



# PROTECTION OF UNRECOGNIZED INHERITANCE RIGHTS FOR CHILDREN FROM A SECOND MARRIAGE BASED ON ISLAMIC INHERITANCE LAW

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## Article Info

## ABSTRACT

### Keywords:

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Compilation of Islamic Law,  
Islamic Inheritance Law,  
Legal Protection,  
Second Marriage.

This research aims to analyze the legal protection of inheritance rights for children from a second marriage that is valid both religiously and legally, but who face discrimination or neglect from other heirs. In Islamic inheritance law, the validity of marriage is the main determinant in establishing lineage and status as an heir; thus, there is no dichotomy of rights between children from the first or second marriage. The research method used is normative juridical with a legislative and doctrinal approach thru the study of the Qur'an, Hadith, and the Compilation of Islamic Law (KHI). The research results show that the neglect of inheritance rights for children from the second marriage is a form of violation of Islamic justice principles and clearly contradicts Article 174 of the KHI. This study concludes that repressive legal protection efforts are needed thru dispute resolution mechanisms in religious courts and strengthening inheritance law literacy for the community to ensure fair and balanced inheritance distribution.

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## 1. INTRODUCTION

Marriage is the primary basis for determining the lineage relationship between a child and their parents. If the marriage is valid according to religious law and registered in accordance with legal regulations, then the child born from that marriage has a perfect legal status as an heir. Thus, Islamic inheritance law does not recognize a distinction in rights between children from the first or second marriage, as long as the marriage meets the conditions and pillars set by Sharia. However, social dynamics often present the phenomenon of a second marriage, whether it occurs after the first marriage ends or in the form of polygamy. Although Islam normatively permits this under certain conditions, in reality, this new family structure often triggers internal conflicts, especially regarding the distribution of inheritance (tirkah).

The problem becomes even more complex when the existence of children from a second marriage does not receive recognition, either administratively or socially, within the heir's family environment. Such rejection is often triggered by the interest in controlling inheritance assets or emotional conflicts among family members, placing the child in a vulnerable position and potentially losing their inheritance rights. In contemporary Islamic inheritance law studies, it is emphasized that the neglect of the rights of legitimate heirs constitutes a form of injustice that contradicts the principle of proportional distribution as regulated in the faraidh system. In the perspective of Islamic inheritance law, a child's inheritance right is i'jbari, which means it is an imperative provision where the transfer of assets from the deceased to the heirs occurs automatically by law (ipso jure) immediately after the death of the deceased. This principle does not recognize discrimination based on birth order or the status of the wife who gave birth to the child; as long as the child's lineage is legally recognized, their right to a share of the inheritance cannot be annulled by anyone.

However, in practice, children from second marriages often have to face a significant barrier in the form of the absence of their parents' Marriage Certificate (in the case of unregistered marriages) or the omission of their identities in the Heir Certificate (SKAW) submitted by the first family's side. This is a clear violation of the principle of justice (al-'adl) and the protection of children's rights guaranty by both religion and the constitution. The absence of this administrative recognition is often exploited as a legal loophole by other heirs to monopolize the inheritance. Juristically-positively, this creates a conflict between formal-administrative truth and material-biological truth. However, if we refer to the spirit of contemporary *ijtihad* post the Constitutional Court Decision Number 46/PUU-VIII/2010, it is emphasized that a child's civil relationship with their father should not be limited by the formalities of marriage, but rather based on a real blood relationship.

