

The Legal Consequences of the Annulment of a Child's Birth Certificate within the Jurisdiction of Administrative Courts (Case Study of Decision : Nomor 19/G/2020/PTUN.YK)

Agnes Fitryantica

Sekolah Tinggi Ilmu Hukum IBLAM

agnesfitriyantica@iblam.ac.id

ABSTRACT

This research concerns the important issue of the protection of children's rights in the context of the annulment of birth certificates through the legal process that takes place within the state administrative courts. The research aims to identify and analyze the legal framework and mechanisms that exist to ensure that children's rights are properly protected when situations arise that require the cancellation of birth certificates. The research will also explore the roles and responsibilities of the state administrative courts in ensuring the protection of children's rights. This research uses normative juridical research, which is dealing with legal issues by the process of finding legal rules, principles and doctrines related to legal issues. This research uses a deductive method that starts from general matters then applied to the formulation of the problem and can produce specific and scientific answers. Based on the results of the research, from various legal rules, doctrines, and court decisions and determinations, that the cancellation of birth certificates has considerable legal consequences for children. In addition, the relationship between children and parents relating to their rights will not be interrupted as long as there is evidence of blood relations between parents and children.

Keywords: *Annulment of a Child's Birth Certificate, Jurisdiction, Administrative Courts.*

INTRODUCTION

The progress of the times, whether in terms of technology, culture, or daily life habits, continues to advance. This progress naturally also affects the customs and habits within Indonesian society. One of the most striking changes is the increasingly liberal social interactions in Indonesia. This interaction, more specifically, involves relationships between men and women. Commitment or promises to establish more serious relationships, such as legal marriage, are protected by law and implemented in the Marriage Law. The growing liberalism in social interactions, of course, also affects men and women who then decide to engage in activities similar to those of a husband and wife without a legitimate marital bond, which is clearly illegal and unprotected by Indonesian law, often resulting in the birth of children.

From a religious perspective, children are considered a blessing and a mandate from God to couples who have legally bound themselves in marriage (Gatot & Sujudi, 2022). Children inherently possess dignity and worth as human beings, which they carry from the womb even until birth. A child's status is determined by the marital status of their parents—whether they were born within a legitimate marriage or outside of it. Referring to Indonesia's Marriage Law, Article 2 states that a

marriage is considered valid and protected by law if it is performed according to religious rites and is registered in accordance with the law. Therefore, it is crucial for couples to register their marriage to clarify the status of the child—whether they were born inside or outside of marriage. If a child is born outside of a legitimate marriage, according to Article 43 of Law No. 1 of 1974, the child only has a civil relationship with the mother and the mother's family.

The statement in Article 43 of the Marriage Law has caused controversy in society due to the perceived injustice toward women as mothers, while men as fathers are not held responsible for the children born from their relationship. However, in response to this societal controversy, the Constitutional Court issued a decision regarding the status of children born outside of marriage and the legal protection of their rights (Constitutional Court Decision No. 46/PUU-VIII-2010). According to Wulan Pri Handini, this decision is partial due to the level of success of the institutionalization of the Constitutional Court's ruling (Handini, 2019), which can be measured if it conflicts with the ideological beliefs within the society itself (Rahajaan & Niapele, 2021). Children are the nation's future, and as they grow into adults, they must be protected by the state, with the law guaranteeing their rights regardless of their social status, as stated in the principles contained in Law No. 17 of 2016 on Child Protection (Sasmiar, 2012).

Child protection is crucial, not only within the scope of the judiciary but also encompassing the human rights attached to children and various freedoms related to their interests (Waluyadi, 2009). One form of protection provided by the state for children is through birth certificates. A birth certificate will also be used to obtain a National Identification Number when the child becomes an adult. The Constitutional Court Decision No. 46/PUU-VIII/2010 emphasizes what is already regulated in the Child Protection Law regarding children born outside of a legitimate marriage, ensuring they have the same rights as children born within a legal marriage, including the right to identity and the right to parental identification, as evidenced by a birth certificate (Djumikasih, 2013). The birth certificate is essentially proof of a child's identity, reinforced by Article 55 paragraph (1) of the Marriage Law. However, any negligence regarding the status of the birth certificate could result in unclear identity, leading to several potential issues such as discrimination, difficulty in accessing healthcare and education, becoming victims of human trafficking, child labor exploitation, being victims of sexual crimes, and other threats to their safety. The low awareness regarding identity in the form of birth certificates indicates the need to raise awareness of children's rights (Immanuela Sandjojo, 2015).

