

Legal Arrangements Regarding the Adoption of Children in Indonesia

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ABSTRACT: *The adoption of a child to be one way to get custody of the child. Indonesian law gives freedom to every citizen of both Indonesian citizens and foreign nationals to adopt a child to meet all the applicable procedures in order to ensure the survival of children and prevent children from the loss of the future.*

Keywords: *Children, Adoption.*

I. INTRODUCTION

Child is the greatest gift for the couple who have been married. A married couple who were looking forward to the birth of a new generation that will bring happiness in the home gets descent and with expected to connect their ideals. Kids are expected to be successor to his family. But for couples who are not given the chance to have children. Many things that cause the husband-wife does not have children, and one way to be taken is to adopt a child (adoption). Adoption is an act of taking someone else's child into the family itself such that the person who picks children and the adopted child and raised a family law are the same as which exists between a parent with his own child. adoptions is a law firm that led to a switch to other family relationships, which raised the same legal relationship or mostly the same as the relationship between legitimate children with their parents.

Adoptions were done lately more and more people not only in Indonesia but across the world has a great influence in the implementation and as a result thereof foster child. Children is a subject that must be protected interests therefore the implementation of child adoption must be with the aim to promote the interests of children, and for that we need the specific criteria in the implementation of child adoption in order to protect the interests of the child. Optimizing towards this goal avoid the fraud that can eliminate the original purpose of the provision of welfare services to children as a subject that should be protected in their rights in accordance with child protection.

Adoption is a way to establish relationships between parents and children set in the law. Usually the adoption is done to get the heir or to get a child to parents who do not have children. As a result of such adoption it is that the adopted child and then have the status of a legitimate biological child with all the rights and obligations.

Arrangements concerning procedures and legal effect of the adoption itself also be pluralistic in Indonesia. Law No. 23 of 2002 on Child Protection regulate adoptions through customary law. Each ethnic and community groups have their own rules of procedure of adoption and the legal consequences thereof. The government continued to recognize the adoption of children by customary law is not contrary to the Act.

The requests adoptions between countries, there are those who make a profit out of place. Easiness to obtain a description of the urban / village head and a lack of environmental monitoring could lead to the escape of the petition of adoption between countries without regard to the security aspects of the country.

In anticipation that the events that harm the child to be raised will not be repeated and can provide the protection of children's rights, Law No. 23 year 2002 on Child Protection. Child protection efforts required as early as possible, i.e since the fetus in the womb until the child is eighteen years old. Focused on child protection concepts complete, thorough, and comprehensive Law No. 23 of 2002 on Child Protection is putting the obligation to provide protection to children based on the principles of non-discrimination, the principle of the best interests of the child, the principle of the right to life, survival and development, the principle of respect for the views / opinions of children.

The provisions concerning the adoption contained Law No. No. 23 of 2002 on Child Protection Article 39 up to 41. In that article determined that the removal of the child should not be decided in religion and blood relationship with the foster child's biological parents. Transitional provisions Article 91 of Law 23 of 2002 on Child Protection further stated that at the time of enactment of the Act, all laws relating to the protection of children remain in effect to the contrary in the Child Protection Act.

In the Child Protection Act in Article 39 has been set regarding the adoption of children as follows:[1]

1. Adoption can only be done for the best interests of the child and based on local custom and the provisions of the legislation in force.

2. Adoption referred to in paragraph (1), not to sever ties of blood between the adopted child and his biological parents.
3. Prospective adoptive parents must be of the same religion professed by the prospective adoptive child.
4. Adoption of children by foreign citizens can only be done as a last resort.
5. In this case the child of unknown origin, religion adapted to the child's religious majority of locals.

Even after a successful effort in the adoption, in Article 40 of the Child Protection Act mandates that adoptive parents must inform the origin of the biological parents of the child later in life.

Adoption of children by foreign citizens (*Inter-country adoption*) are the last in which the state provides protection for children and expect that child to get the best in the future. All terms and conditions that made an effort in providing protection of children's rights. As the implementing regulations of Law No. 23 of 2002 on Child Protection, in 2007 issued Government Regulation No. 54 of 2007 on Implementation Adoption October 3, 2007. In the Government Regulation regulates the conditions, procedures and procedures for adoption in detail, whether for adoptions between citizen Indonesia (*Domestic adoption*) and the adoption between citizens (*Inter-country adoption*). With the Government Regulation is then expected that the rule of law and administration in the implementation of child adoption. And as a supplement regulations on child adoption Minister of Social Affairs issued Regulation No. 110 / HUK / 2009 on Adoption Requirements (Permensos No. 110). Permensos the implementation of Government Regulation No. 54 Year 2007 on the Implementation of Child Adoption. Where in this Permensos specifically itemize the requirements of adoption.