Therefore, the Islamic legal system in Indonesia thru the Compilation of Islamic Law and the authority of judges in the Religious Courts is required to adopt an approach that is not merely formalistic but also oriented toward substantive justice. Protection of children as legitimate heirs must be upheld thru progressive legal interpretation so that inheritance rights, which have been normatively established in Sharia, are not reduced by administrative issues or internal family conflicts. In the perspective of contemporary Islamic family law, the role of the judge is very strategic in ensuring that the principle of distributive justice in *faraidh* is truly implemented in judicial practice. Based on the sociological and juridical urgency, this research aims to delve deeper into the mechanisms of inheritance rights protection for children from second marriages whose existence is not duly recognized. This study is significant because it concerns the certainty of legal status and the guaranty of economic rights for children as legitimate heirs according to Islamic law. In the perspective of contemporary Islamic family law, the protection of children's rights is part of the implementation of the principle of distributive justice in the inheritance system, so the state, thru religious courts, has the responsibility to ensure that these rights are not neglected due to family conflicts or administrative obstacles.

The legal uncertainty experienced by children from second marriages is often influenced by the differences between the socio-religious norms that develop in society and the state legal system that emphasizes formal administrative aspects. In social reality, marriages that have fulfilled the pillars and conditions of religious law are often considered valid, so the children born from them receive moral and religious recognition. However, in the positive legal system, recognition of civil rights, including inheritance rights, requires authentic evidence in the form of official marriage registration. This difference in approach opens up the possibility of certain parties denying the legal status of a child for the sake of controlling inheritance assets. However, from the perspective of contemporary Islamic family law, the protection of lineage and property is an integral part of the objectives of Sharia (*maqāṣid al-syarī 'ah*) that cannot be sidelined by mere administrative reasons. Therefore, any form of exclusion against a legitimate child according to Islamic law is fundamentally contrary to the principles of justice and public interest in Islamic law.

The need for protection of a child's inheritance rights from a second marriage becomes increasingly urgent when viewed from the perspective of substantive justice in Islamic law. Children cannot determine the circumstances of their birth, so using their parents' administrative issues as a reason to deny their inheritance rights is a form of injustice that contradicts the principles of Sharia. In the Islamic inheritance system, each heir's share has been explicitly determined in the Qur'an and is definitive (*qath 'i*), thus cannot be altered or set aside based on unilateral interests. Any action that intentionally reduces or eliminates inheritance rights thru administrative manipulation or misleading social constructs can essentially be classified as acts contrary to the principle of justice and falls into the category of unlawful possession of property. Therefore, the state thru religious judicial institutions have a moral and juridical obligation to ensure that the rights of heirs, especially children, are optimally protected. Judges in this case are required not only to be "the mouth of the law" (*la bouche de la loi*), but also to be able to unearth substantial values of justice that go beyond mere document formalities.

In line with the development of science and technology, the challenge of proving a child's status should no longer be a significant obstacle. The use of scientific evidence such as Deoxyribonucleic Acid (DNA) testing has now become an important instrument in verifying the biological relationship between father and child, which subsequently impacts the determination of inheritance rights by the Religious Court. However, the cost barrier and the lack of public understanding regarding this legal procedure often leave children's rights buried in uncertainty. Herein lies the importance of studying legal protections, both preventive and repressive, for children from second marriages. Preventive protection includes education on marriage registration, while repressive protection relates to the right to sue in court.

Furthermore, the phenomenon of "unrecognized children" creates deep social wounds. Psychologically, the denial of inheritance status is a denial of the child's existence and self-worth. Islamic law, thru the principle of *al-maslahah al-mursalah*, must be able to provide a strong legal umbrella to prevent such harm. The state, thru the institution of Religious Courts, is obligated to ensure that the principle of non-discrimination is upheld, so that every child receives a share of their parents' inheritance regardless of whether the marriage was recorded administratively or only recognized religiously. The integration between textual Islamic inheritance norms and their implementation in judicial practice is a crucial aspect in preventing prolonged inheritance disputes. If the provisions of *faraidh* are not applied wisely and contextually by the judge, the potential for neglecting the rights

of the weaker parties, especially children as heirs, increases. Therefore, the active role of the Religious Court in interpreting and implementing the law fairly and responsively to the social conditions of the family becomes an important instrument in ensuring the protection of the rights of vulnerable heirs (*mustadh'afin*).

