



## Management mechanism of birth certificate in Indonesia

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### Abstract

Birth is a legal event. The birth will cause many legal consequences, such as inheritance relationships, family relationships, guardianship relationships, and other relationships that are related to the birth of a child who is the subject of a new law. A birth certificate is a form of identity for every child which is an inseparable part of the civil and political rights of citizens. The right to identity is a form of state recognition of a person's existence before the law. The purpose of protecting children is to ensure the fulfillment of children's rights so that they can live, grow, develop and participate optimally in accordance with human dignity, and get protection from violence and discrimination.

**Keywords:** management, mechanism, birth certificate

### Introduction

Marriage between a husband and wife will bring up a desire to have a child because offspring is a treasure for parents to continue their generation. It is a human desire and instinct that is also natural for survival because a child is a mandate and also a gift entrusted by God Almighty. Arrasjid (2004:1) said that according to the nature of nature, humans from birth to death live together with other humans. Human nature cannot live alone and apart from other groups. Humans have always had a desire to be with each other. Furthermore, to fulfill human nature, people hold marriages with the opposite sex. Humans have mutual needs that cannot be realized alone through marriage.

Indonesia in particular is a country which of course must protect all components within its sovereign territory, one of which is its citizens. Part of the form of protection of a state against its citizens is by registering the identity of its citizens in a Population Administration, from the time he is born until he dies. The earliest official identity received by a citizen is a Birth Certificate. In Article 27 paragraph (1) of Law No. 23 of 2006 concerning Administration of Population, it is stated that every birth must be reported by the population to the implementing agency at the place where the birth event occurred no later than 60 (sixty) days after birth.

Birth is a legal event. The birth will cause many legal consequences, such as inheritance relationships, family relationships, guardianship relationships, and other relationships that are related to the birth of a child who is a new legal subject who is born into the world with all status and position in before the law. Situmorang (1996:142), said that birth events need to have an authentic book whose purpose is to prove a person's identity that is definite and valid. This identity can be seen from the birth certificate which is of course issued by the authorities in making a birth certificate.

A birth certificate is a form of identity for every child which is an inseparable part of the civil and political rights of citizens. The right to identity is a form of state recognition of a person's existence before the law. Today there are still children who do not have birth certificates as a result, these

children lose their rights to education and social security. Law No. 23 of 2006 concerning Administration of Population explained that a birth certificate is a civil registration certificate resulting from the registration of a person's birth

The Department of Population and Civil Registration has a very important role in the administration of birth certificates as a form of population administration for Indonesian citizens as regulated in Law Number 23 of 2006 concerning Administration of Population, with the very importance of administering this birth certificate, so The status of the child's position in his family can be accounted for so as not to cause legal problems in the future.

Identity for a child as outlined in the birth certificate is stated as a right which is expressly regulated in Law Article 5 No. 23 of 2002 concerning Child Protection which states that "every child has the right to a name as self-identity and citizenship status". The identity of each child means that the child does not have a birth certificate, then his origin is not clear. This ambiguity of origin will certainly have many negative impacts on children. If described in more detail, the benefits or significance of having a Birth Certificate are as follows:

1. As proof of the identity of the state's recognition of its citizens;
2. As a reference data for the government to prepare the national budget in the fields of education, health, social, and child protection
3. Guarantee the child's right to inherit from both parents;
4. Prevent identity fraud which can lead to illegal acts and exploitation of children;
5. Gaining rights as a citizen

The purpose of protecting children is to ensure the fulfillment of children's rights so that they can live, grow, develop and participate optimally in accordance with human dignity and dignity, as well as obtain protection from violence and discrimination, for the realization of quality, noble and prosperous Indonesian children, so that children become one of the valuable assets for the State that must be protected because they are the successors of future generations.

How important is the Birth Certificate for a child in the child's life, the problem that will be described is the mechanism for recording a birth certificate that is late in taking care of the child's birth certificate? The writing of this scientific paper uses scientific and systematic methods under the guidelines or rules that apply in making a scientific work (Soekanto 1986: 3). A written work is called scientific and is believed to be true if the main ideas put forward are concluded through a systematic procedure using convincing evidence, therefore it is carried out objectively and has gone through various tests and tests (Surachman, 1990: 26).

