

## Legal Status Of Adopted Child And Foster Child, His Inheritance Rights To The Estate Of His Adoptive Parents

by  
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**ABSTRACT:-** Adopted child and foster child are two different things according to regulations in Indonesia, because adoption is considered a regulation in the Dutch era as a colonizer, while currently in Indonesia emphasizes the foster child, with the use of Law Number 23, Year 2002 concerning Child Protection, and followed up with Government Regulation Number: 54 Year 2007.

After the enactment of the Law on Child Protection, no longer using staatsblad 1917 number 129, This is what causes parents to no longer be willing to adopt or arising child in Indonesia, the requirements for foster child are also too heavy, the foster parents must be the same faith between the foster child and the foster parents, besides that, the purpose of foster child is only to prosper the child, very different from adoption.

Different in America, Europe, India and China, they adopt children, the same as raising children, getting rights like biological children, getting inheritance rights, not distinguishing religion. The purpose of adopting children varies, because they want to continue offspring, keep ancestral ashes, as well as political and economic purposes. Adopting children almost all over the world always experiences positive development, has noble and main goals, To preserve their life for the next generation, so that their life on earth are not interrupted when they die.

**Key Words :** adopted child, foster child, inheritance.

### I. BACKGROUND

Men and women are united by God with a marriage blessing in the Church for both Christians and Catholics. As for those of other religions, of course, they have the same goal, which is to have offspring. Especially for the Chinese Foreign Easterners, which is applied by Western Civil Law, namely the Civil Code (hereinafter abbreviated as the Civil Code), which was formerly during the Dutch colonial era, for the Chinese Foreign Easterners, it must be subject to Burgelijke Wetboek (hereinafter abbreviated as B.W.). This is due to the enactment of Indische Staatregeling Article 131 juncto Article 163 (hereinafter abbreviated as I.S.), in which the population in Indonesia is classified, for the Chinese Foreign Eastern group is subject to European law.

But sometimes, this married couple, for many years, has not been blessed with a child, so they adopt children. This adoption regulation is based on staatsblad 1917 No. 129 (hereinafter abbreviated as Stb. 1917 No. 129) while regarding birth applies staatsblad 1917 No. 130 juncto staatsblad 1921 No. 81. (hereinafter abbreviated as Stb 1917 No. 130 Jo Stb 121 No. 81) . If any married couple or individual wishing to adopt a child, shall be subject to the staatsblad, in order for the adopted child to be a legal child, except before the entry into force of the staatsblad, then adoption may be made only by making an affidavit under hand, and recorded in the civil registry. The birth of a child before the enactment of the Population Administration Law, the Chinese group still refers to the Stb, regardless of the Chinese Foreign Eastern group who are already Indonesian citizens, or are still foreign citizens.

In Indonesia, the number of Chinese people in the past until around the 2000s, there were still many children adopted by following Stb 1917 No. 129, so that adopted children were considered biological children, which were indeed equated with their own children.

According to Article 10 Stb 1917 No. 129:

Adoption is valid if it is done by making an agreement before a Notary with an authentic deed.

Article 15 Stb 1917 No. 129:

Without an authentic deed, adoption is null and void. Likewise, based on Jurisprudence dated May 29, 1963 No. 907/1963P.

In addition, the adoption certificate must be brought to the District Court to be asked for a Determination, as well as according to the Circular of the Supreme Court of the Republic of Indonesia Number 6 of 1983 which regulates

how to adopt a child states that to adopt a child must first submit an application for endorsement / appointment to the District Court where the child to be adopted is located. c) Law Number 23 of 2002 concerning Child Protection. So far, adoption has never been a legal problem. However, after the new regulations, namely Law No. 23 of 2002 concerning Child Protection (hereinafter abbreviated as Law No. 23/2002), and Government Regulation No. 54 of 2007 (hereinafter referred to as PP No. 54/2007), adoption began to arise many legal problems, especially related to the distribution of inheritance after the adopter's parents died.

