

Legal Responsibilities of Adoptive Parents for Fulfilling Children's Health Rights from the Perspective of Indonesian Positive Law

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Informasi Artikel	Abstrak
Penulis Korespondensi: Sabd Wahab [sabdaboda8@gmail.com] Submission 2025-10-20 Review 2025-11-01 Accepted 2025-11-13 Publish 2025-11-18   This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License.	Latar Belakang: Pemenuhan hak kesehatan anak merupakan hak asasi manusia dan hak konstitusional yang wajib dijamin oleh negara dan keluarga, termasuk dalam konteks pengangkatan anak. Meskipun hukum positif Indonesia telah menegaskan peralihan tanggung jawab pengasuhan dan perlindungan kepada orang tua angkat, dalam praktik masih ditemukan hambatan administratif dan kelemahan regulasi yang berimplikasi pada terbatasnya akses anak angkat terhadap layanan dan jaminan kesehatan. Tujuan Penelitian: untuk menganalisis kedudukan serta tanggung jawab hukum orang tua angkat dalam pemenuhan hak kesehatan anak berdasarkan prinsip <i>the best interest of the child</i>. Metode Penelitian: Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan (<i>statute approach</i>), pendekatan konseptual (<i>conceptual approach</i>), dan pendekatan kasus (<i>case approach</i>) melalui kajian terhadap peraturan perundang-undangan, doktrin hukum, dan putusan pengadilan yang relevan. Hasil Penelitian: Hasil penelitian menunjukkan bahwa secara normatif orang tua angkat memiliki tanggung jawab hukum penuh untuk menjamin akses pelayanan kesehatan, perlindungan dari tindakan yang membahayakan kesehatan, serta pemenuhan kebutuhan dasar kesehatan anak angkat. Namun, terdapat kesenjangan antara norma hukum dan implementasinya, terutama akibat kekosongan pengaturan teknis pasca-adopsi dan lemahnya sinkronisasi antara sistem hukum keluarga, administrasi kependudukan, dan jaminan kesehatan nasional. Kesimpulan: Penelitian ini menegaskan bahwa penguatan regulasi dan harmonisasi kebijakan lintas sektor diperlukan agar tanggung jawab hukum orang tua angkat memiliki daya laksana yang efektif dan mampu menjamin perlindungan hak kesehatan anak angkat secara adil dan berkelanjutan. Kata Kunci: Anak Angkat, Hak Kesehatan Anak, Tanggung Jawab Hukum, Orang Tua Angkat, Hukum Kesehatan Abstract Background: The fulfillment of children's health rights constitutes a fundamental human right and a constitutional obligation that must be guaranteed by the state and families, including in the context of adoption. Although Indonesian positive law affirms the transfer of caregiving and protective responsibilities to adoptive parents, practical implementation reveals administrative barriers and regulatory weaknesses that limit adopted children's access to health services and health insurance. Research Objective: This study aims to analyze the legal status and responsibilities of adoptive parents in fulfilling children's health rights based on the principle of the best interest of the child. Research Method: This study employs a normative legal method using statutory, conceptual, and case approaches by examining relevant legislation, legal doctrines, and court decisions. Research Results: The findings indicate that adoptive parents normatively bear full legal responsibility to ensure access to health services, protection from actions endangering health, and fulfillment of adopted children's basic health needs. However, a significant gap persists between legal norms and their implementation, particularly due to the absence of clear post-adoption regulatory mechanisms and weak coordination among family law, civil administration, and the national health insurance system. Conclusion: This study underscores the necessity of regulatory strengthening and cross-sectoral harmonization to ensure that adoptive parents' legal responsibilities are effectively enforceable and capable of guaranteeing equitable and sustainable protection of adopted children's health rights. Keywords: Adopted Children, Children's Health Rights, Legal Responsibilities, Adoptive Parents, Health Law

