

SANCTIONS FOR EXPLOITATION OF STREET CHILDREN IN ARTICLE 76 (i) OF LAW NO. 35 OF 2014 CONCERNING CHILD PROTECTION IN THE CITY OF BANDUNG FROM THE PERSPECTIVE OF ISLAMIC CRIMINAL LAW

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ABSTRACT

Economic exploitation of street children is a serious crime in the city of Bandung. In 2022, cases of exploitation of children were still quite high, but experienced a significant decrease from 2022 to 2024. This is inseparable from the efforts of the Bandung City Social Service which runs a rehabilitation program for victims and provides education to the perpetrators. This research was conducted in three regions, namely Asia Africa, Braga, and Gede Bage. Acts of economic exploitation of children are prohibited in Article 76(i) of Law Number 35 of 2014 concerning Child Protection. Sanctions against the perpetrators are regulated in Article 88 of the same law, with a maximum threat of 10 years in prison and a fine of Rp200,000,000. This study uses a descriptive method of analysis with a normative juridical approach. The type of data used is qualitative with primary data sources in the form of observations and interviews, as well as secondary data in the form of journals, books, articles, office reports, and photo documentation. Factors that cause economic exploitation in children include family economic conditions, social environment, and weak supervision. From the perspective of Islamic Law, the perpetrator can be subject to ta'zir sanctions determined by ulil amri. The impact includes a loss of security, disruption of education, reduced playing time, and the formation of deviant characters.

Keywords: *Exploitation, Economy, Children, Sanctions, Impact*

INTRODUCTION

A child was created by Allah SWT in which his rights, dignity, and dignity are attached to him (Rochatun, 2012). The rights of children and adults are the same rights and these rights are included in human rights. Whether it is in the right to be given education, health, and even maximum protection (Pribadi et al., 2023). The Child Protection Law in articles 4 to 18 contains child protection and rights that must be obtained by children (Nur & Wulandari Azis, 2023). Children have the right to be protected from all crimes, including crimes of exploitation (Subhan, 2023).

Street children at this time are a development in a city and never thought that every child would live on the streets and be given the nickname as a street child because, it is not a fun thing (Mustika Nurwijayanti, 2012). The form of exploitation that occurs in street children can be carried out by anyone, be it parents, other people, or can be done by fellow street children (Rochatun, 2012). The city of Bandung is an area where quite a lot of children are found who are victims of parents or irresponsible people who make children victims of economic exploitation. There are several areas where there are many victims of economic exploitation, namely the Asia-Africa, Braga, and Gedebage roads, which the researchers used as updates in the research.

In 2022, the city of Bandung has a serious problem regarding the high data on People with Social Welfare Problems (MSMEs). Statistical data obtained by the Bandung City Social Service shows that the number of individuals and families classified as MSME communities has increased quite significantly and this is one of the social problems faced by the people of Bandung City. Here is the available data: (Janatun I & Rudiana, 2023).

Table 1.1
Data on the Type of MSMEs in Bandung City in 2022

NO	TYPES OF MSMEs	NUMBER (2022)
1	Abandoned Toddler	1
2	Children with Disabilities (ADK)	523
3	Street Children	13
4	Abandoned Children	85
5	Children Who Are Facing the Law	-
6	Children who need special protection	1
7	Children who are victims of violence/mistreated	1
8	Former Assisted Citizens of Correctional Institutions (BWBLP)	61
9	The Poor	85
10	Bum	55
11	Minority Groups	4
12	Socio-Psychological Problems	27
13	Victims of Natural Disasters	31
14	Victims of Social Disasters	5
15	Victims of Drug Abuse	22
16	Victims of Violence	3
17	Korban Trafficking	-
18	Abandoned Elderly	1559
19	People With HIV/AIDS (Odha)	28
20	Social Problem Migrant Workers (PMBS)	3
21	Scavenger	59
22	Beggar	63
23	People with Disabilities	4837
24	Women are Socioeconomically Vulnerable	2112
25	Tuna Susila	39
TOTAL		9617

Based on table 1.1, the number of children experiencing problems is 624 people, which are divided into various problems, namely, 1 abandoned child under five, 523 children with disabilities (Adk), 13 street children, 85 abandoned children, 1 child who needs special protection, and 1 child who is a victim of violence/mistreatment. So it can be seen that children's problems in 2022 in the city of Bandung are quite complex. Economic exploitation of street children in the city of Bandung when viewed in the results of research from 2022-2024 has experienced a significant decline where there are things done by the Social Service. In this problem, there is an impact that can be received by victims of exploitation on street children. Law Number 35 of 2014 concerning Child Protection in article 1 paragraph (2) states: *"Child protection is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with the dignity*

and dignity of humanity, as well as receive protection from violence and discrimination". ("Law Number 35 of 2014," n.d.).

