



INHERITANCE RIGHTS FOR ADULTERY CHILDREN; AN ANALYSIS OF PROSPERITY APPROACH TO THE INHERITANCE RIGHTS FOR ADULTERY CHILDREN IN THE ISLAMIC LAW COMPILATION

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Abstract. *This research presents the latest information about the inheritance rights of adultery children, analysis of the prosperity approach to the inheritance of adultery children in the Compilation of Islamic Law. The research is presented in a qualitative form with normative legal research type, which aims to investigate the norms of Islamic law to find the rules of behavior that are considered the best and can be applied to provide legal provisions for a case. This research uses a philosophical approach, namely the study of the basic values of Islamic law in answering a legal problem. Furthermore, research makes prosperity theory as an analytical tool in analyzing data. In the end, this research concluded, adultery with biological father has a civil relationship, both in terms of lineage and inheritance. Ownership of lineage relations based on the opinion of Ibn Qayyim al-Jauziyyah, MUI Fatwa, Decision of the Constitutional Court Number 46 / PUU-VIII / 2010. Regarding inheritance, researchers disagree with the Indonesian Ulama' Council and the Constitutional Court's Decision Number 46 / PUU-VIII / 2010. Researchers believe that the portion received by adultery from their biological fathers is equated with the legal position of inherited children. Researchers see, if the adultery child is given the compulsory testament it becomes something that is ambiguous with the status of the right of adultery with the biological father. One side of the Constitutional Court Ruling Number 46 / PUU-VIII / 2010 confirmed that the adultery child is a child and has a relationship with his biological father, but on the other hand in the case of inheritance is not treated as a child of his biological father. Giving a compulsory will as a scapegoat by the Constitutional Court (government) to adultery children or on family law issues to provide solutions to all marital problems and consequences that do not follow administrative procedures in Indonesia and granting inheritance of inheritance rights is a sanction for adulterers using the theory upside down in Indonesia.*

Keywords: Adultery Children, Inheritance Islamic Law Compilation, Prosperity

INTRODUCTION

Regarding adultery, traditional fiqh states that Islamic Scholars agree adultery does not get inheritance rights from their father and vice versa. This opinion is shared by the Syafi'i school of thought. It is certainly understood that Islam strictly forbids the act of adultery which results in the birth of a child without a clear status. This means that everyone, especially Muslims, be careful in protecting themselves and self-respect as well as offspring so as not to neglect innocent children. So Syafi'i Jurisprudence can be understood as not giving inheritance rights to children is a sanction to prevent adultery. But whether at this time, especially in Indonesia when adultery does not get an heir from adultery (biological father) is and is a sanction for him or not?. If so, of course this can be assumed that the sanctions are irrelevant to the aims of the law with increasing adultery rates.

The irrelevance of sanctions with the current legal goals in the case of adultery, so that the issue of protection of children (adultery children) to their civil rights to their biological fathers again becomes an interesting study material in the study of Islamic law. Even this siu became a warm concern when the issuance of Constitutional Court Decision Number 46 / PUU-VIII / 2010 determined that children born out of wedlock have a civil relationship with their mother and mother's family and with men as their father which can be proven based on science and technology and / or other evidence according to the law has blood relations, including civil relations with his father's family.

In Indonesia, which has a different culture and norms from the Arabs as the initial nation that gave birth to Islamic law and as the largest nation with followers of Islam in a world that is geographically different from the Arabs. Obviously having different legal issues, among the issues of Islamic law that echo are related to the protection of adultery. This is based on the civil rights of adultery that are not supported by the Marriage Law and KHI. Because civil rights are a very important component for the existence of every person (especially a child), the researchers tried to design efforts to restore civil rights with one of them a human rights approach using the Child Protection Act and therefore *prosperity* as a tool to criticize the Act - Marriage and the KHI's Law. One assumption that often arises is that giving a relationship between an adulterated children, only with the mother constitutes discrimination, because the child resulting from adultery does not get the full parental rights of the parents as children do in general. From the assumptions and the descriptions above become the reasons and as

a rationale from the background of the problem why this research is considered important to be carried out further.

