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Research Paper

Legal Protection for Children Born from Unregistered Marriage in Medan City and Its Socialization Through Website

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Abstract

Children is the hope of the nation that must be fought for, protected and guaranteed for its future. The State's survival depends on the young generation of today, so the child must be legally protected, not to mention children born of unregistered marriages. From the biological side of the child is the biological child of both parents, only the marriage of both parents are not registered under applicable law. This research is normative juridical which is descriptive which its data collecting is done by questioner, interview, observation, population of purposive sampling which is related to this research. The results show that there is no legal protection for children born from unregistered marriage, especially the right to welfare, education, decent living, although there are many regulations that regulate the rights of children but not touched, even in reality in terms of practice there is discrimination of children , the government should establish a new regulation to regulate legal protection for children born of unregistered marriages. So we do not hear anymore, the suffering that children experience with their future as a result of the discrimination of the State's treatment of Unregistered children. The result of this research was expected to be known to many people through socialization by using the website

Keywords: *Legal protection, Discrimination, Unregistered marriage, Website*

1. Introduction

Children are one of the most vulnerable groups in almost any population because of their physical and emotional addiction to adults and their social status. Their vulnerability is greater in developing countries due to higher poverty rates and fewer social protection mechanisms than industrialized countries. In most developing countries, children are not explicitly beneficiaries of an unprecedented increase in social protection efforts, but they benefit from their expansion[1]. Three specific limitations on child protection include poverty, HIV / AIDS infection and war[2]. Marriage is something very sacred and the way of the man is to develop offspring. All human beings expect their marriage to be happy to be born and mentally and expect the presence of a reliable child in the family and the State. But in terms of reality as a result of the way a marriage of parents resulted in the position of the child becomes fragile loss of civil rights from his biological father.

The State of Indonesia is a State of law which has administrative power, the government under its rule makes the rule that a marriage should be recorded to ensure the legal certainty as contained in the Marriage Act No. 1 of 1974 in Article 2 paragraph 2 that "every marriage recorded according to the prevailing laws and regulations ". Also in Article 5 paragraph (1) Compilation of Islamic Law "in order to ensure marriage certification for Islamic society every marriage must be recorded, and according to Article 6 paragraph (1) compilation of Islamic Law (KHI) that to fulfill the provisions of Article 5 each marriage must be held in the presence and under the supervision of the marriage registry officer, paragraph 2 it states if the marriage was done outside the supervision of the marriage registry officials do not have the force of law[3]. So the law only protects married people in accordance with Article 2 paragraph (1) and Paragraph (2) of Marriage Act No. 1 of 1974, even according to Article 6 paragraph (2) states that the marriage has no legal force, it means marriage it is never exited and such marriages are not protected by law [4]

The marriage under that law is that the exercise of the rights and obligations arising out of the marriage is guaranteed by law, the right of the wife to make a living to her husband must be based on the law and the child never loses his position as an inheritor and the descendant of a descendant but only one child born of marriage Not Registered does not lose the right to inherit immaterril (marga) property from his father[5].

The function of such records shall be to provide legal protection for the parties and the marriage shall be recognized by the State. So marriage is not just the interests of husband and wife alone or relatives. Article 43 of the Marriage Law which states that a child born out of marriage has only a civil relationship to the mother and her mother's family, this article is a catastrophe of a child born outside marriage. Is there a child born without a father and this article is very provide opportunities for men and even provide legal protection for men to arbitrarily conduct unregistered marriage without responsibility, this is very contrary to the Law of 1945 Article 28 b paragraph (2) and Article 28 d paragraph (1) of Law No. 39 of 1999 concerning human rights Article 29 paragraph (1) (2), Law No. 35 Year 2014 Child Protection Article 21.

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The result of this research was expected to be known to many people through socialization by using the website. Information on the website should be submitted well. For this purpose information content needs to be well classified to prevent the occurrence of class imbalance problems[6]. Especially with regard to information sensitivity[7] as well as information diversity[8]. Another thing is also needed benchmarking process on the quality of information[9] and the use of resources[10]. Good information should help the reader make decisions[11]. Child protection issues basically put the child to protection and authenticity[12].

2. Related Works

In France, the child protection system - as well as family policies in general - combines specific interventions and schemes with recognition of a particular situation: this is usually called a status-based approach. In the area of child protection, however, the status-based approach has serious limitations that may affect the quality of care[13]. Efforts to strengthen national child protection systems have often taken the top-down approach introduced by formal government services. Such expert-based approaches are often characterized by the low use of formal services and the mismatch between informal and formal aspects of the child protection system[14]. Predictive analysis is a recent increase in the amount and diversity of data along with advances in computing. While data use and statistical modeling are not new to child protection decision-making [15]–[26] child protection exploits growth, and efforts to use predictive analysis to better decide on child protection are increasing[27].