Based on the conceptual description, this research is directed to identify various legal obstacles in recognizing the inheritance rights of children from a legitimate second marriage, while also formulating a model to strengthen legal protection in accordance with the principles of justice in Islamic law and human rights values. This study not only aims to enrich the academic treasury in the field of Islamic inheritance law but also serves as a normative contribution in advocating for legal certainty for children, who often find themselves in vulnerable positions during family inheritance disputes.

## 2. RESEARCH METHODS

This research uses a normative legal research approach, which in legal methodology literature is also known as doctrinal research. This approach emphasizes a systematic examination of legal norms as outlined in legislation, court decisions, and the doctrines or opinions of legal scholars. Thru this method, the analysis is focused on the consistency, systematics, and harmonization between positive legal norms and Islamic legal principles related to the protection of inheritance rights, especially for children from a legitimate second marriage. In its implementation, the researcher uses several approaches simultaneously to obtain a comprehensive perspective. First, the statute approach is conducted by examining formal regulations such as the Marriage Law, the Compilation of Islamic Law (KHI), and relevant Constitutional Court decisions. Second, the conceptual approach is used to analyze the views of scholars and jurists regarding justice in the distribution of inheritance (*faraid*). Third, the case approach is applied to study the judges' reasoning patterns in deciding inheritance disputes for children whose status is not recognized administratively.

The data used in this research is entirely sourced from secondary data divided into three categories of legal materials, namely primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials serve as the main foundation of the analysis, which includes the Qur'an and Hadith as normative sources of Islamic law, as well as national legislation such as Presidential Instruction Number 1 of 1991 on the Compilation of Islamic Law and Constitutional Court Decision Number 46/PUU-VIII/2010, which reinforces the protection of children's rights within the Indonesian legal system. Secondary legal materials in the form of scientific literature, journals, and opinions of legal scholars are used to enrich the analysis, while tertiary legal materials serve as support in providing clarity of terminology and legal conceptualization. The secondary legal materials in this research were obtained thru a comprehensive literature review of legal literature, national and international scientific journal articles, as well as previous research works related to inheritance dispute issues. The literature serves as a support in strengthening the normative analysis of primary legal materials. As for tertiary legal materials, such as legal dictionaries and encyclopedias, they are used to provide conceptual clarification and explanations of legal terminology, making the discussion more systematic, precise, and easy to understand.

The data collection technique is carried out thru document studies or library research, where researchers systematically search for literature in both physical and digital library forms (online database). The collected data is then selected and organized according to the needs of the research theme analysis. Data analysis in this study was conducted descriptively qualitatively using a deductive reasoning pattern. The research begins by outlining the general principles of Islamic law regarding justice in inheritance distribution and the protection of children's rights as heirs. From this normative framework, specific conclusions are drawn regarding the form of legal protection that should be provided to children from a legitimate second marriage, especially in the context of obstacles to formal recognition in judicial practice. This approach enables the realization of a systematic analysis between general norms and their application within the national legal system. With this method, it is hoped that the research can produce juridical solutions that are not only theoretically strong but also provide practical benefits.

## 3. RESULT AND ANALYSIS

### **The legal position regarding the inheritance rights of children from a second marriage who are neglected according to Islamic Inheritance Law**

In the Islamic inheritance law system, a child's status as an heir is determined by the existence of a legitimate lineage between the child and their parents. As long as the child is born from a marriage that is valid according to Islamic law, they hold the same legal status as other children in receiving their share of the inheritance. This principle is directly sourced from the provisions of the Qur'an, specifically in Surah An-Nisā' verses 11 and 12, which detail the distribution of inheritance without differentiating the origin of children based on the order of their parents' marriages. Thus, from the perspective of Islamic law, there is no difference in status between children from the first or second marriage as long as their lineage is legitimate. Based on these Qur'anic provisions, the distribution of inheritance in Islamic law also explicitly regulates the comparison of shares between

male and female heirs. This provision is derived from Surah An-Nisā' verse 11, which stipulates that the share of a male child is twice that of a female child. This principle demonstrates a proportional distribution based on the responsibilities imposed in Islamic law, where men have the obligation to provide for the family, thus receiving a larger share compared to women.

