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Phone: +62281-635624 Fax: +62281- 636653
E-mail: volksgeist@uinsaizu.ac.id
Website: <http://ejournal.uinsaizu.ac.id/index.php/volksgeist>

Optimizing Legal Protection: Addressing the Disparity of Sanctions Regarding Personal Names in Birth Certificates as Population Documents

Article	Abstract
<p>Author Ali Maskur^{1*}, Muslich Shabir¹, Abu Hapsin¹, Daud Rismana¹, Joko Purwanto².</p> <p>¹ Faculty of Sharia and Law, Universitas Islam Negeri Walisongo Semarang, Indonesia ² National Dong Hwa University, Taiwan</p> <p>Corresponding Author: *Ali Maskur, Email: alimaskur@walisongo.ac.id</p> <p>Data: Received: Jan 12, 2024 Accepted: May 29, 2024 Published: Jun 01, 2024</p> <p>DOI: 10.24090/volksgeist.v7i1.10521</p>	<p>This article discusses the issue of disparity in sanctions arising from the issuance of the Regulation of the Minister of Home Affairs of the Republic of Indonesia on Name Registration in Population Documents. A case in Tuban highlights a child who was unable to obtain a birth certificate because the name was too long to be entered into the Population and Civil Registration Office system. The regulation imposes restrictions on naming children, requiring a minimum of two words and no more than sixty characters. Non-compliance with this regulation can result in the non-issuance of a birth certificate, potentially rendering the child stateless. This situation contradicts UDHR Article 15, ICCPR Article 24, CRC Articles 7-8, and the 1945 Constitution Article 26 (1) on citizenship. The purpose of this study is to highlight the imbalance between regulatory rules and sanctions, demonstrating how lower-level regulations can violate higher-level rules. This research employs a qualitative, literature-based, and normative-doctrinal approach. Secondary data sources include Permendagri No. 73/2022, the Population Administration Law, the 1945 Constitution, and international regulations related to population and citizenship. The findings indicate that birth certificates reflect the state's responsibility to provide citizens with rights, including the right to identity. However, the sanction of not issuing a birth certificate due to regulatory non-compliance creates a disproportionate disparity in naming rights. Therefore, policy revision is necessary to optimize legal protection, making the system more equitable and in line with legal norms.</p> <p>Keywords: <i>Disparity in sanctions; birth certificate; citizen identity.</i></p>

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INTRODUCTION

A birth certificate¹ represents an individual's initial form of identity and signifies the state's acknowledgement of its citizens under the law.² It serves as a tangible proof of citizenship and embodies the state's commitment to ensuring the fulfilment of human rights, encompassing civil,

¹ Disdukcapil Kabupaten Bontang, "Akta Kelahiran Hak Masyarakat Atas Identitas," 2013, <https://disdukcapil.bontangkota.go.id/index.php/pencatatan-sipil/artikel/akta-kelahiran-hak-masyarakat-atas-identitas>.

² Siregar Bisma, "Telaah Tentang Perlindungan Hukum Terhadap Anak Dan Wanita," *Bisma*, S. 16, no. 4 (1986): 90.

political, economic, social, and cultural rights. From a legal standpoint, a birth certificate becomes foundational for the issuance of other official documents such as diplomas, identity cards, driving licenses, and various documents pertinent to civil rights. Hence, the importance of a birth certificate for every citizen cannot be overstated.

Technically, birth certificates are issued by the Population and Civil Registration Office, which operates under the auspices of the Ministry of Home Affairs of the Republic of Indonesia, as mandated by Law Number 24 of 2013 concerning Population Administration.³ This office bears the responsibility of issuing official civil registration documents that record significant life events, notably the issuance of birth certificate for newborns in Indonesia. A birth certificate meticulously details the child's name as a fundamental aspect of their identity. According to Article 2 of the Minister of Home Affairs Regulation No. 73 of 2022, the registration of a name must adhere to religious norms, norms of decency, norms of morality, as well as existing laws and regulations. The stipulated criteria for naming include a minimum of two words and a maximum of sixty characters, ensuring the name is easily pronounceable, devoid of negative connotations, and unambiguous in interpretation.

