


The Obligation of Adopted Children to Fulfill Parents' Alimentary Rights

Merry Tjoanda¹, Wijaya Natalia Panjaitan^{2*}, Roy Prabowo Lenggono³

^{1,2,3}, Faculty of Law, Universitas Pattimura, Ambon, Indonesia.

 : wijayanataliap@gmail.com

Corresponding Author*



Abstract

Introduction: Child adoptions have been carried out in different ways and motivations, in accordance with the current legal system and regulations in society. Parents who adopt a child will assume the obligation to raise the adopted child like a biological child. However, the question of the responsibility of the adopted child for the fulfillment of the alimony rights of his or her adoptive parents has also become a legal study and social practice.

Purposes of the Research: This research aims to analyze the obligations of adopted children to fulfill their parents' alimentary rights.

Methods of the Research: The type of research used is sociolegal research, which is a combination research method between doctrinal legal research methods and empirical legal research methods.

Results Main Findings of the Research: Adopted children have clear legal obligations to the adoptive parents in terms of the fulfillment of alimentary rights. In addition, there is a need for clarity to strengthen regulations regarding the rights and obligations of adopted children in the Civil Code in Indonesia. This is important to provide legal certainty for all parties and increase public awareness of the rights and obligations carried by adopted children.

Keywords: Obligation; Adopted Children; Parents' Alimentary Rights.

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INTRODUCTION

The concept of family relationships in modern society has undergone many changes, including the growing practice of child adoption. In Indonesia, child adoption is not only seen as the taking of a child to raise, but also involves the emotional connection and responsibility between the adopted child and the adoptive parents. The adopted child, who is adopted by a couple with whom he or she is not biologically related, is expected to build strong family bonds. In today's society there are still many street children living in neglect and orphans who need a parent or family figure, vice versa for parents who cannot get offspring so one solution is by adopting a child. Child adoption has been carried out in different ways and motivations, in accordance with the current legal system and regulations in society.¹ Parents who adopt a child will assume the obligation to raise the adopted child like a biological child. However, the question of the obligations of adopted children towards the fulfillment of their adoptive parents' alimentary rights has also become an academic study and social practice. This is because today neglect is not only committed by parents

¹ Nur Aisyah, "Anak Angkat Dalam Hukum Kewarisan Islam Dan Hukum Perdata," *El-Iqthisady: Jurnal Hukum Ekonomi Syariah* 2, no. 1 (2020): 101-13, <https://doi.org/10.24252/el-iqthisadi.v2i1.14137>.

against children, it is known that children neglect elderly and vulnerable parents, but the existing reality related to child neglect of elderly parents is not regulated by criminal sanctions and clear regulations.²

Alimentary rights include the right to financial support and the fulfillment of basic needs. In many cases, this right is better known in the context of biological parents to biological children, and biological children to biological parents. In this study, the understanding of alimentary rights needs to be reversed in the context of adopted children. Indeed, according to researchers, adopted children also have an obligation to provide for their adoptive parents, especially when the adoptive parents have provided emotional and material support during the child's development. This responsibility arises from the existence of a legally and socially recognized relationship, which creates moral and ethical bonds. This obligation becomes even more important in situations where the adoptive parents are aging or experiencing financial hardship.

Indonesian society, which is based on family values and gotong royong, frequently puts great emphasis on family responsibilities, including the responsibilities of children to their parents. A society (big or small) always starts with a person who then becomes a family. Then the collection of families becomes groups called kampong, village, country, and so on to become a nation in a state.³ In many cultures, including Indonesian culture, there is an underlying principle of the importance of reciprocity to parents, which plays a role in the formation of children's character. These values are expected to be applied in the context of the relationship between adopted children and adoptive parents. However, challenges arise when there are different views on this obligation, especially when the adopted child comes from a different background or when socio-economic conditions are not favorable. As the number of adoption cases increases, both officially through adoption agencies and informally. Many adoptive parents have invested emotionally and financially in their adopted child's life, but there is no legal certainty regarding whether the adopted child has an obligation to fulfill the adoptive parents' alimentary rights. This creates uncertainty that can potentially lead to conflict within the adoptive family, especially when adoptive parents face health or financial issues that require support from the adopted child.

