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*Corresponding author: Shinta Romaito Siahaan, Department of Law Science, Faculty of Law, Universitas HKBP Nommensen, Medan, Indonesia.

E-mail: shintasiahaan64@gmail.com

DATA IN SUMMARY | LAW, POLITICS, PUBLIC ADMINISTRATION

The Role of the Heritage Center Against the Embezzlement of Assets by Guardians of Minors: Study at the Medan Heritage Center

Shinta Romaito Siahaan^{1*}, Besty Habeahan²

^{1,2} Department of Law Science, Faculty of Law, Universitas HKBP Nommensen, Medan, Indonesia. Email: shintaromaito.siahaan@student.uhn.ac.id*, bestyhabeahan@uhn.ac.id²

Abstract: The heritage center (BHP) plays a central role in safeguarding and managing inheritances, especially for minors who are not yet able to manage their own assets. BHP was established in 1624 by the Dutch Government, with the aim of protecting the assets of the deceased, especially for orphans and those under guardianship. In Indonesia, BHP is under the Directorate General of General Legal Administration, Ministry of Law and Human Rights, with authority regulated through various legal regulations. One of the main roles of BHP is to supervise guardians, as stipulated in Article 366 of the Civil Code, who are responsible for managing the assets of minors who are not under parental supervision. This study aims to evaluate the role of BHP in preventing misuse of minors' assets by guardians, as well as identifying obstacles faced in carrying out supervision. Using normative methods through literature studies, this study analyzes the legal aspects underlying the function of BHP. The results of the study indicate that BHP plays an important role in supervising the management of children's assets through inventories and annual reports by guardians. However, cases of misuse of assets by guardians still often occur due to weak supervision and loopholes in the legal system.

Keywords: Heritage Center Office (BHP), Embezzlement of Assets, Legal Supervision, Child Protection.

1. INTRODUCTION

The Heritage center has a strategic function in managing heritage, especially for minors who are not yet able to manage their own assets. Since its establishment in 1624 by the Dutch Government (Novianti, 2015), the Heritage center has played a role in protecting inheritances left by deceased persons, especially orphans and those under guardianship. In Indonesia, the Heritage center is under the Directorate General of General Legal Administration, Ministry of Law and Human Rights, with duties and authorities regulated by various laws and regulations (Arani, 2006) Although guardianship is related to family law, the responsibility to safeguard the best interests of children who are not yet able to take legal action is also part of the state's responsibility. The role of the state through the Heritage center as a supervising guardian is very significant. Article 366 of the Civil Code stipulates that guardianship is carried out by the living parents and the Heritage center acts as a supervising guardian (Adistia et al., 2022). The guardian is responsible for supervising minors who are not under the control of their parents, including managing the child's personal needs and assets. This is a legal protection measure to ensure that children are not exploited by irresponsible parties. The Heritage Management Office also provides legal considerations regarding the rights and obligations of children who are still minors.

As society and law develop more complexly, the role of the Heritage Management Office becomes increasingly important. Many cases of embezzlement of assets by minors occur due to a lack of supervision and understanding of the role of guardians, which actually harms children's rights (Law, 2018). Other challenges for the Heritage Management Office include a lack of coordination with

other institutions, as well as low public awareness of the guardianship institution. Cultural and customary factors also often hinder the optimal use of this institution.

R. Soesilo (2013) in his book discussing criminal law, states that embezzlement is a criminal act listed in Article 372 of the Criminal Code (KUHP). He explained that embezzlement can occur in various forms, either through fraud or illegal possession of goods. Embezzlement can occur when someone who holds a trust over an item, such as a guardian or manager, then uses it for personal gain without the owner's permission. Cases of embezzlement of assets by guardians of minors are increasingly becoming an issue that continues to emerge in society. Many of these cases occur due to weak supervision and lack of effective control over the management of children's assets. Legally, this responsibility lies with the guardian, but guardians often exploit loopholes in the supervision system for personal gain. One of the factors causing this condition is the low public awareness of the importance of the role of the Heritage Management Office (BHP) as a supervising guardian. In addition, there are still obstacles in coordination between BHP and related institutions such as courts or social services in terms of supervising the assets of minors.

