

Adoption Of The Child Does Not Go Through Court Proceedings

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Abstract

This study discusses the adoption of a child, from the procedure to the shows this is one study that has long been a concern of researchers, in particular looking at adoption from the point of view of tradition or culture that is inclusive of entry on the positive law in Indonesia, the regulation governing Law Number 35 the Year 2014 on the Protection of Children, this study shows that there is still a lot happening adoption of a child outside of court, or not through the Court Process based on methodology normative juridical, and the data obtained from the library (library research) study was analyzed qualitatively with a spur on the norms, principles, and laws and regulations that exist as a norm of positive law (Statute Approach), this study shows the regulation have been made related to the procedural removal of the child is already complete, if not followed by the public, then it will be too much loss in the received later in the day against the child in adoption when growing up, based on the society should be more given the socialization of the adoption of the child through the court, more specifically to the Supreme Court and the Ministry of internal affairs as the main stakeholders in the civil registration and the procedure of adoption of a child.

Keywords: Child Adoption, The Process Of The Court, The Adoption

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1. INTRODUCTION

Having children is the dream of every parent. So important is the presence of a child in the family to the point that a family that has not been blessed with a child must adopt a child. Survey data reported by Parents showed that there were 2.3 percent or about 2,072,312 children adopted before the age of 18. Meanwhile, in Indonesia, data on the number of child adoptions is not yet known due to lack of attention to this problem. This at the same time reflects that the lack of data is a reflection of how the legal process that must be passed when a person is about to adopt a child seems neglected.

Whereas as shown by Bakhtiar and Yustiana (2017) some of the reasons a

person adopts a child include: 1) not having children in marriage and his desire to have children of his own to look after his future and his old age. 2) to maintain a bond in marriage to lead to happiness in the household. 3) with his belief that with the presence of children, it will quickly get offspring, own children. 4) his concern for abandoned children, his parents can not afford, funds know orphans. 5) to increase funds or get a job. The situation of the data in Indonesia is not yet valid data on the number of children adopted, this shows that information about adoption in Indonesia is still very limited to make it easier for people to access it. However, despite the lack of information / socialization of funds or facilitation provided by the government

legally according to customary law, because it does not know the procedure, it is legally valid even though it is not through a complete court of legal process and official legal documents regarding adoption has a significant role in the future of the child.

The study that discussed the adoption of children is a study that has long been a concern of researchers. There are at least three trends that can be mapped from these studies. First, regarding the adoption of children according to Islamic law is reviewed in several aspects: 1) In terms of the adoption of a child who is given an identity as his own biological child. In the adoption of children according to Islam is prioritized on his love, raising him / living, educating him / communing him and other needs. 2) In terms of social justice according to Islamic law in raising children opens the opportunity for the rich / able community, to do charity through wills and give rights to the adopted child, meet his needs in the future so as not to feel lack in meeting his needs and his future education can be fulfilled. 3) In terms of ethics and social, a person who performs the adoption of a child means that the person who has done good deeds, and in accordance with the teachings of Islam, it is common that in raising a child is aimed at nurturing him, educating him to raise him and comucle him that most of the people have not been blessed with children / descendants. 4) According to the teachings of Islam, it is taught to help each other to others who are not able, and Muslims must be socially minded to care for displaced children because they do not have parents, but it does not close the possibility also to those who have parents but the condition is not capable. 5) And reviewed in terms of reality as a process of development of the times, so Islamic law is developing, in connection with the understanding of the child's attachment in a broad sense, Islamic law develops also about the adoption of children applied in Indonesia.

Second, studies that look at the traditional or cultural viewpoint regarding adoption, the position of adopted children in customary law influenced by the family

system, or the descendants of the family system in Indonesia are distinguished into: 1) *Patrilineal* system that is the hereditary system is drawn according to the lineage of the father, based on men more prominent influence than on the position of women. 2) *Matrilineal* system that is a hereditary system drawn according to maternal lineage, the position of women is more prominent influence than the position of men. 3) *Parental or bilateral* system that is a hereditary system drawn according to the line of parents or according to the line of two sides namely father and mother, the position of men and women are not distinguished.

