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Inheritance Rights of Children Born Out of Wedlock are Legal Based on Religious Court Decision Number 240/Pdt.G/2022/PA.Mrs

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ABSTRACT

This study examines the inheritance rights of illegitimate children based on the Marisa Religious Court Decision Number 240/Pdt.G/2022/PA.Mrs. The focus of the study is directed at the judge's considerations in determining the civil relationship between illegitimate children and their biological fathers and the factors influencing these decisions. This study uses a normative-empirical legal method with a statutory, conceptual, and case-based approach. The legal materials used include the Marriage Law, the Compilation of Islamic Law, Constitutional Court Decision Number 46/PUU-VIII/2010, the Indonesian Ulema Council Fatwa Number 11 of 2012, and the decisions of the religious courts that are the objects of study. The results show that the panel of judges fully recognizes the civil relationship between the child and the mother, while the relationship with the biological father is limited to the obligation to fulfill living needs until adulthood or independence and the granting of a mandatory will of a maximum of one-third of the inheritance. This decision is influenced by the protection of children's interests, the lack of implementing regulations following the Constitutional Court Decision, and Islamic legal principles regarding lineage and inheritance. This study concludes that court decisions attempt to balance the protection of children's rights with the limits of inheritance in Islamic law.

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1. Introduction

Marriage holds a crucial position in the Indonesian legal system and Islamic law because it is the basis for the formation of a family and gives rise to various legal consequences. These legal consequences not only concern the relationship between husband and wife, but also concern the status of children, parental responsibilities, civil relationships, and rights arising upon death. In the context of inheritance, a child's status is the basis for determining whether a child can be placed as an heir or only receives protection in the form of certain civil rights [1], [2].

In general, children born in or as a result of a legal marriage are entitled to the status of legitimate children. This status provides the basis for kinship, custody, guardianship, and inheritance rights. Conversely, children born outside of a legal marriage often face legal issues, particularly when it comes to determining their legal relationship with their biological father. In Islamic law, kinship and inheritance with a father cannot be established solely on the basis of a biological relationship, but must be related to a legal marriage [2], [3].

An important development occurred after the Constitutional Court issued Decision Number 46/PUU-VIII/2010. This decision provides space for children born outside of marriage to have a civil relationship with a man as their biological father as long as the relationship can be proven based on science and technology or other evidence according to law [4]. This decision contains the spirit of child protection because children should not suffer legal losses due to the actions of their parents.

However, the application of the Constitutional Court Decision in the religious court environment raises interpretation issues. Civil relationships in the decision are not always interpreted as lineage relationships that give rise to all legal consequences, including inheritance and marriage guardianship. In cases related to Muslims, judges need to place child protection within the framework of Islamic law, the Compilation of Islamic Law, and the principles of justice that exist in society [2], [5].

This problem is evident in the Marisa Religious Court Decision Number 240/Pdt.G/2022/PA.Mrs. In this case, the court acknowledged the existence of a civil relationship between an illegitimate child and their biological father. However, this relationship was not interpreted as a lineage relationship that confers full inheritance rights. The court limited the biological father's civil relationship to the obligation to provide for the child's living needs until adulthood or independence and to grant a mandatory will of up to one-third of the inheritance.[6]

Based on this background, this article addresses two main issues. First, how judges consider granting civil rights to illegitimate children in the Marisa Religious Court Decision Number 240/Pdt.G/2022/PA.Mrs. Second, what factors influence judges in determining that illegitimate children do not receive full inheritance rights but instead receive protection through the mandatory will mechanism.

2. Research Methods

This research employs a normative-empirical legal method. The normative approach is used to examine legal norms governing the status of illegitimate children, civil relations, and inheritance. The empirical approach is used to a limited extent to interpret the application of these norms in court decisions. Therefore, this research not only examines legal rules textually but also examines how judges use legal rules, doctrines, and values to resolve specific cases.

The research approaches used include a legislative approach, a conceptual approach, and a case approach. The legislative approach is used to examine the Marriage Law, the Compilation of Islamic Law, child protection provisions, and regulations relating to the authority of religious courts. The conceptual approach is used to understand the concepts of illegitimate children, civil relations, lineage, inheritance rights, and mandatory wills. The case approach is used to analyze the Marisa Religious Court Decision Number 240/Pdt.G/2022/PA.Mrs.

The primary legal materials used in this study include Law Number 1 of 1974 concerning Marriage, Compilation of Islamic Law, Constitutional Court Decision Number 46/PUU-VIII/2010, Indonesian Ulema Council Fatwa Number 11 of 2012, and Marisa Religious Court Decision Number 240/Pdt.G/2022/PA.Mrs. Secondary legal materials were obtained from books and legal literature discussing marriage, Islamic inheritance, children outside of marriage, and child protection [3], [7], [8].

The legal material collection technique was conducted through literature and document studies. The collected legal material was analyzed qualitatively by linking the normative basis, the judge's considerations, and the legal consequences arising in the case. The analysis was conducted to identify the relationship between the Constitutional Court's decision, the principle of child protection, and inheritance restrictions in Islamic law.