One of the main methods used by BHP to identify embezzlement is through registration and inventory of children's assets. Guardians are required to register all of a child's assets within three months of the event requiring guardianship. Failure to register or present an inaccurate inventory can be a signal of embezzlement. In addition, guardians must also prepare an annual report detailing the use and management of the child's assets, which is then reviewed by BHP to ensure transparency and accountability. If the BHP finds evidence of embezzlement or negligence by the guardian, they have the authority to submit a proposal to the District Court to replace the guardian. This process involves collecting evidence and statements from related parties, as well as a thorough evaluation of the management of the child's assets. With these steps, the BHP seeks to protect the interests of minors and ensure that their assets are managed properly and in accordance with applicable laws. As a state institution, the BHP has a mandate to protect the rights of children who are not yet legally competent, including in terms of assets. The BHP needs to carry out an effective supervisory function to prevent abuse of authority by guardians. However, various challenges are still faced, both from internal factors of the BHP and from strong cultural and customary influences in several regions. This means that the role of the BHP in optimizing supervision has not been fully realized in society. Based on this background, this study seeks to explore the role of the BHP in preventing embezzlement of assets of minors, identify the obstacles faced, and provide recommendations to improve the effectiveness of the BHP in protecting children's rights. This research is expected to contribute to the development of law and child protection in Indonesia.

This paper is conducted to provide an analysis of the role of the Medan Heritage center in preventing and handling acts of embezzlement of assets by guardians of minors, the obstacles faced by the Medan Heritage center in implementing its supervisory function over the management of assets of minors, and the application of criminal law in responding to cases of embezzlement of assets by guardians of minors in the context of supervision by the Medan Heritage center. This study is expected to provide a more comprehensive understanding of the role of the Medan Heritage center in handling and preventing acts of embezzlement and the protection provided.

2. RESEARCH METHOD

Legal research is an analytical process involving certain methods, systematics, and thinking with the aim of understanding certain legal phenomena and finding solutions to problems that arise. In this context, the type of research used is normative research. This research is conducted by analyzing library sources or secondary data, also known as doctrinal research. In this approach, law is often understood as provisions written in laws and regulations (law in books) or as norms and rules that serve as references for human behavior that is considered appropriate.

According to Peter Mahmud Marzuki, normative legal research is the process of identifying legal rules, legal principles, and relevant legal doctrines in order to answer existing legal problems.

In the legal realm, the term "normative" refers to provisions set by legitimate authorities, such as laws, government regulations, and court decisions. Normative research in the legal field aims to evaluate the fairness and consistency of existing rules and find ways to improve or develop applicable legal norms. Therefore, this research helps ensure that legal norms are not only enforced, but also in accordance with higher principles of justice, such as human rights and social justice. One of the main objectives of the normative approach in legal research is to identify conflicts between existing norms. For example, a researcher may find that a new law that is implemented conflicts with previous laws or even with the country's constitution. In this situation, normative research aims to provide recommendations on steps that need to be taken to resolve the conflict, whether through legislative changes, policy revisions, or new interpretive approaches. The location of the author's research was carried out at the Medan Heritage Office, which is located at Jl. Listrik No.10, Petisah Tengah, Kec. Medan Petisah, Medan City, North Sumatra. The reason the author conducted this research at the Medan Heritage Office was that the author wanted to know more about the Role of the Heritage Office Against the Act of Embezzlement of Assets by Guardians of Minors.

3. RESULT AND DISCUSSION

3.1. *The Role of the Heritage center in Preventing and Handling Acts of Embezzlement of Assets by Guardians Against Minors*

Cases of embezzlement of assets by guardians of minors are a serious issue that requires attention, especially in the context of legal protection for children. In this case, the Heritage Management Office (BHP) plays a very important role as a state institution tasked with supervising and managing the assets of children who cannot act legally. As a supervisor, BHP has the responsibility to ensure that the management of children's assets is carried out transparently and accountably, and to prevent abuse by guardians. The crime of embezzlement is regulated in Article 372 of the Criminal Code (KUHP) which states that embezzlement involves taking someone else's property with the intention of illegally controlling the property. In the context of minors, guardians should function as protectors and managers of assets, but in some cases, they become perpetrators of embezzlement (Poputra et al., 2023). This situation reflects the gap between the legal responsibilities carried out by guardians and their actual implementation. Many guardians may not realize that their actions can result in criminal sanctions, especially if they abuse their authority. The Heritage center needs to ensure that guardians responsible for managing children's assets fully understand their obligations and the potential legal consequences of embezzlement. Education about children's rights and the legal impact of abuse should be an integral part of the prevention strategy implemented by the Heritage center. Comprehensive socialization can increase guardians' awareness of their role as protectors of children's assets and help them avoid potentially detrimental actions.

