



Implementation of the Law on the Fulfilment of the Rights of Adopted Children after Court Determination

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Abstract

Indonesian law requires that the adoption of a child be confirmed by a court determination, and Article 1 number 9 of Law Number 35 of 2014 amending Law Number 23 of 2002 on Child Protection transfers the full responsibility for the child's care, education and upbringing to the adoptive parents. This article examines the legal regulation of the fulfilment of the rights of adopted children and the implementation of those rights after a court determination has been issued. The study uses empirical legal research with a qualitative approach; data were collected through observation, interviews with the chair, a judge and the registrar of the Limboto Religious Court and with five adoptive parents, and through documentary study. The study finds that adoption through the court secures legal certainty, legal justice and legal documentation, and that it transfers responsibility for maintenance, education and welfare to the adoptive parents in full. In four of the five cases examined the rights of the adopted child were fulfilled, but in one case the child's right to direct care and affection was not fulfilled after the adoptive parents had a biological child, which is inconsistent with the Child Protection Law.

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1. Introduction

The law has a status and position that largely determines constitutional life. The formation of legal norms is essentially legislation.¹ The logical consequence of this reality is the necessity of a general order/apparatus that can regulate the life of society, nation, and state nationally based on Pancasila and the 1945 Constitution of the Republic of Indonesia.²

Law is a political product, a chapter of character the content of any legal product will be largely determined or colored by the balance of power or political configuration that gave birth to it³In society there are various kinds of interests where common interests require order in social life. In the life of a certain society yearning for a safe and peaceful life without any interference, a man of individualism will attach importance to himself, thus arising infighting. If the state of society is such then it cannot be said that there is an orderly life in a particular society.⁴

One of the forms of relations between individuals in society is the relationship between the female and the male who performs the marriage. As one of the relations of interaction between individuals in society in one State, such a relationship shall be expressly regulated by the State through the applicable positional law.⁵

The right to independence and freedom becomes the foundation for a state in upholding the rule of law on the sovereignty of its jurisdiction. Three types of legal system apply in Indonesia, namely the customary law system, civil law, and Islam. Indonesia is a country⁶ that is no stranger to the adoption of children, adopted children are a legal act in the framework of customary hereditary law if a person is appointed or seated and accepted in a position both biological and sociological. Fahmi Al Amruzi argues that adopted children and child adoption institutions are an actual problem amid society, not only in

¹ Ahmad Ahmad, "Analysis of Abuse of Authority by Government Apparatus in the State Administrative Legal System," *International Journal of Constitutional and Administrative Law* 1, no. 1 (2025): 1; Apripari et al, "Restorative Justice in Victimless Crimes under the Criminal Procedure Code: Problematics and Solutions," *Jurnal Hukum Novelty* 17, no. 1 (2026): 144–66, <https://doi.org/10.26555/jhn.v17i1.31003>; Ahmad Ahmad et al, "Antara Otoritas dan Otonomi : Pertautan Hak Asasi Manusia dalam Praktik Eksekusi Putusan PTUN: Perlindungan HAM dalam Eksekusi Upaya Paksa Terhadap Putusan Peradilan Tata Usaha Negara," *Jurnal Konstitusi* 21, no. 3 (2024): 3, <https://doi.org/10.31078/jk2133>; Hidayat Hidayat et al, "Determination of Marriage Dispensation at Gorontalo Religious Court in Accordance with the Child Protection Law No. 35 of 2014," *Estudiante Law Journal* 6, no. 3 (2024): 663–80, <https://doi.org/10.33756/eslaj.v6i3.29567>; Wenry Almoravid Dungga et al, "Ensuring Justice in the Trend of Remote Working: Legal Challenges and Implications for Companies and Workers," *Jurnal IUS Kajian Hukum Dan Keadilan* 14, no. 1 (2026): 201–27, <https://doi.org/10.29303/ius.v14i1.1721>; Ahmad Ahmad and Kevin Rivera, "Analysis of Legal Protection of Human Rights in the Context of State Administrative Law," *International Journal of Constitutional and Administrative Law*, March 11, 2026, 40–53, <https://doi.org/10.66502/ac6z6f55>.