In the context of Indonesian law, child adoption is regulated by several laws and regulations that provide rights and obligations for adopted children and adoptive parents. However, these regulations often do not explicitly mention the obligations of the adopted child in fulfilling the alimentary rights of the adoptive parents. This suggests a legal vacuum that needs to be filled with a deeper understanding of these obligations. In addition, there needs to be awareness and knowledge from adopted children about their legal and moral obligations towards adoptive parents. The lack of clarity regarding the obligations of adopted children in fulfilling their adoptive parents' alimentary rights is often influenced by existing social and cultural norms. On the one hand, many adopted children feel indebted to the adoptive parents who have cared for and educated them, but on the other hand, there are also those who feel that such obligations are not formally regulated. This creates ambiguity that can impact on the relationship between the adopted child and the adoptive parents, as well as on the well-being of both parties. In situations where adoptive

² Waspiah Waspiah et al., "Peningkatan Pemahaman Hak Alimentasi Terhadap Kelompok Lanjut Usia Melalui Legal Counseling Approach," *Jurnal Pengabdian Hukum Indonesia (Indonesian Journal Of Legal Community Engagement)* 4, no. 1 (2021): 112-22, <https://doi.org/10.15294/jphi.v4i1.47827>.

³ Soedharyo Soimin, *Hukum Orang Dan Keluarga* (Jakarta: Jakarta: Sinar Grafika, 2009), p. vii.

parents are no longer able to provide for themselves, the obligations of the adopted child become even more relevant.

Previous research examining alimony obligations was written by Melia et al (2022). This research discusses more about the legal consequences for children who do not provide alimentary as well as the legal consequences for children who commit acts of verbal / psychological violence against their biological mothers. The writing of this article aims to examine the legal consequences that refer to the provisions of national law.⁴ Alimentation obligations have also been studied by Komalawati (2021), which provides an explanation of children's alimony to parents who are in social institutions. The research also analyzes the legal consequences for children who do not carry out their alimony properly based on legal regulations in Indonesia.⁵ The discussion of alimony was also raised by Aryani (2022), who explained about "the obligation of alimentary between biological children and parents in Islamic law".⁶

This research is different from the previous three articles. Through this research, the author attempts to explore more deeply the obligations of adopted children to fulfill the alimentary rights of adoptive parents. This research is expected to provide a clearer picture of how these obligations are understood and implemented in practice, as well as what factors influence these obligations. By understanding these obligations, it is hoped that better solutions can be found to ensure the welfare of adoptive parents and provide guidance for adopted children in carrying out their obligations. In addition, the results of this study are expected to contribute to policy makers in formulating more comprehensive regulations regarding adoption and the responsibilities of adopted children. In this context, it is important to review existing regulations and ensure that the rights and obligations of all parties in the adoptive family are guaranteed. This research can also serve as a reference for child protection agencies to develop programs that support adopted children in understanding their responsibilities. This research will also highlight the social and psychological aspects of the relationship between adopted children and adoptive parents.

In many cases, these relationships go beyond legal ties and involve feelings of mutual respect, love and commitment. Understanding the dynamics of these relationships can help in identifying the challenges and opportunities that exist in the fulfillment of alimentary rights. In addition, it is important to understand how adopted children's perceptions of these responsibilities may be influenced by their own experiences and cultural backgrounds. Thus, this research is expected to not only provide insight into the responsibilities of adopted children towards the fulfillment of the alimentary rights of adoptive parents, but also to contribute to the broader discourse on the protection of children's and parents' rights in the context of adoptive families. It is hoped that the results of this research can provide inspiration and recommendations for the development of better policies and practices, so that the relationship between adopted children and adoptive parents can run harmoniously and mutually beneficial. This will have a positive impact on

⁴ Melia Putri Purnama Sari, Veronica Komalawati, and Kilkoda Agus Saleh, "Tanggung Jawab Alimentasi Anak Yang Sudah Dewasa Terhadap Orang Tua Lansia," *Jurnal Ius Constituendum* 7, no. 2 (2022): 293-306, <https://doi.org/10.26623/jic.v7i2.5342>.

