

## The child population system fulfillment As A Form of Integrated-Based child rights protection

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### Abstract

The Child Population System includes Birth Certificates, Child Identity Cards, and Digital Population Identity. Fulfillment of the Child Population System is the fulfillment of children's rights. The Child Protection Law explains that children have the right to identity as stated in Article 5 of the Child Protection Law. Fulfillment of the Child Population System provides certainty of existence for children's growth and development in an integrated manner. This study examines two things: First, mapping the problems of the child population system in Indonesia and the role of the government in fulfilling children's identity rights. Second, legal efforts for children who do not have a personal identity in an effort to fulfill children's rights. This article aims to provide legal protection for children on an integrative basis, namely by integrating value systems, behavioral systems, and normative systems. The method in this study was carried out using a normative research method with a conceptual approach and a statutory regulatory approach. The results of the study show that in Indonesia there are still many children who do not have birth certificates or Child Identity Cards, often because the children were born to parents whose marriages were not registered. In other words, these children do not have their population rights fulfilled. Indonesian regulations allow for children born from unregistered marriages, or even those whose parents are unknown, to still be issued birth certificates. Parents and the state are required to synergistically guarantee children's residency rights, which are the initial step toward fulfilling other rights, such as education, health facilities and so on.

**Keywords:** Population system, children's rights, child protection, child identity card

### Introduction

In Indonesian law, a child is defined as a person under 18 years of age. The Child Protection Law regulates several children's rights, including the right to a name as a form of identity and citizenship. This is stipulated in Article 5 of Law Number 23 of 2002 concerning Child Protection (hereinafter referred to as the Child Protection Law). Furthermore, Article 27 of the Child Protection Law stipulates that every child's identity must be established at birth and documented in a birth certificate. It means that a birth certificate and the registration of a child's identity are the rights of every child.

Parents are responsible for managing their child's population data to fulfill their rights. Issuing a birth certificate is also a government responsibility, implemented at the lowest level, at the sub-district or village level <sup>[1]</sup>. Every birth must be reported by residents to the local implementing agency. Based on this report, the Civil Registration Officer records it in the Birth Certificate Register and issues a Birth Certificate Citation.

However, in some cases, many children in Indonesia do not have birth certificates for various reasons. Data shows that more than 50 million Indonesian children do not have birth certificates <sup>[2]</sup>. Globally, data shows that a quarter of all children worldwide lack birth registration. More than 166 million children under the age of five have not had their births officially registered <sup>[3]</sup>. The problem of incomplete child population data is not only a national issue but also a global one.

According to data released by UNICEF, India, Bangladesh, and Nepal are the countries with the highest number of unregistered births in Asia. Countries in Africa face a far worse situation, with the lowest number of unregistered births worldwide. These countries include Ethiopia, Zambia, and Chad <sup>[4]</sup>.

Although Indonesia is not among the countries with the lowest birth registration rates, it is still not free from problems. Many children in Indonesia still have unregistered births, meaning they lack birth certificates. This is due to numerous factors. One of the most common reasons is that the child is born out of wedlock, as the child is born out of wedlock and is not registered with the religious affairs office <sup>[5]</sup>. Parents's lack of understanding of the importance of a child's identity results in the child not having a birth certificate. A birth certificate is a document that guarantees a child's rights, protects their legal status, and provides a valid identity.

Based on the problem description above, this research will examine two issues: first, mapping the problems of the child population system in Indonesia and the role and responsibility of the government in fulfilling children's identity rights. Second, legal remedies for children who lack identity documents in efforts to fulfill children's rights.

### Research Method

This research is a legal research. Legal research is a scientific activity based on certain methods, systematics, and thinking, to study one or more specific legal phenomena <sup>[6]</sup>. The aim of legal research is to find the truth of coherence, namely whether there are legal rules that are in accordance with legal norms; whether there are norms that are in accordance with legal principles; and whether there are actions of a person that are in accordance with legal norms or legal principles <sup>[7]</sup>.

The research method used in this study is a normative research method. Normative legal research is legal research that examines written law from various aspects, namely theory, history, philosophy, comparison, structure and composition, scope and material, formality and binding force of a rule, without examining the applied aspects or

implementation of the written law <sup>[8]</sup>. Normative legal research is a legal research method that uses law as the object of research <sup>[9]</sup>. This method was taken to find out how to fulfill the child population system as a form of integrative-based protection of children's rights.

