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THE POSITION OF ADOPTED CHILDREN IS BASED ON INHERITANCE LAW IN INDONESIA

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ABSTRACT

This paper discusses the position of adopted children in the inheritance law that applies in Indonesia. According to the inheritance law in Indonesia, does the adopted child get inheritance rights according to the inheritance law in force? This is the main issue that will be discussed. This paper uses secondary data supported by primary data, with a conceptual writing method will be described descriptively. The study results stated that based on Islamic law, adopted children do not carry legal consequences regarding blood ties, guardianship, and inheritance relationships with adoptive parents; children continue to inherit from biological parents. Inheritance based on customary law determines the inheritance of adopted children depending on the lineage of customary law in force in the area, namely Patrilineal, Matrilineal, and Bilateral. Based on the provisions of the Western Civil inheritance law as regulated in Staatblaad 1917 Number 129, the legal consequence of adopting a child is that the child legally obtains the name of the adoptive father, becomes a child born from the marriage of the adoptive parents and becomes the heir of the adoptive parents, meaning that the result With the appointment, all civil relations, which stem from descent due to birth, are between the biological parents and the child. Therefore, a child legally adopted through a court decision has the same position as a biological child. The person concerned has the right to inherit the inheritance of his parents.

Keywords: Inheritance, Adopted Child, Indonesia

A. Introduction

From the beginning, the adoption of children was carried out by the community in different ways and motivations, following the rule of law and law systems living in the area. Foreign customary law requires compensation as a subsidiary for the biological parents of adopted children in the form of sacred objects or considered to have magical powers (Wignjodipuro, 1973).

Adoption of children, commonly known as adoption, is a legal institution that has been known for a long time in Indonesian community culture. There are several reasons why people adopt children; one is a trigger for continued descent, as a factor of affection, and the other. The year 2002, which has been justified by Law 35 Tahun 2014 concerning Child Protection and Government Regulation number 54 of 2007 concerning the Implementation of Child Protection, and Minister of Social Affairs Regulation Number 110 of 2009 concerning requirements for child adoption (Meliala D. S., 1982).

In general, every child has rights and responsibilities as a child in a family, but children's rights are often due to family conditions that do not allow it. Based on this, it is one of the tasks of the government to take care of poor and neglected children. This was written in the 1945 Constitution. Article 34 paragraph (1) reads, "the State guards poor and neglected children." One of the efforts to create children's welfare is regulated in Article 12 paragraph (1) and (3) of Law No. 4 of 1979 concerning Child Welfare, namely through the adoption of children. Article 12 paragraph (1) of the law stipulates that the adoption of a child for the benefit of the child's welfare which is carried out outside of customs is carried out based on statutory regulations (Tambunan, 2013).

In the case of inheritance in general, if someone dies, the heirs are the husband or wife and their children. In other instances, the husband or wife and their children can inherit together with other members, namely the mother and father. It could also happen that those who become the heirs are their siblings because there are no children and descendants.

Adoption of Indonesian children has become a community need and is part of the family legal system because it involves individual interests in the family. If an adopted child must pay attention to the child's best interests and be carried out based on local customs and applicable laws and regulations, this has been regulated in Article 39 of the Child Protection Act. Generally, child adoption is divided into two types: the adoption of children between Indonesian citizens (domestic adoption) and Indonesian citizens by foreign nationals (intercountry adoption). The revival of *Aniak hairus* is carried out with the legal process, namely through the establishment or decision of the Constitutional Court.

Research on the position of the adopted child's inheritance has been widely carried out, including (Rihi, 2006) the role of the adopted child according to the Balinese Customary Inheritance Law (Case Study Sesetan Village, South Denpasar District, Denpasar City, and Denpasar District Court). The research results show that the development of the adopted children does not have to be diaries of the self-group. This is due to the reasons for raising children other than having offspring, which is also based on the human race and the unit for the child's welfare. If a child called *anaik* is female, his status is changed to *Santana rajeg*; he becomes a male child in *hail*, receiving *Harita* inheritance from his parents. The Traditional *Seisetan* community carries out raising children with the traditional ceremony, namely the extortion ceremony and the *siair* ceremony, followed by the creation of an official statement. In this case, the role of a public official, a *noitarist*, was replaced by the head of design, making a clerk's letter as written proof of evidence for the promotion of *ainak* for the local community. The position of an adopted child in the family of his adoptive parents is that of a biological child so that he functions as an extension of the lineage and has the position of an heir, with the stipulation of adopted children from their group, all treasure inherited from their adoptive parents, including treasure heirlooms. On the other hand, the children raised and not from their group only inherited the rich *Harita Guinea* (the livelihood) of their adoptive parents, precious treasure returned to the original status. The adopted child is not entitled to inherit the inheritance from his biological parents because his family relationship has been severed.

Research conducted by (Fadillah, 2017), The practice and system of Sundanese traditional inheritance in the *Andamui* Village community, *Ciwaru* District, *Kuningan* Regency. The conclusion of this research diary is based on the results of field research. The inheritance distribution practice in *Anidamui* village uses a bilateral system by drawing lineage from both sides, both from the father and the mother. In this system, the position of sons and daughters in the law of equal and equal inheritance. This means that both sons and daughters are heirs of the heritage of their parents. However, there are differences between girls and boys, and the difference lies in the

issue of the division of inheritance houses. If it is a daughter (usually, the inheritance house is given to a bunigsu daughter if there is more than one daughter), then the inheritance house is given to the daughter as a whole.

Research conducted by (Saifullah, 2007), Comparative Analysis of Sundanese Inheritance Law with Islamic Inheritance Law. After conducting research with studies from various sources, the author draws the following conclusions:

- a. The law of inheritance of Sundanese custom and the direction of the heritage of Islam is the same in principle. The basic similarities and differences between the two legal systems lie in the understanding, the process of inheritance, sources, rules, conditions, causes, and barriers to heritage, and the principles of an estate.;
- b. In practice in society, Islamic inheritance law and Sunda traditional inheritance are still preserved and used and even continue to this day. Every Muslim should adhere to the principles of Islamic inheritance law because it is a commitment for every follower of the Islamic religion that is based on the Qur'an and al-Hadith. As for the people of Sunda, who still use the provisions according to their custom in inheritance distribution, they are welcome. Considering the principle of *paida dian*, the similarity is not much different;
- c. Regarding using the right of choice (choosing) in the distribution of inheritance, no rule requires a person to use which legal system to settle inheritance cases. In general, in Sundanese custom, the distribution of an estate is carried out peacefully and through deliberation, which results in a consensus between the heirs after all the responsibilities of the deceased person are completed, such as paying off the debts, the cost of burial, carrying out the will and so on.