As Law Number 35 of 2014 article 1 paragraph (2) states that child protection must be sought both in the community and the family based on existing laws so that it can be treated correctly and fairly for the welfare of children (Stephen, 2020). Islam explains that fellow Muslims must take care of their offspring and this should not be underestimated, lied to, and falsified. Islam has also mentioned the rights of children so that children can be careful and be more aware of things that can happen to them. In addition to children's rights, they also have obligations such as obeying Allah's commands and being devoted to both parents (Rini et al., 2016). The protection of children in Islamic law is reviewed through human rights in general described in theory *Maqashid Al-Syari'ah* or in the purpose of Islamic Sharia. Islam has the purpose of providing guarantees of rights to human beings and also rights to children. There are basic things that need to be maintained or called *Al-Dhururiyat Al-Khams* in which it preserves religion, soul, lineage, property, and intellect. Suhail Husain Al-Fatlawi stated that Islamic Sharia exists to preserve human rights (Karmawan, 2020).

Islam defines work as *hablumminallah* and *hablumminannas* and there are institutions that argue about children who work as minors, namely LBM MU (Bahtsul Masail Nahdlatul Ulama Institute) including, first, minors have the right to get a living, education, preparation for the future, and so on, the second is to employ minors is the same as taking away the rights of children which is contrary to Islamic law, namely *huquq al-insan* or protect human rights, the third must find solutions to economic problems to prevent the act of employing children, and the last is that LBM provides recommendations for the government to improve economic welfare for the people and open educational institutions specifically for children *Dhuafa* and *mustad'afin* (Sa'adah et al., 2019).

The prohibition of hiring minors is good behavior because there are things that must be considered in health, growth, mental, and moral (Pratama et al., 2021) And the family should also play a role in providing this protection (Hidayati et al., 2022). Law Number 35 of 2014 article 76I states "Everyone is prohibited from placing, allowing, doing, ordering to do, or participating in economic and/or sexual exploitation of children" ("Law Number 35 of 2014," n.d.). Islam sets punishments for the perpetrators of this act of economic exploitation, namely by providing punishment *Tazir* where an act of immorality that cannot be sanctioned *territory* Given *jarimah tazir* because, the *Fuqaha* agreeing that this is a matter that abandons obligations and does things that are prohibited and the punishment is returned to the *Ulil Amri* (Arif Faizal & Mubarak, 2004).

METHODS

The research method used in this study is a descriptive method of analysis. This method focuses on presenting a description or description of a phenomenon in a clear and detailed manner (Jauhari, 2010). This study uses a normative juridical approach. This approach is a method that focuses on the analysis of applicable laws and regulations and is relevant to the topic being discussed (Sunggono, 2003). In this study, the researcher uses a normative juridical approach based on Law Number 35 of 2014 concerning Child Protection.

The type of data used in this study is qualitative research. Qualitative research is an approach that emphasizes an in-depth understanding of social phenomena through the collection and analysis of descriptive data. The data source in this study has an important role in this research process. Since,

the data source researcher can be precise in terms of selecting and identifying the type of data source for the accuracy of the information obtained. In the search for the correct data source, there must be an accurate data source and in this study the data source obtained is obtained from social symptoms and actions. In this study, interviews were conducted with related parties, both interviews conducted with the direct object (street children) located near Jalan Asia Afrika and Braga, with the Bandung City social service which is in charge of dealing with street children in the city of Bandung. Meanwhile, the secondary data sources of the research used are in the form of articles, journals, books, photo documents, and office reports related to the research being researched, namely about the exploitation of roads in the city of Bandung which is done to meet the economic needs of the family.

This research uses a literature data collection technique, otherwise known as library research. This technique involves gathering information from a variety of written sources, such as books, articles, journals, research reports, and other official documents relevant to the topic being researched. The analysis used in this study adopts a qualitative analysis method, which focuses on the interpretation or interpretation of legal materials that have been processed. This research was carried out in the library of the Islamic University of Negeri Sunan Gunung Djati Bandung, the Library of the Islamic Criminal Law Study Program of the Islamic University of Negeri Sunan Gunung Djati Bandung, and the Social Service of Bandung City.

