Child Protection: Empowering Children in Placement Processes," *The International Journal of Human Rights* 26, no. 3 (2020): 420–36, <https://doi.org/10.1080/13642987.2021.1931137>.

children are actually a source of threat due to the pressure they experience.<sup>31</sup> This shows that this problem is not only related to parenting, but also to psychological and socioeconomic conditions that affect the emotional stability of parents.

The impact of violence experienced by children is very serious and can affect their psychological, emotional, and even physical development. Children who frequently receive threats, bullying, corporal punishment, or non-physical punishment from their parents tend to be more prone to trauma, anxiety, and decreased self-confidence.<sup>32</sup> Furthermore, exposure to violence may normalize aggressive behavior, potentially perpetuating a cycle of violence across generations.<sup>33</sup> Parents, often burdened by economic pressures, social uncertainty, and isolation, may unintentionally displace their stress onto children.<sup>34</sup> At the same time, children in Kudus—who are adapting to changes such as distance learning and limited social interaction—become even more susceptible to the negative effects of domestic violence. This situation not only disrupts their emotional security but also hinders their optimal growth and development. Therefore, violence against children in Kudus must be viewed as a serious violation of children's rights, particularly their right to grow and develop in a safe and nurturing environment, as guaranteed by child protection laws.

### **The Effectiveness of Law Number 23 of 2002 concerning Child Protection in the Fulfillment of the Right to Custody of Children in Kudus**

The fulfillment of child custody is an integral part of child protection guaranteed by the state. In the Indonesian context, Law Number 23 of 2002 concerning Child Protection is present as a manifestation of the state's commitment to guarantee,

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<sup>31</sup> Runqing Li Weida Zhang, Guoliang Yu, Wangqian Fu, "Parental Psychological Control and Children's Prosocial Behavior: The Mediating Role of Social Anxiety and the Moderating Role of Socioeconomic Status," *International Journal of Environmental Research and Public Health* 19, no. 18 (2022): 11691, <https://doi.org/https://doi.org/10.3390/ijerph191811691>.

<sup>32</sup> T. Hashemi, L., Fanslow, J., Gulliver, P., & McIntosh, "Intergenerational Impact of Violence Exposure: Emotional-Behavioural and School Difficulties in Children Aged 5–17," *Frontiers in Psychiatry* 12 (2022): 771834, <https://doi.org/https://doi.org/10.3389/fpsy.2021.771834>.

<sup>33</sup> Nina Agrawal Ingrid Walker, Madeline Mineo, Luisa Vaca Condado, "Domestic Violence and Its Effects on Women, Children, and Families," *Pediatric Clinic* 68, no. 2 (2021): 455–64, <https://doi.org/https://doi.org/10.1016/j.pcl.2020.12.011>.

<sup>34</sup> Nina S. Mounts Natalie Low, "Economic Stress, Parenting, and Adolescents' Adjustment during the COVID-19 Pandemic," *Family Relations* 71, no. 1 (2021): 90–107, <https://doi.org/https://doi.org/10.1111/fare.12623>.

protect, and fulfill children's rights, including in terms of parenting.<sup>35</sup> Good childcare includes not only physical maintenance, but also the fulfillment of psychological, social, and spiritual aspects as basic needs of children.<sup>36</sup> However, the implementation of custody often faces various obstacles, especially in practice at the local level such as in Kudus Regency.

In areas like Kudus, child parenting is greatly influenced by family socio-economic conditions, parental education levels, and understanding of legal obligations in parenting. Often, parents have to divide the attention between work and parenting responsibilities, which impacts the fulfillment of children's rights as a whole.<sup>37</sup> In this context, the effectiveness of the Child Protection Act needs to be critically evaluated: does its legal substance really reach the real needs of children in society? Has this regulation been implemented with the support of regional policies and the awareness of parents as the main implementers of custody?

The custody referred to in the Law includes the right to protection, maintenance, and development of children in accordance with their stages of growth and development.<sup>38</sup> This is in line with a holistic approach that not only emphasizes the biological aspect, but also pays attention to the psychosocial and spiritual dimensions of the child.<sup>39</sup> Therefore, it is not enough to evaluate the effectiveness of this law only in terms of the existence of regulations, but also how local stakeholders, especially families, educational institutions, health services, and local governments play an active role in its fulfillment.

Based on the results of the study, it was shown that there were 10% or as many as 2 people from all informants who did not get good health services such as physical,

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<sup>35</sup> Olif Skear Prabasini, "Legal Protection for Children in Conflict with the Law: Process and Problems," *The Indonesian Journal of International Clinical Legal Education* 3, no. 3 (2021): 381–98, <https://doi.org/10.15294/ijicle.v3i3.48264>.

