

Conference Paper

Juridical Analysis: Digital Identity of Children from Stelse International Mixed Marriages

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Abstract.

The importance of having self-identity by every individual is a necessity, including the identity of a newborn child. Identity is the right of every citizen, and the state has an obligation to carry out services, procurement, and spending as part of the legitimacy and legality of identity owned by each citizen. Developments in technology, modernization, and globalization, as well as the era of digitalization, can encourage and assist the process of having a digital self-identity of children from birth. This will be very influential in reducing acts of exploitation, such as trafficking, violence, exile, neglect, and other criminal acts. Therefore, the researcher takes a legal analysis approach to all applicable regulations in Indonesia related to access policies, and processes to disclosure of children's identities. The results of the analysis carried out included, among other things, the enforcement of the provisions of the 1945 Constitution Article 28, Law Number 12 of 2006 concerning Citizenship, Law Number 23 of 2006 Population Administration, and Law Number 23 of 2014 concerning the ratification of Child Protection can become a legal umbrella for child ownership. In addition, the identity ownership of children from mixed marriages will be influenced by the validity of the marriage of their parents or the application for legalization through consanguine marriage in accordance with Law No. 1 of 1974. The process of owning a child's digital identity will involve 3 institutions and or related agencies, including hospitals or maternity clinics as agencies that issue birth certificates, the Ministry of Religion as an institution that issues legal marriage certificates, and the Ministry of Home Affairs that issues valid personal identities in the form of temporary E-KTP and immigration passports.

Keywords: digital identity, birth certificate, mixed marriage

1. Introduction

The development of the modern era 4.0 and the current global competition, requires all layers of society and governments to adapt quickly and appropriately in carrying out all actions, activities and policies. One of the efforts is to digitize access and public services including digital identity ownership services for all Indonesian citizens in accordance with Presidential Regulation No. 39 of 2019 on single data Indonesia. Digital identity is the integration of all public data into one digital data, including Education Data, Passport

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Data, Population Data (e-KTP), Banking Data, NPWP Data and other data because it comes from the same Population data source since the Birth Identity was published. (Ismail, 2021)

Identity is a right for all citizens of Indonesia, while giving legitimacy Identity by the State to every citizen is a duty. Article 28d paragraph 1 of the Basic Law of 1945 states that: Everyone has the right to recognition, guarantee, protection and fair legal certainty, as well as equal treatment before the law. Because of the efforts to realize identity justice for all Indonesian citizens, the article refers to the principle of non-discriminatory law and equality, both access and equal process to possess it and all aspects and rights contained therein. (Dwisvimiar, 2011)

Article 28 D paragraph 4 of the Basic Law (UUD) 1945 states that everyone is entitled to the status of his citizenship, in accordance with the derivative regulations that are consistent with the contents of the article and the paragraphs in particular, Law No. 23 of 2002 on the Protection of Children, that the rights in the form of self-identity must be given since the child was born. Article 5 Every child has the right to a name as his or her identity and status of citizenship. Article 27 (1) The identity of every citizen of the State must be given from birth, which then in paragraph (2) the identity as referred to, is interpreted in its implementation in the provision of the birth certificate as evidence and basis for each citizen. The believer explains that access to ownership of the identity of occupation is part of the civil rights inherent in every human being. (Setiawan, 2017)



Figure 1: Picture of 1. Nick and E-KTP. Law No. 23 of 2006 Article 13 and Article 14.

Every citizen's self-identity for a State has a purpose, purpose and benefit; as Law No. 23 of 2006 on the Administration of Population, it has an administrative function in which each citizen can be identified by his personal data by the State according to his needs and interests. (Purba J. F., 2019) Giving and possessing the identity of every citizen

is a fundamental and important thing. The Law No. 27 of 2022 on the Protection of Personal Data, classifies each citizen's identity into two types, namely, a private identity that attaches to everyone and others cannot know without the person's permission, such as health information, biometrics (fingerprint and retina), sexual orientation, etc., the second type is a public identity in which the identity can be known by others, like gender, nationality, religion, marital status.

The identity of a child is closely related to various things and information about the data of his or her parents, including marriage status. (Adillah, 2016) Article 42 of Law No. 1 of 1974 on Marriage states, "A legal child is a child born in or as a result of a legal marriage." This is to preserve the holiness of children, for all children born into the world are holy. Hadith by Imam Bukhari from ash-hurairah "told us Adam, has told us Ibnu Abi Dz'ib from al-Wahri from Abi Salamah bin Abdul Rahman from Abu Hurairah ra said: "By the Prophet Muhammad saw that every baby that was born in a holy condition, then his parents influenced him to be a Jew, a Christian or a Majusi as he grew up and developed until he became a grandfather. (Al-Bukhari, 1992) The Islamic law explains that the Son also has a role and a strategic position, i.e. as a connector of descendants or nasab, therefore the identity of the child has a connection to the relationship of blood with his parents, so that the sacred relationship between the child and his parents can not be united by dirty acts such as zina.

