

## J. Y. Interpretation No.70 (December 17, 1956) \*

**ISSUE:** May a legitimate child of an adoptee, an adopted child of an adoptee, or an adopted child of a legitimate child be entitled to inherit by representation?

**RELEVANT LAWS:**

Articles 1077 and 1142 of the Civil Code (民法第一千零七十七條及第一千一百四十二條) .

**KEYWORDS:**

Constructive blood relative (擬制血親), inheritor (繼承人), inheritance (繼承), legitimate child (婚生子女).\*\*

**HOLDING:** J.Y. Interpretation No.28 has explained that the relationship between an adoptive child and his biological parents is one of consanguinity-in-law. The situation where an inheritor dies before the beginning of an inheritance is different from the situation interpreted in J.Y. Interpretation No.57 where an inheritor relinquishes [or waives] his right of inheritance. The received document states that the biological children of adoptive

**解釋文：**養子女與養父母之關係為擬制血親，本院釋字第二十八號解釋已予說明。關於繼承人在繼承開始前死亡時之繼承問題，與釋字第五十七號解釋繼承人拋棄繼承之情形有別。來文所稱養子女之婚生子女、養子女之養子女，以及婚生子女之養子女，均得代位繼承。至民法第一千零七十七條所謂法律另有規定者，係指法律對於擬制血親定有例外之情形而言，例如同法第一千一百四十二條第二項之規定是。

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\* Translated by Lawrence L. C. Lee.

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parents, the adopted children of adoptive parents and the adopted children of biological parents all have the right of representative inheritance. Concerning the other stipulations of Article 1077 of the Civil Code, the law has made allowance or consideration for exceptional situations of constructive blood relatives, such as the stipulation of Article 1142, Paragraph 2, of the Civil Code.