According to the law, regulations or laws do not apply retroactively, if the adoption event was before the existence of Law No. 23/2003 and PP No. 54/2007), then the adoption still follows Stb 1917 No. 129. In addition, there are still new regulations, namely

Law Number 23 of 2006 (hereinafter abbreviated as Law No. 23/2006) concerning Population Administration, juncto Law Number 24 of 2013 (hereinafter abbreviated as Law No. 24/2013)

Article 47, Presidential Regulation Number 96 of 2018 concerning Requirements and Procedures for Population Registration and Civil Registration (hereinafter abbreviated as Presidential Regulation No. 96/2018), every birth must be registered and registered at the Population and Civil Registration Office. So if you adopt a child, the adoptive parents may not register the adopted child as a biological child, this is considered a violation of the law. Certainly, there is data manipulation during recording so that it can indicate a crime.

Article 94 of Law No. 24 of 2013 concerning Amendments to the Law. No. 23 of 2006 concerning Population Administration states that anyone who manipulates elements of population data is threatened with a maximum prison sentence of 6 years and/or a maximum fine of Rp75 million.

In fact, according to Article 12 Stb. 1917 No. 129, with the adoption of a child, then the adopted or adopted child can use the surname of his adoptive parents and have the same legal position as the biological child of his adoptive parents, and have the same legal position as the biological child of his adoptive parents. Thus, the adopted child has the same position as the heirs ab intestato, and the adopted child has the right to inherit from his adoptive parents, as well as a biological child born into a legal marriage, as long as his adoption follows the provisions of Article 10 Stb 1917 No. 129.

Article 10 Stb 1917 No. 129 regulates the existence of an authentic deed made before a Notary, namely about the Adoption Agreement, there in detail and clearly the rights and obligations of the adoptive parents towards their adopted children, and the biological parents have promised and bound themselves to the adoptive parents, that they may not take back the adopted child, Likewise, adoptive parents should not abandon their adopted children, must meet all the living needs of his adopted child. There are many more conditions that must be met by adoptive parents. Therefore, parents who want to adopt children, must be seen from an economic point of view, it is feared, halfway through, the adoptive parents are unable to raise their adopted children.

As a consequence of the adoption of the child, becoming a legitimate child and entitled to inheritance rights, except those that have been testified by the adoptive parents, the adopted child is only entitled to inheritance outside the will. This is because the blood relationship between the adopted child is severed from the blood relationship with his biological parents, and from the time the child is legally adopted, the child is only related by blood to the adoptive parents, not distinguished from the biological child.

- In practice, there are so many Chinese, the status is still foreign, when giving birth to children, then the child is named after his brother who is already an Indonesian citizen, but only in name, the fact is that the newborn child is still maintained by his own biological parents, only by letter, not his child. This is because of ignorance of the applicable law, they lay the law. The goal, so that this child in the future can go to school, because if he is registered as the biological child of this foreign couple, it is feared that the child will find it difficult to be able to go to school. They parents never thought about their inheritance rights. After the child grows up, then he realizes about his inheritance rights, so that the child who is registered as a child of his brother, begins to object, if they are a married couple dies, the child legally gets inheritance rights.

- On the other hand, to take back his biological child who has already been registered in the Civil Registry as the biological child of his brother, will have difficulties, namely having to be adopted. To adopt is also not easy, because there are provisions for the age limit of children who can be adopted, and there are also restrictions on the age difference with parents. Parents who want to adopt are limited to a minimum age of 30 years, and still have to make an adoption agreement before a Notary, and the authentic certificate is taken to the District Court for Adoption Determination.

There are still more improper adoptions, the fact that many are done in Indonesia, married couples who want to adopt children, have planned and agreed with biological parents, namely all costs of childbirth in the hospital are borne by the adoptive parents, and the mother who gave birth has agreed to receive a certain amount of money. So on the day of the child's birth, The data provided is the data of the adoptive parents, so it is as if, the child was born to a married couple named A and B. In fact A and B are the adoptive parents, but the birth certificate is listed as the biological parents. So that the adopted child never knew that he was actually not the child of couple A and B, even the child was given any name, his biological parents never knew, even the husband's pasanagan address – wives A and B were kept secret, so that the biological parents lost track of not being able to trace the

biological child they gave birth to. even the child is given any name, the biological parents never know, even the addresses of the husband and wife A and B are kept secret, so that the biological parents lose track of not being able to trace the biological child they gave birth to.

