



Legal Practice of Child Adoption in The Community of Langsa City

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Abstract: *The legal practice of adopting children carried out by some people in Langsa City also causes ambiguity in the process of making birth certificates, which is stated in Presidential Decree Number 25 of 2008 Article 87 Paragraph 2 concerning Requirements and Procedures for Population Registration and Civil Registration. After researchers conducted initial research on employees at the Population and Civil Registration office, they said that civil registration can only process birth certificates for adopted children if there is a court order, and so far no one has regulated otherwise. This type of research is Descriptive Analytical research, namely research that can provide an overview or explanation of the results obtained through data obtained from the field regarding several cases of child adoption in Langsa City. Therefore, the urgency of carrying out this research by the researchers themselves is to provide legal certainty and facts that actually occur regarding the requirements for making a birth certificate for an adopted child as a mandatory requirement that has been regulated in the Presidential Regulation in registering an adopted child.*

Keywords : *legal practice, child adoption, community, Langsa.*

Introduction

The reason a family adopts a child is because they have not yet had offspring, so they feel that adoption is a way to help the lives of neglected children and adoption can make family life more harmonious, so that children are considered not just fruit. Even if the education given by their parents is good, the child can be used as a field of charity for his parents which will be useful in the afterlife.¹

¹ Abdul Rahman Ghazali, *Fiqh Munakahat*, (Jakarta: Kencana, 2008), h. 26.

Cases of child adoption based on Islamic law are adoptions whose basis and procedures are based on the Al-Quran and Sunnah as well as the results of ijtihad which are formulated in Islamic legal products. Compilation of Islamic Law Article 171 letter (h): *An adopted child is a child whose responsibility for daily maintenance, education costs and so on is transferred from their original parents to their adoptive parents based on a court decision.*²

In article 1 number (9) Republic of Indonesia Law no. 23 of 2002 concerning Child Protection that an adopted child is a child whose rights are transferred from the family environment of the parents, legal guardian, or other person responsible for the care, education and raising of the child, into the family environment of the adoptive parents based on a decision or court order. Article 39 Paragraph (1) Republic of Indonesia Law no. 23 of 2002 concerning Child Adoption states that adoption can only be carried out based on local customs and the provisions of applicable laws and regulations. Article 6 Paragraphs (2) and (10) PP No. 54 of 2007 concerning the Implementation of Child Adoption states that adoptive parents are obliged to inform their adopted children about their origins and their biological parents, taking into account the readiness of the child concerned.

The procedure for adopting children, whether from relatives' children or other people's children, usually from children of poor people, has often been practiced by Indonesian society, including the people of Langsa City. Langsa City, Aceh Province is a special area known as the veranda of Mecca where Islamic law is adhered to and there are quite a few science council halls which in fact discuss Islamic laws, so that the social life of its people should instill sharia values, likewise in the case of adopting a child. Some people in Langsa City carry out child adoption with the aim of helping children who do not receive their rights. This is done apart from wanting to help these children. Some people also think that adopting a child can be used as an inducement to get offspring. those who have not yet had children. In practice, some people adopt children not in accordance with the provisions that apply both according to Islamic law and the law, but only based on an agreement between both parties between the adoptive parents and their biological parents and some people

² Abdurrahman, *Kompilasi Hukum Islam Di Indonesia*, (Jakarta: CV Akademika Pressindo, 2015), h. 156.

in Langsa City also adopt children without going through court order, but in making a birth certificate for an adopted child they change the child's lineage from biological parents to adoptive parents as if the adoptive parents were the biological parents, which is basically prohibited by Islamic law and the applicable law. It is clear that adopting a child who changes his or her nasab will have legal impacts that are detrimental to both the child and his parents, both in terms of population administration and the status of his nasab, which may be disconnected from his biological parents.

The practice of adopting children carried out by some people in Langsa City also results in ambiguity in the process of making a Birth Certificate, which in Presidential Decree Number 25 of 2008 Article 87 Paragraph 2 Concerning Requirements and Procedures for Population Registration and Civil Registration states that in making a birth certificate an adopted child must fulfill the requirements, one of which is a photocopy of the court's decision if it is related to the case that has been explained. Some people who make birth certificates for adopted children say that during the process of making a birth certificate they are not asked for the requirements of the provisions above, namely a photocopy of the court's decision.³ Meanwhile, after researchers conducted initial research on employees at the Population and Civil Registration office, it was said that the civil registry can only process the birth certificate of an adopted child if there is a court order, and so far no one has regulated otherwise.⁴ Therefore, the urgency of carrying out this research by the researchers themselves is to provide legal certainty and facts that actually occur regarding the requirements for making a birth certificate for an adopted child as a mandatory requirement that has been regulated in the Presidential Regulation in registering an adopted child.