If in a family there are both a son and a daughter, the inheritance is divided in a 2:1 ratio, meaning the son receives two shares while the daughter receives one share. For example, if there is one son and one daughter, the inheritance is divided into three shares, with the son receiving two shares and the daughter receiving one share. Furthermore, if the deceased leaves behind only a son without any daughters, the entire inheritance belongs to the son as an 'ashabah heir, which is an heir who receives the remaining property after deducting the shares of other heirs. In this condition, the male child can control the entire inheritance, either as the sole recipient or together with other male children with an equal share among them. Conversely, if the deceased only leaves behind female children without any male children, the distribution is different. If there is only one daughter, she receives half (1/2) of the inheritance. However, if there are two or more daughters, they collectively receive two-thirds (2/3) of the inheritance, which is then divided equally among them. This provision shows that Islamic inheritance law has systematically and thoroughly regulated the distribution of children's rights based on the composition of the heirs.

Thus, it can be understood that the distribution of inheritance in Islamic law is not only mathematical but also reflects the principle of proportional justice. The difference in shares between male and female children is not a form of discrimination, but rather a part of the system of family responsibility that has been comprehensively regulated in Islamic law. Therefore, in the context of children from a second marriage, as long as they have a legitimate blood relationship, they still receive their share of the inheritance according to these provisions without any reduction or differentiation of rights. In the context of positive law in Indonesia, this principle is accommodated in the Compilation of Islamic Law, which explicitly states that heirs are every person who has a blood relationship or a marital relationship with the deceased and is not legally impeded. This provision indicates that children from a legitimate second marriage still hold legal status as heirs and are entitled to their share of the inheritance according to the rules of *faraidh*. Therefore, the neglect of a child's inheritance rights by other heirs has no legal basis, both from the perspective of Islamic law and Indonesian positive law.

However, in social practice, there is often neglect of the inheritance rights of children from second marriages, especially when the marriage is not officially recorded or causes conflicts between families. In such situations, the legal status of the child does not actually disappear, but faces obstacles in formal proof before the law. This indicates a gap between the ideal legal norms and the social practices that develop in society. In the perspective of Islamic law, such a condition cannot be used as a reason to abolish a child's inheritance rights, because these rights are *ijbari*, meaning they arise automatically based on sharia provisions without depending on the recognition of other parties.

If the inheritance has been taken or distributed unilaterally by other heirs, the aggrieved child can pursue legal action through a will distribution lawsuit in the Religious Court in accordance with the provisions of *faraidh*. In addition, other mechanisms such as marriage validation and heir determination can also be used to strengthen the child's legal position. In judicial practice, the concept of *wasiat wajibah* is also known as an additional instrument to achieve substantive justice, especially in certain conditions that create disparities in inheritance distribution. Nevertheless, these various legal efforts are essentially not to create a new legal status, but rather to affirm and restore the legal status of the child that has been legitimately attached from the beginning. This indicates that normatively, the legal status of a child from a second marriage has never disappeared, but remains recognized as a legitimate heir in Islamic inheritance law.

Furthermore, the protection of the child's legal status can also be viewed from the perspective of children's rights and the principle of non-discrimination in national law. Every child has the right to legal protection without discrimination based on their birth background, including in the fulfillment of economic rights such as inheritance rights. Therefore, the neglect of a child's inheritance rights simply because they come from a second marriage constitutes a violation of the principles of justice and legal protection.

