

**JURIDICAL ANALYSIS OF THE POSITION OF ADOPTED CHILDREN AND
PROCEDURES FOR ADOPTING CHILDREN BY SINGLE PARENTS IN
INDONESIA****Pristina Al Jawi Putri**Legal Studies Program, Faculty of Law, Universitas Muhammadiyah Surakarta
C100200025@student.ums.ac.id**Taufiq Nugroho**Legal Studies Program, Faculty of Law, Universitas Muhammadiyah Surakarta
tn272@ums.ac.id**ABSTRACT**

Adopted children and the process of adopting children by single parents are examined from a legal perspective in this article. The research methodology takes a normative legal stance by reviewing relevant laws and court decisions. With an emphasis on the differences and recent changes in the applicable legal requirements, this article provides a thorough understanding of the situation of adopted children and single-parent adoption procedures. The legal consequences, processes, and rights of adopted children, including adopted children adopted by single parents, are discussed in this paper. In response to the issue statement, key points are raised. The findings of this study highlight the adequate protection of children adopted by single parents and the reform of the child adoption system.

Keywords: *Adopted child; Child adoption; Single parent.*

INTRODUCTION

When a child's biological family is unable to meet their needs, they may seek protection through adoption. This is outlined in the Child Protection Law (35 of 2014). But in reality, there are a number of issues surrounding the status of adopted children and the process of adopting a child, especially if the parents are single.

The challenges faced by single parents during child transmission, particularly in fulfilling administrative obligations, are highlighted by research conducted by Kurniawan and Sari (2020) (1) In addition, there are also cases where the rights and responsibilities of adopted children whose biological parents are absent have been violated by the law. (2)

Therefore, from a legal perspective, a comprehensive study of the status of adopted children and the process of single parents in adopting children is required. The aim is to ensure that the rights of adopted children and single parents are protected by law.

Indonesian culture has a long history of adoption. However, control over the adoption process is still lacking, especially in terms of law enforcement and regulating the process for

single parents who wish to start a family. The current regulations still prioritize child placement by married couples, without providing special provisions regarding child placement by single parents.

In reality, there are several logistical and administrative obstacles that must be overcome by single parents who wish to adopt a child. The legal status of the adopted child in a single-parent household, particularly with regard to inheritance rights and maintenance obligations, exacerbates these issues. The adopted child and his or her biological parents may face future legal complications as a result of these issues.

Therefore, the situation of adopted children in single-parent homes and the process of giving up their children for adoption by single parents requires a thorough legal investigation. Adopted children and children transported by single parents need to have this study done so that their rights can be protected and the law can be clear. In this way, it is hoped that neither party will have to face potentially costly legal issues down the road.

RESEARCH METHOD

By taking a normative juridical approach, this research investigates several laws and case law governing the status of adopted children and the processes that can be undertaken by single parents. The purpose of using this method is to better understand the issues at hand and the legal principles underlying them (3). Literature research on primary, secondary and tertiary legal documents became the secondary data used in this research. Primary legal sources used as references include the articles of association and regulations as follows: Law 35 of 2014, No. 23 of 2002, Government Regulation 54 of 2007, and others relating to the implementation of child adoption. However, secondary legal resources are drawn from books, journals, research findings, and other relevant literature on the subject. Through the use of a content analysis approach, qualitative data analysis was conducted to evaluate and draw conclusions from the data collected.

RESULT AND DISCUSSION

Concept of Child Adoption

In a broad sense, child adoption is a process in which a child is taken from the home of his or her biological parents and placed in the home of his or her adoptive parents. This has the legal effect of making the child the legal child of the adoptive parents(4). Simply put, child

adoption is a legally binding process that involves taking a child from another person and bringing them into one's own family. This creates a legally binding bond between the adoptive parents and the child, both emotionally and physically (5).

In Law No. 35/2014 on Child Protection, child adoption is defined as “a legal action to transfer a child from the sphere of authority of parents, guardians, or other people responsible for the care, education, and raising of the child into the family environment of the adoptive parents based on a court decision or stipulation” (Article 1 point 9). This definition emphasizes the existence of a legal process in the form of a court decision or stipulation in the implementation of child adoption.