Research conducted by (Esanra, 2008), Position of Adopted Children in Indigenous Peoples Lampung Pepadun Siwo Migo Buai Subing Study in Terbanggi Besar District, Central Lampung Regency, Lampung Province. The problem in writing this thesis is, what is the process of adopting an adopted child according to the tradition of Lampung Peipadun Abiung Siwo Migo Buai Subing and what is the position of the adopted child according to the custom of Lampung Peipadun Abiung Siwo Migo Buai Subing in the Terbianggi Biesar District, Lampung Tengah. This study aims to describe the process of adopting adopted children in the Lampung Pepiadun Abung Siwo Miigio Buai Subing orthodox community and find out how adopted children's position in the indigenous people Lampung Peipadun Abung Siwo Migo Buai Subbing is placed. The results obtained from this study are expected to provide a comprehensive and systematic picture of the dynamic status of the population in the indigenous peoples of Lampung Pepaidun Abiung Abusing Siwio Miigo Buiai Subbing in Terbainggi Besar District, Central Lampung. Furthermore, suppose the adopted child is appointed to be upright. In that case, the adopted child should continue or act as a successor to the descendants of his adoptive parents and has the right to have the right to inherit all the wealth of his adoptive parents. The legal consequences resulting from the adoption of an adopted child are the creation of kinship and the emergence of family and legal relations, as well as the shifting of legal concerns in terms of the rights and obligations of the parents to adoptive parents and the child will be cut off from the biological or legal relationship with the original family he still has a relationship with his birth parents and siblings.

Research conducted by (Nugrahaeni, 2017), Grant of all assets to adopted children: a case study of the Djaelani family in Dusun Dakawu, Lebak Village, Grabag District, Magelang Regency. The authors found that the research results based on the provisions of the Compilation of Islamic Law Article 210 regarding the age limit and the approval of the inheritance experts were appropriate. Still, if we look at the provision for granting one-third of the assets, the practice of *hibiah* is not

applicable. Meanwhile, based on a review of Islamic law, the method of this grant is not following the provisions of fiqh because the limitation of hibah cannot exceed one-third of the property to protect the rights of the heirs to obtain the inheritance. Even Muhammad Ibnu Hasan believes that people who donate all their wealth are stupid people whose actions must be limited.

In Indonesia, there are 3 (three) applicable inheritance law systems, namely the inheritance of Islamic law, Western Civil and Customary Law, and this paper discusses the position of adopted children in terms of inheritance law that applies in Indonesia, namely according to Islam, Western Civil Code and Customs..

B. Discussions

1. Understanding Adopted Children

According to the Big Indonesian Dictionary or KBBI, the meaning of an adopted child is another person's child who is taken and considered his child. According to (Wignjodipoero, 1984), adopting a child takes other people's children into their own family, which can lead to a similar relationship, such as the relationship between parents and children.

Law Number 23 of 2002 concerning Child Protection does not formulate an understanding of adoption. However, only to develop the meaning of autism, namely Article 1 point 9 states that: "An adopted child is a child whose rights are transferred from the family environment of parents, legal guardians or other people who are responsible for the care, education, and raising of children, to the environment. adoptive parents' families based on decisions or court decisions" (Kamil & Fauzan, 2010); while the definition of child adoption is formulated in Government Regulation Number 54 of 2007 concerning Implementation of Child Adoption in Article 1 point 2, it is stated as: "Adoption of children is a legal action that diverts children from the authority of their parents, legal guardians, or other people who are responsible for the care, education, and rearing of children, to the family environment of the adoptive parents." (Pandika, 2012).

2. The Inheritance System of Adopted Children in Indonesia

Adoption is carried out because a married man does not have any legitimate male offspring according to the male line, either because of blood ties or because of adoption. The adoption of children is carried out because, in a marriage, I do not get male offspring.

Law No. 23 of 2002 concerning child protection expressly states that the purpose of adoption and the motivation for adopting a child will only be carried out in the child's best interests and carried out based on local customs and the provisions of the applicable laws and regulations. This provision guarantees protection for children whose nature is very dependent on their parents.

The legal consequences of adopting a child based on court decisions are in the case of guardianship and inheritance, as follows:

a. Trustee

After the court issues the decision, the parents are appointed as the child's guardians. All rights and obligations of the birth parents are transferred to the adoptive parents, except for the adopted daughter of a Muslim; when she marries, the marriage guardian is a biological parent or blood relative. (Alam & Fauzan, 2008).

b. Inheritance

Indonesia adheres to three legal systems regarding inheritance, namely Islamic law, customary law, and national law, all of which have the same power in the eyes of the law, for the following description:

1) The inheritance of adopted children according to Islamic law

Before, the Islamic inheritance law was influenced by the social system followed by the community. People who do not know the patterns of tribal society have the habit of settling, fighting, and fighting for loot. Most of them make their living trading. This trait seems to have become a maipan culture or cultivation. For this reason, culture helps to form values, legal systems, and valuable social systems. Physical strength and become a standard measure in applying the legacy of the legal system (Khisni, 2017).

Under Islamic law, the adoption of a child does not carry legal consequences in terms of blood relations, guardianship relationships, and inheritance relationships with adoptive parents. He continues to be the heir to his biological parents, and the child continues to use the name of his biological father (Alam & Fauzan, 2008).

In the draft of the Criminal Code and the rules of Islamic law, which are usually used to explain the inheritance, it is stated that the adopted child is not included in the list of one's heirs. Based on Article 171 letter C of the Compilation of Islamic Law I (KHI), heirs are described as people who at the time of death have blood ties or marital relations with the deceased, are Muslim, and are not prevented by law from becoming heirs. The second article above emphasizes that heirs are those who have blood/incest relations with the heirs. This legal basis confirms that an adopted child cannot be said to be an heir.

If seen in the Compilation Huikum Islam Article 171 letter (h) I, it states that "adopted children are children who are in care for their daily life, education costs, and so on. original parents to their adoptive parents based on a court decision" (Mustofa, 2008).

Islam allows the adoption of children, but within certain limits as long as it does not carry legal consequences in blood relations, relationships with inheritance, and inheritance, where adopted children are biologically inheritors of their parents and children continue to use their name, biological father. The compilation of Islamic Law confirms that the adopted child does not have an inherited relationship with the adoptive parents. Still, as an acknowledgment of a good adoption from the child's institution, the relationship between the adopted child and the adoptive parents is confirmed by intermediaries from a warrant or mandatory.

Contents letter is one way to transfer assets from one person to another. This agreement system has been running since ancient times. There is only one religion that governs it, but every society understands the will, where the will system has no care in its implementation; all have their provisions for how good the choice is.

The compilation of Islamic law becomes a reference by the religious court. If the adopted child does not receive an order from his adoptive parents or his third child does not leave a letter of charge during his life, then the adopted child has the right to an obligatory will on the condition that it is not more than 1/3 (one-third) of total assets This has been explained in Article 209 paragraphs (1) and (2) of the Compilation of Islamic Law which states, if the adopted child or adoptive parent does not receive a will, the adopted child or adoptive parent is entitled to the mandatory choice of 1/3 (one third) of the inheritance.

Parents who are automatically adopted are deemed to have left a maximum of 1/3 (one third) of their remaining assets to their adopted children, or adopted children otherwise to adoptive parents, where the assets are in a distribution system before the distribution of the inheritance to his heirs, the mandate must be fulfilled first. So there must be a link between the adopted children and the adoptive parents to get a part of the inheritance.

2) Inheritance of Adopted Children According to Customary Law

Indonesian people follow various religions and beliefs with multiple forms of kinship with different hereditary systems. The adoption of children in customary law is not a strange institution. This institution is widely known almost all over Indonesia and is carried out in various ways and motives. For example, in Java, *ainiak angkat* are their nephews or nephews (Soimin, 2004).