The development of law in Indonesia also shows a tendency toward progressive interpretation in protecting children's rights, as reflected in the Constitutional Court Decision Number 46/PUU-VIII/2010, which expands the recognition of the civil relationship between a child and their biological father. This approach strengthens the child's position in proving lineage, which is the primary basis for determining their status as an heir. Thus, it can be asserted that the legal status of a child from a second marriage, which has been neglected, remains in the position of a legitimate heir and possesses inalienable rights. Any form of neglect that occurs in practice does not affect the existence of that right, but rather reflects obstacles in the implementation of the law. Therefore, from the perspective of Islamic inheritance law, the position of the child remains strong, certain, and protected, and cannot be dismissed by administrative reasons or internal family conflicts.

In the practice of inheritance law enforcement in Indonesia, the position of children from a second marriage who are neglected must also be viewed within the framework of comprehensive legal protection. This is because Islamic inheritance law not only regulates the division of property mathematically but also contains moral values

and justice that must be upheld in family life. In conditions where children's rights are not recognized, the state, thru religious judicial institutions, has the responsibility to ensure that sharia provisions are implemented fairly and without discrimination. Thus, legal intervention becomes important to correct social practices that deviate from the principles of Islamic inheritance.

Furthermore, in the study of modern Islamic law, the protection of children's inheritance rights is also seen as part of the implementation of the principle of distributive justice within the family. That means the distribution of inheritance must be done proportionally according to sharia law without the dominance of any particular party. When one of the heirs, especially a child from a second marriage, is neglected, it not only violates legal norms but also undermines the value of justice, which is the main objective of Islamic law. Therefore, a comprehensive understanding of the inheritance concept is necessary so that each family member is aware of their respective rights and obligations.

In addition, the legal protection approach for children in inheritance can also be linked to the principle of protecting vulnerable groups. Children in inheritance disputes often find themselves in a vulnerable condition, both economically and socially, thus requiring special legal protection. In this context, judges not only function as enforcers of the law but also as guardians of justice who must be able to consider the aspect of public welfare in every decision they make. This approach is in line with the development of Islamic law, which is increasingly responsive to the needs of modern society without abandoning the basic principles of Sharia.

Furthermore, the effectiveness of legal protection for children from second marriages is also greatly influenced by the level of legal awareness in society. Many cases of inheritance rights neglect occur not due to the absence of regulations, but rather because of the lack of public understanding of Islamic inheritance law. Therefore, legal education efforts are very important to prevent inheritance disputes in the future. With the increasing understanding of the community, it is hoped that the practice of inheritance distribution can proceed in accordance with sharia provisions and no longer disadvantage certain parties. Thus, it can be concluded that the legal status of children from second marriages in the Islamic inheritance law system remains strong and cannot be nullified for any reason. The issues that have occurred so far are more due to factors of implementation and legal awareness, rather than the weakness of the legal norms themselves. Therefore, strengthening the role of religious courts, enhancing public legal literacy, and enforcing the principle of justice are important steps in ensuring the comprehensive and fair fulfillment of children's inheritance rights.

Furthermore, it is important to understand that in Islamic inheritance law, the recognition of children's rights is not only juridical but also has moral and religious dimensions. Every heir has the obligation to distribute the inheritance according to the provisions established in Islamic law. Therefore, the act of neglecting or eliminating a child's inheritance rights can be categorized as an action that not only violates the law but also contradicts Islamic ethical values. This moral awareness becomes an important aspect in preventing inheritance disputes that harm certain parties within the family.

#### **Legal actions that can be taken by a child from a second marriage whose inheritance rights are ignored according to Islamic Inheritance Law**

In the Islamic inheritance legal system, a child's right to their parent's estate is an absolute (ijbari) right and cannot be revoked by the will of another party. Therefore, if there is neglect of the inheritance rights of children from a second marriage, both Islamic law and positive law in Indonesia provide various legal measures that can be taken to obtain protection and restoration of those rights. These legal efforts are not only repressive thru litigation channels but also include preventive measures aimed at preventing disputes from arising in the first place.

