



Analysis of Custody Rights for Children Whose Parents are Divorced

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Abstract. Problems that often arise as a result of divorce between married couples who already have children are related to child custody. Each husband and wife has the right to apply for custody of their child by submitting an application to the court. This research will answer problems related to child custody regulations after the parents divorce and the legal consequences for children whose parents divorce. This article was written using normative legal research with a legislative approach. The results of this research are that child custody is adjusted to the condition of the child or father or mother and the one that is most beneficial for the child's welfare is chosen, and the legal consequences for children whose parents are divorced are that the parents' obligation to educate their children is not lost.

Keywords: custody; child; divorce.

Abstrak. Permasalahan yang sering kali muncul akibat perceraian dari pasangan suami istri yang sudah memiliki anak adalah berkaitan dengan hak asuh anak. Masing-masing suami maupun istri berhak untuk mengajukan hak asuh terhadap anaknya dengan mengajukan permohonan ke pengadilan. Penelitian ini akan menjawab permasalahan terkait regulasi hak asuh anak pasca perceraian kedua orang tua-nya serta akibat hukum bagi anak yang orang tuanya bercerai. Penulisan artikel ini menggunakan penelitian hukum normatif dengan pendekatan perundang-undangan. Hasil penelitian ini adalah hak asuh anak disesuaikan kepada kondisi anak maupun ayah atau ibunya dan dipilih yang paling menguntungkan bagi kesejahteraan anak, dan akibat hukum bagi anak yang orang tua-nya bercerai adalah tidak hilangnya kewajiban orang tua untuk mendidik anaknya.

Kata kunci: hak asuh; anak; perceraian.

BACKGROUND

Children in the family are a gift from God Almighty for everyone married couple. All parents have roles and responsibilities in this things to educate, protect and look after their children until they grow up, because every child who born with the right to have a good and decent survival, grow and develop be a child who is dutiful to his parents, has good academics and also gets it protection is a right for all children both in their families and in their country because will be the future successor of the nation (Hartono, 2019).

Children actually have the potential to grow within themselves who will become the next generations of the nation and state in the future. One attempt in the form of protection for children from the scope of incoming law highest support in child protection. Legal certainty regarding child protection in preventing abuse which results in negative impacts on child protection and parents must pay attention to children's development.

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Parents have the right to inform them of their rights and obligations that every child must have. Parents are obliged to pay attention to their children and giving rights that should be given to the child, namely by delegating them dear case, get proper materials and education. There are limitations parents must understand their children so that their children do not become awkward or far from parents because parents are the ones who guide the child and also protect the child as his son. But now sometimes there are some parents who experience conflict in their household in a family which causes a problem to arise to divorce. There is a separation or divorce between a husband and wife will experience what is called a negative statement given by the environment around him which also has an impact on children if the couple already has children in their husband's relationship this wife. Thus, psychological disorders in children can also be triggered by divorce. This means that children cannot focus on education and play time or teenagers, this can have serious consequences for the child's mental health.

A divorce results in something changing and that also concerns existence responsibility for their parents and in carrying out their duties as parents, namely introduce the favors and gifts of God Almighty so that children have religious values and norms good behavior by teaching norms and decency, guiding their children in religion and family environment. Study several cases that occur in custody divorces is one of the problems in divorce, divorce that occurs because of children who become these victims can result in psychological disturbances for children and deep trauma for children which causes disruption to the child's development, after the divorce decision and the existence of determination regarding child custody of one of the parties requesting the application, and there is also the pros and cons between parents regarding what becomes the decision in a divorce, so that it occurs taking a child by force before there is an application for child custody. conditions which In fact, children are following adults, especially their parents, because of this situation has a big risk for the child's mental health which may have a bad impact (Hidayana, Jauhari, & Yahya, 2020).

Therefore, the separation must be carried out objectively and fulfill the conditions existing laws must be in accordance with the basic and standard provisions of existing laws, then Separation can be considered the best choice for the best interests for the child is not for the personal benefit of the parents. There is a court decision where children are separated from their parents, there is still the right to face-to-face meetings, the existence of a relationship like before can still be allowed and parents are still obliged to look after, care for and care for their child, as well as other rights that are mandatory. child gets. If one of these rights is violated then there is a rights violation human rights which should protect children from physical violence as well psychic which can be a violation of the law. So the guarantee is in that protection must be given in an effort to prevent differences, exploitation and violence other. The places or environment of children is also a supporting factor for children get protective support.

RESEARCH METHOD

This research uses normative legal research methods with a statutory approach. The collection of legal materials used in this research used literature study techniques. The legal materials used in this legal research are primary legal materials and secondary legal materials. The analytical technique used in this legal research is deductive analysis technique.