Issues of adoption will continue to be an interesting topic for discussion, as long as human beings have a desire to have children and it has not been achieved. With the development of the times in which the interaction between one country to country and open it is logical if then there is the practice of child adoption between an Indonesian citizen with a foreign citizen (*Inter-country adoption*). This article will explain the legal arrangements How about adoption of children in Indonesia.

II. ANALYSIS AND DISCUSSION

A. Adoption

1. Meaning Adoption

There are some istilah known in the adoption in Indonesia. Adoption is often referred to istilah adoption, which comes from the word *adoptie adoption* in Dutch or in English. The word adoption means the removal of a child be used as biological children or the children themselves.

Understanding adoption can be viewed from two perspectives, namely etymologically sense or understanding of the terminology:[2]

a. Etymologically

From the point of this sense of adoption comes from the word "*adoptie*" Dutch, or "*adopt*" (*adoption*) of English, which means the removal of a child, adopt a child. Understanding *adoptie* in Dutch by Law Dictionary, means "a child's appointment as his own child." So here's the emphasis on equality status of adopted children as a result of adoption biological children. This is the sense in *literlijk*, namely the (adoption) is inserted into the Indonesian language means a foster child or adopt a child.

b. The terminology

The term adoption or adoption has been largely defined by experts who put forward some formulations of the definition of adoption (adoption) which, among other things: In the dictionary of Indonesian General meaning foster child, is "someone else's child being taken and likened to her own child." [3]

According **Wirjono Projodikoro**, an adopted child is a not a descendant of two people of husband and wife, were taken and preserved and treated as their own offspring and the legal consequences of such appointments that the child have legal standing against the lifting, which is totally different from the legal position of children own offspring.

In General Encyclopedia stated:[4]

"Adoption is a way to establish relationships between parents and children are set in the legislation. Usually adoption carried out to obtain the heir or to get a child for parents who do not have children. As a result of the adoption so it is that the adopted child then has a status as a legitimate biological child with all the rights and obligations. Before carrying out the adoption, prospective parents must meet the conditions to actually be able to guarantee the welfare of the child. "

Furthermore, it can be argued opinion **Hadin Hilman Kusuma, SH**. In his book Customary Marriage Law: "The adopted son is other people's children who are considered by the child with the adoptive parents officially according to customary law, because the purpose for offspring survival and or maintenance on household wealth."

Meanwhile, according to **Surojo Wignjodipuro, SH** in his Introduction and Principles of Customary Law, imposes limits as follows: "Adoption (to adopt a child) is an act of taking someone else's child into the family itself such that the person who picks up the child and child levied was raised to a law the same family, such as the one between a parent with his own child."

2. The reason and purpose of doing adoption child

In doing adoptions, each person has a variety of reasons and purposes, either for himself or for reasons the interests of the prospective child to be lifted. But the reason and purpose itself must have a mutually beneficial result between candidates prospective adoptive parents and adopted children later in the day. So that each parties may benefit from removal of the child. Reasons and objectives for recruitment of children is diverse, but especially the most important are:

- 1) Due to the absence of children, and want to have children to keep and maintain it in the future and then in the old days;
- 2) To maintain the bonds of marriage or family happiness;
- 3) The belief that the presence of the child, it will be able to have children of their own (inducement);
- 4) Compassion toward abandoned children or children whose parents are not able to maintain it;
- 5) To get to his friend who had been there.
- 6) To add or obtain employment.

In practice adoption among the people of Indonesia have some kind of purpose and motivation. The aim among others is to continue the descent, when a marriage is not obtain offspring. Motivation is very strong against the couple who have been convicted could not get or cannot give birth to offspring children with a variety of reasons, such infertility in general. even though they crave the presence of a child in the midst of a family they.

Law No. 23 of 2002 on Protection of Children expressly states that the purpose of adoption, motivation adoptions can only be done for the best interests of the children and is based on local customs and regulations legislation in force. This provision is guaranteed protection for children who are highly dependent nature of her parents.

The practice of adoption by commercial motivations trade, just to inducement and then after the pair gain a child of her own womb or biological children, the foster child who is just as The inducement wasted or abandoned, it is extremely contrary to the rights attached to the child. Therefore, adoption should be guided by a strong spirit to give aid and protection so that future will be better foster child and more assured. Besides, to continue the descent, sometimes adoptions aims also to maintain the marital bond and avoid divorce. A husband and wife who have had children will not be easy for deciding on divorce. Because the interests of wholeness marriage not only for the two sides, but also includes the interests of children who are bound in the marriage.

In line with the development of society in the present indicates that the purpose of the institution of adoption is no longer solely on motivation to continue offspring or maintain a marriage course but more diverse than that. There are various motivations that drive people adopt a child even infrequently because of social, economic, cultural and politically.