Various documentation requirements must be fulfilled to ensure that the information listed on the birth certificate is authentic. The process of issuing a birth certificate must adhere to the principles of Good Governance in Indonesia. Good Governance refers to a concept involving principles and the application of good practices in governmental functions (Nasution & Fitryantica, 2023). The principles of Good Governance consist of four parts: participation, transparency, responsiveness, and accountability. The United Nations Development Program (UNDP) states that there are three concepts in the practice of state power: economic order (community welfare), political order (decision-making), and administrative governance (policy implementation) (Tompo, M., Madani, M., & Fatmawati, 2021). However, in practice, various problems arise concerning the validity of a birth certificate, which can lead to legal disputes aiming to annul the birth certificate in the Administrative Court (TUN). One example of an issue leading to such disputes is the falsification of identity information listed on the birth certificate. This could result in the annulment of the birth certificate but can only be done after obtaining a legally binding court decision (Presidential Regulation of the Republic of Indonesia No. 96 of 2018 on the Requirements and Procedures for Population Registration and Civil Registration Article 60), making it important to understand the legal consequences of the annulment of a birth certificate.

Based on the aforementioned introduction, the author formulates the following problem statements:

1. What is the legal procedure for filing a lawsuit to annul a birth certificate in the Administrative Court, and what is the jurisdiction of the Administrative Court in adjudicating such cases?
2. What are the judge's considerations in decisions regarding the annulment of birth certificates, and what are the legal consequences following such decisions?

RESEARCH METHOD

In this study, the author employs two research methods: the normative juridical method and the deductive research method. The normative juridical method addresses legal issues through the process of discovering legal norms, principles, and doctrines relevant to the legal problem, as well as conducting literature research. Meanwhile, the deductive research method begins with general concepts, which are then applied to the problem statement, leading to specific and scientific answers.

1.1. *PROCEDURE FOR FILING A LAWSUIT TO ANNUL A BIRTH CERTIFICATE AT THE ADMINISTRATIVE COURT*

Child protection is guaranteed by the state and must be implemented to ensure the safety of children and to prevent unwanted situations in the enforcement of child protection (Gosita, 1989). The legal protection provided by the government in this case involves the registration of a child's birth through the issuance of a birth certificate. Therefore, several key factors underlie the registration of a birth certificate:

The registration of identity in the form of a birth certificate is a formal act recognized by the state and based on law. The registration of a child's birth is mandated by law, ensuring that each child's identity must be recorded from birth in the form of a birth certificate. This is also stated in Article 27 Paragraph (1) and (2) of Law Number 35 of 2014 concerning Child Protection.

Registering a child's identity is also important for securing their rights when they grow up, such as when they seek employment in the future. A birth certificate also serves as a form of protection for children against the crime of human trafficking.

Birth certificates are issued by the Population and Civil Registration Office (DISDUKCAPIL). DISDUKCAPIL is a government institution responsible for recording population identities in Indonesia. The state has an obligation to provide identity to each citizen as a form of recognition and legal basis that they are registered as a citizen and to grant them citizenship rights. As stated by Prof. Jimly Asshiddiqie, every citizen has the right to have their human rights protected (Asshiddiqie, 2009), and providing an identity is one form of the state's protection granted to its citizens. This demonstrates that the state is present by clarifying the status, protection, and rights of its citizens. A child's birth occurs between a man and a woman following marriage. According to experts such as Asser, Scholten, Melis, Wiarda, and Pitlo, marriage is a relationship between a man and a woman recognized by the state, meant to last a lifetime (Titik Triwulan Tutik, 2006). In Indonesian law, the legality of a marriage affects the child's status, which is categorized into two types: legitimate children, born from a lawful marriage, and illegitimate children, born from an unlawful marriage. However, in practice, the state does not differentiate between children born in or out

of wedlock, as every child has the right to be recognized by their identity and to have the names of both biological parents listed, as a form of state protection.

