

Comparison of Positive Law and Islamic Law in Recognition Outside Marriage Children's Legal Status

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ABSTRACT

Recognition of the legal status of children outside of marriage is regulated in Article 280 of the Civil Code and Islamic Law does not recognize the recognition of children outside of marriage which is regulated in Article 100 of the Compilation of Islamic Law, so that the legal consequences that arise later are different. A child outside of marriage is a child born to his parents without a legal marriage between the father and mother. Therefore, the child does not have the status or position in law as a legitimate child. This type of research conducted by the author is Empirical Juridical Research, namely research by studying, investigating and studying according to what has been determined by the applicable regulations and real facts that occur in the community with the aim to learn and find data and real events that actually happened, with use the legal approach and case approach. In the results of this research and discussion it is explained that in Positive Law a child outside of marriage can be ratified by a confession, whereas in Islamic Law there is no recognition. Recognition of children outside of marriage in Positive Law raises the result of the endorsement and the resulting relationship with the legal consequences. Whereas in Islamic Law the law of an out-of-wedlock child is not entitled to obtain lineage relationship, livelihood, inheritance rights and others from his biological father because it only has a lineage relationship with his mother and his mother's family, but if the biological father wants to give part of his property, this can be done through a will.

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1. INTRODUCTION

A country basically guarantees the welfare of each of its people, this is also particularly the case for the Indonesian state, where law is considered the highest base in the state. So that the existence of law is expected to realize the ideals of the Nation contained in Pancasila. Therefore, in realizing these ideals must start from solving national problems. This national problem must be seen from the smallest part of a society, that is the family, namely children, and includes their rights and obligations.

Responding to this problem, Indonesia still has various legal arrangements, so there is no unification of regulations related to rights that must be accepted by a child, such as the distribution of inheritance (inheritance) in which this regulation is a unity of law in Indonesia, especially private law. Therefore, until now Indonesia still uses three (3)

inheritance legal systems which are the legacy of previous laws, namely: inheritance of customs, inheritance of civil civilization and inheritance of Islam, which is a derivative of the nation's history. This shows that the regulation of inheritance in Indonesia seems to have been difficult for integration in the past, even though it has actually received special attention from the government in regulating inheritance.

However, it seems that for a long time until now, many attempts were made to unify inheritance law in Indonesia, but it was certainly very difficult to realize. This is because there are many supporting factors causing the problematic unification of inheritance arrangements, so that inheritance arrangements in Mochtar Kusumaatmadja's view, include "*legal aspects that have too many obstacles in them, this is because there are mixing (complications) of various cultures or cultural combinations, beliefs from adherents of religion and sociology*".¹

Regarding the recognition of children, Muslims in Indonesia want a written regulation on marriage. This was realized in 1974, namely the enactment of Law (Law) Number 1 of 1974. Therefore, on December 22, 1973, the Minister of Religion (MA) as the government was authorized to bring the Draft Law (Draft Bill) on marriage approved by Parliament to serve as the Marriage Law. Then the President passed the Law on January 2, 1974, and was passed in State Gazette Number 1 of 1974.

Furthermore, Marriage Law No. 1 of 1974 contained the principle of marriage which only affects children or offspring originating from such marriages. However, there are exceptions in the Law relating to children born outside of marriage contained in Article 43 paragraph 1 which contains children born outside of marriage having civil relations only with their mothers and their families. Then in paragraph 2 explains that, if the status of a child born not from a legal marriage will be regulated further in Government Regulation. In fact it is, until now not yet fully realized. So it can be interpreted that the existing law is inadequate in solving problems related to children outside of marriage.

The position of the child outside of marriage in everyday life many get unfair behavior in the community, where the child is not well cared for, both in the growth of the child psychiatrist and the welfare of the child, in one side the child has a status that is considered lowly low by society, then on the other hand both in terms of welfare and civil rights are still limited.

Even though humans should have been born since they had inherited themselves to support their rights and obligations. Just like children outside of marriage, these children have the opportunity to become supporters of the rights and obligations like citizens in Indonesia. Therefore, children born outside of marriage also have the right to feel protected by law, including in civil matters like children born due to a marriage.

In the ideology of the State of Indonesia, Pancasila, precisely the 5th precept explains that the Indonesian State guarantees Social Justice for all its citizens. Therefore, the government is obliged to fight for the rights of children born outside of marriage in order to obtain protection and the rights of such children such as recognition, legal status and the distribution of inheritance.