The approach used is a statute approach <sup>[10]</sup>, by analyzing several legal regulations related to the research object, namely Law Number 23 of 2002 concerning Child Protection and Regulation of the Minister of Home Affairs Number 108 of 2019 concerning Implementing Regulations of Presidential Regulation Number 96 of 2018 concerning Requirements and Procedures for Population Registration and Civil Registration. The legislative approach is used to examine the ratio legis of the formation of these regulations <sup>[11]</sup> so that we can know what the objectives and principles are that underlie the creation of regulations regarding child protection and child population data.

This research also uses a conceptual approach by analyzing several concepts in this research <sup>[12]</sup>. The conceptual approach originates from the views and doctrines that have developed in legal science <sup>[13]</sup>. The concepts to be analyzed to answer the problem formulation are constitutional rights, population rights, and integrative legal protection. There is limited research related to child population data related to population rights. Other research related to population data relates to population services, such as the effectiveness of child identity card services <sup>[14]</sup>. This research examines the social aspect, specifically the effectiveness of child identity card services.

Previous research has examined child-friendly cities in relation to the fulfillment of children's civil rights <sup>[15]</sup>. The study found that fulfilling children's civil rights is a prerequisite for realizing child-friendly cities. This demonstrates the necessity of fulfilling children's civil rights, including their right to residency. Research related to children's residency rights, specifically child residency records, linked to integrative legal protection for children, is a new issue.

## Result and Discussion

### Mapping the Problems of the Child Population System in Indonesia and the Role and Responsibility of the Government in Fulfilling Children's Identity Rights

Indonesia's child registration system remains problematic. The most significant issue is the large number of children whose births remain unregistered. Parents fail to register their children's births for several reasons, the most common being that the child is born out of a marriage that is not legally valid under Indonesian law.

The United Nations Children's Fund, an international organization under the auspices of the United Nations, notes that the number of birth registrations in Indonesia has increased by almost 20 percent over the past 10 years, yet 166 million children under the age of five remain unregistered <sup>[16]</sup>. This number is enormous and threatens the survival of Indonesian children. This figure only reflects data on children under 5 years of age, while "children" refers to those under 18 years of age. According to the latest data from UNICEF, the number of children in Indonesia under 18 years of age is 84,198,626 by 2023 <sup>[17]</sup>. Looking at the data, there are a very large number of children in Indonesia who have not been registered until 2023.

Based on Unreached and Uncounted data from World Vision, children whose population is not registered are

children without birth and death registration; children born from illegitimate marriages; children from tribal and ethnic minorities; child laborers; children who are victims of human trafficking, homeless and orphaned children; refugee children without recognized citizenship; and children with intellectual disabilities <sup>[18]</sup>. Another cause is that unregistered children are the result of underage marriages, also known as child marriages.

Child marriage also poses a challenge to the Indonesian government. According to the 2023 National Socioeconomic Survey (Susenas) by the Central Statistics Agency, there were 1.2 million cases of child marriage in Indonesia <sup>[19]</sup>. Child marriage in Indonesia is largely influenced by cultural factors, which is why the rate remains relatively high. Another factor is family economic factors <sup>[20]</sup>. Child marriage itself is actually not permitted under Indonesian national law. Article 6 of Law Number 1 of 1974 concerning Marriage stipulates that marriages between persons under 21 years of age must be accompanied by parental consent. Furthermore, Article 7 stipulates that marriage is only permitted if the man has reached the age of 19 (nineteen) and the woman has reached the age of 16 (sixteen).

Typically, child marriages in Indonesia are conducted legally according to each individual's religion or belief, but these marriages are not registered under Indonesian law. In other words, these marriages are invalid under Indonesian law. Consequently, the child is not registered in population records. Unregistered births, or the failure to obtain a birth certificate or other necessary registration documents, such as a Population Identification Number and Family Card, have several consequences, such as limited access to education and healthcare facilities in Indonesia.

This is where the government plays a role in fulfilling children's citizenship rights. Children's citizenship rights are part of the human rights of every person, including children. In fact, every child has the right to citizenship, a right guaranteed not only by Indonesian national law but also by international law, the Covenant on Civil and Political Rights. The state has an obligation to fulfill children's citizenship rights and other human rights by establishing regulations regarding the citizenship status of children born in illegitimate marriages or those whose parents are unknown.

The state is responsible for fulfilling the population rights of all children, but parents also have an obligation to register their child's birth with the state so that it is legally registered. Furthermore, registering a child's birth represents a synergy between parents and the state in guaranteeing other children's rights, such as the right to health care and education. Parents cannot rely solely on the state for the fulfillment of their children's rights, as it requires a synergistic effort between them. The state has regulated population registration for children of various backgrounds and circumstances, making it easier for parents to manage their children's population registration.

