

ABSTRAK

PEMBAGIAN HAK WARIS BAGI ANAK YANG MEMILIKI IBU SAMBUNG PERSPEKTIF KUH PERDATA DAN KOMPILASI HUKUM ISLAM

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Pembagian waris berdasarkan Kitab Undang-Undang Hukum Perdata dan Kompilasi Hukum Islam sering menimbulkan persoalan dalam praktik, terutama terkait kedudukan dan hak waris anak, termasuk anak yang memiliki ibu sambung. Permasalahan pada penelitian ini adalah perbandingan filosofi, asas-asas, dan Pasal- dalam Kitab Undang-Undang Hukum Perdata (KUH Perdata) dan Kompilasi Hukum Islam (KHI) mengenai pembagian waris, pembagian hak waris anak menurut KUH Perdata dan Kompilasi Hukum Islam, dan pembagian hak waris anak yang memiliki ibu sambung dalam perspektif KUH Perdata dan Kompilasi Hukum Islam.

Metode penelitian yang digunakan adalah penelitian hukum normatif dan tipe penelitian deskriptif dengan pendekatan perbandingan. Data yang digunakan adalah data sekunder yang terdiri dari bahan hukum primer, sekunder, dan tersier. Metode pengumpulan data dilakukan dengan cara studi kepustakaan, data tersebut akan diverifikasi, klasifikasi, dan sistematisasi data oleh penulis yang kemudian dianalisis secara kualitatif.

Hasil penelitian dan pembahasan menunjukkan bahwa KUH Perdata dan KHI memiliki perbedaan mendasar dalam filosofi, asas-asas, dan Pasal-Pasal pembagian waris, di mana KUH Perdata berlandaskan prinsip individual dan kesetaraan, sedangkan KHI berlandaskan prinsip keadilan proporsional berdasarkan syariat Islam. Pembagian hak waris anak menurut KUH Perdata didasarkan pada hubungan darah dan kedudukan hukum anak sebagai ahli waris sah, sedangkan dalam KHI ditentukan berdasarkan hubungan nasab dan ketentuan bagian waris dalam Al-Quran. Anak yang memiliki ibu sambung, baik KUH Perdata maupun KHI menegaskan bahwa hubungan perkawinan orang tua tidak memutus hubungan hukum antara anak dan orang tua kandungnya, sehingga anak tetap memperoleh hak waris dari orang tua kandung, sementara ibu sambung hanya berhak mewaris sebagai istri pewaris dengan bagian tertentu.

Kata Kunci: Anak Kandung, Ibu Sambung, KHI, KUH Perdata, Waris.

ABSTRACT**THE DISTRIBUTION OF INHERITANCE RIGHTS FOR CHILDREN WITH STEPMOTHERS IN THE PERSPECTIVE OF THE CIVIL CODE AND THE ISLAMIC LAW COMPILATION**

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The distribution of inheritance based on the Civil Code and the Compilation of Islamic Law often raises practical issues, particularly regarding the status and inheritance rights of children, including those with stepmothers. The problem in this research is a comparison of the philosophy, principles, and articles in the Civil Code and the Compilation of Islamic Law regarding the distribution of inheritance, the distribution of children's inheritance rights according to the Civil Code and the Compilation of Islamic Law, and the distribution of inheritance rights of children with stepmothers from the perspective of the Civil Code and the Compilation of Islamic Law.

The research method used is normative legal research and descriptive research with a comparative approach. The data used is secondary data consisting of primary, secondary, and tertiary legal materials. The data collection method was conducted through literature review. The data will be verified, classified, and systematized by the author, and then analyzed qualitatively.

The results of the research and discussion show that the Civil Code and the Compilation of Islamic Law have fundamental differences in the philosophy, principles, and articles of inheritance distribution, where the Civil Code is based on the principles of individual and equality, while the Compilation of Islamic Law is based on the principle of proportional justice based on Islamic law. The distribution of children's inheritance rights according to the Civil Code is based on blood relations and the legal status of the child as a legal heir, while in the Compilation of Islamic Law it is determined based on the relations and provisions on inheritance shares in the Quran. Children who have stepmothers, both the Civil Code and the Compilation of Islamic Law emphasize that the marital relationship of parents does not sever the legal relationship between the child and their biological parents, so that the child still obtains inheritance rights from the biological parents, while the stepmother only has the right to inherit as the wife of the testator with a certain portion.

Keywords: Biological Children, Stepmother, KHI, Civil Code, Inheritance.