¹ Mochtar Kusumaatmadja, (1976), *Hukum, Masyarakat dan Pembinaan Hukum Nasional*, Bandung: Binacipta, p. 12.

Related to this, in fact the State has given a form of attention and concern regarding the problems of children born outside legal marriages by issuing a Constitutional Court (MK) Decree No. 46 / PUU-VII / 2010 to answer requests for judicial review related to Article 43 paragraph 1 UU no. 1 of 1974, by Hj. Aisyah Mochtar bint Mochtar on February 17, 2012. In the ruling stated, children born outside of marriage have a civil relationship only with the mother and family of her mother and biological father during, it can be proven that the man is the biological father of the child.

But this hamlet in fact resulted in the pros and cons of the community. From the people who supported this decision, they considered that the decision was a form of legal effort to provide protection related to children's rights outside of marriage. While the people who do not support this decision, feel that this decision is meant to legalize the act of adultery.²

Responding to this problem, many people lack understanding about the recognition and endorsement of children outside of marriage. This can be seen from the number of filing requests for children's origins in the Merauke Religious Court, with various reasons so that the child can be legally recognized as proven by a birth certificate or family card in order to make it easier for the child to obtain the rights he will receive as in terms of recognition, inheritance, education and others.

As below, the table for Child Origin Requests in the Merauke Religious Court ranges from 2017 to 2019, including:

Table 1. Data on Case of Child Origins in the Merauke Religious Court

Year	Case Number	Decision	There are many decisions
2017	11/Pdt.P/2017/PA.Mrk	Sebagian	7 Decision
	38/Pdt.P/2017/PA.Mrk	Not accepted	
	43/Pdt.P/2017/PA.Mrk	All of it	
	54/Pdt.P/2017/PA.Mrk	Declined	
	55/Pdt.P/2017/PA.Mrk	Some	
	57/Pdt.P/2017/PA.Mrk	Some	
	60/Pdt.P/2017/PA.Mrk	All of it	
2018	2/Pdt.P/2018/PA.Mrk	All of it	4 Decision
	42/Pdt.P/2018/PA.Mrk	All of it	
	44/Pdt.P/2018/PA.Mrk	Cancel it	
	62/Pdt.P/2018/PA.Mrk	All of it	
2019	8/Pdt.P/2019/PA.Mrk	Some	4 Decision
	16/Pdt.P/2019/PA.Mrk	All of it	
	19/Pdt.P/2019/PA.Mrk	All of it	
	48/Pdt.P/2019/PA.Mrk	Some	
Total Decisions for the past 3 years			15 Decision

Source: the data is processed by itself from secondary data available at: <https://putusan3.mahkamahagung.go.id/pengadilan/direktori/pengadilan/pamerauke.html>

From the above table, the case of the origin of children in the Merauke Religious Court 3 years from 2017 to 2019 there were 15 decisions, 5 decisions were accepted in part, 1

² [https://www.bphn.go.id/data/documents/putusan.46-puu-viii-2010.\(perkawinan\).pdf](https://www.bphn.go.id/data/documents/putusan.46-puu-viii-2010.(perkawinan).pdf)

decision was not accepted, 1 decision was rejected / canceled, 1 decision was canceled and 7 decisions were granted.

So by looking at the problems regarding the recognition of children outside of marriage it is deemed necessary to pay attention to, relating to the administration and the fulfillment of the child's needs and rights. This is so that there is a clear recognition of the legal status of children born outside of marriage who are victims of the actions of their parents and in this case the children do not choose to be born with the circumstances they are experiencing at this time.

So to solve the above problems the authors find it interesting to raise and examine the status of children outside of marriage and the legal consequences seen from the Positive Law and Islamic Law in force, because seeing more and more children born out of wedlock. In looking for solutions to the problem of children outside of marriage there is the author's interest to conduct further research in a paper entitled: Comparison of Positive Law and Islamic Law in Recognizing the Legal Status of Children Outside Marriage.