Theoretically, regulations serve as the foundation for ensuring legal certainty.⁴ Therefore, the introduction of the Minister of Home Affairs Regulation No. 73 of 2022 aims to standardize names for international applicability, including the inclusion of surnames or clan names. This adjustment has become increasingly relevant as more Indonesians travel abroad for tourism, casual visits, studies, and employment. A primary challenge encountered by Indonesians planning to leave the country is the requirement to fill out immigration documents with a name that consists of at least two words. Providing names with a minimum of two words aims to reduce or eliminate difficulties for Indonesians travelling internationally. Previously, individuals with single-word names were advised to append the father's name with “*bin*” or to directly include the father's name followed by a repetition of their own name, for example “Suroso Suroso”.

Before the issuance of a birth certificate, civil registration officials are tasked with verifying the legal identity and population status of citizens. The accuracy of these data is paramount since civil registration data information is frequently utilized to monitor population trends, including births, deaths, and movements. These data form a critical foundation for development planning, policy making, political strategies, and the overall advancement of a nation.⁵

Citizens are an integral part of a nation and state's existence.⁶ The foundational requirements for a state include territorial sovereignty, a legitimate government, and a population recognized as citizens. These three components are essential for the state's operation in accordance with the

³ Alimudin, “Pencatatan Kelahiran Sebagai Kepastian Hukum, Ketertiban Hukum, Dan Pembuktian Hak-Hak Anak,” *Dirjen Badan Peradilan Agama MA RI*, March 2013.

⁴ Sheha et al., “Regulatory Evolution: Addressing Challenges and Enhancing Legal Certainty in Indonesian Donation-Based Crowdfunding Services,” *International Journal of Religion* 5, no. 4 (2024): 143–49, <https://doi.org/10.61707/b56arz67>; Ridwan Arifin et al., “A Discourse of Justice and Legal Certainty in Stolen Assets Recovery in Indonesia: Analysis of Radbruch's Formula and Friedman's Theory,” *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 2 (December 27, 2023): 159–81, <https://doi.org/10.24090/VOLKSGEIST.V6I2.9596>.

⁵ Poltak Pargoni Nainggolan Riris Katharina, “Perlunya Reformasi Pencatatan Kelahiran Di Indonesia” (Jakarta: Hukum Online, 2006).

⁶ Daniel Philpott, “Sovereignty: An Introduction and Brief History,” *Journal of International Affairs* 48, no. 2 (1995): 353–68, <https://www.jstor.org/stable/24357595>.

constitution, which serves as a social contract.⁷ The acknowledgement of individuals as citizens forms the basic capital for the establishment of rights and obligations between the government, as the state's administrator, and the populace, as its citizens. Ensuring the fulfillment of rights by the state and the obligations binding the citizens to the state constitutes an indispensable reciprocal relationship. The loss of citizenship results in the absence of protection and the fulfillment of rights, leading individuals to be marginalized from global society. Consequently, they remain refugees, continually seeking asylum in countries willing to accept them as citizens.⁸

Indonesia has faced several instances of citizenship loss among its population.⁹ This includes ethnic Chinese Indonesians who are not recognized as citizens by either China or Indonesia, and ethnic Arabs and Indians lacking the necessary documents to confirm their citizenship in civil registration records. Furthermore, Indonesian migrant workers who, under the 1958 law concerning extended stays abroad, lost their citizenship and were unable to regain it under the 2006 legislation. Additionally, a small number of Indonesians were rendered stateless due to being exiled as a result of the 1965 political conflict. However, the challenge of statelessness in Indonesia has the potential for resolution through the enactment of Law No. 23/2006 on Population Administration.¹⁰ This law stipulates conditions under which individuals, previously unregistered as Indonesian citizens, can apply for citizenship. The process of claiming citizenship through principles such as *Ius Soli* (right of soil), *Ius Sanguinis* (right of blood), and naturalization represents the most straightforward method for recognizing citizens. It also ensures international community guarantees, thereby preventing conflicts with other countries.