LITERATURE REVIEW

Position of Adultery Children's Lineage in Traditional Jurisprudence Literature

Issues relating to adultery children, whether it is aligned to the man who marries his mother and whether the adultery child can be tagged to his biological father so that the adultery child is entitled to inheritance from his biological father. In this case, the Hadith which forms the basis of the adultery lineage conversation is:

عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: كَانَ عُنْبَةُ عَهْدَ إِلَى أَخِيهِ سَعْدٍ أَنَّ ابْنَ وَليدَةَ زَمْعَةَ مَنِي فَأَقْبَضَهُ إِلَيْكَ فَلَمَّا كَانَ عَامَ الْفَتْحِ أَخَذَهُ سَعْدٌ فَقَالَ ابْنُ أَخِي عَهْدَ إِلَيَّ فِيهِ فَقَامَ عَبْدُ بَنُ زَمْعَةَ فَقَالَ أَخِي وَابْنُ وَليدَةَ أَبِي وَوُلِدَ عَلِيٌّ فِرَاشِهِ فَمَسَاوَقًا إِلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ رَسُولُ اللَّهِ ابْنُ أَخِي فَذَكَرَ عَهْدَ إِلَيَّ فِيهِ فَقَالَ عَبْدُ بَنُ زَمْعَةَ أَخِي وَابْنُ وَليدَةَ أَبِي وَوُلِدَ عَلِيٌّ فِرَاشِهِ فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ هُوَ لَكَ يَا عَبْدُ بَنُ زَمْعَةَ الْوَالِدُ لِلْفِرَاشِ وَلِلْعَاهِرِ الْحَبْرُ ثُمَّ قَالَ لِسُوْدَةَ بِنْتِ زَمْعَةَ احْتَجِي مِنْهُ لِمَا رَأَى مِنْ شَبْهِهِ بِعُنْبَةَ فَمَا رَأَاهَا حَتَّى لَقِيَ اللَّهَ - (أَخْرَجَهُ الْبُخَارِيُّ وَمُسْلِمٌ وَأَبُو دَاوُدَ وَالنَّسَائِيُّ)¹

Meaning: From Aisyah r.a he said: 'Utbah (Utbah bin Abi Waqqash) told his brother Saad (Saad bin Abi Waqqash r.a):" Zam'ah's son, with his legitimacy, is my son so you take him ". In the year of Fathu Makkah, Saad took the slave and said: "He is the son of my brother, he ordered me to guard him (the slave was Abdul Rahman bin Zam'ah)". Then said also Abdun bin Zam'ah r.a: "He (Abdul Rahman) is my brother, the son of my father, born of his bedspread". So the Prophet then decreed the law with the words of the king: "indeed this is for you O Abdun bin Zam'ah because the child belongs to a stretch (woman) and to the adulterer is a stone (does not get any rights)" then the king also said to Saudah bint Zam'ah ra (wife of the king): "Hijab you before him (Abdul Rahman)" and this case applies the Prophet saw the similarity (Abdul Rahman) with 'Utbah, so Saudah never met him so he died. (al-Bukhari, Muslim, Abu Daud, an-Nasai, at-Tarmizi).

Likewise a hadith from Syu'aib:

عَنْ شُعَيْبٍ عَنْ جَدِّهِ عَبْدِ اللَّهِ بْنِ عَمْرٍو أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: كُلُّ مُسْتَلْحِقٍ يُسْتَلْحَقُ بَعْدَ أَبِيهِ الَّذِي يُدْعَى لَهُ ادْعَاؤُهُ وَرَثَتُهُ مِنْ بَعْدِهِ فَقَضَى ؛ إِنْ كَانَ مِنْ أُمَّةٍ يَمْلِكُهَا يَوْمَ أَصَابَهَا فَقَدْ حَقَّ بِمَنِ اسْتَلْحَقَهُ وَلَيْسَ لَهُ فِيهَا قِسْمٌ قَبْلَهُ مِنَ الْمِيرَاثِ شَيْءٌ وَمَا أَدْرَكَ مِنْ مِيرَاثٍ لَمْ يُقْسَمْ فَلَهُ نَصِيبُهُ وَلَا يُلْحَقُ إِذَا كَانَ أَبُوهُ الَّذِي يُدْعَى لَهُ أَنْكَرُهُ وَإِنْ كَانَ مِنْ أُمَّةٍ لَا يَمْلِكُهَا أَوْ مِنْ حُرَّةٍ عَاهَرَ بِهَا ، فَإِنَّهُ لَا يُلْحَقُ وَلَا يَرِثُ ، وَإِنْ كَانَ أَبُوهُ الَّذِي يُدْعَى لَهُ هُوَ الَّذِي ادْعَاهُ ، وَهُوَ وَلَدٌ زِنًا لِأَهْلِ أُمَّةٍ ، مَنْ كَانُوا ، حُرَّةً أَوْ أُمَّةً.²

Meaning: From Syuaib from his grandmother Abdullah bin Amru r.a that Rasulullah s.a.w said: "Every child who is found after the death of his father, which child is appointed to him, then his heirs should consecrate the child to his father".