Based on existing resources, in this case there are several alternatives are used as the basis for the implementation of an appointment children, among others, as follows:

Viewed from the side *adoptant*, for their reasons:

- 1) The desire to have children or descendants;
- 2) The desire to make friends for himself or his son;
- 3) Willingness to channel a sense of compassion for other people's children in need;
- 4) The existence of legal provisions which provide opportunities for a child adoption;
- 5) The existence of parties that advocated the implementation of adoptions for the interests of certain parties.

Viewed from the side of the child's parents, for their reasons:

- 1) The feeling of being able to raise her child alone;
- 2) The opportunity to lighten the load as a parent because there are those who want to raise their children;
- 3) Rewards promised in terms of delivery of children;
- 4) Suggestions and advice of the family or another person;
- 5) The desire for their children to live better than their parents;
- 6) Want their children to further secure material.
- 7) Still have some more children;
- 8) It has no sense of responsibility for raising the child alone;
- 9) The desire to release her because of shyness have a child who is not perfect physique.

B. Forms of Child Adoption

Adoption in Indonesia can be divided in diverse. In classifying the adoption of children need to be seen from the two (2) terms. The first variety of adoption seen from result legal, consisting of:

1. Adoptio Plena.

Plena adoption is adoption of children who leave due far. As a result of this far is defined as the dissolution of the legal relationship between the adoptandus with biological parents. So that power biological parents, adoptandus inherit the rights and obligations disconnected. At provisions Staatsblaad 1917 number 129 Article 14, adopted this system, so that the relationship between adoptandus civil and birth parents are totally disconnected.

2. Minus Adoptio Plena.

Minus adoption Plena is an adoption that is not give it away as a result. This means that the legal relationship between adoptandus with biological parents are not interrupted. Adoption of this kind only lead the shift of power from the parents and biological parents to alimony adoptant. Some of the common law system adopted by, among others, community Sunda.

While the wide adoption when viewed from civic subjects it consists of:

1. Domestic Adoption..

This adoption is the adoption in layman's definition, namely removal children carried out by an Indonesian citizen. In other words, between adoptandus and there is no difference adoptant citizenship. adoption of this within the scope of the state alone.

2. Intercountry Adoption.

International adoption Intercountry adoption or an appointment children among nation / state, in this case is a citizen of Indonesia by Indonesian citizens. In other words, the adoption of this type there is a difference between adoptandus with adoptantnya citizenship, so there is a convergence of two different legal systems applicable to each party.

C. Basic Law of Adoption

Adoption is not an ordinary act like tackling street children or child victims of violence, because the adoptions are legal processes that must be adhered to and the conditions that must be met. Adoption puts the child as a legal subject, so the process and all things related to child adoption has definitely set in legislation. Here is the basic law of the process of adoption and adoption:

a. The legal basis for adoption in general

1) Law No. 4 of 1979 on Child Welfare

The legal basis is used, as in this law of Articles 1 to 16 mentions of children's rights, parental responsibilities for the welfare of children and efforts should be made to the welfare of children. The things that have been mentioned above not only apply to biological children but also applies to adopted children, because both biological children and adopted children should get the same rights and treatment.

2) Law No. 23 of 2002 regarding Child Protection.

In this Act really set how in seeking the protection of children. In this Act provides for the adoption of Article 39 to 41. In addition to governing child adoption, is also arranged on children's rights and obligations under Article 4 to 19, both biological children and adopted children who have the same rights and obligations.

Article 39 regulates the purpose of adoption is adoption of children are made to the best interests of the child and conducted in accordance with local customs and laws, states are also adoptions not to sever ties between the adopted child and his biological parents. In the process of adoption, religion prospective adoptive parents and prospective adoptive child must be the same, if the origin of the biological parents are unknown, then the child will be adjusted to the religion of the majority religion locals.

Article 40 stipulates that "every parent adoption is obliged to inform the origin of the biological parents of the child to the child concerned, but seen in the notice of the situation, conditions and readiness of the child."

Meanwhile, Article 41 stipulates that "the government and the public to participate in the guidance and supervision of the implementation of the adopted child."

3) Law No. 6 of 1974 concerning Basic Provisions for Social Welfare.

The legal basis used in adoption, because the purpose of adoption is that the lives and welfare of children can be met.

In this Act, Article 1 to Article 12 in the process there is a child welfare intervention of government, community and social foundations or organizations. As stated in Article 1 that "Every citizen has the right to a standard of social welfare as well as possible and the obligation to participate in social welfare efforts". This means that the adopted child is also entitled to receive welfare in life and every person and the state must participate in realizing the prosperity.

4) Government Regulation No. 2 of 1988 concerning Business Child Welfare for Children Have Problems.

In this regulation stipulated efforts for the welfare of children who have problems in improving the welfare of his life. In order to improve the welfare of the children were adopted child can be one of the best solutions.

