

JURISDICTIONAL REVIEW OF CHILDREN' S RIGHTS TO EARN THE AKTE KELAHIRAN (CASE STUDY OF THE DECISION OF PERDATA CASE NOMOR 186/Pdt. P/2023/PN Mdn)

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ABSTRACT

This research aims to examine the legal status of children who possess dual birth certificates from two different countries and to analyze the legal procedures for the annulment of one of those certificates under Indonesian legislation. The research method employed is normative legal research using statutory and case study approaches. The data sources include primary, secondary, and tertiary legal materials analyzed qualitatively. The study found that children born from mixed-nationality marriages may hold dual nationality and dual birth certificates; however, upon reaching the age of 18 or marriage, they are obliged to choose one nationality. The annulment of a birth certificate must be conducted through judicial means or administrative mechanisms in accordance with prevailing regulations. The case study reveals that parental misunderstanding often leads to children having multiple certificates, resulting in administrative and legal complications. Adequate legal awareness and procedural support from the state are necessary to ensure children's rights to identity and nationality are protected.

Keywords: Birth Certificate, Dual Citizenship, Child Protection, Civil Law

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1. INTRODUCTION

Marriage is a universal and fundamental social institution in human life. In the Indonesian legal system, marriage is not only recognized as a sacred agreement between two individuals, but also brings legal consequences to the offspring born from the marriage, one of which is the recognition of the legal status of children through birth certificates. Birth certificates play an important role as the first legal evidence that guarantees the existence of a person's identity in the legal system and state administration.

The problem becomes complex when a marriage takes place between two people of different nationalities. Mixed marriages between Indonesian citizens (WNI) and foreign citizens (WNA) often have complicated legal implications, especially regarding the citizenship status of the children resulting from the marriage. In many cases, children can have two birth certificates issued by two different countries, due to the different citizenship systems adopted by each country-between the principles of *ius soli* (based on place of birth) and *ius sanguinis* (based on lineage).

In Indonesia, a child's right to obtain a birth certificate is part of the basic rights guaranteed in various laws and regulations, such as Law No. 23/2002 on Child Protection, which emphasizes the importance of a child's identity from an early age. In addition, birth certificates are also a gateway to the fulfillment of other children's rights, such as education, health, and citizenship. However, it is not uncommon for parents' ignorance or negligence to cause children to be registered twice with different identities in different countries, leading to administrative and legal problems in obtaining official documents later on.

One actual example of such a problem is the case in Civil Case Determination Number 186/Pdt.P/2023/PN Mdn, where a child of a mixed couple had two birth certificates-one issued by Malaysia and the other by Indonesia. As a result, there is a duality of legal identity that makes it difficult to manage the child's civil rights, such as passport making, diploma processing, and recognition of citizenship status.

This suggests the need for a juridical review of the birth registration mechanism and the legal procedures in place to resolve administrative conflicts over citizenship, including the annulment of one birth certificate through court channels. In addition, it is important to understand how Indonesian law guarantees children's right to a single valid identity and does not create legal confusion in the future.

Furthermore, international conventions that have been ratified by Indonesia, such as the Convention on the Rights of the Child (CRC), also affirm that every child has the right to a name and nationality from birth. This confirms that the state must provide maximum legal protection for children's identity rights, including in cases involving dual citizenship status or administrative dual identity.

Departing from these problems, this research will examine how the legal status of children who have two birth certificates is viewed from a juridical aspect and how the legal procedure for canceling one of the birth certificates can be carried out to ensure legal certainty for children. This research also seeks to contribute to the harmonization of citizenship law and population administration, as well as the protection of children's rights in the context of national and international law.

2. METHODS

This type of research is normative legal research with a statutory approach. The sources of legal materials consist of primary legal materials (laws, court decisions), secondary (books, journals), and tertiary (dictionaries, encyclopedias). Data was collected through literature study and analyzed qualitatively with a systematic and logical approach to draw legal conclusions.

3. FINDINGS AND DISCUSSION

1. Juridical Conditions of Children with Two Birth Certificates from Two Countries

Children from mixed marriages between Indonesian citizens and foreign citizens have the potential to obtain two citizenship statuses simultaneously. This occurs because of the different principles used in the citizenship system, namely *ius soli* (the principle of birth in the country's territory) and *ius sanguinis* (the principle of descent). For example, a child born in Malaysia to an Indonesian citizen mother and a foreign citizen father, automatically acquires Malaysian citizenship due to the *ius soli* principle and also Indonesian citizenship because it follows his mother's lineage.