RESULT AND DISCUSSION

Background of the Exploitation of Street Children in the City of Bandung

The results of research that has been carried out in several locations in the city of Bandung, especially Asia Africa street, Braga street, and Gedebage (Gedebage red light), researchers found children who were doing activities that they should not be doing such as, begging, busking, taking used goods, selling tissues, selling ginger candy, becoming clowns, and so on. They do this by not knowing the time, whether it is done at the hours that should be used for school, play, and rest.

Regarding children who do more activities on the streets, be it to play, beg, sell tissues, ginger candy, and so on, they should not do that. Because, there are many factors that they can get if they do this, whether it is traffic danger, acts of exploitation committed by adults, or even violence committed by adults (Rahmat Diana, 2025). There are factors that can cause exploitation of street children, be it economic factors, friends, and coercion. However, economic factors are the main factor in the exploitation of children which causes children to take part in helping the family economy. Because, in fact, not a few parents even use their children to make a living. Children who are on the streets admit that they are forced to do this because of the poor family situation (Nindi Putri Alifa, 2025).

Based on the confession of the street children, parents were the main perpetrators who told them to do this for the reason of school fees and their daily pocket money. However, apart from being sent by parents, there are also children who are invited directly by their friends. The researcher used 4 street children located on the Asia-Africa, Braga, and Gedebage roads as informants to strengthen the data in this study. The following is the personal data of the research object:

Table 4.1

Personal Data of Street Children

Yes	Name	Gender	Age	Education	Work	Address
1.	Phoebe	Woman	5 years	No School	Busking	Rejuvenation
2.	Daffa	Man	9 years	SD	Selling	Afternoon
3.	Azzam	Man	5 years	SD	Selling	Afternoon
4.	Stuttgart	Woman	7 years	No School	Bussing and Clowns	Slingshot

Source: Research Results Around Asia Africa, Braga, and Gedebage, 2025

The first informant Febi, at the location of the first research, namely on the Asia Africa road, precisely in the mosque area of the Bandung City square, there was a child who was a victim of economic exploitation carried out by his parents. The child is still 5 (five) years old and not in school. The child carried out busking activities on the streets and was carried out not in one place but from the Ujungberung area to Asia Africa. The child carried out the activity forcibly on the basis of his parents' orders under the pretext of financing his school and helping the family's finances. The income that the child gets can usually reach 100,000-300,000 per day, however, sometimes they do not get it (Feb, 2025).

The second informant Azam, at the next location, namely Braga street, especially in the Braga area shopping center, there was a child who was exploited by his parents. The child is still 5 (five) years old and has attended kindergarten (kindergarten) in the Soreang area. The child carried out activities selling tissues bought by his parents and resold by him. Ironically, these activities were carried out during the hours that he should have used to go to school and the selling activity was carried out under the supervision of his parents (mother) at the location where he sold. The income he can get from selling usually reaches Rp.50,000 – 200,000 per day when everything is used up (Azam, 2025).

The third informant, Daffa, is still at the same location, namely Braga street, especially in the Braga area shopping center, there are children who are exploited by their parents. The child is 9 (nine) years old and is still in the 2nd grade of elementary school (elementary school). The activities carried out by the child were selling, to be precise, selling ginger candy and selling tissues. He did this selling activity at the insistence of his parents (father) on the pretext of helping pay for his school fees and helping to buy medicine for his sick mother. The child admitted that this activity was quite an obstacle to his school activities because, sometimes he did this during the hours he was supposed to do for school. The income earned per day is Rp. 100,000 – 300,000 if the trade runs out (Daffa, 2025).

The fourth informant, Wulan, at the next location, namely at the Gedebage red light, there was a child who was a victim of exploitation by his family. The child is 7 (seven) years old and has not gone to school due to cost constraints. The activities he does are busking and sometimes being a clown. He carried out the activity accompanied by his brother and sister who were both children. The income he earns is deposited with his family at home. Usually he does these activities in the afternoon until night. He did this by force at the behest of his family to help the unstable economy (Moon, 2025).

The government has three authorities related to economic exploitation of children, namely, the central authority, the province, and the city district. In the act of economic exploitation of children, especially street children, the Bandung City Social Service provides special handling. The Social Service carries out activities *mentoring* carried out by the USR (Social Response Union) team which was carried out on the streets. In this activity, street children who have been affected by outreach will be taken by the PPKS (Social Welfare Service Manager) team to the Social Service and rehabilitation for seven days for the child (Rahmat Diana, 2025).