This type of research is descriptive analytical research, namely research that can provide an overview or explanation of the results obtained through data obtained from the field regarding several cases of child adoption in Langsa City. Next, an

³ M.Amin, Initial interview results from one of the resource persons who lives in Blang Senibong village, Langsa City, interview conducted at the resource person's house, Friday 20 November 2020.

⁴ Marlia S.E, H results of initial interviews from resource persons from Langsa City Population and Civil Registration Office, interviews conducted at the Population and Civil Registration office, Thursday 26 September 2020.

analysis is carried out to find out how the practice of adopting children is and what things people do when carrying out adoptions that are not in accordance with applicable law, in order to make it easier for the author to obtain data so that the author immediately conducts research in the field to see directly the existing problems, this research It can also be called sociological legal research because the author goes directly into the field to obtain data.⁵

The Phenomenon of Child Adoption in the Community in Langsa City

Child adoption cases often occur among the people of Langsa City. However, the practice of adopting children carried out by the people of Langsa City is mostly not in accordance with applicable regulations. It can be seen from the results of my interview with one of the Head of Birth staff at the Population and Civil Registry Office of Langsa City, namely Mr. ET, that he said: This case of the practice of adopting children is actually widely practiced by the people of Langsa City, only those who report or record it to the Population Service and we rarely see Civil Registry records, in fact there is at most 1 in one year, sometimes there are none.⁶

Apart from that, the respondent also said, "We as Birth Attendants will process the registration if all the documents are met and vice versa, if there is even one document that is not fulfilled then we cannot process it. Then, in the case of registering an adopted child, we will process it if there is a quote from the court decision and then bring the birth certificate to make a note on the side of the child's adoption which is usually placed on the back of the birth certificate, while for the Family Card, the child is included in the Family Card of the adoptive parents with child status but the name of the parents remains in the name of the biological parents".⁷

So this can illustrate the many practices of adopting children under the hand that the people of Langsa City carry out. Even though this case of child adoption has long been practiced by the people of Langsa City with various processes: The first case of adopting a child under the hand was from mother S's family who adopted a child named AS, which basically AS was the grandson of mother S, when AS was still

⁵ Sumardi Sruyabrata, *Metodologi Penelitian*, Cet. Ke-II (Jakarta: PT. RajaGrafindo Persada, 1998), h. 22.

⁶ ET, Head of Birth Section, Langsa City Population and Civil Registry Office, Interview Conducted at Capil Office at 15:20, May 23 2022.

⁷ ET, Head of Birth Section, Langsa City Population and Civil Registry Office, Interview Conducted at Capil Office at 15:20, May 23 2022

a toddler. His biological father died and his father had divorced his mother, so inevitably he was cared for by his grandmother, namely Mrs. S. From the results of the interview conducted by the author, Mrs. S explained that: "AS is actually my grandson, but his mother died when he was still a toddler and now I was around 30 years old, my mother and father had separated, so I was the one who took care of AS from childhood until now. "I have considered him from childhood as my adopted child and made him my youngest child, even his birth certificate is in my name as his biological mother and in the KK also his status is as my biological child".⁸

In the case above, S's mother adopted AS as her adopted child after her biological mother died, even though AS is basically S's mother's granddaughter, she has been adopted as a child through an under-handed process, so her deed and family card are already in the name of her parents' biological child. he picked up. This could happen because incorrect data was created in registering children at the Population and Civil Registry Service. The second case of adopting an underhanded child was from the family of Mr. MA and Mrs. A who adopted a child named MR, where the child adopted was someone else's child whose family was financially unable to care for him, plus the child's biological mother had died while giving birth to him. , the child had 7 siblings and in the end they were all given to other people for adoption. From the results of the interview with Mrs. A, it was explained that: "MR is someone else's child, so his biological mother died while giving birth to him, they also come from a poor family, plus they are 7 siblings, his father was also caught in a crime in Malaysia, so his family couldn't afford to look after him, so my father and I took the initiative to took this child as my adopted child around 2015. When I raised this MR there was the village head and police station there so I asked for a statement letter to be made from the village that this child had been handed over to me, then I made a letter of agreement with the child's family, that's around 7 years ago, and now he is more than 7 years old. After that, I made a birth certificate for him as my biological child and in the KK also as my biological child."⁹

In the case above, mother A and father MA adopted MR as a child using a private process, where there was no court decision, only using a letter of agreement

⁸ S, One of the Langsa City Residents, Interview conducted at Home, at 14:20, 19 May 2022.

⁹ A, One of the Residents of Langsa City, Interview Conducted at Home, at 10:10, 22 May 2022.

between both parties, then because there was no court decision, mother A and father MA registered the child. he adopted him to the Population and Civil Registry Service, stating that he was his biological child. This could happen because incorrect data was created in the recording at the Population and Civil Registry Service.