This hereditary system has been in effect for a long time before the entry of Islam, Hinduism, and Christianity. Theoretically, the descending system can be divided into three types, namely as follows (Hadikusuma, 2015):

- a) The patrilineal system, which is a system of descent, I drew according to the father's line, where the position of men is higher than the position of women in inheritance.
- b) The matrilineal system, which is a system of descent that is drawn according to the mother's line, where the position of women is higher than the position of men in terms of inheritance.
- c) System Parent or Bilateral, which is a system of descent drawn according to the line parents, or according to the line of the mother and father, where the position of male and female is not differentiated in inheritance.

In customary law, the inheritance decision for adopted children is up to established law. For a family whose parents are Javanese, adopting a child does not break the blood relationship between the child and their biological mother. Therefore, apart from the right of inheritance from his adoptive parents, the adopted child also remains until he inherits from his birth parents. Unlike in Bali, which adheres to a patrilineal system, adopting a child becomes a legal obligation that the child releases from their original family into their adoptive family. Child *i* is the biological child who is his adoptive person and is the successor of his adoptive father (Budiarto, 1991).

Whereas the Matrilineal kinship system in Minang Kabau is not known for adopting children in its customary law, it only invites children to care for and care for them as their children. However, the child in question usually still has a family relationship with the person who picked him up. The relationship between the adopted child is not disturbed by his biological parents, heirs to his biological parents, and the child is not the heir to his adoptive parents. (Djatikumoro, 2011).

3) Inheritance of adopted children in accordance with statutory regulations

In Staatblaad No. 129 1917, the legal consequence of adoption is that the child legally gets the adoptive father's name and becomes a child born from the adoptive parents' marriage and heir to the adoptive parents. Because of the appointment, all civil relations derived from heredity due to birth are broken between biological parents and children (Meliala, 1996).

According to the Staatblad of 1917, problems resulting from the adoption law are regulated in Articles 11, 12, 13, and 14. Article 11 states that the adoption of a child brings legal consequences that the person *i* is appointed, if he has another descendant name, a change in the name of the descendant of the person who nominated him instead of the name of the descendant of the person *I* who was adopted immediately became the biological child of the person who adopted him or his adopted mother, and automatically left the family relationship with the parents of Kanidiung, except (Meliala, 1996):

- a) Regarding the prohibition of marriage based on kinship;
- b) Regarding the regulation of civil law based on family ties;
- c) Regarding the calculation of court fees before a judge and taking a hostage;
- d) Those who bring witnesses) are witnesses from parties who are better than them (who bring evidence), namely:
- e) (That is about) it (we will testify) about things that are now them up to that time
- f) If the adoptive parents are married men, the adopted child is automatically considered a child

born of their marriage;

g) If the adoptive father is a married husband and the marriage has been broken up, then the adopted child must be considered as the child born to one of those who were divorced due to death;

h) If a widow adopts a child, then she is considered to be born from her marriage with a husband who has died, provided that she can be included as the heir to the inheritance of the person who has died, as long as there is no desire. As a result of severing the relationship between the adopted child's *naisab* and his biological parents and entering the adoptive parents' family, the adopted child is placed in a legal position with the biological child of his adoptive parents.

Since the enactment of Law Number 35 of 2014 in to Law Number 23 of 2002 concerning Child Protection, which also regulates child adoption based on *Lex Posteriori derogat lex priori*; the provisions of the existing law then set aside the requirements of the existing law, so for the current legal scheme, the Act on Child Protection and its implementation.

Article 39 of the Law on Child Protection is summarized as follows:

a) The promotion of children can only be carried out in the interests of children and is based on local customs and the provisions of applicable laws and regulations;

b) Adoption of a child does not break the blood relationship between the adopted child and his biological parents;

c) Prospective adoptive parents must have the same religion as the adopted child's candidate;

d) pious children of foreign nationals can only be carried out as an effort to formulate Islamic Sharia;

e) If the origin of the child is unknown, the religion of the child is adjusted to the faith of the majority of the local population;

f) Adoptive parents must notify the birth and biological origins of the parents by taking into account the readiness of the child concerned.

The explanation of the article above clearly states that adopting a child is not allowed to break the relationship between the adopted child and his biological parents. This is explained in Article 40 Paragraph (1) of Law Number 23 of 2002 concerning Child Protection.

Thus it can be concluded that the adoption of a child based on a court decision does not result in a blood relationship between the adoptive parents and their adopted child, and the representatives, adopted children and adoptive parents do not inherit from each other; the primary condition of inheritance is not fulfilled, Article 832 of the Criminal Code states "those who have the right to be an heir, a blood relative, both legal and out of wedlock, the husband or wife who has lived the longest, all according to the oldest rules, all according to the rules listed below.

If there are no blood relatives and the longest-lived between husband or wife, all inheritance of the deceased belongs to the state, which is obliged to pay off all debts, only inherited assets are sufficient for that." While Article 852 of the Criminal Code states that the heirs are "children." Or all of their descendants, even if they were born of other marriages, were inherited from parents, grandparents, grandmothers or all other blood relatives in a straight line, without distinction between male or female and no difference based on first birth".

Based on the explanation of the article above, it can be concluded that an heir is a person who is related by blood or blood to the heir who died; this is the legal basis that confirms that the adopted child has no inheritance rights or becomes the heir of the inheritance of his adoptive parents.

From the above provisions, it is clear that what is prohibited is adopting a biological child in all respects. Their crossing point is the provision of customary law in several regions in Indonesia, which is to exclude or decide on the position of adopting children with their biological parents. This

is the principle of the adoption agency because of the provisions that eliminate the rights of birth fathers and overhaul the provisions regarding inheritance. Islam encourages a Muslim to take care of other people's children who are not able, the poor, neglected, and others—but not allowed to break the relationship and rights with his biological parents.

According to formal Islamic law, adoption refers to the Compilation of Islamic Law (abbreviated as KHI). Article 171 h letter states: "Adopted children are children in terms of maintenance for daily life, education costs and so on shifting the responsibility of the original parents to adoptive parents based on a court decision." After the parent or examiner dies, the responsibility to the heirs.

The heirs' obligations under Article 175 of the KHI are:

- a. The heirs' liabilities are: 1) Manage and complete until the burial is complete; 2) Complete the two debts in the form of medical care and treatment, including the obligations of heirs and collection of receivables; 3) Complete agreement heirs; 4) Divide the estate among the rightful heirs
- b. The liability of the heirs of the heir to the debt or liability is limited to the amount or value of the inherited assets

Concerning inheritance, generally, when an heir dies, he leaves several heirs who then inherit the heir after deducting the maintenance costs required by the deceased heirs, debts, letters of intent, or gifts made. At the same time, still alive can be directly distributed to the heirs. It is better if the inheritance can be divided as soon as possible when everything is done for the deceased heirs.

There are several conditions in the distribution of inheritance, namely the first, the heir's death. Second, there are no barriers to destruction, slavery, murder, different religions, or because of other countries (Rahman, 1981). In the case of inheritance in general, if a person dies, the heirs are the husband or wife and their children. In other instances, the husband or wife and their children can inherit together with other members, i.e., mother and father. It could also happen that those who become the heirs are their siblings because there are no children and descendants.