The difference in registering a birth certificate between children born in lawful marriages and those born outside of lawful marriages lies in the inclusion of parental names. For children born in lawful marriages, both parents' names are included in the birth certificate. However, for children born outside of lawful marriages, only the mother's name is included, excluding the father's name. This also applies to children born in unregistered marriages ("sirih marriages") because such marriages do not meet the legal requirements for marriage as regulated in Article 2 Paragraph (2) of the Marriage Law. As a result, under Article 43 Paragraph (1) of the Marriage Law, children born out of wedlock only have a legal relationship with their mother and her family.

In practice, children born out of wedlock often experience mistakes in their birth certificate identity. In some cases, birth certificates are registered without considering the necessary authentic evidence to be included in the certificate. Human error is a major factor in document registration errors (Wahyuningsih, Ragil; Sudarmanto, 2023). One common issue faced by children born out of wedlock is the incorrect listing of parental identity on the birth certificate. This issue arises from a lack of thorough verification of the child's and parents' identities when creating the birth certificate, specifically whether the child was born within or outside of a lawful marriage.

The lack of attention during the process of recording and verifying birth certificate documents is one of the causes of issues, such as in the case of the Yogyakarta Administrative Court Decision Number 19/G/2020/PTUN.YK. In this case, the annulment of the birth certificate occurred due to negligence and lack of thoroughness when registering the child's identity with DISDUKCAPIL in the form of a birth certificate. This indicates a lack of proper implementation of administrative rules. These rules serve as the legal foundation for population administration, aimed at achieving national goals and creating a safe, peaceful, and conducive society (Fitryantica, 2023). In general, birth certificates are classified as products of Administrative Law because they are considered Administrative Decrees. An Administrative Decree refers to a written legal product issued by an authorized official or institution (Al Amin & Wibowo, 2023).

As a result of the birth certificate annulment issue, the child involved in the case experiences changes to their rights and status. In this case, the lawsuit was filed by the biological parents to the Administrative Court (PTUN). The competence of the Administrative Court to adjudicate and decide on this matter is based on the following: The object of the dispute, namely the birth certificate, explicitly names Setyowati as the seventh daughter of Soemini. Setyowati, named as the seventh daughter of Soemini, is

in fact the child of Tjio Lian Nio, which creates legal consequences for Setyowati and the plaintiffs, as heirs of Tjio Hok San, the fifth child of Siem In Nio, aka Mrs. Soemini.

Based on the description of the case, the Administrative Decree in the form of a birth certificate in the name of Setyowati meets the requirements to be the object of dispute in the case a quo.

According to Article 76 Paragraph (3) of Law No. 30 of 2014 on Government Administration, if administrative remedies fail to resolve a dispute, the Administrative Court has the authority to adjudicate the case.

According to Article 2 of the Supreme Court Regulation No. 6 of 2018 concerning Guidelines for Resolving Administrative Disputes After Exhausting Administrative Remedies, the absolute competence of the Administrative Court is mentioned as the basis for accepting, examining, and deciding on the case a quo. It reads, "The court has the authority to accept, examine, decide, and resolve administrative disputes after exhausting administrative remedies."

The procedure for filing a lawsuit to the Administrative Court (PTUN) is as follows:

- a. Preliminary Examination Administrative review at the Clerk's Office. Dismissal Procedure by the Head of PTUN (Article 62 of Law No. 5/1986). Preparation Examination (Article 63 of Law No. 5/1986).
- b. Lawsuit (Article 74 Paragraph 1 of Law No. 5 of 1986): The case examination begins by reading the contents of the lawsuit concerning the core of the dispute written in the lawsuit.
- c. Answer (Article 74 Paragraph 1 of Law No. 5 of 1986): The reading of the defendant's answer in response to the plaintiff's lawsuit.
- d. Reply (Article 75 Paragraph 1 of Law No. 5 of 1986): The plaintiff responds to the defendant's answer and may add new legal matters if discovered.
- e. Duplik (Article 75 Paragraph 2 of Law No. 5 of 1986): The defendant responds to the plaintiff's reply, addressing the contents raised by the plaintiff.
- f. Evidence (Article 100 of Law No. 5 of 1986): Evidence may include the following: Documents or written evidence, Expert testimony, Witness testimony, Admissions by the parties, The judge's knowledge
- g. Conclusion (Article 97 Paragraph 1 of Law No. 5 of 1986): Both parties summarize all the proceedings that have occurred during the trial and submit their conclusions to the panel of judges.
- h. Verdict (Article 108 of Law No. 5 of 1986): The judge decides whether the dispute is granted, partially granted, or rejected, either partially or entirely.