<sup>36</sup> Wiwik Afifah Cindy Audiya Ajizi, "Child Care for Parents Works in Human Rights," *JITAL: Journal of International Trade, Logistics and Law* 10, no. 1 (2024): 52–57, [https://www.jital.org/index.php/jital/article/view/446/pdf\\_244](https://www.jital.org/index.php/jital/article/view/446/pdf_244).

<sup>37</sup> Dongxu Li1Xi Guo and Xi Guo, "The Effect of the Time Parents Spend with Children on Children's Well-Being," *Frontiers in Psychology* 14, no. 3 (2023), <https://doi.org/https://doi.org/10.3389/fpsyg.2023.1096128>.

<sup>38</sup> R. Forslund, T. Granqvist, P. van IJzendoorn, M. H. Sagi-Schwartz, A. Glaser, D. Steele, M. ... Duschinsky, "Attachment Goes to Court: Child Protection and Custody Issues," *Attachment & Human Development* 24, no. 1 (2021): 1–51, <https://doi.org/https://doi.org/10.1080/14616734.2020.1840762>.

<sup>39</sup> Bambang Eko Turisno et al., "Negligence in Implementing Child Custody Decisions: A Threat to Child Protection in Indonesia," *International Journal of Criminal Justice Sciences* 16, no. 2 (2021): 282–302, <https://doi.org/10.5281/zenodo.4756076>.

mental, spiritual and social needs.<sup>40</sup> This is due to the limited information of parents due to their busyness at work so that they are not optimal in providing good health services such as physical, mental, spiritual and social needs.<sup>41</sup> Physical needs are real needs needed in carrying out the life of life. Therefore, the effectiveness of the Child Protection Law in the context of fulfillment of custody must be seen from the extent to which the law is able to mobilize parental awareness and systemic support to meet all aspects of children's needs holistically.<sup>42</sup> Meanwhile, the fulfillment of non-physical needs through the family has a quite strategic role because the family has emotional bonds and allows relationships to occur in daily life.<sup>43</sup>

Problems related to child protection caused by various conditions in Kudus have not been implemented 100% properly. This can be seen that there is still data on the unfulfilled social security and health. Lack of understanding and concern from the government, the community and parents about the fulfillment of children's rights as in the Convention on the Rights of the Child and the Law on Child Protection.<sup>44</sup> When referring to Law Number 35 of 2014 Article 20, it is stated that all parties from the government to parents are responsible for child protection efforts in Indonesia.<sup>45</sup>

Child protection is all the necessary to be able to guarantee the rights of children to be able to live, grow, develop and participate optimally in accordance with the dignity and dignity of humanity. In addition, child protection can prevent children from all forms of violence and discrimination.<sup>46</sup> The child protection strategy contained in Law Number 23 of 2002 concerning Child Protection Towards the Fulfillment of the Right to Custody of Children in Kudus is carried out with several programs to

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<sup>40</sup> J, "Personal Interview."

<sup>41</sup> Cristina Lamtiur, "Perlindungan Hukum Terhadap Korban Eksploitasi Anak-Anak Di Samarinda," *Nomos : Jurnal Penelitian Ilmu Hukum* 1, no. 3 (2021): 71–81, <https://doi.org/10.56393/nomos.v1i3.572>.

<sup>42</sup> Maximilian Schulz, "The Legal Practices and Challenges of Parental Authority, Custody, and Child Welfare Protection in Divorce Cases Under German Family Law," *Studies in Law and Justice* 3, no. 1 (2024): 59–67, <https://doi.org/10.56397/slj.2024.03.09>.

<sup>43</sup> Kelley Fong, "Getting Eyes in the Home: Child Protective Services Investigations and State Surveillance of Family Life," *American Sociological Review* 85, no. 4 (2020), <https://doi.org/https://doi.org/10.1177/000312242093846>.

<sup>44</sup> Iwoeng Geovani et al, "Juridical Analysis of Victims of the Economic Exploitation of Children Under the Age To Realize Legal Protection From Human Rights Aspects," *International Journal of Educational Review, Law And Social Sciences (IJERLAS)* 1, no. 1 (2021): 45–52, <https://doi.org/10.54443/ijerlas.v1i1.10>.

<sup>45</sup> Santriati, "Perlindungan Hak Pendidikan Anak Terlantar Menurut Undang Undang Perlindungan Anak."