The method of approach in this paper is the status approach (Marzuki, 2008:27). Normative writing must of course use a statutory approach because what will be discussed are various legal rules that are the focus as well as the central theme of scientific work.

## Discussion

### 1. Child and Birth Certificate

Marriage is the first step or a sacred gate that must be owned by every human being to form an institution called family. The family is the forerunner to the formation of wider and social society. The family is the giver of color in each of these societies (Fadil, 2002:1). One of the objectives of its implementation is to obtain pious and pious offspring and to create a just generation and the nation's successor. Law Number 4 of 1979 concerning Child Welfare limits the legal definition of a child, as outlined in Article 1 point 2 is a person who has not reached the age of 21 years and has never been married. Presidential Decree No. 36 of 1990 on Ratification of the Convention on the Rights of the Child defines a child as someone under the age of 18 years unless national law recognizes an earlier majority. Law Number 23 of 2002 limits the legal definition of a child as outlined in Article 1 number 1 to a person who is not yet 18 years old, including a child who is still in the womb.

The right to a birth certificate which is the child's identity is the child's first right, namely the right that must be obtained by the child immediately from the moment of his birth. Even though several developed countries prioritize the recording side because they have implemented centralized online electronic data, however, to ensure mutual legal force on the state and the individual concerned, the identity of the child needs to be stated in physical form in the form of a Birth Certificate, as legal evidence of state recognition of its existence on this earth.

The deed is a record of important events made by an authorized official according to the provisions that have been determined as authentic evidence. Deed quotation is the main record quoted from the Civil Registry Deed and is legal evidence for the person concerned and other parties regarding birth, death, marriage, divorce, adoption, acknowledgment and ratification of children, citizenship status, change of name, and cancellation of the deed. (local regulation/Number 4/article 1/Year 2010).

The definition of a birth certificate according to (Article 165 Staatsblad of 1941 Number 84) is:

A letter made by an authorized employee to be sufficient evidence for both parties and their heirs as well as relating to other parties as a legal relationship, regarding all matters referred to in the letter as notification of a direct relationship with the matter on the birth certificate.

In the Law on population administration no. 23 of 2006

Article 27 paragraph 1 states that every birth must be reported by residents to the implementing agency at the place where the birth event occurred no later than 60 days from birth. The right to a birth certificate is guaranteed in Law 39 of 1999 on Human Rights, Law Number 23 of 2002 on Child Protection, Law number 12 of 2006 concerning Citizenship, and Law number 23 of 2006 concerning Population Administration. Law Number 23 of 2006 on Population Administration has been updated into Law Number 24 of 2013 concerning Population Administration. The changes to the birth certificate regulations in this law are that originally the issuance of birth certificates required a District Court decision and it has been amended enough by the Decree of the Head of the Regency or City Population and Civil Registration Office. it is in accordance with the Decision of the Constitutional Court dated April 30, 2013.

A birth certificate is something very important for every Indonesian citizen because through a birth certificate a person can obtain recognition, protection guarantees, legal certainty. After all, it has been registered by the state and will give rise to legal rights and obligations, personal status, and citizenship status of a person.

Article 27 of the Population Administration Law states that every birth must be reported to the local implementing agency no later than 60 days after birth. The report on the birth, then the civil registration officer records it on the birth certificate register and issues a birth certificate quote. Registration of births in children whose origins are unclear or whose origins or whereabouts are unknown shall be based on the report of the person who found it, accompanied by an official report of the police examination. It is also regulated in Article 28 paragraph (1) of the Law of the Indonesia Republic No. 23 of 2002 concerning Child Protection that the making of birth certificates is the responsibility of the government which in its implementation is carried out at the lowest level at the village level.