5) Supreme Court Circular No. 6 of 1983 On Completion of the Supreme Court Circular No. 2 of 1979 on Adoption jo Supreme Court Circular No. 2 of 1989 on Adoption jo Supreme Court Circular No. 3 of 2005 on Adoption.

In this Circular Letter mentions the terms of adoption, the application for approval of adoption, the examination in court and others.

6) Presidential Decree No. 36 of 1990 on Ratification of the "Convention on the Right of the Child" (Convention on the Rights of the Child).

The legal basis is used, because of the Convention on the Rights of the Child noted, children are entitled to protection, opportunities and facilities to develop in a healthy and natural, social security, education and care and others. To realize such matters of adoption is one appropriate way.

Law No. 23 of 2002 regarding Child Protection emphasizes the rights of children must be given the parents before the child reaches adulthood. The law regulates the responsibility of parents, government and the state of the child for the creation of child protection principles expected of this Act. Sanctions against parents also provided for in this Act, which would sanction the revocation of custody can be done by the court if the parents have neglected their responsibilities to children. Sanctions are the same as the existing sanctions the Law No. 4 of 1979 About the Welfare of Children, just setting about adoption as a child protection efforts both ordinances implementation and procedures are also not regulated in this Law.

Based on the law on child adoption system mentioned above. It is clear that most of the regulation concerning the child aims for the welfare of the child, even though all rules do not regulate further the implementation of the means necessary to achieve the welfare of the child, one of which is adoption. In the legal system does not already exist governing adoption and implementation procedure of adoption, so the adoption can be done properly without any fault of any party which aims to exploit the child is still difficult in his demonstration.

D. As a result of the Law of Adoption

Legally, the adoption decision upheld by the District Court. This implies legally, while illegal child adoption is adoption made only by agreement between the parents who raised children with biological parents. If a child legally appointed, then after removal of the existing legal consequences arising, such as custody and inheritance.

Since the decision is made by the Court, then the adoptive parents become the guardian of the child. Since then, all the rights and obligations of the biological parents was diverted by the adoptive parents. Except, for adopted children of women who are Muslims, when she married then that could be of guardians only biological parents or relatives sedarahnya. In this case the marriage whoever the person who enter into marriage in Indonesia, it must be subject to the law or the Marriage Act in force in Indonesia, namely Law No. 1 of 1974. Our law, both customary law, Islamic law and national law has provisions regarding inheritance rights. All three have the same power, which means that one can choose the law which will be used to determine inheritance for children.

Under customary law, when he uses the traditional institutions of determining inheritance for adopted children dependent on customary law. For families with migrants, Java, for example, adoption does not automatically disconnect between the boy's family ties with his biological parents. Therefore, in addition to getting the inheritance rights of adoptive parents, he also remains entitled to the inheritance of his biological parents. In Islamic law, adoption does not carry legal consequences in terms of blood relationship, the relationship heir of his biological parents and the child kept the name of his biological father.

While in 1979 Staatblaad No. 129, the legal effect of the adoption is the child legally obtain the name of his adopted father. That is, due to the removal of the child is then cut off all relations civil rooted in the offspring's birth, which is between the biological parents and the child. Automatically the rights and obligations of an adopted child is the same as biological children and adopted children are entitled to the same rights as the child of the adoptive parents. Adopted children are also entitled to know the origin. Therefore, the adoptive parents must explain its origin to the foster child, do not worry about the child and then going back to his biological parents, it rarely happens.

E. Terms Adoption in Indonesia

a. Judging from Act No. 23 of 2002 on Child Protection.

Matters relating to adoption set out in Article 39 through Article 41 of Law No. 23 of 2002 on the Protection of the Child which states, in adoption, the requirements that must be fulfilled for the sake of the child according to Law No. 23 of 2002 are as follows:

Article 29

- 1) Adoption can only be done for the best interests of the child and based on local custom and the provisions of the legislation in force.
- 2) Adoption referred to in subsection (1) does not break blood relationship between the adopted child and his biological parents.
- 3) Prospective adoptive parents must be of the same religion professed by the prospective adoptive child.
- 4) Adoptions by foreign nationals can only be done as a last resort.
- 5) In terms of origin of the child is unknown, then the child religion adapted to the religion of the majority of locals.

Under the provisions of law on matters relating to adoptions, the adoptive parents have an obligation as set out in Article 40 which states:

- 1) Adoptive parents shall notify the adopted son of the origins and biological parents.
- 2) Notice the origins and biological parents referred to in paragraph (1) shall be conducted with due regard to the readiness of the child.

Notice the origins and biological parents is intended for children who have been raised do not feel the loss of his true spirit and knowing the origin of the truth. In addition, for the purpose of Act No. 23 of 2002 on Child Protection is achieved, it would require the participation of the community and the government in this Act contained in article 41 which reads as follows:

- 1) The government and the community to do the guidance and supervision of the implementation of child adoption.
- 2) Provisions concerning the guidance and supervision referred to in paragraph (1) shall be regulated by Government Regulation.