3. Methodology

The general architecture of the proposed method used is depicted in Fig. 1

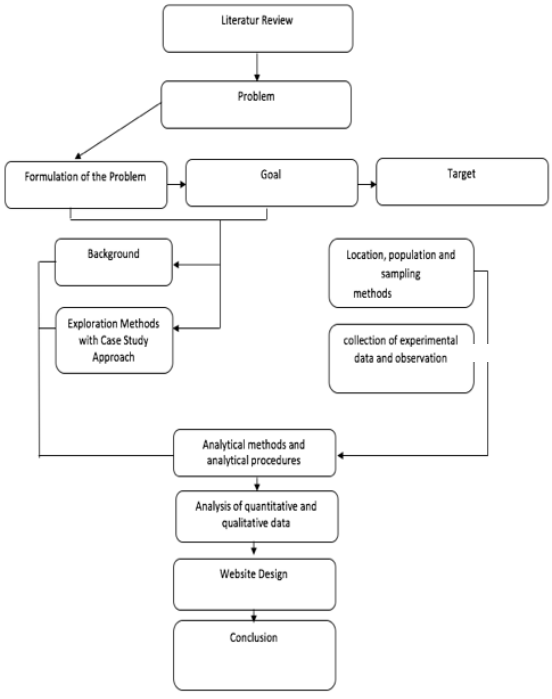


Fig. 1: Research Method

3.1. Research Method

This research is a descriptive normative research to give an idea how the implementation of a regulation that in society, especially in marriage Unregistered that now again ngetrend in Indonesia. Respondents in this study are as many as 80 people consisting of 40 husbands and 40 wives and several informants namely the staff of the Department of Population of North Sumatra and Lurah. Sources of data obtained interviews and questionnaires and library studies, journals, legislation. After the collected data are analyzed based on qualitative analysis which gives an overview of the implementation of legislation especially those relating to legal protection for children born of unregistered marriage.

3.2. Website Design

The design of socialization website in this research is done by using System Development Life Cycle (SDLC) method [15], [28]–[35]. The SDLC Method can be seen in Fig. 2.

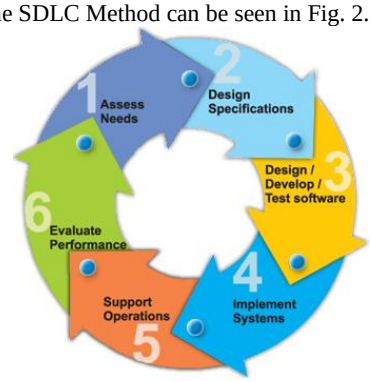


Fig. 2: SDLC Method

4. Result and Discussion

4.1. Results

The State in carrying out its administrative duties has the duty to issue birth certificates from every child born, and this deed is also authentic proof of one's citizenship. For now, birth certificates are a requirement for any legal action such as a child for a school play groop alone is required to have a birth certificate. According to Khofifah 36 million Indonesian children do not have birth certificates because their parents do not have a family card and 43% of 56 million children, do not have birth certificate, because the marriage of their parents is not recorded by the State, they are difficult in administration process

The Government due to the results of the Constitutional Court test, gave birth to the Government Regulation, so that the child outside of marriage also have birth certificate, also for Unregistered children, whose requirement of birth certificate is the same as birth certificate from legitimate child that is:

1. A certificate was born from the hospital.
2. Photocopy of the marriage certificate of the parent concerned, because of the absence of marriage book of the child born from unregistered marriage, then there must be a statement of not having a marriage certificate in the local kelurahan and given stamp duty.
3. Copy of both parents of the child in question.
4. Copy of Family Card (KK)
5. Photocopy of death certificate if the parents have died
6. Witness registration of birth of 2 people and copy of identity card (KTP)
7. Completed letter of introduction from the local government.

Form of birth certificate of the child resulted from unregistered marriage 95% of respondents said the birth certificate of the mother's child did not mention the name of his father. It also has a negative impact on a child if he is an adult and public gossip. The Department of Population has the duty to issue the child's birth certificate from the Table 1 can be seen.

