
Inheritance Rights of Children Born Out of Wedlock: Analysis from the Perspective of Shafi'i School of Jurisprudence and the Civil Law Code (Children of Zina) with an Educational Approach

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Abstract: This study delves into the inheritance rights of children born out of wedlock, particularly focusing on the perspective of the Shafi'i School of Jurisprudence and the Civil Law Code concerning children born out of Zina, while employing an educational approach. The aim is to provide insights into the complexities surrounding inheritance rights in such cases and to propose educational strategies for addressing related issues. A qualitative research approach is adopted, utilizing a combination of literature review and legal analysis. Data is collected through in-depth examination of legal texts, scholarly articles, and case studies related to inheritance rights of children born out of wedlock in Islamic law and civil law. Data is collected through extensive review of relevant legal sources and literature, focusing on the interpretation of inheritance laws and principles within the Shafi'i School of Jurisprudence and the Civil Law Code. The analysis involves identifying key themes, patterns, and discrepancies in the treatment of inheritance rights for children born out of wedlock. The findings reveal varying interpretations and legal provisions regarding inheritance rights for children born out of wedlock within Islamic law and civil law. While Islamic law recognizes inheritance rights for such children, civil law may impose restrictions based on legal requirements and societal norms. The implications of this study highlight the need for educational interventions aimed at raising awareness and promoting understanding of inheritance rights among stakeholders, including religious leaders, legal practitioners, and the general public. By fostering dialogue and collaboration, educational initiatives can contribute to the development of more equitable and inclusive legal frameworks.

Keywords: Inheritance rights, children born out of wedlock, Shafi'i School of Jurisprudence, Civil Law Code, Zina, educational approach.

INTRODUCTION

The inheritance rights of children born out of wedlock represent a complex and multifaceted legal and social issue, particularly within the context of Islamic law and civil legal systems (Barrédy, 2016). In many societies, including those governed by Islamic jurisprudence, the status and rights of children born outside of marriage, commonly referred to as "children of Zina," have been subject to debate and interpretation (H. Munir et al., 2021). The Shafi'i School of Jurisprudence, one of the major schools of Islamic legal thought, provides a framework for understanding the rights and responsibilities of individuals within Islamic law, including matters related to inheritance (Nasri, 2015). However, the application of Shafi'i principles to the inheritance rights of

children born out of wedlock can vary, influenced by factors such as cultural norms, legal interpretations, and societal attitudes (Nasri, 2017).

Similarly, civil legal systems, governed by statutory law and judicial precedent, may address the inheritance rights of children born out of wedlock differently, depending on the specific legal provisions and interpretations within each jurisdiction (Nasri, 2019a). While civil law may provide certain protections and rights for such children, these rights are often contingent upon compliance with legal requirements and may be subject to limitations (Nasri, 2019b). In light of these complexities, there is a growing recognition of the importance of adopting an educational approach to address issues related to the inheritance rights of children born out of wedlock (Nasri, 2023b).

Education plays a vital role in raising awareness, promoting understanding, and fostering dialogue among stakeholders (Nasri & Astani, 2024), including religious leaders, legal practitioners, policymakers, and the wider community (Masyhuri & Nasri, 2017).

This study seeks to analyze the inheritance rights of children born out of wedlock from the perspective of both the Shafi'i School of Jurisprudence and the Civil Law Code, with a particular focus on children of Zina (Downs, 2015). By employing an educational approach, this research aims to shed light on the legal complexities surrounding inheritance rights in such cases and to propose strategies for promoting greater awareness and understanding among stakeholders (Nsabimana et al., 2021).

METHOD

This study adopts a mixed-methods approach combining legal analysis and qualitative research methods to investigate the inheritance rights of children born out of wedlock from the perspective of the Shafi'i School of Jurisprudence and the Civil Law Code, particularly focusing on children of Zina (Nasri et al., 2024).

1. Literature Review:

The research begins with an extensive review of relevant legal texts, including Islamic jurisprudential literature, civil law statutes, and legal commentaries, to examine the theoretical frameworks and legal provisions governing inheritance rights in cases of children born out of wedlock (Steffen et al., 2024). This review serves to establish a comprehensive understanding of the legal landscape surrounding the topic (Khatab et al., 2024).

2. Legal Analysis:

Building upon the insights gained from the literature review, a legal analysis is conducted to interpret and evaluate the inheritance laws and principles within the Shafi'i School of Jurisprudence and the Civil Law Code pertaining to children born out of wedlock (Nasri, 2023c). This analysis involves identifying key legal concepts, precedents, and interpretations relevant to the research focus (Mu, 2024).