Then, the terms and other procedures that should be taken up to the adoption of both is the citizen. To condition the prospective adoptive parents (applicant), allowed adoption takes place directly between the biological parents to the adoptive parents or usually called with a private adoption. In addition, the adoption by an unmarried person is also allowed or called with a single adoption, provided that the adoptive parent has a job and a steady income.

Terms of the prospective adopted child (when in the care of a charitable foundation), a charity must have a letter written permission from the Minister of Social Affairs that the foundation in question has been allowed to move in the field of child care and the prospective adopted child must have written permission from the Minister of Social Affairs or the competent authorities that the children are allowed to be submitted as a foster child, and if licensing is complete, then apply for adoption to the Chairman of the Court whose jurisdiction covers the place / domicile of the child to be removed.

Moreover, in the case of adoption should be no parties concerned. The parties concerned in the onset and course of adoption are as follows:

- a. Parties to the biological parent, which provides children raised;
- b. Party new parents, who adopt a child;
- c. The judge or other officer authorized authorize adoptions;
- d. Party intermediaries, ie the individual or group (body, organization) beneficial or detrimental to the parties concerned;
- e. Family members of other communities, which support or hinder adoption;
- f. Adopted child, who does not shy away from treatment benefit or harm themselves, become victims of active and passive person.

F. The procedure of adoption in Indonesia

1. Adoptions between Citizen Indonesia (domestic adoption)

In making the appointments children among Indonesian citizens must meet the requirements that have been determined as specified in Article 12 of Government Regulation 54 of 2007 on Adoption, namely:[5]

Article 12

- 1) Terms of the child to be lifted, include:
 - a. yet 18 (eighteen years);
 - b. a child being neglected;
 - c. are in family care or in childcare institutions and
 - d. require special protection.
- 2) The age of the adopted child referred to in paragraph (1) a cover:
 - a. the child has not aged 6 (six) years, is a major priority
 - b. children aged 6 (six) years up to not aged twelve (12) years, as long as there is an urgent reason; and

c. the age of 12 (twelve) years up to under 18 (eighteen) years, all the children require special protection. Prospective adoptive parents must meet the following requirements:[6]

- a. physically and mentally healthy;
- b. minimum age of 30 (thirty) years and a maximum of 55 (fifty-five);
- c. the same religion as the religion of the prospective adopted child;
- d. good character and has never been convicted of committing a crime;
- e. married for a minimum of five (5) years;
- f. not the same-sex couples;
- g. not or have not had children or only one child;
- h. in a state capable of economic and social;
- i. Child approval and written informed consent of parents or guardians;
- j. a written statement that the adoption is in the best interests of the child, child welfare and protection;
- k. their social reports from local social workers;
- l. has been nurturing prospective adopted child of 6 (six) months, since the care given permission; and
- m. obtain the consent of the Minister and / or the head of a social agency.[7]

In addition to the above terms and syarat there are letters that need to be completed for adoption, namely:

- 1) marriage certificate and his wife who has been legalized in KUA / Civil Registry where married (photo-copy)
- 2) birth certificate of husband and wife (photo copy)
- 3) letter of good conduct from the police (original)
- 4) gynecological certificate from a gynecologist of the hospital General (original)
- 5) health certificate from a state hospital / health center (original)
- 6) certificate of income (original) and not a paycheck
- 7) approval letter from the family of the husband and the wife's family on the stamp Rp.6.000, on behalf of a large family
- 8) a statement of motivation adoptions were signed on the stamp Rp.6000,
- 9) family card and ID card which has been legalized in the Village (photocopy)
- 10) photographs size 3 x 4 each 2 pieces.

If the requirements have been met and the completeness of the submission of the application for adoption can be done according to existing procedures, namely:

1. Adoption petition submitted to the social agencies districts / cities, accompanied by:
 - a. Letter delivery of children from their parents / guardians to social agencies.
 - b. Letter delivery of children from social institutions Provincial / District / City to Social Organizations.
 - c. Letter delivery of children from social organizations to prospective adoptive parents
 - d. The certificate of approval of adoption of the marital family prospective adoptive parents.
 - e. Photocopy of birth certificate of the prospective adoptive parents.
 - f. Photocopy of marriage certificate prospective adoptive parents.
 - g. Certificate of good health based on information from government doctors.
 - h. Mental health certificate by a doctor psychiatrist.
 - i. The certificate of income from the prospective adoptive parents to work.
2. The license application adoption applicant submitted to the Head of Social Services / Social Institutions Provincial District / City with the following conditions:
 - a. Written by the applicant's own hand on paper stamped
 - b. Signed by the applicant (husband and wife)
 - c. Include the child's name and origin of the child to be removed.
3. In terms of prospective adopted child has been in the care of families with foster parents and are not in the care of social organization, the prospective adoptive parents must be able to prove the completeness surat-surat about the delivery of children from a parent / guardian family were legitimate to prospective adoptive parents are endorsed by social institutions District / Municipality, including the certificate of the police in the background and the data are undoubtedly children (domicile of the children are).[8]