Table 1: Birth Certificate in Kotamadya Medan in 2014

		Birth Certificate			Birth Certificate with Mother's Name without Name of Father		
No	Month	Not Late	Late	Amount	Not Late	Late	Amount

1	Januari	1481	3637	5.118	40	262	302
2	Februari	1119	4665	5.784	27	502	529
3	Maret	977	7054	8.031	21	439	460
4	April	1069	6491	7.560	32	682	714
5	Mei	983	3759	4.742	33	521	554
6	Juni	1160	4442	5.602	40	648	688
7	Juli	943	2321	3.264	33	366	399
8	Agustus	1313	3268	4.581	45	510	555
9	Septem-ber	1345	4818	6.163	44	759	803
10	Oktober	1479	5326	6.805	51	971	1022
11	Novem-ber	1167	4854	6.021	36	966	1002
12	Desember	1286	4856	6.142	37	1.07 1	1108
	Total	**1432 2**	**5549 1**	**69813**	**439**	**7697**	**8136**

From table 1 it can be seen in 2014 that fourteen thousand three hundred and twenty-two children are proposed to obtain their birth certificates which generally means that filing is done by the age of the child not later than sixty days of birth and which is late means that the filing is from 60 days of birth of five twenty five thousand four hundred and ninety-one and the total number sixty Nine thousand eight hundred thirteen. On birth certificates that only mention the mother's name during the year 2014 which is common under 60 days of birth as many as four hundred and thirty Nine children who apply for birth certificate and which are late as many as seven thousand six hundred ninety seven and the total number of birth certificates of mother children issued by The North Sumatra Population Service is a total of eight thousand one hundred and thirty-six birth certificates.

So the number of birth certificates issued by the North Sumatra Population Office in 2014 is seventy-seven thousand nine hundred and forty-nine birth certificates. While for the Year 2015 can be seen in Table 2.

Table 2: Birth Certificate in Kotamadya Medan in 2015

		Birth Certificate			**Birth Certificate with Mother's Name without Name of Father**		
No	**Month**	**Not Late**	**Late**	**Amount**	**Not Late**	**Late**	**Amount**
1	Januari	1212	4293	5505	37	882	919
2	Februari	1044	4429	5473	27	1009	1036
3	Maret	1220	5045	6265	37	1300	1337
4	April	955	7892	8847	27	1363	2000
5	Mei	1061	5123	6184	39	1545	1572
6	Juni	1266	4593	5859	30	1322	1361
7	Juli	1025	3209	4234	30	928	958
8	Agustus	1452	3649	5101	34	885	919
9	Septem-ber	1353	4733	6086	41	1159	1200
10	Oktober	1424	7422	8866	43	3444	3487
11	Novem-ber	1259	6545	7804	41	2695	2736
12	Desem-ber	1398	4675	6073	35	1255	1290
	Total	**1466 9**	**6162 8**	**76297**	**428**	**1838 7**	**18815**

From Table 2 it can be seen that by 2015 there has been an increase in requests for birth certificates of a general nature which apply for a birth certificate before the 60th day of the child's birth, from fourteen thousand three hundred twenty two, to fourteen thousand six hundred and sixty nine means up 97% and the late of fifty five thousand four hundred ninety one people to sixty one thousand six hundred twenty eight means up 111% and the total number of birth certificates of children amounted to seventy six thousand two hundred ninety seven. an increase of 109% of birth certificates and once gus represents an increase in population in Medan City from 2014 to 2015.

Additionally, in 2015, a four hundred and twenty-eight-month general birth certificate application is eighteen thousand eight hundred and fifteen means an increase in a birth certificate of a mother who is 41% late in Medan and the total number of birth certificates of the mother issued by the North Sumatra Population Department, especially Medan city, eighteen thousand and eight hundred and fifteen birth certificates means up 231% by 2015. It also gives us an idea that it is getting more and more aware of the importance of the birth certificate for a person.

4.2. Discussion

Table 2 shows that the number of birth certificates of mothers issued by the North Sumatra Population Office from 2014 to 2015 is 26,951 certificates, which does not mean that the number of children born from unregistered marriages or outsiders in Medan. Based on field observations that the birth certificates of the mother children listed in the table are included:

1. Birth certificate of the legal child of both parents but at the time of applying for the birth certificate of his child in the office of the Population Department his / her parents are unable to show the marriage certificate from church in order to obtain the marriage certificate from church it needs proof of witness testimony and so forth, and very difficult and time consuming while the child's birth certificate is in need must exist as soon as possible so that parents approve the birth certificate of the child who applied for the birth certificate of the mother's child without mentioning his father's name.
2. Also for children of Chinese descent they are also unable to demonstrate the validity of their marriage because it is not a letter they have to be able to prove the validity of the marriage of both parents of the child who issued by Klenteng where meraka paisin at the time of the marriage was held.
3. Parents at the time of applying for the birth certificate of their child, do not carry the supporting documents that is proof of marriage for reasons lost or left at home so as not to be repetitive and troublesome, her mother said and agree let birth certificate only .

