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LEGAL BRIEF

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The Legal Aspect of Registration of Different Religious Marriage Based on Determination District Court

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Abstract

Article 2 Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage, that pa marriage is declared valid if it is carried out according to the law of each religion and belief. However, it turned out that there were marriages that were carried out by couples of different religions based on a District Court Decision, which ordered the Population and Civil Registry Service to record the marriage. If it remains consistent that the Marriage Law does not provide opportunities for those of different religions, it turns out that there is a district court ruling that allows it. If a marriage with different religions is declared invalid, it will result in the position of the biological child on the inheritance of parents who are married to different religions, children born from a different religious marriage are children outside of marriage, because interfaith marriages are null and void and are considered never there is a marriage.

Keywords: marriage, different religions, null and void.

1. Introduction

Marriage law rules in Indonesia based on the Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage, (State Gazette 1974 Number 1, Supplement to the State Gazette Number 3019) -(hereinafter abbreviated as Law No.1 of 1974)[1]. This UUP is an indication of marriage law. In the Preamble to the Considering section that in accordance with the philosophy of Pancasila and the ideals for the development of national law, there is a need for a law on marriage that applies to all citizens, which means that the UUP applies to all groups without differentiating between one group and another, and applies nationally.

Marriage is the right of every citizen, so it is a basic right for everyone. In connection with the provisions of Article 10 paragraph (1) of Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights,State Gazette of 1999 Number 1165, Supplement to the State Gazette Number 3886 (hereinafter abbreviated to Law No.39 of 1999)[2], that severy person has the right to form a family and continue their offspring through a legal marriage. Likewise, negara guarantee the freedom of each resident to embrace their respective religion and to worship according to their

1. Selanjutnya dalam tulisannya ini ditulis UUP.

2. Selanjutnya dalam tulisannya ini ditulis **UUHAM.**

religion and belief according to the provisions of Article 29 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. said to have committed acts of violating human rights.

The definition of marriage based on religious law is a holy act, which is an agreement between two parties in fulfilling the commands and advice of God Almighty, so that family and household life and with neighbors can run well in accordance with the teachings of their respective religions.[3]Paying attention to the definition of marriage as mentioned above, it contains two elements, namely the inner and outer bond between a man and a woman and the purpose of marriage, namely to form a happy and eternal family or household based on Almighty God.

The inner and outer bond in a marriage with the aim of realizing a sakinah, mawaddah and warrohmah household (a peaceful family full of love and affection). That the purpose of marriage is to fulfill the demands of a human nature, to relate between men and women in order to realize a happy family based on love and affection, to obtain legal offspring in society by following the provisions stipulated by statutory regulations[4].

The physical and mental ties must be based on the respective religious laws and beliefs as a condition for the validity of marriage, according to Article 2 of the Company Law, namely marriage is valid, if it is carried out according to the law of each religion and belief, and in the Elucidation of Article 2 paragraph 1 of the Company Law that by In the formulation of Article 2 paragraph (1), there is no marriage outside the law of each religion and belief, in accordance with the 1945 NRI Law. What is meant by the law of each religion and belief includes statutory provisions that apply to their respective religious groups. and their beliefs as long as they do not conflict with or are not stipulated otherwise in this law.

So a valid marriage means that according to the applicable law, if the marriage is carried out not according to the established legal order then the marriage is invalid. So if not according to the rules of the UUP, it means that it is not valid according to the laws and regulations. Likewise, if it is not valid according to the rules of religious law, it means that it is not valid according to religion[5].

Legitimate marriages are not only carried out according to the law of their respective religions and beliefs, but must also be registered according to statutory regulations, this is in accordance with Article 2 paragraph (2) of the Company Law stipulates that: every marriage is recorded according to the prevailing laws and regulations. This is in accordance with the General Elucidation number 4 letter b of the UUP: In this law it is stated that a marriage is legal, if it is carried out according to the law of each of his religions and beliefs; and besides that every marriage must be recorded according to the prevailing statutory regulations. The registration of each marriage is the same as the important events in a person's life, for example births, deaths which are stated in certificates, an official deed which is also included in the

3. Hilman Hadikusuma, Hukum Perkawinan Indonesia, Mandar Maju, Bandung, 2003, hal. 10.

4. Soemiyati,Hukum Perkawinan Islam Dan Undang Undang Perkawinan, Cet II, Liberty, Yogyakarta, 1986, hal. 73.

5. Hilman Hadikusuma, op. cit., hal. 26.

registration. The words “must be recorded" means that marriage registration is something that must be done.

