

## Legal Protection Against Adopted Children Are Inherited Property From The Adopted Parents

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### ABSTRAK

Adopted children have inheritance rights similar to the inheritance rights of biological children, as stated in Staats Blad 1917 No. 38 Article 12 states that adopted children are equated with biological children born to the husband and wife who adopted them. Typically, adoption of such a child is an act that equalizes the position of the adopted child with the biological child, both in terms of care and inheritance. The problem formulation in this research is: What is the legal position of adopted children regarding the inheritance of adoptive parents based on Supreme Court Decision Number 3626 K/Pdt/2016; What are the judge's legal considerations in providing legal protection for the rights of adopted children to the inheritance of adoptive parents in Supreme Court Decision Number 3626 K/Pdt/2016; What are the implications of Supreme Court Decision Number 3626 K/Pdt/2016 for the legal protection of the inheritance rights of adopted children in Indonesia. The research method used in this research is normative juridical research, which is supported by secondary data sources, and qualitative analysis is carried out. The results of the research and discussion are that the legal position of adopted children regarding the inheritance of adoptive parents based on Decision Number 3626 K/Pdt/2016 is valid which is in accordance with the adoption decision issued by PN Number 08/Pdt.P/2003/PN Kbj. dated 28 May 2003 which determined that Rebulina Br Gurusinga was the adopted child and sole heir of Langsung Karo-Karo Gurusinga and Silo Br Sembiring. The judge's legal considerations in providing legal protection for the adopted child's rights to the inheritance of the adoptive parents in Decision Number 3626 K/Pdt/2016 by determining Rebulina br Gurusinga as the adopted child of the heir and entitled to receive the heir's property, because the judge considered the juridical aspect of where the Plaintiff was. is the adopted son and only heir of Langsung and Silo. The implications of the decision for the legal protection of the inheritance rights of adopted children in Indonesia have contributed to strengthening the legal protection of adopted children for the inheritance of their adoptive parents.

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### INTRODUCTION.

Having offspring in a marriage is something that is dreamed of in a family to be able to continue the family line. For families who do not have children, they can get children through

various means, such as adopting/raising other people's children, either their own or other people's children, and becoming adopted children themselves. In Indonesia, adopting or caring for someone else's child has different objectives, procedures and legal consequences depending on the customs, religion or worldview adopted by the community itself. There are those whose aim is solely to continue the offspring, there are those which aim for the care and welfare of the child or have both aims, namely both to continue the offspring and for the care and welfare of the child.

Adoption of children is not something new in Indonesia because this is something commonly done by Indonesian society. It's just that the methods and motivations vary according to the legal system adopted in the area concerned and adoption of children has recently been widely discussed and has received attention from various parties. Adoption of children can be carried out in different ways and for different purposes, in accordance with the legal system and legal feelings that live and develop in the area concerned. 5 Fahmi Al-Amruzi is of the opinion that adopted children and child adoption institutions are actual problems in the midst of society, not only in the present but has existed since pre-colonial times in the lives of indigenous peoples in the archipelago.<sup>6</sup>

The main goal of adoption is all about getting better, especially the welfare of the adopted child in his position to receive property from his adoptive parents' inheritance. When a husband and wife decide to adopt a child, and have fulfilled the provisions of the laws and regulations, the child's parents will become the adoptive parents of the adopted child, as according to Article 1 number (4) of Government Regulation Number 54 of 2007 concerning Implementation Adoption of Children states that "Adoptive parents are people who are given the authority to care for, educate and raise children based on statutory regulations and customs". By adopting a child, responsibility for the child is transferred, namely from the biological parents to the adoptive parents.

In order to be able to adopt in Indonesia, the main purpose of adopting or adopting a child in Indonesia is only for the best interests of the child to provide welfare and protection for the children. 9 Generally, a child is the heir of his parents (heir), the heir is the person who leaving assets to be distributed among the entitled people (heirs) after death. 10 Heirs are people who have the right to receive inheritance from the heirs. There are heirs appointed by law who are called general title heirs (ab intestinalto), and those who are appointed according to a will are called special title heirs. 11 However, the situation will be different if the child is not a biological child, the adopted child is a legitimate child who was adopted. based on a court decision, different from biological children born after marriage and of the same blood as their father and mother.

Inheritance law in Indonesia regulates the inheritance rights of biological children or children who are the same blood as their parents who are born after a legal marriage. However, inheritance law in Indonesia does not regulate the inheritance rights of adopted children who are adopted as children based on a court decision because they are not biological children or are not related to their parents. The problem of adoption still often occurs, especially regarding inheritance or inheritance rights from adopted children. Based on Law Number 1 of 1974 concerning Marriage, it is not regulated regarding adopted

children and is not regulated regarding the position of adopted children in receiving inheritance rights.