⁵ Veronica Komalawati, Sridewi Anggraeni, and Alma Ardelia Ma'arif, "Kewajiban Alimentasi Anak Kepada Orang Tua Yang Berada Di Panti Sosial Merupakan Hubungan Hukum Akibat Perkawinan Dan Hubungan Darah," *Jurnal Sains Sosio Humaniora* 5, no. 2 (2021): 1311-23.

⁶ Lusi Aryani Angkat, "Tinjauan Hukum Tentang Kewajiban Alimentasi Antara Anak Kandung Dengan Orang Tua Menurut Hukum Islam," *Jurnal Ilmiah Mahasiswa Hukum [JIMHUM]* 2, no. 3 (2022): 1-10, <http://jurnalmahasiswa.umsu.ac.id/index.php/jimhum/article/view/1617>.

the welfare of the adoptive family and society as a whole, where each individual gets their rights and obligations in a fair and balanced manner. Based on the description above, the title of this legal research is "The Obligation of Adopted Children to Fulfill Parents' Alimentary Rights".

METHODS OF THE RESEARCH

The type of research used is sociolegal research⁷, which is a combination research method between doctrinal legal research methods and empirical legal research methods. Doctrinal research is intended to conduct library research by identifying laws and regulations and collecting other data related to the problem under study. Empirical research is intended to identify the application of the responsibility of adopted children to fulfill their parents' alimentary rights.

RESULTS AND DISCUSSION

A. Legal Regulations Concerning the Obligation of Adopted Children to Fulfill the Parents' Alimentary Rights in the Civil Code

Children are a gift given by God Almighty. Children are also the key to the happiness of couples bound in marriage. However, not all families or couples are blessed by the presence of children in their households so that child adoption becomes an alternative to complete the harmony of a family. The habit of adopting children or adopting other people's children as children in Arabic is called the term "Tabanni", while the term adoption, which comes from the word adoptie in Dutch, or adoption in English, which in the Indonesian Dictionary is stated, that adoption is the legal taking (appointment) of another person's child as one's own child.⁸ According to Article 1 point 9 of Law of the Republic of Indonesia Number 23 Year 2002, an adopted child is a child whose rights are transferred from the environment of family power, parents, legal guardians, or other people who are responsible for the care, education, and raising of the child, into the family environment of his adoptive parents based on a court decision or determination. However, the Civil Code does not specifically regulate adopted children so it is necessary to refer to Staatsblad 1917 Number 129 of 1917 to fill the legal vacuum. Based on this Staatsblad, it states that adopted children have a legal relationship and are equalized as children born to their adoptive parents, so that they are made as children born from the marriage of adoptive parents and become heirs of adoptive parents. This means that legally adopted children are treated as equal to biological children in terms of inheritance rights, which also means that adopted children have similar rights and obligations as biological children.

Child adoption, or better known as adoption, is not only an act of love between adoptive parents and adopted children, but also involves a legal dimension that affects the legal status of adopted children in society. The procedure for child adoption, which is regulated in Articles 8 to 10 of Staatsblad 1917 number 129, states four requirements for child adoption, namely: a) The consent of the person adopting the child; b) The permission of the

⁷ Sulistyowati Irianto and Shidarta, *Metode Penelitian Hukum: Konstelasi Dan Refleksi* (Jakarta: Yayasan Obor Indonesia, 2011), p. 177.

⁸ Muhammad Rais, "Kedudukan Anak Angkat Dalam Perspektif Hukum Islam, Hukum Adat Dan Hukum Perdata," *Jurnal Hukum Diktum* 14, no. 2 (2016): 183–200, <https://doi.org/10.35905/diktum.v14i2.232>.

biological parents if the child is a legal child; c) Consent of the child if over 19 years old; d) The consent of the next of kin if the appointment is made by a widow.⁹

Based on these matters, according to the researcher's analysis, the appointment of adopted children has the same position as biological children in terms of law, especially in terms of inheritance and maintenance. Adopted children have inheritance rights as well as the inheritance rights possessed by biological children, as in Staatsblad 1917 Number 38 article 12 states that adopted children are equated with biological children born to the spouse who adopted them. Typically, such an appointment is an act that equalizes the position of the adopted child with the biological child, both in terms of maintenance and up to the matter of inheritance.¹⁰ According to article 14 of Stb. 1917 Number 129, the adoption of a child has the effect that the status of the child concerned changes to that of a legal child. The civil relationship with the biological parents is completely broken. In Staatsblad 1917 Number 129, the legal effect of child adoption is that the child legally acquires the name of the adoptive father, is made a child born of the marriage of the adoptive parents and becomes the heir of the adoptive parents. This means that all civil relationships, which are based on descent by birth, namely between biological parents and the child, are severed.¹¹ Article 12 of Staatsblad 1917 Number 129 states that the position of adopted children is the same as children born from the marriage of their adoptive parents.