1. Introduction

Children's health rights are an integral part of human rights and the constitutional rights of citizens, guaranteed by various national and international legal instruments. Children, as a vulnerable group, have special needs and protections to ensure optimal growth and development, both physically and mentally.¹ This protection is a constitutional mandate and a manifestation of the principles of *non-discrimination* and *the best interests of the child*, as reflected in the 1945 Constitution and the Convention on the Rights of the Child. Fulfillment of the right to health encompasses not only medical services but also the child's right to live in a healthy environment and to receive protection from all forms of neglect and discriminatory treatment.^{2,3}

In the Indonesian legal system, adoption is defined as a legal act that transfers parenting rights and responsibilities from biological parents to adoptive parents through a court order. The primary purpose of adoption is to ensure the child's well-being based on the principle of the child's best interests.⁴ This practice not only has implications for civil relations but also creates a shift in legal responsibilities, including the responsibility for fulfilling the health rights of adopted children. In the context of Islamic law in Indonesia, the concept of *kafalah* illustrates that adoption is not a shift in lineage, but rather a shift in parenting responsibilities that entails moral and legal obligations to ensure the child's well-being.^{5,6}

Normatively, the legal position of adoptive parents in fulfilling children's health rights is closely related to constitutional provisions and national laws and regulations such as the 1945 Constitution, the Child Protection Law, and the 2023 Health Law. The entire legal framework emphasizes that the responsibility for the care and protection of children, including their physical and mental health, rests with the parents or legal guardians.^{7,8} Adoptive parents thus have legal obligations equal to those of biological parents in guaranteeing the child's right to health,

¹ Agatha Crieistie Tarigan, "Legal Position and Health Rights of Adopted Children with Different Parents of Citizenship in the Legal System in Indonesia," *Legal Brief* 11, no. 3 (2022): 1904–1914.

² Tri Alan M Djaini, "Legal Protection of Child Adoption without Trial by Human Rights Perspective," *Damhil Law Journal* 1, no. 1 (2021): 20–30.

³ Larasati Herwinda et al., "Legal Responsibilities of Children and the Role of Families toward Parents in the Perspective of Civil Law and Government Regulation No . 28 of 2024 as Implementation of Law No . 17 of 2023 on Health," *International Conference on Health and Biological Science (ICHBS)*, no. 28 (2024): 219–231.

⁴ Farradhisya Ririz Nabila, Akhmad Budi Cahyono, and Article Info, "The Urgency of Regulating the Rescission of Child Adoption : A Comparative Study on Upholding the Best Interests of the Child," *Fiat Justicia* 19, no. 3 (2025): 301–316.

⁵ Yusnadia Achda Saputri and Kurniati, "Not a Shift in Lineage but a Shift in Responsibility : The Concept of Kaf ā Lah in the Care of Adopted Children from an Islamic Legal Perspective," *ETARA: Jurnal Studi Gender dan Anak* 7, no. 2 (2025): 231–245.

⁶ Khusnul Amalia, "Child Adoption in Modern Islamic Family Law: A Comparative Study of Child Adoption in Turkey, Morocco, and Indonesia," *Al-Mazaahib: Jurnal Perbandingan Hukum* 13, no. 1 (2025): 53–77.

⁷ Lanny Kusumawati, "Egal Status of Adopted Child and Foster Child, His Inheritance Rights to the Estate of His Adoptive Parents," *American Journal of Multidisciplinary Research & Development (AJMRD)* 06, no. 02 (2024): 55–65.