² Ashari, *Hukum Perkawinan Di Indonesia* (Pustaka Pelajar, 2015).

³ Ahmad Wijaya and Nasran Nasran, "Comparison Of Judicial Review: A Critical Approach To The Model In Several Countries," *Jurnal Legalitas* 14, no. 2 (2021): 85–106, <https://doi.org/10.33756/jelta.v14i2.11809>.

⁴ Yulies Trisna Masriani, *Pengantar Hukum Indonesia* (Sinar Grafika, 2011).

⁵ Sonny Dewi Judias, *Harta Benda Perkawinan* (PT Refika Aditama, 2015).

⁶ Dolot Alhasni Bakung dan Mohamad Hidayat Muhtar, "Determination of The Legal Protection of Right-Holders to Neighboring Rights," *Jambura Law Review* 2, no. 01 (2020): 65–82.

the present but have existed since pre-colonial times living in the lives of indigenous peoples in Nusantara.⁷

In general, the adoption of a child according to law is the transfer of a child to the adoptive parents from the biological parents as a whole and is carried out according to local lawful custom. So the biological parents are already hands-off towards the child, and responsibility passes to the person who appointed it.⁸ The adoption of a child through a court institution is to obtain legal certainty because the legal consequences of the adoption of a child concern the inheritance and responsibility of the parents to their child.⁹

The adoption of the child version of Islamic law is a form of *hadhanah* and in no way changes the legal relationship, *nasab* and *mahram* between the adopted child and his parents and family of origin. The changes that occurred only transferred the responsibility of maintenance, supervision, and education of the original parents to the adoptive parents. The concept of child adoption in customary law varies, according to their respective customary territories, as well as the terms used and the legal consequences of child adoption according to customary law are varied, meaning that in one area it may be different from customary law in another area.¹⁰

The main feature of the state is the emergence of the obligation of the government to realize the general welfare of its citizens.¹¹ In Indonesia, no provision of the Law specifically regulates the adoption of children, so the government issued Government Regulation Number 54 of 2007 concerning the Implementation of Child Adoption so that there are no deviations in the adoption of children and became a reference for society in general and especially for prospective adoptive parents. To avoid this, prospective adoptive parents must meet the conditions set by the government.¹²

The provisions of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection Article 1 number 9 which states that :

"An Adopted Child is a Child whose rights are transferred from the sphere of power of the Parental Family, Legal Guardian, or another person responsible for the care,

⁷ Lisa Carterina Kunadi and Diana Tantri Cahyaningsih, "Perlindungan Hukum Terhadap Hak Waris Anak Angkat Di Indonesia," *Jurnal Privat Law* 8, no. 2 (2020): 281, <https://doi.org/10.20961/privat.v8i2.48421>.

⁸ Abidin Abidin and Abdullah Kelib, "Rekonseptualisasi Akibat Hukum Pengangkatan Anak Menurut Kajian Kompilasi Hukum Islam," *Jurnal Usm Law Review* 1, no. 1 (2018): 12, <https://doi.org/10.26623/julr.v1i1.2226>.

⁹ Jaya C. Manangin, "Pengangkatan Anak (Adopsi) Ditinjau Dari Perspektif Hukum Islam," *Lex Privatum* 4, no. 5 (2016): 148464.

¹⁰ Muhammad Rais, "Kedudukan Anak Angkat Dalam Perspektif Hukum Islam, Hukum Adat, Dan Hukum Perdata (Analisis Komparatif)," *Jurnal Hukum Diktum* 14, no. 2 (2020): 274–82.

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Suwitno Y. Imran Julius T Mandjo, "Implementasi Uud Negara Republik Indonesia Tahun 1945 Pasal 27 Ayat 2 Tentang Hak Untuk Mendapatkan Pekerjaan Dan Penghidupan Yang Layak Bagi Kemanusiaan," *Jurnal Majelis* Edisi 8, no. September (2020).