In marriage the prospective wife and husband as the parties who make an agreement or statement to get married. Article 10 UUHAM, that she everyone has the right to form a family and continue their offspring through legal marriage. A legal marriage can only take place on the free will of the prospective husband and wife, in accordance with the provisions of statutory regulations.

Marriage is a private right of every citizen. Personal rights are human rights in relation to the person himself. These rights are in the form of the right to life, the right to not be physically harmed, the right to use a first name and surname and the right to have his name listed as the creator of his work in the fields of literature, art and science. Personal rights are non-transferable.[6]

Marriage is the right of every citizen, even so, marriage must be carried out in accordance with the prevailing laws and regulations. Marriage is also declared an important event according to the provisions of Article 1 number 17 of the Law of the Republic of Indonesia Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, (State Gazette Year 2013 Number 232, Supplement to State Gazette Number 4674)[7], is an incident experienced by a person including birth, death, marriage, divorce, recognition of children, legalization of children, adoption of children, change of name and change of citizenship status. Furthermore, according to the provisions of Article 68 paragraph (1) letter c UUAdminduk that excerpts of civil registration certificates include excerpts. marriage certificate.

Based on the substance of Article 2 paragraph (2) the Company Law does not provide opportunities for interfaith marriages to be an obstacle for parties wishing to marry, because many of these religious differences have married overseas, because if the marriage was carried out in Indonesia, it would be rejected.

That it is true that interfaith marriages are not strictly regulated in the UUP, however, this condition is a fact that occurs in society and is a social need that must be resolved according to law so as not to cause negative impacts in social and religious life; Meanwhile the law also does not explicitly prohibit interfaith marriages so that there is a legal vacuum;

In the elucidation of article 35 letter a, Adminduk emphasizes that what is meant by a marriage determined by the court "is a marriage between people of different religions". The elucidation of Article 35 a Adminduk has provided opportunities for those of different religions to marry based on the ruling of the state court. For example, the Wonosobo District Court has issued Determination Number 27 / Pdt.P / 2014 / PN Wsb[8] who has given permission to Suci Adi Danasworo (Christian) and Ari

6. Peter Mahmud Marzuki, Pengantar Ilmu Hukum, Kencana, Jakarta, 2009, hal. 210.

7. Selanjutnya dalam tulisannya ini ditulis UUAdminduk.

8. Putusan Penetapan Pengadilan Wonosobo sebagai satu contoh kasus mengenai perkawinan beda agama yang ditetapkan oleh pengadilan agar dicatatkan di Kantor Dinas Kependudukan dan Catatan Sipil, karena ada beberapan penetapan lainnya yang mengabulkan perkawinan beda agama, antara lain :

1. Pengadilan Negeri Magelang Nomor : 04/Pdt.P/2012/PN.Mgl.
2. Pengadilan Negeri Bogor Nomor : 111/Pdt.P/2007/PN. Bgr.

Widyastuti (Islam) to carry out marriages due to different religions. They want each of them to stick to their own stand and belief (religion) to marry at the Wonosobo Regency Population and Civil Registration Office.

The Petitioners have notified the Wonosobo City Population and Civil Registry Office about the marriage but due to religious differences, namely Petitioner I (Suci Adi Danasworo) is Christian, while Petitioner II (Ari Widyastuti) is Muslim, so by the Population Service Office and The Civil Registry of Wonosobo City, the Petitioners' petition was rejected, on the grounds as stated in Article 2 paragraph (1) and (2) of the Company Law.

The Wonosobo District Court issued a decision No. 27 / Pdt.P / 2014 / PN Wsb., With the following verdicts:

a. Granted the Petitioners' petition.
b. Giving permission to the Petitioners to marry different religions at the Wonosobo Regency Population and Civil Registration Office.
c. Instructing the Marriage Registration Officer at the Wonosobo Regency Population and Civil Registration Office after receiving a copy of this determination to record the Marriage designated for that after fulfilling the marriage requirements according to the law.