With the passage of time, the development of increasingly sophisticated technology, and the number of new regulations, aimed at providing child protection, the emergence of sanctions for anyone who has eliminated the origin of the child, must not even decide his fate or blood relationship with his biological parents, and to adopt, the adoptive parents must have the same religion as the adopted child's parents. There are too many regulations, which actually make the welfare of adopted children uncomfortable, also for married couples who want to adopt children are decreasing, because of the complicated matters of adoption, the Government interferes too much. Even though the Government issued a Child Protection Law, the goal, so that there are no more abandoned children, then by being adopted by a husband and wife couple who are financially capable, of course the life of this child will be more prosperous, because all needs are fulfilled. But with the threat of sanctions and so on, many children are abandoned, because no one is willing to adopt.

Government Regulation No. 54/2007 is very detrimental to abandoned children adopted by married couples, because they must not be eliminated from origin, cannot decide their fate/blood relationship, consequently, the child is only considered as an adopted child, who is still related by blood to his own biological parents. If the adoptive parents die, then this adopted child is not entitled to inherit, because it is still clear who the child's biological parents are, while the adoptive parents are only limited to maintaining, and meeting the child's living needs, until adulthood, are not entitled to inheritance.

From the description above, gaps arise that need to be studied about the legal status of the adopted child.

## II. PROBLEM STATEMENT

Contradictions in the legal status of adopted child and his legal consequences

## III. LEGAL BASIS

The legal basis for adopted children for the Chinese Foreign Easterners and related regulations are:

- Staatsblad No. 1917 No. 129;
- Civil Code
- Law No. 24 of 2013 concerning Amendments to Law No. 23 of 2006 concerning Population Administration;
- Law No. 23 of 2002 concerning Child Protection, as amended by Law No. 35 of 2014 and the latest amendment by Peme Regulation
- Law Number 4 of 1979 concerning Child Welfare
- Government Regulation Number 54 of 2007 concerning Regulations for the Implementation of Child Adoption
- Declaration on the Rights of the Child
- Supreme Court jurisprudence

## IV. LITERATURE REVIEW

Adoption is the process of transferring custody of a child from a biological parent or guardian who has custody to another person who will become a surrogate parent.

According to Law Number 36 of 2014 concerning Child Protection:

### Article 1 number 9:

An adopted child is a child whose rights are transferred to adoptive parents based on a court decision or determination. Transfer of such rights, from a parent, legal guardian, or other person responsible for the care, education, and upbringing of the child concerned.

Child adoption, is a translation from English "adoption", which means to adopt someone else's child, to be used as one's own child, and have the same rights as biological children.

**Adoption** is a process whereby a person assumes the parenting of another, usually a child, from that person's biological or legal parent or parents. Legal adoptions permanently transfer all rights and responsibilities, along with filiation, from the biological parents to the adoptive parents.

Unlike guardianship or other systems designed for the care of the young, adoption is intended to effect a permanent change in status and as such requires societal recognition, either through legal or religious sanction. Historically, some societies have enacted specific laws governing adoption, while others used less formal means (notably contracts that specified inheritance rights and parental responsibilities without an accompanying transfer of filiation). Modern systems of adoption, arising in the 20th century, tend to be governed by comprehensive statutes and regulations.



Hospital with children. Sister Irene is among the pioneers of modern adoption, establishing a system to board out children rather than institutionalize them.

### **Illegal Child Adoption**

There are 4 types that are categorized as illegal adoption:

1. The adoption of a child is not in the best interest of the child, but for the personal benefit of a person, and is carried out not based on local customs and applicable laws and regulations.
2. Adoption of a child who breaks off the relationship with the adoptive child's biological parents.
3. Prospective adoptive parents are not of the same religion as the adopted child.
4. Adoption of children by foreign nationals who have turned out that adoption of children is not a last resort, because there are still other efforts.

Sanctions for violations of points 1, 2, and 4 above are in the form of imprisonment for a maximum of 5 years and/or a maximum fine of Rp100 million.

### **Article 39 stipulates:**

- (1) The adoption of a child may only be made in the best interest of the child.
- (2) Adoption does not sever the blood relationship between the adopted child and his biological parents.