Inheritance is a part of family law which has an important role in society.<sup>14</sup> This is because inheritance law is part of civil law and a small part of family law.<sup>15</sup> Inheritance law has very close ties or relationships with the scope of human life, because in general every human being will definitely go through a legal event, namely death. <sup>16</sup> The legal consequences that arise after a person's death are related to the rights and obligations of the person who died, so that inheritance arises. <sup>17</sup> Even when a child is legally adopted according to law, the protection is often less than that of legal status. adopted children, especially when the adoptive parents die leaving behind adopted children, who should have legal status.

## Literature Review

### Legal Protection Theory

The emergence of the concept of legal protection basically starts from the meaning that the law protects a person's interests by giving him the power to act in fulfilling those interests. The granting of power, or what is often called rights, is carried out in a measurable manner, in breadth and depth. According to Paton, an interest is the object of a right, not only because it is protected by law, but also because there is recognition of it. Rights not only contain elements of protection and interests, but also desires.

The theory of legal protection was developed by CST Kancil, Philipus M. Hadjon, and Satjipto Raharjo. According to CST Kancil, legal protection is a narrowing of the meaning of protection, in this case only protection by law. The protection provided by law is also related to the rights and obligations, in this case, which humans have as legal subjects in their interactions with fellow humans and their environment. As legal subjects, humans have the right and obligation to take legal action.

Philipus M. Hadjon gave his opinion that legal protection is the protection of honor and dignity, as well as the recognition of human rights possessed by legal subjects based on general provisions of freedom or as a collection of regulations or rules that will be able to protect something else. <sup>38</sup> Meanwhile Satjipto Rahardjo, stated that legal protection is providing protection for human rights that are harmed by other people and this protection is given to the community so that they can enjoy all the rights granted by law.

Lili Rasjidi and B. Arief Sidharta said that law was developed and needed by humans precisely based on the product of human judgment to create conditions that protect and promote human dignity and to enable humans to live a normal life in accordance with their dignity.

The theory of legal protection can be a relevant analytical tool in answering the second and third problems related to how judges consider legal considerations in providing legal protection for the rights of adopted children to the inheritance of adoptive parents in Supreme Court Decision Number 3626 K/Pdt/2016 and what are the implications of the Court's Decision Agung Number 3626 K/Pdt/2016 regarding the legal protection of the inheritance rights of adopted children in Indonesia. As in legal protection theory, the state has an obligation to protect the human rights of every citizen, including protecting the right

to property ownership. In the case of adopted children, the Child Protection Law has provided a clear legal umbrella that adopted children have the same rights as biological children, including the inheritance of their adoptive parents. Thus, the theory of legal protection can be a basis for analysis that the state through this law has provided a form of legal protection to adopted children in the form of legal certainty regarding the inheritance rights of their adoptive parents. This is important for the realization of justice and the fulfillment of children's human rights without discrimination. So the theory of legal protection is relevant as a perspective for analyzing this third problem.

### **Understanding Adopted Children**

The definition of child in Law Number 1 of 1979 concerning Child Welfare states that a child is someone who has not reached the age of 21 years and is not married. Children in this sense are children who are Indonesian citizens, namely native Indonesians and other nations who are legalized by law as citizens. Requirements regarding citizenship are determined by law (1945 Constitution, Article 26). Except that the definition of a child according to the concept in the Convention on the Rights of the Child is defined as a person who is only 18 years old.

The differences regarding children in civil law are closely related to the understanding of adulthood. Indonesian law itself regarding child limits has different determinations/standards. The differences themselves are differentiated according to written and unwritten provisions. Benchmarks for this include:

- a. According to the Civil Code, Article 330 of the Civil Code states:
  1. According to the boundary between being immature (*mindedejerigheid*) and being an adult (*meerderjarigheid*), namely 21 years, except: a) The child was married before the age of 21 years. b) Supervision (*Venia aetatis* Article 419).
  2. State that the dissolution of a marriage that occurs before a person is 21 years old has no influence on his or her maturity status.
  3. Mention that a minor who is not under parental authority will be under guardianship.
- b. Law Number 1 of 1974 concerning Marriage

This law does not directly regulate the issue of measuring when a person is classified as a child, but it is implicitly stated in Article 6 paragraph 2 which contains provisions regarding marriage requirements for a person who has not reached the age of 21 years who must obtain permission from both parents. Article 7 paragraph 1 contains the minimum age limit for marriage for men, 19 years and 16 years for women. From the provisions of the articles in Law Number 1 of 1974, it can be seen that those included in the child category are women who are not yet 16 years old and for men who are 19 years old.