Proactive steps should also be taken to prevent embezzlement before it occurs. The Heritage center should implement a transparent and accountable reporting system, so that the management of children's assets can be monitored regularly. Conducting regular audits of the management of children's assets not only helps in detecting indications of embezzlement, but also serves as an effective preventive measure. With regular audits, the Heritage center can more easily identify potential risks and take necessary actions before greater losses occur. Research has shown that regular audits play a role in preventing possible embezzlement by guardians. When embezzlement of assets by a guardian is detected, the Heritage center must be ready to take appropriate steps. In this case, the Heritage center not only functions as a supervisor, but also needs to act as a liaison between the aggrieved child and the legal system. Reporting cases of embezzlement to the authorities is a very important step in the context of criminal law. This reporting opens up the opportunity for a legal process that can ensure that perpetrators of embezzlement are prosecuted in accordance with applicable laws. Strict

law enforcement aims not only to provide a deterrent effect for perpetrators, but also to increase public trust in the legal system. BHP's involvement in this process reflects a commitment to protecting children's rights and upholding justice.

However, it is also important to note that the legal process does not stop at enforcing sanctions for the perpetrators. Protecting the rights of children who are victims of embezzlement must be a top priority. BHP must ensure that children who suffer losses receive the necessary support, both in the form of psychological assistance and rehabilitation. Children who are victims of criminal acts often experience trauma that impacts their psychological development. Therefore, cooperation with social institutions and psychologists is very important in providing appropriate support for these children. A holistic approach in handling embezzlement cases, which not only focuses on the legal aspect but also on the welfare of the child, is very necessary. In addition, cooperation between BHP and other institutions, such as the courts, police, and social services, is crucial in facing this challenge. Collaboration across institutions can strengthen the supervision and handling of embezzlement cases, so that each case can be handled more efficiently and effectively. By sharing information and resources, these institutions can work together to create a better protection system for children.

3.2. Obstacles faced by the Heritage center in implementing its Supervisory Function for the Management of Minors' Assets

The obstacles faced by the Inheritance Office (BHP) in carrying out supervision over the management of minors' assets are quite diverse and complex, especially in relation to criminal law aspects. This affects the BHP's ability to effectively prevent embezzlement or misuse of protected children's assets. One of the biggest obstacles is the limited human resources (HR) and facilities. BHP often lacks adequate manpower to handle the many cases related to minors' assets. In conditions of limited supervision, irresponsible guardians can take advantage of this loophole to commit embezzlement. Article 372 of the Criminal Code regulates the act of embezzlement by a person who has authority over another person's assets, but the lack of HR makes many cases of embezzlement difficult to detect and follow up. Wahyudi, A., noted that the lack of HR is a major obstacle to carrying out optimal supervision. In addition, the lack of use of technology in supervision is also a significant obstacle. Technology can help make supervision more efficient and accurate, as well as facilitate asset tracking. However, some BHP offices still use manual methods that are slow and prone to errors. With better technology, cases of embezzlement of children's assets can be identified more quickly. Wahid, F. emphasized the importance of improving information technology to prevent criminal acts of embezzlement.

The lack of coordination between BHP and related institutions, such as courts and law enforcement, also slows down the prevention and prosecution of cases. When information regarding the status of child guardianship is provided late, embezzlement can occur before action is taken. Poor coordination also slows down the reporting of embezzlement cases to law enforcement, complicating investigations and prosecutions. Cultural and social factors are also significant obstacles in the implementation of the BHP's supervisory function. In some areas, there is still a culture that considers that the management of children's assets is entirely the right of guardians without any supervision. This culture can create loopholes for guardians to take actions that are detrimental to children, including embezzlement. As explained by Maharani in "Child Protection Law: Theory and Practice", this cultural challenge requires a wise approach in implementing the law in order to protect children's rights to the maximum.

3.3. Application of Criminal Law in Responding to Cases of Embezzlement of Assets by Guardians of Minors in the Context of Supervision by the Heritages and Heritage center

The process of implementing criminal law begins with a complaint from the injured party, in this case the child who is the victim of embezzlement. The Heritage Management Office has a significant

role in this situation. The Heritage Management Office is responsible for overseeing the management of the child's assets, and if embezzlement is detected, they must immediately conduct an initial investigation. Based on Law Number 5 of 1960 concerning Basic Agrarian Principles, the Heritage Management Office has the authority to ensure that the child's assets are managed properly. If evidence of embezzlement is found, the Heritage Management Office must take swift action to protect the child's rights and prevent further losses. This is very important because criminal law not only serves to punish the perpetrators, but also to protect the interests of the victim. After the complaint is received, investigators from the police will conduct an investigation to gather the evidence needed to continue the case to the investigation stage. This is where the Heritage Management Office can also function as an expert witness who provides information about the management of the child's assets and the potential losses experienced. According to Article 185 of the Criminal Procedure Code (KUHAP), witness and expert testimony can be valid evidence in the trial process. The presence of BHP as an institution that has expertise in managing children's assets is very important to support the legal process. Accurate information from BHP can help investigators understand the context of asset management and determine the right steps in handling the case.