If there are heirs and adopted children, the problem will also arise. Meanwhile, apart from an adopted child who inherits from his adoptive father, he still receives an inheritance from his biological father, twin inheritance rights for an adopted child are the same as a person who can receive "water from two water sources."

In the case of any inheritance, adoptive parents may not inherit from each other with their adopted daughter; based on that inheritance is based on a legal kinship relationship. Nevertheless, the right of adopted children remains a concern in Islam, where inheritance to adopted children can be done by borrowing (Article 209 KHI).

The position of an adopted child by KHI is determined as a legal child under a court decision not to sever ties with kinship or blood with his biological parents because the principle of adoption by KHI is a form of faith that is manifested in caring for other people's children as children in the form of caring for children taking care of all the necessities and necessities of life. Borrowed is that its implementation will not be affected or not depending on the middleman of those who died. This will is still carried out, whether spoken or desired or not by the person who died. So that its implementation will not require evidence that the intention is spoken, written, or expected, but its performance is based on a legal basis that justifies that the stretcher will be carried out.

In KHI, the provision for borrowing is stated in Article 209, paragraphs 1 and 2, which reads as follows: a) The inheritance of the adopted child is divided by Articles 176 to 193 above, while the adoptive parents who do not accept the loan as much as 1/3 adopted inheritance; b) For adopted children who receive a will, they are given a loan, as much as 1/3 of the inheritance.

Based on the provisions of the Western Civil Inheritance Law: As regulated in Staatblaad 1917 No.

129, the legal consequence of adopting a child is that the child legally gets the name of the adoptive father, becomes a child born from the marriage of the adoptive parents and becomes the heir of the adoptive parent. As a result of the appointment, all civil relations are cut off, which stems from offspring due to birth, namely between the biological parents and the child. Therefore, a child legally adopted through a court decision has the same position as a biological child. So that the person concerned has the right to inherit the inheritance of his parents.

3. **Inheritance Law Outside the Court**

Adopting a child without a court decision is to agree with the biological parents and the prospective adoptive parents to adopt and release the adopted child candidate to adulthood and can live independently so that the child can meet his needs and help his family's economy.

Regarding this matter, the child's adoption is one of the critical events that need to be recorded in the population registration. What is meant by Important Events according to Article 1 Number 17 of the Law of the Republic of Indonesia 23i of 2006 concerning population administration are events experienced by a person, including birth, death, stillbirth, divorce, child recognition, adoption of children, change of name, and change of citizenship status.

In addition, Article 1 subsection 7 explains that what is meant by an Implementing Institution is a city/district unit that is responsible and has authority in terms of Population Administration. According to Article 1 Point 15, the definition of Civil Registration is a record of important events experienced by a person in population registration by the work unit that manages population and civil registration.

The child's adoption record must be proven with a copy of the approval from the district court, namely the court's decision (for non-Moslem) and the decision of the Religious Court (for Muslims). This is the basis for making a side note in the adopted child's birth certificate citation. Therefore, the adopted child does not have two birth certificates but only has one added with a side note that is a note regarding the change in status in the event of an actual event in the form of a message that is included on the side of the certificate or in the certificate section if possible (on the page / on the page). cover or back of the certificate) by the Civil Registry Official (Kamil, Child Protection Law and Child Adoption in Indonesia, 2008).

The government is also responsible for protecting the rights of adopted children through child adoption records. Adoptive parents are expected to record the adoption of a child who has obtained a court decision, which is then in the civil dimension, making side notes in the Quotation of the Birth Certificate. A side note in the birth certificate is proof of the legal status of the adopted child's civil level. The government is expected to implement Government Regulation Number 23 of 2006 concerning Population Administration and Government Regulation of the Republic of Indonesia Number 54 of 2007 concerning Child Adoption through Draft Regional Regulations.

The legal consequences that can be lifted by adopting children without proper processes, which are mainly carried out by parents who do not want to be preoccupied with the bureaucracy in this country, are:

- a. This can lead to misunderstandings between what is allowed and what is not. For example, the presence of an adopted child makes him a permitted person where he cannot marry a person who can be married, and he can also see parts of other people's bodies that should not be allowed;
- b. Disruption of kinship relations and their rights. This allows interference with the rights and obligations of the family that has been defined in Islam. The legal consequences that cause legal ties between children and biological parents are entirely new and new legal relations with adoptive

parents, in the case that the guardian of the adopted child is a Muslim woman; if he is married, there is a possibility that the guardians are only his biological parents or siblings and the adoptive parents are not allowed to be the guardians of his marriage;

c. The presence of an adopted child in the adoptive parent's family can create conflict between one offspring in the family. For example, in the case of inheritance, the adopted child does not deserve to be theirs, but he owns it, which covers the portion that must be received by other heirs who deserve it. This legal consequence can occur because the prospective parents do not know about child adoption and unjustified motivation.

The consequence of this law that can occur if the adoption of a child is carried out without a court decision, according to the researcher, is that there is no legal relationship between the adoptive parents and the adopted child because there is no legal evidence that this child adoption was carried out based on the applicable regulations. Another consequence that may occur is between the rights and obligations of each party, between adoptive parents and adopted children cannot be accused. This means that here the rights and obligations between children and parents become non-existent because there are no legal documents that regulate the rights and obligations of adoptive parents and children, so they cannot be accused in court if there is a case or a condition that satisfies all parties, in this case, adoptive parents and adopted children (Kamil & Fauzan, Child Protection Law and Child Adoption in Indonesia).

The factor that causes parents not to adopt a child through a court decision is the expensive and challenging procedure to conduct a trial in the child adoption process. Also, it can be burned by the adopted child's biological parents no longer exists because of the kinship relationship between the adoptive parents and the birth parents. The process is done more simply. This is only an agreement between biological parents and adoptive parents by usually agreeing in a written agreement and being seen assigned by several witnesses.

This effort is made by agreeing with the adoptive parents that they will grow their adopted child well—the legal consequences of adopting a child without a court decision. The legal developments during the adoption of a child do not contain any lawsuits. Therefore the adoption of a child is permitted to do. In addition, all the rights and obligations of the biological parents are transferred to the adoptive parents.

C. Conclusion

In terms of the inheritance of adopted children according to the Indonesian inheritance law are: Inheritance under Islamic law assumes children do not carry legal consequences in blood ties, guardianship, and inheritance relationships with adoptive parents; children continue to inherit the biological parents' diaries adopted children may not be recognized as the basis and cause of inheritance, because the basic principle in Islamic legal heritage is their blood relation / nasab / descent. Origin based on customary law determines the inheritance of adopted children depending on the law applicable in the area. Based on the provisions of the Western Civil Inheritance Law: As regulated in Staatblaad 1917 No. 129, the legal consequence of adopting a child is that the child legally gets the name of the adoptive father, becomes a child born from the marriage of the adoptive parents and becomes the heir of the adoptive parent. As a result of the appointment, all civil relations are cut off, which stems from offspring due to birth, namely between the biological parents and the child. Therefore, a child legally adopted through a court decision has the same position as a biological child. So that the person concerned has the right to inherit the inheritance of his parents.