The significance of birth certificates as evidence of Indonesian citizenship for newborns cannot be overstated. They are invaluable assets that ensure protection and the fulfillment of human rights throughout an individual's life.¹¹ The state bears a fundamental duty to safeguard the citizenship rights of all citizens, preventing them from becoming stateless within their own nation. This is achieved through the enactment of regulations that mandate residents or parents to register for a birth certificate for their newborns. Such certificates, which include the child's personal name, are crucial as they stand as proof of citizenship. According to Article 90 of the Population Administration Law, any delay in reporting a child's birth may result in administrative penalties, including a fine of IDR 1,000,000. Additionally, officials who procrastinate in issuing population documents may face a fine of IDR 10,000,000. However, it is noteworthy that the Population Administration Law does not specify penalties for officials who neglect to record names on birth certificates. A birth certificate, as a testament to citizenship, is endowed with legal protection as a fundamental right. This is affirmed by Article 16 Letter A of the Universal Declaration of Human Rights and Article 28D (4) of the 1945 Constitution of the Republic of Indonesia, underscoring the importance of legal safeguards for this essential document.

⁷ AB Ghoffar, *Konstitusi Dan Konstitusionalisme Di Indonesia* (Jakarta: Mahkamah Konstitusi Republik Indonesia, 2022).

⁸ UNHCR, "Expert Meeting – The Concept of Statelessness under International Law ('Prato Conclusions')," no. May 2010 (2010): 27–28.

⁹ Aldyan Faizal, "Perlindungan Dan Pemenuhan Hak Stateless Person Eks Dan Keturunan Warga Negara Indonesia Atas Status Kewarganegaraan," *Jurist-Diction* 3, no. 4 (2020): 1215, <https://doi.org/10.20473/jd.v3i4.20203>.

¹⁰ Republik Indonesia, "Undang-Undang No 23 Tahun 2006," 2006.

¹¹ Zandy Wulan Ayu Widhi Prameswari, Erni Agustin, and Stefania Arshanty Felicia, "A Review of Indonesian Nationality Law: Progress Toward the Achievement of SDGs For Every Child," *Journal of Southeast Asian Human Rights* 7, no. 1 (2023): 45–72, <https://doi.org/10.19184/jseahr.v7i1.35080>.

RESEARCH METHODS

This research employs a qualitative-dochtrinal approach to analyze the imbalance of sanctions imposed for mistakes made by legal subjects. The analytical-descriptive method is used to detail the inconsistency of existing rules, presenting them in a way that is easy to understand.¹² The study relies on secondary data sources,¹³ including authoritative legal materials¹⁴ such as the Regulation of the Minister of Home Affairs Number 73 of 2022 concerning Name Registration in Population Documents, Law Number 24 of 2013 concerning Population Administration, the 1945 Constitution of the Republic of Indonesia, and International regulations on citizenship, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the Convention on the Rights of the Child. The data obtained are categorized by type and analyzed using the descriptive analysis method.

ANALYSIS AND DISCUSSION

Name as Group Identity

A name plays a crucial role in a person's identity.¹⁵ It is not merely a designation or a word used to call someone; it encompasses profound meanings related to the individual's identity, culture, and history. Names reflect various aspects of a person's life, such as family background, values, or even parental expectations at the time of birth. Additionally, names are a widely accepted means of identifying and distinguishing individuals from one another. In society, a name can signify social, religious, or ethnic status and, thereby becoming an integral part of a person's identity within a social and cultural context.¹⁶

Names can also carry emotional significance and personal values for the individual.¹⁷ Some people may feel a deep connection to their family heritage through their name, while others may choose a name to reflect their aspirations or life goals. Thus, a name is not only a marker of legal identity but also a complex representation of who a person is. It is not merely a series of letters forming a word but the foundation of personal and social identity, shaping one's understanding of oneself within society.

For this reason, the diversity in names as identifiers is significant. According to Muhammad bin Abdullah bin Malik al-Thay al-Andalusy¹⁸ and the Encyclopedia Britannica Editor Team,¹⁹

¹² Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif Dan R&A* (Bandung: Alfabeta, 2011).