According to Hilman Hadikusuma, drawing the line between immature and adult does not need to be a problem, therefore in reality even though a person is not yet an adult, he can carry out legal actions, for example immature children carry out buying and selling, trading and so on even though they are not yet mature. marry.

c. According to Customary Law

According to customary rules, there are no definite provisions on when a person can be considered an adult and has the authority to act. The results of R. Soepomo's research in Irma Setyowati Soemitro Concerning West Java Civil Law explained that the measure of a person's maturity is seen in terms of:

1. Can work alone (independently).
2. Capable of doing what is required in social life and being responsible.
3. Can manage your own assets.<sup>59</sup>

Based on the provisions above, it can be concluded that According to customary law, the measure of a person's maturity is not based on age but on certain things that exist. Likewise in Islamic law, maturity limits are not based on age but from the time there are signs Existing signs that are sufficient to meet the adult requirements are good for children both boys and girls. An adopted child is someone else's child who is adopted by either member closest relatives and those who are not related according to local customary laws to be maintained. The following can be stated

Hilman Hadikusuma's opinion: An adopted child is someone else's child who is officially adopted by adoptive parents according to local customary law for the purpose of continuing offspring and/or maintaining household assets. Meanwhile, according to Soerojo, Wigjodipoero provides limitations as follows: "Adoption (adopting a child) is an act taking another person's child into one's own family in such a way, so that it is between the person who picks up the child and the child who is picked up the same family law arises, as that which exists between parents and their own biological children." <sup>61</sup> Then Mahmud Siat, like quoted briefly by Fatchu Rahman, he differentiated 2 (two) various meanings of adopted child:

1. The integration of a person with a child who is known to be someone else's child into his family, he is treated as a child in terms of love, provision of living, education and services for all his needs, rather than being treated as part of his own lineage's children
2. Namely what is meant by the word "tabanni" (absolutely adopting a child). According to the Shari'a, customs and customs that apply to humans. Tabanni is the inclusion of a child who is known to be someone else's child into his family who has no ancestral ties to him, as a legitimate child but who has the legal rights and conditions of being a child.

From all the definitions above, it can be concluded that children Appointment is a legal act that gives a person a position another person's child who is the same as a legitimate child, in terms of getting love, providing a living, service and education, however In terms of inheritance, adopted children are not the same as biological children.

In Javanese society, adopted children can be interpreted as children pupon or adopted child. From the opinion above, the author tries to concluded that adopted children according to customary law are children of other people's families who are included or adopted by the new family (which raised) as a child. That new family or other people can be interpreted as

legal husband and wife or individuals who have committed or carrying out a marriage, an adopted child can be interpreted as a child in the sense actual (immature) or adult person,  
**Understanding Child Adoption**

R. Soepomo, provides a formulation regarding child adoption (adoption) that adoption can be interpreted as an act of taking someone else's child to be looked after and treated as one's own biological child). Adoption can be interpreted as an act of taking someone else's child to be cared for and treated as one's own biological child based on mutually agreed provisions and is valid according to the laws in force in the community concerned.

Furthermore, the definition of child adoption can be interpreted as a legal act that transfers a child from the legal authority of the family of his parents/guardians who, legally, to another person who is responsible for the care, education and raising of the child, into the authority of the adoptive parent's family. based on the decision/determination of the District Court.

Furthermore, the opinion of a Dutch legal scholar who specifically studies child adoption, namely J.A. The Memorandum provides the formulation that adoption is a legal institution (eer. rechtsinstelling) through which a person moves into another (new) family bond, and in such a way, as to give rise in whole or in part to the same legal relations as between a child who is born legal with his parents. Furthermore, several types of child adoption are stated, namely:

- a. Perfect adoption, namely the adoption of a child with the aim of severing the child's familial relationship with the original family and by establishing a new familial relationship between the adoptee and the person adopted.
- b. Simple adoption, namely adoption of a child that does not sever ties with the original family.
- c. Direct adoption, namely the adoption of a child that is carried out directly between the biological parents and the adoptive parents.
- d. Adoption of a child by a woman or man, namely the adoption of a child carried out by a person who is not in a legal marriage or is unmarried.
- e. Posthumous adoption is a request for the adoption of a child submitted by one of the husbands or wives who has lived the longest, after the death of the other husband or wife, with the condition that if it turns out that when the time comes to take over the adoption, the child is still married, but death prevents the adoption of the child.