RESULT AND DISCUSSION

Legal regulation of child custody in the perspective of Law Number 23 of the Year 2002 concerning Child Protection is a milestone where there is a form of government care children who

will be the future of the nation, and also emphasize justice to children in child protection in a country which will be a support in terms of Children have an important role as the next generation of the Indonesian nation. There are internal consequences The law that can create a consequence of child protection arises from the law written and unwritten which applies to government and local laws in that region. According to Arif Gosita, legal certainty is sought to protect and constitute an effort to provide protection aimed at children in order to protect them from negative impacts that exist in its implementation, in the Law In the 1945 Constitution, child protection is a form of juridical law which implements a justice system in the protection of which it applies to the existence of laws and legal regulations that regulate such as the existence of legal norms makes it an effort to prevent deviant behavior within authority, strength and power in protecting the child, considering the importance of the child is the only asset of the nation that the Indonesian people really hope for (Junaidi & Khoiruman, 2023)

Juridical implementation in child protection within the scope of society must be implemented through integration where the implementation is carried out involving the existence of legal rules as well as covering other areas of law that are closely related. As for the things that carried out in child protection, whether directly or indirectly, this is said to be so because In terms of human rights, children are inherent in them from the womb. The right to live in protection directly aimed at children. The aim of carrying out this activity is by protecting these children, starting from looking after, educating and providing guidance so that these children receive character education and provide good parenting patterns have good manners. There is a study of the law which provides an explanation regarding legal arrangements relating to child custody.

The existence of child custody has indeed become a polemic regarding the struggle in the second realm his parents make this case often end up in court where it has become an option the end of resolving an existing obstacle. Functions of the internal court support the resolution of this custody problem, namely by upholding justice, issuance by both parties, and also in the settlement to think about balance existing society with existing solutions. Problems usually don't just come from the household alone, but there are still many other issues that cause problems This goes to court. Child custody is requested because it exists Awareness in raising children is important for the safety of the child itself, but with The field of justice is not enough but it is still supported by the mental health of children accompanied by an expert in psychology and also developing the child's character the environment. where in its implementation there is progress in completion This law is something that is easier and more real in terms of its effectiveness and decisions or decisions that are determined to have permanent legal force and are binding. Even if Paying attention to whether or not there is compliance with these rules is in the interests of the axis, Whether or not the steps taken are firm or not can become a bridge or not child protection regarding custody rights can be implemented (Islami, 2019).

In the context of child care carried out by two divorced parents, namely This is something that must be implemented by both parties, neither party will be biased this obligation that must be borne. there is a guarantee for children who have both parents divorcees are still the same as ordinary children in general who must be given education and values material and also affection. Because children are assets of the state for National development will eventually create more struggles and debates over custody rights It's better not to do it because it could spread to the child's psychology. Child custody rights in order after the mother, if the father does not have custody then there is the father's grandmother or mother and so on up to the top who can get custody of the child.

If in that order there is no one who can become a foster parent. There are conditions which are regulated in the Compilation of Islamic Law. The role of the court and the role of the family is very much needed during determining child custody, which is regulated in the psychological world that is the 0 year phase, namely Newborn babies up to adulthood must have their needs met it is absolutely true that it comes from the parents, which indeed comes from the mother and the environment, make the baby grow without psychological deficiencies. Parental care and also the people closest to him are one of the affective and cognitive factors.

There is an explanation from economics and also law about the things that children need What must be fulfilled obligatory for the child is that he is a child who is a gift from God the Almighty who must be looked after and also given great and equal love because children are the future of the nation and state. Therefore, with all my heart parents will care for, care for and provide proper education to their children, p This is within the scope of the family and the existence of a household as a hope if it exists As a mandate for maintenance, there will be responsibilities that must be borne. The existence of legal protection given to children can be defined as the existence of a consequence The laws given by the government in carrying out children's freedom of life are the foundation of freedom of children's human rights by being able to live a prosperous life

CONCLUSION AND RECOMMENDATION

Kesimpulan ditulis secara singkat yaitu mampu menjawab tujuan atau permasalahan penelitian dengan menunjukkan hasil penelitian atau pengujian hipotesis penelitian, **tanpa** mengulang pembahasan. Kesimpulan ditulis secara kritis, logis, dan jujur berdasarkan fakta hasil penelitian yang ada, serta penuh kehati-hatian apabila terdapat upaya generalisasi. Bagian kesimpulan dan saran ini ditulis dalam bentuk paragraf, tidak menggunakan penomoran atau *bullet*. Pada bagian ini juga dimungkinkan apabila penulis ingin memberikan saran atau rekomendasi tindakan berdasarkan kesimpulan hasil penelitian. Demikian pula, penulis juga sangat disarankan untuk memberikan ulasan terkait keterbatasan penelitian, serta rekomendasi untuk penelitian yang akan datang.

Based on the results of the discussion of the problems mentioned above, it can be drawn conclusion that legal regulations relate to the existence of children, especially child custody as a result from parental divorce is contained in Law Number 23 of 2002 concerning Protection Children as amended by the latest Law Number 35 of 2014, Law Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT), Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law, this regulation is closely related to child protection, both regarding the obligation to look after children in terms of custody and also his rights as a child.

The legal consequences for children of parents' divorce or the consequences of breaking ties existing marriage of the child's parents, extended family or nuclear family is mandatory in terms of The law continues to provide care for children by looking after and educating children. The consequences that arise if the child experiences a situation where his parents divorce are: The child is vulnerable to gossip from many people, the child's mentality shaken, and also experiencing neglect which could have been caused by parents or family the child, therefore, to avoid this, it is very important to have adequate protection done for children.

Starting from the conclusions stated above, it can be suggested in terms of: The government or law enforcement, there is integrative treatment carried out in existence legal efforts in the protection provided to children who experience difficulties because of his condition of being one

of the victims of his parents' divorce, where This protection can be carried out directly or indirectly. Directly, namely with protecting the child and by protecting it from external threats is an effort not direct.

For society, efforts to care for children in protecting child custody needs to be considered especially the interests of the child's rights and obligations because of the resulting divorce Children who become victims in these situations make it difficult for children to take it decision.

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