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THE POSITION OF ADOPTED CHILDREN IS BASED ON INHERITANCE LAW IN INDONESIA

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ABSTRACT

This paper discusses the position of adopted children in the inheritance law that applies in Indonesia. According to the inheritance law in Indonesia, does the adopted child get inheritance rights according to the inheritance law in force? This is the main issue that will be discussed. This paper uses secondary data supported by primary data, with a conceptual writing method will be described descriptively. The study results stated that based on Islamic law, adopted children do not carry legal consequences regarding blood ties, guardianship, and inheritance relationships with adoptive parents; children continue to inherit from biological parents. Inheritance based on customary law determines the inheritance of adopted children depending on the lineage of customary law in force in the area, namely Patrilineal, Matrilineal, and Bilateral. Based on the provisions of the Western Civil inheritance law as regulated in Staatblaad 1917 Number 129, the legal consequence of adopting a child is that the child legally obtains the name of the adoptive father, becomes a child born from the marriage of the adoptive parents and becomes the heir of the adoptive parents, meaning that the result With the appointment, all civil relations, which stem from descent due to birth, are between the biological parents and the child. Therefore, a child legally adopted through a court decision has the same position as a biological child. The person concerned has the right to inherit the inheritance of his parents.

Keywords: Inheritance, Adopted Child, Indonesia

A. Introduction

From the beginning, the adoption of children was carried out by the community in different ways and motivations, following the rule of law and law systems living in the area. Foreign customary law requires compensation as a subsidiary for the biological parents of adopted children in the form of sacred objects or considered to have magical powers (Wignjodipuro, 1973).

Adoption of children, commonly known as adoption, is a legal institution that has been known for a long time in Indonesian community culture. There are several reasons why people adopt children; one is a trigger for continued descent, as a factor of affection, and the other. The year 2002, which has been justified by Law 35 Tahun 2014 concerning Child Protection and Government Regulation number 54 of 2007 concerning the Implementation of Child Protection, and Minister of Social Affairs Regulation Number 110 of 2009 concerning requirements for child adoption (Meliala D. S., 1982).

In general, every child has rights and responsibilities as a child in a family, but children's rights are often due to family conditions that do not allow it. Based on this, it is one of the tasks of the government to take care of poor and neglected children. This was written in the 1945 Constitution. Article 34 paragraph (1) reads, "the State guards poor and neglected children." One of the efforts to create children's welfare is regulated in Article 12 paragraph (1) and (3) of Law No. 4 of 1979 concerning Child Welfare, namely through the adoption of children. Article 12 paragraph (1) of the law stipulates that the adoption of a child for the benefit of the child's welfare which is carried out outside of customs is carried out based on statutory regulations (Tambunan, 2013).

In the case of inheritance in general, if someone dies, the heirs are the husband or wife and their children. In other instances, the husband or wife and their children can inherit together with other members, namely the mother and father. It could also happen that those who become the heirs are their siblings because there are no children and descendants.

Adoption of Indonesian children has become a community need and is part of the family legal system because it involves individual interests in the family. If an adopted child must pay attention to the child's best interests and be carried out based on local customs and applicable laws and regulations, this has been regulated in Article 39 of the Child Protection Act. Generally, child adoption is divided into two types: the adoption of children between Indonesian citizens (domestic adoption) and Indonesian citizens by foreign nationals (intercountry adoption). The revival of *Aniak hairus* is carried out with the legal process, namely through the establishment or decision of the Constitutional Court.

Research on the position of the adopted child's inheritance has been widely carried out, including (Rihi, 2006) the role of the adopted child according to the Balinese Customary Inheritance Law (Case Study Sesetan Village, South Denpasar District, Denpasar City, and Denpasar District Court). The research results show that the development of the adopted children does not have to be diaries of the self-group. This is due to the reasons for raising children other than having offspring, which is also based on the human race and the unit for the child's welfare. If a child called *anaik* is female, his status is changed to *Santana rajeg*; he becomes a male child in *hail*, receiving *Harita* inheritance from his parents. The Traditional *Seisetan* community carries out raising children with the traditional ceremony, namely the extortion ceremony and the *siair* ceremony, followed by the creation of an official statement. In this case, the role of a public official, a *noitarist*, was replaced by the head of design, making a clerk's letter as written proof of evidence for the promotion of *ainak* for the local community. The position of an adopted child in the family of his adoptive parents is that of a biological child so that he functions as an extension of the lineage and has the position of an heir, with the stipulation of adopted children from their group, all treasure inherited from their adoptive parents, including treasure heirlooms. On the other hand, the children raised and not from their group only inherited the rich *Harita Guinea* (the livelihood) of their adoptive parents, precious treasure returned to the original status. The adopted child is not entitled to inherit the inheritance from his biological parents because his family relationship has been severed.

Research conducted by (Fadillah, 2017), The practice and system of Sundanese traditional inheritance in the *Andamui* Village community, *Ciwaru* District, *Kuningan* Regency. The conclusion of this research diary is based on the results of field research. The inheritance distribution practice in *Anidamui* village uses a bilateral system by drawing lineage from both sides, both from the father and the mother. In this system, the position of sons and daughters in the law of equal and equal inheritance. This means that both sons and daughters are heirs of the heritage of their parents. However, there are differences between girls and boys, and the difference lies in the

issue of the division of inheritance houses. If it is a daughter (usually, the inheritance house is given to a bunigsu daughter if there is more than one daughter), then the inheritance house is given to the daughter as a whole.

Research conducted by (Saifullah, 2007), Comparative Analysis of Sundanese Inheritance Law with Islamic Inheritance Law. After conducting research with studies from various sources, the author draws the following conclusions:

- a. The law of inheritance of Sundanese custom and the direction of the heritage of Islam is the same in principle. The basic similarities and differences between the two legal systems lie in the understanding, the process of inheritance, sources, rules, conditions, causes, and barriers to heritage, and the principles of an estate.;
- b. In practice in society, Islamic inheritance law and Sunda traditional inheritance are still preserved and used and even continue to this day. Every Muslim should adhere to the principles of Islamic inheritance law because it is a commitment for every follower of the Islamic religion that is based on the Qur'an and al-Hadith. As for the people of Sunda, who still use the provisions according to their custom in inheritance distribution, they are welcome. Considering the principle of *paida dian*, the similarity is not much different;
- c. Regarding using the right of choice (choosing) in the distribution of inheritance, no rule requires a person to use which legal system to settle inheritance cases. In general, in Sundanese custom, the distribution of an estate is carried out peacefully and through deliberation, which results in a consensus between the heirs after all the responsibilities of the deceased person are completed, such as paying off the debts, the cost of burial, carrying out the will and so on.