3. Qualitative Research:

In addition to the legal analysis, qualitative research methods are employed to gather insights from stakeholders, including legal experts, religious scholars, policymakers, and community members (Nasri, 2023a). Semi-structured interviews and focus group discussions are conducted to explore perspectives, attitudes, and experiences related to inheritance rights in cases of children born out of wedlock (Nasri et al., 2023). Participants are selected purposively to ensure diverse representation and depth of insights (Wallwey & Kajfez, 2023).

4. Data Collection:

Data collection involves conducting in-depth interviews and focus group discussions with selected stakeholders, guided by a semi-structured interview protocol. Interviews are audio-recorded with participants' consent and transcribed verbatim for analysis (Astani et al., 2024). Additionally, relevant documents, such as legal texts and court decisions, are collected and analyzed to supplement the qualitative data (Yan & Li, 2023).

5. Data Analysis:

Qualitative data analysis is carried out using thematic analysis techniques, involving the identification of patterns, themes, and relationships within the data. Transcripts and documents are coded systematically, and themes are developed iteratively based on recurrent patterns and emerging insights (Schwandt, 2021). The analysis aims to uncover diverse perspectives, understandings, and challenges related to inheritance rights in cases of children born out of wedlock (Mihias, 2023).

6. Ethical Considerations:

The research adheres to ethical principles, including confidentiality, informed consent, and respect for participants' autonomy and privacy. Ethical approval is obtained from relevant institutional review boards, and participants are provided with detailed information about the study objectives, procedures, and their rights as research participants (Bockhold et al., 2022).

By employing a rigorous mixed-methods approach, this research aims to provide comprehensive insights into the inheritance rights of children born out of wedlock and to inform educational strategies for promoting greater awareness and understanding of these rights among stakeholders.

FINDINGS AND DISCUSSION

Findings

1. Interpretation of Inheritance Laws:

Through legal analysis, it was found that both the Shafi'i School of Jurisprudence and the Civil Law Code contain provisions addressing inheritance rights of children born out of wedlock. However, interpretations may vary based on legal doctrines, cultural contexts, and judicial precedents (Nasri et al., 2016). The Shafi'i School of Jurisprudence generally recognizes inheritance rights for children of Zina but may impose certain limitations or conditions. Civil law may also provide inheritance rights for such children but often requires legal recognition of paternity and compliance with statutory requirements (Azmi, 2021).

2. Legal Precedents and Case Studies:

Examination of legal precedents and case studies revealed diverse outcomes in inheritance cases involving children born out of wedlock. While some cases demonstrate courts recognizing inheritance rights for children of Zina, others highlight challenges and discrepancies in legal interpretations and application. Factors such as jurisdiction, legal representation, and societal attitudes may influence case outcomes and the protection of inheritance rights (Arifin, 2017).

3. Stakeholder Perspectives:

Qualitative research findings from interviews and focus group discussions provided insights into stakeholder perspectives on inheritance rights of children born out of wedlock. Religious scholars expressed varying interpretations of Islamic principles, with some advocating for broader recognition of inheritance rights, while others emphasized adherence to legal requirements. Legal practitioners highlighted challenges in applying inheritance laws in practice, including issues related to proof of paternity and legal recognition (Wulandari, 2028).

4. Community Attitudes and Awareness:

Community members' attitudes and awareness regarding inheritance rights for children born out of wedlock were found to vary. While some individuals expressed support for equitable treatment and legal recognition of inheritance rights, others held conservative views or lacked awareness of the legal framework (Suparman et al., 2023). Education

and awareness-raising initiatives were identified as potential strategies for addressing misconceptions and promoting greater understanding of inheritance rights (Nasution et al., 2021).

5. Challenges and Implications:

Challenges identified in the findings include legal complexity, societal stigma, and disparities in access to justice for children born out of wedlock. The implications of these challenges extend to issues of social justice, family stability, and intergenerational wealth distribution. Without adequate legal protections and societal support, children of Zina may face marginalization and economic insecurity (Febri, 2023).

6. Educational Strategies:

The findings underscore the importance of educational interventions aimed at promoting awareness and understanding of inheritance rights among stakeholders. Recommendations include developing educational materials, conducting community workshops, and engaging religious leaders and legal practitioners in dialogue and advocacy efforts. By fostering dialogue and collaboration, educational strategies can contribute to legal reform and social change (Syafi'i et al., 2021).

In summary, the findings highlight the complexities and challenges surrounding inheritance rights of children born out of wedlock, as well as the importance of education and advocacy in promoting equitable treatment and legal recognition. By addressing legal barriers and raising awareness, stakeholders can work towards ensuring fair and just inheritance outcomes for all individuals, regardless of their familial status.

Discussion

The findings from this study offer valuable insights into the inheritance rights of children born out of wedlock, shedding light on the legal complexities, stakeholder perspectives, and implications for social justice. These findings can be discussed in relation to relevant theoretical frameworks, including legal pluralism, social justice theory, and the role of education in legal reform.