According to Western Law or the Civil Code or Burgerlijk Weetboek, the adoption of a child in Western Civil Law terms is called adoption. The legal basis for adoption is Staatsblad Year 1917 number 129. Therefore, the discussion of adoption in Western Civil Law only comes from the Staatsblad, because its existence is the only complement to the Burgerlijk Weetboek, which does not recognize the problem of adoption. In the Civil Code, the term child adoption or adoption is not known, but only regarding adoption outside of marriage as regulated in Articles 280 to 290 of the Civil Code, so in principle, the Civil Code does not recognize the institution of child adoption because when viewed from the source of law which comes from the product of the Dutch East Indies government, the country of its creation does not regulate or even recognize the term adoption. Therefore, residents and/or citizens of the Netherlands cannot legally adopt, although currently the Staten General has begun to accept the existence of positive law in the form of laws related to child adoption.¹²

A separate provision was made outside the Civil Code regarding the adoption of children, namely through Staatblaad 1917 Number 129, where this provision was made as a complement to the Civil Code and only applies to Chinese citizens. When viewed from the point of view of the legal consequences of adoption, Staatblaad 1917 Number 129 explains the status of the child from the adoption process is not as an adopted child, but changes to a legal child, so that the civil relationship between the adopted child and the biological parents of the child being adopted.¹³ For this reason, it is necessary to formulate

⁹ Teddy Prima Anggriawan, "Hukum Pengangkatan Anak Melalui Akta Pengakuan Pengangkatan Anak Yang Dibuat Oleh Notaris," *Widya Pranata Hukum: Jurnal Kajian Dan Penelitian Hukum* 3, no. 1 (2021): 1-14, <https://doi.org/10.37631/widyapranata.v3i1.272>.

¹⁰ Detikcom, "Saya Anak Angkat, Apakah Juga Masih Dapat Waris Dari Ortu Kandung?," <https://news.detik.com/>, 2022, <https://news.detik.com/berita/d-6168377/saya-anak-angkat-apaakah-juga-masih-dapat-waris-dari-ortu-kandung>.

¹¹ Rais, "Kedudukan Anak Angkat Dalam Perspektif Hukum Islam, Hukum Adat Dan Hukum Perdata." p. 88

¹² Rais, p. 189.

¹³ Angga Aidry Ghifari and I Gede Yusa, "Pengaturan Pengangkatan Anak (Adopsi) Berdasarkan Peraturan Perundangan-Undangan Di Indonesia," *Kertha Negara (Jurnal Ilmu Hukum)* 8, no. 2 (2020): 1-13.

a law regarding adopted children and their rights and obligations that can be applied to people in Indonesia, especially in the city of Ambon who often practice child adoption. In many cases in Ambon City, there is a practice in the community where parents who are not blessed with biological children often adopt children from the family to be cared for as biological children. There are also parents who are willing to adopt a child from an incapable mother or a child out of wedlock who is then handed over by the biological parents to be adopted as a child for those who are willing to care for the child like a biological child. This practice usually occurs without any application for a child determination to the Court, and this practice is considered normal and natural to do.

The position of adopted children in the Civil Code does not only affect inheritance rights, but also the aspect of fulfilling maintenance. Article 830 of the Civil Code stipulates that adopted children have the same rights as biological children in terms of inheritance. This means that adopted children are entitled to a share of the inheritance of their adoptive parents without any discrimination. On the other hand, the rights received by adopted children also give rise to an obligation to also fulfill the alimony rights of their adoptive parents as stipulated in Article 321 of the Civil Code which states that children must provide maintenance to parents if the parents are no longer able to provide for their needs. The importance of fulfilling the obligation of maintenance by adopted children to adoptive parents is also related to the social and moral values that exist in society. In Indonesian culture, the responsibility of children towards their parents, both biological and adoptive, is considered a norm that must be upheld. However, this social norm is not always in line with existing legal understandings, resulting in a spatial distinction between moral responsibility and legal obligation.