¹² Suparna Wijaya dan Annisa Febriana Safira, "Pajak Penghasilan Anak Angkat Berpenghasilan," *Riset & Jurnal Akuntansi* 5, no. 2 (2021): 396–406.

education, and raising of the Child into the family environment of his adoptive Parents based on a court decision or determination" ¹³

In this case, any adoptive parent who performs the adoption of the child must be based on the best interests of that child. Adopted children should not be treated merely as a means of obtaining offspring. Because of the legal consequences that arise against the child after being adopted, that is, it will cause a legal relationship between the adoptive parents and the adopted child, so that both give rise to rights and obligations. Such as the obligation of adoptive parents to maintain and educate adopted children without distinguishing between adopted children and biological children. Every child is entitled to the right of maintenance for his daily life, giving direct affection and raising the child just like a biological child. In the field, however, this study found that some rights of adopted children are not fully obtained from their adoptive parents. One married couple adopted a child in 2019 than in 2021 both were blessed with biological children. Because they found it difficult to take care of two children at once, both of them asked that their children be taken care of by the mother of the two. This arrangement means that the adopted child receives less direct affection from the adoptive parents and is treated differently from the biological child. Children who have been adopted should be treated like biological children without distinguishing one from the other. This is the issue that the present study examines.

2. Method

This study on the implementation of the fulfilment of the rights of adopted children after a court determination uses empirical legal research. Empirical legal research is a method that relies on empirical facts drawn from human behaviour, both verbal data obtained through interviews and observed conduct recorded through direct observation, in order to obtain data on the implementation of the fulfilment of the rights of adopted children after a court determination. The approach applied is qualitative. A qualitative approach analyses the research results so as to produce descriptive analytical data, namely data stated by respondents in writing or orally together with their observed conduct, examined and studied as a whole. ¹⁴The population of the study comprises the Religious Court and the community, in this case the parents who have adopted a child. The sample consists of the Chair of the Limboto Religious Court, a judge of the Limboto Religious Court, the registrar of the Limboto Religious Court and five adoptive parents. Data were collected through observation, interview and documentation. The data were analysed qualitatively, by examining whether the applicable legal basis has in fact been implemented. The analysis was conducted continuously, beginning with fieldwork and the collection of data relating to the cases studied, followed by qualitative and systematic analysis.

¹³ Pasal 1 Angka 9 Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 13 Tahun 2002 Tentang Perlindungan Anak.

¹⁴ Mukti Fajar dan Yulianto Achmad, *Dualisme Penelitian Hukum (Normatif Dan Empiris)* (Pustaka Pelajar, 2010).

3. Implementation of the Law on the Fulfilment of the Rights of Adopted Children after Court Determination

An adopted child is a child who is transferred from the neighborhood where the parent, legal guardian, or another person responsible for the care, education, and rearing of the child to the neighborhood where the adoptive parent lives, based on a court order. According to Law Number 35 of 2014, a child is any person under the age of 18 (eighteen) years, including children who are still in the womb. Meanwhile, child protection is any activity aimed at safeguarding and protecting children and their rights, allowing them to live, grow, develop, and participate optimally in accordance with their dignity and worth, and to receive protection from violence and discrimination.¹⁵ Child adoption institutions are legal institutions that play an effective role in child protection work, especially the protection of abandoned children, abandoned children, and children from poor families. The international community has recognized the so-called "adoption" system, that is, the adoption of someone else's child into the biological child of an adoptive parent, enjoying the rights and obligations and rights and obligations of the biological child, both inheritance rights, the right to use the name of his adoptive parents, the right of guardianship, and others.¹⁶