There are 3 types of birth certificates (<http://kepenresidenancapil.jakarta.go.id>), namely:

1. General birth certificate, which is a birth certificate based on a birth report submitted within a maximum time limit of 60 working days for Indonesian citizens and 10 working days for foreign nationals from the date of birth.
2. Special birth certificates, namely birth certificates made based on birth reports that have exceeded the time limit of 60 working days for Indonesian citizens and 10 working days for foreigners from the date of birth.
3. Dispensed birth certificate, which is a birth certificate made based on a government program to provide convenience for those born up to December 31, 1985, and late registration of births. This certificate is based on a government program to provide convenience for those born and late in registering their births.

The benefits of a Birth Certificate are as a requirement:

- a. to enter schools from kindergarten to college.
- b. to make a Passport
- c. to make the Marriage Certificate
- d. To make a National Identity Card
- e. To make a driver's license
- f. To take care of the rights of the heirs based on the law in Indonesia

- g. To take care of insurance
- h. To take care of the issue of Family Allowance
- i. To take care of the Scholarship
- j. To take care of Retired Fund Rights
- k. to go on a pilgrimage
- l. To take care of making citizenship status (as in making Certificate of Citizenship of the Republic of Indonesia / Indonesian Citizen or Two Citizens).

According to Law Number 23 of 2006 concerning Population Administration, the benefits of a birth certificate are as follows:

1. As a form of state recognition regarding individual status, civil status, and one's citizenship status.
2. As a document/legal evidence regarding a person's identity.
3. As a reference for determining identity in other documents, such as diplomas.
4. to Enter Kindergarten to College.
5. to Apply for a job including being a member of the Indonesian National Army and the Police of the Republic of Indonesia
6. to make Identity Cards, Family Cards, and Family Identification Numbers
7. to Make a Driving License.
8. to make a Passport.
9. for Management of family allowances.
10. for Management of inheritance.
11. for Scholarship Management

The requirements for making a birth certificate are as follows:

1. Birth certificate from birth attendant (Hospital, Clinic, Home, Maternity, Doctor, Midwife, etc.)
2. Photocopy of Identity Card and Family Card of both parents / concerned
3. Photocopy of parents' marriage/marriage certificate
4. Present 2 witnesses and attach a photocopy of their ID cards.
5. Determination of the local City / Regency District Court for applicants for birth certificates that exceed the 1-year time limit from the date of birth

As for the registration of birth certificates of dispensation or those that have passed 1 year, Law no. 23 of 2006 Article 32 paragraph 2 reads that birth registration that exceeds the 1-year limit is carried out based on a District Court Decision. Process for going to the District Court:

1. Photocopy of parent's ID card.
2. Photocopy of parents' family card.
3. Photocopy of parents' marriage certificate.
4. Birth certificate from the midwife/hospital/village
5. Legalize all required documents by bringing 6 thousand stamps to the post office and checking accounts.
6. The determination fee is deposited with an independent bank.
7. The required documents are registered at the District Court until they await a summons.

## 2. Mechanism of Birth Certificate Registration.

A person's legal existence is only recognized after birth registration occurs. This is what places a birth certificate into an important document because the benefits or uses of a birth certificate are to provide legal protection for one's

status and school entry requirements, applying for jobs, arranging marriages, looking for work, taking care of civil law and determining heirs and various other public administration interests.

Civil Registry Deed is strong evidence of events to obtain legal certainty of the civil status of a person who experienced the legal event and assists or facilitates government activities in the field of population and the registration is carried out by the civil registry institution. The civil registry institution is an institution that aims to carry out registration, as well as complete and clear evidence as well as to provide the maximum legal certainty for events of birth, confession, marriage, and death. Birth registration is an authentic certificate or record made by a civil registry officer in the form of an official record of the place and time of the child's birth, the name of the child, and the names of the child's parents completely and clearly, as well as the child's citizenship status.

When the birth certificate service burdens the community because it causes complications for the community, the purpose of the Constitutional Court's decision is that providing birth certificate services can be cheap and easy (towards something better). And the law is considered professional if the law leads to humanitarian goals (Supanto, 2010:23).