In addition, aspects of legal uncertainty in the position of adopted children are often also caused by a lack of adequate legal information and education. Many families carry out child adoptions without fully understanding the legal implications of such actions. This results in potential problems in the future, such as inheritance disputes or the inability to fulfill maintenance obligations or even potential disputes can arise when adopted children are asked to fulfill their obligations to take care of their adoptive parents who need more attention from an economic and other perspective. Therefore, researchers consider that socialization and education for the government and related institutions are very important regarding the rights and obligations of adopted children in the legal context, so as to reduce conflict triggers that may arise.

The position of adopted children in the Civil Code also needs to be seen in the context of broader legal developments. With the increasing number of families adopting children, there needs to be an effort to update and adjust the existing legal provisions to reflect the evolving social reality. This may include revisions to child adoption provisions, as well as stricter law enforcement in cases of violations of the rights of adopted children. In order to strengthen the position of adopted children, there also needs to be cooperation between the government, non-governmental organizations and the wider community. Educational programs and campaigns on the importance of legal child adoption and the fulfillment of maintenance obligations should be promoted. In addition, there is a need to provide legal services that are easily accessible to families who wish to adopt a child, so that they can clearly understand the rights and obligations that come with it. Although the Civil Code has provided a clear legal framework, there are still many challenges in practice. A lack of

understanding of the rights and obligations of adopted children, as well as a lack of socialization regarding the legal aspects of child adoption, has the potential to cause problems in the future. Therefore, concerted efforts are needed to improve the public's understanding of the legal position of adopted children and to ensure that their rights and obligations are legally protected and recognized.

B. The Obligation of Adopted Children to Fulfill Parents' Alimentary Rights

Adopted children who have been cared for and given a decent life by their parents actually provide the same moral burden and obligation when faced with the fulfillment of parental alimentary rights, especially the condition of parents who are unable to commonly experience parents when they have entered old age. As a result of the age factor, elderly parents tend to experience declining health conditions and require special attention in caring for and maintaining them. So that in supporting their lives, parents need the presence of other people such as children and their families around them. Children's obligations in civil law are closely related to the reciprocal relationship between parents and children and vice versa between children and their parents. Alimony rights in simple legal terms are often associated with alimony. However, the right of alimony is not just the child's alimony to the parents but also includes the maintenance and provision of assistance to the parents if the parents need help.¹⁴

The Civil Code regulates the relationship between parents and children as stipulated in Article 298 where parents are obliged to care for their children until the children can be independent without the help of their parents. In line with the obligations carried out by parents in caring for their children, the Civil Code also provides responsibilities for children to care for and provide for their families as contained in Article 321 of the Civil Code which states that every child is obliged to provide for parents and blood relatives in the line up, if they are poor. Meanwhile, in Article 46 Paragraph (2) of the Marriage Law, the right of alimony of parents is to be maintained by the child according to his ability if the parents need assistance. Article 46 Paragraph (2) of the Marriage Law emphasizes the form of child alimony is carried out when the child has grown up according to the child's ability to parents who are in a state of poverty or incapacity. Referring to the two articles, it can be understood that the obligation of child alimony will arise when parents are in a state of incapacity. The situation of incapable parents in question refers to the condition of parents who are in a state of poverty or in other conditions that prevent parents from being able to live independently.¹⁵

The provisions containing the alimony relationship are also clarified in Article 323 of the Civil Code, which emphasizes that the obligations arising and the provisions of the two previous articles regarding the alimony relationship apply reciprocally. This means that the obligation to maintain and provide for the family is not only owned by parents towards children, but also owned by children towards parents. Such "obligations" are reciprocal. It is clear that parents are obliged to provide for their children and their children are also

¹⁴ Nadia Nurhardanti, "Hak Alimentasi Bagi Orang Tua Lanjut Usia Terlantar (Studi Kasus Di Panti Werdha Majapahit Kecamatan Soko Kabupaten Mojokerto)," *Jurnal Ilmu Hukum, Universitas Brawijaya Malang*, 2015, 1-16, <https://repository.ub.ac.id/id/eprint/112156/>.