The provisions of Article 14 contained in Staatsblad 1917 Number 129 the event of determining the position of a child to be an adopted child also automatically causes the child's relationship with the biological father and mother to be broken. By using the procedure for determining a valid child in Court, the adoptive father and mother and adopted child have a family bond like a child with his biological parents. Because of this, adopted children also use the surnames of their adoptive parents. With this legal relationship, it is clear that the adopted son has the right to inherit the estate of his adoptive father and mother based on the *legitieme portie* of all inherited property and is absolutely entitled to be the beneficiary of the inheritance as stipulated in Article 852 of the Civil Code. Based on Article 852 of the Civil Code, the right to obtain the inheritance of a child who has been appointed under the law is legally recognized even though it is not sourced to a written *testament*.¹⁷

The adoption of a child is not regulated in the Civil Code but is regulated in Staatsblad 1917 Number 129 concerning the Adoption of Children. The adoption of children to obtain legal status must be carried out through the process of determining the local District Court to obtain a court decision where the procedure and/or procedure for the adoption of the child has been further regulated in the latest regulation, namely Government Regulation Number 54 of 2007 concerning the Implementation of Child Adoption. This is also done to protect his civil rights so that the child who has been appointed as a legal child for his

¹⁵ Dolot A. Bakung, "Mekanisme Pengangkatan Anak Melalui Pengadilan Negeri Dan Pengadilan Agama," *Jurnal Legalitas* 2, no. 3 (n.d.).

¹⁶ Ibid.

¹⁷ Al-ghazali Muhammad, "Perlindungan Terhadap Hak-Hak Anak Angkat Dalam Pembagian Harta Waris Perspektif Kitab Undang-Undang Hukum Perdata Dan Hukum Islam," *Qiyas* 1, no. 129 (2016): 101.

adoptive parents just like a biological child can then become one who is entitled to inheritance from his adoptive father and mother.¹⁸

As a general rule, the adoption of a child must go through legal proceedings and the result of a court decision. The purpose of this legal process is to regulate the legal practice of the adoption process for the child living in the community and to ensure that the future adoption process has legal certainty for both the child and his adoptive parents. The provision of children to obtain legal status must be carried out through the process of determining the local District Court to obtain a court decision in which the procedure and/or procedure for the adoption of children has been further regulated in the latest regulation, namely Government Regulation Number 54 of 2007 concerning the Implementation of Child Adoption. And the basis of juridical applicability is a statute in which much meets the conditions of formation and is based on a higher law.¹⁹ This is also done to protect their civil rights so that the child who has been appointed as a legal child for his adoptive parents just like a biological child can then become one who is entitled to inheritance from his adoptive father and mother.²⁰ The international community has recognized the so-called "adoption" system, that is, the adoption of someone else's child into the biological child of an adoptive parent, enjoying the rights and obligations and rights and obligations of the biological child, both inheritance rights, the right to use the name of his adoptive parents, the right of guardianship, and others.²¹

The adoption of children through court decisions aims to achieve legal certainty, legal justice, legality, and legal documentation. A legal document here means that there is a court order. This legal document is important because it clearly states that adoption is legal. This is especially important in family law because the legal consequences of child adoption have far-reaching consequences for future generations. Therefore, it is very important that other parents who want to adopt a child follow the procedures outlined in the law and adopt correctly. And the court has full authority over this so that it can minimize the occurrence of the process of removing children who are not based on the established law.²²

The legal adoption of a child generally has legal consequences.²³ Adoption creates a new legal relationship between adoptive parents and adopted children. For example, the relationship between the biological parents themselves :

¹⁸ Anak Agung Ngurah Agung Bima Basudewa and I. Made Dedy Priyanto, "Kedudukan Hukum Anak Angkat Atas Harta Yang Ditinggalkan Orang Tua Angkat Berdasarkan Hukum Perdata," *Jurnal Kertha Negara* 9, no. 11 (2021): 938–48.

¹⁹ Michael Frans Berry, "Pembentukan Teori Peraturan - Perundang-Undangan," *Jurnal Ilmu Hukum Universitas Muhammadiyah Metro* 2, no. 2 (2018): 89.

²⁰ Basudewa and Priyanto, "Kedudukan Hukum Anak Angkat Atas Harta Yang Ditinggalkan Orang Tua Angkat Berdasarkan Hukum Perdata."