### **Article 13 of Government Regulation Number 54 of 2007**

Requirements for prospective adoptive parents:

1. Physically and spiritually healthy
2. Be at least 30 years old and at most 55 years old
3. Religion is the same as the religion of prospective adopted children
4. Behave well and have never been convicted of a crime
5. Married status for at least five years
6. Not being a same-sex couple
7. Do not or have no children or only have one child
8. In a state of economic and social ability
9. Obtain the child's consent and the written consent of the child's parent or guardian
10. Make a written statement that the adoption of the child is in the best interest of the child, the welfare and protection of the child
11. The existence of social reports from local social workers
12. Have taken care of the prospective adopted child for at least six months, since the parenting permission was granted

**Article 12: Requirements for children to be adopted:**

1. Children under 18 years old
2. Is an abandoned or abandoned child
3. Be in family care or in a childcare institution
4. Requires special protection.

**Those who are not yet 18 years old, include:**

1. Children under 6 years old are a top priority
2. Children aged 6 years to not yet 12 years old, as long as there is an urgent reason
3. Children aged 12 years to not yet 18 years old, as long as the child requires special protection.

Maintenance of children is different from adoption, but with the existence of Government Regulation Number 54/2007 as an Implementing Regulation of Law Number 23 of 2002, concerning Child Protection, which has been amended by Law Number 35 of 2014 and the latest amendment by Government Regulation in Lieu of Law Number 1 of 2016, adoption is considered the same as adoption of children. In fact, in the past, the adoption and adoption of children was not the same.

**Article 1 of Government Regulation Number 54 of 2007:**

1. An arised child/ foster child is a child whose rights are transferred from the family sphere of power of the parents, legal guardians, or other persons responsible for the care, education, and upbringing of the child, into the family environment of his adoptive parents based on a court decision or determination.
2. Foster child is a legal act that transfers a child from the sphere of power of parents, legal guardians, or other persons responsible for the care, education and upbringing of the child, into the family environment of the adoptive parents.
3. The parent is the biological father and/or mother, or the father and/or stepmother, or the adoptive father and/or mother
4. Foster parents are persons who are given the power to care, educate, and raise children based on laws and customs.

**Child Adoption Mechanism, according to Government Regulation Number 54 of 2007**

1. Parents who want to adopt a child send a letter of application.  
If the adoption occurs between Indonesian citizens - Indonesian citizens, single parent, then the child's adoption application letter is submitted to the Provincial Social Office. If the adoption occurs between Indonesian parents – Foreign Nationals, then the application for adoption of the child is submitted to the Ministry of Social Affairs.
2. After the application letter for adoption of children is received by the Social Service and the Ministry of Social Affairs, a Child Adoption Licensing Consideration Team will be formed . The Child Adoption Licensing Consideration Team in the Social Service is chaired by the head of the service or the head of the social rehabilitation sector. At the Ministry of Social Affairs, the Child Adoption Licensing Consideration team is chaired by the Directorate General of Social Rehabilitation with members from the Ministry of Foreign Affairs, Ministry of Home Affairs, and Ministry of Law and Human Rights of the Republic of Indonesia, Ministry of Health, and Police of the Republic of Indonesia.
3. The Child Adoption Licensing Consideration Team sends a Team of Social Workers to the home of prospective adoptive parents.  
The social worker team holds a dialogue with prospective adoptive parents psychologically, socially, economically and looks at all aspects of eligibility to be able to get custody. The team of social workers visited prospective adoptive parents 2 times in a 6-month period.
4. The Social Worker Team submits the results to the Child Adoption Licensing Consideration team
5. Based on the recommendation of the social worker team, the adoption licensing consideration team will ask for the completeness of the adoptive parents, including:
  - a. Couples must be married with a minimum age of 25 years and a maximum of 45 years.
  - b. Proof of valid marriage, at least 5 years. This means that adoptive parents whose marriage is less than 5 years will not be allowed.
  - c. Certificate of physical and spiritual health from the hospital
  - d. Certificate of never having violated the law or Police Record Certificate;
  - e. Certificate of income, so that it is feasible to raise children



6. If all these conditions are met, the Minister of Social Affairs will provide recommendations based on the recommendations of the consideration team for the licensing of the adoption of children to allow the adoption of children.