The first legal action that can be taken is to file a marriage validation request with the Religious Court, especially if the parents' marriage is not recorded administratively. Marriage validation has an important function in providing legal recognition to marriages that have been conducted according to religious practices, so that the status of children born from such marriages receives legal acknowledgment. With the establishment of the marriage validation, the lineage relationship between the child and the father becomes legally clear, which then serves as the main basis for determining the child's position as an heir.

Furthermore, the child or their representative can submit a request for the determination of heirs to the Religious Court. This determination aims to obtain legal certainty regarding who is entitled to be the heirs of the deceased testator. In this process, the court will evaluate various pieces of evidence, such as birth certificates, witness statements, and other evidence that can demonstrate a blood relationship. The determination of heirs has significant legal power because it serves as the basis for the lawful and binding distribution of inheritance assets.

In the context of positive law in Indonesia, legal remedies that can be pursued by a child from a second marriage whose inheritance rights have been overlooked are systematically regulated in the Compilation of Islamic Law (KHI). Provisions regarding heirs are stated in Article 171 letter c of the KHI, which emphasizes

that heirs are individuals who have a blood relationship or marital relationship with the deceased and are not legally impeded. Furthermore, Article 174 of the KHI clarifies that children fall into the category of primary heirs who have the right to the inheritance. This provision indicates that children from a legitimate second marriage still have a strong legal basis to claim their inheritance rights if ignored by other heirs.

If there is unilateral control of the inheritance or if the distribution is not carried out according to the faraidh provisions, the child can file a lawsuit for the distribution of the inheritance in the Religious Court. The legal basis for this is found in Article 188 of the Compilation of Islamic Law (KHI), which states that heirs, whether collectively or individually, can file a petition with the Religious Court to carry out the distribution of the inheritance. This lawsuit serves as an important repressive measure to obtain legal certainty and ensure that the distribution of inheritance is carried out fairly in accordance with Islamic law principles.

In addition, before filing a lawsuit, the child can also take the initial step of submitting a request for heir determination to strengthen their legal standing before the court. This determination serves as a formal legal basis stating that someone is indeed a legitimate heir, thereby granting them the legitimacy to claim their rights in the distribution of the inheritance. In the practice of religious courts, the determination of heirs often serves as a strategic initial stage before entering the litigation process of inheritance disputes. Thus, the existence of provisions in the KHI and the inheritance lawsuit mechanism in the Religious Courts indicate that the legal system in Indonesia has provided concrete protective instruments for children from second marriages. These legal efforts not only affirm the child's rights normatively but also provide practical means to obtain justice thru the judicial process.

In addition to litigation, inheritance disputes can also be resolved thru mediation mechanisms facilitated by the court. Mediation provides the parties with the opportunity to resolve disputes thru deliberation, prioritizing the principles of family and justice. In the context of Islamic law, this approach aligns with the principle of *ishlah* (reconciliation) which is highly recommended for resolving conflicts, especially those related to family relationships. If the mediation is successful, the agreement reached can be formalized in a peace deed that has permanent legal force.

In certain conditions, if there are obstacles in the application of inheritance distribution purely based on faraidh, the judge may also consider the application of the concept of *wasiat wajibah* as an additional form of protection for the child. *Wasiat wajibah* allows for the allocation of a certain portion of the inheritance to parties who factually need protection, including children whose rights have been neglected. This approach reflects the flexibility of Islamic law in achieving substantive justice thru considerations of public interest.

