

ABSTRAK

MENTARI ADAM/NPM.01012011094:”Tinjauan Hukum Perdata Atas Hak Waris Anak Hasil Perkawinan Incest (Sedarah).” (Dibimbing oleh Iyam Irahatmi Kaharu dan Dahlai Hasim)

Penelitian ini bertujuan untuk mengetahui kedudukan hukum anak hasil perkawinan incest ditinjau dari hukum positif di Indonesia dan mengetahui hak-hak waris seorang anak hasil perkawinan incest ditinjau dari hukum positif di Indonesia.

Penelitian ini adalah penelitian hukum normatif yang berfokus pada analisis terhadap norma-norma hukum yang berlaku dalam suatu sistem hukum. Penelitian bersumber dari bahan hukum primer meliputi Undang-Undang, putusan pengadilan, dan peraturan-peraturan, dan bahan hukum sekunder meliputi literatur hukum, artikel ilmiah, buku teks, dan studi kasus terdahulu.

Hasil penelitian menunjukkan bahwa kedudukan hukum anak hasil incest berdasarkan Putusan Mahkamah Konstitusi Nomor 46/PUU-VII/2010 yang mengubah Pasal 43 ayat (1) UU Perkawinan, menjadikan anak incest tidak hanya memiliki hubungan keperdataan dengan ibu dan keluarga ibu. Namun, anak incest juga memiliki hubungan perdata dengan ayah biologis dan keluarga ayah dengan catatan anak tersebut dapat dibuktikan secara ilmiah sebagai anak kandungnya sehingga anak tersebut berhak atas hak waris dari ayah biologisnya.

Kompilasi Hukum Islam Pasal 70 menyebutkan bahwa anak hasil incest tetap bernasab dan berkedudukan hanya kepada ibu yang melahirkan dan keluarga ibunya. Hal ini menyebabkan anak hasil perkawinan incest tidak mewarisi harta ayah biologisnya, namun anak tersebut dapat memperoleh hak waris melalui wasiat *wajibah*.

Kata Kunci: Perkawinan Incest, Status Anak, Hak Waris.

ABSTRACT

MENTARI ADAM/NPM.01012011094: "Civil Law Review of the Inheritance Rights of Children from Incestuous Marriages." (Supervised by Iyam Irahatmi Kaharu and Dahlai Hasim)

This research aims to determine the legal position of children resulting from incestuous marriages in terms of positive law in Indonesia and to determine the inheritance rights of children resulting from incestuous marriages in terms of positive law in Indonesia.

This research is normative legal research which focuses on the analysis of legal norms that apply in a legal system. Research comes from primary legal materials including laws, court decisions and regulations, and secondary legal materials including legal literature, scientific articles, textbooks and previous case studies.

The research results show that the legal position of children resulting from incest is based on Constitutional Court Decision Number 46/PUU-VII/2010 which amends Article 43 paragraph (1) of the Marriage Law, making children of incest not only have a civil relationship with the mother and the mother's family. However, children of incest also have a civil relationship with the biological father and the father's family provided that the child can be scientifically proven to be his biological child so that the child is entitled to inheritance rights from his biological father.

Compilation of Islamic Law Article 70 states that a child resulting from incest remains related and has status only to the mother who gave birth and the mother's family. This means that children resulting from incestuous marriages do not inherit their biological father's assets, but these children can obtain inheritance rights through a compulsory will.

Keywords: Incestuous Marriage, Child Status, Inheritance Rights.