7. A letter of recommendation for adoption of children is issued. Adoptive parents get temporary custody rights for 6 months.

8. After a temporary parenting period of 6 months the result is good, then the adoption of the child will be determined by the court. (source: [Indonesia.go.id/layanan/kependudukan/sosial/begini-syarat-dan-prosedur](http://Indonesia.go.id/layanan/kependudukan/sosial/begini-syarat-dan-prosedur))

#### **Article 3**

(1) Prospective adoptive parents must be in the same religion as the religion adopted by the prospective adopted child.

(2) In the event that the origin of the child is unknown, the child's religion is adapted to the religion of the majority of the local population.

#### **Article 4.**

Adoption does not sever the blood relationship between the adopted child and his biological parents.

#### **Article 10 of the 1917 Staatsblad No. 129 on the procedure for adoption:**

Adoption must be done before a Notary, meaning an adoption agreement is made with an authentic deed. If the adoption is not made before a Notary, then the adoption is null and void.

That is, if the adoption is null and void, then the child has the status of a child only as a child, who is cared for, raised, and provided for, without any attachment as an adopted child.

#### **Articles 8 – 10 of the 1917 Staatsblad Number 129, there are 4 conditions for adoption:**

##### **a. Consent of the person who adopts the child:**

--If the adopted child is the legitimate child of his parents, then the parents' permission is required if the father has died and the mother has remarried, then there must be approval from the guardian and the estate hall as the guardian ruler.

--If the adopted child was born out of wedlock, then permission is required from the parents who recognize him as a child, then there must be approval from his guardian as well as from the estate hall.

--If the child to be adopted is already 19 years old, then the consent of the child himself is required. When the child is to be adopted, there must be the consent of the brother and father of the deceased husband, or no surviving father's brother, or

--If they do not settle in Indonesia, then there must be the consent of the male members, from the family of her deceased husband in the male line up to the fourth degree.

##### **b. Problems with the legal consequences of Articles 11, 12, 13, and 14.**

--**Article 11** regarding the surname of the person who adopts the child, the surname is also the name of the adopted child. This means that the adoptive parent's surname can be attached to the adopted child.

--**Article 12** equates a child with the legitimate child of an adoptive marriage. This means that the adopted child is considered his biological child, then he can use the surname of his adoptive parents, or the name that has been given by his biological parents can still be used and legal, or if the adopted child has not had time to be named by his biological parents, Then the adoptive parent may give the name according to the wishes of the adoptive parent

--Article 13 requires the estate office, if a widow adopts a child, to take necessary measures to manage and salvage the property of the child.

--Article 14 of adoption results in the breaking of the legal relationship between the adopted child and his or her own biological parents.

##### **c. Adoption cannot be irrevoked unilaterally.**

An adoption cannot be irrevoked by the person concerned. Then the adoption of a daughter or adoption of a child other than a notary certificate, is void by itself.

The adoption of a child may be cancelled, if it contravenes articles 5, 6, 7, 8, 9, and 10 paragraphs 2 and 3 of the 1917 Staatsblad number 129. Article 15 sub 2 of Staatsblad No. 129 of 1917 expressly stipulates that the adoption of girls is invalid and null and void, but on the other hand, today in society there is a need for the adoption of children, including girls, even if for purposes other than the purpose of establishing an adoption institution by Staatsblad No. 129 of 1917.

##### **d. Recognition of the Court,**

because Staatsblad 1917 No. 129 has a political aspect from the Colonial era, there needs to be change, to change, it takes time and is very slow, it needs a breakthrough, namely through the recognition of the court, based on the application.

Such recognition was once given by the Court in a decree on the application for adoption of a daughter, as stated in the Decree of the Jakarta Special District Court No. 907/1963/P dated May 29, 1963 in which the panel of judges argued:

--The adoption regulations for the Chinese in Staatsblad No. 129 of 1917 were the implementation of colonial politics in law.

--Regulations articles 5, 6, and 15 in Staatsblad No. 129 of 1917 no longer have the right to live because they contradict the Constitution of the Republic of Indonesia Year 1945.