In the description above, it is known that in child bonds there are several aspects involved, namely the biological parents, the parents who adopted them, the adopted children and the legal provisions that regulate them. The biological parent is the party who provides the child to be adopted, the adoptive parent is the parent who will adopt the child, the adopted child is the party who will make the object of being adopted, while the governing law is the law that regulates the procedures for adoption of children that apply in a country where the child and his biological parents reside, and can also mean regulations that are customary for the local community (customary law). Arif Gosita stated that an

adopted child is a party who cannot avoid treatment that benefits or harms him or herself, becomes a victim of someone's active or passive actions.

## METHOD

Adoption of a child is a societal need and is part of the family law system, because it concerns the interests of individuals in the family. Child adoption institutions, which have become part of society's culture, will follow the development of society itself. The facts show that the institution of child adoption is part of the law that exists in society, so the Dutch East Indies government tried to make a separate regulation regarding child adoption, namely by issuing Staatsblad Number: 129 of 1917, which regulates child adoption. Staatsblad 1917 Number 129, as stated by the Dutch Government, is a completeness of the existing Civil Code (BW), so to present adoption data according to this version of Western Law, it simply departs from that staatsblad. According to the provisions in Staatsblad 1917 No. 20 states that:

Those who can adopt children are men who are married and do not have sons. Meanwhile, those who can be adopted as children are only boys who are not yet married and who have not been taken as adopted children by someone else. The adopted or adopted child then uses the surname of his adoptive parents and has the same legal status as the biological child of his adoptive parents and the legal relationship between the adopted child and his biological parents is severed.

Based on jurisprudence (Decision of the Jakarta Special District Court in 1962), the provisions in S. 1917 No. 129 have undergone changes to allow the adoption of female children. From the provisions mentioned above, it can be concluded that the purpose of adopting children for Chinese people as regulated in S. 1917 No. 129, is to continue or continue the descent in the male line. 114

So, the relationship between an adopted child and his biological parents after adoption according to the Civil Code (BW) is to have the same legal status and the legal relationship between the adopted child and his biological parents is terminated. Specifically, the provisions of Articles 5 to 15 regulate the adoption of children for the Chinese community. Since then, Staatsblad 1917 Number: 129 has become a written legal provision that regulates child adoption for the Chinese community, and does not apply to the Indigenous Indonesian community. For indigenous Indonesian people, customary law applies, including the provisions of Islamic law. That's why Staatsblad Number 129 of 1917 was issued, specifically Articles 5 to 15 which regulate the issue of adoption or adopted children for the Chinese community, or what is commonly known as the Foreign East group. Article 5 Staatsblad Number: 129 of 1917 regulates who is allowed to adopt children as follows:

A man who is married or has previously been married and does not have any male offspring, either by birth or by adoption, may adopt a male child as his child. This provision states that adoption may only be carried out for boys, while adoption of girls is invalid. In the provisions of Article 5 paragraph (2) Staatsblad 1917 Number: 129, it is stated that the adoption of such a child must be carried out by a man together with his wife or if it is carried

out after the marriage has been dissolved by him alone. The provisions of Article 5 paragraph (3) of Staatsblad 1917 Number: 129 state, if a widowed woman who has not remarried and her husband who has died does not leave any offspring as included in paragraph one of this article, then she may adopt a male child. son as his adopted son. Meanwhile, if the husband who has died, in his will, has stated that he does not want the child to be adopted by his wife, then the adoption may not be carried out.

From these provisions, those who are allowed to adopt children are a husband and wife who do not have male children. A widow who does not have sons or a widow who does not have sons, provided that the widow in question is not left with a trust, namely in the form of a will from her husband stating that he does not require the adoption of children. In this case, there is no concrete regulation regarding the age limit and if an unmarried person carries out the act of adopting a child.

In the context of implementing child protection, it is very important to look at the reasons for adopting a child so that it really needs to be taken into account, and it must be ensured that it is done in the best interests of the child. Reason is an understanding that surrounds the driving force, the impulse that causes someone to do something. For example, someone becomes a member of an association, their motivation includes wanting something new with the members of the association. In relation to adoption, it means that there are reasons or motivation or encouragement behind someone carrying out the legal act of adopting a child.

In practice, adoption among Indonesian society has several kinds of goals and motivations. The aim is, among other things, to continue the offspring if in a marriage there are no offspring. This motivation is very strong for married couples who have been diagnosed as unable to have children/impossible to give birth to children for various reasons, such as general infertility. Even though they really long for the presence of a child in their family.

According to the Staatsblad of 1917 No. 129, adoption of a child is carried out on the grounds that a man who is married or has previously been married does not have legitimate male descendants in the male line, either because of blood relationship or because of adoption. According to the Staatblad, adoption is carried out because in a marriage there is no offspring/son.