For parents this should not be done, follow the procedure as it should, because in terms of law the child is only a mother's child, and have a civic relationship to mother and mother's family and inherit from the mother's family only and have no civic relationship even inherited also not from his father. Although in terms of reality the child is legitimate and get a good place in the family and no problems, but whatever reality the child has grown up will raise questions for the child why his father's name is not listed in his birth certificate is not to be a problem because kenuyataan son remains living side by side in a peaceful and prosperous family.

Unlike the case with Unregistered children who, in terms of reality, 90% do not live with their father, this has also been an adult child into psykological pressure for the child, others scorn people in society. The government has given way out to attribute both parents, but in reality there has been no family doing this nisbat in the research location.

In Batak Toba society this is also known as the king's pasu, where they receive blessings not in church but at the home of a groom's relatives, conducted by Sintua (religious leaders) and attended by relatives of brides and relatives of the bride's side some are present. After the ceremony is completed, the chosen one day is appropriate for relatives of the groom to visit the bride's parents (family) and bring the customary food with the intention of telling her that the girl's child should not be in search again he is in our home (groom).

Sometimes there are times when there is a family of brides who receive well there is also a refuse the arrival of this groom's entourage, if the family refused it must be searched from the bride fami-

ly anywhere as his closest relatives who will accept the customary food that brought the groom's family. With the receipt of the customary food brought by the groom's family, it means that the girl's child has become a daughter-in-law in the groom's family and held negotiations from both families to determine when the customary party is held or maybe this is done if the new family already has a life rather economic in terms of the desire of the bride and groom to pay for hula-hula (the bride's family) with her own hard work.
With the passage of time the birth of a child from marriage of the king's king, but this is never in question, the child born from this marriage remains recognized as a legitimate son of both parents even from the relatives of the bride, only marriage from both parties have not gone through customary procedures. If they are faced with a birth certificate for the legal benefit of the child, the parties do what the law requires to legitimize the child by remarriage in the Civil Registry Offices. Then came the birth certificate of the child who listed both parents.
Unlike the Unregistered marriage although there is an opportunity for marriage legislation and the status of the child, the parties themselves do not want to do so even if they survive with a troubled marriage form especially to the child and his mother. Actually, unmarried marriages contribute very much to domestic violence (Domestic Crime) and very harmful to children. Upstream from domestic violence (KDRT) and other cases that make women and children victims, they do not get administrative protection from the government and even 75% of divorce claims are committed by the wife.

4.5. Website Hierarchy Diagram

Website Hierarchy Diagram can be seen in Fig. 3[36].

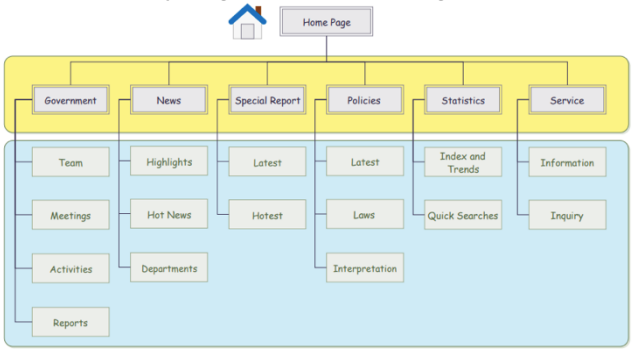


Fig. 3: Website Hierarchy Diagram

Socialization of the results of this study conducted through the website and is expected this website in the future can be managed by the government so that information and developments that exist can be up to date and quickly known by the public.

5. Conclusion

The conclusion of this research are as follows.

1. The absence of legal protection for a child born of unregistered marriage proves he has no civil relationship to his father and father's family, much less demands about affection, care and livelihood.
2. The government shall be responsible and establish a new law even though the matril test has been conducted from Article 43 of the Marriage Act No. 1 of 1974, but the birth certificate of the child born of unregistered marriage remains her mother's mother without father, a future psyche to the child from a psychological perspective when he is an adult, even though DNA test technology has been tested but the child can not inherit from his father.
3. The legal consequence of unregistered marriage is the existence of the child can be denied by his father, the child has no civil relationship to his parents and the child is not an heir of his father.

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