--Thus, Indonesian citizens of Chinese descent are no longer bound by Staatsblad No. 129 of 1917 which regulates adoptions limited to boys only, but can also be carried out on girls provided it is known in Chinese Customary Law.

#### **Article 12**

The adopted child must be considered born by the adoptive parents, thus as his biological child.

#### **Article 14**

Adoption results in a legal break between the adopted child and his or her own biological parents.

### **V. PREVIOUS RESEARCH:**

Previous research on adoption has led to assumptions that indicate, there is a heightened risk in terms of psychological development and social relationships for adoptees. Yet, such assumptions have been clarified as flawed due to methodological failures. But more recent studies have been supportive in indicating more accurate information and results about the similarities, differences and overall lifestyles of adoptees

#### **5.1. Antiquity : Adoption for the well-born,**

This book tells about the practice of adoption in ancient Rome, meanwhile, there is a modern form of adoption in America, these forms of adoption, in practice have always emerged through history, e.g. adopter rights and individual responsibilities adopted at length), reference : in the Code of Hammurabi and Codex Justinianus.

Like other contemporary arrangements, the agreement stressed the responsibility of the adopted rather than adopter, focusing on the fact that, under the contract, the adoptive father was meant to be cared for in his old age. An idea that similar to the conceptions of adoption under roman law (John Boswell : 1998 : 74)

#### **5.2. Psychology of Adoption,** by Brodzinsky and Schechter, 1990 : 274

Markedly different from the modern period, ancient adoption practices put emphasis on the political and economic interests of the adopter, providing a legal tool that strengthened political ties between wealthy families and created male heirs to manage estates.

#### **5.3. The Hindu Law of Adoption,** Central Indian Law Quarterly, *Vol 18, 2005 Archived 5 February 2009 at the Wayback Machine*, by A. Tiwari

In a limited and highly ritualistic form, so that an adopter might have the necessary funerary rites performed by a son (source : Vinita Bhargava. 2005 : 45).

China had a similar idea of adoption with males adopted solely to perform the duties of ancestor worship (source : W Minski, 2000)



At the monastery gate (Am Kloostertor) by [Ferdinand Georg Waldmüller](#)

#### 5.4. Modern Period : Adopting to create a family

The next stage of adoption's evolution fell to the emerging nation of the United States. Rapid immigration and the American Civil War resulted in unprecedented overcrowding of orphanages and foundling homes in the mid-nineteenth century. Charles Loring Brace, a Protestant minister, became appalled by the legions of homeless waifs roaming the streets of New York City. Brace considered the abandoned youth, particularly Catholics, to be the most dangerous element challenging the city's order (source : Ellen Herman in Adoption History Project, University of Oregon)

Charles Loring Brace, 1872, His solution was outlined in *The Best Method of Disposing of Our Pauper and Vagrant Children* (1859), which started the Orphan Train movement. The orphan trains eventually shipped an estimated 200,000 children from the urban centers of the East to the nation's rural regions.

#### 5.5. A Child to Adopt : Archived 28 August 2010 at the Wayback Machine) by H.H. Goddard

Now it happens that some people are interested in the welfare and high development of the human race; but leaving aside those exceptional people, all fathers and mothers are interested in the welfare of their own families. The dearest thing to the parental heart is to have the children marry well and rear a noble family. How short-sighted it is then for such a family to take into its midst a child whose pedigree is absolutely unknown; or, where, if it were partially known, the probabilities are strong that it would show poor and diseased stock, and that if a marriage should take place between that individual and any member of the family the offspring would be degenerates.

According to H, David Kirk, *Providing a legal tool that strengthened political ties between wealthy families an created male heirs to manage estate* (1985 : xiv)

The use of adoption by the aristocracy is well-documented: many of Rome's emperors were adopted sons (source : Mary Kathleen Benet, 1976 : 14)

The nobility of the Germanic, Celtic, and Slavic cultures that dominated Europe after the decline of the Roman Empire denounced the practice of adoption (source : S Finley – Crosswhite, 1997)

## VI. METHODOLOGY OF STUDY

Legal methodology is the science of methods or descriptions of methods, which are used to solve problems regarding law, both for academic purposes and practical interests.