Research conducted by (Esanra, 2008), Position of Adopted Children in Indigenous Peoples Lampung Pepadun Siwo Migo Buai Subing Study in Terbanggi Besar District, Central Lampung Regency, Lampung Province. The problem in writing this thesis is, what is the process of adopting an adopted child according to the tradition of Lampiung Peipadun Abiung Siwo Migo Buai Subing and what is the position of the adopted child according to the custom of Lampiung Piepadun Abiung Siwio Migo Buai Subbing in the Terbianggi Biesar District, Lampung Tengah. This study aims to describe the process of adopting adopted children in the Lampung Pepiadun Abung Siwo Miigio Buai Subing orthodox community and find out how adopted children's position in the indigenous people Lampung Peipadun Abung Siwo Migo Buai Subbing is placed. The results obtained from this study are expected to provide a comprehensive and systematic picture of the dynamic status of the population in the indigenous peoples of Lampung Pepaidun Abiung Abusing Siwio Miigo Buiai Subbing in Terbainggi Besar District, Central Lampung. Furthermore, suppose the adopted child is appointed to be upright. In that case, the adopted child should continue or act as a successor to the descendants of his adoptive parents and has the right to have the right to inherit all the wealth of his adoptive parents. The legal consequences resulting from the adoption of an adopted child are the creation of kinship and the emergence of family and legal relations, as well as the shifting of legal concerns in terms of the rights and obligations of the parents to adoptive parents and the child will be cut off from the biological or legal relationship with the original family he still has a relationship with his birth parents and siblings.

Research conducted by (Nugrahaeni, 2017), Grant of all assets to adopted children: a case study of the Djaelani family in Dusun Dakawu, Lebak Village, Grabag District, Magelang Regency. The authors found that the research results based on the provisions of the Compilation of Islamic Law Article 210 regarding the age limit and the approval of the inheritance experts were appropriate. Still, if we look at the provision for granting one-third of the assets, the practice of *hibiah* is not

applicable. Meanwhile, based on a review of Islamic law, the method of this grant is not following the provisions of fiqh because the limitation of hibah cannot exceed one-third of the property to protect the rights of the heirs to obtain the inheritance. Even Muhammad Ibnu Hasan believes that people who donate all their wealth are stupid people whose actions must be limited.

In Indonesia, there are 3 (three) applicable inheritance law systems, namely the inheritance of Islamic law, Western Civil and Customary Law, and this paper discusses the position of adopted children in terms of inheritance law that applies in Indonesia, namely according to Islam, Western Civil Code and Customs..

B. Discussions

1. Understanding Adopted Children

According to the Big Indonesian Dictionary or KBBI, the meaning of an adopted child is another person's child who is taken and considered his child. According to (Wignjodipoero, 1984), adopting a child takes other people's children into their own family, which can lead to a similar relationship, such as the relationship between parents and children.

Law Number 23 of 2002 concerning Child Protection does not formulate an understanding of adoption. However, only to develop the meaning of autism, namely Article 1 point 9 states that: "An adopted child is a child whose rights are transferred from the family environment of parents, legal guardians or other people who are responsible for the care, education, and raising of children, to the environment. adoptive parents' families based on decisions or court decisions" (Kamil & Fauzan, 2010); while the definition of child adoption is formulated in Government Regulation Number 54 of 2007 concerning Implementation of Child Adoption in Article 1 point 2, it is stated as: "Adoption of children is a legal action that diverts children from the authority of their parents, legal guardians, or other people who are responsible for the care, education, and rearing of children, to the family environment of the adoptive parents." (Pandika, 2012).

2. The Inheritance System of Adopted Children in Indonesia

Adoption is carried out because a married man does not have any legitimate male offspring according to the male line, either because of blood ties or because of adoption. The adoption of children is carried out because, in a marriage, I do not get male offspring.

Law No. 23 of 2002 concerning child protection expressly states that the purpose of adoption and the motivation for adopting a child will only be carried out in the child's best interests and carried out based on local customs and the provisions of the applicable laws and regulations. This provision guarantees protection for children whose nature is very dependent on their parents.

The legal consequences of adopting a child based on court decisions are in the case of guardianship and inheritance, as follows:

a. Trustee

After the court issues the decision, the parents are appointed as the child's guardians. All rights and obligations of the birth parents are transferred to the adoptive parents, except for the adopted daughter of a Muslim; when she marries, the marriage guardian is a biological parent or blood relative. (Alam & Fauzan, 2008).

b. Inheritance

Indonesia adheres to three legal systems regarding inheritance, namely Islamic law, customary law, and national law, all of which have the same power in the eyes of the law, for the following description:

1) The inheritance of adopted children according to Islamic law

Before, the Islamic inheritance law was influenced by the social system followed by the community. People who do not know the patterns of tribal society have the habit of settling, fighting, and fighting for loot. Most of them make their living trading. This trait seems to have become a maipan culture or cultivation. For this reason, culture helps to form values, legal systems, and valuable social systems. Physical strength and become a standard measure in applying the legacy of the legal system (Khisni, 2017).

Under Islamic law, the adoption of a child does not carry legal consequences in terms of blood relations, guardianship relationships, and inheritance relationships with adoptive parents. He continues to be the heir to his biological parents, and the child continues to use the name of his biological father (Alam & Fauzan, 2008).

In the draft of the Criminal Code and the rules of Islamic law, which are usually used to explain the inheritance, it is stated that the adopted child is not included in the list of one's heirs. Based on Article 171 letter C of the Compilation of Islamic Law I (KHI), heirs are described as people who at the time of death have blood ties or marital relations with the deceased, are Muslim, and are not prevented by law from becoming heirs. The second article above emphasizes that heirs are those who have blood/incest relations with the heirs. This legal basis confirms that an adopted child cannot be said to be an heir.

If seen in the Compilation Huikum Islam Article 171 letter (h) I, it states that "adopted children are children who are in care for their daily life, education costs, and so on. original parents to their adoptive parents based on a court decision" (Mustofa, 2008).

Islam allows the adoption of children, but within certain limits as long as it does not carry legal consequences in blood relations, relationships with inheritance, and inheritance, where adopted children are biologically inheritors of their parents and children continue to use their name, biological father. The compilation of Islamic Law confirms that the adopted child does not have an inherited relationship with the adoptive parents. Still, as an acknowledgment of a good adoption from the child's institution, the relationship between the adopted child and the adoptive parents is confirmed by intermediaries from a warrant or mandatory.

Contents letter is one way to transfer assets from one person to another. This agreement system has been running since ancient times. There is only one religion that governs it, but every society understands the will, where the will system has no care in its implementation; all have their provisions for how good the choice is.

The compilation of Islamic law becomes a reference by the religious court. If the adopted child does not receive an order from his adoptive parents or his third child does not leave a letter of charge during his life, then the adopted child has the right to an obligatory will on the condition that it is not more than 1/3 (one-third) of total assets This has been explained in Article 209 paragraphs (1) and (2) of the Compilation of Islamic Law which states, if the adopted child or adoptive parent does not receive a will, the adopted child or adoptive parent is entitled to the mandatory choice of 1/3 (one third) of the inheritance.

Parents who are automatically adopted are deemed to have left a maximum of 1/3 (one third) of their remaining assets to their adopted children, or adopted children otherwise to adoptive parents, where the assets are in a distribution system before the distribution of the inheritance to his heirs, the mandate must be fulfilled first. So there must be a link between the adopted children and the adoptive parents to get a part of the inheritance.

2) Inheritance of Adopted Children According to Customary Law

Indonesian people follow various religions and beliefs with multiple forms of kinship with different hereditary systems. The adoption of children in customary law is not a strange institution. This institution is widely known almost all over Indonesia and is carried out in various ways and motives. For example, in Java, *ainiak angkat* are their nephews or nephews (Soimin, 2004).