Child adoption is a long-standing tradition in the history of human civilization. This practice has existed since ancient times in various cultures and civilizations, such as Mesopotamia, Greece, Rome, China, and others(6). In those days, child adoption was generally conducted with the aim of continuing the lineage and obtaining heirs, especially for families with no biological children.

In Indonesia itself, the practice of child adoption has existed since the Hindu-Buddhist era. This is reflected in ancient books such as Manawa Dharma Sastra and Adiparwa which regulate the procedures and legal consequences of child adoption (7). To get a successor or crown prince, it was customary for the nobles and kings of the archipelago to adopt children. After Indonesia's independence, the practice of child adoption continued and was recognized in national law. The first regulation on child adoption was outlined in Staatblad 1917 Number 129 which regulated the adoption of children by Chinese people. Then, in 1958, Staatsblad 1917 Number 129 was enacted regarding child adoption for groups other than Chinese (8,9). These regulations continued to be refined until the birth of Law No. 23/2002 on Child Protection and Government Regulation No. 54/2007 on the Implementation of Child Adoption(10).

The following is a description of the legal basis for child adoption and its reference sources:

Several laws and regulations govern child adoption in Indonesia, such as:

1. Child Adoption Amendment to Law No. 23/2002 on Child Protection (Law No. 35/2014)
Child adoption is regulated in Article 39 paragraph (1) of this Law. This law stipulates that adoption can only be completed if it is in the best interests of the child and must be approved by the court.

2. Child Adoption: Government Regulation No. 54 Year 2007. The adoption process, eligibility requirements, and legal consequences are all regulated in more depth in this government law.
3. The refinement of Circular Letter No. 2 of 1979 on Child Adoption is contained in Supreme Court Circular Letter No. 6 of 1983. In this circular letter judges will find guidelines for reviewing and determining the process of child adoption (11).
4. Issue 129 of Staatsblad of 1917, which deals with the adoption of children by Chinese nationals. Child adoption by the Chinese community in Indonesia is governed by this regulation.
5. Civil Code Article 280 of the Civil Code regulates the legal relationship between adoptive parents and adopted children; however, the practice of child adoption is not expressly regulated in it (12).

Child adoption in Indonesia is based on this legal framework, which ensures compliance with relevant regulations and processes and provides peace of mind for everyone involved.

The Position of Adopted Children in Law

Rights and Obligations of Adopted Children

Laws and regulations regulate the rights and responsibilities of adopted children. An adopted child's blood ties to his or her biological parents remain intact despite the binding of the child, as stated in Article 39 paragraph (2) of Law No. 35/2014 on Child Protection. Adopted children have a legal bond with their biological family and are obliged to fulfill their wishes. The child's rights to maintenance, education, and living expenses from their adoptive parents are the same as those of biological children, in accordance with Government Regulation No. 54/2007 on the Implementation of Child Adoption. Respect and obedience to the adoptive parents are also the responsibility of the adopted child. The child's parents or other blood relations can be appointed as marriage guardians if the minor marries.

Legal Protection for Adopted Children

As stated in Article 39 paragraph (1) of Law No. 35/2014, adopted children are protected by law, one manifestation of which is the requirement that any transportation of children must follow legal procedures, such as a court decision or order. That way, accidents and exploitation of children will not occur. In addition, the Child Protection Law also guarantees the rights of adopted children regarding identity, citizenship, name, civil status, and other related matters.

Relation between the Status of Adopted Children and Adopted Parents

The bond between an adopted child and his or her adoptive parents is realized through the legal process of child adoption. The adoptive parents of a child and the child are not considered blood relatives under Article 39 paragraph (3) of Law No. 35/2014. Conversely, when it comes to legal matters, adopted children have the same position as their biological parents' descendants. Just like their biological children, adoptive parents have the responsibility to provide for, educate and support their adopted children. The responsibility to respect and follow the example of the adoptive parents lies with the adopted child.

Procedure for Single Parent Child Adoption

Child Adoption Requirements and Procedures

Government Regulation 54/2007 on the Implementation of Child Adoption regulates the rules and procedures for single parents to adopt a child. Based on this regulation, prospective adoptive parents must be at least 30 years old and a maximum of 55 years old, have a steady income from work, not be a citizen of another country, and have written permission from the local government. The first step is to request the court to summon the child; the second step is for the appropriate social worker to conduct an investigation and gather the necessary information; and finally, the court will either grant the request or summon the child.