¹Abi Abdillah Muhammad Bin Isma'il al-Bukhari, *Shahih Bukhari* (Beirut: Dar Ibnu Katsir, 2002), h 1672.

² Abu daud, *Sunan Abi Daud* (Beirut: Dar al-Fikr, t.th), h. 134.

Then the Holy Prophet decided: every child born by the lords of his master during his master's life and intercourse then the child was enslaved to his master and the child did not get the inheritance that had been distributed before that (establishment of lineage) but if the property had not been distributed before him (the child) was met then he got his share but if the father that the child wants to be disregarded to him is broken (that the slave is his child) then he is not enslaved. may diagagekan him (father) and may not get a heritage. If the father recognizes that the child is his child then the child is an adulterous son who inherits the property next to his mother as there is a woman who is free or independent". (Abu Daud & Ahmad dengan sanad Hasan menurut al-Albani dan al-Arnauth, didhaifkan oleh Ibn al-Qayyim al-Jawziyyah).

Both of these traditions have a meaningful sabab wurud which tells about the problem of lineage of children who are doubtful who their father is because in the time of Jahiliyyah, the lights were prostituted by their masters and then the lineage dispute of children born.

Position of Adultery Children Lineage in Indonesia

1. Legal Children

In Indonesian marriage law, a marriage is said to be valid if it is done according to the laws of each religion and belief. The lineage relationship of a legal marriage is not focused on the lineage of the father or mother, but to both. Legitimate children themselves are regulated in UUP article 42. In this article it is stated: "Legitimate children are children born in or as a result of a legal marriage."

From this article it is known that as long as a baby is born when the mother is in a legal marriage, the child is called a legitimate child.

Meanwhile, Article 99 of KHI states that a legitimate child is: (a) a child born in or as a result of a legal marriage; (b) The result of the fertilization of a legitimate husband and wife outside the womb and being born by the wife. From this it can be concluded that a legitimate child according to positive law is a child born to a mother who is in a legal marriage relationship and he is related to lineage to his father and mother.

The definition of legitimate child above is not much different from the formulation of the Civil Code (Civil Code) or Burgerlijk Wetbook (BW). In this rule, a child is legitimately defined by: "a child born or raised during marriage, gets a husband

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as his father”³. From the various definitions above, it can be understood that the position of a child can be categorized as a legitimate child, if, first, a child born in a legal marriage. In this case two possibilities can occur:

- 1) After a legal marriage contract occurs the pregnant wife then gives birth.
- 2) Before the marriage contract the wife has been pregnant first, then gave birth after the marriage contract. Children born from legal marriages are based on their parents. Second, children are fertilized outside the womb by a legitimate married couple, and then born by his wife. This provision is to answer technological advances regarding IVF and cloning. After finding out more about the relationship between the child's origins and their parents, proof is needed by holding a birth certificate. Therefore, the function of the birth certificate is as authentic proof of the origin of the child not as proof of its validity. This rule is a positive legal innovation towards Islamic law.

In UUP Article 55 it is stated:

- 1) The origin of a child can only be proven by an authentic birth certificate issued by an authorized official.
- 2) If the birth certificate mentioned in paragraph (1) of this article does not exist, the Court may be able to issue a determination regarding the origin of a child after a careful examination based on evidence that meets the requirements.
- 3) Based on the provisions of the court referred to in paragraph (2) of this article, the birth registration agency in the jurisdiction of the court concerned issues a birth certificate for the child concerned. Thus, it can be concluded that if the legal relationship between parents and children born from the marriage is not recorded, then as a consequence the child is not legally able to include the name of the man who married his mother as a father on his birth certificate.