2. METHOD

This research uses a type of empirical juridical research that is studying, investigating and reviewing in accordance with what has been determined by the applicable laws and regulations and the reality that actually occurs in the community. The goal is to be able to study and find data from real events that actually occur that are needed in this research³. The method of this research approach is to use the statute approach and case approach. This research has the descriptive nature of analysis, which provides a description of the problems discussed in this study and analyzes the relevant legal regulations and is linked to the results of interviews conducted on the research object to provide answers to the problems formulated.⁴

3. RESULTS AND DISCUSSION

Comparison of the Recognition of the Legal Status of Children Outside Marriage in the Perspective of Positive Law and Islamic Law

3.1. According to Positive Law

Children are a gift given from God to married couples. Since birth, a child has been attached to the legal consequences that have to do with the marriage relationship between his parents. In the Civil Code and Marriage Law that is there are two legal statuses of a child namely a legitimate child and a child outside of marriage. the child does not need to be too long in detention so as to minimize the occurrence of disruption in the growth of children both physically, mentally, and socially.⁵

³ Julianto Jover Jotam Kalalo, Chyntia Novita Kalalo (2018). Legal Protection Against Health Workers in Taking First Aid Medical Measures. *Musamus Law Review*, 1 (1), pp 40-52, <https://doi.org/10.35724/mularev.v1i2.1263>

⁴ Yana Ardila, Julianto Jover Jotam Kalalo. (2019). Arrangement for Issuance of Certificate of Substitute of Land Rights. *Musamus Law Review*, 2 (1), 36-49, <https://doi.org/10.35724/mularev.v2i1.1076>

⁵ Mulyadi Alrianto Tadjuddin, Yuldiana Zesa Azis. (2018). Protection of Papuan Native Children Conflicting with Law through a Restorative Justice Approach. *Musamus Law Review*, 1 (1), 1-20. <https://doi.org/10.35724/mularev.v1i1.792>

Legitimate child is a child born after a legal marriage takes place between his parents. A marriage is declared and said to be valid if carried out in accordance with the legal rules of each religion and in accordance with their respective beliefs and recorded in accordance with applicable regulations. Whereas a child outside of marriage is a child who is hatched and is born outside a legal marriage.

The Constitutional Court has issued decision No. 46 / PUU-VIII / 2010 to conduct material testing related to Law Number 1 of 1974 concerning Marriage. In the decision filed by Aisyah Mochtar alias Machica binti H. Mochtar Ibrahim as the petitioner, stated that the civil relationship between children outside of marriage is not only with the mother and her mother's family, but also with men who are proven according to science, technology and other evidence according to law has blood relations as his father.

When a child is born out of a legal marriage between his parents, to get a legal relationship between the child and the father and mother, it is necessary to acknowledge the child. It is important to remember that recognition for those children outside of marriage is personal. This means that civil relations are established only between children outside of marriage that have been recognized with parents who acknowledge it. Whereas with relatives who admit it there is no connection.⁶ So thus it can be seen that the legal status of a child outside of marriage according to the Civil Code is that the child can become a legitimate child if the child's parent marries and recognizes the child outside of marriage as his child. So much needed recognition from the child's parents.

In connection with the implications of the Constitutional Court's decision on the legal status and proof of the origin of children outside the marriage, namely having a relationship with a birth certificate is because this verification can only be done with authentic birth certificates issued by authorized officials in accordance with the provisions of Article 55 paragraph (1) Marriage Law.

So with the Constitutional Court's ruling, the relationship that occurs between a child outside of marriage with his father is a biological blood relationship that is approved in accordance with the law. With the understanding that, there are at least two ways to make a child outside of marriage can have blood and civil relations with his father and father's family, namely:

- a. Direct recognition from his biological father; and
- b. Authorization from biological fathers to children outside of marriage.

After this acknowledgment, the child outside of marriage has a civil relationship with his father as stipulated in Article 280 of the Civil Code which reads: "With the

⁶ Benyamin Asri dan Thabrani Asri, (1988), *Dasar-Dasar Hukum Waris Barat Suatu Pembahasan Teoritis Dan Praktek*, Bandung: Tarsito, p. 13.

recognition of children outside of marriage, a civil relationship is born between the child and the father or mother". With the acknowledgment of the parents of children born outside of marriage, there is a bright spot on legal protection to guarantee the rights of children outside of marriage.

Related to the recognition of children in positive law, the Civil Code divides child recognition into two types namely: Voluntary recognition and forced confession. Voluntary recognition is the acknowledgment of a biological father or mother without intimidation or coercion from any party, not also because of a court ruling that compels the child's parents to acknowledge the child outside the marriage. Whereas forced confession is a form of confession to a child out of wedlock in a way, the child submits a lawsuit to the District Court to request that his father and mother admit it.

The acknowledgment gives rise to a result of the endorsement, which is due to the existence of a marriage from the biological parents of the child, resulting in the child obtaining a position as a legitimate child from birth.