### 6.1. Type of Research

The type of research in the preparation of this research is juridical – normative research, namely research carried out based on legal materials and through literature studies that refer to various laws and regulations regarding adoption, doctrine, theories, concepts and legal principles that are useful for ensuring the creation of legal certainty.



## 6.2. Problem Approach

The problem approach in this study uses the Statute Approach and Conceptual Approach. The statutory approach (Statute Approach) is an approach to a problem by examining applicable and related laws and regulations as basic reference material in analyzing the subject matter to be studied.

Conceptual approach is an approach carried out by providing a settlement analysis derived from legal concepts and legal values contained in related laws and regulations, as well as the opinions of scholars and doctrines used as supporting bases related to the legal issues discussed.

## VII. LEGAL MATERIAL

The legal material used in writing this scientific paper consists of 2 (two) materials, namely, primary legal material and secondary legal material.

7.1. Primary Legal Material is a legal material that is binding on the object of the problem to be studied.

7.2. Secondary legal material is legal material that will be used in supporting primary legal material, namely in the form of literature, scholarly opinions and other scholars' scientific works that are relevant to the object of the problem studied in this study.

## VIII. PROCEDURE OF RESEARCH

The steps in taking legal material in this paper are through literature study, starting with how to find all legal material related to the subject matter in this paper. The next step is to classify related legal materials and then these legal materials are arranged systematically, so that it is easier to read and learn and understand.

The discussion step is carried out through deductive reasoning which means from general legal knowledge and obtained from laws and regulations, and literature, which is directly implemented on the subject matter raised, in order to obtain answers to specific problems. The next discussion uses systematic interpretation,

## IX. RESULT AND FINDING

From the regulations on adoption for the Chinese Foreign Easterners, the Europeans, more guarantee comfort for adoptive parents than adoption or foster children according to Government Regulation Number 54 of 2007, because many requirements are difficult to implement, causing many violations committed by adoptive parents, too convoluted. Even though the purpose of adopting or adopting a child is for the welfare and development of the child, to improve the fate of his life, get adoptive parents who are able to support his life, and his future is more secure.

In Indonesia, there are so many abandoned children, even orphans, parents who want adopted children will turn to raise children in Malaysia, Thailand, Vietnam, Korea, China, because adoption regulations are very lenient, as long as the adoptive parents have the ability to maintain and meet the needs of their adopted children, live securely, for the future and development of the child, more prosperous. The government did not intervene too much in the case of the adoption agreement, the important thing is that it has been investigated about the employment and life history of the adoptive parents, there are no defects, and are affectionate towards the child to be adopted.



**ADOPTIVE FAMILIES COMING TOGETHER**



**Our third and final adoption, the completion of our family and our hearts**



**THIS FAMILY ADOPTED ONE SON & A LITTLE GIRL, THEY FEEL HAPPY**

## **X. CONCLUSION AND RECOMMENDATION**

### **Conclusion :**

Based on what has been described above, a conclusion can be drawn, adoption is different from adoption of children. If the child is adopted, the child is considered the same as his biological child, he will get the same share of inheritance rights as the biological child. While adopted children, only to be nurtured, educated, provided for their needs, whose nature is to prosper the life of the adopted child, do not have the right to inherit from their adoptive parents.

The majority of the world, adoption has changed the fate of the child, because adoptive parents think of old age if they do not have children, so that their property will be given to their adopted children, likewise in India and China, they adopt children, because to pass on their generation and culture to their ancestors, especially adopting sons. In America, Europeans, parents who adopt children, are really treated as biological children, not just nurtured, raised.

In the past, adopting children because there were political and economic interests, especially in ancient Rome, now in Europe, adopting children as a generational successor, so as not to stop. Only in Indonesia does it distinguish between adoption and adoption of children, with different consequences, consequently, in Indonesia, There are many legal abuses, meaning that the adopted child is not made an adoption agreement, but is born immediately, the data of the adoptive parents is given, so that the child's birth certificate is directly written in the name of the parents, as if it is not the adoptive parents, and as if it is a biological child. Chinese tradition, in addition to intending to continue the culture by storing and preserving the ashes of ancestors, also to continue the descendants with their continued surname, hence the Chinese if adopting a child, is a son.