In line with developments in society today, it shows that the aim of child adoption institutions is no longer solely based on the motivation of continuing offspring or maintaining marriage, but is more diverse than that. There are various motivations that encourage people to adopt children, not infrequently because of social, economic, cultural or political factors. 121 Based on existing sources, in this case there are several alternatives that are used as a basis for implementing child adoption. Viewed from the adoptant's perspective, there are reasons:

1. The desire to have children or offspring.
2. The desire to make friends for himself or his child.
3. The desire to express compassion towards other people's children in need.
4. There are legal provisions that provide opportunities to adopt a child.



5. There are parties who recommend the adoption of children for the interests of certain parties.

## RESULT

### Legal Strength of Supreme Court Decisions in the Judicial System in Indonesia

According to the term, a decision is a statement made by the judge in written form and spoken by the Judge in open court for general as a result of the examination of the lawsuit (contentious). Several definitions of decisions according to legal scholars are presented below.

1. According to Sudikno Mertokusumo, what is meant by a Judge's decision is a statement which the Judge as a state official who is authorized to do so, pronounces at the trial and aims to end or resolve a case or problem between the parties.
2. According to Mukti Arto, a decision is a judge's statement stated in written form and pronounced by the judge in a trial open to the public, as a result of the case examination (contentius).

Decisions are a product of judges in handling cases frequently connoted as the judge's own crown. A crown occupies position as an honorary judge in question. His dignity as a judge will be seen from the crown he wears. The better the crown worn by a judge will make the judge look more authoritative and dashing. Thus, the dignity of a judge can essentially be measured by how much the decisions he makes have certain qualities.

A decision is an integral part of the existence of its maker. The creator is a judge who in theory should depict a figure ideal human according to the expectations of the world of law enforcement, including those contained in the code of ethics and behavior of judges that has been established by the Supreme Court and the Judicial Commission.<sup>148</sup> Therefore, as written by Ade Rizky Fachreza, there are at least three general principles that must be implemented considered by the judge when making a decision, including:

1. Legal Justice means that the judge's decision must be made with the aim of guaranteeing, protecting and fulfilling a sense of justice for everyone while adhering to the applicable laws and regulations;
2. Social Justice means that the judge's decision must be made with the aim of guaranteeing, protecting and fulfilling a sense of justice for everyone while still considering the values, rules and socio-cultural norms that apply in society;
3. Moral Justice means that the judge's decision must be made with the aim of guaranteeing, protecting and fulfilling a sense of justice for everyone while still considering ethical and moral aspects.

In addition to these principles, there are several things for judges who decide, internally, what can be used as a measure of product credibility the verdict. According to Busyro, as muhasabah the judge can ask questions to him about 4 things, namely: Was the verdict really true, was it honest when handed down, was it fair, the decision handed down, and was it useful the decision handed down. <sup>150</sup> The court decision has 3 powers, namely:

1. Binding strength (bindende kracht),
2. Strength of evidence (bewijzende kracht),

3. Execution power (executoriale kracht).

The three powers of the decision can be explained as follows:

1. Binding Strength

Decisions that have obtained permanent legal force cannot be contested any longer. Decisions that have legal force must be binding. In legal proverbs it is called "res judicata pro veritate habetur" which means that a definite decision is automatically binding, what the judge decides is considered correct and the parties involved in the case are obliged to comply with the contents of the decision. 151 In principle, the court decision is to resolve the dispute between them as stated in what they want.

The parties to the case must submit and obey the decision handed down by the court. They must obey and respect the decision and must not take action that is contrary to the decision, because the decision has binding legal force on the parties involved in the lawsuit (Article 1917-1920 BW). This is in a positive sense. In the negative sense, the binding force of a decision is that the judge may not decide on a case that has been decided before between the same parties and regarding the same subject matter. Repetition of this action will not have legal consequences as stated "nebis in idem". In our procedural law, decisions have binding legal force, both in a positive sense and in a negative sense, as in Article 1917-1920 BW. The binding nature of the decision aims to determine a right or a legal relationship between the parties involved in the case.

2. Strength of Proof

As explained earlier, decisions must be made in writing. The aim is to be used for appeals, cassation or also for execution. The decision itself is an authentic deed that can be used as evidence. A judge's decision which has permanent legal force can be used as evidence by the parties in the case, as long as it concerns the events specified in the decision. Because the judge's decision is concrete (concreto), the event that has been determined is considered true, thereby obtaining 62 perfect evidence that applies both to the parties involved in the case and third parties.