⁸ Andi Fakhri Irsam Hadiansyah and Radhityas Kharisma Nuryasinta, "Distribution of Inheritance Regarding Child Adoption (Adoption) in Islamic Inheritance and Civil Law," *Estudiante Law Journal* 7, no. 1 (2025): 1–18.

although in practice there is often interpretive ambiguity regarding the limits of this responsibility.⁹

However, various legal issues arise in the practice of adoptive parents fulfilling their children's health rights. Unclear regulations regarding access to health services and health insurance coverage administration often hinder the optimal fulfillment of adopted children's rights.¹⁰ Administrative obstacles such as civil registration, legal identity of adopted children, and limited access to health facilities based on the child's legal status, give rise to implementation problems between ideal legal norms and the reality of legal practice in the field.^{11,12}

The gap between legal norms and practice in fulfilling the health rights of adopted children demonstrates the need for normative reconstruction to ensure the principle of *the best interest of the child* is truly implemented. On the one hand, the Indonesian legal framework has affirmed the legal responsibilities of adoptive parents; however, on the other hand, its implementation still faces institutional coordination issues and weak oversight mechanisms for the fulfillment of adopted children's health rights.^{13,14} Normative legal studies are important for assessing the effectiveness of applicable legal norms and providing constructive arguments for strengthening the legal protection system for adopted children.

To the author's knowledge, previous studies generally discuss adoption from the perspective of general child protection, the civil status of adopted children, or the fulfillment of children's rights within the framework of family law. Studies that specifically analyze the legal responsibilities of adoptive parents in fulfilling children's health rights from the perspective of Indonesian positive law, particularly by highlighting the implementation problems and legal implications, are still relatively limited. Therefore, this article aims to fill this gap by offering a normative legal analysis focused on strengthening legal certainty and the effectiveness of fulfilling adopted children's health rights.

Based on this, this study aims to analyze the legal responsibilities of adoptive parents in fulfilling children's health rights from the perspective of Indonesian positive law. Academically, this study is expected to contribute to the development of health and family law, particularly in

⁹ Nurlaelawati, Euis Huis, and Stijn Cornelis Van, "The Status of Children Born Out of Wedlock and Adopted Children in Indonesia: Interactions Between Islamic, Adat, and Human Rights Norms.," *Journal of Law and Religion* 34, no. 3 (2019): 356–382.

¹⁰ Kelvin Bixby Surbakti, Hasim Purba, and Maria Kaban, "Legal Protection Against Adopted Children Are Inherited Property From The Adopted Parents," *Jurnal Ekonomi* 13, no. 02 (2024): 1456–1472.

¹¹ Annette R. Appell and Bruce A. Boyer, "Parental Rights vs. Best Interests of the Child: A False Dichotomy in the Context of Adoption," *Duke Journal of Gender Law & Policy* 2, no. 1 (1995): 63–83.

¹² P. Welbourne, "Adoption and the Rights of Children in the UK," *The International Journal of Children's Rights* 10, no. 3 (2002): 269–289.

¹³ J. Bridgeman, *Parental Responsibility, Young Children and Healthcare Law* (Inggris: Cambridge University Press, 2007).

¹⁴ John Eekelaar, "Parents and Children: Rights, Responsibilities and Needs," *Adoption & Fostering* 7, no. 2 (July 1, 1983): 7–10.

strengthening legal certainty and protecting children's rights in adoptive families.^{15,16} This research also seeks to provide normative recommendations that can serve as a basis for formulating policies and revising regulations to strengthen the legal responsibilities of adoptive parents in guaranteeing children's comprehensive health rights.

2. Research Methods

This research is a normative (doctrinal) legal study that focuses on the assessment of legal norms, principles, and principles related to the legal responsibilities of adoptive parents in fulfilling children's health rights. This study analyzes the law in the sense of "law in books" through a review of relevant legislation, doctrine, and scientific literature, with the aim of assessing the consistency, coherence, and effectiveness of legal norms in ensuring the fulfillment of adopted children's health rights.

The approaches used include a statutory approach to examine the harmony and integration of legal norms governing adoption, child protection, and health; and a conceptual approach to analyze the concept of adoptive parents' legal responsibility, children's health rights as human rights, and the principle of *the best interest of the child*. Furthermore, this study also uses a case approach by examining relevant court decisions related to adoption and the fulfillment of children's rights, particularly to the extent that these decisions provide legal considerations regarding adoptive parents' responsibilities.