### Legal Action Against Children Who Do Not Have a Personal Identity in an Effort to Fulfill Children's Rights

A child's right to identity is expressly stated in Article 5 of the Child Protection Law. This article stipulates that "Every child has the right to a name as a means of identification and citizenship status." This is further emphasized in Article 27

paragraphs (1) and (2), which stipulate that every child's identity must be established from birth, and the identity referred to in paragraph (1) must be documented in a birth certificate.

This issue of citizenship rights is also guaranteed by the Indonesian Constitution. Based on Article 28D paragraph (1) of the 1945 Constitution (UUD 1945), everyone has the right to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law. Furthermore, the 1945 Constitution also guarantees citizenship status, as stipulated in Article 28D paragraph (4), which states, "every person has the right to citizenship status." This provision can serve as a legal basis for fulfilling citizenship rights for children of all ages and backgrounds.

Given that the number of unregistered births in Indonesia remains very high, the Indonesian government is making every effort to reduce this number. The reasons why a child's birth is not registered include the fact that the child's parents are unknown, or the child was born from a marriage that is not valid according to Indonesian law.

Minister of Home Affairs Regulation Number 108 of 2019 concerning Implementing Regulations for Presidential Regulation Number 96 of 2018 concerning Requirements and Procedures for Population Registration and Civil Registration (hereinafter referred to as the Ministerial Regulation on Population Registration) also stipulates that the official identity document for children under 17 (seventeen) years of age and unmarried is a Child Identity Card issued by the Regency/City Population and Civil Registration Office. This applies to all children, whether born in a legal marriage or not. Registration is mandatory for children born outside of Indonesia.

Child population registration is carried out through the issuance of a birth certificate, Child Identity Card, and Family Card. Registration is mandatory for every child's birth. Birth registration consists of:

- a. registration of the birth of Indonesian citizens within the territory of the Unitary State of the Republic of Indonesia;
- b. registration of the birth of non-resident Indonesian citizens visiting Indonesia;
- c. registration of the birth of foreigners within the territory of the Unitary State of the Republic of Indonesia;
- d. Registration of the birth of an Indonesian citizen outside the territory of the Unitary State of the Republic of Indonesia; and
- e. Registration of the birth of an Indonesian citizen outside the territory of the Unitary State of the Republic of Indonesia if the local country does not provide birth registration for foreigners.

Registration of the birth of an Indonesian citizen within the territory of the Unitary State of the Republic of Indonesia must meet the following requirements:

- a. birth certificate;
- b. marriage book/marriage certificate extract or other valid proof;
- c. Family Card where the resident is registered or will be registered as a family member; and

- d. ID card is not required for a biological mother under 17 (seventeen) years of age and unmarried.

For children born to an unmarried mother, whether over or under seventeen years of age, the child may still be registered. Even for children whose parents are unknown, the state may still provide a birth record for the child. Article 48 of the Minister of Home Affairs Regulation concerning population registration stipulates that:

- a. In cases where the birth registration fails to meet the requirements of a marriage book/marriage certificate extract or other valid proof, and the family relationship status on the Family Card does not indicate marital status as husband and wife, the child shall be recorded in the birth certificate register and the birth certificate extract as "child of one mother."
- b. If the birth registration does not meet the requirements of a marriage certificate/marriage certificate extract or other valid proof, and the family relationship status on the Family Card indicates marital status as husband and wife, it is recorded in the birth certificate register and birth certificate extract as the child of the father and mother with the additional phrase: whose marriage has not been registered in accordance with the provisions of the law.
- c. Registration of the birth of an Indonesian citizen for a newborn or newly discovered child whose parentage or whereabouts are unknown, in accordance with the provisions of the Presidential Regulation concerning the requirements and procedures for Population Registration and Civil Registration, is recorded in the birth certificate register and the extract "birth certificate without parents' names."

Regulations established by the Indonesian government have actually facilitated the fulfillment of children's citizenship rights. Public awareness and proactive measures by local sub-districts and districts in implementing these regulations need to be improved. Many parents do not register their children's births because they believe that children born from illegitimate marriages will not be eligible for birth registration and Child Identity Cards. This contributes to the high rate of unregistered births in Indonesia.

### Conclusion

In Indonesia, many children still lack birth certificates or Child Identity Cards. The majority of children are born to parents whose marriages are unregistered. In other words, children whose population data is not recorded are not fulfilling their citizenship rights. The Minister of Home Affairs Regulation on population registration allows children born from unregistered marriages, or whose parents are unknown, to still be issued birth certificates and Child Identity Cards. Fulfilling children's citizenship rights cannot be solely the responsibility of the state or government; parents are also obliged to strive to fulfill them. Parents and the state are obliged to work together to guarantee children's citizenship rights. Fulfilling children's citizenship rights is

the first step towards fulfilling other rights, such as education and others.

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