2. Adultery Children

An illegitimate child in the position of adultery lineage in this discussion is defined as the status of attachment to blood relations or kinship between a child and a father. Hazairin mentioned that lineage is the legality of family relations based on blood cords, as one of the consequences of a legal marriage, or a fasid marriage, or intercourse.⁴ The position of adultery lineage towards its father is still a fairly large polemic, and is

³Book of Civil Law Article 250

⁴Hazairin, *Hukum Kewarisan Bilateral Menurut al-Quran*, dimuat dalam <http://elc.stain-pekalongan.ac.id/403/7/12.%20BAB%20II.pdf>. Accessed at 5 November 2016.

still reaping differences, both in the field of Islamic law and the construction of positive Indonesian law. For that, it is necessary to explain the position of adultery lineage based on Islamic law (Islamic Jurisprudence) and a little offensive provisions contained in positive law.

In Islamic law, lineage is one of the strong foundations that supports the founding of a family, because lineage binds family members with blood ties. A child is part of his father and father is part of his child. Wahbah Zuhaili stated that lineage ties are a family bond that is not easily broken because it is a great blessing that God gives to humans. Without lineage, the ties of a family will be easily broken and broken.⁵ Islamic law stipulates that legal marriages (which have been fulfilled the terms and conditions of marriage) are the only way to get a lineage relationship. In Islamic law, there is a considerable impact from the creation of lineage relations. In general, the impact of the lineage applies to all matters related to kinship. That is, it is not permissible to marry a person who is included in the category of a mahram relative who is not permitted to be married, has the right to receive a living, and is entitled to inheritance.⁶

The explanation above, it can be understood that a person's lineage will exist when sexual relations are carried out within a legal or fasid (broken) frame of marriage. If a child is only obtained and born from sexual intercourse alone, without a valid bond in the form of marriage between his two father and father, then the lineage cannot be tied. Therefore, the child produced due to adultery does not have a legitimate attachment to the lineage with the male that caused his birth. In this case, the position of adultery child lineage is equated with li'an children. Li'an children (daughters who are li'an) are children whose lineage is denied by a legitimate husband based on sharia.⁷ Wahbah Zuhaili states that the lineage of a child from his mother can still be recognized from every aspect of birth, both shar'ar or not. The lineage of a child from his father can only be recognized through a marriage that is pious, or fasid, or waṭi'syubḥat (intercourse with the same legal status).⁸

⁵ Wahbah Zuhaili, *Al-Fiqh al-Islamī wa Adillatuh...*, p. 25.

⁶ Wahbah Zuhaili, *Al-Fiqh al-Islami wa Adillatuh...*, p. 37.

⁷ Sayyid Sabiq, *Fiqh Sunnah*, terj: Nor Hasanuddin, dkk, jilid 2, (Jakarta: Pena Pundi Aksara, 2006), p. 642.

⁸ Wahbah Zuhaili, *Al-Fiqh al-Islamī wa Adillatuh...*, p. 27.

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METHODOOGY

This is literary study which not deal with any number at all. The data are taen from the compilation of Islamic Law and other sources of law an Islamic Law in Indonesia. The Researcher studied this in order to get a new solution for the problem of inheritance of adultery children especially occurred in Indonesia. Several sources has been studied to find out the evidence on giving inheritance right for the adultery children. Therefore, this problem can be solved due to prosperity of society.

FINDINGS AND DISCUSSION

Inheritance Rights for Adultery Children as a Solution to Prosperity in Indonesia

Efforts to make a legal format as a solution to the position of adultery against the biological father, it is necessary to see some elements in terms of the protection of the adultery of adultery, namely:

1. *Supporting Community Legal Culture in Realizing Legal Protection for the Civil Rights of Adultery Children*

A product of legislation will be meaningful if it can be implemented in a social life that is in accordance with the values and understanding of justice in society. Implementation of law or often referred to as law enforcement, can not only be seen as something that stands alone, but there are always non-legal factors that influence it. The law is not just the formulation of commands or prohibitions that are manifested in the form of statutory norms.