The decision of the Wonosobo District Court was based on the consideration that because basically the applicant's desire to marry a different religion is not a prohibition under the UUP, and considering that the formation of a household through marriage is the petitioner's human right as a citizen and the applicant's right to maintain their respective religions, the provisions In Article 2 paragraph (1) of the Law on the validity of a marriage if it is carried out according to the religious procedure or belief held by the prospective husband and wife who in casu this cannot be done by applicants who have religious differences.

The decision of the district court is intended to serve as the basis for the prospective bride to register her marriage at the Civil Registry Office, which means that the marriage has been registered at the Civil Registry Office, but has not yet been carried out according to her respective religions and beliefs. Could it take place if the prospective bride with a religion other than Islam marries a Muslim prospective bride, even though one of the pillars of marriage in Islam, the bride and groom are both Muslim.

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3. Pengadilan Negeri Surakarta Nomor : 112/Pdt .P /2008/PN.Ska
4. Pengadilan Negeri Surakarta Nomor :156 /Pdt .P /2010 /PN.Ska .
5. Pengadilan Negeri Lumajang Nomor : 198/Pdt.P/2013/PN.Lmj
6. Pengadilan Negeri Jember Nomor. 210 /Pdt.P/2013/PN.Jr.
7. Pengadilan Negeri Malang Nomor :.772/Pdt.P/2013/PN.Mlg.

Alasan untuk menerima/mengabulkan permohonan tersebut hampir sama dengan Putusan Penetapan Nomor 27/Pdt.P/2014/PN Wsb

-Ada juga Penetapan pengadilan yang menolak permohonan perkawinan beda agama, yaitu :

1. Pengadilan Negeri Bogor Nomor : 527/Pdt.P/2009/PN. Bgr.
2. Pengadilan Negeri Ungaran Nomor : 08/Pdt.P/2013/PN.Ung.

That interfaith marriage is a way out for those who are going to marry but have different religions, even though only to be registered at the Civil and Population Catattan Service Office, which is not preceded by the provisions of Article 2 paragraph (1) of the Company Law. Although in this case not all courts gave the same decision or there were district courts that did not accept or reject the request.

Marriages that are only registered based on the court order will have legal consequences for the children born to them and also for their inheritance.

2. Methods

Law science has a unique character. The characteristic of law science is that it is normative[9]In normative studies, one should stick to the scientific tradition of law itself[10]In accordance with the character and tradition of legal science, normative research[11] is a characteristic and tradition of legal science.

This research is a type of Normative Research with a statutory approach and a case study approach.

The statute approach is carried out by examining all laws and regulations related to the legal issue being handled[12]. The statutory approach is used to examine or examine statutory regulations relating to the rules of marriage law. The case study approach is carried out by taking a case which is then analyzed and examined.

To solve and answer the above problems, research sources are needed that can be differentiated into research sources in the form of primary legal materials and secondary legal materials.[13]. Primary legal materials are legal materials that are authoritative in nature, meaning they have authority[14], which consists of legislation, judges' decisions[15]. secondary legal materials in the form of all legal publications that are not official documents[16] which includes text books, legal dictionaries, legal journals, and commentaries on court decisions[17]. To seek legal materials[18] The literature study is a way to obtain these legal materials.

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9. Philipus M. Hadjon, Legal Studies, Faculty of Law, Airlangga University, Surabaya, no year, p.1. Philipus M. Hadjon and Tatiek Sri Djatmiati, Legal Argument, Gadjah Mada University Press, Yogyakarta, 2005, p. 1.

10. According to Philipus M. Hadjon that what is called data in Legal Research is different from data in Social Research. Legal research is normative in nature and cannot be qualified as qualitative research let alone quantitative research (statistics), it is distinguished by the nature of the data and the consequences of the analysis. Philipus M. Hadjon, Pengkajian ... .., op cit., P. 1- 2.
-According to Peter Mahmud Marzuki that ***Legal Research is different from social research, mainly two ways in that in its objective and method. While social research is aimed at verifying hypotheses. Legal Research is carried out to adddres legas issues. Consequently, legal research does not need data; rather, it legal materials in the form of statutes, case law, legal values and legal doctrines,***Peter Mahmud Marzuki, Legal Research, Yuridika, Faculty of Law, Airlangga University, Surabaya, Vol. 16, Number 2, March 2001, p. 103.
11. Philipus M. Hadjon, Pengkajian ...., op cit., P. 4.