The Law No. 1 of 1974 on Marriage, has regulated (role of game) various legal provisions as well as its implications in marriage for all Indonesian citizens, including in it is a mixed marriage carried out by some Indonesians. Sudargo Gautama generally classified the practice of mixed marriage differently from his interpretation of the Law No. 1 of 1974 on Marriage Article 2, there are 4 systems, namely; mixed intergenital, interlocal, international and interreligious marriage. (Gautama, 1977)

The practice of mixed marriages The Indonesian Labour Force who are abroad is reviewed from the type of marriage system mixed, the majority is International Marriage, that is, marriage between two (2) persons with different nationality backgrounds, and Interreligious marriage, which is marriage among two different religions, or marriage that combines both. The implications of this type of mixed marriage system greatly affect the process and access to acquiring the identity of the child born.

The fact that the majority of children of mixed marriages of Indonesian citizens, both domestically and abroad, do not have a legitimate identity because they were born from a spouse who did not comply with the applicable regulations. (Hantoro, 2013) Article 2 paragraph 2 of the Law No. 1 of 1974 on Marriage states that each marriage is recorded in accordance with the provisions of the applicable laws. Not only does the record have

an administrative function, it also has a moral and artistic function contained in the norm, where women and children often become victims of exploitation, extradition, trafficking, violence, and exile.

Laurensus Almiran in his research on the role of civil registry agencies against mixed marriages under the Marriage Act, explained that the civil register agency has a strategic and important position in assisting the marriage registration in particular mixed Marriages as regulated in Article 57, Law No. 1 of 1974 on Marriage and PP No. 9 of 1975 on the Enforcement of Marriage Law. In addition to the role of the civil register agency itself, another factor affecting compliance with the law is the awareness of the public to carry out mixed marriage reporting is still very minimal, while the civil record agency is the agency that helps the marriage registration that affects the birth administration of the child, so that the child born is registered as a legitimate citizen of the Indonesian State. (Arliman, 2019)

The truth is that marriage is worship once and for all, but in practice not a few couples who divorce include couples that make mixed marriages. Differences in tribe, race, way of view, habits, character and household problems that at the beginning of the marriage time become the motivation of marriage in the end made the reason for divorce that is not uncommon children become victims. Putu Devi and Kadek Agus in their writings "Legal system over divorce settlement on intermarriage in Indonesia" explain how the judge's attitude in settling mixed marriages as well as the impact of mixed divorce on children. Divorce in couples of mixed marriages does not immediately apply the laws in force in Indonesia, so the interests of children born and couples with the status of Foreign Nationals (WNA) are covered. The application of international treaty law will be felt fairer for both parties to the dispute, in particular the child born, according to Article 16 of the *Algemeene Bepalingen van Wetgeving Voor Nederlands Indie*. (Utami, P. D. Y . Sudiarwan, K A. Mangku and D. G. S. and Pratama, A. C. P. N., 2011)

Protection of children's rights as defined is the fulfillment of the rights of the child in accordance with the Convention of the Right of a Child, which was laid down in Keppres No. 36 of 1990, which has undergone three (3) ratifications including the Law No. 23 of 2002 on the Protection of Children, then the Act No. 35 of 2014 and the Law Number 17 of 2016. As for the rights referred to are the Right to Self-Identity,(Law Number 23 of 2002 on Child Protection Article) Relationship and Identity of Parents,(Act Number 23 from 2002 on the Protection of Children Article 7 paragraph. (1). Article 7 (1) This provision on the right of the child to know who his parents are, in the sense of their origin (including the mother-in-law), is intended to avoid the rupture of the law and the blood relationship between the child and his parent, while the right to be raised and

nurtured by his parents is meant so that the child can obey and respect his parents.) Right of access to health,(Law No. 23/2002 on the Protection of Children Article 8. Compare with Article 62 of the Law on Human Rights) Right to Education,(Law Number 23 of 2002 on the Protection of Children Article 9 (1),60 (1) of the Act on Human Rights.) Right Treatment and safety,(Law No. 23 of 2002 on the Protection of Children (1))

The development of technology and information systems in the modern era and globalization, is an inseparable part of the life of society. Its presence, has helped a variety of work more efficiently and efficiently, in addition to the various offers of information systems facility can be accessed quickly and more easily. The process of digitalization of every job will be a future trend, so the Government of Indonesia through the Ministry of Internal Affairs Department of Population and Civil Records continues to make various adjustments, including the digitalisation of the identity of each citizen. Law No. 23 of 2006 on the Administration of Occupation, has regulated and realised a citizen-one Number of the Population (NIK) Program E KTP which was later developed through the derivation of the Ministry of the Interior Union (Permendagri) No. 72 of 2022 on the standards and specifications of hardware, software and blangko E-KTP Electronic, as well as the maintenance of digital identity of the population included in Perpres No. 39 of 2019.