4. The process of feasibility study

Office of Social Affairs / Social Institutions Provincial / District / City Social Organization pointed to facilitate the prospective adoptive parents to:

- 1) Completing the necessary administrative.
- 2) Home visit I: to assess the feasibility of the prospective adoptive parents in the economic, social, psychological, cultural, health and others, conducted by the Social Worker Social Organization and governments with a note:

- a. If the recommendation prospective adoptive parents deserve as an adoptive parent, the social organization submitted a letter to the Head of Social Services / Social agencies Provincial / District / City to be issued a permit temporary care.
- b. If the recommendation prospective adoptive parents is not worth doing adoptions, the social organization submitted a letter to the Head of Social Services or Social Agencies Provincial / District / City to reject prospective adoptive parents in making adoption.
- 3) Home visit II: assessing the prospective adoptive parents and prospective foster child can be fused conducted by the Social Worker Social Organization and governments with a note:
 - a. If in the rekomendasi worthy adoptive parents as an adoptive parent, the social organizations to apply for the follow up to the Head of Social Services / Social Institutions provincial / district / city to be brought to trial PIPA team.
 - b. If the recommendation of the prospective adoptive parents is not worth doing adoptions, the social organizations to apply to the Director of Social Service / Social Institutions Provincial / District / City to withdraw children already in care while the prospective adoptive parents for the next child is placed back in the care Social organizations or parents.
- 4) Session Adoption Licensing Advisory Team (Team PIPA)
 - a. PIPA team trial is the trial to give consideration to the Head of Social Services / Provincial / District / City to set the approval or rejection of applications Prospective foster parents. In the case of Head of Social Services / Social Institutions / Province / District / State approved the application of the prospective adoptive parents, the Head of Social Services / Agencies Provincial / District / City issued a permit decision to be forwarded to the district court for further processing.
 - b. Assembly PIPA Team Regional / Provincial officials from the members:
 1. Regional Office of Law and Human Rights
 2. Local government
 3. Agencies / Health Department
 4. Regional Office of Religious
 5. Department of Population and Civil Registration
 6. Regional Police
 7. High Court
 8. High prosecutor
 9. social services
 10. Expert / Academics
 11. KPAID (Regional Child Protection Commission)
 12. office of demographic affairs
 13. Civil Registry Office
 14. The elements deemed necessary by the Department of Social
 - 5) Decree of the Head of Social Services that the prospective adoptive parents may be submitted to the District Court to get provisions as adoptive parents.
 - 6) Court Decision:
 - a. Prospective adoptive parents filed a petition file to the local Court to request commencement
 - b. Social organizations assisting prospective adoptive parents met in the State Court
 - 7) Submission of a court determination letter:
 - a. Organizations receive a determination letter submitted to the court for the next head of the social services of the provincial / district / city along with the entire administrative documents adoptions prospective adoptive parents (original)
 - b. Head of social services of the District Court Determination Letter handed to prospective adoptive parents.[9]

2. Indonesian citizen adoption by foreign citizens (Intercountry Adoption)

The procedures and the conduct of adoption of Indonesian citizens by foreign citizens (Intercountry Adoption) is more selective when compared with domestic adoption. This is because Intercountry Adoption is done as a last resort (ultimum remedium) in the context of the best interests of the child. The conditions that must be met in Intercountry Adoption are:[10]

Candidates Adopted:[11]

- a. Yet 18 (eighteen) years;
- b. Child is being neglected;
- c. Being in the care of child care institutions; and
- d. Require special protection.

While the age of the adopted child as mentioned above include:

- a. Children are not aged 6 (six) years, is a major priority;
- b. Children aged 6 (six) years up to not aged twelve (12) years, as long as there is an urgent reason; and
- c. The age of 12 (twelve) years up to under 18 (eighteen) years, all the children require special protection.

Prospective Foster Parents:

1. Physically and mentally healthy, both physically and mentally able to care for Prospective Adopted;
2. Being in the lowest age range of 30 years and a maximum of 55 years at the time of the prospective adoptive parents apply for adoption;
3. The same religion as the religion prospective adopted child;
4. Good character and has never been convicted of committing a crime;
5. Legally married at least five (5) years;
6. Has lived in Indonesia for at least 2 years;
7. Not the same-sex couples;
8. Not or have not had children or only one child;
9. Under no circumstances are economically and socially;
10. Obtaining consent from the child, for children who have been able to express their opinions;
11. A written statement that adoption is for the welfare and protection of children and the best interests of the child;
12. Will make a written statement and continue to report the child's development to the Ministry of Foreign Affairs of Indonesia through the local Indonesian Missions each year to children aged 18 (eighteen) years;
13. In terms of prospective foster child taken abroad prospective adoptive parents must report to the Department of Social and Indonesian Representative to the nearby where they live soon after arriving in the country;
14. Prospective adoptive parents are willing to be visited by representatives of the local RI to see the development of the child until the child is aged 18 (eighteen) years;
15. Their social report of Social Workers and Social Institutions Provincial Social Workers Child Care Institutions;
16. Has been nurturing prospective adopted child of 6 (six) months, since the care given permission;
17. Obtain written permission from the government of the country of origin the prospective adoptive parents through the embassy or state representatives prospective adoptive parents;
18. Prospective adoptive children are in Child Care Institutions;
19. Have resided legally in Indonesia for two (2) years;
20. Obtaining permission from the Minister of Social adoptions to be determined in court.

Administrative requirements that must be met are:

1. Certificate of healthy prospective adoptive parents of the Government Hospital
2. Certificate of specialist mental health of doctors from government hospitals stating the prospective adoptive parents do not experience mental health disorders;
3. The certificate of the functioning of the reproductive organs of the prospective adoptive parents from a specialist in obstetrics and gynecology government hospitals;
4. The birth certificate prospective adoptive parents were legalized in the country of origin of the issuance of the letter;
5. Copy of your passport and residence permit limited (KITAS) and the permanent residence card (KITAP) and certificate of residence;
6. ID Card Copy biological parents and the prospective adoptive child or family card copy biological parents and prospective foster child or a certificate of religious identity birth parents and prospective foster child or a court ruling on religious candidates adopted children;
7. Police Notes (SKCK) prospective adoptive parents from the National Police Headquarters;
8. Certified copy of a marriage certificate issued in the country of origin of the letter;
9. Copy of birth certificate the child of the prospective adoptive parents, if the prospective adoptive parents already have a child;
10. Description of income from employment prospective adoptive parents legalized by embassies prospective adoptive parents and be seen and recorded in the foreign ministry and the Human Right;
11. A statement indicating agreement prospective foster child on stamped paper enough for a child who had been able to express an opinion and or social workers report results;
12. Letter of permission from a parent / guardian on paper stamped;
13. Affidavit on stamped paper stating that the appointment of child welfare and child protection, as well as the best interests of the child;

14. Make a written statement on a stamped paper stating that it would be willing to report the child's development to the Ministry of Foreign Affairs of Indonesia through the local Indonesian Missions each year to children aged 18 (eighteen) years;
15. Make a written statement on a stamped paper stating that in case the prospective adopted child was taken out of the country the prospective adoptive parents must report to the Department of Social and Indonesian Representative to the nearby where they live soon after arriving in the country;
16. Affidavit on stamped paper stating that the prospective adoptive parents are willing to be visited by representatives of the local RI to see the development of the child until the child is aged 18 (eighteen) years;
17. Affidavit on stamped paper stating that it would treat the adopted children and biological children without discrimination in accordance with the rights and needs of children sufficiently stamped on paper;
18. Affidavit on stamped paper stating that all documents submitted is valid and the corresponding actual facts
19. Affidavit on stamped paper stating that the prospective adoptive parents will tell the adoptive child about their origins and biological parents account the readiness of the child;
20. A permit from the government of the country of origin the prospective adoptive parents legalized by the local state department;
21. Approval of the family of the prospective adoptive parents are legalized in the country of origin of the issuance of the letter;
22. Social report on the prospective adoptive child made by the Institute of Child Care Social Worker;
23. Letter delivery of children from birth mother to the hospital / police / community continued with the delivery of children to social institutions;
24. Letter delivery of children from social institutions to the Institute of Child Care;
25. Social report on the prospective adoptive parents was made by the social worker Social Agencies;
26. Decree care permit signed by the Director General of Social and Rehabilitation Services on behalf of the Minister of Social Affairs on granting temporary care;
27. Social report from a social worker social agencies and social workers pengasuhann institutions of child development for children cared for temporarily by the prospective adoptive parents;
28. Photo prospective adoptive child together with the prospective adoptive parents;
29. The certificate of PIPA team on considerations permit adoptions;
30. Decision of the Minister of Social cq Director General of Service and social rehabilitation of granting adoptions to be processed further in the courts;
31. Court determination that the status of the prospective adoptive child as abandoned children.

