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#11904 Summary

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Submission

Authors	Mursyid Djawas, Gamal Achyar, Nursyirwan Bustanul Arifin, Masri Reza, Baharuddin Umar Yakub		
Title	The Legal Position of Children of Incest (A Study of Madhhab Scholars and Compilation of Islamic Law)		
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Title and Abstract

Title The Legal Position of Children of Incest (A Study of Madhhab Scholars and Compilation of Islamic Law)

Abstract This study aims to discuss the legal position of children of incest, the opinions of *madhhab* scholars, and the provisions on inheritance rights of children of incest according to Islamic law. This normative legal study used the Islamic law methodological approach (*ushul fiqh*) and the legislation/ statute approach. The data were obtained through a literature review of the laws or legal rules. The results of the study revealed that the legal position of children of incest in Islamic law is in terms of civil matters (i.e., lineage/blood relations) between the children and the parents. The children only establish lineage ties with their mothers and their maternal families. Further, the *madhhab* scholars Imam Malik and Imam Shafi'i argue that adultery does not produce legal descendants, and therefore, the children are not related to the male adulterer but to the female, as they are born from an illegitimate relationship. In addition, Imam Hanafi and Imam Hanbali state that it is forbidden for a man to marry the daughter born of his adultery, as she is equal to his legitimate daughter. This is the view of the majority of *madhhab* scholars. In the case of the inheritance rights of children of incest, the children can only get an inheritance from their mothers and the maternal families, apart from the lineage, guardianship, inheritance, and livelihood rights. However, al-Jaziri, a contemporary scholar, views that children of incest are still legitimate children whose lineage and inheritance are still related to both father and mother.

Indexing

Academic discipline and sub-disciplines Islmic Law; Islamic Family Law; law; Social Science (miscellaneous)

Keywords Children of Incest, Madhhab Scholars, Incestuous Marriage, Inheritance Rights, Compilation of Islamic Law

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2022-06-11 05:24 PM

Subject: [SJHK] Editor Decision

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Mursyid Djawas:

We have reached a decision regarding your submission to Samarah: Jurnal Hukum Keluarga dan Hukum Islam, "Imam Madhab's Perspective on Provisions on Inheritance Rights of Children Resulted in Incest (Study of Islamic Law)".

Our decision is to: revision required

Abidin Nurdin
SCOPUS ID: 57203352530 Universitas Malikussaleh, Aceh
abidin@unimal.ac.id

Reviewer A:

Title

Title reflects the essence of the content of the article (content, method, novelty)

:

The title of this article contains content, method and novelty.

Abstract

Abstract contains problem of research, method, and result

:

The abstract has explained the research questions, methods and findings, although the methods need to be clarified.

Originality

The originality of the subject matter, and the manuscript would be of interest to the the scholar of Islamic countries in general and specifically in Indonesia

:

This study contains authenticity because it discusses a relatively new problem in the study of Islamic law, namely the position of children resulting from incest. This kind of discussion will attract Islamic intellectuals in Indonesia and the Islamic world, especially since Samarah is an international journal that is read by the world community.

The Depth of Literature

Whether the article draws on an appropriate range and depth of literature (if not please indicate which sources of literature should be included by the author in future)

:

need additional literature

Finding Presentation

Whether the findings presented are subjected to suitable analysis and sound conclusions drawn

:

ok

Implications for understanding the study of Islamic family law and Islamic law in Islamic in Islamic countries in general and specifically in Indonesia

:

This article fits into the study of Islamic family law which is the focus of the Samarah journal. in the study of Islamic legal thought, the discussion of the law and KHI is an important part of the study coupled with the views of school scholars.

Technical writing

Articles must be in accordance with the surrounding style and journal template

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ok

Additional comment for the author:

can be published with some additions

Is the article qualified for publication?

Please indicate your suggestion whether this article is qualified for Samarah

:

Minor Revision

Reviewer B:

Title

Title reflects the essence of the content of the article (content, method, novelty)

:

This article contains the method used, content and novelty

Abstract

Abstract contains problem of research, method, and result

:

it's ok, although the research question needs to be simplified

Originality

The originality of the subject matter, and the manuscript would be of interest to the the scholar of Islamic countries in general and specifically in Indonesia

:

This study contains authenticity, because it examines issues that are more focused and unique in the context of Islamic legal thought, not just classical fiqh issues. This study also uses government laws and regulations.

The Depth of Literature

Whether the article draws on an appropriate range and depth of literature (if not please indicate which sources of literature should be included by the author in future)

:

ok

Finding Presentation

Whether the findings presented are subjected to suitable analysis and sound conclusions drawn

:

This article finds a research result that is in accordance with the discussion and analysis

Implications for understanding the study of Islamic family law and Islamic law in Islamic in Islamic countries in general and specifically in Indonesia

:

This study will have implications for the development of Islamic family law and progressive Islamic law in the Islamic world and in Indonesia.

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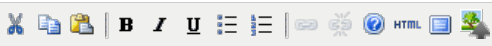
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