Third, studies that look at the point of view of civil law in the process of adoption of adopted children in the view of Islamic law there are several things that need to be considered in establishing the adoption of the child. 1) According to Islamic law the adopted son cannot use the name of his adoptive father, as described in surah Al-Agzab verses 4 and 5. 2) Between the adoptive father and his adopted son, the adoptive mother and his adoptive brother have no blood relations, and they can to live in one house, but must maintain ethics, manners and manners in maintaining mahrams, according to Islamic law, among which are not allowed to see the aurat, berkhawat, and also father or adoptive brother should not be a guardian judge in marriage for adopted daughters, etc. 3) Among them should not inherit each other, and in Islamic law in raising a child does not bring legal repercussions in terms of blood relations, and in the relationship of guardians, the relationship in the inheritance-bequeathing with adoptive parents. But the adopted child remains the heir to his biological parents / biological parents. Thus the subject of the implications of the adoption of children is very different between customary law / BW and Islamic law. However the view according to Islamic law in inheritance bequeaths to adopted children which is clearly very different from the provisions with the regulations in the general judiciary, because what we are

discussing at the moment is that the adoption of the child is not this not through the courts, based on customary law. The study that discussed the adoption process not through the courts is a study that still received less attention from researchers.

This paper complements the shortcomings shown in the literature above. In line with that, this paper wants to show that in the process of child adoption, often the process is not through court rules for some administrative reasons and even the state also seems averse to the many adoption phenomena that occur in Indonesian society. At least the paper will show three evidence of child adoption not going through court proceedings and state waivers against him. First, because the court process is considered convoluted; second, because the public is not familiar with legal procedures; third, because the adoption of children is cultural. These three sections will be the focus of this paper. This paper argues that adoptive parents do not carry out the legal process provided by the state regarding child adoption rules due to the convoluted administrative system owned by the government, then cause the adoption process to have more customary laws than civil law. On the other hand, the government seems averse to the phenomenon of adoption through this customary law so that this will complicate various administrative matters faced by the child in the future.

2. LITERATURE REVIEW

According to Undang-Undang No. 35 of 2014 on Child Protection, the adoption process must meet several general provisions, namely: first, the adoption of the child is intended for the benefit of the child itself. All considerations in adopting the child must put the best interests of the child first, and adoptive parents and biological people must always give and pay attention to the best interests of the child. Both parties, both adoptive parents and biological parents of children in the adoption of children are not allowed to break the blood relationship between biological parents, and

always maintain good relations. What's more if the daughter, if the child later conducts marriage then her adoptive parents can not be the guardian of the judge, who has the right to remain must be his birth parents, and the name used must use the name of the biological parent (father) of her biological parents.

The adoption of children is divided into two ways, namely, the adoption of children based on the customs or customary laws and customs of the local community both the adoption of children based on the applicable laws and regulations, the adoption of children in accordance with the Law is divided into 2 (two) ways that is the adoption of the child directly, which is named directly is the adoptive parent with the biological parents holding talks of both parties who agreed to give, welfare of the interests of the child, who agreed to adopt in accordance with the agreement of both parties. The appointment of children through childcare institutions that have obtained permission from social services is complete. The lack of government in socializing adoption, and the absence of laws governing sanctions for people who carry out adoptions that do not go through the courts as a result of which the law that occurs causes the civil rights of the child to disappear.

In the Rules and Regulations on child protection and in the Law (Undang-Undang) on foundations do not regulate specifically but in the civil provisions of the child regarding adoption not through the courts. Therefore, orphanages that are the subject of such laws, especially for those who carry out child adoption procedures and not through the courts must be subject to sanctions / penalties or in prison in order to deter and be responsible for their actions legally. But most people take shortcuts directly to biological parents with adoptive parents, thus upholding the values of customary law, and the adopted child is immediately made a birth certificate on behalf of adoptive parents as parents who give birth, that is the reality of society today.

The adoption of the child is divided into two meanings, namely first, the adoption of the child in a broad sense. This creates a close relationship, so that there are proper rights and obligations between the child and the parents themselves. Second, it is the adoption of a child in a limited sense, i.e. the adoption of another person's child into his own family and the relationship between the adopted child and the adopted parent is limited to social relationships only. In Indonesia, there are three legal systems that apply and regulate the issue of child adoption. The three legal systems are Islamic law, customary law and Indonesian law (positive law). If Islamic law is placed as a blue-print of God that in addition to control as well as social engineering to the existence of an Islamic Law as a social pranata has two functions, namely: as social control and community value.

While the second, the law is more of a product of history that within certain boundaries is put as justification for the demands of social, cultural, and political change. Therefore, in this context, Islamic law is required to be accommodating to the problems of the people without losing its basic principles. Otherwise, it is likely that Islamic law will experience infertility of the interests of the people. Therefore, if legal thinkers do not have the ability or courage to reformulate and anticipate every problem that arises, then Islamic law will lose its actualization. As the realization of all that is considered necessary for the renewal of Islamic law as it has been realized in the form of Compilation of Islamic Law (KHI) or known KHI. Compilation of Islamic Law in accordance with Presidential Decree No. 1 of 1991 as stated in his dictum is an order to Minister Agama to disseminate KHI.