²¹ Dolot A. Bakung, "Mekanisme Pengangkatan Anak Melalui Pengadilan Negeri Dan Pengadilan Agama."

²² Basudewa and Priyanto, "Kedudukan Hukum Anak Angkat Atas Harta Yang Ditinggalkan Orang Tua Angkat Berdasarkan Hukum Perdata."

²³ Ovie Sompie, "Kajian Yuridis Pengangkatan Anak Dalam Upaya Perlindungan Anak," *Lex et Societatis* V, no. 2 (2017): 164–71.

1. There is a birth and inner bond between adoptive parents and adopted children and fair treatment between biological children and adopted children
2. Rights and obligations between adoptive parents and adopted children arise as rights and obligations between parents and their biological children:
 - a. Parents are obliged to raise and educate adopted children as well as possible. Parents are obliged to provide affection, education, health, and services for all their needs, and have the right to bequeath from their adoptive parents.
 - b. Adopted children, must respect and respect their adoptive parents as well as their biological parents. When a child becomes an adult, he is obliged to take care of the elderly and take care of the parents.

The following is the data of the applicant who carried out the adoption of the child, and the fulfillment of his rights was fulfilled and not fulfilled :

Table 1. Applicants for child adoption at the Limboto Religious Court and the fulfillment of the adopted children's rights

No.	Year	Applicant	Rights fulfilled	Rights fulfilled	not fulfilled
1	2019	Mr. SZ and Mrs. MP, Yosonegoro Village, West Limboto District, Gorontalo Regency	The rights to living costs and to education are fulfilled.	The right to direct care and affection is not adequately fulfilled.	
2	2021	Mr. AS and Mrs. MT, Hulawa Village, Telaga District, Gorontalo Regency	All the rights of the adopted child are fulfilled. Although the couple later had a biological child, this did not reduce their commitment to caring for the adopted child, who is treated fairly and without distinction.	-	
3	2021	Mr. SH and Mrs. DT, Suka Damai Village, North Bulango District, Bone Bolango Regency	The adopted child is cared for by both parents in the same way as a biological child, and the financing of the child's needs is met in full.	-	
4	2021	Mr. WL and Mrs. RH, Hepuhulawa Village, Limboto District, Gorontalo Regency	The couple have raised the adopted child since birth, meet all the child's needs and treat the child as a biological child.	-	
5	2021	Mr. PI and Mrs. NA, Boliuahangga Village, Limboto District, Gorontalo Regency	The adopted child is treated as a biological child, including in the fulfillment of the child's rights.	-	

Source: Primary data, Limboto Religious Court and interviews with adoptive parents, 2022 (processed).

Based on the table above, the implementation or implementation of the fulfillment of the rights of adopted children from one of the adoptive parents, namely Mr. SZ and Mrs. MP, for children who have been adopted has not been fully implemented. Based on the results of an interview with the MP's mother, both of them raised a child in 2019 through the

court, and then after one year, both of them were blessed with a biological child, then because they found it difficult to take care of two children at once, the adopted child was entrusted or taken care of by the parents of the MP's mother until now.²⁴

In Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection Article 1 number 9 which states that:

"An Adopted Child is a Child whose rights are transferred from the sphere of power of the Parental Family, Legal Guardian, or another person responsible for the care, education, and raising of the Child into the family environment of his adoptive Parents based on a court decision or determination" ²⁵

In the provisions of the article, it is interpreted that adopted children must be given the right to care directly from their adoptive parents. Parents must directly control the development and growth of the child so that his life is guaranteed. In addition, adopted children should be treated the same as biological children who distinguish one from the other, but the fact is that this has not been realized as it should be.

On this basis, the adopted child does not receive the full affection from his parents, and the child who has been raised should be treated the same as his biological child. Even though the parent already has a biological child, the rights of the child who has been raised must still be fulfilled. Adopted children also have the right to welfare on par with biological children. Adopted children should not be treated merely as a means of obtaining offspring, and at any time the adopted child should be treated like a biological child without distinction between one and the other and the adoptive parents have full responsibility for it.