Furthermore, legal developments in Indonesia also provide space for proving lineage thru scientific approaches, such as DNA tests, especially in cases that are difficult to prove administratively. This is in line with the spirit of child protection that places certainty of biological relationships as the basis for determining civil rights, including inheritance rights. With this development, the evidentiary obstacles that were previously the main hindrance in recognizing children's rights can be significantly minimized. Thus, it can be affirmed that Islamic inheritance law has provided various comprehensive legal instruments for children from second marriages whose inheritance rights have been neglected. These efforts include the validation of marriage, determination of heirs, inheritance distribution lawsuits, mediation, and the application of obligatory wills. These mechanisms demonstrate that the Islamic legal system not only provides normative recognition of children's rights but also offers concrete means to claim and restore those rights effectively. Therefore, the utilization of available legal efforts becomes an important step in ensuring the realization of justice and legal protection for children within the Islamic inheritance system.

In the practice of religious courts, legal efforts made by children from second marriages are not limited to filing lawsuits or petitions, but can also be carried out thru comprehensive legal proof mechanisms. In this case, proof becomes a crucial aspect to affirm the legal status of the child as an heir. The evidence that can be used includes administrative documents such as birth certificates, family cards, as well as witness statements who are aware of the family relationship. In addition, technological advancements also allow for the use of scientific evidence such as DNA tests to accurately determine lineage. This approach shows that the legal system has evolved to facilitate the proof of children's rights, which were previously difficult to establish formally.

In addition, legal efforts can also be made thru a non-litigation family-based approach, such as family deliberations facilitated by religious leaders or respected figures within the social environment. Although it does not have the binding legal power of a court ruling, this approach often serves as an effective initial step in resolving inheritance disputes without causing prolonged conflicts. In the perspective of Islamic law, peaceful resolution (*ishlah*) is highly recommended as it can maintain family harmony and avoid hostility among heirs.

Furthermore, in the context of broader legal protection, children can also utilize national legal provisions that guaranty their rights as citizens. This indicates that the protection of children's inheritance rights is not only derived from Islamic law but is also reinforced by the national legal system, which upholds the principles of justice and non-discrimination. Thus, children have a strong legal foundation to claim their rights, both thru religious approaches and thru national legal instruments. Additionally, in the development of judicial practice, judges also have the authority to interpret the law adaptively to the concrete conditions faced by the parties involved. In cases

of neglecting a child's inheritance rights, judges can consider various aspects, such as social conditions, family relationships, and the impact on the child if their rights are not fulfilled. This approach shows that the law is not only understood as a rigid set of rules but also as an instrument of justice that must be able to provide fair solutions for every individual.

Thus, it can be concluded that the legal efforts that can be undertaken by a child from a second marriage whose inheritance rights are ignored are very diverse and comprehensive. These efforts are not limited to litigation pathways but also encompass mechanisms of proof, non-litigation resolutions, and the utilization of legal protections within the national system. All these efforts demonstrate that Islamic inheritance law, which is integrated into the Indonesian legal system, has provided various means to ensure the fair and proportional fulfillment of children's rights. Therefore, the success in claiming inheritance rights highly depends on the ability of the child or their representative to effectively and appropriately utilize the available legal instruments.

Within the framework of effective legal protection, the legal efforts that can be undertaken by children from second marriages are also closely related to access to justice. In practice, not all children or parties who are harmed have a sufficient understanding of the legal procedures that must be followed. Therefore, the role of legal aid institutions, advocates, and judicial officers becomes very important in providing assistance and ensuring that every child can optimally access legal mechanisms. Without adequate access, the existence of legal norms that provide protection cannot be effectively utilized by those in need.

Additionally, in the context of proving and enforcing inheritance rights, there is also a principle of limited reverse proof in judicial practice, where the party controlling the inheritance assets can be asked to show the legal basis of their ownership if there is an objection from another party who feels aggrieved. This approach provides an opportunity for children from second marriages to strengthen their position in inheritance disputes, especially when there is domination or unilateral control by other heirs. Thus, the law not only places the burden of proof on the plaintiff but also demands transparency from the party in control of the inherited property.