The goal is to be used by government agencies and communities that need it. Meanwhile, customary law for its position in the Indonesian national legal system is an unwritten law that applies as long as it does not impede the formation of Socialist Society of Indonesia and become the

regulators of social life. In customary law there are laws governing various issues, including the adoption of children. Adopted children in customary law are defined as a social bond similar to the bonds of biological dynasty. Adopted children in customary law get the same position as their own children, namely in terms of inheritance and marriage. But on the contrary, in Islamic law it is not so. Islamic law expressly prohibits the adoption of a child which results in a relationship between the adopted child and the adoptive parent and does not cause the inheritance.

The adoption of children has been done in different ways and motivations, in line with the legal system and legal feelings that live and develop in the society concerned. The adoption of the child in question is intended to help or simply lighten the burden of life for the biological parents. Meanwhile, the adoption of children is also often done with the aim of continuing lineage when in a marriage does not have lineage, and for Javanese people usually to invite to be quickly given lineage of their own flesh or biological children, so that if God allows then often will be successful and for adoptive parents will be able to bear children from the blood of their own flesh.

As for the aim as inviters as in Java in particular. According to the customary term, by raising a child, the family will be blessed by the compassion of the child who becomes an orphan or because of the circumstances of his parents who can not afford to give a living. This situation then continues to the problem of the maintenance of property (inheritance) both from adoptive parents and original parents (biological). While the way to continue the maintenance of this property can be done through various channels in accordance with the original purpose of the law of inheritance, and adopted children are stung because it is considered a biological child, it is expected to get the inheritance.

That the tradition of adopting children in Indonesia long-lived and growing and cultivated tradition. The adoption of children

culturally is in the family in Indonesia this culture to raise children in the family is not a new thing to happen, but has been decades of culture by the community because it is cultured / ingrained in the community, for example: Someone adopts the child and the child from his own family both from, nephews and know from his close family who have been communicated in a family, so the relationship between the family is still good, between the parents and their adoptive parents.

Adoption of children in the sense of religion and according to customary law is to have two understandings including the following: 1) Adoption/ raising a child is taking someone else's child for foster care, raised, educated, schooled with compassion, attention to the needs of the child and the child is treated well by the adoptive parents as well as the biological child himself. 2) Adoption of the child is the taking / lifting and or adoption of the child of another person who is given states as the biological child who then the adopted child uses nasab (family connection) his adoptive parents receive the inheritance of the property left by his adoptive parents and others as the child as his biological child. As explained above, it can be concluded, that the adoption of the child is a very noble act because it wants to prosper the child, the future of the child will be better, as well as for his adoptive parents, his parents will be there to care for him.

The procedure of adoption of children outside the legal process based on this agreement is taken understanding that the term adoption according to the culture of our society identic with the granting of status as a biological child or not, so that it can be concluded that, in the adoption of a child culturally, there are parties who take a child who is not to be given the status as a biological child legally according to existing customary law, but in the taking of the child / adoption of the child only to be maintained, educated and borne his welfare in his life, while the status of the biological

child remains purely a parent of the child concerned, and in the Family Card is still written as a child so it is legal for the sake of the applicable law in society.

On the one hand, in the perspective of the state the term child adoption is identical to a legal procedure, so that a child can be said to be an adopted child if the adoption process is carried out with the applicable legal process, and the problem of child adoption in Indonesia will have different art when associated with cultural problems or customs of society, remembering our diverse culture and the many differences, so that with so many differences we will be rich inculture. In the process of adoption of children important elements are prospective foster parents / foster children and prospective adopted children, in the existing rules or laws can be defined as follows:

- a. The adoption of a child is a legal act that transfers a child from the environment of parental power, or a legal guardian, or another person responsible for the care, education and raising of the child, into the family environment of the adoptive parent.
- b. Adoptive parents are people who give the power to care for, and raise children based on customary rules and regulations.
- c. An adopted child is a child whose right is transferred from the family power environment of the parent, legal guardian, or other person responsible for the care, education, and raising of the child, into the adoptive parent's environment based on the decision or determination of the court.
- d. For The Condition of Prospective Adoptive Parents (COTA) raised children through the adoption process is quite high, but in the field there are still problems related to the lack of understanding of the regulation of child adoption. COTA is age constrained and there are still many adoptive parents who

ignore the procedure because they feel they already have full rights to their adopted child. In addition, there are still many practices of child adoption that are carried out unfounded by applicable laws. This condition opens the possibility of violations by irresponsible parties, so that the purpose of child care and protection is neglected.

