

Penetapan anak angkat dan putusan perkara pembagian harta peninggalan orang tua angkat oleh pengadilan serta pengaruhnya terhadap kedudukan anak angkat : analisa terhadap beberapa penetapan dan putusan Pengadilan Negeri, Pengadilan Agama dan Mahkamah Agung = Court determination on Adoption and Court Decision on the settlement of Adoptive Parents Inheritance and its Influence on The Position of Adopted Child : Analyzes on several Court Determination and Decisions of District Court, Religious Court and Supreme Court

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Abstrak

Pemahaman umat Islam di Indonesia terhadap prinsip Pengangkatan Anak yang didasarkan pada hukum Islam masih sangat kurang, termasuk mengenai proses legitimasinya dan penyelesaian sengketa di Peradilan atas sengketa pembagian harta peninggalan orang tua angkat. Perlu diteliti bagaimana penerapannya pengangkatan anak oleh umat Islam di Indonesia, akibat hukum dari masing-masing penetapan dan putusan, serta bagaimana pertimbangan hukum masing-masing Hakim dalam menetapkan pengangkatan anak dan memutus sengketa pembagian harta peninggalan tersebut. Dari penelitian yang dilakukan secara deskriptif kualitatif terhadap beberapa penetapan dan putusan lembaga Peradilan diperoleh kesimpulan, bahwa pengangkatan anak yang dilakukan oleh umat Islam di Indonesia belum sepenuhnya dilakukan sesuai dengan ketentuan hukum Islam maupun hukum positif terkait dengan pengangkatan anak. Oleh karenanya menurut Penulis, sangat penting agar pemerintah bekerja sama dengan instansi terkait untuk membuat suatu peraturan khusus tentang pengangkatan anak bagi umat Islam di Indonesia agar kepastian hukum dapat tercapai. Bagi masyarakat pelaku pengangkatan anak juga agar betul-betul memahami prinsip-prinsip pengangkatan anak berdasarkan ketentuan hukum Islam dan peraturan-peraturan yang terkait, agar memenuhi ketentuan hukum Islam dan hukum positif Indonesia.

.....The level of understanding of islamic people in Indonesia regarding the Islamic Adoption principles are still below expectation, which also include the understanding of specific requirements from the related departments and Religious (Islamic) Court on adoption legalization process. Not only that, they do not also aware of how to settle conflicts between the adopted child and his/her adoptee family related to the inheritance of the adoptive parents. Therefore, it is so important to reasearch on how the implementation of Islamic Law on Adoption in Indonesia and how the effect of such different legal basis used by the Judges ini settling the conflict and/or legalizing the adoption process. With regard to this matters, the research was conducted based on library research and studying several courts documents and adoption rules in Indonesia, which resulting the fact that the Islamic Adoption Law in Indonesia are not fully implemented. due to lack of understanding ang knowledge of Indonesian Islamic people. The government in this case should work together with the related departments to provide the of Islamic Adoption Laws that is urgently needed to achieve the certainty of adoption law in indonesia. At the same time it is important for those who wants to adopt any children preparing equiped themselves with sufficient knowledge in Islamic and Indonesian adoption law.