¹³ M Teguh Saefuddin et al., "Teknik Pengumpulan Data Kuantitatif Dan Kualitatif Pada Metode Penelitian," *Pendas : Jurnal Ilmiah Pendidikan Dasar* 8, no. 3 (December 31, 2023): 5962–74, <https://doi.org/10.23969/JP.V8I3.12005>.

¹⁴ Afif Noor, "Socio-Legal Research: Integration of Normative and Empirical Research in Legal Research," *Jurnal Ilmiah Dunia Hukum* 7, no. 2 (2023): 94–112, <https://doi.org/DOI: http://dx.doi.org/10.35973/jidh.v7i2.3154>.

¹⁵ Meike Watzlawik et al., "First Names as Signs of Personal Identity: An Intercultural Comparison Min Han," *Proceedings of the 10th World Congress of the International Association for Semiotic Studies (IASS/AIS)*, 2012, 1159–76.

¹⁶ Gita Angria Resticka, Erwita Nurdianto, and Sri Nani Hari Yanti, "Banyumas Proper Names: Structure and Cultural Reflection," *Leksema: Jurnal Bahasa Dan Sastra* 6, no. 1 (2021): 13–22, <https://doi.org/10.22515/ljbs.v6i1.2441>.

¹⁷ Yonat Zwebner et al., "We Look like Our Names: The Manifestation of Name Stereotypes in Facial Appearance," *Journal of Personality and Social Psychology* 112, no. 4 (2017): 527–54, <https://doi.org/10.1037/pspa0000076>.

¹⁸ Muhammad bin Abdullah bin Malik al-Thay al-Andalusy Tim Penulis, "Pengantar Memahami Alfiyah Ibnu Malik Juz 1," 2020.

¹⁹ T. Editors of Encyclopedia Britannica, "Given Names, Encyclopedia Britannica" (<https://www.britannica.com>, 2023).

names can be classified into four models: (1) The original name given by parents: In European and American cultures, it is common to add the clan, family, or father's name to the original name. For example, Martin Van Houten (Houten family) and Johannes Jr. (son of Johannes); and (2) Single names without clan or family references: In African, Arab, and Asian cultures, people often use single names without accompanying clan, family, or group names, such as Neema and Kellan (Africa), Muhammad and Umar (Arabia), Sapta, or Sanjaya (Asia). This diversity in naming reflects the multifaceted nature of naming practice. Naming a person is not a singular event; it involves various stages or cultural traditions. There are names given at birth before the individual receives their official name, original names resulting from family agreements or gifts from community leaders, names assigned upon reaching adulthood (post-circumcision), names after marriage, and title names, if the individual is entitled to them.

Individuals may also adopt an additional name that accentuates their existence, incorporating elements such as the name of a clan, family, or region of birth or residence, as well as occupation or expertise. Examples include Mpu Tantular, a traditional maker of iron heirlooms; Muhammad Al Ghazali, known for spinning woolen cloth; Alwi Shihab, who carries the surname Shihab; and Kholil Bangkalan, who is identified by his residence in the Bangkalan area. This assignment of those supplementary names follows various conventions; some are automatically bestowed due to their relevance and are regarded akin to titles. Furthermore, nicknames, which are typically short, easy to pronounce, and straightforward, play a significant role. For example, Sulaiman is affectionately known as Leman, Prasjo as Pras, and Suminah as Min.²⁰

A person's name is not only an inherent identity and nickname but also carries philosophical meanings deeply connected to the culture of a particular society or community. In Indonesia, with its rich linguistic and cultural diversity, the tradition of naming children as a form of identity has a long history. Names often reflect parents' hopes for their children, commemorate significant events, express aspirations, and symbolize parental pride. Consequently, the process of naming involves certain rituals and considerable thought. Names serve as unique identifiers and cultural symbols, making special state regulations unnecessary, as such regulations could diminish the cultural richness of the community.²¹ An illustrative case is the rejection of a child's birth certificate application in Tuban, which included 19 words. This instance of state interference in naming practices disrespects parents' rights to name their children according to their wishes and undermines local customs and wisdom.²²

Indonesia, with its diverse tribes, races, customs, and cultures, holds a distinctive value in naming as a means of self- and group identity, as well as conferring noble and honorary titles.²³ For instance, Acehnese individuals are often recognized by names like Cut or Tengku, with their original names appended. In Medan, names such as Binsar and Luhut are common, sometimes

²⁰ Amalia Yunia Rahmawati, "Fenomena Penggunaan Nama Panggilan Dan Julukan" (Unikom Bandung, 2020).