Having met the administrative requirements mentioned above, it can carry out the process of adoption according to existing procedures, namely:

1. The license application adoption applicants submitted to the secretary with the following conditions:
 - a. Written by hand by the applicant on paper sufficiently stamped
 - b. Signed by the applicant (husband and wife)
 - c. Include the identity and origin of the child to be removed. (If it already exists prospective adopted child)
2. Feasibility study process

Ministry of Social Affairs pointed social organizations to facilitate:

- 1) Completing the necessary administrative
- 2) Home visit I: to assess the feasibility of the prospective adoptive parents in the economic, social, psychological, cultural, health and others carried out by the Social Worker Social Organizations and governments with a note:
 - a) If the recommendation prospective adoptive parents feasible as a foster parent, the social organization submitted a letter to the Minister of issued permits for childcare.
 - b) If the recommendation prospective adoptive parents is not worth doing adoptions, the social organization submitted a letter to the Minister of Social Affairs to reject the application for prospective adoptive parents in making adoption.
- 3) Home Visit II: to assess the proposed ortang prospective adoptive parents and adopted children can be fused conducted by the Social Worker Social Organizations and Governments with a note:
 - a) If the recommendation of the prospective adoptive parents feasible as a foster parent, the social organizations to apply to the Minister for discussion to the hearing PIPA Team
 - b) If the recommendation of the prospective adoptive parents is not worth doing pengangkatana children, the social organizations to apply to the Minister to withdraw children already in care while the prospective adoptive parents for the child subsequently placed back in the care of Social Organizations or parents.

3. Session Adoption Licensing Advisory Team (Team PIPA):

- a) PIPA team trial is the trial to give consideration to the Minister to set the approval or rejection of applications Prospective Foster Parents. If the Minister approves the application for prospective adoptive parents, the Minister issued a decree Adoption permits to be forwarded to PengadilanNegeri to be processed further
- b) PIPA Team established by the Decree of the Minister of Social members: Office of the Ministry of Welfare, Ministry of Justice and Human Rights, Department of Home Affairs, Ministry of Foreign Affairs, Ministry of Health, Ministry of Religious Affairs, Office of Population and Civil, National Police, the Attorney General Ministry of Women's Empowerment and Child Protection, Ministry of Social Affairs, the Supreme Court, the Indonesian Child Protection Commission (KPAI), parties that have been set by the Minister of Social Affairs. Court Decision:
 - 1) Prospective adoptive parents filed the application for adoption to the District Court to request commencement stempat.
 - 2) Social organizations assisting prospective adoptive parents meet in the District Court.

Submitting a copy of the District Court Determination Letter and Original Document Adoption:

- 1) The foster parents receive a letter together with a court warrant and social organizations submit a copy of the determination of the District Court following the appointment of the original document to the Ministry of Social Affairs.
- 2) Department of Social Services noted the determination letter to the District Court in the registration book adoptions and adoptions to archive the original document.

III. CONCLUSION

Based on the description of the discussion above it can be concluded that the appointment process or the adoption of children whether undertaken by Indonesian citizens and foreign nationals have to go through various procedures in order to ensure the survival of children and prevent children from the loss of the future. As a suggestion in this article is for the government to monitor regularly the development of the child of adoption in order to protect the rights of a child of adoption.

REFERENCES

- [1]. Undang-Undang Nomor 23 Tahun 2002 TENTANG Perlindungan Anak, Lembaran Negara Republik Indonesia Tahun 2002 Nomor 109, Tambahan Lembaran Negara Republik Indonesia Nomor 4235, Pasal 39
- [2]. Muderis Zaini, 1999, Adopsi Suatu Tinjauan Dari Tiga Sistem Hukum, Jakarta: Sinar Grafika, Hal.4
- [3]. Purwadarminta, 1976, Kamus Umum Bahasa Indonesia, Jakarta: Balai Putaka, Hal 120.
- [4]. Muderis Zaini, Adopsi Suatu Tinjauan Dari Segi Sistem Hukum, Jakarta: Sinar Grafika, 1995, Hal.5.
- [5]. Peraturan Pemerintah Republik Indonesia Nomor 54 Tahun 2007 Tentang Pelaksanaan Pengangkatan Anak.
- [6]. Peraturan Pemerintah RI Nomor 54 Tahun 2007 Tentang Pelaksanaan Pengangkatan Anak, Pasal 12
- [7]. Peraturan Pemerintah RI Nomor 54 Tahun 2007 Tentang Pelaksanaan Pengangkatan Anak, Pasal 13
- [8]. Departemen Sosial RI, 2005, Direktorat Jendral Pelayanan dan Rehabilitasi Sosial, Direktorat Bina Pelayanan Sosial Anak, Pedoman Pelaksanaan Pengangkatan Anak, Jakarta: Departemen Sosial, Hal. 7
- [9]. Direktorat Jendral Pelayanan dan Rehabilitasi Sosial, Pedoman Pelaksanaan Pengangkatan Anak, Departemen Sosial, Direktorat Bina Pelayanan Sosial RI, Hal 19
- [10]. Ibid.
- [11]. Peraturan Menteri Sosial RI Nomor 110 / HUK / 2009 Tentang Persyaratan Pengangkatan Anak, Pasal 42