After the investigation stage is complete, the case files will be submitted to the prosecutor for follow-up. At this stage, it is important for BHP to coordinate with the prosecutor's office in providing relevant information related to the management of children's assets. BHP's involvement in providing accurate information will strengthen the prosecutor's position in filing lawsuits against guardians involved in embezzlement. This is in line with Article 27 of Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, which regulates the duties and functions of the prosecutor's office in handling criminal cases. With the support of strong information and evidence from BHP, the legal process can run more effectively and fairly and provide optimal protection for child victims. If this case continues to court, BHP needs to be present as a party that provides additional information. In court, BHP can explain how the management of children's assets is carried out and identify any violations committed by the guardian. The statement from the BHP in the trial process is very important, because Article 185 of the Criminal Procedure Code states that the statement of witnesses and experts can be valid evidence in court. Thus, the judge's decision taken will be more accurate and in accordance with the existing facts. After the legal process is complete and if the judge decides that the guardian is guilty of embezzlement of the child's assets, the legal consequences faced are criminal sanctions as regulated in the Criminal Code. This punishment can be in the form of imprisonment, a fine, or a combination of both, depending on the severity of the violation committed. The application of this legal sanction is expected to provide a deterrent effect not only for the guardian concerned, but also for other guardians who have similar responsibilities. This is important to uphold justice and protect the rights of children who are victims of embezzlement. However, criminal law enforcement does not only focus on the aspect of punishment. It is important to pay attention to the restoration of children's rights. In this context, the BHP must play an active role in returning the assets that have been embezzled to the child. Through this mechanism, it is hoped that children who are victims of embezzlement can regain their rights and the assets that should belong to them. This is in line with the principles of child protection stated in Law Number 23 of 2002 on Child Protection, which emphasizes the best interests of the child.

Challenges in the application of criminal law related to embezzlement of assets by guardians of minors also need to be identified. One of them is the lack of public understanding regarding the role and responsibilities of the Heritage Management Office. In this case, the Heritage Management Office needs to increase socialization about the importance of supervision and protection of children's assets, so that the public can better understand and participate in this supervision. Socialization activities can be carried out through seminars, workshops, or public campaigns to explain the role and function of the Heritage Management Office in the context of child protection. Through a comprehensive approach in the application of criminal law, it is hoped that in the future cases of embezzlement of children's assets can be minimized and children's rights are optimally protected.

Good law enforcement not only provides a sense of justice for victims, but also creates a safe environment for children in society. Thus, the role of the Heritage Management Office and the application of criminal law can provide better protection for children who are victims of embezzlement by their guardians.

4. CONCLUSION

The Heritage Management Board has an important role in supervising and protecting the assets of minors. The act of embezzlement of assets by guardians is a serious problem that can have a direct impact on the welfare of children, and the Heritage Management Board functions as a supervisor to ensure that the assets are managed properly. Embezzlement of assets by guardians is included in the criminal act of embezzlement regulated in Articles 372 and 374 of the Criminal Code. This action is against the law and can cause harm to children who should be protected by guardians. In this case, the Heritage Management Board plays a role in proactive supervision through education, socialization, periodic audits, and coordination with law enforcement agencies and other related parties. However, the Heritage Management Board faces several obstacles in carrying out its functions, including a lack of human resources, lack of use of technology, minimal coordination with related institutions, and cultural challenges that still exist in some regions. The application of criminal law against embezzlement of assets by guardians must be accompanied by the active involvement of the Heritage Management Board as a supervisory institution and expert in cases of child asset management. In general, the role of the Heritage Management Board in enforcing criminal law against embezzlement of assets by guardians requires a comprehensive approach, from prevention to prosecution. In this process, the welfare of children and the protection of their rights must be a top priority. Based on that, the Heritage Management Office (BHP) needs to strengthen its human resources (HR) capacity to improve supervision of minors' assets. The addition of experts in the fields of law and finance, as well as ongoing training for employees, will help improve the ability to handle cases of embezzlement. Routine and transparent audits of children's asset management need to be carried out to prevent embezzlement. An effective audit system will allow for comprehensive monitoring and detect risks early on. Cooperation between BHP and institutions such as the courts, police, and social institutions can accelerate the handling of embezzlement cases, from investigation to legal process. In addition, the restoration of the rights of children who are victims of embezzlement must be a priority, including support for rehabilitation and the return of embezzled assets.

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