<sup>46</sup> Eviani Masruroh, Miftakhul Jannah, and Yes Matheos Lasarus Malaikosa, "Efektivitas Kebijakan Perlindungan Anak Di Era Digital," *Jurnal Ilmu Sosial Dan Humaniora* 2, no. 1 (2024): 28–33, <https://doi.org/10.58540/isihumor.v2i1.577>.

suppress various things for the non-fulfillment of children's rights. Among them is integrating children's rights as an important measure in national development policies and programs to improve the quality of children's vitality. In addition, the program continues to guarantee children's rights in various laws and regulations as well as in public policies. Strategies regarding the emphasis on the number of violence, neglect and discrimination are targets that cannot be ignored in efforts to protect children's rights.<sup>47</sup>

Child protection is one of the main factors that is a benchmark for the successful implementation of laws that are formed to protect their rights. The <sup>48</sup> Child Protection Law is actually designed to ensure the safety, welfare, and optimal growth and development of children.<sup>49</sup> However, in practice, there are still fundamental weaknesses that hinder the effectiveness of the law. One of the main drawbacks is the lack of space provided to protect women and children in the household.<sup>50</sup> In fact, the domestic environment is often a place where violence against children occurs, so protection in the domestic sphere is very crucial.

The implementation process of the Child Protection Law still faces great challenges because the subject of children in family relationships is often considered a private or domestic matter<sup>51</sup>. This view makes legal and social intervention difficult, even when violence against children has occurred. The limited space for legal movement in regulating domestic issues makes many cases of violence against children not revealed or not handled seriously. As a result, children who are victims of violence often do not get the protection and justice they deserve.

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<sup>47</sup> Geovani et al., "Juridical Analysis of Victims of the Economic Exploitation of Children Under the Age To Realize Legal Protection From Human Rights Aspects."

<sup>48</sup> Elliza, "Perlindungan Hukum Anak Dan Perempuan Dari Pelecehan Seksual."

<sup>49</sup> Tegar Sukma Wahyudi and Toto Kushartono, "Perlindungan Hukum Terhadap Hak Anak Yang Menjadi Korban Perlakuan Tindak Kekerasan Dalam Rumah Tangga Dihubungkan Dengan Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak," *Jurnal Dialektika Hukum* 2, no. 1 (2020): 57–82, <https://doi.org/10.36859/jdh.v2i1.510>.

<sup>50</sup> Zakiah Ulya and Endriyanti Endriyanti, "Protection of Women's Rights After Divorce in Divorce Lawsuit at the Padang Panjang Religious Court," *HUMANISMA: Journal of Gender Studies* 7, no. 2 (2023): 156, <https://doi.org/10.30983/humanisme.v7i2.8012>.

<sup>51</sup> Mashari Subekti, Sri, Liliana Tedjosaputro, "Legal Protection Concept: Separate Maintenance for the Third Party in Prenuptial Agreement," *Indonesia International Journal of Civil Engineering and Technology* 11, no. 1 (2020): 233–41, <http://www.iaeme.com/ijciет/issuеs.asp?JType=IJCIET&VType=11&IType=1> <http://www.iaeme.com/IJCIET/issuеs.asp?JType=IJCIET&VType=11&IType=1>.

In addition, the space provided by the current law is still very narrow to restore dignity, courage, and truth to victims of violence. Children who experience violence often feel distressed and afraid to report what they experienced, especially if the perpetrator is a family member himself. The lack of psychological and social support for victims also makes the recovery process less than optimal.<sup>52</sup> This shows that the law has not fully sided with the victim, especially in providing holistic protection and recovery.

Another weakness in the implementation of the Child Protection Law is the lack of an effective mechanism to ensure that cases of violence against children are handled seriously and completely.<sup>53</sup> Many cases of violence against children do not make it to the green table for various reasons, such as lack of evidence, social pressure, or indifference from the authorities.<sup>54</sup> This creates injustice for victims and strengthens impunity for perpetrators. Therefore, reforms in the law enforcement system are needed to ensure that every case of violence against children is handled seriously and fairly. On the other hand, the role of the community and social institutions is also very important in supporting the implementation of the Child Protection Law.<sup>55</sup> The community needs to be educated about the importance of protecting children from violence and ways to report cases of violence that occur around them. Social institutions and non-governmental organizations also need to be actively involved in providing assistance and support for victims of child violence<sup>56</sup>. With good collaboration between the government, society, and social institutions, it is hoped that child protection can be realized more effectively.

In addition, it is important to expand the space for protection for children in the law, especially in the context of domestic violence.<sup>57</sup> The Child Protection Law needs to be

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<sup>52</sup> Lubis, "Faktor-Faktor Penyebab Terjadinya Kekerasan Seksual Terhadap Anak Di Kota Medan."

<sup>53</sup> Eviani Masruroh, Miftakhul Jannah, and Yes Matheos Lasarus Malaikosa, "Efektivitas Kebijakan Perlindungan Anak Di Era Digital."