Since born the child is from a mixed marriage of Indonesian couples with foreign citizenship, both its implementation in-house and abroad becomes very important, the obligation of the State to give legitimacy of the identity of each citizen has a strategic role for the survival of the child born to obtain his rights as a whole human being or as part of the citizen of Indonesia. Therefore, this research is focused on how the process and access of children from the result of a mixed marriage has self-identity from the outset, then Self-Identity is made as a digital identity that can be accessed and integrated in general to obtain its civil rights in the review of the condition of jurisdiction.

2. RESEARCH METHODS

2.1. The Research Approach

This research is a type of qualitative research through a normative juridic approach, i.e. the approach of legal norms in solving problems that arise. Bernard Arief Sidharta articulates the study of law through the approach of normative jurisprudence is a approach to norm in a narrow sense, which is the approach done to lawful and written rules and amendments in the State sheet. in addition, the approach to juridical normative

refers to the concept of law as a rule with a method that is doctrinal-nomological that points to the rejection of the rule of teaching that involves behavior. (Sidharta, 1999)

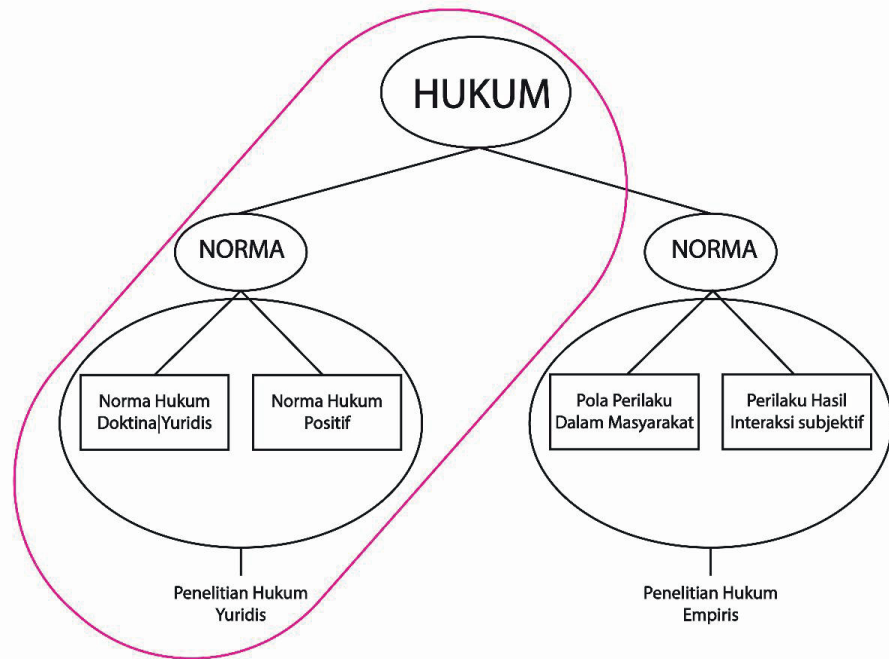


Figure 2: The Yuridis Research. The source. Siddhartha : 1996.

2.2. Research Flow and Conceptual

Writing in this study is written systematically and structured. The scheme of research flows starts from exposure to the urgency of ownership of self-identity from birth to the process of digitalization of Identity, so that the state can be present in carrying out its duties both in its function as a supervisor and protector.

2.3. Data Type and Souch

This research uses secondary data such as access exposure and processes in performing each stage to obtain Digital Identity of Children. we refer to data from various sources including relevant literature, documents, regulatory sheets that are the main product of regulations such as the Law. The conceptual framework shows that the publication of ownership of Digital Identities of Children born from Mixed Marriages in particular abroad, involves 3 parties namely hospitals and clinics, embassy offices of representatives for verification, and religious ministries and sections of occupation and civil records as an extension of the Ministry of the Interior.