Role of Relevant Agencies in the Appointment Process

In the process of adopting a child, there are several agencies that are involved and have important roles, including:

1. **Social Service:** Plays a role in conducting investigations and research into prospective adoptive parents and prospective adopted children.
2. **Court:** Has a role in examining and deciding on the application for child adoption.
3. **Ministry of Social Affairs:** Plays a role in licensing and supervising childcare institutions.
4. **Child Adoption Implementing Agency:** Play a role in the process of adopting children and ensuring the fulfillment of children's rights.

Obstacles and Solutions in Single Parent Child Adoption

In fact, there are a number of challenges that single parents often face when trying to have children. Kurniawan and Sari (2020) found that very high costs and complicated administrative procedures were the biggest problems. In addition, there are challenges stemming from societal attitudes that still view children of single parents as an anomaly. Convenience for single parents in terms of costs and assistance during child transportation, as

well as fulfillment of administrative and regulatory processes, are needed to overcome these challenges. In addition, community outreach and education is essential for single parents to be accepted and understood in having children.

Review of Related Legislation

Child adoption regulations in Indonesia still do not adequately address the needs of single parents. Most policies regulate child employment from the perspective of both husband and wife. There is no provision in Law No. 35/2014 on the Amendment to Law No. 23/2002 on Child Protection that restricts the recruitment of children by single parents. Article 39 paragraph (1) only stipulates that the court carries out child surrender in the best interests of the child.

Government Regulation No. 54/2007 on the Implementation of Child Adoption does not regulate single parents. Article 13 requires “every person who adopts a child” to adopt a child, both single parents and married couples. Without this agreement, single parents may face legal issues in activating their child. Administrative procedures sometimes include married couples, or clarifications regarding the legal status of adopted children and attitudes towards single parents. Therefore, the current rules and regulations must be complied with and refined to suit single parents who wish to raise children. This provides clarity and legal protection for both adopted children and single parents.

Single-parent childbirth can be compared to other countries. Some countries have unique regulations regarding single parents transporting children, among others:

1. United States: The majority of states in the United States allow child adoption by single parents, both male and female. The procedures and requirements are relatively the same as for married couples (13).
2. UK: UK law allows for the adoption of children by single parents, provided that the prospective single parent must be at least 21 years old and meet eligibility criteria set by the local authority (14).
3. Australia: Each state in Australia has its own regulations regarding single-parent child adoptions. In general, single-parent child adoptions are allowed with the same requirements and procedures as married couple child adoptions (15).

By studying the practices of other countries, Indonesia can take lessons and best practices in regulating the adoption of children by single parents, so as to provide legal certainty and adequate protection for all parties involved.

Legal Cases related to Child Adoption by Single Parents

Some legal cases related to the adoption of children by single parents in Indonesia include:

1. Supreme Court Decision Number 51 K/AG/2007: This case concerned a single mother who applied for child adoption. The Supreme Court ruled that child adoption by a single parent can be done under certain conditions.
2. Central Jakarta District Court Decision Number 379/Pdt.P/2011/PN.Jkt.Pst: This case involved a single father who applied for child adoption. The court granted the application with consideration of the best interests of the child.
3. Semarang District Court Decision Number 360/Pdt.P/2017/PN.Smg: This case relates to a child adoption application by a single mother that was rejected by the Semarang District Court on the grounds that it did not meet the administrative requirements.

These cases show that the practice of child adoption by single parents has occurred in Indonesia, although there is still legal uncertainty and inconsistencies in court decisions. This reinforces the urgency to review and improve laws and regulations related to child adoption by single parents.

CLOSING

Although the current laws and regulations lack clear controls, this research shows that single-parent child-rearing has become commonplace in Indonesia. As most regulations are written with married couples in mind, this situation gives rise to laws that protect single parents. The process of reuniting a child with a single parent may be complicated due to administrative constraints, financial considerations and public sentiment. Some countries' regulations regarding sending children to school without parents are more detailed and stringent than others. The need for regulatory adjustments is also evident from the inconsistent court rulings in Indonesia regarding the adoption of children by single parents. Therefore, to provide legal clarity, protection and rights for adopted children and single parents, it is important to analyze and strengthen laws and regulations. To avoid legal disputes in the future, this is important.

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