Law Number 35 of 2014 states that abandoned street children must receive a rehabilitation process as stated in article 55 which states: ("Law Number 35 of 2014," n.d.) (1). The Government and Regional Governments are obliged to carry out the maintenance, care, and social rehabilitation of abandoned children, both within the institution and outside the institution. (2). The implementation of maintenance as intended in paragraph (1) can be carried out by community institutions. (3). To carry out the maintenance and care of abandoned children, government agencies and community institutions as intended in paragraph (2) may cooperate with various related parties. (4). In the case of the implementation of maintenance and maintenance as intended in paragraph (3), the supervision shall be carried out by the ministry that organizes government affairs in the social sector.

During the rehabilitation period, children are ensured to receive comprehensive guidance in terms of physical, social, and spiritual guidance to support the recovery process and development of children. In addition, during the rehabilitation period, clothing and food needs will be adequately met, so that children can carry out the rehabilitation process safely, comfortably, and meet their needs (Rahmat Diana, 2025).

When the rehabilitation process is complete, the Social Service will return the child to his family. However, the Social Service cannot stand alone, they still need assistance in the process of returning children by coordinating in advance with regional officials, including local Villages, Community Social Workers (PSM), and Cooperation Agreements (PKSK) in the local area. This is done to prove in advance whether the child is a local resident. If it is proven that the child is a resident of the local area, further action will be taken, namely *Tracing* and do *home visit* to meet his family. However, if the family hands over the child to the Social Service after it is done *home visit* then the Social Service will refer the child to a social home or *pesantren* with the prior approval of the family. If the child has been found to be out of the way, the social extension worker gives an appeal to the master so that the child is not on the street because it is dangerous (Nindi Putri Alifa, 2025).

The Social Service appealed to the public not to give money to street children. Because, this can make children continue to want to be on the streets for the reason of getting a source of income that can be obtained easily. The Social Service advises the public to give money to directly related institutions. Street children in the city of Bandung every year experience a significant decrease. This can be seen through data provided directly by the Social Service. The Social Service provides accurate data on street children that have been handled directly in 2022-2024. The following data on street children that have been handled by the Social Service can be seen in table 4.2

Table 4.2

Data on Street Children That Have Been Handled by the Bandung City Social Service

No.	Number of Street Children	Year
1.	104 people	2022
2.	60 people	2023
3.	25 people	2024

Source: Bandung City Social Service

Regarding the data that has been mentioned above, it shows that street children in the city of Bandung have experienced a significant decrease every year. This reflects the effectiveness of the handling carried out by the Bandung City Social Service in overcoming the problem of street children. One of the handlings provided is to hold a Reaction Unit (USR) team to go directly to the streets, precisely in locations where many street children are found. The presence of the USR team makes children feel afraid and reluctant to stay on the streets. Thus, this active and targeted approach plays a major role in reducing the risk of children being exposed to economic exploitation while helping to provide protection and opportunities for them to have a more decent and secure life.

Elements of Criminal Acts and Sanctions of the Crime of Exploitation of Street Children in Law Number 35 of 2014 and Islamic Criminal Law

The crime of exploitation is an act that should not be carried out and in Law Number 35 of 2014 concerning Child Protection there is a prohibition regarding acts of exploitation as in article 76i which reads: *"Everyone is prohibited from placing, allowing, doing, ordering to do, or participating in economic and/or sexual exploitation of children."* The elements contained in article 76i of Law Number 35 of 2014 concerning Child Protection include

1. Everyone

The element of "everyone" is not only motivated by humans who can be punished if they commit a criminal act. In this case, something that is included in the subject of the law can be imposed if it has committed a criminal act. As article 76 (i) of Law Number 35 of 2014 concerning Child Protection, the element of "everyone" here applies to all legal subjects who commit the crime of exploitation of children, especially in economic exploitation of street children, whether they are human beings or related institutions.

2. Placing, allowing, doing, ordering to do, or participating in economic and/or sexual exploitation of children

In this element, the perpetrator does not have to fulfill the action as a whole because, in this element, it is an alternative in nature where if the perpetrator has fulfilled one of the whole, this element is considered fulfilled, whether it is placing, allowing or even doing. In the case of economic exploitation of street children, it is stated that a person who has placed, allowed, done, ordered to do, and even participated in committing these actions can be subject to criminal penalties in accordance with the punishment that has been regulated in Law Number 35 of 2014 concerning Child Protection. In article 88 of Law Number 35 of 2014 concerning Child Protection it is stated that: *"Every person who violates the provisions as referred to in article 76i, is punished with a maximum prison sentence of 10 (ten) years and/or a maximum fine of Rp.200,000,000.00 (two hundred million rupiah)".* The

sanction for the crime of economic exploitation, especially for street children, is not explained directly in the Qur'an and Hadith. There is a rule that states that:

كُلُّ مَعْصِيَةٍ لَا حَدَّ فِيهَا وَلَا كَفَّارَةَ فَهُوَ التَّعْزِيرُ

"Every act of immorality that is not sanctioned by limit or kaffarat is jarimah ta'zir". (Arif Faizal & Mubarak, 2004) .