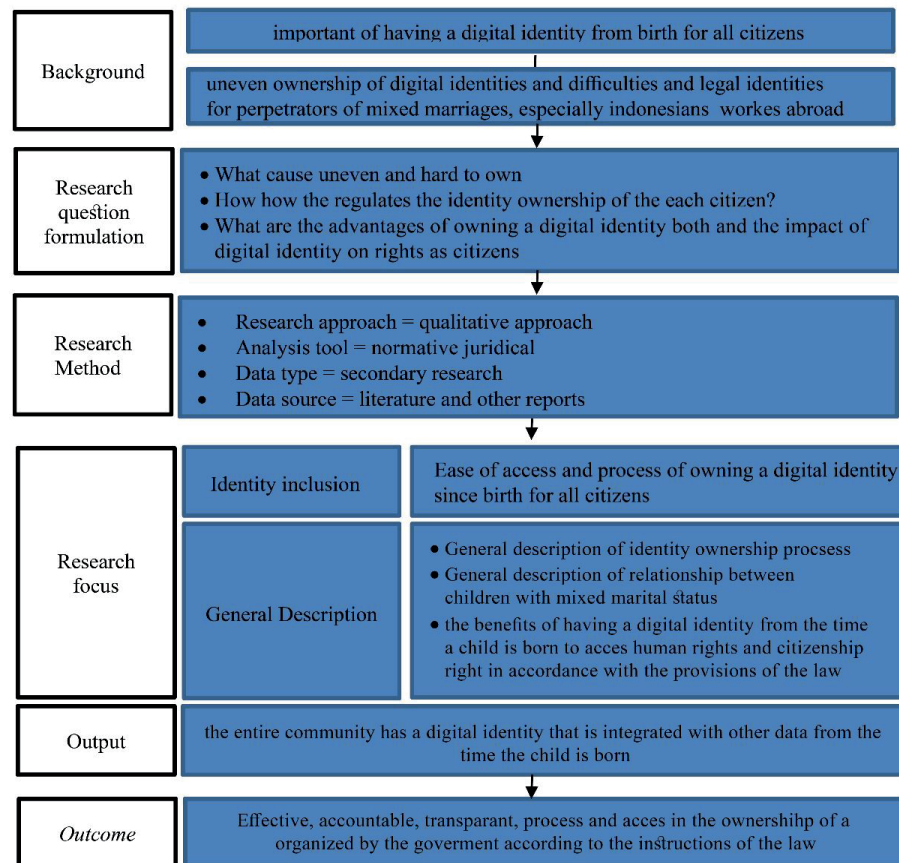


Figure 3: Research Flow.

3. RESULTS AND DISCUSSION

3.1. Mixed Marriage and Implications for Children

Sudargo Gautama, in his book *Aspects of Mixed Marriage Law* referring to the Staatsblad 1989 and the interpretation of Law No. 1 of 1974 on Marriage; classifies the types of marriage practice into four (4) stelse; Intergenetil Marriage, which is a mixed marriage performed by couples who are subject to the stelse of Western civil law with the Stelse of customary law. This type of mixed marriages were often carried out by colonialists with indigenous people at the time, as was the case with the mixed weddings of Ernest, Indonesian, and Elien, Dutch. In the current era of modernization and globalization, the practice of intergenetical mixed marriages is often directed to mixed-marriages based on differences in national backgrounds that adopt different legal systems such as marriage between couples based on the Continental European Civil Law System and the Anglo-Saxon System. (Common Law System). Examples of this mixed marriage

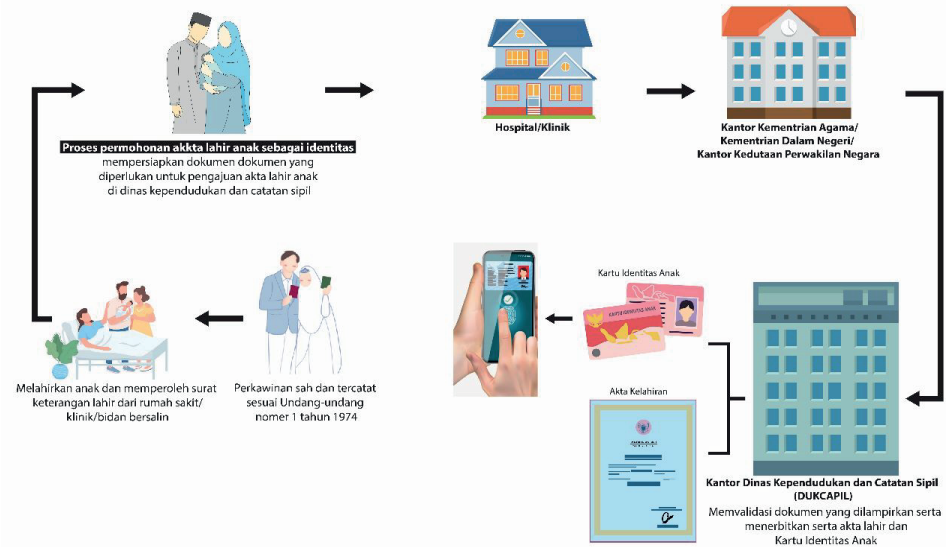


Figure 4: Flow of requests for issuance of birth certificates and temporary resident identification numbers for children.