The third case of underhanded child adoption was from the family of mother SJ and father R who adopted a child named IM. At that time, Mr. R and Mrs. SJ had been married for around 9 years in 2009, but had not yet been blessed with children, so they took the initiative to adopt a child with the aim of not only adding harmony, but also hoping that the child would be an incentive so that in the future they would have children. Basically, IM is someone else's child who has been adopted by them since he was a newborn. From the results of the interview the author conducted with SJ's mother, she explained that: "The reason we adopted a child is because we haven't had children yet, hopefully our adoption will be a blessing for us so we can have children later. "The child we adopted has no ties, he is someone else's child whom we adopted in 2009 using a letter of agreement and his birth certificate is also in our name."¹⁰

From the case above, we can see that Mrs. SJ and Mr. R appointed IM in a private manner, where the adoption of their child was not made through a court order, but only using a letter of agreement between both parties. Because the adoption of a child does not go through a court order, this results in the creation of incorrect data in the child's registration at the Population and Civil Registry Service, resulting in the child's written fate changing to the adoptive parents.

The fourth case of underhanded child adoption was that of mother PJA and father MY who adopted a child named MFP. Mr. MY and Mrs. PJA have been married for more than 7 years and have not had any children, so they adopted a child whose status is someone else's child. From the results of the interview that the author conducted with Mrs. PJA, she explained that: "The reason we adopted our first child was that we didn't have any children and at times there were people who wanted to give their children to other people because of a breakdown in the household. We took

¹⁰ SJ, One of the Residents of Langsa City, Interview Conducted at Home, at 17:20, June 1 2022.

him in 2018, which means he is now 4 years old. "The process involves an agreement letter and we make a birth certificate in our names as biological parents."¹¹

From the case above, we can see that Mrs. PJA and Mr. MY appointed MFP in a private manner, where the adoption of their child did not go through a court order, but only used a letter of agreement between both parties, so that in recording their child, they were registered by making data that was not is correct so that a birth certificate can be made in the name of the biological child from the adoptive parents. This in writing has changed the nasab.

The fifth case of adopting a child under the hand of the family of mother TH and father PK who adopted a child named LA. Mr. PK and Mrs. TH have been married for about 10 years and have not had any children, so in 2013 they took the initiative to adopt a child and the child they adopted was an orphan who came from someone else's family. From the results of the interview the author conducted with Mr. PK, he explained that: "The reason we adopted a child was that we didn't have any children and at that time in 2013 there was an orphaned child who wanted to be given away because his parents couldn't afford to raise him, so we took the child. "The way we adopted the child yesterday was using a letter of agreement between both parties and then we registered it with the Population and Civil Registry Service as my biological child."¹²

From the child adoption case above, we can see that TH's mother and PK's mother adopted the child under their own hands, which only used a letter of agreement between both parties without going through a court order. So, when registering with the Population and Civil Registry Service, there are inaccuracies in the data so that a birth certificate can be made which is declared as a biological child. This is one of the changes to the written lineage and is not permitted.

The sixth case was the adoption of a child under the hands of the family of mother SS and father RD who adopted a child named MRM. Mr RD and Mrs SS have been married for 3 years and have not been blessed with a child, so in 2022 the father and mother took the initiative to take someone else's child to be adopted. From the

¹¹ PJA, One of the Langsa City Residents, Interview Conducted at Home, at 14:00, May 14 2022.

¹² PK, One of the Langsa City Residents, Interview Conducted at Home, at 14:30, 13 May 2022.

results of the interview the author conducted with SS's mother, she explained that: "We adopted this child because we had not been given offspring, it just so happened that there were people who wanted to give their child to someone who wanted to adopt it. The way we adopted this child was using a letter of agreement between us and this child's parents, which stated that we had indeed given this child to us and promised not to take this child back in the future. "Because there was already an agreement, we made a birth certificate for this child in our names as his biological parents."¹³

From the child adoption case above, we can see that Mrs. SS and Mr. RD adopted the child under their hands, which only used a letter of agreement between both parties, then they made a birth certificate for the child in the name of being the biological parent who gave birth to the child. the. This is one of the occurrences of changes in the child's character or lineage in writing.