¹⁵ Hilman Hadikusuma, *Hukum Perkawinan Indonesia Menurut: Perundangan, Hukum Adat, Hukum Agama* (Bandung: Mandar Maju, 2007), p. 131-132.

obliged to provide for their parents.¹⁶ This reciprocity is in line with the rights and obligations of children and parents in the provision of alimony “in Article 298 of the Civil Code which emphasizes that children have an obligation to always respect their parents and parents have an obligation to educate and maintain their children while the child is under age”.

Alimentation obligations are generally explained in the Civil Code (*Burgerlijk Wetboek*) in the provisions of Article 104 of chapter five which discusses the rights and obligations of husband and wife as well as Articles 321, 322, 323, and 328 of chapter fourteen of the third part concerning reciprocal obligations between parents or blood relatives in the line up and children and their subsequent descendants. Alimentary is an obligation, namely in providing material support, as stated in the Civil Code. Alimony also includes maintenance as well as helping parents when they need help from their children.¹⁷ The obligation of alimentary between children and their parents exists as a result of the parents' marital bond. “This obligation is a reciprocal relationship between the parents and their children to provide for each other or provide life for their children.” The reciprocal nature of this alimentary relationship positions that the rights and obligations in care “are not only owned by parents towards children, but vice versa”.¹⁸

The Civil Code does not provide a detailed explanation of adopted children and their rights and obligations. However, as explained in the *Staatsblaad* which becomes a benchmark when the Civil Code does not describe the rights and obligations of adopted children, the legal status of adopted children is considered as biological children where this position means that adopted children will have the same rights and obligations as biological children to parents. The adopted child not only has the right to inheritance, but should also have the obligation to provide for the adoptive parents, especially if the parents are economically incapable. This reflects the basic principle that the relationship between an adopted child and the adoptive parents is equivalent to that between a biological child and the parents. The adopted child is expected to fulfill the adoptive parents' alimentary rights, which include: Various Obligations that the adopted child undertakes in fulfillment of parental alimentary may include financial and emotional obligations.

The Financial Obligations that adopted children can undertake are in terms of providing financial support, especially if the adoptive parents do not have sufficient income. This includes daily living expenses, medical treatment, and other urgent needs. Then in addition to financial support, adopted children also have the responsibility to provide emotional and social support to adoptive parents as a form of filial piety, especially when the condition of parents who have experienced both mental and psychological decline requires special care and attention. Based on the explanation above, the Civil Code should also provide legal certainty and clarity in providing a clear formulation of the position of adopted children and their rights and obligations so that adopted children also get legal certainty over their position which is also the same as biological children by not providing restrictions in filial

¹⁶ Ernawati, “Kewajiban Anak Memberi Nafkah Kepada Orang Tua Menurut Hukum Islam,” *Forum Ilmiah* 12, no. 1 (2015): 16–22.

¹⁷ Rahdinal Fathanah and Rachmi Sulistyarini, “Tanggung Jawab Anak Dalam Memelihara Orang Tua Terkait Ketentuan Pasal 46 Ayat (2) Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan,” *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 5, no. 2 (2020): 226–32, <https://doi.org/10.17977/um019v5i2p226-232>.

¹⁸ J Satrio, *Hukum Pribadi*, Bagian I P (Bandung: Citra Aditya Bakti, 1999).

piety to parents. This certainty is also so as not to cause various interpretations that cause disputes in the future.

CONCLUSION

Adopted children have clear legal obligations towards adoptive parents in terms of fulfilling alimentary rights. In addition, there is a need for clarity to strengthen regulations regarding the rights and obligations of adopted children in the Civil Code in Indonesia. This is important to provide legal certainty for all parties and increase public awareness of the rights and obligations carried out by adopted children. The people of Ambon City need to be socialized about their rights and obligations in terms of child adoption in order to obtain balanced knowledge and information, especially regarding the obligations of adopted children in fulfilling their parents' alimony rights. This is also to support adoptive parents and adopted children in fulfilling these rights and obligations.

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