3. Executorial Power

Decisions that have obtained permanent legal force or have definite legal force, have definite force, have the power to be implemented (executorialekracht, executionary power). The party declared defeated is obliged to carry out the decision voluntarily. If the losing party does not want to carry out the contents of the decision, then the decision can be enforced by force by the Chairman of the court. The court decision can only be implemented if there is an executorial title which reads "For the sake of justice based on belief in the Almighty God", if these words are not included then the decision cannot be executed (Article 4 paragraph (1) of Law No. 14 of 1970 jo. Article 57 paragraph (1) Law No. 7 of 1989). Only decisions that are condemnatory in nature require execution, while decisions that are declaratory and constitutive do not require execution.

## The Impact of Supreme Court Decision Number 3626 K/Pdt/2016 on the Development of Inheritance Law for Adopted Children

Regarding inheritance, adopted children can inherit their parents' assets and also inherit their adoptive parents' assets, in accordance with Supreme Court jurisprudence No.37/k/Sip/1959, dated 18 March 1959. In this case, children are not heirs to property. origin (inheritance) of his adoptive parents, but he gets benefits as a member of the household, also after his adoptive parents die, the adopted child gets a share of the inheritance that is not sufficient for the adopted child, if the adoptive parents do not have biological children. This is in accordance with the decision of Raad Justisi Jakarta dated 26 May 1939 that if the gono-gini goods are not sufficient for the distribution of inherited assets by the adoptive parents' heirs, then the adopted child may ask for a share of the original assets so that according to the circumstances it is considered fair.

The Civil Code that we inherited from the Dutch East Indies Government does not recognize regulations regarding child adoption institutions. Therefore, for the Chinese group, arrangements are made in writing in the Stb. 1917 Number 129, which came into effect on May 1 1919, while for indigenous Indonesian groups their respective customary laws apply. Stb. 1917 Number 129 regulates adoption in Chapter II Articles 5 to 15. From this Stb, adoption of children may only be carried out by a husband and wife who do not have sons, a widower who does not have sons or a widow who does not have sons. have sons, as long as the deceased husband did not leave a will which stated that he did not want his widow to adopt the child. 155 Then only Chinese men who were married, childless and had not been adopted by someone else could be adopted.

The legal consequences arising from adoption/adoption according to the Staatblat are contained in Article 11 and Article 14. Article 11 Stb 1917 Number 129, states that adoption by law causes the adopted person to use the surname of his or her adoptive parents. Then Article 14 states that adoption by law causes a break in the relationship civil relations between the child concerned and his or her own biological parents. The most obvious legal consequences are legal consequences in inheritance law. Adoptandus no longer inherits from his original blood family, instead he now inherits from the family of the father and mother who adopted him. In practice, the courts have pioneered the legal consequences of adoption between children and parents as follows:

1. Blood relationship, regarding this relationship it is considered difficult to sever the child's relationship with the biological parents.
2. Inheritance relations, in the case of inheritance, it is explicitly stated that the child will no longer inherit from the biological parents. Adopted children will inherit from their adoptive parents.
3. Guardianship relationship, in this guardianship relationship the child's relationship with the biological parents is severed and transferred to the adoptive parents. This change only begins when the decision is pronounced by the court. All parental rights and obligations are transferred to the adoptive parents.
4. Relationship between clan, title, position, customs, in this case the child will not get the surname or title from the biological parents, but from the adoptive parents.

Appointment is a legal action and therefore will of course also give rise to legal consequences. Therefore, as a legal consequence of Adoption of children according to Islamic law is as follows:

1. Transfer of responsibility for maintenance for daily life, education costs and so on from original parents to adoptive parents (Article 171 letter (h) Compilation of Islamic Law). This does not mean that biological parents cannot help with the child's care, only that they cannot be required to transfer responsibility for care for their daily life, education costs and so on from the original parents to the adoptive parents (Article 171 letter (h) Compilation of Islamic Law ). This does not mean that biological parents cannot help with the child's care, only that they cannot be sued for it.
2. Adoption of a child does not sever the blood or lineage relationship between the adopted child and the biological parents and their family, so that the marriage relationship and mutual inheritance relationship remains valid between them.
3. Adoption does not create a blood or lineage relationship between the adopted child and his adoptive parents, so that between them there is no marriage relationship or mutual inheritance relationship.
4. Adoption of a child creates a legal relationship in which the responsibility for caring for his daily life, education costs and so on is transferred from the original parents to the adoptive parents (Article 171 letter (h) Compilation of Islamic Law).