The seventh case of adopting a child under the hand of the family of mother W and father S who adopted a child named SA. Mr. S and Mrs. W have been married for about 7 years and have not had a child, so in 2020 they adopted a female child, the child being someone else's child whose father and mother were divorced. From the results of the interview the author conducted with Mrs. S, she explained that: "We have been married for about 7 years but have not had children, then in 2020 we got a call from a friend that someone wanted to give their child to someone who wanted to adopt him because his mother and father were divorced. After we took him, we made a letter of agreement that this child had been given to us completely and would not be taken away again in the future. It's okay if you want to see it, but don't let it out of your mouth to this child that he is her biological parent. After that, we made a birth certificate for him to be our biological child."¹⁴

From the case of child adoption above, what Mrs. W and Mr. S did was included in the category of child adoption under the hand, which only used a letter of agreement without a court decision, then the birth certificate was also in their names as the biological parents who gave birth to the child, so it could be said to have been changing the child's lineage in writing which could later have negative legal impacts. From the

¹³ SS, One of the Residents of Langsa City, Interview Conducted at Home, at 11:00, June 4 2022.

¹⁴ W, One of the Langsa City Residents, Interview Conducted at Home, at 17:00, June 9 2022.

cases above, it can be seen that there are people in Langsa City who adopt children under their own hands, which only uses a letter of agreement without going through a court decision, and they adopt children based on different factors, but the majority because they have not get children on marriage. Thus they cannot register their adopted child as an adopted child at the Population and Civil Registry Service, so they register the child as a biological child, this of course requires the necessary documents such as a birth certificate from the health department, and because they adopted the child If the letter does not exist then the data is created incorrectly so that the deed can be made. By making the child's birth certificate in the name of the biological child, the child's birth certificate has changed in writing.

Child Adoption Legal Practice in Langsa City

The practice of adopting children carried out by the people of Langsa City by hand without going through a court order, is a practice of adopting children which is not in accordance with what is regulated by Islamic law, as explained in the Compilation of Islamic Law Article 171 letter (h) that: *“An adopted child is a child whose responsibility for daily maintenance, education costs and so on is transferred from their original parents to their adoptive parents based on a court decision.”*

The correct adoption of a child is as explained above, namely through a court decision. By adopting a child through a court decision, both parties will receive clear legal certainty, so that in the future there will be no other legal impacts. If we look at what the people of Langsa City have done in adopting children, this is a good action, where apart from fulfilling family needs, they can also help children who basically do not get their rights. It can be said that there are many child adoptions that occur in Langsa City and the process is not in accordance with Islamic law where Imam Syafi'i allows adoption of children provided that it does not change the child's lineage or decide the child's lineage with the biological parents then KHI Article 171 letter (h) says in Adoption of a child must be through a court order.

The community adopts children even though the process is outside the laws and regulations of Islamic law. This is very helpful in helping each other, giving rights to children who previously did not have their rights, helping the families of children who are basically unable to raise them, and this is all one way to prevent child neglect. If we look at it from the perspective of Islamic law, the reason that child adoption occurs

in society is a noble thing to do, but the process and practice are very unfortunate and are still not in accordance with Islamic law, by changing the lineage, some people don't even tell the child who their parents are. actual birth, so it is feared that it will have a legal impact on other issues such as inheritance or marriage guardians, this is like what is said in KHI Article 171 Letter (h) which states that the adoption of a child is carried out by means of a court decision and Imam Syafi'i's opinion regarding the adoption of a child by not being allowed to decide a child's lineage to his or her biological parents. Republic of Indonesia Law no. 23 of 2002 concerning Child Adoption Article 39 paragraphs 1 and 2 states that adoption can be carried out only for the best interests of the child and based on customs and in accordance with statutory provisions, then Article 27 Paragraphs 1 and 2 states that the child's identity must be given since he was born and the identity in question is a birth certificate, then it does not sever the child's blood relationship with his biological parents.¹⁵ Then in Article 6 paragraphs 2 and 10 PP no. 54 of 2007 concerning Implementation of Child Adoption which states that adoptive parents will have to tell the adopted child about their origins and tell who their biological parents are and of course they have to see the child's readiness first.¹⁶ From the two laws above, both Islamic Law and State Law have the same thing in regulating every adoption of a child, both the method and the process, the adoption is carried out in the interests of the child, does not change the lineage, when it is time as an adoptive parent you must tell the origin and who the biological parents are. which are actually. Thus, if the community follows it, it will also have a good impact on those who adopt children.

Conclusion

The legal practice of child adoption carried out by the people of Langsa City is by hand, that is, without going through a court order. Then, the practice of adopting children carried out by the people of Langsa City uses an agreement between the biological parents and the adoptive parents. Langsa City residents cannot register adopted children at the Population and Civil Registry Service, so people register in the name of biological children who are basically adopted children. People adopt children under their own hands for reasons of not knowing

¹⁵ Undang-Undang RI No. 23 Tahun 2002 Tentang Pengangkatan Anak.

¹⁶ Peraturan Presiden No. 54 Tahun 2007 Tentang Pelaksanaan Pengangkatan Anak.

the correct process, and there are those who know but think the process is complicated. The practice of adopting children carried out by the people of Langsa City in Islam is haram because it changes the lineage in writing, not through a court decision.

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