are the couple Prisia Nasution who are Indonesian citizens and adhere to the civil law system with Iedil Putra who is Malaysian citizen and adheres to the common law system. Or the couple Zulkifli Men from West Sulawesi-Indonesia with Danielle Ane Rosenberg from Australia.

Stelse second; Interlocal Mixed Marriage Practice, which is a mixed marriage that is subject to different customary rules but still on the same civil law. This type of marriage is a marriage between Indonesian citizens who are subject to different indigenous laws, such as the marriage of a Java woman with a Bugis man in Makasar. Formally or materially, interlocal marriage is a common mixed marriage because both couples are subject to the same national legal system, namely the civil law system, which refers to the Civil Law Act, one of which is the Law No. 1 of 1974 on Marriage.

The third Stelse is the International Mixed Marriage Practice, which is marriage made by couples with different backgrounds of origin, such as marriage between Indonesian citizens with Japanese citizens. Administratively, the International Mixed Marriage Practice must meet the shared conditions that have been established and written in the rules of law in both countries of origin of the spouse. According to Article 60(1) of Law No. 1 of 1974 on Marriage, a mixed marriage may not be entered into until it is proven that the conditions for marriage prescribed by the law applicable to each

of the parties have been met. In addition, the parties are obliged to comply with the provisions of international law.

The fourth Stelse is the practice of interreligious mixed marriage, that is to say, a mixed practice of marriage carried out by couples who adhere to different religions, such as Christian women and Muslim men. The Law No. 1 of 1974 on Marriage explicitly excludes and recognizes interreligious marriage. According to Hazahirin, the gap between interreligious marriages is a misinterpretation of Article 57, which is to preempt a sentence subject to different laws, whereas the law is binding because of the difference in national status and not on religious differences, because Article 2 Paragraph 1 has explicitly explained that marriage is valid when done according to each religion and belief. In the faith and dogmatic which is listed in the Holy Book of the Qur'an is a prohibition of marriage mixture of different religions, different beliefs of Christians, Catholics, Hindu, Buddhists and Conghucu this because of the values and norms contained in the Marriage Act based on the laws of religion.

The stelse-stelse of mixed marriages as shown by Sudargo Gautama can be reflected from the mixed-marriages practices carried out by some Indonesian citizens especially diaspora and or Indonesia Migrant Energy who are abroad. When referring to the provisions of Law No. 1 of 1974 on Marriage, only three (3) stelse of the four (4) stelse mixed marriages are recognised and acknowledged, i.e. intergenetical, interlocal and international marriage. The study focuses on international marriage practices that imply the clarity of status and status and the process of possessing the identity of the child.

Child identity and citizenship status in a mixed marriage as regulated in Article 4 of the Act No. 12 of 2006 on Citizenship, the child born has three (3) possible possessions of Identity and nationality status, i.e.; 1) Indonesian citizen, 2) Limited dual citizenry, 3) Nationality resulting from naturalization.

The child resulting from a mixed marriage will have the identity and status of Indonesian citizenship if, born from a legitimate marriage of a parent whose one of the parents is a citizen of Indonesia, or the child born outside of a legal marriage his mother is a national of Indonesia. A child born with dual citizenship is limited when born to a foreign mother and his father is Indonesian citizen as long as the child is 18 years old. And the third possibility is that the child will become Indonesian citizen when his father and mother, who are foreign citizens, have accepted his request and take his oath of allegiance to the State of the Republic of Indonesia.

Article 4, Law No. 12 of 2006 on citizenship, self-identity and national status of children born from a mixed marriage will be more prone to the law of child privacy based on the relationship between mother and child. In accordance with the Law No. 1 of 1974

on marriage, a child born outside of a legal marriage has only a relationship with his mother, but this area has undergone a renewal due to the adoption of the Constitutional Court Decision No. 46/PUU/VII/2010.