The mechanism for recording birth certificates has been regulated in the Population Administration Law. Based on Article 27 paragraph (1) of the Population Administration Law, every birth must be reported by residents to the local Implementing Agency no later than 60 (sixty) days after birth. Paragraph (2) states that based on the report as referred to in paragraph (1), the Civil Registration Officer records the register of birth certificates and issues birth certificates. If within a period of 60 days up to 1 year from the date of birth, a decision must be obtained from the Head of the Agency. As for the mechanism for registering a birth certificate that exceeds the 1-year time limit, then based on Article 32 paragraph (2) of the Population Administration Law, the service for a birth certificate application that exceeds the 1-year time limit can be directly carried out at the Population and Civil Registry Service without must obtain a decision by the District Court.

Below is a chart of the mechanism for registering a birth certificate:

1. Requirements
  - a. Birth certificate from the midwife /doctor/birth assistant;
  - b. Birth certificate from the village;
  - c. Photocopy of parents' marriage certificate or marriage certificate;
  - d. Photocopy of family card parents;
  - e. Photocopy of parent's e-ID card;
2. The applicant comes to the residence of the local civil registry office with the requirements and takes the queue number
3. The officer verifies the validity of the application data
4. The officer enters the applicant's data into the Population Administration Information System application and prints it in the draft of the birth certificate
5. The Head of Birth affixes initials in the draft of the birth certificate quote
6. If the draft is appropriate then it is printed in the birth certificate quote and register the birth certificate quote

7. The Head of the Civil Registration Division affixes the initials in the birth certificate quote and registers the birth certificate quote
  8. The officer asks for the signature of the Head of Service and provides the official stamp in the birth certificate quote and register the birth certificate quote
  9. The officer submits a birth certificate quote to the applicant
12. Undang-Undang. Tahun tentang Administrasi Penduduk. 2013, 24.

Birth certificates as proof of birth are very important concerning the arrangement of population administration, it is also important for state administrators because the state requires population data to plan and implement targeted and targeted development programs. These provisions indicate the importance of structuring population administration as part of efforts to realize good governance. For this reason, birth certificates are very important for the protection of services by the state related to rights arising from a population event and important events can be carried out in an orderly and efficient manner.

### Conclusion

Based on the description above, the mechanism for registering children has been regulated in the provisions of Article 27 paragraph (1) and paragraph (2) of the Population Administration Law, including also for registering children who are late for more than 60 days up to 1 year strictly regulated.

After the decision of the Constitutional Court, 18/PUU-XI/2013 without any sanctions, fines, and fees applied. If within a period of 60 days up to 1 year from the date of birth, a decision must be obtained from the Head of the Agency.

As for the mechanism for registering a birth certificate that exceeds the 1-year time limit, then based on Article 32 paragraph (2) of the Administration of Population Law, the service for a birth certificate application that exceeds the 1-year time limit can be directly carried out at the Population and Civil Registry Service without must obtain a decision by the District Court.

### References

1. Arrasjid Chainur. Dasar-dasar Ilmu Hukum. Jakarta: Sinar Grafika, 2004.
2. Fadil Miftah. iMasalah iNikah idan Keluargai. Jakarta: iGema iInsani iPress, 2002.
3. <http://kependudukancapil.jakarta.go.id>, diakses pada tanggal 25 Mei 2020
4. Marzukii Peteri iMahmud. iPenelitian Hukumi Cet 2. iJakarta: iKencana, 2008.
5. PutusaniiiMahkamahiKonstitusi No. 18/PUU-XI/2013.
6. Situmorang Victor i. iAspek iHukum Catatani Sipil di iIndonesia. iJakarta: iSinar Grafikai, 1996.
7. Soekantoi iSoerjono. iPengantar Penelitiani iHukum. iJakarta: UI Press, 1986.
8. Surakhmad Winarno iPengantar penelitiani iIlmiah. Bandung: Tarsito, 1990.
9. Undang-Undang iDasari iNegara iRepublik Indonesiai Tahun. Jakarta: iSekretariat Jenderali dan iKepaniteraan iMahkamah Konstitusi RI, 1945.
10. Udang-Undang, Tahuni itentang Perlindungani Anak, 2002.
11. Undang-Undang. iTahun tentang Administrasii iPenduduk, 2006, 23.