On the other hand, it is also important to note that legal efforts are not always oriented toward the victory of one party, but rather toward achieving proportional justice. In Islamic inheritance law, the main goal of distributing inheritance is to create balance and avoid inequality within the family. Therefore, judges in deciding inheritance cases do not only consider formal legal aspects, but also pay attention to the values of social justice and the common good. This approach demonstrates that Islamic law is dynamic and capable of adapting to the needs of society without neglecting its fundamental principles.

Furthermore, legal efforts can also be strengthened through early dispute prevention, namely by ensuring that all administrative processes related to the legal status of children are fully completed. This includes the registration of marriages, the issuance of birth certificates, and the recording of family relationships in official state documents. These preventive measures are very important to avoid potential disputes in the future, as many inheritance issues arise from unclear legal status that should have been prevented early on. Thus, it can be concluded that the legal efforts that can be undertaken by a child from a second marriage whose inheritance rights have been neglected are very diverse and comprehensive. These efforts are not limited to litigation pathways but also encompass mechanisms of proof, non-litigation resolutions, and the utilization of legal protections within the national system. These efforts demonstrate that Islamic inheritance law, which is integrated into the Indonesian legal system, has provided various means to ensure the fair and proportional fulfillment of children's rights. Therefore, the success in claiming inheritance rights greatly depends on the ability of the child or their representative to effectively and appropriately utilize the available legal instruments.

#### **4. CONCLUSION**

In the discussion regarding the legal status of inheritance rights for children from a second marriage that is overlooked according to Islamic Inheritance Law, it can be concluded that normatively, children born from a legitimate marriage have equal inheritance rights regardless of the order of their parents' marriages. This principle is based on the teachings of the Qur'an and reinforced by the Compilation of Islamic Law, which places the relationship of lineage as the main basis in determining inheritance rights. Therefore, the neglect of inheritance rights for children from a second marriage has no valid legal basis and contradicts the principles of justice in Islamic law. In practice, the obstacles that often occur are not due to the weakness of the legal norms themselves, but rather to implementation challenges, such as the lack of marriage registration, internal family conflicts, and low legal awareness in society. This causes the rights of children, which should be legally protected, to be difficult to realize in practice. Nevertheless, the law still provides guarantees of protection through various mechanisms, such as the determination of heirs, marriage validation, inheritance division lawsuits, and justice approaches through the concept of mandatory wills. Moreover, the development of national law and jurisprudence, which increasingly emphasizes the protection of children's rights, including in proving lineage, further strengthens the legal status of children. This shows that the Islamic inheritance law applied in Indonesia is not only normative but also adaptive to the justice needs of society. Therefore, it can be concluded that the legal status of children from second

marriages remains strong and cannot be erased, so the neglect that occurs is more an issue of implementation, not a matter of legal legitimacy.

Next, regarding the legal actions that can be taken by a child from a second marriage whose inheritance rights are ignored according to Islamic Inheritance Law, it can be concluded that both Islamic law and positive law in Indonesia have provided comprehensive legal protection instruments. The inheritance rights of children are obligatory, meaning that these rights cannot be revoked by the will of another party. Therefore, any form of neglect of that right is legally ineffective and must be restored thru existing mechanisms. Legal efforts that can be undertaken include litigation paths, such as the determination of heirs and inheritance distribution lawsuits in the Religious Court, as well as non-litigation paths, such as mediation and family deliberations based on the principle of *ishlah*. Legal protection is also strengthened thru the evolving mechanisms of proof, including the use of administrative evidence and scientific evidence such as DNA tests to confirm lineage. Under certain conditions, the application of the concept of obligatory wills can also serve as an alternative in achieving substantive justice for children whose rights have been neglected. Furthermore, the effectiveness of this legal effort highly depends on access to justice, adequate legal understanding, and the ability of the aggrieved party to utilize the existing legal instruments. Thus, the Islamic inheritance legal system not only recognizes children's rights but also provides concrete means to claim and restore those rights fairly, proportionally, and justly.

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