Fadil SJ conducted a Juridic Analysis of the Constitutional Court Decision No. 46/PUU/VII/2010 in his book, *Revision of Family Law in Indonesia After the MK Decision*, SJ Fadil highlighted the consideration of the judge of the constitutional court in giving a decision on the existence of a relationship between the child and his parents from the outcome of the marriage, according to him, although the decision raised pro and contra against the recognition of a child born from marriage outside the provisions of Law No. 1 of 1974, However, if there is a need for evidence that marriage is legal according to the religious elements that can be submitted as the basis for proof of marriage, to avoid the stigma of legalization of zena and the accusation of a child born from adultery. Bambang Ali Kusumo, stressed that proof not only against marriage, also proof against biological father that can be tested through science and technology or tools / documents that can state that between the child and his father has a blood relationship. (DNA).

3.2. The basis for determining the status of citizenship of children from mixed marriages is the Law No. 12 of 2006 on the Administration of Occupation.

There are four (4) General Bases in the Identification and Determination of Citizenship Status for Children Born in the Law No. 12 of 2006 on the Administration of Occupation;

1. The *ius sanguinis* (law of the blood) is the law that determines a person's citizenship by descent, not by country of birth. Inheritance is defined as the relationship between the parent who gives birth and the child who is born. The basis of *ius sanguinus* is generally used by countries that adhere to civil law such as the Netherlands, Germany and including Indonesia.
2. The basic *ius soli* (law of the soil) is the basis that determines the citizenship of a person based on the country of birth, which is imposed limited to children in accordance with the provisions regulated in this Law.
3. The single nationality basis is the basis that defines one nationality for each person. In the deeper understanding that on this basis all citizens or humans in general who are in the territory of Indonesia must have an Identity, thus the basis of *apatrid* (not having citizenship) does not apply in Indonesia.

4. The basis for limited dual citizenship is the basis that determines dual citizenry for children in accordance with the provisions laid down in this Act. The Law No. 12 of 2006 on Citizenship of the Republic of Indonesia basically does not recognize dual citizenship. (bipatride).

The regulation of mixed marriages has been regulated in the Law No. 1 of 1974 starting from Article 57, where a mixed wedding as referred to is a marriage between two different nationalities and one of them is Indonesian citizenship. Article 58 regulates that couples who enter into a mixed marriage may have Indonesian citizenship or lose Indonesia nationality. Article 59: Citizenship acquired by mixed marriage or dissolution of marriage causes a person to be subject to applicable law.

3.3. Identity: Access, Process, and Rights contained in it

The National Commission on Human Rights (KOMNAS) in particular the Commission that deals with cases of trafficking revealed that generally children who are victims of exploitation, trade, exile, violence, extradition and other criminal acts, are regulated by lack of self-identity or possession of false identity made by the company.

The Ministry of Empowerment of Women and Child Protection issued Decisions and Ministry Regulations No. 6 of 2012 on guidelines for accelerating the ownership of the Birth Act, as well as the Ministry regulations (PERMEN) of the Interior Ministry No. 9 of 2016 on acceleration of the increase in the scope of the child's birth Act with the aim of the State to be present and to provide protection for the safety and fulfillment of the civil rights of children through the issuance of Birth Acts. Juridically, children have the right to protection and to the granting of their rights as legitimate citizens, such as; right to adequate education, right to health, and right to a system of social protection.

Owning the identity of the child through the ownership of the birth certificate is a pre-emptive effort made by the government against the mark of cases of exploitation that occur to children, especially children who are still under amputa. Efforts to handle child protection through acceleration of ownership The birth act is multi-sectoral and requires participation and coordination between government units, both central and local, as stipulated in Law No. 23 of 2002 on Child Protection Article 1 Paragraph 17. The Central Government according to the provisions of Article 1 paragraph 1 of Law No. 32 of 2004 on local government is the President of the Republic of Indonesia, while those referred to by the Regional Government include the Governor, the Bupati, or the Mayor, and the regional unit as an element of the organizer of local government.

The policy and program of the government of the Republic of Indonesia in addressing the ownership of the birth certificate for each child or citizenry should cover three (3) levels, namely; macro, meso, and micro. At the level of its wider coverage (macro system), the Government issued various regulations that supported the policy on the accelerated ownership program of the Birth Act indirectly, such as activating the Convention on the Rights of the Child through the Decree of the President of RI Number 36 of 1990 and enacted through the Child Protection Act Number 23 of 2002 and mentioned in the Law Number 35 of 2014 followed by the respective regional regulations. Identity is the ownership of the birth certificate for all citizens, in the stage of its implementation, each part of the government performs tasks according to their respective authority. However, each institution and intent must make rules together so that there is no conflict between the one and the other. A Meso-level system describes the relationship between two or more micro-systems and macrosystems, while a micro-system is a pattern in which each individual can live carrying out various activities, roles and interactions with each person, intentions and institutions that directly influence their development.