This hereditary system has been in effect for a long time before the entry of Islam, Hinduism, and Christianity. Theoretically, the descending system can be divided into three types, namely as follows (Hadikusuma, 2015):

- a) The patrilineal system, which is a system of descent, I drew according to the father's line, where the position of men is higher than the position of women in inheritance.
- b) The matrilineal system, which is a system of descent that is drawn according to the mother's line, where the position of women is higher than the position of men in terms of inheritance.
- c) System Parent or Bilateral, which is a system of descent drawn according to the line parents, or according to the line of the mother and father, where the position of male and female is not differentiated in inheritance.

In customary law, the inheritance decision for adopted children is up to established law. For a family whose parents are Javanese, adopting a child does not break the blood relationship between the child and their biological mother. Therefore, apart from the right of inheritance from his adoptive parents, the adopted child also remains until he inherits from his birth parents. Unlike in Bali, which adheres to a patrilineal system, adopting a child becomes a legal obligation that the child releases from their original family into their adoptive family. Child *i* is the biological child who is his adoptive person and is the successor of his adoptive father (Budiarto, 1991).

Whereas the Matrilineal kinship system in Minang Kabau is not known for adopting children in its customary law, it only invites children to care for and care for them as their children. However, the child in question usually still has a family relationship with the person who picked him up. The relationship between the adopted child is not disturbed by his biological parents, heirs to his biological parents, and the child is not the heir to his adoptive parents. (Djatikumoro, 2011).

3) Inheritance of adopted children in accordance with statutory regulations

In *Staatblaad* No. 129 1917, the legal consequence of adoption is that the child legally gets the adoptive father's name and becomes a child born from the adoptive parents' marriage and heir to the adoptive parents. Because of the appointment, all civil relations derived from heredity due to birth are broken between biological parents and children (Meliala, 1996).

According to the *Staatblad* of 1917, problems resulting from the adoption law are regulated in Articles 11, 12, 13, and 14. Article 11 states that the adoption of a child brings legal consequences that the person *i* is appointed, if he has another descendant name, a change in the name of the descendant of the person who nominated him instead of the name of the descendant of the person *I* who was adopted immediately became the biological child of the person who adopted him or his adopted mother, and automatically left the family relationship with the parents of Kanidiung, except (Meliala, 1996):

- a) Regarding the prohibition of marriage based on kinship;
- b) Regarding the regulation of civil law based on family ties;
- c) Regarding the calculation of court fees before a judge and taking a hostage;
- d) Those who bring witnesses) are witnesses from parties who are better than them (who bring evidence), namely:
- e) (That is about) it (we will testify) about things that are now them up to that time
- f) If the adoptive parents are married men, the adopted child is automatically considered a child

born of their marriage;

g) If the adoptive father is a married husband and the marriage has been broken up, then the adopted child must be considered as the child born to one of those who were divorced due to death;

h) If a widow adopts a child, then she is considered to be born from her marriage with a husband who has died, provided that she can be included as the heir to the inheritance of the person who has died, as long as there is no desire. As a result of severing the relationship between the adopted child's *naisab* and his biological parents and entering the adoptive parents' family, the adopted child is placed in a legal position with the biological child of his adoptive parents.

Since the enactment of Law Number 35 of 2014 in to Law Number 23 of 2002 concerning Child Protection, which also regulates child adoption based on *Lex Posteriori derogat lex priori*; the provisions of the existing law then set aside the requirements of the existing law, so for the current legal scheme, the Act on Child Protection and its implementation.

Article 39 of the Law on Child Protection is summarized as follows:

a) The promotion of children can only be carried out in the interests of children and is based on local customs and the provisions of applicable laws and regulations;

b) Adoption of a child does not break the blood relationship between the adopted child and his biological parents;

c) Prospective adoptive parents must have the same religion as the adopted child's candidate;

d) pious children of foreign nationals can only be carried out as an effort to formulate Islamic Sharia;

e) If the origin of the child is unknown, the religion of the child is adjusted to the faith of the majority of the local population;

f) Adoptive parents must notify the birth and biological origins of the parents by taking into account the readiness of the child concerned.

The explanation of the article above clearly states that adopting a child is not allowed to break the relationship between the adopted child and his biological parents. This is explained in Article 40 Paragraph (1) of Law Number 23 of 2002 concerning Child Protection.

Thus it can be concluded that the adoption of a child based on a court decision does not result in a blood relationship between the adoptive parents and their adopted child, and the representatives, adopted children and adoptive parents do not inherit from each other; the primary condition of inheritance is not fulfilled, Article 832 of the Criminal Code states "those who have the right to be an heir, a blood relative, both legal and out of wedlock, the husband or wife who has lived the longest, all according to the oldest rules, all according to the rules listed below.

If there are no blood relatives and the longest-lived between husband or wife, all inheritance of the deceased belongs to the state, which is obliged to pay off all debts, only inherited assets are sufficient for that." While Article 852 of the Criminal Code states that the heirs are "children." Or all of their descendants, even if they were born of other marriages, were inherited from parents, grandparents, grandmothers or all other blood relatives in a straight line, without distinction between male or female and no difference based on first birth".

Based on the explanation of the article above, it can be concluded that an heir is a person who is related by blood or blood to the heir who died; this is the legal basis that confirms that the adopted child has no inheritance rights or becomes the heir of the inheritance of his adoptive parents.

From the above provisions, it is clear that what is prohibited is adopting a biological child in all respects. Their crossing point is the provision of customary law in several regions in Indonesia, which is to exclude or decide on the position of adopting children with their biological parents. This

is the principle of the adoption agency because of the provisions that eliminate the rights of birth fathers and overhaul the provisions regarding inheritance. Islam encourages a Muslim to take care of other people's children who are not able, the poor, neglected, and others—but not allowed to break the relationship and rights with his biological parents.

According to formal Islamic law, adoption refers to the Compilation of Islamic Law (abbreviated as KHI). Article 171 h letter states: "Adopted children are children in terms of maintenance for daily life, education costs and so on shifting the responsibility of the original parents to adoptive parents based on a court decision." After the parent or examiner dies, the responsibility to the heirs.

The heirs' obligations under Article 175 of the KHI are:

- a. The heirs' liabilities are: 1) Manage and complete until the burial is complete; 2) Complete the two debts in the form of medical care and treatment, including the obligations of heirs and collection of receivables; 3) Complete agreement heirs; 4) Divide the estate among the rightful heirs
- b. The liability of the heirs of the heir to the debt or liability is limited to the amount or value of the inherited assets

Concerning inheritance, generally, when an heir dies, he leaves several heirs who then inherit the heir after deducting the maintenance costs required by the deceased heirs, debts, letters of intent, or gifts made. At the same time, still alive can be directly distributed to the heirs. It is better if the inheritance can be divided as soon as possible when everything is done for the deceased heirs.

There are several conditions in the distribution of inheritance, namely the first, the heir's death. Second, there are no barriers to destruction, slavery, murder, different religions, or because of other countries (Rahman, 1981). In the case of inheritance in general, if a person dies, the heirs are the husband or wife and their children. In other instances, the husband or wife and their children can inherit together with other members, i.e., mother and father. It could also happen that those who become the heirs are their siblings because there are no children and descendants.

