

## The Juridical Analysis of Changes in Name Writing on Child's Birth Certificate

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**Abstract.** Name is a sign that is needed to distinguish one person from another which is also used as a self-identification, as well as identification of a person as a legal subject. The name is a very important identity because the name is a very personal attribute, which has a function as a person's identity, so if someone changes or changes their name, a name change process is needed. Therefore the purpose of this research is to find out the procedure and to analyze the change of name on a child's birth certificate in the conception of legal certainty, as well as to find out the juridical implications of changing the writing of a name on a child's birth certificate. The approach method used is based on legal research that uses a normative approach, because this research will examine the rules, regulations and principles related to the process of implementing a name change and the legal implications of changing a name.

*Keywords:*; Birth; Change; Implication.

### 1. Introduction

Law has a very big role in social life in the midst of society. We can see the big role of law from order, peace and the absence of tension in society, because the law regulates, determines rights and obligations and protects the interests of individuals and society. In human life, there is an event that is regulated by law, so that event is called a legal event. A legal event is a human action, if the human mind can arrange it, for example making a deed, making an agreement and so on. Furthermore, a legal event is a legal event outside of human action, when humans do not have the power to determine it, if it is beyond the possibility of human intervention, for example: birth, death and expiration.<sup>1</sup> The existence of children is a mandate as well as a gift given by God Almighty, who we must

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<sup>1</sup>HFA.Volmar, 1990, Family Law According to the Civil Code, Tarsito, Bandung, p. 43.

always protect because in him inherent dignity and rights as human beings that must be upheld and every child born must get his rights without the child asking.<sup>2</sup>

The name is important, because the name is a child's right as self-identity and citizenship status as a legal subject according to Act No. 23 of 2002 which has been revised by Act No. 35 of 2014 concerning Child Protection Article 5 which regulates Children's Rights and Obligations . Meanwhile, Article 5 reads "every child has the right to a name as a self-identity and citizenship status". Based on that name, it can already be known whose ancestry the person concerned is. Where a name is very important in matters of inheritance and other matters related to kinship. FX Suhardana said that the name is a very important identity because the name is a very personal attribute, which has a function as a person's identification.<sup>3</sup>The event of changing the name is one part of the population administration, therefore the name change or name change must be determined by the district court. Henceforth, the court's decision is reported to the implementing agency, namely the Population and Civil Registry Service to record and change the name on the population document. The name as the identity of each person used shows self-identity that distinguishes it from other individuals, besides that the name is important because it is used as proof of a person's identity as a legal subject, so if there is a wrong name on a person's identity card it needs to be replaced and taken care of immediately.<sup>4</sup>Management of changing a person's name is carried out through the District Court and the Office of Population and Civil Registry. From the background above, the authors are interested in researching the concept of changing names in children.

## **2. Research Methods**

The approach method used is normative juridical, namely a deductive research that begins with an analysis of the articles in the laws and regulations that regulate the existing problems.<sup>5</sup>The legal data that has been collected through the legal inventory process is then classified and further analyzed in depth by exploring the basic principles, values and norms contained therein. Then check with other laws and regulations to find the level of synchronization, whether there are inconsistencies between these laws and regulations. This means examining the norms governing changes in the writing of names, regarding birth certificates.

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<sup>2</sup>Rika Saraswati, 2015, Child Protection Law in Indonesia, Print II, PT Citra Aditya Bakti, Bandung, p.1

<sup>3</sup>FX Suhardana, 1992, Civil Law 1 Student Handbook, PT Gramedia Pustaka Utama, Jakarta, p.15.

<sup>4</sup>Novita Trianto Hasibuan, "Parents' Expectations to Name Children in the Mandialing Area". *Kultura Education Journal: Journal of Language, Literature and Culture*, Vol. 4, No. 1, 2017

<sup>5</sup>Setiono. (2010). *Understanding of Legal Research Methodology*. UNS Postgraduate: Surakarta, page: 45

### 3. Results and Discussion

#### 3.1. Conception of changing the name on a child's birth certificate in legal certainty

Indonesia as a country of law, as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which reads that, "Indonesia is a country of laws, so that all aspects of life in society, nation and state must be based on legal norms. , meaning that all actions taken by Indonesian people must be based on the law in force in Indonesia.<sup>6</sup>According to civil law, people mean supporters of rights and obligations or subjects in law, so that someone has a position as a legal subject. Likewise what is meant by people in the Civil Code Book 1 Chapter I. Thus it can be said that every human being, both citizens and foreigners, is a legal subject who has rights and obligations to take legal actions.