Indonesia has ratified the Convention on the Rights of the Child since it was ratified, the Government of Indonesia subsequently poured it into the form of a Child Protection Act regulation, and interpreted the implementation of the Children's Rights Convention (KHA) as a National Welfare System, Child Protection legal policies, strategies, and programmes that are consistent with state obligations. According to Article 28 of Law No. 23 of 2002 on the Protection of the Child, the preparation of a birth certificate is the responsibility of the government, which in its implementation is organized at the lowest level and is granted no later than 30 (thirty) days from the date of submission of the request.

The birth certificate is part of the Identity as its requirements are compulsory to fulfill, the government has the responsibility in the preparation and publication of the Birth certificate as stipulated in the provisions of the Law No. 23 of 2006 on the Administration of Occupation. The principle of obligation provides protection and recognition against the determination of the personal status of every citizen, legal status, events of occupation and important events of nature. The implementation of the obligations of the state in organizing the administration of occupation nationally is assisted by the ministers and the ranks of ministers, their powers include;

1. Coordination between institutions and related institutions in administrative affairs;
2. Establishment of systems, guidelines, and standards of implementation of population administration;

3. Socialization of population administration;
4. Provide guidance, supervision, and consultation on the implementation of administrative affairs of occupation;
5. Management and presentation of national scale population data
6. Printing, publishing, and distribution of blank documentation.

In the case of the execution of the division of duties entrusted to the local government is divided into two (2) stelse, namely the duties and responsibilities of the provincial government and the obligations and responsibility of the municipal government;

The Governor is the highest regional leader in the system of government in Indonesia has responsibilities and duties in administrative affairs occupation includes;

1. Coordination of administrative maintenance;
2. Providing guidance, supervision, and consultation on the implementation of population registration and civil registration;
3. Construction and socialization of the maintenance of occupation administration;
4. Management and presentation of provincial population scale data;
5. Coordinate oversight over maintenance of occupation administration.

The district/city government is obliged and responsible for organising the administrative affairs of the occupation, which are carried out by the mayor with the authority to include:

1. Coordination of administrative maintenance;
2. Establishment of an Executive Authority whose tasks and functions are in the field of administrative occupation;
3. Technical arrangements for maintenance of administrative occupation
4. Social welfare in accordance with the provisions of the Regulations of the Legislation; construction and socialization of the organization of the administration of the occupation; implementation of the activities of public service in the field of administrative occupation:
5. assignment to the village to organize part of the administrative affairs of the occupation on the basis of the tasks of assistance;

6. Management and presentation of data on the population scale of districts/cities;
7. Coordinate oversight over maintenance of occupation administration.

The security agency is no. 24 Year 2013 on Amendments to Law No. 23 Year 2006 on the Administration of Occupation mandates the Department of occupation and civil records to carry out the administrative affairs of the occupation with the main tasks, functions and powers including;

1. record and record occupation events and record important events;
2. Provide equal and professional service to every resident on the reporting of population events and important events;
3. publish documentation of occupation;
4. Document the results of the population registration and civil registration;
5. guarantee the confidentiality and security of data on occupation events and important events;
6. Conduct verification and validation of data and information submitted by residents in the service of population registration and civil registration.

Prihartono argues that in order to optimize the obligation of the state in serving every civil rights of its citizens, it is necessary to have a model of state service that is interpreted in the management of administrative and service according to the culture of work and the basic rights of citizens. Self-identity is a fundamental right of every child and the most basic civil rights of every citizen, the ownership of self identity greatly affects the recognition of the state of its citizenship, as well as the state's attitude in carrying out various legal actions of each citizen such as protection, security, rescue from various acts of exploitation. Children occupy strategic positions and roles in national and national life not exceptionally in a narrower environment such as the family, so the Ministry of Education together with the Coordinator Ministry for People's Welfare, the Ministries of Foreign Affairs, the Department of Law and Human Rights, the ministry of Health, the Minister of Religion, the Social Ministry and the Department for Women's Empowerment and Child Protection, signed a memorandum of understanding on the acceleration of the ownership of the Birth Act in the framework of the Protection of the Child, including various important events of childbirth both abroad and abroad. (Prihartono, 2015)