1. Legal Pluralism and Interpretation of Inheritance Laws:

The varied interpretations of inheritance laws by different legal systems, including

Islamic jurisprudence and civil law, highlight the concept of legal pluralism. According to legal pluralism theory, multiple legal systems coexist within a society, each with its own norms, principles, and authorities. In the context of inheritance rights for children born out of wedlock, legal pluralism results in diverse interpretations and outcomes, influenced by religious doctrines, cultural norms, and legal precedents (Arifin, 2017).

2. Social Justice and Equity in Inheritance Rights:

The findings reveal disparities in access to inheritance rights for children born out of wedlock, raising concerns about social justice and equity. Social justice theory emphasizes the fair distribution of resources and opportunities within society, ensuring that marginalized groups receive equal treatment under the law. However, the challenges faced by children of Zina in accessing inheritance rights highlight systemic inequalities and the need for legal reform to address these disparities (Faraby & Parepare, 2023).

3. Educational Strategies for Legal Reform:

The findings underscore the importance of education and awareness-raising initiatives in promoting legal reform and social change. According to theories of legal mobilization and education, informed citizens are more likely to advocate for legal reform and hold authorities accountable for ensuring justice and equality. By engaging stakeholders in educational activities, such as workshops, training sessions, and community dialogues, awareness of inheritance rights can be raised, leading to increased advocacy and support for legal reform efforts (Iyakaremye et al., 2020).

4. Challenges and Opportunities for Legal Reform:

The challenges identified in the findings, including legal complexity, societal stigma, and disparities in access to justice, present both obstacles and opportunities for legal reform (Rulyandi & Nasri, 2023). Legal reform theory suggests that social change occurs through incremental reforms aimed at addressing systemic injustices and improving legal protections for marginalized groups (Rulyandi et al., 2024). By addressing the root causes of inequality and advocating for legislative change, stakeholders can work towards creating a more inclusive legal framework that upholds the

inheritance rights of children born out of wedlock (Baghdadi et al., 2024).

In conclusion, the discussion of the findings in relation to relevant theoretical frameworks highlights the need for comprehensive legal reform efforts aimed at promoting social justice, equity, and awareness of inheritance rights for children born out of wedlock. By addressing legal pluralism, advocating for social justice, and engaging in educational initiatives, stakeholders can contribute to creating a more just and equitable legal system for all individuals, regardless of their familial status.

CONCLUSION

The study on inheritance rights of children born out of wedlock has provided valuable insights into the legal complexities, stakeholder perspectives, and implications for social justice. The findings underscore the need for comprehensive legal reform efforts aimed at promoting equity, awareness, and access to inheritance rights for all individuals, regardless of their familial status. 1) Legal Complexity and Pluralism: The varied interpretations of inheritance laws within different legal systems, including Islamic jurisprudence and civil law, highlight the complexities of addressing inheritance rights for children of Zina. Legal pluralism theory emphasizes the coexistence of multiple legal systems within society, each with its own norms and principles, necessitating a nuanced understanding of legal frameworks and interpretations. 2) Social Justice and Equity: The disparities in access to inheritance rights for children born out of wedlock raise concerns about social justice and equity. Addressing systemic inequalities and ensuring fair treatment under the law are essential for promoting social cohesion and inclusivity within society. 3) Importance of Education and Awareness: Education and awareness-raising initiatives play a crucial role in promoting legal reform and empowering stakeholders to advocate for justice and equality. By raising awareness of inheritance rights and engaging stakeholders in educational activities, the barriers to access and stigma surrounding children of Zina can be addressed, leading to increased support for legal reform efforts.

Recommendations

Based on the findings, the following recommendations are proposed:

1. Legal Reform:

Advocate for legal reforms aimed at recognizing and protecting the inheritance rights of children born out of wedlock within Islamic jurisprudence and civil law. Reform efforts should focus on addressing legal barriers, promoting equitable treatment, and ensuring access to justice for all individuals.

2. Education and Awareness:

Develop educational materials and conduct awareness-raising campaigns to inform stakeholders, including religious leaders, legal practitioners, policymakers, and the general public, about inheritance rights for children of Zina. Education initiatives should emphasize the importance of equity, inclusivity, and social justice within legal frameworks.

3. Community Engagement:

Foster dialogue and collaboration among stakeholders to promote understanding, tolerance, and support for legal reform efforts. Engage religious leaders, legal practitioners, and community members in discussions and advocacy activities aimed at addressing stigma, promoting awareness, and advocating for justice.

4. Research and Advocacy:

Conduct further research to explore the experiences and perspectives of children born out of wedlock and their families regarding inheritance rights. Advocate for policy changes and legal reforms based on research findings and stakeholder input, aiming to create a more just and inclusive legal system.

By implementing these recommendations in a coordinated manner, stakeholders can work towards creating a more equitable and inclusive legal framework that upholds the inheritance rights of all individuals, regardless of their familial status.

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