

## Pengangkatan anak adopsi dan akibat hukumnya dalam hukum waris masyarakat adat Tionghoa = Adoption and its legal consequence in Chinese Indonesians customary inheritance law

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### Abstrak

[Pengangkatan anak (adopsi) di kalangan masyarakat adat Tionghoa merupakan suatu perbuatan yang lazim dilakukan bila tidak terdapat keturunan laki-laki dalam suatu perkawinan. Keberadaan keturunan laki-laki dalam masyarakat Tionghoa adalah sangat penting sebagai penerus marga (she) dan pemelihara abu leluhur. Dalam perkembangannya masyarakat adat Tionghoa mengalami perubahan sistem kekerabatan menjadi bercorak parental sehingga sekarang dikenal pula pengangkatan anak perempuan. Motif utama pengangkatan anak turut mengalami perubahan, tidak lagi demi melanjutkan keturunan semata tetapi demi kepentingan terbaik anak. Kedudukan anak angkat dalam keluarga angkat haruslah dalam posisi yang menjamin kesejahteraan anak tersebut, termasuk pula bila orang tua angkatnya meninggal kelak berkaitan dengan warisnya. Yang menjadi permasalahan dalam penelitian ini adalah bagaimana pelaksanaan pengangkatan anak pada masyarakat adat Tionghoa di Indonesia, bagaimana akibat hukum dari pengangkatan anak terhadap kedudukan anak angkat dalam hukum waris adat Tionghoa, bagaimanakah pelaksanaan pengangkatan anak (adopsi) yang dilakukan oleh masyarakat Tionghoa dalam penetapan Pengadilan

Negeri Jember Nomor 10/Pdt.P/2014/Pn.Jr. Metode penelitan yang digunakan adalah penelitian yuridis normatif dengan tipologi penelitian eksplanatoris. Data yang digunakan adalah data sekunder yang dikumpulkan dengan studi kepustakaan, selain itu dilakukan pula wawancara untuk mendukung fakta yang ditemukan dalam data sekunder. Dari penelitian diketahui bahwa masyarakat adat Tionghoa di Indonesia melakukan pengangkatan anak hanya secara adat karena pengangkatan anak melalui pengadilan dianggap rumit dan memakan banyak biaya. Akibat hukum dari pengangkatan anak terhadap kedudukan anak angkat dalam hukum waris adat Tionghoa adalah anak angkat menjadi ahli waris dari orang tua angkatnya. Pengangkatan anak yang dilakukan oleh masyarakat Tionghoa dalam penetapan Pengadilan Negeri Jember Nomor 10/Pdt.P/2014/Pn.Jr adalah pengangkatan seorang anak perempuan yang awalnya hanya dilakukan berdasarkan adat kebiasaan yang kemudian dapat disahkan oleh pengadilan negeri demi mendapat kepastian hukum dan mewujudkan kepentingan terbaik anak tersebut.

.....Adoption among Chinese Indonesians are a very common thing to do if there's no male descendant born in a marriage. Male descendants play a very important role as they are the successor whom continue the passage of family name (she) and the person in charge of preserving ancestor's ash. Over the time Chinese Indonesian's descent system transforming into bilateral kinship system so that girls adoption are also recognized now. Adoption's main motives also started shifting, it was to carry on the lineage but now it is for foster child's own benefit. Foster child's should be placed in the proper position that guarantee his/her welfare being, including in the time of foster parents' death regarding the legacy. The subjects of this research are how is the practice of adoption among Chinese Indonesians, what is the legal consequence of adoption in matter of foster's child's position in Chinese Indonesians customary inheritance law, how is the practice of adoption among Chinese Indonesians as stated in Jember district

court order number 10/Pdt.P/2014/Pn.Jr. The research method are juridicial normative method with explanatory typology. Data used are secondary data which gathered through literature study, beside there's also interview performed to advocating facts found in secondary data. From the research we can tell that Chinese Indonesians conduct adoption solely based on their tradition because doing it through court considered complicated and will cost a lot of money. The legal consequence of adoption in Chinese Indonesians customary inheritance law is foster child becomes adoptive parent's heir. Adoption among Chinese Indonesians as stated in Jember district court order number 10/Pdt.P/2014/Pn.Jr is the adoption of a girl which at first only conducted based on tradition then authorized by district court for the sake of legal certainty and to actualize the child's best interest.;

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