12. ***Ibid.***

13. ***Ibid.***

14. ***Ibid.***

15. ***Ibid.***

16. ***Ibid.***

17. ***Ibid.***

In this literature study, Terry Hutchinson's research steps will follow, namely[19] :

a. gathering of materials in accordance with the research topic (gathering materials relevant topic).
b. placement and arrangement (storage and indexing).
c. note-taking.
d. writing (writing).

In the gathering materials relevant topic, the gathering of materials relevant to the topic was carried out by conducting an inventory of legal materials related to marriage arrangements.

The legal materials used are primary and secondary legal materials. Primary legal materials consist of statutory regulations, government regulations, presidential decrees, regulations / decrees of the Minister of Law and Human Rights and decisions of judicial bodies. Secondary materials consist of scientific books (law), dictionaries, research results, journals, views / opinions of legal experts.

3. Result and Discussion

3.1 Due to The Reiligious Marriage Law Based on The Decision of a State Court

Wonosobo District Court Decision No. 27 / Pdt.P / 2014 / PN.Wsb., Whose amendment granted the petitioners' petition on the grounds that the UUP does not regulate prohibitions for prospective husbands and prospective wives who have different religious beliefs, which means that it does not prohibit marriages between people of different religions. .

The provisions of Article 2 paragraph (1) of the Company Law have been requested for judicial review at the Constitutional Court, however, according to the decision of the Constitutional Court No. 68 / PUU-XII / 2014 on 15 December 2014, his amar rejected the petitioner's petition, with legal considerations that, in the life of the nation and state based on Pancasila and the 1945 Constitution of the Republic of Indonesia, religion is the foundation and the state has an interest in marriage. This means that the provisions of Article 2 paragraph (1) of the Company Law regarding the validity of marriage are based on the laws of each religion and belief is something that must be obeyed absolutely.

Apart from the decision of the Wonosobo District Court ordering the Civil Registry Office to record interfaith marriages, the registration is in accordance with the provisions of Article 2 paragraph (2) of the Company Law and Article 2 of PP No. 9 of 1975, and the provisions of Article 35 letter a of the Main Law, that pThe marriage record shall also apply to marriages determined by the court. The Civil Registry Office records interfaith marriages based on court rulings and is the execution or implementation of court orders, and their nature only fulfills administrative

18. Regarding legal materials, this is also in line with Terry Hutchinson's opinion, that this legal material consists of primary law material and secondary law material is doctrinal research. Primary legal materials are the actual sources of law - legislation and case law (the actual sources of the law - the legislation and case law), and the secondary materials are legal comments or opinions found in law books and legal journals (the commentary on the law found in textbooks and legal journals). Reference sources can also be in the form of legal encyclopedias, citation of cases (legal encyclopaedias, case digests and case citators) which are indexes and access to main sources., Terry Hutchinson, Researching and Writing in Law, Lawbook, Co, Australia, 2002, p. 9.

19. These four steps or processes are a way of recording effective research data and organized material, ibid., P. 21.

requirements, because marriage is an important event that must be recorded, such as the registration of a child's birth or death.

Based on the description as mentioned above, it can be explained that the legal consequences of interfaith marriage are based on the WonosoboNo District Court Decree. 27 / Pdt.P / 2014 / PN Wsb, it can be explained that marriages that are only registered only fulfill the administrative requirements of marriage with proof of a marriage certificate.

Marriage registration only meets administrative requirements such as birth registration issued a death certificate, birth registration issued a birth certificate. Regarding what is meant by the law of their respective religions and beliefs, this includes statutory provisions that apply to their respective religious groups and beliefs as long as they do not contradict or are not stipulated otherwise in this law.

Marriage registration if the parties are married according to Islamic law, the one that records is the Sub-district Religious Affairs Office, while for the parties who are married, other than being carried out according to Islamic religious law, it is held at the Civil Registry Office. This means that the legal consequence of interfaith marriage is based on the Wonosobo District Court Decree No. 27 / Pdt.P / 2014 / PN Wsb, then the marriage is declared invalid, and in this case it is null and void, because what determines the validity of a marriage is the law of religion, while marriage registration only fulfills the administrative requirements for the issuance of a marriage certificate.