When compared to Mr. AS and Mrs. MT, both of whom carried out child adoption in 2020. Although both of them have had biological children, this does not reduce the intention and desire of the two to take care of the child they have adopted and treated fairly without distinguishing between adopted and biological children. And all the needs of his adopted son's life were met and carried out in full. Every child has the right to obtain his rights as stated in Article 2 of Law Number 4 of 1979 concerning Child Welfare:

1. Children are entitled to well-being, care, upbringing, and guidance based on affection both in their family and in the upbringing specifically to grow and develop reasonably.
2. Children are entitled to services to develop abilities and its social life, under the culture and personality of the nation, to be good and useful citizens.
3. Children are entitled to maintenance and protection, both during the time in the womb as well as after birth.

²⁴ "Wawancara Dengan Ibu MP," n.d.

²⁵ Pasal 1 Angka 9 Undang-Undang Nomor 35 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 13 Tahun 2002 Tentang Perlindungan Anak.

4. Children have the right to environmental protection that can harm or inhibit their growth and development reasonably.²⁶

The existence of legal protections should help ensure that children enjoy the rights that adults have. Child protection, including the adoption of a child, is aimed at guaranteeing and realizing the rights of the child. Protection and fulfillment of the needs of children's parents can be realized if parents feel able to fulfill the rights of children so that children are not neglected. The principle of adoption of children according to Islamic law aims to prevent children from experiencing abandoned growth and development, not breaking legal ties with biological parents, or being enslaved by adopted children.²⁷

The implementation of children's rights described in child protection efforts has a broad scope, considering that child welfare does not only include social and economic needs, but also other aspects, such as protection in the field of justice, abandoned children, street children, children victims of physical and sexual violence and so on.²⁸

The meaning, meaning, nature, and purpose of child protection at least provide firmness that the child and all the rights attached to him need to be guaranteed protection, both social, cultural, economic, political, and legal. This is intended so that children in their development have the right to live and develop according to their intellectual abilities, and through these abilities, children can adjust to others or parents and other humans according to their dignity and dignity.²⁹

The realization of children's rights is indeed important and depends on the extent of the role and obligations of parents in meeting their various needs, both physical, physical, and social. Parents who are found to be shirking responsibility resulting in obstacles to the child's development and growth, then their custody power can be revoked through a legal decision, by not abolishing their obligation to finance their abilities, livelihoods, maintenance, and education of the child. The above obligations are mandatory for parents or their families to form children. Because in everyday life, it is the parents who are closest to the child and directly monitor the child's physical and mental growth and monitor the child's daily interactions. This shows that parents and families have obligations and obligations that cannot be abandoned, and this concerns the child.

4. Conclusion

The adoption of a child must be carried out through a court institution in order to regulate the practice of adoption within the community and to ensure that the adoption process affords legal certainty both to the child and to the adoptive parents. Parents who have carried out the adoption of children must be fully responsible for the child they have adopted, because with the adoption of the child, responsibility passes in full from the

²⁶ Pasal 2 Undang-Undang Nomor 4 Tahun 1979 Tentang Kesejahteraan Anak.

²⁷ Sasmiar, "Pengangkatan Anak Ditinjau Dari Hukum Islam Dan Peraturan Pemerintah No.54 Tahun 2007 Tentang Pengangkatan Anak," *Jurnal Ilmu Hukum* 11, no. April (2016): 6-8.

²⁸ Desy Maryani, "Politik Hukum Perlindungan Anak Di Indonesia," *Jurnal Hukum Sehasen* 1, no. 2 (2017): 1-19.

²⁹ Sasmiar, "Pengangkatan Anak Ditinjau Dari Hukum Islam Dan Peraturan Pemerintah No.54 Tahun 2007 Tentang Pengangkatan Anak.".

biological parents to the adoptive parents, and the adoption process has legal validity so that wherever and whenever the child is legally bound by the law.

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