The legal materials used consist of primary legal materials in the form of relevant laws and court decisions; secondary legal materials in the form of textbooks, scientific journal articles, and opinions of legal experts; and tertiary legal materials in the form of legal dictionaries and encyclopedias. All legal materials were collected through literature review by searching credible national and international databases, then selected and verified based on the relevance and authority of the sources.

The legal materials were analyzed qualitatively using prescriptive-analytical methods. The legal interpretation techniques used include grammatical interpretation to understand the normative meaning of statutory provisions, systematic interpretation to assess the interrelationships between norms within a legal system, and teleological interpretation to examine the goals and values intended by lawmakers, particularly in ensuring the protection and fulfillment of the health rights of adopted children. Through this analysis, this study formulates normative arguments and recommendations to strengthen legal protection for the health rights of adopted children in Indonesia.

¹⁵ Julie Doughty, Sarah Meakings, and Katherine Shelton, "Rights and Relationships of Children Who Are Adopted from Care," *International Journal of Law, Policy and the Family* 33, no. 1 (April 1, 2019): 1–23.

¹⁶ Teri Dobbins Baxter, "Respecting Parents' Fundamental Rights in the Adoption Process: Parents Choosing Parents for Their Children," *Rutgers University Law Review* 67, no. 4 (2014): 1–34.

3. Results and Discussion

a. The Legal Position and Responsibilities of Adoptive Parents in Fulfilling Children's Health Rights

Adoption is a legal act that transfers parental responsibility from biological parents to adoptive parents through a court order. Once the adoption is confirmed, the adoptive parents acquire legal status as substitutes for the biological parents, with all the rights and obligations that entail, including the obligation to ensure the health of the adopted child.^{17,18} This position not only creates a civil legal relationship but also encompasses a public dimension related to the protection of children as legal subjects with constitutional rights to health and well-being. In this context, the responsibilities of adoptive parents are juridical and legally binding, not merely moral obligations.

Normatively, adoptive parents' legal responsibility for fulfilling their child's health rights encompasses several substantive aspects. First, they are obligated to take preventive measures against physical and mental health problems in children, as a form of preventative protection. Second, they are obligated to provide access to health services, including basic health facilities and national health insurance. Third, they are responsible for protecting children from all forms of practices that could endanger their health, such as exploitation, violence, or neglect.^{19,20} Within the framework of positive Indonesian law, these responsibilities or obligations are inherent in the status of adoptive parents and give rise to legal consequences if ignored.

The principle of *the best interest of the child* is the normative basis that underpins all adoption policies. This principle requires that every legal decision concerning a child be based on the child's best interests for their development, including their health and social well-being.²¹ This principle emphasizes that children cannot be viewed merely as objects of adoption, but rather as legal subjects whose rights must be guaranteed by adoptive parents and the state. Therefore, adoptive parents' legal responsibilities in the context of children's health rights must include a dimension of ongoing protection and be integrative between the family and the public service system.

Although the normative framework places adoptive parents solely responsible for fulfilling children's health rights, several weaknesses in the legal framework exist that could potentially create implementation challenges. Regulations on adoption and child protection do not explicitly address the technical mechanisms for fulfilling adopted children's health rights, particularly regarding the integration of adopted children's legal status into the population administration

¹⁷ Tarigan, "Legal Position and Health Rights of Adopted Children with Different Parents of Citizenship in the Legal System in Indonesia."

¹⁸ Nabila, Cahyono, and Info, "The Urgency of Regulating the Rescission of Child Adoption : A Comparative Study on Upholding the Best Interests of the Child."

¹⁹ Herwinda et al., "Legal Responsibilities of Children and the Role of Families toward Parents in the Perspective of Civil Law and Government Regulation No . 28 of 2024 as Implementation of Law No . 17 of 2023 on Health."

²⁰ Amalia, "Child Adoption in Modern Islamic Family Law: A Comparative Study of Child Adoption in Turkey, Morocco, and Indonesia."