The most obvious legal consequences are legal consequences in inheritance law. Adoptandus no longer inherits from his original blood family, instead he now inherits from the family of the father and mother who adopted him. In Article 14 of the Staatblad, it is clearly stated regarding the severance of civil relations originating in descent due to birth between the adopted person and the two original parents, as well as the blood family and marriage of the original parents. There are several exceptions to this principle, as stated in Article 14 sub 1-5. The exceptions are in the areas of:

1. Degrees of consanguinity and consanguinity in the field of marriage.
2. Penal provisions based on heredity.
3. Regarding the calculation of case costs and hostage taking.
4. Regarding evidence with witnesses.
5. Regarding acting as a witness in making an authentic deed.

The act of adopting a child has legal consequences. According to the provisions of Staatblad 1917 No. 129 legal consequences of adoption are:

1. Children who are legally adopted obtain the name of their adoptive parents.
2. Adopted children are defined as children born from the marriage of their adoptive parents.<sup>157</sup>

From the information above, it can be understood that according to Statutes Blad 1917 No. 129, adopted children have the status of being the own (biological) children of their adoptive parents, just like children born from the marriage of their adoptive parents. Likewise, adopted children become heirs of their adoptive parents. The reason for adopting a child according to Stb is to continue/continuing the lineage. This is emphasized again by Article 12 (1) Stb. 1917 Number 129, reads: If a husband and wife adopt a son, then the

child is considered to have been born from their marriage. Furthermore can be added, the reasons for adopting, are:

1. Don't have children and want to have children to look after and look after them later in old age.
2. To maintain marital ties or family happiness.
3. There is a belief that if you have children at home you will be able to have your own children.
4. Compassion for abandoned children or whose parents are unable to care for them or for the sake of humanity.
5. To make friends for existing children.
6. To increase/obtain workers, etc. From the information above, it can be concluded that adopting a child according to civil law (BW) has the legal effect that the adopted child has the same position as a biological child and receives a share of the inheritance from his adoptive parents. What is common is that adopted children become the heirs of their adoptive parents as far as mutual assets are concerned. To that extent he has the same rights as a biological child. He has no right to inherit property from his adoptive parents, unless there is a voluntary gift as reported by Cilacap. Supreme Court Decision dated 4 July 1961 No. 384 K/Sip/1961 confirms this by saying, according to customary law in Central Java, an adopted child has no right to property left behind by his or her adoptive parents.

### **Contribution of Supreme Court Decision Number 3626 K/Pdt/2016 in Strengthening Legal Protection of the Inheritance Rights of Adopted Children**

Article 1 number (2) of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection states that legal protection of children is all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity, and receive protection from violence without discrimination. Legal protection for children is protection for all children without exception, including children who are in conflict with the law. The Child Protection Law emphasizes that the accountability of parents, families, communities, government and the state is a series of activities carried out continuously for the protection of children's rights.

This action is intended to create the best life for children who are expected to be the nation's successors who are intelligent, brave, have nationalism imbued with good morals and uphold the values of Pancasila, and have the strong will to maintain the unity of the nation and state. Efforts to protect children need to be implemented as early as possible, namely from the time the fetus is in the womb until the child is 18 (eighteen) years old. Starting from the concept of complete, complete and comprehensive child protection, the Law on Child Protection places the obligation to provide protection to children based on the principles, namely:

1. Non-discrimination;
2. The best interests of the child;
3. The right to life, survival and development; And

#### 4. Respect for children's opinions.

Child protection as a law (written or unwritten) must guarantee that children can actually carry out their rights and obligations. The legal aspect of child protection must focus more on children's rights which are regulated by law and not on obligations because legally (juridically) children are not yet burdened with obligations. The scope of studies regarding child protection can be broadly divided into two main meanings:

1. Juridical (both within the scope of public law and civil law);
2. Non-juridical (social, health and education sectors).<sup>161</sup>

Child protection is defined as all efforts aimed at minimizing, preventing, rehabilitating and empowering children who experience child abuse, exploitation and neglect, in order to ensure the child's survival and normal growth and development, both physically, mentally and socially. The presence of offspring is not only a means of bonding in the family, but also as successors and heirs of the property handed over by their parents. Even in certain tribal or clan communities, the presence of children with the aim of becoming the successor of the family is the main thing to avoid the extinction of the tribe or clan. Therefore, if a tribe or clan that has no descendants feels worried about facing this reality, the tribe or clan will adopt a child, with the reason of continuing their lineage, and there is also adoption which is carried out to give legal status to the adopted child so that can be better and more feasible than the previous condition.

By adopting a child, responsibility for the child shifts, namely from the biological parents to the adoptive parents. Responsibility To be able to look after, protect and pay for the child's living and educational needs is the responsibility of the adoptive parents. So, adoption of a child is carried out through local customs and customary law, so after the death of the adoptive parents, the rights obtained by the adopted child to the property or assets handed over by the adoptive parents do not receive clarity or legal certainty. Likewise, the legal relationship between an adopted child and his biological parents is also unclear regarding whether an adopted child can still be the heir handed over by the biological parents.