²¹ Assem Aksholakova, "Proper Name as a Clue Symbol of Identity," *Procedia - Social and Behavioral Sciences* 112, no. Iceptsy 2013 (2014): 465–71, <https://doi.org/10.1016/j.sbspro.2014.01.1190>. It can be considered as the distortion of an identity in the sense of personality of a man. The aim of this article is to reveal the reasons of name distortions (negligence, lack of language, bilingualism, intercultural communication, mutual influence of Kazakh and Russian nationalities).

²² Tim Detikcom, "Nasib Anak Dengan Nama Terpanjang Di Tuban Kesulitan Urus Akta Lahir," *news.detik.com*, 2021.

²³ R. Deffi Kurniawati and Sri Mulyani, *Daftar Nama Marga/Fam, Gelar Adat Dan Gelar Kebangsaan Di Indonesia, Perpustakaan Nasional Republik Indonesia*, vol. 1, 2012.

accompanied by a clan name. The repetition of single names, such as Djajat Sudrajat and Titi Sukarti, is characteristic of Sundanese names, while single names like Suharto and Kasman are typical of Javanese culture. Prefixes such as Ketut and Nyoman are indicative of Balinese names. This diversity exemplifies the richness of Indonesia's noble culture in naming newborn children.

World Attention to Children and Statelessness

On December 10, 1948, the United Nations (UN) ratified an international charter on human rights.²⁴ The Universal Declaration of Human Rights (UDHR), in its Article 15, clause (a), affirms that every individual has the right to a nationality and this right to nationality should be determined by the state based on *Ius Soli*,²⁵ *Ius Sanguinis*,²⁶ or through naturalization.²⁷ Furthermore, individuals possess the right to change or select their nationality by making a request to the relevant country. The possession of a nationality ensures the fulfillment of an individual's civil and political rights, as well as their economic, social, and cultural rights, which are fundamental for life in society and the state.²⁸

The principles of *ius soli* and *ius sanguinis* demonstrate the state's commitment to ensuring its citizens' right by providing certainty regarding children's citizenship based on their place of birth or their parents' origin. This commitment is fulfilled through the issuance of official state documents such as birth certificates or proof of birth, which are used to obtain further official documents. These documents possess legal validity and establish a binding agreement between the state and its citizens, ensuring that no child is born stateless.

The International Covenant on Civil and Political Rights (ICCPR), specifically in Article 24 paragraph (3), emphasizes the right to nationality.²⁹ This clause underscores that children, who are particularly vulnerable to discrimination, torture, and crime, must be guaranteed citizenship by the state, irrespective of ethnicity, race, or religion. Furthermore, the ICCPR mandates an obligation to monitor and ensure that state parties comply with all the covenant's agreements under the supervision of the United Nations Human Rights Council. Indonesia, as a signatory state, has incorporated the ICCPR into its national legislation and has entrusted the Human Rights Commission (Komnas HAM) with the responsibility of documenting, monitoring, and reporting on various human rights violations occurring within the country.³⁰ The delayed acquisition of citizenship places children at risk of human trafficking, murder, and neglect. Therefore, it is imperative for the state to be proactive in providing services and facilitating the claim of citizenship for children.

²⁴ United Nations General Assembly, Universal Declaration of Human Right, Encyclopedia of Global Justice, 2011, https://doi.org/10.1007/978-1-4020-9160-5_1049.

²⁵ Iseult Honohan, *The Theory and Politics of Ius Soli* (Italy: European University Institute, 2010).

²⁶ Carlos Amun, "Race and Nation: On *Ius Sanguinis* and The Origins of a Racist National Perspective," *Fundamina* 24, no. 2 (2018): 1–20, <https://doi.org/10.17159/2411-7870/2018/v24n2a1>.