²¹ Saputri and Kurniati, "Not a Shift in Lineage but a Shift in Responsibility : The Concept of Kaf ā Lah in the Care of Adopted Children from an Islamic Legal Perspective."

and health insurance systems. This regulatory gap has implications for the emergence of administrative barriers that can ultimately harm the child's interests, despite the normative affirmation of the principle of the best interest of the child.

Furthermore, there is a potential for inconsistency between family law, health law, and administrative policies in the population sector. In practice, recognition of the legal status of adoptive parents does not always automatically translate into easier access for adopted children to health services, creating tension between ideal legal norms and the reality of implementation. This situation indicates that the legal responsibilities of adoptive parents are not yet fully supported by an integrated regulatory and institutional system.

The synchronization and harmonization of legal norms in this context can be traced through the provisions of the 1945 Constitution, the Child Protection Law, the 2023 Health Law, and regulations on child adoption. While each regulation has a sectoral orientation, they all emphasize that fulfilling children's health rights is a shared responsibility between the state, family, and society. In the case of adopted children, this responsibility is transferred entirely to the adoptive parents as the legal authority, while the state is obligated to ensure access and oversight mechanisms to ensure the fulfillment of children's health rights.^{22,23}

Thus, Indonesian positive law conceptually positions adoptive parents as legal entities who bear full responsibility for fulfilling children's health rights. However, without strengthening more operational normative regulations and effective oversight mechanisms, this responsibility has the potential to lose its implementability. Therefore, strengthening regulations and harmonizing cross-sectoral policies is necessary to ensure that adoptive parents' legal responsibilities truly guarantee the fulfillment of children's health rights in a fair, certain, and sustainable manner.

b. Legal Problems and Normative Gaps in the Fulfillment of Children's Health Rights by Adoptive Parents

Although Indonesia's legal framework provides a strong foundation for protecting the health rights of adopted children, its implementation still faces various legal and administrative challenges. One major issue is the gap between legal norms and implementation practices. In many cases, the legal status of adopted children, which has not been established through the courts, makes it difficult to obtain health services and participate in the national health insurance program.^{24,25} The lack of synchronization between adoption documents, population data, and the health administration system often means that adopted children are not legally identified as dependents of their adoptive parents.

²² Nurlaelawati, Huis, and Van, "The Status of Children Born Out of Wedlock and Adopted Children in Indonesia: Interactions Between Islamic, Adat, and Human Rights Norms."

²³ Hadiansyah and Nuryasinta, "Distribution of Inheritance Regarding Child Adoption (Adoption) in Islamic Inheritance and Civil Law."

²⁴ Djaini, "Legal Protection of Child Adoption without Trial by Human Rights Perspective."

²⁵ Surbakti, Purba, and Kaban, "Legal Protection Against Adopted Children Are Inherited Property From The Adopted Parents."

Administrative obstacles also arise from weak coordination between agencies, including the courts, the Population and Civil Registration Office, and health insurance providers. Delays in registering adopted children on the adoptive parents' Family Cards directly impact access to public health services. In some cases, adopted children even lose their right to health insurance because they are not listed on their adoptive parents' Family Cards.^{26,27} In this context, legal norms that in principle recognize the full responsibility of adoptive parents are not always followed by responsive administrative mechanisms that favor the best interests of the child.

This problem is also reflected in several court decisions, which emphasize that adoption only has full legal consequences after a court order has been issued. While these decisions provide legal certainty, they also pose a vulnerability to adopted children during the transition period before their legal status is administratively registered. As a result, children face potential delays or even denial of access to healthcare services, even though they are already in the care of their adoptive parents. This situation demonstrates the tension between the formal legal approach and the need for substantive protection of children's health rights.