Adopted children are children who are not related by blood to their parents but are adopted to be their own children and have the same treatment as biological children, so between the adopted child and the parents who adopted the child, a family relationship emerges that is the same as that of the biological parents. and his own biological children. The adoption of a child does not result in a severance of blood relations between the child and his biological parents. The biggest goal in adopting a child is to improve the welfare of the adopted child himself, especially in his position of obtaining the inheritance of his adoptive parents. <sup>163</sup> To be able to carry out an adoption in Indonesia, the main thing in adopting a child or adoption in Indonesia is simply to fulfill the interests of the best children in order to provide welfare and protection for children.

In Staatsblad Number 129 of 1917 which explains that an adopted child and the biological children of adoptive parents have the same rights. Therefore, adopted children in the family have the same position as biological children or children born to adoptive parents. This can also have an impact on the equality of rights and obligations that adopted children

have, including in the distribution of their adoptive parents' inheritance if they die. So the position of adopted children in obtaining inheritance assets has the same rights as biological children regarding legitimate children who are children born as a result of a legal marriage. Therefore, the position of adopted children, even though they are not biological children, has the same position in the eyes of the law, especially in the distribution of inheritance.

Provisions in Article 852 of the Civil Code which explain the form of rights in inheriting the inheritance of an adopted child which has been legally recognized according to law even though it is not based on a will. Meanwhile, the right to inherit an adopted child who is legally adopted in the eyes of the law is related to the assets of his biological parents. Basically, the inheritance system that applies in the Civil Code is a limited Parental or Bilateral system, in which all family members are blood related to their father's and mother's descendants. However, apart from hereditary inheritance or the *ab intestato* inheritance system contained in the law without a will, a will or testament is a deed which contains a person's statement regarding his wishes, which can take place after he dies and can be taken back by him.

Regulations regarding the inheritance rights of adopted children have not been clearly regulated in Indonesia, an adopted child can only receive an inheritance based on a testamentary gift. The inheritance of an adopted child is not regulated because the adopted child is not related by blood or marriage to the testator, so that is what causes an adopted child not to have the right to inherit from the testator. However, arrangements regarding the inheritance of adopted children can be considered to be regulated in the future, especially if an adopted child already has a very close and deep relationship with his adoptive parents, especially if the child has been cared for since he was a baby and is considered a biological child here.

## CONCLUSION

Conclusion Of This Paper Are: 1. The legal position of adopted children regarding the inheritance of adoptive parents based on Supreme Court Decision Number 3626 K/Pdt/2016 is legal which is in accordance with the adoption decree issued by the Kabanjahe District Court Number 08/Pdt.P/2003/PN Kbj. dated 28 May 2003 which determined that Rehulina Br Gurusinga was the adopted child and sole heir of Langsung Karo-Karo Gurusinga and Silo Br Sembiring. 2. The judge's legal considerations in providing legal protection for the adopted child's rights to the inheritance of the adoptive parents in the Supreme Court Decision Number 3626 K/Pdt/2016 by determining Rehulina br Gurusinga as the adopted child of the heir and entitled to receive the heir's property, because the judge took into account the juridical aspect where the Plaintiff is the adopted child and sole heir of Langsung and Silo in accordance with the adoption decree issued by the Kabanjahe District Court Number 08/Pdt.P/2003/PN Kbj. And the only heir of Langsung Karo Karo Gurusinga and his wife Silo Boru Sembiring in accordance with the Certificate of Heirship in the name of the Plaintiff signed by witnesses Ir. The first Sembiring, Purnama Sembiring, was recognized by the Head of Ward V, Tanjung Sari Village, Medan Selayang District and signed by the Head of Tanjung Sari Village and the Head of Medan Selayang

District. 3. The implications of the Supreme Court Decision Number 3626 K/Pdt/2016 for the legal protection of the inheritance rights of adopted children in Indonesia have contributed to strengthening the legal protection of adopted children for the inheritance of their adoptive parents. This case illustrates the legal conflict between adopted children and other parties in fighting over the inheritance of adoptive parents. Research into this case can provide a deeper understanding of the rights of adopted children to the inheritance of their adoptive parents and how the law protects these rights. The Supreme Court's decision in this case confirms that legally adopted children have the right to the assets inherited from their adoptive parents, reflecting the legal protection given to adopted children in the context of inheritance. This case can be a reference for law and jurisprudence in providing protection for problems with adopted children in the future.

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