3. Results and Discussion

The discussion in this study is directed at understanding the relationship between marriage law norms, Islamic inheritance principles, and legal protection for illegitimate children. The main issue examined is not only whether illegitimate children can be recognized as having a civil relationship with their biological father, but also the extent to which such civil relationship can give rise to legal consequences in the field of inheritance. Therefore, the analysis cannot be separated from the Marriage Law, the Compilation of Islamic Law, the Constitutional Court Decision Number 46/PUU-VIII/2010, and the judge's considerations in the Marisa Religious Court Decision Number 240/Pdt.G/2022/PA.Mrs [1], [2], [4], [6].

Conceptually, this study shows the differences between biological relationships, civil relationships, lineage relationships, and inheritance rights. The Constitutional Court's decision extends protection to children born out of wedlock through the recognition of civil relationships with biological fathers, but in religious court practice, this recognition must still be understood carefully so as not to conflict with the principles of lineage and inheritance in Islamic law. In this context, a mandatory will is a middle ground to provide economic protection to children without immediately equating their status with lineage heirs [4], [5].

Thus, the results of this study are important because they demonstrate how judges balance three interests simultaneously: legal certainty, child protection, and compliance with Islamic legal principles. The following discussion outlines the legal framework for illegitimate children, the subject matter of the case, the judge's considerations, factors influencing the decision, the status of inheritance rights following the Constitutional Court's decision, and the legal implications of the use of

mandatory wills in illegitimate child cases.

3.1. Legal Framework for Children Born Out of Wedlock and Inheritance

The position of children in marriage law is directly related to the validity of the parents' marriage. The Marriage Law links legitimate children to those born in or as a result of a valid marriage [1]. The Compilation of Islamic Law also places lineage as an important basis in determining a child's position, especially in matters of guardianship and inheritance [2]. Therefore, children born out of wedlock in Islamic law essentially have a lineage relationship with their mother and their mother's family.

Constitutional Court Decision Number 46/PUU-VIII/2010 expanded the recognition of civil relations between children born out of wedlock and their biological fathers. This expansion cannot be separated from the principle of child protection. Children born out of wedlock cannot be blamed for their birth, so the law must provide space for children to continue to receive protection, care, and certainty of identity [4], [9].

However, civil relations are not always identical to kinship relations. Civil relations can give rise to obligations of responsibility, maintenance, or the fulfillment of life's necessities. Meanwhile, kinship relations in Islamic law have special consequences related to inheritance and guardianship. This distinction is important because if direct biological relations were equated with kinship relations, the structure of Islamic inheritance could fundamentally change [2], [5].

On the other hand, Western civil law provides a place for blood relatives, both legitimate and illegitimate, in certain inheritance relationships. These differences in approach indicate that inheritance law in Indonesia is not yet completely uniform. In Muslim societies, the Compilation of Islamic Law serves as an important guideline in the practice of religious justice, so that judges refer not only to general civil law, but also to Islamic inheritance principles [2], [8].

3.2. Object of the Case and Position of the Parties

The case under review is the Marisa Religious Court Decision Number 240/Pdt.G/2022/PA.Mrs concerning the status of children born outside of marriage and the consequences of their civil relationship with their biological father. The petition essentially requests that children born before a legal marriage be designated as the children of the applicants and have a civil relationship with their parents [6].

In this case, the court accepted that the child in question was the applicant's biological child. However, the legal issue does not stop with biological proof. The court must determine the legal consequences of this biological relationship, particularly whether it gives rise to inheritance rights as a legitimate child or merely creates a limited civil relationship.

The panel of judges then determined that there is a difference between the relationship between a child and its mother and its biological father. With its biological mother, the child has a perfect civil relationship. With its biological father, the civil relationship is limited. These limitations include the biological father's obligation to provide for the child's living needs until adulthood or independence and to provide assets after death through a mandatory will of up to one-third of the inheritance [6].

3.3. Judge's Considerations in Determining Civil Relations

The panel of judges' first consideration was the existence of Constitutional Court Decision Number 46/PUU-VIII/2010. This decision provides the basis that children born out of wedlock can have a civil relationship with their biological father as long as it can be proven according to law. The panel of judges used this decision as a basis for not completely closing off the legal relationship between the child and their biological father [4], [6].

The second consideration is the lack of implementing law. The Constitutional Court's ruling provides guidance on protecting illegitimate children, but it does not specifically regulate the boundaries of such civil relationships in the area of Islamic inheritance. Therefore, judges must explore the law and values of justice by considering existing regulations, doctrine, and prevailing laws within society.

The third consideration is the principle of Islamic law. Under Islamic law, a child born outside of a legal marriage does not automatically have a blood relationship with the man who caused the birth. Consequently, inheritance rights and guardianship cannot be established solely on the basis of biological evidence. This principle is why the panel of judges did not grant the status of an illegitimate child as a full heir of the biological father [2], [5].