From the perspective of health law and child protection, negligence by adoptive parents in fulfilling a child's health rights can have significant legal implications. Civilly, such negligence can be viewed as a violation of the obligation to care, while criminally, it can be classified as child neglect if it results in harm to the child's health or safety. However, weak oversight and law enforcement mechanisms mean that legal sanctions for such violations are rarely implemented effectively, so adoptive parents' legal responsibilities often stop at the normative level.^{28,29} These legal implications demonstrate the importance of policy reform in the national legal system so that the responsibility of adoptive parents is not only moral, but has strong legal binding force and can be enforced through effective oversight mechanisms.

Furthermore, there are normative weaknesses in regulations regarding adoption, which do not explicitly address health insurance mechanisms for adopted children. This legal gap creates uncertainty for adoptive families and has the potential to undermine the protection of children's rights. However, within the context of the principle of *the best interest of the child*, every child should have the right to health care without discrimination, including children adopted through formal legal mechanisms.^{30,31} Therefore, reformulation of legal norms is necessary to strengthen legal protection for adopted children in the realm of health law.

²⁶ Kusumawati, "Egal Status of Adopted Child and Foster Child, His Inheritance Rights to the Estate of His Adoptive Parents."

²⁷ Tarigan, "Legal Position and Health Rights of Adopted Children with Different Parents of Citizenship in the Legal System in Indonesia."

²⁸ Nabila, Cahyono, and Info, "The Urgency of Regulating the Rescission of Child Adoption : A Comparative Study on Upholding the Best Interests of the Child."

²⁹ Amalia, "Child Adoption in Modern Islamic Family Law: A Comparative Study of Child Adoption in Turkey, Morocco, and Indonesia."

³⁰ Herwinda et al., "Legal Responsibilities of Children and the Role of Families toward Parents in the Perspective of Civil Law and Government Regulation No . 28 of 2024 as Implementation of Law No . 17 of 2023 on Health."

³¹ Hadiansyah and Nuryasinta, "Distribution of Inheritance Regarding Child Adoption (Adoption) in Islamic Inheritance and Civil Law."

Therefore, the gap between legal norms and their implementation demonstrates the urgency of reforming and strengthening more operational regulations. Affirming the state's administrative obligations, strengthening cross-sectoral coordination, and explicitly regulating health insurance for adopted children after adoption are urgently needed. Thus, the legal responsibility of adoptive parents must not only be legitimate but also supported by a legal and administrative system capable of ensuring effective, fair, and sustainable protection of children's health rights.

4. Conclusion

Substantively, the research results indicate that after a court order for adoption, adoptive parents have full legal standing as substitutes for biological parents and therefore bear full legal responsibility for fulfilling the adopted child's health rights. This responsibility includes ensuring access to health services, protection from actions that endanger health, and fulfilling the child's basic health needs as part of constitutional and human rights. Based on the principle of the best interest of the child, fulfilling the child's right to health is an inherent legal obligation that cannot be waived, either by adoptive parents or the state. Therefore, adoptive parents are not only morally but also legally obligated to ensure the continuity of children's health rights within the framework of national legal protection.

The legal implications of these findings emphasize the importance of legal certainty and regulatory harmonization between the 1945 Constitution, the Child Protection Law, the 2023 Health Law, and adoption regulations. Inconsistencies in norms and weak implementation create a gap between normative law and practice, which impacts adopted children's limited access to health insurance and public services. Therefore, the Indonesian legal system needs to strengthen the oversight mechanisms and implementation of adoptive parents' responsibilities so that adopted children's health rights can be fulfilled effectively and fairly. Legal certainty in this context is a prerequisite for realizing substantive legal protection for children as independent legal subjects.

As a normative recommendation, this study encourages strengthening national regulations and policies that explicitly affirm adoptive parents' legal responsibilities in guaranteeing children's health rights. The government needs to expand the coverage of national health insurance for adopted children without administrative discrimination, and ensure synergy between the judiciary, health agencies, and social services in implementing adoption policies. These legal harmonization efforts are expected to not only provide legal certainty but also create a more inclusive and humanistic child protection system in accordance with the values of social justice mandated by the constitution.

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