²⁷ Marcus Lukman, "Hak Asasi Manusia Dan Birokrasi : Tantangan Menuju Negara Hukum Kesejahteraan," *Perspektif*, 1998.

²⁸ Julius Mandjo and Mohamad Taufik Zulfikar Sarson, "The Right to Obtain Free Assistance and Legal Protection for The Indigent People Through Legal Assistance Organizations," *Jambura Law Review* 3, no. 2 (2021): 365–77, <https://doi.org/10.33756/jlr.v3i2.9424>.

²⁹ United State Nations General Assembly Resolution, "International Covenant on Civil and Political Rights" (1966).

³⁰ Ali Maskur, *Islam Dan HAM*, ed. Fithriyatus Sholihah, *Academia.Edu* (Semarang, 2019).

Articles 7 and 8 of the Convention on the Rights of the Child stipulate that, following birth,³¹ every child has the right to acquire citizenship, a right that is actualized through the issuance of a birth certificate by a government body, specifically, the Population Service. The Ministry of Women's Empowerment and Child Protection reports that, out of 84.4 million children in Indonesia, 5 million lack birth certificates.³² This statistic is corroborated by the Statistics Indonesia, which tracks the progression of birth certificate ownership among children. In 2022, it is projected that 90.41% of children will possess a birth certificate, leaving 9.59% without one. The trend in the ownership of children's birth certificates from 2015 to 2022 is depicted in the following table:³³

Table 1: *Development of Child Birth Certificate Ownership 2015 - 2022*

Year	Percentage
2015	79.92%
2016	81.86%
2017	83.33%
2018	83.55%
2019	86.01%
2020	88.11%
2021	88.42%
2022	90.41%

Source: dataindonesia.id

Based on the table data, there is an increasing trend in the number of children in Indonesia who possess a birth certificate, reaching a record high in the previous year. However, there is a notable inequality in the distribution of child birth certificate ownership, with a higher number of children in eastern Indonesia lacking birth certificates compared to those in western Indonesia. According to data from the Statistics Indonesia, in 2023, 13.67% of children in Indonesia still do not have a birth certificate, with the majority being in eastern Indonesia. Papua has the highest percentage of children without birth certificates at 52.04%, followed by East Nusa Tenggara at 42.62%, and West Papua at 34.51%. The list of ten provinces with the lowest birth certificate ownership in Indonesia is presented in the following table.³⁴

³¹ Assembly G. United Nations, "Convention on the Rights of the Child, UN Document A/RES/44/25," *United Nations*, 1989.

³² Deti Mega Purnamasari and Kristian Erdianto, "Kementerian PPPA: 5 Juta Anak Belum Memiliki Akta Kelahiran," *nasional.kompas.com*, 2021.

³³ Ridhwan Mustajab, "Belum Semua Anak Indonesia Punya Akta Kelahiran Pada 2022," *dataindonesia.id*, 2022.

³⁴ Nabilah Muhamad, "10 Provinsi Dengan Proporsi Anak Usia Dini Tidak Memiliki Akta Kelahiran Terbanyak (2023)," *databoks.katadata.co.id*, 2023.

Table 2: List of 10 Provinces with the Lowest Birth Certificate Ownership in Indonesia

Province	Percentage
Papua	52.04%
East Nusa Tenggara	42.62%
West Papua	34.51%
Maluku	26.98%
North Maluku	25.81%
North Sumatera	22.62%
Central Sulawesi	19.19%
West Nusa Tenggara	17.67%
Riau	16.56%
Banten	16.54%

Source: databoks.katadata.co.id

The table above highlights that Papua is the province with the lowest rate of birth certificate ownership in Indonesia, with only 47.96% of children aged between 0 and 18 years—out of a total of 998 children surveyed in 2023—having a birth certificate. This scarcity of birth certificates underscores the inadequate protection of children as citizens, significantly impacting their rights. The right to citizenship is crucial for ensuring a child’s respect, protection by the state, and the guarantee and fulfillment of fundamental human rights. The immediate advantage of granting citizenship to a child includes safeguarding against discrimination,³⁵ neglect, and legal issues.³⁶

The incidences of crimes against women and children is on the rise. A contributing factor is the insufficient protection for children,³⁷ including trafficking of children³⁸ and their organs, torture, neglect, and murder.³⁹ These violations often occur due to the state’s inadequate protection of children, stemming from the absence of official documentation, such as birth certificate. Consequently, these children lack officially recognized citizenship, rendering them either civilly or semi-statelessly unprotected. The international community, represented by the United Nations, continues to urge member states of the Universal Declaration of Human Rights to protect children by advocating for early, straightforward, and proactive citizenship claims. Such measures are essential to ensure child protection, preventing the risk of statelessness among children.

