

RINGKASAN

KEDUDUKAN HUKUM ANAK ANGKAT DALAM

PEMBAGIAN HARTA PENINGGALAN MENURUT

HUKUM ISLAM

Struktur keluarga ideal terdiri atas suami sebagai kepala keluarga, istri sebagai ibu rumah tangga, dan anak atau anak-anak sebagai anggota keluarga. Oleh karena itu kehadiran anak di tengah-tengah keluarga merupakan bagian tak terpisahkan dalam struktur keluarga bahagia, hadimya seorang anak diharapkan akan mengganti kedudukan orang tua dalam hidup bermasyarakat sebagai anggota yang bernilai.

Pewarisan merupakan peralihan hak yang terjadi karena adanya orang yang meninggal dunia dan meninggalkan harta warisan, orang yang ditinggalkan (hidup terlama) dari orang yang meninggal dan harta peninggalan. Orang yang meninggal dunia yang meninggalkan harta warisan disebut dengan pewaris, orang yang ditinggalkan atau hidup terlama yang menerima harta peninggalan disebut ahli waris dan harta warisan yaitu harta yang ditinggalkan oleh orang yang meninggal dunia untuk kemudian dibagi-bagikan kepada ahli warisnya.

Terkait dengan masalah pewarisan tersebut, maka hukum waris yang berlaku di Indonesia ada tiga ketentuan hukum, yaitu hukum BW, hukum

Islam dan hukum Adat. Mengenai pihak-pihak yang berhak mendapatkan pengalihan hak pewarisan dari pewaris kepada ahli warisnya dalam hal ini adalah anak(secara yuridis) apabila terdapat anak sah dari perkawinan, anak luar kawin dan anak angkat atau anak orang lain yang diambil untuk dijadikan anak kandung sendiri.

Anak sah adalah anak yang dilahirkan ketika kedua orang tuanya terikat dalam suatu perkawinan yang sah. Anak sah sama dengan anak kandung mendapat posisi yang istimewa dan kuat terhadap ke dua orang tuanya bila dibandingkan dengan anak luar kawin dan anak angkat.

Hukum waris adalah suatu rangkaian ketentuan-ketentuan dimana dengan meninggalnya seseorang, akibat-akibat didalam bidang kebendaan, diatur yaitu akibat dari beralihnya harta peninggalan dari seseorang yang meninggal kepada ahli waris, baik di dalam hubungannya antara mereka sendiri, maupun dengan pihak ke tiga.

SUMMARY

PLACE OF STEPCHILD IN PROPERTY SHARING ACCORDING TO ISLAM LAW

Family ideal structure consist of husband as a head of family, wife as mother, and son or children as member of family. Because of that the existence of child in the middle cannot be separated in a happy family structure, the presence of children is expected will replace the position of parents in social life as a valuable member.

Inheritance is a transferring rights that occur because there are person who died and leaving inheritance, the person who is left (live longest) from the person who died and inheritance property. The person who died leaving inheritance property called heir, the person is left or live longest receive such inheritance property called heir member and inheritance is a property that is left by the person who died which is then to be shared with their heir member.

Connected to such inheritance matter, thus heir law there are 3 stipulation law that is valid in Indonesia namely BW law, Islam law, and tradition law. About parties who haws rights receive heir transfer rights from heir to their heir in this matter is children (juridically) when there are valid son from marriage, children out of marriage and step children or other person is taken to be their own son.

Valid children is a children who is born when their parents is tied with valid marriage. Valid children is as the same with own children receive special and stronfg position toward their parents if it is compared with children out of marriage and step children.

Inheritance law is combination of stipulation where by the death of a person, consequences inside material matter, is aranged that is consequences of transferring inheritance property from someone who died to heir member, even inside their relation between their own relations, even from the third party.

ABSTRACT

We must remind that the life of human is not eternal; with other words such person must leave perishable country to enter eternal country. By the death of such person thus its wealth is transferred to other person who is left. At least, there are two wealth function, namely to fulfill the need of such property owner, and to compose brotherhood relation between human. For person who receive abundant wealth property there are obligation give half to other person, especially to them who need it most.

Discussing about inheritance law that is valid in Indonesia in justice dimension, it could not be avoided that finally compare between inheritance law with another. Actually, existence of this third inheritance law system is not a big deal, as long as every law system that is valid for their each law subject. That means each law subject choose one law system to solve matter according with its personal importance. Such as, someone obey to christian religion, it must be consistant to obey BW law system. Meanwhile, law subject that have Islam religion obey to islam law system.

Analogue with section certainty 62 verse 1 law number 1 year 1974 that decide religion court for them who is Islam, and other common court, thus in inheritance matter the same things is also valid. For person who is islam, it is valid Islam law system. For society who is not islam could be valid tradition law system or inheritance law system (BW), whics is at Indonesia now only valid for citizen descent of Europe and China who is not Islam