3. METHOD

Indonesia has regulated the procedures for adoption of children in accordance with the law, included in Undang-Undang No. 23, 2002 concerning Child Protection which was amended into Undang-Undang No. 35 of 2014 on Child Protection, with the implementing regulation in the form of Government Regulation No. 54, 2007 concerning the Implementation of Child Adoption (PP Adoption) and explained in more detail in the Regulation of the Minister of Social Affairs No. 110, 2009 on Child Adoption Requirements. Facts on the field show that there are still many adoption processes that are not in accordance with official or unofficial procedures that are taking local customary legal procedures and not recorded. This can have implications that are not good for adopted children. In addition, the Social Workers Service Unit (sakti Peksos) involves the assistance of the child adoption process stipulated in the Law. Regarding the adoption of children has been done in various aspects and reviews, including the practice of adoption process, inheritance, and legal protection of adopted children.

In this writing the author uses primary data and secondary data, secondary data by definition is data that can be library materials, this secondary data consists of materials-primary legal materials, secondary. The primary legal material is binding materials, in accordance with the formulation of the problem, then the law used as a reference is Undang-Undang Dasar 1945, Undang-Undang No. 35, 2014 on Child Protection, Government Regulation

No. 54, 2007 concerning the Implementation of Child Adoption, Undang-Undang No. 4, 1979 on Child Welfare. While secondary Legal Material is the material that provides an explanation of the primary legal material.

To step the next step after obtaining the data, it is continued for the next stage by analyzing the data obtained both primary and secondary legal materials and discussing the problem using normative methods, namely data obtained from the library is analyzed qualitatively by spurring on the norms, principles, and existing laws and regulations as the norm of positive law, to achieve clarity of the problem discussed by not using the formula. Then the primary data and secondary data obtained from the research are organized and systematic, then analyzed with interpretive analysis of the laws and cases that have been shown.

4. RESULTS AND DISCUSSION

A. Problematic Legal Procedure for Child Adoption: Peraturan Pemerintah No. 54 of 2007 concerning The Implementation of Child Adoption

Some regulations on the adoption of children, namely, Undang-Undang No. 35, 2014 on Child Protection, Government Regulation No. 54, 2007 on the Implementation of Child Adoption, Regulation of the Minister of Social Affairs of the Republic of Indonesia No. 110/HUK/2009 on The Requirements for Adoption of Adopted Children using an agreement under the hands of legal protection obtained by adopted children using court determination. Because in Undang-Undang No. 35, 2014 does not regulate the implementation of child protection according to the way they are adopted but based on the principles found in article 2 of the Law.

Nevertheless, there are still child adoptions that are not carried out in accordance with applicable procedures or illegally even though the

adoption of children has been regulated in Undang-Undang No. 35, 2014, on Child Protection, and Circular Letter of the Supreme Court of the Republic of Indonesia Government Regulation No. 54, 2007 concerning the Implementation of Child Adoption. Regulation of the Minister of Social Affairs of the Republic of Indonesia No. 110/HUK/2009 concerning Child Adoption Requirements, even though the regulation has provided rules and guidelines in adopting / adopting children that are clear and easy to understand and understand, but there are still many people who adopt children by not going through the procedures in accordance with the regulations set by the government.

Adoption of the child, will bring an impact, or legal consequences on the child and adoptive parents, in the adoption of the child must go through the rules and norms of the law that apply based on the community in the past along with the norms, rules that developed in society, developed by a number of judge's rulings (Judicial Precendents) for the legal system. In the adoption of the child will bring an impact or a result of the back that there can be a disconnection of relationship, or the cessation of a well-established legal relationship, in the past namely biological parents with adoptive parents, and will grow a new relationship between adoptive parents and adoptive children who have been well taken care of, with all the consequences arising from the adoption.

According to Government Regulation No. 54 of 2007 concerning The Adoption of Children, indeed the regulation mandates the appointment / adoption of children must go through the courts / legal determination to be recorded in the case of civil defects, because it is not aware of the procedures that have been established by the

government, the culture in the community in the event of a child adoption is only by agreement or using customary law, which is without going through the determination of the court, because usually the law is in line with the applicable law in the community, and if there is a result of the law arising above then the rights of the child in the inheritance follow the existing rules in customary law, in addition the adopted child still gets his inheritance, because the status of the child in the family as a new family member in the family of his adoptive parents.