<sup>54</sup> Placidia Muchaneta Shoko, "Children's Experiences and Perceptions of Family and Family Resilience Processes in South Africa," UWC Library, 2022, <https://etd.uwc.ac.za/handle/11394/9521>.

<sup>55</sup> Nunes, "Participation in Child Protection: Empowering Children in Placement Processes."

<sup>56</sup> Musleh Harry et al., "Examining the Provision of Legal and Religious Education to Islamic Families to Safeguard the Rights and Well-Being of Women and Children: A Case Study Conducted in Malang Regency, East Java," *Samarah* 8, no. 3 (2024): 1526–46, <https://doi.org/10.22373/sjhg.v8i3.19566>.

<sup>57</sup> Geovani et al., "Juridical Analysis of Victims of the Economic Exploitation of Children Under the Age To Realize Legal Protection From Human Rights Aspects."

strengthened with clearer and stricter rules regarding intervention in cases of domestic violence.<sup>58</sup> This includes giving greater authority to the authorities to conduct investigations and intervene when there are indications of violence against children, without treating it as a private matter that should not be interfered with. Finally, efforts to improve the implementation of the Child Protection Law must be carried out comprehensively and continuously. This includes revising the law to cover existing weaknesses, increasing the capacity of law enforcement officials, and building a strong support system for victims of child violence. Thus, it is hoped that child protection can be realized optimally, and every child can grow up in a safe, comfortable, and loving environment.

To assess the implementation of Law Number 23 of 2002 concerning Child Protection—particularly in relation to the fulfillment of the right to custody of children in Kudus—this study applies the theory of legal effectiveness as proposed by Soerjono Soekanto. According to Soekanto (1983), the effectiveness of law enforcement is determined by at least five interrelated factors: (1) the substance of the law itself, (2) law enforcement institutions and officers, (3) legal facilities and infrastructure, (4) public legal awareness, and (5) cultural factors that influence society. In the context of Kudus, while Law Number 23 of 2002—especially Article 26—clearly mandates the responsibilities of parents in nurturing, protecting, and educating their children, the reality shows that these normative provisions are not always fully realized. One contributing factor is the low level of legal awareness among parents regarding their custodial obligations. Many parents do not understand that custody is not limited to physical guardianship but also includes emotional, moral, and social guidance.

From the institutional aspect, local enforcement of child protection often lacks synergy between the Office of Women's Empowerment and Child Protection (Dinas P3A), community leaders, and legal institutions. These gaps result in weak supervision and inadequate intervention in cases where children's rights to proper custody are violated. In terms of facilities and infrastructure, there is also a shortage of accessible counseling, education, and community outreach programs specifically targeting

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<sup>58</sup> Leigh Goodmark, "Should Domestic Violence Be Decriminalized," *Women's L. Journal* 53 (2017): 54–67.



parenting skills. Without adequate support systems, many parents – particularly those from lower socioeconomic backgrounds – struggle to meet the comprehensive needs of their children.

## CONCLUSION

Based this article, it can be concluded that the implementation of Law Number 23 of article 26 2002 concerning Child Protection in Kudus Regency is still not fully effective in fulfilling children's rights, especially in terms of child maintenance (hadhanah). The main findings of this study show that there is a gap between policy and reality on the ground. Although the law has provided a clear legal framework for child protection, there are still many cases of violence against children, economic exploitation, and lack of fulfillment of children's social and health rights that occur in Kudus Regency. This shows that the implementation of the law has not been optimal. Parental involvement in shaping the social psyche of children is very important for children's development. However, research shows that most parents do not consistently engage their children in activities that can foster social spirit, such as sharing with others. This is due to the low social spirit of the parents themselves and the financial problems they face. There are still many children who experience verbal and nonverbal violence from their parents, mainly due to the emotional instability of their parents triggered by economic burdens and social pressures.

The impact on Indonesia in general, especially in the regulation of children, is the disruption of efforts to develop superior and characterful human resources if children's rights are not fully fulfilled. The ineffectiveness of child protection implementation in areas such as Kudus Regency reflects the need for a national evaluation of child protection policies and monitoring systems. If this condition is not addressed immediately, it will have an impact on the future of the nation's generation and create a wider gap in children's rights violations at the national level. Therefore, this study recommends increasing public awareness, strengthening child protection institutions, optimizing policies that are in favor of children, and revising laws to cover various existing weaknesses. It is also necessary to increase the capacity of law

enforcement officials to be able to handle child protection issues in a more professional and humane manner. Collaboration between the government, the community, and related institutions is the key to creating a safe, healthy environment, and supporting children's growth and development in accordance with the principles of child protection mandated by law.

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