3.2 The Position of *kandung* Children to The Heritage of Parents Which Married Diferent Religion

According to Hardjawidjaja, the status of children has been known as legitimate children, out-of-wedlock children and adopted children. Regarding the status of children, according to Hardjawidjaja, the problem of children, offspring or the basic relationship between parents and children can be stated that birth alone does not determine the status of the child. The status can be valid or invalid ".[20]This means that judging from the child's status, there is a difference between legitimate children and illegitimate children.

Meanwhile, children born to fathers and mothers who are not bound in a marriage are called illegitimate children or out-of-wedlock children or natural children. [21]The provisions as above are based on Article 42 of the Company Law stipulating: "A legitimate child is a child born in or as a legal marriage". So being called a child is the second descendant of a father and mother who are bound in a marriage as a legal child.

Regarding the status of children in Islamic law, according to Article 99 Compilation of Islamic Law, Decree of the Minister of Religion of the Republic of Indonesia No. 154 of 1991 concerning the Implementation of Presidential Instruction of the Republic of Indonesia No. 1 of 1991 (hereinafter abbreviated as KHI), states that a legitimate child is a child born in or as a result of a legal marriage. This means that legitimate children in Islamic law are no different from legitimate children according to Article 42 of the Company Law, namely children born in or as a result of a legal

20. *Ibid.*

21. Prawirohamidjojo, Soetojo dan Marthalena Pohan, Hukum Orang dan Keluarga (Personen en famile-recht), Airlangga University Press, Surabaya, 2000, hal. 164.

marriage, which means that the marriage is carried out in accordance with the pillars and conditions of the marriage.

The validity of the child is proven by a birth certificate according to the provisions of Article 55 paragraph (1) and paragraph (2) of the Company Law, as follows:

a. The origin of a child can only be proven by an authentic birth certificate issued by an authorized official.
b. If the birth certificate as stated in paragraph (1) of this article does not exist, then the Court may issue a decision regarding the origin of a child after a thorough examination is conducted based on evidence that meets the requirements.
c. On the basis of the provisions of the Court in paragraph (2) of this Article, the birth registration agency in the jurisdiction of the Court concerned issues a birth certificate for the child concerned.

That the origin of an individual can only be proven by an authentic birth certificate issued by an authorized official. If a birth certificate is not available, the Court may issue a judgment regarding the origin of the child after a thorough examination based on the evidence that meets the requirements.

Likewise with a birth certificate as the identity of a person, which means that on the birth certificate the name of the child and the origin of the child are listed in the sense that the names of the parents are also listed.

The existence of a legitimate child means that there are children who are illegitimate, but what is meant is about children outside of marriage, namely children who are born when their parents are not bound by marriage as referred to in the provisions of Article 43 UUPD in Islamic law also know children outside of marriage as intended. in the provisions of Article 100 KHI, that "Children born outside of marriage only have a family relationship with their mother and their mother's family".

Out-of-wedlock children only have a civil relationship with their mother or their mother's siblings. Children outside of marriage do not have a civil relationship with the father or father or brother of the father who fertilized them, but ket provisions of Article 43 of the UUP of the Constitutional Court as its decision No. 46 / PUU-VIII / 2010, does not have binding legal force as long as it is interpreted as eliminating civil relations with men which can be proven based on science and technology and / or other evidence according to the law has a blood relationship as the father, so the verse must be read , "Children born out of wedlock have a civil relationship with their mother and their mother's family as well as with men as their father which can be proven based on science and technology and / or other evidence by law to have blood relations, including civil relations with their father's family" .

Based on the description relating to the legal consequences of children born out of wedlock, it can be explained that children born outside of marriage have a civil relationship with their mother and their mother's family and with men as their fathers which can be proven based on science and technology and / or evidence. (through DNA testing) other legally have blood relations, including civil relations with the family of the father. So the status of the out-of-wedlock child is still an out-of-wedlock child, it's just that the child does not only have a civil relationship with the mother and siblings of the mother, but also has a legal relationship with the father who

seeded him and the siblings, which means that the out-of-wedlock child can also inherit from the father's inheritance. seed it.