Regarding the protection of children for adopted children in Government Regulation No. 54, 2007 concerning the Adoption of children, not getting protection because it does not have a determination from the court that becomes the basis for the determination of the status of adoption of the child, and the child gets recognition of status for the sake of the law, however, because the law is positive in society even if the child is not in the adoption of the child not through the courts, then the status of the child as the biological child for the adoptive parents and entitled to the rights as heirs. In such case above the government also plays an aktif role in disseminating the rules on Undang-Undang No. 35 of 2015 on Child Protection and Government Regulation No. 54 of 2007 on The Adoption of Children, so that the public understands and knows the procedures for the adoption of children, so that the rights of adopted children become protected because of the determination, recognition from the court.

The community certainly does not understand the legal basis of adopting a child, although it has been regulated in the Law on biological parents, adoptive parents and also including the child he raised, but the community always takes a shortcut that is by directly conducting

communication between the two parties until they get an agreement, then the law is already established attached to it. In this case the author discusses the adoption of children not through legal channels or illegally, which has been described in article 79 Undang-Undang No. 35, 2014 on Child Protection, which regulates and explains the sanctions if the adoption of children occurs in accordance with existing rules and regulations. Article 79 reads "every person who performs the adoption or adoption is contrary to the provisions as referred to in Article 39 paragraph 1, paragraph 2, and paragraph 4. Incriminal with a maximum imprisonment of 5 (five) years and or a maximum fine of IdR 100,000,000.00 (one hundred million rupiah).

Undang-Undang No. 35 of 2014 on the amendment of Undang-Undang No. 23 of 2002 on Child Protection, is a guideline and role model as the basis of child adoption that is full of considerations for the sake of child support and the interests of the community in general. Based on the description above, the child who has been adopted or has been adopted by his adoptive parents, officially and conclusively that the child has been disconnected from his biological parents, and has a direct relationship with his adoptive parents. And have their rights and obligations like a biological child, which in accordance with applicable laws, raised, schooled / educated and have an inheritance.

In the adoption of children in general there are several reasons including: a) Have no children. this is a common reason, which has waited several years but has not yet had children then the only way with the adoption of children. b) Compassion for the child caused by the economic condition of his parents who can not afford to provide for his life, this is a

very positive and commendable reason, because helping the child also help against the economic burden of his parents, as long as it is accompanied by an agreement with both his parents, both biological parents and adoptive parents. c) Pity for children who do not have parents, this is certainly our obligation together because as human beings certainly have a sense of humanity that exists in us.

d) Wanting to have a son because usually the adoptive parents only have daughters, this is intended so that they have a complete child, so that the boy becomes a complement to their biological child. e) As an inviter, to be immediately given trust by God to immediately have a child of his own flesh and blood, so this reason is very related to cultural values in people's lives. f) In order to increase the number of families, because the wealth of foster parents is more than enough. g) Want the children he raised to get a better education. h) Wealth factor, in this case in addition to inviters also as soon as have their own children, and also as a blessing later for adoptive parents to be better in people's lives. i) In order to connect lineage and get an inheritance for those who have not got their own children's lineage. j) There is a good relationship between the families of both parties so that the child is adopted as his adopted son. k) With the hope that one day the child can help in his old days and can connect lineage for families who have not been given lineage. With this reciprocal relationship the adopted child will feel elevated and have an obligation as a child should be a guarantee of caring for the adoptive parents, of course if it already needs care later, as one of the humanitarian missions. l) The feeling of pity of the child who is not taken care of because it has left his parents passed away, so that we must all have an obligation to take care of him, and can also be appointed

as an adopted child to be taken care of.
m) To strengthen the fraternity rope, the relationship between the parents of the child.

B. Legal Brokers In Society (Realtor Letters)

The adoption of children must be based on Government Regulation No. 54 of 2007 concerning Child Adoption and Undang-Undang No. 35 of 2014 on Child Protection. Must be done and through the determination of the Court, and stated that the adoption of the child does not break the cord of friendship, good relations with biological parents, even Article 6 of the Government Regulation has made it clear that the adoptive parent must tell the adoptive child about his biological parents / biological parents.

In people's lives often the adoption of children is not through the determination of the court. However, prospective adoptive parents (COTA) immediately held a communication/ meeting with the biological parents and agreed to adopt the child, adoptive parents directly care for him, raise him and no less important to educate and take over his responsibilities to the biological parents who do not go through the correct procedures as stipulated in the applicable legislation. For the birth certificate is taken care of directly by the adoptive parents with the provision of birth certificates from the hospital/ maternity house, and directly on behalf of the adoptive parents as their biological parents.

In carrying out the adoption of children, the author tries to present several examples concerning the adoption of children according to customary law / culture contained in each region in Indonesia are as follows:

- a. On the island of Java and Sulawesi regarding the adoption of children is rarely done with a group of

government officials / village officials, unless they are in the adoption of the child will take from the close family environment (e.g. nephew) and in the adoption of this child is not accompanied by handing over money or goods to the biological parents because all that is used is trust.