Based on the explanations provided, it demonstrates the importance of birth registration, where various aspects must be involved. These include government institutions responsible for civil registration, which are tasked with recording and verifying the submitted documents. These documents serve as the basis for issuing civil records in the form of birth certificates. With a birth certificate, a person's identity becomes clear, as it contains information about the child, the parents' names, and the

date and place of birth. Additionally, the parents' identities clarify the child's status within the family and their rights to inheritance (Immanuela Sandjojo, 2015).

1.2. *Legal Considerations of Judges in Deciding Disputes and the Legal Consequences Arising After the Decision*

Recognition of human rights, including children's rights, is a fundamental principle that must be upheld in a state governed by law. In the case of birth certificate annulment, this results in changes to the status and position of an individual; however, it does not lead to the loss of protection of their rights by the state. Protection by the state is equal for all citizens, regardless of their social status or position, whether they were born legitimately or illegitimately.

In the annulment of a birth certificate, there are parties that benefit and those that are disadvantaged in such cases. Therefore, the annulment of a birth certificate must be done only after a court decision that holds binding legal force. A birth certificate is a form of legitimacy of a person's identity and a guarantee of their rights and obligations before the law, meaning only a judge has the authority to review the revocation of a birth certificate based on the facts presented.

Based on research conducted on cases of birth certificate annulment, a person's status can change after a decision with permanent and binding legal force is issued. If the court's decision grants the claim, it will result in a change in the individual's status as recorded in the birth certificate, whether they were born legitimately or illegitimately, as well as their status as an heir.

In the case related to Decision Number: 19/G/2020/PTUN.YK, the plaintiffs, Susanti, Hengki, Hendro, and Hendrik Santoso, filed a lawsuit against the Head of DISDUKCAPIL (Department of Population and Civil Registration) of Bantul Regency, concerning the object of dispute, Birth Certificate Number 3402-LT-13082020-0012 dated August 13, 2020, in the name of Setyowati. The basis for the plaintiffs' lawsuit is that they have a strong interest in the disputed object because if it is not annulled or revoked, the birth certificate will be used by Setyowati as evidence to claim an inheritance from Soemini's estate, which had already been divided among the heirs. Based on the case details briefly outlined, the court examined the legal facts that emerged during the trial, including the following:

- a. During her lifetime, Mrs. Siem In Nio alias Soemini, born in Djengkol, Plosoklaten, Kediri, on April 5, 1917, and who passed away on November 29, 1982, had her first and only civil marriage for the Chinese community in Kediri Regency on August 10, 1960, with Tjio Ping An, who passed away on June 15, 1971.
- b. During her lifetime, Siem In Nio had seven children, one of whom was the plaintiffs' parent, Tjio Hok San, the fifth child of Siem In Nio.
- c. Mrs. Tjio Lian Nio, the second child of Mrs. Siem In Nio alias Mrs. Soemini, married Song Seng Kwi and had two children, one of whom was Setyowati.
- d. On August 13, 2020, the defendant issued Birth Certificate Number 3402-LT-13082020-0012 in the name of Setyowati, a resident of Trimulyo Village, Jetis District, Bantul Regency. However, the plaintiffs discovered errors in the birth certificate, which stated that Setyowati was the seventh daughter of Mrs. Soemini.
- e. The content of Birth Certificate Number 3402-LT-13082020-0012 dated August 13, 2020, in the name of Setyowati was incorrect because the seventh daughter of Mrs. Soemini was actually Mrs. Tjio Lies Nio alias Lies Astutik, born in Kediri on October 29, 1959, as mentioned in the birth certificate issued by the Special Civil Registration Officer of Kediri Municipality, Number 374/WNI./1959, and certified by the Head of the Kediri District Court under Number 284/1978, dated March 13, 1978.

- f. The defendant's action in issuing the Administrative Decision (KTUN) in the form of Birth Certificate Number 3402-LT-13082020-0012 dated August 13, 2020, in the name of Setyowati, violated the General Principles of Good Governance (AUPB). Thus, Birth Certificate Number 3402-LT-13082020-0012 dated August 13, 2020, in the name of Setyowati should be annulled and declared invalid, and the defendant must be ordered to revoke the disputed birth certificate.