If there are heirs and adopted children, the problem will also arise. Meanwhile, apart from an adopted child who inherits from his adoptive father, he still receives an inheritance from his biological father, twin inheritance rights for an adopted child are the same as a person who can receive "water from two water sources."

In the case of any inheritance, adoptive parents may not inherit from each other with their adopted daughter; based on that inheritance is based on a legal kinship relationship. Nevertheless, the right of adopted children remains a concern in Islam, where inheritance to adopted children can be done by borrowing (Article 209 KHI).

The position of an adopted child by KHI is determined as a legal child under a court decision not to sever ties with kinship or blood with his biological parents because the principle of adoption by KHI is a form of faith that is manifested in caring for other people's children as children in the form of caring for children taking care of all the necessities and necessities of life. Borrowed is that its implementation will not be affected or not depending on the middleman of those who died. This will is still carried out, whether spoken or desired or not by the person who died. So that its implementation will not require evidence that the intention is spoken, written, or expected, but its performance is based on a legal basis that justifies that the stretcher will be carried out.

In KHI, the provision for borrowing is stated in Article 209, paragraphs 1 and 2, which reads as follows: a) The inheritance of the adopted child is divided by Articles 176 to 193 above, while the adoptive parents who do not accept the loan as much as 1/3 adopted inheritance; b) For adopted children who receive a will, they are given a loan, as much as 1/3 of the inheritance.

Based on the provisions of the Western Civil Inheritance Law: As regulated in Staatblaad 1917 No.

129, the legal consequence of adopting a child is that the child legally gets the name of the adoptive father, becomes a child born from the marriage of the adoptive parents and becomes the heir of the adoptive parent. As a result of the appointment, all civil relations are cut off, which stems from offspring due to birth, namely between the biological parents and the child. Therefore, a child legally adopted through a court decision has the same position as a biological child. So that the person concerned has the right to inherit the inheritance of his parents.

3. **Inheritance Law Outside the Court**

Adopting a child without a court decision is to agree with the biological parents and the prospective adoptive parents to adopt and release the adopted child candidate to adulthood and can live independently so that the child can meet his needs and help his family's economy.

Regarding this matter, the child's adoption is one of the critical events that need to be recorded in the population registration. What is meant by Important Events according to Article 1 Number 17 of the Law of the Republic of Indonesia 23i of 2006 concerning population administration are events experienced by a person, including birth, death, stillbirth, divorce, child recognition, adoption of children, change of name, and change of citizenship status.

In addition, Article 1 subsection 7 explains that what is meant by an Implementing Institution is a city/district unit that is responsible and has authority in terms of Population Administration. According to Article 1 Point 15, the definition of Civil Registration is a record of important events experienced by a person in population registration by the work unit that manages population and civil registration.

The child's adoption record must be proven with a copy of the approval from the district court, namely the court's decision (for non-Moslem) and the decision of the Religious Court (for Muslims). This is the basis for making a side note in the adopted child's birth certificate citation. Therefore, the adopted child does not have two birth certificates but only has one added with a side note that is a note regarding the change in status in the event of an actual event in the form of a message that is included on the side of the certificate or in the certificate section if possible (on the page / on the page). cover or back of the certificate) by the Civil Registry Official (Kamil, Child Protection Law and Child Adoption in Indonesia, 2008).

The government is also responsible for protecting the rights of adopted children through child adoption records. Adoptive parents are expected to record the adoption of a child who has obtained a court decision, which is then in the civil dimension, making side notes in the Quotation of the Birth Certificate. A side note in the birth certificate is proof of the legal status of the adopted child's civil level. The government is expected to implement Government Regulation Number 23 of 2006 concerning Population Administration and Government Regulation of the Republic of Indonesia Number 54 of 2007 concerning Child Adoption through Draft Regional Regulations.

The legal consequences that can be lifted by adopting children without proper processes, which are mainly carried out by parents who do not want to be preoccupied with the bureaucracy in this country, are:

- a. This can lead to misunderstandings between what is allowed and what is not. For example, the presence of an adopted child makes him a permitted person where he cannot marry a person who can be married, and he can also see parts of other people's bodies that should not be allowed;
- b. Disruption of kinship relations and their rights. This allows interference with the rights and obligations of the family that has been defined in Islam. The legal consequences that cause legal ties between children and biological parents are entirely new and new legal relations with adoptive

parents, in the case that the guardian of the adopted child is a Muslim woman; if he is married, there is a possibility that the guardians are only his biological parents or siblings and the adoptive parents are not allowed to be the guardians of his marriage;

c. The presence of an adopted child in the adoptive parent's family can create conflict between one offspring in the family. For example, in the case of inheritance, the adopted child does not deserve to be theirs, but he owns it, which covers the portion that must be received by other heirs who deserve it. This legal consequence can occur because the prospective parents do not know about child adoption and unjustified motivation.

The consequence of this law that can occur if the adoption of a child is carried out without a court decision, according to the researcher, is that there is no legal relationship between the adoptive parents and the adopted child because there is no legal evidence that this child adoption was carried out based on the applicable regulations. Another consequence that may occur is between the rights and obligations of each party, between adoptive parents and adopted children cannot be accused. This means that here the rights and obligations between children and parents become non-existent because there are no legal documents that regulate the rights and obligations of adoptive parents and children, so they cannot be accused in court if there is a case or a condition that satisfies all parties, in this case, adoptive parents and adopted children (Kamil & Fauzan, Child Protection Law and Child Adoption in Indonesia).

The factor that causes parents not to adopt a child through a court decision is the expensive and challenging procedure to conduct a trial in the child adoption process. Also, it can be burned by the adopted child's biological parents no longer exists because of the kinship relationship between the adoptive parents and the birth parents. The process is done more simply. This is only an agreement between biological parents and adoptive parents by usually agreeing in a written agreement and being seen assigned by several witnesses.

This effort is made by agreeing with the adoptive parents that they will grow their adopted child well—the legal consequences of adopting a child without a court decision. The legal developments during the adoption of a child do not contain any lawsuits. Therefore the adoption of a child is permitted to do. In addition, all the rights and obligations of the biological parents are transferred to the adoptive parents.

C. Conclusion

In terms of the inheritance of adopted children according to the Indonesian inheritance law are: Inheritance under Islamic law assumes children do not carry legal consequences in blood ties, guardianship, and inheritance relationships with adoptive parents; children continue to inherit the biological parents' diaries adopted children may not be recognized as the basis and cause of inheritance, because the basic principle in Islamic legal heritage is their blood relation / nasab / descent. Origin based on customary law determines the inheritance of adopted children depending on the law applicable in the area. Based on the provisions of the Western Civil Inheritance Law: As regulated in Staatblaad 1917 No. 129, the legal consequence of adopting a child is that the child legally gets the name of the adoptive father, becomes a child born from the marriage of the adoptive parents and becomes the heir of the adoptive parent. As a result of the appointment, all civil relations are cut off, which stems from offspring due to birth, namely between the biological parents and the child. Therefore, a child legally adopted through a court decision has the same position as a biological child. So that the person concerned has the right to inherit the inheritance of his parents.

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