**Recommendation :**

The Government of Indonesia should not distinguish between the rights of adopted and foster children, because it harms foster children, kept since childhood, but does not get inheritance rights, as well as adopted children, must be in the same faith as adoptive parents. This is very inaccurate, and carries legal consequences for the parents who will raise it. Indirectly, the Government's regulation on the adoption of children must be of the same faith as this creates discrimination.

**REFERENCES**

- [1]. Adamec, Christine, and William Pierce, *The Encyclopedia of Adoption*, 2nd Edition, 2000.
- [2]. Barr, Bernadine, "Spare Children, 1900–1945: Inmates of Orphanages as Subjects of Research in Medicine and in the Social Sciences in America" Stanford University, 1992
- [3]. Benet, Mary Kathleen, *The Politics of Adoption*, 1976
- [4]. Bhargava, Vinita, *Adoption in India: Policies and Experiences*, 2005
- [5]. Boswell, John , *The Kindness of Strangers*, 1998, page 74
- [6]. Brace, Charles Loring , *The Dangerous Classes of New York and Twenty Years' Work Among them*, 1872
- [7]. Brodzinsky and Schecter (editors), *The Psychology of Adoption*, 1990
- [8]. Carp, E. Wayne, *Family Matters: Secrecy and Disclosure in the History of Adoption*, Harvard University Press, 2000
- [9]. Code of Hammurabi, The practice of adoption in ancient Rome is well-documented in the Codex Justinianus
- [10]. Finley-Croswhite, Review of Blood Ties and Fictive Ties, Canadian Journal of History August 1997
- [11]. H.H. Goddard, Excerpt from Wanted: A Child to Adopt Archived 28 August 2010 at the Wayback Machine)
- [12]. Herman, Ellen, Adoption History Project, University of Oregon, Topic: Charles Loring Brace, The Dangerous Classes of New York and Twenty Years' Work Among Them, 1872
- [13]. Kirk, H. David, *Adoptive Kinship: A Modern Institution in Need of Reform*, 1985, page xiv)
- [14]. Lawrence and Pat Starkey, *Child Welfare and Social Action in the Nineteenth and Twentieth Centuries*, 2001.
- [15]. Melosh, Barbara., *Strangers and Kin: the American Way of Adoption*, page 106, *Family Planning Perspectives* Volume 28, Number 1, January/February 1996.
- [16]. Menski, W., *Comparative Law in a Global Context: The Legal Systems of Asia and Africa*, 2000
- [17]. Perreau, Bruno , *The Politics of Adoption : Gender and the Making of French Citizenship*, MIT Press, 2014
- [18]. Stephen O'Connor, Orphan Trains
- [19]. Tiwari, A., The Hindu Law of Adoption, *Central Indian Law Quarterly*, Vol 18, 2005 Archived 5 February 2009 at the Wayback Machine
- [20]. Zaini Muderis, *Adoption, A Review of Three Legal Systems*, Sinar Grafika, 1999
- [21]. Laws and Regulations :
- [22]. Staatsblad No. 1917 - 129
- [23]. Civil Code
- [24]. Law No. 24 of 2013 concerning Amendments to Law No. 23 Year 2006 on Population Administration
- [25]. Law No. 23 of 2002 concerning Child Protection, as amended by Law No. 35 of 2014 and the latest amendment by Regulation Government in Lieu of Law Number 1 of 2016;
- [26]. Law Number 4 of 1979 concerning Child Welfare
- [27]. Government Regulation Number 54 of 2007 concerning Regulations for the Implementation of Adopted child.
- [28]. Declaration on the Rights of the Child
- [29]. Supreme Court Jurisprudence on Adoption

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# American Journal of Multidisciplinary Research & Development



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Your article has published with following details:

Manuscript Id : B62013  
Author's Name : **Lanny Kusumawati**  
Journal Name : **American Journal of Multidisciplinary Research and Development (AJMRD)**.  
Journal URL : **www.ajmrd.com**  
Review Type : Peer Reviewed  
Indexing : Yes  
ISSN (e) : 2360-821X  
Vol No. : 06  
Issue No. : 02  
Month of Publication : February 2024



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*Editor-in-Chief*  
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