According to the legal concept, people consist of natural persons (Natuurlijk persons) and legal entities (Rechts persons). Humans are legal subjects according to biological concepts, as natural phenomena, as cultural creatures created by God equipped with reason, feelings, and will. A legal entity is a legal subject according to a juridical concept, as a symptom of social life, as a human-created body based on law, has rights and obligations like humans.<sup>7</sup>Law as commander-in-chief determines every direction of policy in the State of Indonesia as well as recording birth certificates, a child can be called a legitimate child in the eyes of the law if the child can show valid evidence, of course one of them is authentic written evidence that can explain about the child so that the child has a definite and strong legal basis according to the provisions of the law that has been determined by the Civil Registry Agency, the event of recognition of a child cannot be done secretly but must be done in front of the Civil Registry Officer to get recognition First, the child must have written evidence.

Determining a person's status there are important events that occur, important events according to Article 1 number 17 of Act No. 24 of 2013 concerning Population Administration are events experienced by a person including birth, death, stillbirth, marriage, divorce, child recognition, legalization children, adoption, change of name and change of citizenship status. These events are very important matters so that written evidence is needed, whereas to have evidence in the status of the incident above, a person must register the event or incident at the civil registry institution, namely the Population and Civil Registry Service (Disdukcapil), thus that person will obtain written evidence in the form of a Civil Registry Deed. One of the important events that occurred was the name change or renaming. Name is a sign needed to distinguish one person from another as well as self-sign, as well as identification of a person as a legal subject. The name is a very important identity because the name is a very personal attribute, which has a function as a person's identification.<sup>8</sup>

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<sup>6</sup>Tan Kamello, 2011, Civil Law: People & Family Law, Medan. USU Press, Medan, p. 67.

<sup>7</sup>Abdulkadir Muhammad, 2011, Indonesian Civil Law, PT. Citra Aditya Bakti, Bandung, p.23

<sup>8</sup>FX Suhardana, 1992, Civil Law 1 Student Handbook, PT Gramedia Pustaka Utama, Jakarta, p.15.

The event of name change/name change is one part of population administration. That name change/name change is an important demographic event as explained in Article 1 point (17) of Act No. 24 of 2013 concerning Population Administration. That way the change of name or name change must be determined by the district court. Henceforth, the court's decision is reported to the Implementing Agency, namely the Population and Civil Registry Service to record and change the name on the population document. The name as the identity of each person used to show self-identity that distinguishes it from other individuals, besides that the name is important because it is used as proof of a person's self as a legal subject, so that from that name it can already be known whose offspring the person concerned is and if there is an incorrect name on someone's identity card, it needs to be replaced and taken care of immediately. The management of a person's name change is carried out through the District Court and the Population and Civil Registration Service.

In accordance with the provisions in Article 53 of Act No. 24 of 2013 concerning Population Administration it stipulates that the name change is carried out based on the decision of the applicant's local district court. Furthermore, the name change must be registered by the person who changes his name to the Civil Registry which issues the Civil Registration deed no later than thirty days after the resident receives a copy of the district court's decision. The civil registry will then make notes in the margins on the register of civil registration deeds and excerpts of the civil registration certificate. Every data in a person's identity must be the same and match, especially regarding the name on each person's identity card the name must be the same and written correctly one to another, such as in a birth certificate, identity card (KTP), Family card (KK), driving license (SIM), certificates and other documents. If there is a change in someone's name, all identity cards must also be changed, so that problems do not occur in the future. The process of implementing the name change is carried out through stages at the District Court and the Population and Civil Registration Service. At the District Court the applicant will submit an application for a change of name to obtain a Court order. And at the Population and Civil Registration Service to record the change of name and change of population documents according to the new name.

### **3.2. Human Rights Juridical Study of Name Writing Changes on Birth Certificates**

The Unitary State of the Republic of Indonesia as a state based on law is obliged to provide legal protection and certainty to its citizens, one of the legal protections provided by the government is the protection of children by regulating it in Law 23 of 2002 concerning Child Protection which has been amended by Law -Act No. 35 of 2014 as last amended by Act No. 17 of 2016 concerning the Child Protection Act. Every child has the right to survive, grow

and develop and is entitled to protection from violence and discrimination, as stated in the 1945 Constitution of the Republic of Indonesia Article 28B paragraph 2. Humans are born in this world and carry rights to themselves.

Children are the successors of their parents who will become the forerunners of leaders in the life of society and the state. The legal identity that a child acquires from birth must have a clear status, so that the child does not have any obstacles in the future, such as in social, political, cultural and legal processes. The child who is born must have a clear legal identity to ensure that the biological mother is legitimate so that socially there is no gossip in the community so that it can affect the child's psychology.<sup>9</sup>

Children's rights cannot be separated from the principles of human rights. Providing protection for children's rights is an application of human rights principles. The principles of human rights are:

1. First, human rights are universal and inalienable (universality and inalienability). This concept is understood that human rights are rights that are inherent in human beings. This right cannot be surrendered or revoked. Understanding this concept is in line with Article 1 of the General Declaration of Human Rights which emphasizes that every human being is born free and equal in dignity and worth.
2. Second, human rights cannot be divided (indivisibility).
3. Third, the fulfillment of human rights is interdependent and related to one another (interdependence and interrelatedness). In this context the fulfillment of human rights, especially the fulfillment of children's rights, is interrelated, for example in certain situations for the fulfillment of the right to education, the right to obtain information cannot be neglected. This shows that one right is interrelated with other rights in fulfilling human rights.
4. Fourth, the fulfillment of human rights must be equal and without discrimination (equality and non-discrimination).
5. Fifth, participate and play an active role (participation and inclusion).
6. Sixth, there is accountability and rule of law. In this case the state and policy makers are responsible for complying with human rights. The state and government in this regard must also comply with human rights norms and instruments. Likewise in terms of fulfilling children's rights, the state and government are obliged to fulfill children's rights, especially the right to obtain an identity.