³⁵ Elinda Novita Dewi, Alya Nabila Adistia, and Ali Maskur, “Optimalisasi Perlindungan Hukum Terhadap Anak Korban Tindak Pidana Inses,” *YUSTISI* 10, no. 3 (October 9, 2023): 295–308, <https://doi.org/10.32832/YUSTISI.V10I3.15296>.

³⁶ Bisma, “Telaah Tentang Perlindungan Hukum Terhadap Anak Dan Wanita.”

³⁷ Komnas Perempuan, *CATAHU 2022 : Catatan Tahunan Kekerasan Terhadap Perempuan*, Komnas Perempuan (Jakarta, 2022).

³⁸ Dedy Indriyanto et al., “Understanding Human Organ Trading: Ethical Perspective and Indonesia’s Legal Framework,” *Qubahan Academic Journal* 3, no. 3 (2023): 22–29, <https://doi.org/10.48161/qaj.v3n3a155>.

³⁹ Rini Fitriani et al., “Legal Protection for Wife and Child as Consequence of Head of Family’s Criminal Imprisonment Enforcement,” *Volkgeist: Jurnal Ilmu Hukum & Konstitusi* 6, no. 1 (2023), <https://doi.org/https://doi.org/10.24090/volkgeist.v6i1.8232>.”mendeley”:{“formattedCitation”：“Rini Fitriani et al., “Legal Protection for Wife and Child as Consequence of Head of Family’s Criminal Imprisonment Enforcement,” <i>Volkgeist: Jurnal Ilmu Hukum & Konstitusi</i> 6, no. 1 (2023

The Principle of *Lex Superior Derogat Legi Inferiori*

Citizenship regulations are enshrined in the 1945 Constitution of the Republic of Indonesia, specifically within Articles 26, 27, 28, and 30. Article 26 delineates that Indonesian citizens comprise indigenous Indonesians, defined as individuals with ancestry originating and procreated within the territory of Indonesia. This provision reflects Indonesia's adherence to both the *ius soli*⁴⁰ and *ius sanguinis* systems. The *ius soli* system determines citizenship based on the birthplace of the individual, whereas the *ius sanguinis* system bases citizenship on the ancestry of the child, irrespective of the birthplace. Additionally, foreign nationals can be legalized as Indonesian citizens through naturalization or recognition.

These principles of citizenship confer certain rights and obligations as stipulated in Articles 27, 28, and 30. Indonesian citizens are entitled to equal and just treatment before the law and government, regardless of ethnicity, religion, race, or social status. They also possess equal opportunities to occupy government positions and the rights to participate in general elections, regional elections, and village-level elections. Furthermore, the guarantee of a decent living, right to assembly and association, and the obligation to defend the country are integral rights and responsibilities of citizens that are inseparable.⁴¹

The status of citizenship, which validates the rights and obligations of an individual, can be confirmed through the issuance of birth certificate, as highlighted in Law No. 24/2013 on Population Administration. This legislation stipulates that the citizenship of descendants of indigenous Indonesians is automatically recognized, a policy consistent with historical regulations on population registration during the Dutch colonial era, Japanese colonialism, and post-independence, as further reinforced by the enactment of Law No. 23/2006 on Population Administration.