In reaching a verdict, the judge must have legal considerations that serve as the basis for the decision. As an authentic deed used in this case, it is necessary to understand what constitutes an authentic deed. Article 1870 of the Civil Code states that an authentic deed is perfect evidence for both parties, their heirs, and those who derive rights from them concerning what is contained in the deed. An authentic deed is a comprehensive and binding document, meaning the information contained within it is considered true unless evidence is provided to the contrary by another party (Samudera, 2004). A legitimate child's birth certificate must be in the form of an authentic deed because such a document is prepared by a public official with authority, with the primary purpose of making it valid evidence (Prodjohamidjojo, 1997).

Based on these points, the judge's considerations in Case Number: 19/G/2020/PTUN.YK are explained as follows:

- a. The panel of judges rejected the defendant's exception regarding *error in persona* and the plaintiffs' insufficient standing, ruling them to be legally unfounded.
- b. In addition to considering the formal requirements of the lawsuit, the panel of judges also examined other formal requirements, such as the time frame for filing a lawsuit and administrative remedies.
- c. The court referred to the provisions of Article 55 of Law Number 5 of 1986 concerning the Administrative Court, which stipulates that a lawsuit may be filed within ninety days from the time the administrative decision is received or announced.
- d. According to Article 48 Paragraphs (1) and (2) of Law Number 5 of 1986, disputes can be resolved through administrative remedies before being brought to the Administrative Court.

As a result of the court ruling in Decision 19/G/2020/PTUN.YK, Setyowati's birth certificate, which recorded her as the daughter of Tjio Lian Nio, was annulled. Consequently, Setyowati lost her right to inherit from Soemini's estate. The court found that Setyowati was not the rightful child as recorded in the disputed birth certificate, and therefore, her birth certificate, issued by the Kediri DISDUKCAPIL officer, was deemed invalid.

The annulment of a birth certificate affects the relationship between parents and children, particularly in regard to alimentary rights. Alimentary rights refer to the reciprocal obligation between parents and their descendants, requiring them to support one another. This decision also influences the legal standing of the child's

CONCLUSION

A birth certificate is proof of a person's identity and represents the first form of protection by the state. It is crucial for obtaining legal certainty and for determining a person's status as a child within a family, as well as their rights as an heir, in accordance with the provisions of the Child Protection Law and the Marriage Law. If a birth certificate is annulled, an individual may defend themselves through legal remedies, considering their maturity or level of maturity. The available legal actions include appealing to a higher level at the High Administrative Court. If the previous

ruling is upheld, a cassation appeal may be filed to the Supreme Court. Furthermore, it is possible to file an extraordinary legal remedy in the form of a Judicial Review if new evidence or legal facts are found in the Administrative Court dispute.

All disputed objects issued by public officials or officials within the scope of Administrative Law, in the form of Administrative Decrees, can be adjudicated through the Administrative Court. In the case of the annulment of a birth certificate, a lawsuit can be filed in the Administrative Court because a birth certificate is an object of Administrative Law, classified as an Administrative Decree. The procedure or stages involved include administrative processes, filing the lawsuit, reading the lawsuit, replies, evidence, conclusions, and finally, the issuance of the verdict. If the lawsuit is granted, it will affect the parental maintenance rights for the child, as they may lose their rights following the ruling.

SUGGESTIONS

According to the author, in addressing the issue of birth certificate annulments, the registration or recording of birth certificates in the civil registry should be done meticulously, ensuring that the correct identity is entered and that no false information is included in the birth certificate. The actions taken by the plaintiff in filing the lawsuit to the Administrative Court were appropriate. However, if there is any indication of identity forgery to facilitate a legally flawed birth certificate for inheritance purposes, the case can be escalated to the criminal court to prove it. In the process of registering a certificate, especially a birth certificate, which will be issued as a product of Administrative Law in the form of an Administrative Decree, the execution must be done carefully. Every action must be based on principles of good governance, ensuring that every Administrative product issued complies with applicable law. Finally, in making a decision on the annulment of a birth certificate, the judge was wise in granting the plaintiff's request by annulling the disputed birth certificate, as it did not comply with the principles of good governance and could be used by the defendant as evidence in claiming inheritance rights. However, the judge might have explored further to identify any other factors, in addition to the above two, that led to the birth certificate's annulment. Therefore, all parties involved must exercise greater caution in the registration of birth certificates to prevent similar issues from recurring in the future..

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