The context of fulfilling a child's right to a birth certificate is a child's right that is vital and must be fulfilled by the state. In connection with the child's right to

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<sup>9</sup>Miladianur Wulandari and Lathifah Hanim, Implementation Of Changes In Biodata Writing Errors In The Birth Act According To Law No. 24 Of 2013 On Population Administration, Proceedings of the UNISSULA Student Scientific Conference (KIMU) 4 Sultan Agung Islamic University Semarang, 23 March 2021, ISSN, 2720-913x, p.134

obtain a birth certificate as a form of legal protection for children's rights, regulations have been issued governing the child's right to obtain an identity (birth certificate). As emphasized in Article 27 of Law 35 of 2014 which states: (1) every child born must be given an identity; (2) The identity must be poured into a birth certificate. Thus the understanding of Article 27 of Law 35 of 2014 clearly means that every time a child is born, a child has the right to have an identity made, including a birth certificate.

A birth certificate issued by an authorized official must be based on the ancestry of the parents, because the birth certificate/certificate proves that a child whose name is mentioned there is the child of the person mentioned in the relevant birth certificate, at least from the woman who gave birth to the child. , whose name is mentioned there. In addition, the birth certificate also states that the child concerned was born on a certain day and date. Therefore, a birth certificate is a resident document that provides evidence of the occurrence of a birth event that explains the child's name, gender, place and date of birth, parents' names and nationality.<sup>10</sup>

Changing or changing the name has juridical implications, both from a positive and negative side. The juridical implication of changing the name from the negative side, among others, is dual identity. Multiple identities can occur if a person who changes their name does not immediately register with the Population and Civil Registration Service. Before recording and changing the residence documents, a person who changes his name has two identities. From here, problems will arise that might occur. Another thing that can happen from changing names is that changing names is used as someone's tool to cover up their crimes. Like someone who is caught in a fraud case then changes his name to cover up his crime.

The juridical implications of changing names from a positive perspective include:  
a) Resident identity and legal certainty over the ownership of personal documents are protected

In terms of the interests of the residents, the Population Administration provides the fulfillment of administrative rights, such as public services and protection with respect to Population Documents for all people without exception. So that in changing the name, administrative steps must be carried out, namely the need to be registered at the Population and Civil Registration Service so that there is legal certainty regarding their resident identity. Every resident is required to report Population Events and Significant Events that they experience to the Executing Agency where the Resident is domiciled and/or to the Representative of the Republic of Indonesia by fulfilling the necessary requirements.

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<sup>10</sup>Muhammad Apri Yahya, Amin Purnawan, Change Procedures For The Making Of Birth Certificates For Recording Errors Based On Regional Regulation Number 1 Of 2010 In The Department Of Population And Civil Registration Of Batang District, Proceedings Of The UNISSULA Student Scientific Conference (KIMU) 4 Sultan Agung Islamic University Semarang, 28 October 2020, ISSN, 2720-913x, p.713

b) Does not cause problems in the right to authentic papers

The name is crucial, so that each residence document must be the same as one another. If not, this will complicate the management of important documents and cause other problems. Problems that may arise due to different names in each population data, for example due to differences in names on KTP and KK or on other population documents, cannot fulfill rights in an authentic authentic letter. Like the example in the inheritance letter.

c) After using a new name in exercising rights and carrying out obligations using a new name

After a person changes his name by applying for a determination at the District Court and the name change is recorded at the Population and Civil Registry Service, a new residence document will be issued according to the new name so that all documents owned will become a new name and this will follow such as in exercising their rights and carrying out their obligations, they will use a new name according to their new identity. Exercising rights such as the right to be voted in and vote in elections will use a new name, the old identity is no longer valid. Henceforth, a person must use his new name for everything, because the new name is an identity that is used now that will continue to be attached to a person.

#### 4. Conclusion

Conception and analysis of changing a person's name/name change must go through several stages and at each stage a person must fulfill the conditions, namely: The first stage is submitting an application to the District Court to obtain a stipulation. A person who is going to apply for a name change/name change must submit an application to the District Court to obtain a stipulation from the District Court in which the stipulation is used as a condition for recording at the Population and Civil Registry Service. The second stage is the recording of name changes/name changes at the Population and Civil Registration Service. After the applicant has received a determination, he enters the second stage, namely recording a name change at the Population and Registration Office.

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