Law must also be seen as a symptom that occurs in society, in the form of attitudes, behavior, living values, views, and expectations of society about law. The focus of attention on the relationship between the law and non-legal factors in law enforcement is often called the legal culture. The existence of a legal culture in a particular society is what makes law enforcement different from law enforcement in other societies. Legal culture plays an important role in determining when, where, and why, the law is used or accepted, avoided or rejected, ignored at all or did nothing to the existing legal system. A good legal system, which provides justice, expediency, and legal certainty is something that is aspired to in the world of law. Lawrence M. Friedman, stated that in a legal system there are three components of a legal sub-system that support each other, they are:

- a. Structure is the framework of a permanent form of the legal system that keeps the process within its boundaries. The structure consists of the number and size of the court, its jurisdiction (the type of case being examined, as well as the procedural law used), including in this structure also regarding the arrangement of the legislative body.
- b. Substance is the rules, norms, and patterns of real human behavior that exist in the system. Included in the understanding of this substance is also the "product" produced by people who are in the legal system, the decisions they make, the new rules they draft.
- c. Culture or legal culture is a human attitude towards law and the legal system of beliefs, values, thoughts, and expectations. This legal culture is also interpreted as an atmosphere of social thought and social power that determines how law is used, avoided, or among the three sub-components of the legal system, cultural factors are an essential element in changing a static structure and a Norma static collection into a living set of norms. Legal culture like that is a picture of starting a machine.

The legal culture drives everything related to law, including: (a); internal legal culture in the form of ideas and practices carried out by professional legal practitioners in raising public demands for the creation of total justice (total justice); and (b). the legal culture of the community is the existence, role, opinions, interests and pressures carried out by the wider social group.⁹

2. *Supporting the internal law culture of law enforcement for the protection of the civil rights of adultery*

The internal law culture of law enforcement in law enforcement, in this case is the attitude towards the law, ideas or ideas, attitudes, practices, and expectations of the parties who are obliged to raise public demands in law enforcement for the rights of adultery in a professional manner in their fields for

⁹ Lawrence M. friedman in Muhammad Akbar. *Penguatan Kemandirian Hakim bagi Pemngemban Hukum Praktis ysng Progresif di Indonesia (Dari Paradigma Positivisme menuju Paradigma Hukum Progresif)*. Disertation. School of Posgraduate, Hasanudin University. Makassar.2011, p.338.

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the creation of comprehensive justice. Those involved in law enforcement are District Court Judges, Religious Court Judges, and Civil Registry Officers.

With regard to law enforcement, in terms of protecting the rights of adultery of adultery by District Court Judges related to the Constitutional Court Decision Number 46 / PUU-VIII / 2010, it can be seen, that until the interview was conducted by the author, there is no legal regulation that can be used as a guideline for following up on the Decision of the Constitutional Court Number 46 / PUU-VIII / 2010. The Constitutional Court. Faced with this, the attitude of the judge to be varied, there are those who can accept / admit in the sense of tolerating the Constitutional Court Decision, but there are those who refuse.

3. *Support the legal culture of the community for the protection of the civil rights of adultery*

The existence of adultery, is undeniable in the life of the community. Society in general is of the opinion that an adolescent child is a child born to a man and a woman without any marriage ties called adultery. Children born to parents who are not bound by marriage, in the sense that marriage is not carried out in accordance with religious conditions, the child is born is an illegitimate child (a child of adultery), both according to social norms, customary law, and religious law. The consequences borne by these children only have a livelihood, care, and inheritance relationship with the mother and mother's family alone, even if the father or the father's family gives these things more to the nature that can not be forced, because in fact in social life and customary law the child does not have a father.

It is important to point out that basically the community is very concerned about the protection of children's rights, both socially and customary law, for the honor and personal development of children. In society there is a high value that every child must have a father, even before the child is born and if the living value is ignored, it will disrupt the balance of the existing life order, so that the community concerned feels immediately the need to restore it. Therefore, if there is a man impregnating a woman outside of marriage, then the man must or if

necessary be forced to marry the woman who is impregnated. Furthermore, if that is not possible, then there is still a common solution to be done through a prenatal marriage. the solution taken by the community is actually an effort in order to provide protection against children so as not to be born as adultery, namely by marrying a mother who is impregnating with other men to hide the disgrace of the family, while maintaining balance in order to restore order he values that live in the community, and at the same time as an effort to protect the child in his mother's womb so that he has a father, so that when the child is born his position is as a legitimate child. Thus it is also in Islamic law that the child of adultery must be treated properly, as stated by the Khahlifah Umar bin Khattab written by Imam al-Shan'ani in *Al-Mushannaf*.¹⁰

Furthermore, from a social standpoint, the community, in general, the community knows the *Sirri* marriages, that is, marriages that only take place that have been determined by religion. therefore, the child has full civil relations with his mother and mother's family and at the same time with his father and father's family, so that he has the right to get the right of life, the right to education and care, and the right to inherit his parents' property.