Recognition of children outside of marriage is important, because recognition results in civil relations between parents and children, in accordance with Article 280 of the Civil Code that "with the recognition of a child out of wedlock, civil relations are born between the child and his father or mother". Recognition from the boy or father of the child can only be done with the consent of the mother. Article 284 of the Civil Code states that "an acknowledgment of a child outside of marriage, can only be done if the mother agrees to the confession". This means that no acknowledgment of a child outside of marriage can be accepted if the mother of the child has passed away (died), because without the consent of the mother of the child outside the marriage there is no acknowledgment received by the child outside of marriage.⁷

The results of interviews with Merauke District Court judges Rizky Yanuar, S.H., M.H., stated that children outside of marriage are children outside of legal marriages. With regard to out-of-wedlock children in accordance with positive law in Marriage Law No. 1 of 1974 that an out-of-wedlock child only has civil relations with his mother, but with the Constitutional Court's Decision related to the application for material testing submitted by Macica binti Hj. Mochtar, thus stated that a child outside of marriage has a civil relationship with his mother and his mother's family and his father and father's family as long as it can be legally proven and recognized by his biological father.

This recognition is related to the rights of the child outside marriage including the inheritance rights of the child. So the out-of-wedlock child can inherit the inheritance if he gets recognition from his mother and father. In connection with this confession, can submit an application to the court with and by way of proving with evidence that

⁷ Eddo Febriansyah, (2015), *Unnes Law Journal, Tinjauan Yuridis Putusan Mahkamah Konstitusi Nomor 46/Puu-Viii/2010 Tentang Kedudukan Anak diluar Nikah yang diakui dalam Pembagian Warisan*, <https://journal.unnes.ac.id/sju/index.php/ulj>, p. 8-9.

meets the requirements in accordance with what was requested by the panel of judges related to the recognition of the child outside of marriage. So that the confession is legally determined by the court. In connection with the inheritance, a lawsuit can be brought back to court after the decision is made regarding the recognition of the child outside of marriage, and the distribution of the amount of the right of the said portion of the child is in accordance with the laws.⁸

The further legal relationship arising between children outside of marriage with his father and mother due to the recognition of:

- a. There is an obligation to ask for a marriage permit when they want to get married if they are not mature (Article 39 and Article 47 of the Civil Code);
- b. There is a maintenance obligation between parent and child recognized (Article 328 of the Civil Code);
- c. A custodial relationship exists between the child and parents who acknowledge it for the sake of the law (Article 353 of the Civil Code);
- d. There are inheritance rights for children recognized by parents who admit it (Article 909 Civil Code)
- e. There is the right to inherit from parents who recognize, relating to the inheritance of a recognized child (Article 870 of the Civil Code).

3.2. According to Islamic Law

Islamic law determines that the recognition of a child that originates from fiqh is known as "istilhaq" or iqraru bin nasab which is a voluntary acknowledgment from a man who seeded him without coercion to admit that the child has blood relations with him.

When examined from the provisions in the Civil Code, there are 3 kinds of legal status of children outside of marriage, namely:

- a. Natural child (natural) is a child resulting from relationships between men and women outside of marriage and between the two having no ties in marriage with others and between the two are not prohibited from entering into a marriage.
- b. Discord is the result of a relationship between a male and female relationship outside of marriage which between the two does not exist in a marriage bond with another person, but both are prohibited from entering into a marriage.
- c. Adultery is the result of a relationship between a man and a woman between one or both of the men and women who are in a marriage relationship with another person.⁹

The term adultery in Islam is standard, because it is used by fiqhi experts in Islamic countries in the world. This source is also emphasized by the opinion of experts that

⁸ Rizky Yanuar, S.H., M.H, Results of Interview with Merauke District Court Judge, 14 Mei 2020.

⁹ Wiryono Prodjodikoro, (1983), *Hukum Warisan di Indonesia*, Bandung: Sumur Bandung, p. 72.

the adultery child is a child born outside a legal marriage according to the Islamic rules' because it is a child of the seeds of a relationship that is prohibited and not justified by Islamic law. Because adultery is an act that is not good and get a lot of talk in the community, so it is contrary to the dignity and glory of Muslims.

As for in Islamic Law "Children born outside a legal marriage, the child has a legal relationship (nasab) only with his mother and his mother's family", which is a provision of Article 100 KHI. Thus, between a child out of wedlock and the mother who gave birth to him naturally has a legal relationship. However, it is different with his father who has hatched him with a child outside of marriage that does not have a family although the man who is his biological father wants to acknowledge the child, therefore between the child and the man has no inheritance relationship.