- b. In Bali, the name in the adoption of children is called *nyentanayang*, children are usually raised from a family that has something to do with traditional, namely often called *purasa* (male pancer), but at this time can also be taken from the family of the woman (wife) *dana* or (*pradana*).
- c. In Nias, Lampung and Kalimantan communities the first to be handed over / released is in the form of magical objects, after the new replacement and exchange is carried out with the child raised / adopted / collected, it goes into the relatives who raised it / picked it up and or who adopted it, that is one of the cultures / customs in the act of adopting a child. In the raising of children is carried out by means of ceremonies with the help of the head of funds or attended by the head of adat, the traditional leaders, and everything must be done frankly.
- d. In Pontianak, the requirements to be able to adopt are as follows:
 1. Witnessed by indigenous youths
 2. Approved by both parties, namely their biological parents and adoptive parents
 3. The child has drank a drop of blood from his adoptive parents/foster parents
 4. Paying the customary money of 2 (two) ulun (dinars) by the child he raised and the parents as a sign / evidence to release it and separate the child, by releasing it on the basis of the will of his birth parents.

5. The Rejang community in Bengkulu Province, known as the child adoption agency, and the adopted child is called *Anak Aket* by means of prospective adoptive parents held kenduri / selamatan which was attended by the chairman of Kutai and by other community youths. In the event it was announced that there has been the adoption of the child and continued the hand over of the child he raised from his biological parents to the adoptive parents, then it is already shah the adoption of the child based on local customary law.

C. Tradition of Family-Based Child Adoption (Family)

The reason for the adoption of the child is basically done on the basis of the consent and agreement of each prospective adoptive parent and the biological parent of the child who will be the adopted child, with the adoption of the child is caused by something, namely the biological parents can not afford because of the economy, to raise, educate, educate, and meet other costs, so that the agreement because still in one relative / brother / large family gives full power to care for and take care of the prospective foster person, so that the child feels safe and comfortable in life in a new environment later. There are several reasons or information behind a person's adoption is as follows:

- a. Feeling compassion for the future of the child and his parents because they are not able to take care of him, this is a good thought or motivation to think about how in lightening the burden of parents and the future of the child, there is a desire to communicate well so as not to be offended, to talk about the adoption of the child to his birth parents.

- b. Because it feels like it has been several years of family, but has not been blessed with lineage, then the only way is to raise the child by adoption, and this is a inviter so that in the future it can be given lineage from the blood of the flesh itself.
- c. With this good communication, the biological parents give confidence to take care of the child, and hopefully soon the child brings its own blessings, will soon get lineage because they already feel able to take care of the child.
- d. The child is a priceless treasure, and the child is a close friend who can entertain while tired, out of work, so that the child as an entertainer, as motivation to the husband and wife who according to the doctor can not produce lineage then, the child is a companion and at the same time as a companion in his life.
- e. To maintain a marriage rope bond and is a happiness in itself, for families even if they have not been given the trust by God to have a biological child, the adopted child can be like a biological child.

The community still believes that with the presence of adopted children in the new family environment in addition to continuing the marriage rope bond above, so that everyone who has been married always yearns to get lineage.

D. Adoption Cases Outside legal procedure

Lately the issue of adoption of children is still the last resort for married people but not yet blessed with children but the motivation to have lineage is very high, but the motivation is used as a rule that does not do, or the implementation of the rules of the government properly and correctly and comfortably, so that later there will be deviations to the law as well as the adoption of children who do not go

through official channels, namely through court hearings.

From the description above is very contrary to Article 20 of Government Regulation No. 54, 2007 concerning Child Adoption, which states that if applying for the appointment of a child who meets the predetermined conditions of the court in order to obtain a court determination. The goal is to find out how the consequences of his adoption law did not go through the courts. The author to answer the above problem is to use a normative system and approaches to the Law, and government regulations. Based on the description above, the appointment of a child who is not based on the rules of the court will result in the law of relationship with the law between the adopted child and his adoptive parents to be not happening which means if in the future there is no legal problem or dispute in each party / interest can not be to sue each other / greened table from each party can not be prosecuted to the court, and many more problems other legal consequences.