Therefore, the crime of economic exploitation, especially for street children, is included in the punishment of *ta'zir* because these acts are not included in the actions that can be punished with *limit* or *kaffarat*. *Ta'zir* is a punishment given if the criminal act is not included in the categories of *hudud*, *qishash*, and *diyat*.

The crime of economic exploitation, especially against street children, is a criminal act that has never occurred before. This action is a criminal act that threatens the rights and safety of children. Economic exploitation is an act whose punishment is not explained in detail in the Qur'an and Hadith but it can cause benefits both to oneself and others. As in the above rule which explains that *the punishment of ta'zir* is given if there is a demand for benefits, it can be given to acts of economic exploitation of street children.

Based on the results of the research, the researcher concluded that the provision of rehabilitation measures to children is quite petrified in the growth and development of children to be better. However, it is not enough to just give an appeal to the perpetrator because it has been explained in Law Number 35 of 2014 that Placing, allowing, doing, ordering to do, or participating in economic and/or sexual exploitation of children must be sanctioned if they do so, which is in accordance with Article 88 of Law Number 35 of 2014 so that the perpetrator receives a deterrent effect.

Impact or consequences of the crime of exploitation on street children

Based on the research that has been conducted, researchers have found out what impact children receive as victims of economic exploitation, especially on street children.

1. Loss of Sense of Security. Children who spend a lot of time on the streets can put them at great risk of a threat that threatens the child's basic rights. Children have four basic rights, including the right to life, the right to grow and develop, the right to protection, and the right to participate.
2. The Obstruction of the Education Process. According to the children who have been interviewed, they are on average children who are still in elementary school (SD). Meanwhile, they often do activities during the hours they should use to go to school. They revealed that they are no longer focused on getting education because they have to find money to deposit with their parents at home so that they can eat and get pocket money.
3. Loss of playtime. Time for them to play is also taken away because they have another responsibility, namely work. Indeed, they can play on the streets while carrying out their activities such as trading, begging, busking, and so on. However, this can endanger themselves, namely traffic hazards.
4. The character growth they produce will also be different from children who do not spend much time on the streets. Street children can build worse character on the grounds that on the streets

they do not have strict rules, unlike if they are in a good and safe environment (home). Street children feel free to do something because there is no monitoring from their parents or family.

Children are used as the main source of livelihood which causes children's rights and growth and development to be disrupted. This should not happen because the obligation to earn a living is still the responsibility of the parents and it is not included in the obligations of a child.

CONCLUSION

Based on research on the sanctions for the exploitation of street children in the city of Bandung which states that the background of the exploitation of street children in the city of Bandung, especially those that occur in the road areas of Asia Africa, Braga, and Gedeage occurs due to several factors, both those arising from the invitation of friends, coercion, and economic factors. However, in this study which was sourced directly from the main object (street children) they mentioned that the factors that occurred were due to economic factors that were told directly by their parents. The occurrence of economic exploitation is because they have to help their families to help meet the needs of their families and themselves, whether it is for pocket money or for education costs. This action is an action that has taken away their rights and obligations as children. The Bandung City Social Service has carried out strict supervision so that the data of street children in the city of Bandung every year decreases, one of which is by providing special protection, namely the provision of rehabilitation places for children.

Law Number 35 of 2014 concerning Child Protection has stated that in article 88 it has been stated that the punishment given to perpetrators of economic or sexual exploitation of children will be subject to a maximum prison sentence of 10 (ten) years and a maximum fine of Rp. 200,000,000 (two hundred million). Meanwhile, Islam has stated that an act that causes *madharatan* must be eliminated. So, something that causes *harm* to oneself or others can be punished. The crime of economic exploitation of street children is an act that causes *indignity* because it has taken away the rights and obligations of children. In addition, these actions can endanger children because they roam the streets. Economic exploitation is not explained in detail in the Qur'an and Hadith, so it can be punished *with ta'zir*. There are many consequences that children can receive if the crime of economic exploitation is not handled seriously because children can feel that they lose their sense of security and cannot feel that their rights and obligations as a child are fulfilled. In addition, there are also many things that they have to sacrifice just to help stabilize family finances which is clearly not the obligation of a child.

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