As for the legal consequences of children outside of marriage according to KHI namely the child outside marriage is not entitled to get a nasab relationship, income, inheritance rights (preservation / care of children) as well as guardianship from the man who spawn it, but from his mother. The legal status of children outside marriage (adultery children) in Islam is affirmed in the fatwa of the Indonesian Ulema Council (MUI) dated March 10, 2012, namely:

- a. Adultery children do not get legal consequences, namely marriage, marriage, inheritance or the livelihood of men who are the cause of their birth.
- b. Adultery children only have nasab, inheritance and a living with their mother and family.

KHI states in the provisions of Article 186 that: "a child born outside of marriage has only an inherited relationship with his mother and his mother's family". In Islamic Law the child has the first place in the line of inheritance to receive the inheritance (inheritance) of his parents. However, it is different with a child outside of marriage, because the child, both male and female, does not get an acknowledgment of blood relations with his father, so the child is not entitled to inherit his father's property nor from his father's family.

In connection with this recognition, the determination of the request for the origin of children when viewed from Islamic law is very important. Because of this stipulation so as to know the passage between a child and his father. This acknowledgment is said to be valid, if the child is born to parents who enter into a legal marriage according to religion and applicable law.

Proof of the origin of children can be seen from the origins of their birth, this is regulated in the provisions of Article 103 KHI, so it is easy to determine the legal status of the child and also the legal consequences arising from the determination.

So that in order to find out more about the consequences arising from the decision being granted and the implementation of the verdict in the case of the Merauke

Religious Court regarding the origin of the child, the writer interviewed several informants / informants from the petitioners who submitted the petition for the child's origins and their decisions were granted namely:

- a. ¹⁰The results of the interview are based on the decision of Case Number 60 / Pdt.P / 2017 / PA.Mrk. (D and T) say that filing a petition is not as easy as what is thought. Need to collect all the evidence in the form of documents such as marriage certificates, ID cards, birth certificates and other evidence and in the process of stipulation requires a short time. However, after the verdict we can re-create the child's birth certificate in civil registration. Regarding the rights of our children after the verdict, we gave the rights that we should have received.
- b. ¹¹The results of the interview are based on the decision of Case Number 62 / Pdt.P / 2018 / PA.Mrk. (ASA) said that related to the request for the origin of the child, I think this is useful so that issues such as the recognition of children and the rights they must receive can be fulfilled legally. When intending to submit a request related to the origin of the child it is necessary to pay attention to all the complete requirements and other authentic deeds requested as evidence, so that the examination of documents by the judge can later be granted. The granting of this ruling was also not as easy as people thought, because the judges needed confidence in examining the files and witnesses. And related to the implementation after the decision I personally stated that this decision finally made me legally registered as the father of my child in the form of birth certificate of my child in civil registration. For the rights of other children, all return to parents who are supposed to provide and meet the needs of children, such as living, being a guardian and education later and ensuring that my child is born physically and mentally happy. It's just that there are shortcomings of this ruling, if the child is a girl, her father cannot be the guardian of his marriage later. And for things like inheritance, in fact Islam does not recognize the distribution of inheritance for children outside of marriage, but again there is an affidavit in which the child can be named. And actually back again to their respective families and the solution to the problem of inheritance.

So that in response to this the authors conclude that there are advantages and disadvantages related to the decision of the request for the origin of the child who was granted. The advantage is that the decision is granted namely:

- a. The name of the father of the child who was not originally included in the child's birth certificate after the decision, the child's father's name can be included and a new birth certificate is made at the Civil Registry Office.

¹⁰ Interview Results with Case Number Informants 60/Pdt.P/2017/PA.Mrk, 13 Juni 2020.

¹¹ Interview Results with Case Number Informants 62/Pdt.P/2018/PA.Mrk, 16 Juni 2010.

- b. Children get their civil rights, namely: legal recognition, guardianship rights, the right to earn a living, the right to education and others from their father and mother.

However, there are also drawbacks in the granting of the petition: the father of the child is only designated as a biological father, not the father of the child, so that if a child is born a girl, the father of the child cannot be his guardian if he wants to get married.

The interview with the Merauke Religious Court Judge stated that despite the Constitutional Court's decision No. 46 / PUU-VII / 2010 relating to children outside of marriage, if it is related to Islamic law the decision only relates to the civil relationship between the child and his biological mother, whereas the father Biology cannot be established as the guardian of the child because it is related to religious rules that are sacred and cannot be changed.