The Islamic view, actually the perpetrators of adultery (those who are married and who have been married must be punished sharply) and are considered dead. So that in principle the father biologist does not exist, so he has never had a lineage relationship with the child of his adultery. It was further explained, that in essence in the *qisos* law (capital punishment in Islamic law institutions) there is another respect for life. There must be someone who is sacrificed to respect the lives of other human beings more awake, in this case the process of maturing the community in maintaining legal marriage according to religion. to respond to the Constitutional Court Decision Number 46 / PUU-VIII / 2010, and at this time that the MUI Fatwa is an alternative way offered if the existing law cannot be enforced, by giving zeal to perpetrators of adultery. This is certainly a middle way that is wise enough as long as it does not cause lineage to its biological father and punishment is the authority of *ulil amri*.

¹⁰ See the statement of Indonesian Ulama' Council, ..., p. 5.

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General provisions of the MUI Fatwa, which is meant by: hadd is a type of punishment for acts which have been determined by the texts; Punishment is a type of punishment for a crime whose form and level are handed over to Government (the party that has the authority to determine the law); Mandatory testament is the Government (ruler) policy that requires men who result in the birth of an adultery child to intend to give property to the child resulting from adultery after death as a form of punishment.¹¹ Thus the existence of the MUI Fatwa, that from the perspective of child protection gives an explanation to the people that the child resulting from adultery should not be abandoned.

legal format as a solution to the position of adultery towards the biological father, where adultery can prove itself to its biological mother and father as long as it can be proven based on science and technology or other legal evidence as having blood relations with biological father, and provide opportunities for all children born outside of marriage, including adultery and discorded children, to obtain civil rights in terms of origin, education, health and inheritance from their parents, including to the families of their parents. Regarding the basis for granting adultery lineage rights / adultery with its biological father researchers agree with the MUI's statement is the effort which provides punishment to adulterers as a middle way that is wise enough as long as it does not cause lineage to its biological father and punishment is the authority of government. The similarity of researchers with MUI also forms the basis of the inheritance rights of adultery children with their biological fathers, namely that children resulting from adultery should not be abandoned. But regarding the amount of assets and pathways for giving researchers disagree with the MUI and Constitutional Court Decision Number 46 / PUU-VIII / 2010, that the portion received by the adultery child from his biological father is equated with the position of the legally legitimate child. In this case, the researcher sees that if the child is given the compulsory testament to the child of adultery it becomes something that is ambiguous with the status of the right of adultery with the biological father. One side of the Constitutional Court Decision No. 46 / PUU-VIII / 2010 confirmed that the adultery child is a child and has a relationship with his biological

¹¹ In QS: An-Nisa 59 Allah says which means: O believers obey Allah and obey the Messenger (Muhammad), and Government (holder of power) among you. Then, if you have different opinions about something, then return it to Allah (the Qur'an) and the Prophet (the Sunnah), if you have faith in God and such later days are more important (for you) and better consequences.

father, but on the other hand in terms of inheritance he is not treated as the son of his biological father.

CONCLUSION

Giving wealth and inheritance rights to adultery children, this is in line with the meaning of the theory of justice that it is not always that justice must always be interpreted as an equation if indeed the subject of the law governed is different, in this case the perpetrators of adultery with those who do not commit adultery but not to the child because the child is not the perpetrator of the act. Adulterous children who bear the status of illegitimate children that are different from legitimate children can only be distinguished by the terms underlying the manufacturing process and are not justified in terms of their rights because every child born is natural and every human has the same rights and every act is not justified borne by others who did not do it. In law equating an unequal thing is precisely an injustice, as Aristotle once introduced the existence of distributive justice and commutative justice. In principle, the community appreciates positively the importance of protecting the civil rights of adultery children, and hopes that it will be immediately set forth in the laws and regulations governing the civil rights of adultery children, so that there is clarity about the scope of the rights in question and becomes binding and acceptable guidelines everyone, so that the protection of the civil rights of adultery children is well realized. Thus, the protection of the rights for adultery children must become an important domain for the state (government) in order to realize the value of Pancasila with social justice for all Indonesian people.

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