Implementation of a joint memorandum of understanding between the ministries that has been agreed then is disclosed in the functions, main tasks and powers of

each ministry, among others; the Ministry of Foreign Affairs is tasked with assisting in the publication of identities of children born by Indonesian Migrant workers (TKI) who are still abroad through the Embassy of the Republic of Indonesia in each country. The Ministry of Health has issued regulations for the preparation of birth certificates as a package of maternity services. The Ministry of Education and Religious Ministry is responsible for providing material on the importance of ownership of birth certificates and the integration of child identity data in each level of education. Ministry of Law and Human Rights integration of child self data and immigration processes. The Ministry of Social Affairs will facilitate children's access to various welfare programs. The Ministry of Internal Affairs is responsible for the civil registration service and the acceleration of the publication process. The Ministry of Women's Empowerment and Child Protection helps to synchronize and coordinate all matters related to child protection, including the fulfillment of the birth certificate for the child.

Families, especially mothers and fathers, have a strategic role in fulfilling the rights of the child as a whole human being or as a child of social, national and national life. Since the relationship between the child and his parents has a very close relationship, the property of the marriage certificate for his parents is closely related to the ownership of the birth certificate of his child. The family, as the smallest unit in society, plays an important role in the effort to possess self-identity in a comprehensive way, thereby improving the well-being of the community, which is expected to further reduce the emergence of social problems. (Gunarsa, S. D., & Gunarsa, N. Y. , 1993)

Families play an important role in fulfilling the rights of children to own self-identity, and influence positive patterns of caring, according to Eichler's (1988);

A family is a social group that may or may not include one or more children (e.g. childless couples), who may or might not have been born in their marriage (eg. adopted children, or children by one adult partner of a previous union). The relationship of the adults may or may not have its origin in marriage (e.g. common-law couples); they may or might not occupy the same residence (eg. commuting couples). The adults may or may not cohabit sexually, and the relationship may or might not involve such socially patterned feelings as love, attraction, piety and awe. (Collins, D., Jordan, C., & Coleman, H. , 2010)

Santrock argues that parents are not only positions as managers in family life but also initiators, directing and regulating patterns of children's relationships in social life. (Santrock, 2007) Al-Krenawi and Graham viewed at least seven dimensions of family function, namely: problem solving, communication, role in the family, emotional

involvement, behavior control, emotical responses and general functioning. (Al-Krenawi, 2009)

The fulfilment of the rights of the child depends largely on the extent to which the family functions and the performance of each role are well performed. Parents who are indifferent or responsible for their position towards the child will be a determining factor either for the development of the child or as the cause of social problems such as child exploitation, violence, extradition, trafficking, and any other legal action that is detrimental to the child's future. Hook argued that to address other bad rights to children there are at least eight intervention models that can be done in the handling of child identity, (Hook, 2008) among;

1. Social learning approach to family counseling, which emphasizes learning new skills, displayed behaviors and renews confidence;
2. Structural family therapy, which emphasizes the effectiveness of family organization;
3. Solution focused family therapy, which emphasizes the development of new solutions to the problems faced;
4. Narative family therapy, which emphasizes the transformation of problems into desired expectations;
5. Psychoeducational approaches to family counseling, which emphasizes the possibility of family members coping with illness or other problems;
6. Multisystem approach to family therapy, emphasizing the possibility of families experiencing many problems with being connected with support systems;
7. Object relationship family therapy, which emphasizes the issue of interpersonal relationships with life experiences;
8. Spirituality, emphasizing feelings about meaning, values and relationships with aspects of life.

The right to child identity means the obligation to fulfill the right of every child to self-identity in the form of a birth certificate. States, governments, communities, families and parents are obliged and responsible for these rights, and obstacles at all stages of the birth certificate process can be overcome, as a defence measure. (Advocate), (Hull, 2006) Children who do not have a birth certificate are logged into the Macro client system. Governments, communities and family members can play their role in

advocating for obtaining the right to the child's nationality identity as a Birth Certificate from the Department of Occupation and Civil Records as part of the Macro system.

4. Conclusion

Article 28 of the Regulations of the 1945 Basic Law, Law No. 12 of 2006 on Citizenship, Act No. 23 of 2006 On Population Administration, as well as the Law Number 23 of 2014 on Ratification of Child Protection can be the umbrella of the law of ownership of the identity of the child. In addition, the ownership of the child's identity from a mixed marriage will be affected by the lawful marriage of its parents, or the application for legalization of marriage through marriage in accordance with Law No. 1 of 1974. As for the process in the possession of the child's digital identity will involve 3 institutions and or related agencies, among them; Hospital or maternity clinic as the authority issuing birth certificates, the Ministry of religion as the institution issuing the legality of marriage documents, and the Department of the Interior authorized issuing self-legitimate identity both temporary E-KTP and immigration passports.

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