The importance of community awareness is also about children. Regarding the petition for the child's origin, the Petitioners must gather evidence so that it can be proven in accordance with what was requested by the panel of judges. And want the government in charge to provide counseling to the community relating to the rules of marriage, children outside of marriage and how should the process in applying for the origin of children so that the public knows and is used as a reference for further justification.

In Islamic law there is no recognition of the term recognition. The legal status of children outside of marriage or in Islam is known as adultery can not get recognition as in the Civil Code to become a child outside of marriage that is recognized. Children out of wedlock can only demand living expenses and education costs in accordance with Article 867 of the Civil Code which reads "The law gives them only the necessary living expenses", causing children outside of marriage to not get their rights like legitimate children. The legal consequences caused to them children outside of marriage according to Islamic law, namely:¹²

- a. The absence of Nasab with his father, but only with his mother. In juridical formal, his father has no obligation to provide for the child to support outside the marriage. But this relationship only takes place humanely and not legally.
- b. The absence of mutual inheritance relationship, because nasab is one of the conditions of inheritance, because of the consequences arising from the absence of a relationship between the child and his father.
- c. There is no guardianship, if the child outside of marriage is a daughter. Later when an adult and will get married, then his biological father does not have the right to be the guardian of the child but the guardian of the judge.

If the father of the child outside the marriage wants to give part of his assets to his biological child, it can be done through a will. Biological father can write a will, that biological children are given a part of the total property after he died later. In inheritance wills may be given to anyone other than the heirs of the testator.

¹² Media Muslim, (2007), *Status Anak Hasil Hubungan di Luar Nikah*, www.mediamuslim.info, diakses 24 November 2010.

In classical fiqh products, jumhur ulama agree that children outside of marriage are not entitled to receive inheritance from their fathers and vice versa, as stated by Imam Syafi'i quoted by Wahbah Zuhaily ie adultery status is equated with the beginning child so that the child does not have a relationship inherit with his father and father's family, because there is no legal status among them.¹³

According to KHI, the application for determining the child's origin can be proven through a birth certificate or evidence that can be used to strengthen the clarity of the child's status, but if the birth certificate or other evidence is not available, then the Religious Court will determine the child's origin. This is in accordance with the provisions of Article 103 KHI.

The existence of Article 53 Paragraph (1) KHI which states: "No remarriage is needed after the child is born". This means that the status of a child outside of marriage can be passed on to his father and father's family. If the child is born before the marriage contract is held, the child's status becomes a legitimate child so that he is entitled to earn a living and inheritance and guardianship rights if the child is a woman.

In KHI book I Article 100 that: "children born outside of marriage only have a nasab relationship with their mother and mother's family". In this case, book II KHI Article 171 letter c that: "Heir is a person who at the time of death has a blood relationship or marital relationship with the testator, is Muslim and is not hindered by the law to become an heir".¹⁴ This means that the relationship between Article 100 and Article 171 letter c is that: because the child outside of marriage does not have a nasab relationship with his father, the child is not included as an heir.

4. CONCLUSION

Recognition of the legal status of children outside of marriage according to civil law must be with the voluntary recognition of both parents evidenced by an autetic deed in the form of a notarial deed. Whereas in Islamic Law there is no recognition, so a child outside of marriage cannot be recognized as a legitimate child because the child outside of marriage only has a nasab relationship with the mother and family of the mother but can apply for the origin of the child in the Religious Court regarding the application of the determination of a biological child or child natural. The distribution of the inheritance of children outside of marriage after the recognition of the legal status of children according to civil law results in obtaining the rights that the child should have received from birth, namely, the position as a legitimate child, custody rights, inheritance rights, and others. But unlike the case with Islamic law that does not recognize the existence of recognition so it is not entitled to get a relationship nasab, livelihood, inheritance rights (inheritance), hadhanah (care/care of children) and guardianship from biological father, but the child can get these rights from her mother.

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¹³ Wahbah Zuhaili, *Fiqh Imam Syafi'i*: (2012), *Mengupas Masalah Fiqhiyah Berdasarkan Al-Quran dan Hadits*, (terj: Muhammad Afifi dan Abdul Hafiz), Cetakan II, Jakarta: Al-Mahira, p. 129.

¹⁴ Tim Redaksi Nuansa Aulia, (2012), *Kompilasi Hukum Islam; Hukum Perkawinan, Kewarisan dan Perwakafan*, Cet. 3, Bandung: Nuansa Aulia, p. 52.

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