The fourth consideration is child protection. The panel of judges does not place children as the party who must bear all the legal consequences of their parents' mistakes. Therefore, even though children are not given full heir status, the court still provides economic protection through the obligation to fulfill living needs and mandatory wills. This construction shows that child protection can still be provided without eliminating the basic principles of Islamic inheritance [9], [10].

3.4. Factors Influencing the Judge's Decision

The first factor influencing a judge's decision is the development of law following the Constitutional Court's ruling. This ruling changed the way we view illegitimate children by affirming that children can have a civil relationship with their biological father. However, within the religious courts, this expansion of civil relationships must still be interpreted carefully to avoid conflicting with Islamic legal principles.[4]

The second factor is the judge's obligation to explore legal values and a sense of justice. Judges cannot dismiss a case simply because there is a legal vacuum. In such circumstances, judges must seek the fairest basis for a resolution, taking into account the interests of the child, the family, and the legal values prevailing in Muslim society. In this case, the compromise chosen is a limited civil relationship.

The third factor is the Fatwa of the Indonesian Ulema Council Number 11 of 2012. This fatwa is an important reference because it distinguishes between the protection of children resulting from adultery and the validation of the relationship with the man who caused the birth. The fatwa also recognizes the mechanism of mandatory wills as a form of responsibility for men who cause the birth of children [5].

The fourth factor is the consideration of child protection in legislation. The Human Rights Law and the Child Protection Law emphasize that every child has the right to receive protection and to have their living needs met [9], [10]. This principle encourages judges to provide protection for children born outside of marriage, even if this protection does not take the form of full inheritance rights.

3.5. Inheritance Rights of Children Born Out of Wedlock Following the Constitutional Court Decision

Constitutional Court Decision No. 46/PUU-VIII/2010 does

not automatically change the status of illegitimate children to legitimate children. This decision is more accurately understood as an expansion of civil relations to ensure child protection. Therefore, the civil relations arising from this decision must still be interpreted according to the relevant legal field, including when entering into the realm of Islamic inheritance [4].

In the Marisa Religious Court Decision Number 240/Pdt.G/2022/PA.Mrs, illegitimate children were not granted the status of heirs of their biological fathers. The court distinguished between biological relationships, civil relationships, and lineage relationships. Biological relationships form the basis for the biological father's responsibility, but do not automatically create lineage relationships, which are the basis for inheritance under Islamic law. [6]

The provision of a mandatory will of up to one-third of the inheritance can be understood as a form of compromise legal protection. The child still receives economic benefits from the biological father, but these benefits are not considered inheritance. In this way, the court attempts to maintain a balance between child protection and the consistency of the Islamic inheritance system [5], [6].

The mandatory will mechanism also demonstrates that legal protection does not always have to take the form of inheritance rights. In cases of illegitimate children, protection can be provided through the provision of living expenses, recognition of limited civil relationships, and the provision of certain assets upon the biological father's death. This form of protection demonstrates the judge's ability to resolve cases fairly without violating applicable legal boundaries.

3.6. Legal Implications of the Decision

The Marisa Religious Court's ruling has important implications for the practice of Islamic family law. First, the ruling emphasizes that recognizing a civil relationship with a biological father does not necessarily imply recognition of a filial relationship. This distinction must be clearly clarified to prevent the public from equating biological relationships with inheritance rights under Islamic law.

Second, the ruling demonstrates that judges can use mandatory wills as a means of protecting illegitimate children. Mandatory wills serve as a bridge between the child's interests and Islamic legal principles. Thus, the child receives economic protection without having to alter the inheritance structure stipulated in Islamic law.

Third, this ruling demonstrates the need for clearer implementing regulations following Constitutional Court Decision No. 46/PUU-VIII/2010. Without detailed regulations, similar cases will rely heavily on judges' interpretations. This situation has the potential to lead to differing decisions between courts and reduce legal certainty for children, mothers, and biological fathers.

4. Conclusion

The judges' considerations in the Marisa Religious Court Decision Number 240/Pdt.G/2022/PA.Mrs were based on the need to provide legal protection to illegitimate children without disregarding Islamic legal principles regarding lineage and inheritance. The panel of judges recognized the child's civil relationship with the mother as complete, while the relationship with the biological father was limited to the obligation to meet living needs until the child is an adult or independent and to grant a mandatory will of up to one-third of the inheritance.

Factors influencing the judge's decision include Constitutional Court Decision Number 46/PUU-VIII/2010, the principle of child protection, the absence of implementing regulations, Islamic legal provisions, and the Indonesian Ulema Council Fatwa Number 11 of 2012. Based on these factors, the civil relationship between an illegitimate child and the biological father does not automatically give rise to inheritance rights. The child's economic rights can still be fulfilled through the mandatory will mechanism as a form of legal protection that does not conflict with Islamic inheritance principles.

This article recommends that lawmakers provide clearer regulations regarding the boundaries of civil relations between illegitimate children and their biological fathers, particularly in the context of inheritance in Muslim communities. Such regulations are necessary to provide judges with more definitive guidelines and ensure that illegitimate children receive fair protection without creating uncertainty in family and inheritance law.

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