E. Adoption of Children on the Basis of Mercy (Economic Pressure)

Marriage is an inner birth bond between a man and a woman to establish a life together in building a home ark life with the hope of fulfilling the hope of obtaining healthy lineage physically and spiritually, being a child who sholeh and sholehah. Marriage has been described in Article 1 of Undang-Undang No. 1 of 1974 on Marriage there is an element of family where the family is ideal or perfect in a household consisting of children, mother and father, this is a dream of all people who swallowed the inner bond that is a family, but it is not easy to get lineage, years were eagerly awaited but the results were nil, but the effort was still trying even through technology that is ivf, still does not pay off, finally the final decision with the adoption of

children. Social and economic value is the background of the family in raising children / adoption, in the area of the majority of children raised is still in one family, and economic problems that become the goal for families to raise children, various ways to raise children include:

- a. The desire to have children, but not to have children, is the last resort by adoption.
- b. Economic orientation, by raising a child whose economy the parents feel sorry for, so that by lifting the child then the burden of the biological parents is reduced and the child he raised may change fate.
- c. Helping children out of pity, abandoned children caused by uncertain parental economy (parental work is unclear).
- d. Helping the child from the economic entanglement of his birth parents, if the child is sickly and taken as an adopted child then feel sorry for his future, can not go to school, his food is disturbed and his health will be disturbed, and often sickly, the child from birth parents can not afford to feed like children his age, then it needs to be helped by adoption. Thus the legal provisions on the adoption of children based on compassion (economic pressure) the purpose behind the adoption of the child, because of the background of pity, to the child's family that is sacrificed because of the economy, so as to ease the economic burden for the biological parents, and the child becomes happy in his new family, the parents are adults who bring the child to adulthood, especially in the development period.

In the adoption of a child is a legal act based on a mutual agreement between the prospective adoptive parent and the biological parent to take the child with the

aim of being nurtured, raised, fostered, and schooled by his adoptive parents who create social relationships and also foster an inner birth bond to his/her birth parents. In the adoption of children is an act of civil law, which is a part of family law, which is a mutual agreement that is using customary law that does not go through the courts.

Judging from the motivation of adoptive parents in carrying out the adoption of children, the adoption of children using customary law will cause concern to prospective adoptive parents to extinction, adoptive parents who do not have children (families do not have children) children take / adopt children from kinship, then the child will occupy the entire position of the biological child of the mother and father who raised it and he will be separated from the group of children of his brother.

The legal effect of the adoption of a child without due process in the adoption of the child is one of the legal actions based only on a mutual agreement from each of the two parties between the prospective adoptive parents and the biological parents with the agreed purpose of being nurtured, raised, educated, schooled in a new adoptive parent family later, which can lead to a social relationship to the inner bond to the child. Reviewed from the legal aspect of Article 20 of Government Regulation No. 54 of 2007 concerning The Adoption of Children, the adoption of children without going through court proceedings or using customary law only then if entered into the family of his adoptive parents then it can break up the inner relationship / family to his biological parents, but if the adopted daughter because we as an easterner if later the child marries then the biological parents are told because as the guardian of the judge.

The consequences arising from the adoption of children without going through the court process, which is currently widely done by married couples who crave lineage but have not obtained it then take a shortcut to take children who do not want to go through the bureaucracy that has been

stipulated in Government Regulation No. 54 of 2007, which ultimately resulted in:

- a. It can lead to misunderstandings between the halal and the vanity. Among them is the entry of the adopted son as a mahram in the sense that he should not marry a person who is allowed or not allowed to marry and can also see or look at the nakedness of others who should be forbidden to see.
- b. May result in disruption of family relationships and their rights, and also allow for disruption of the rights and obligations of legal relationships between biological parents and adoptive parents altogether and a new relationship with the family of adoptive parents.
- c. With the entry of children who have been tried with difficulty, the family of adoptive parents can cause animosity between one family if it can not maintain good relations with both of them if not mutual deliberation. One of them about this inheritance is very risky that the adopted child should not be inherited but because it has been included in the family and in the family card has also been written the biological child for his adoptive parents then the child is likened to the other family.

The community chooses a path outside the legal procedure in the adoption of children problems in the adoption of children carried out outside the court is to show that the rules are convoluted, and the community does not know the ways of raising the child through adoption, but because the culture in the community how to raise the child in a deliberative way between the parents of the child and the prospective adoptive parents, but how does the legal consequences of the adopted child in his appointment not through the court? Legally in the community is legal because the positive laws that apply in the community until now are still running. Because the prospective adoptive parent is very expecting the child, the adoptive parent takes care of himself to the Office of Population and Civil Records to obtain and

be willing to make, increasing the number of family members in the Family Card which of course by bringing some requirements or documents needed and have been prepared as well as, birth certificates from midwives / doctors, darts certificate RT / RW and from the local village that explains that, the child who has been born as a biological child, which then the prospective adoptive parents make a statement and signed stamped Rp. 6.000, - then continued the management of the Department of Population and Civil Records and made a Birth Certificate signed by the Head of the Office of Civil Records Setempa, which took only 3 (three) months and did not pass through the Court, with gratitude for the adoptive parents.