The consequence of this dual citizenship is the existence of two official identity documents in the form of two birth certificates. In the Indonesian context, this poses a legal problem because the population administration system does not accommodate the existence of two birth certificates in the name of the same person. A birth certificate is an authentic document that can only be issued once for one individual.

This problem becomes more complex when the child has to access public services such as education, health, and passport issuance. The difference in data on the two birth certificates causes the state administration system to refuse to validate the child's documents. Thus, the state considers it important to provide a solution in the form of a procedure for canceling one of the birth certificates so that the child has one valid legal identity.

2. Legal Procedure for Cancellation of Multiple Birth Certificates

In the Indonesian legal system, the cancellation of a birth certificate must be done through legal procedures, as stipulated in Article 72 of Law No. 23/2006 on Population Administration. This article states that the cancellation of a civil registration certificate can only be done based on a court decision that has permanent legal force. Therefore, to cancel one of the two birth certificates owned by the child, the parents or legal guardians must submit an application to the District Court.

In the case study of Case No. 186/Pdt.P/2023/PN Mdn, the applicant filed a petition to cancel the birth certificate issued by an Indonesian institution, because the child previously had a birth certificate from Malaysia. This step was taken to avoid administrative conflicts in the future, especially when the child applied for a passport and other official documents.

Once the petition is granted by the court, the Population and Civil Registration Office (Disdukcapil) must record the cancellation of the certificate in a marginal note and remove the certificate from the official register. This process provides legal certainty that the person concerned has only one legally recognized identity.

In addition to going to court, the cancellation of a birth certificate can also be done through an administrative mechanism under certain conditions, provided that supporting documents and a statement of absolute responsibility are attached. However, in the case of dual citizenship, a litigation approach is more advisable to ensure legal validity and avoid potential lawsuits in the future.

3. Position of Children Under National and International Law

Legally, children who have two birth certificates are considered to have unclear legal identity which can be detrimental to their rights as citizens. In the perspective of national law, as stipulated in Law No. 12/2006 on Citizenship, children who have dual citizenship are obliged to choose one of their citizenship at the latest at the age of 18 years or after marriage.

Failure to choose one citizenship can result in the loss of Indonesian citizenship status and even potentially cause the child to become stateless. This is contrary to the principles of non-discrimination and best interest of the child as stipulated in the Convention on the Rights of the Child (CRC) which Indonesia has ratified through Presidential Decree No. 36 of 1990.

In the international system, citizenship is part of the basic civil rights that must be guaranteed by the state. Therefore, every state is obliged to provide an effective legal mechanism to resolve the issue of dual citizenship, including providing protection to children from administrative confusion due to multiple documents.

4. Social and Administrative Implications

Having two birth certificates not only has legal implications, but also serious social and administrative implications. Children who have two identities are at risk of discrimination, limited access to public services, and difficulties in obtaining important documents such as ID cards, passports, or diplomas.

Administratively, Indonesia's digitally-based civil registration system (SIAK) will reject data entries that have duplicate elements. This causes the child's

administrative process to be disrupted and makes it difficult for the family. In addition, from a social perspective, children have the potential to experience stigma or ostracization because they are considered not to have official legal documents.

Therefore, the state has a great responsibility in solving this problem through a humanist legal approach and equitable protection. Accessible court procedures, legal counseling to the public, and harmonization of cross-border administrative systems are key in addressing the issue of multiple birth certificates.

5. Case Study: Stipulation Number 186/Pdt.P/2023/PN Mdn

In this case, the court annulled one of the birth certificates on behalf of a child who had two certificates from Malaysia and Indonesia. The process began with the submission of a petition accompanied by complete documents and juridical reasons. The court considered the principle of legal certainty and the child's right to a single identity as the basis for its consideration.

This court decision is evidence that existing legal mechanisms can be used effectively to resolve identity administration conflicts, as long as the applicant follows the procedures and completes the documents correctly.

4. CONCLUSION

- a. Children who have two birth certificates from two countries must choose one of their nationalities after reaching the age of 18 or getting married.
- b. Legal determination of children with two birth certificates must go through the procedure of canceling the certificate in court in accordance with the provisions of the Population and Citizenship Administration Law.
- c. The importance of legal education to the public regarding population administration and protection of children's rights.

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