The evolution of society and escalating global movement of individuals necessitate interaction among residents from various countries worldwide. Activities such as conducting business, pursuing education, seeking employment, engaging in religious practices, visiting family or friends, and leisure travel all demand the use of internationally recognized identity documents, specifically passports and visas. These documents are essential for anyone planning travel abroad.⁴²

The practice of using surnames other than one's genuine name, prevalent in developed countries like the United States, China, and several nations in Continental Europe, poses challenges for countries where surnames, family names, or clan names are not traditionally used. This discrepancy complicates the process of passport registration and interaction with immigration offices of other countries. Furthermore, the rise in identity forgery, the employment of code names, and the adoption of aliases or pseudonyms, particularly for concealing activities related to terrorism,⁴³ drug trafficking,⁴⁴ and other criminal acts, significantly hinder authorities' ability to track and apprehend

⁴⁰ Honohan, *The Theory and Politics of Ius Soli*.

⁴¹ Cătălin Peptan, Alina Georgiana Holt, and Flavius Cristian Mărcău, "Influences of Recent Crises in the European Space on the Exercise of Certain Rights and Citizen Duties in Romania: A Sustainable Perspective Approach," *Sustainability (Switzerland)* 15, no. 13 (2023), <https://doi.org/10.3390/su151310741>.

⁴² Mark B Salter, "Passports, Mobility, and Security: How Smart Can the Border Be?," *International Studies Perspectives* 5, no. 1 (2004): 71–91.

⁴³ Soraya Sakinah Koto, Ismail, Taufik Hidayat Lubis, "Provisions of Legal Protection for Terrorism Victim in Order to Realize Constitution Order," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 5, no. 2 (2022): 243–52.

⁴⁴ Ceprudin, Retno Mawarini Sukmariningsih, Sri Mulyani, Afif Noor, Dwi Wulandari, Ali Maskur, "Government Responsibility in Managing Illegal Drug Circulation During the Covid-19 Pandemic," *Wseas Transactions on Systems* 22, no. March (2023), <https://doi.org/10.37394/23202.2023.22.33>.

culprits. In response to these challenges, the Indonesian government has implemented stringent regulations concerning the use of names in official documents.

The regulation of a child's name as an identity is outlined in the Minister of Home Affairs Regulation No. 73 of 2022, which provides Guidelines for Recording Names in Population Documents.⁴⁵ According to this regulation, a child's name must be written in Latin letters, without the use of symbols or the term "alias." The name must include at least two words and no abbreviations. Additionally, the name must adhere to religious norms, decency, morality, and relevant legal provisions. The name should consist of no more than 60 characters and be composed of at least two words that are easy to read. It must not carry negative meanings or connotations, be provocative, imply anything pornographic, or be open to multiple interpretations. Adding the names of parents or using "bin/binti" for formal purposes, as well as making changes to population documents such as family cards, ID cards, diplomas, and passports, requires a court decision in accordance with specific legal requirements.

However, the sanctions imposed for failing to issue a birth certificate are not commensurate with the severity of the mistakes, as the non-issuance indirectly results in the absence of state recognition of the child. The ownership of citizenship, crucial for the existence of binding rights and obligations, is forfeited if the name does not conform to the standards set by the Minister of Home Affairs Regulation Number 73 of 2023. Subordinate regulations must not deviate from superior rules, implying that the principle of *lex superior derogat legi inferiori* automatically nullifies any regulation that contradicts the fundamental spirit of citizenship recognition and the protection of individuals from statelessness.

CONCLUSION

Birth certificates serve as official documents that embody the state's commitment to safeguard and uphold the fundamental rights of its citizens, including their right to an identity. However, imposing sanctions for the non-issuance of birth certificates due to non-compliance with regulations introduces an imbalance concerning the rights to naming. Therefore, enhancing legal protection in this area necessitates policy revisions that give greater consideration to individual rights, anchored in principles of human rights and both national and international legal frameworks. These amendments are intended to strike a balance between regulations that serve the public interest and the citizens' autonomy in naming themselves, thus fostering a system that is fairer and aligns with prevailing legal standards. As a recommendation, the government should focus on streamlining the process for obtaining birth certificates for children across Indonesia, ensuring accessibility, efficiency, and exemplary service.

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⁴⁵ Kementerian Dalam Negeri Republik Indonesia, "Permendagri No 73 Tahun 2022," Kementerian Dalam Negeri RI (2022).

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