According to the information from the community and know the adoptive parents are not difficult in taking care of it, it is not surprising for those who adopt children not through the courts because the conditions are easy, it is all for the sake of wanting to have children and the child will be raised, educated, schooled and cared for as well as their own children / biological children. Head of The Department (Dukcapil) Population and Civil Records said that, it is legal for the sake of the law in the family card has been listed as a biological child, and in the future it turns out that there are things that matter then all his supporters have entered the dukcapil service, declared complete, and can not be questioned. However, with the entry of adoptive children into the family of adoptive parents if they are already big and have puberty the adoptive parents can not become guardians of the judge because not as biological parents, but face-to-face marriage can be held by asking the father of the vice president or officers from the Office of Religious Affairs to become the guardian judge. For the inheritance because on the family card and birth certificate has been read as the biological child then the inheritance remains his right and it all depends on the family or other heirs who are good is a mutual agreement because the adopted child has already served his biological child.

If you look at the aspect of comparison, then from some research that has been reviewed to increase knowledge and comparative materials and reference, and to avoid a similarity with the current study. So in this study the authors listed the results of previous research as follows: The first research from Yolanda Triana Siregar and Meilanny Budiarti Santoso Research (2018) entitled "Adoption in the perspective of social workers" this research is a research that uses the method used in article writing using literary methods, the result of the study is the need for efforts to increase information about adoption to the community through the ease of accessibility of adoption services in each local authority.

Based on the research carried out it can be concluded that, with the adoption of a child, a married person but not yet given lineage, then with the adoption of the child becomes the desire of each couple. This can be achieved through good integration between government, child social institutions, courts, and social workers. In addition, the adoption services provided must be ensured to the level of supervision, mentoring, and strengthening of the care of prospective adoptive parents to ensure the fulfillment of the needs and welfare of children in the future.

Research results of M. Deby Sahdan Alfaizi (2016) Research, M. Deby Sahdan Alfaizi (2016) entitled Child Adoption (Case Study in Duren Tiga) Jakarta. This research is a research that uses qualitative methods of research data sources, primary and secondary data, this research is intended to find out the behavior of families in raising children. Whether social status affects the way of adoption of children, how the adoption of children of immigrant families and native families in Duren Tiga and also to find out the legal consequences of the transaction of child adoption in Duren Tiga. Based on this research, the results showed that families in Duren Tiga have a way of looking at the states of adopted children are not the same as status biological children. The behavior in Duren Tiga states that there is no specific tradition of child adoption

either ritually or seremonially, only that the families of the adoption of the child believe in the way the adoption of the child predecessor, therefore following the habits of the previous parents in adoption.

Norms in the life of the community need to be implemented because living in a society to obey the law, which consists of 3 (three) norms namely legal norms, norms of decency and religious norms. These three norms, religious norms that are religious teach good and guidance of the law even though it is coercive and binding. Obedience of the law in the nature of society must obey the law, because the awareness of the law in the life of the community that the community has actually been aware of the law, because the law is a necessity in the nation and state. Many people realize that awareness is a necessity and the importance of the law and respect it as a rule must be obeyed.

Legal awareness in people's lives will bring awareness to respect and respect the law because the law as a guide, reference, decision of a person gets a tremendous advantage if not obedient to the law. Therefore, being aware and obedient to the law must always be motivated to be obedient to the law so that public legal awareness can be implemented and can be actualized in the daily life of society. Remember that the law though it must be detrimental and or potentially detrimental to the benefit of society in general and against the crowds. Therefore awareness of the law let the law continue to be improved and obeyed by the law is always put forward because the laws of the country become safe and peaceful, the community obeys the law.

5. CONCLUSION

Government Regulation of the Republic of Indonesia No. 54 of 2007 concerning the Implementation of Child Adoption, already contains very clearly, then in lifting the child through the courts so that the status of the child is clearer, and everything if things happen undesirable in the future for adoptive

parents will be safe, because the evidence of child adoption procedures has been fulfilled.

The benefits of this paper are as follows. To provide inputs to prospective adoptive parents in adopting children, so that with this input the community understands the rules that must be met, so that for prospective adoptive parents can know the process of adoption of the child who will adopt, both through the foundation of tau funds through the ministry of social affairs and of course can know the legal consequences arising after the legal action in the adoption of the child against the adopted child. A fully regulated regulation will be a future direction for better laws.

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