

**PERLINDUNGAN HUKUM BAGI ANAK YANG DILAHIRKAN DARI
PRAKTIK SUROGASI: STUDI PERBANDINGAN ANTARA HUKUM
PERLINDUNGAN ANAK DI INDONESIA DAN THAILAND**

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ABSTRAK

Penelitian ini bertujuan menganalisis perlindungan hukum terhadap anak yang lahir melalui praktik surogasi melalui studi perbandingan antara hukum perlindungan anak di Indonesia dan Thailand. Fokus analisis mencakup Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan, Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak di Indonesia, serta *Protection of a Child Born by Medically Assisted Reproductive Technology Act* B.E. 2558 (2015) di Thailand. Penelitian menggunakan metode hukum normatif dengan pendekatan peraturan perundang-undangan, konseptual, dan perbandingan hukum. Data hukum primer, sekunder, dan tersier dikumpulkan melalui studi kepustakaan. Hasil penelitian menunjukkan bahwa Thailand telah mengatur surogasi secara legal dengan model altruistik melalui undang-undang khusus, yang mengakui anak sebagai milik sah *intended parents* sejak kelahiran, disertai pengawasan ketat oleh Komite Pengawas Teknologi Reproduksi Medis (PMRT). Sebaliknya, perlindungan di Indonesia bersifat parsial. Kendati Putusan MK No. 46/PUU-VIII/2010 mengakui hubungan biologis anak dengan ayah lewat tes DNA, status administratif anak tetap terikat pada ibu pengganti berdasarkan Pasal 42 UU Perkawinan. Hal ini memicu ketidakjelasan administrasi kelahiran anak. Penelitian merekomendasikan pengembangan regulasi khusus di Indonesia untuk mengisi kekosongan hukum guna memastikan hak anak secara optimal.

Kata kunci: *Best Interest of the Child*, Perlindungan Anak, Surogasi

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ABSTRACT

This study aims to analyze the legal protection of children born through surrogacy arrangements using a comparative study between child protection laws in Indonesia and Thailand. The analytical focus encompasses Law Number 1 of 1974 concerning Marriage, Law Number 35 of 2014 concerning Child Protection in Indonesia, and the Protection of a Child Born by Medically Assisted Reproductive Technology Act, B.E. 2558 (2015) in Thailand. This study employs a normative legal research method with statutory, conceptual, and comparative law approaches. Primary, secondary, and tertiary legal data were collected through a literature review. The results indicate that Thailand has legally regulated altruistic surrogacy through specific legislation, which recognizes the child as the legitimate offspring of the intended parents from birth, accompanied by strict supervision from the Medically Assisted Reproductive Technology Control Committee (PMRT). Conversely, legal protection in Indonesia remains partial. Although Constitutional Court Decision Number 46/PUU-VIII/2010 acknowledges biological relationships through DNA testing in accordance with Article 5 of the Child Protection Law, the child's administrative status remains bound to the surrogate mother under Article 42 of the Marriage Law. This circumstance triggers ambiguity regarding the child's birth registration. This study recommends the development of a specific regulation in Indonesia to fill the legal vacuum and ensure the optimal fulfillment of children's rights.

Keywords: *Best Interest of the Child, Child Protection, Surrogacy*