On the other hand, not all children born when their parents are bound in a legal marriage are legal children. A father can deny or deny the legality of the child born by his wife. Denial can be done on the grounds that a child born within six months from the date of the marriage contract is invalid, except when the mother's husband acknowledges the child born. A child born after six months from the date of the marriage contract is valid unless the father does not acknowledge it. Even though the child was born before the one hundred and eighty day of the husband-wife marriage, as long as the husband before the marriage knows that the wife will conceive him; or if he has been present when the birth certificate is made and the certificate has been signed or contains a statement of himself, that he cannot sign it, then the father is not allowed to deny the child's birth, so that the child is a legal child. This means that while the family of the child born to the mother (the father who breeds it) acknowledges that the child is his child, but as long as the husband of the mother who gave birth does not deny it because before the marriage was carried out he knew that his wife was pregnant with another man or her husband is also present when the birth certificate is made and the certificate has been signed or contains a statement that he cannot sign it, so the child is a legal child. Thus it can be obtained an explanation of the problem whether a child born to a mother due to conception outside of marriage with another person cannot be legally challenged if it is linked to the provisions of Article 42 of Law no. 1 of 1974, as long as the juridical father does not deny the child born to his wife as referred to in the provisions of Article 44 of Law no. 1 of 1974.

Regarding the elements of inheritance law, namely the presence of an heir / person who dies, the presence of heirs and inheritance, Eman Suparman explains as follows:

a. There is an heir, namely someone who dies, leaving an heir and inheritance;
b. There are heirs / heirs who will receive a number of inheritance when the heir dies. The heir or the heirs must be present when the heir dies. This provision does not mean to diminish the meaning of Article 2 BW, namely: "a child in a woman's womb is deemed to have been born, if the child's interest wishes it". If he dies at birth, he is considered to have never existed. Thus, it means that the baby in the womb also has its rights regulated by law as an heir and has been deemed capable of inheriting (heir);
c. There are a number of assets left by the heir (inheritance). Assets left by the heir, whether in the form of objects belonging to him or his rights, both assets and liabilities;[22]

According to Article 832 of the Civil Code, it is determined that according to the law those who are entitled to be heirs are blood relatives, whether legally or outside of marriage, and the husband or wife who has lived the longest. The heirs according to the law or the heirs of the ab intestines consist of 4 groups, namely:

a. The first group, namely families in a straight downward line, includes: children and their offspring along with their husbands, or wives who are left behind / or who have lived the longest;

22. Eman Suparman, Hukum Waris Indonesia Dalam Perspektif Islam, Adat dan BW, Refika Aditama, Bandung, 2011, hal. 25.

b. The second category, namely families in a straight line upward, includes: parents and siblings as well as all the siblings' descendants;
c. The third group includes maternal grandparents and grandparents and further ancestors onward from the heir;
d. The fourth category includes the heirs in the line to the side and other kinsmen up to the sixth degree.[23]

Heirs according to Islamic law, there are heirs; namely people who have a nasab relationship with the heir; According to the provisions of Article 171 letter c KHI, it is stated that what is called an heir is a person who at the time of death has a blood relationship or marital relationship with the heir, is of various Islam and is not prevented by law from becoming an heir. From this understanding an heir must have two elements, namely:

a. That the heir must be a Muslim, this is as regulated in the provisions of Article 171 letters b and c, Article 172 and Article 191 KHI.
b. It is not prevented by law from becoming an heir, this is as regulated in the provisions of Articles 173 and 174 KHI.[24]

Mawaris is the transfer of something from one person to another, or from one people to another, while the meaning, according to the term known to the scholars, is the transfer of ownership rights from the deceased to the surviving heirs, whether the one left behind is in the form of property (money). , land, or anything in the form of legal ownership rights in syar'i. So what is meant by mawaris in Islamic law is the transfer of property rights from a person who has died to an heir who is still living in accordance with the provisions of the Koran and al- Hadith, meanwhile the term Fiqih Mawaris refers to the science of fiqih which studies who the heirs are entitled to receive an inheritance, who is not entitled to receive and the certain parts they receive.

Regarding inheritance cannot be separated from the position of property in marriage, according to the provisions of Article 35 of the Company Law, that the assets obtained during the marriage become joint assets. The inheritance of each husband and wife and the property obtained by each as a gift or inheritance is under their respective control as long as the parties do not determine otherwise. Regarding joint property, husband or wife can act with the consent of both parties. , according to the provisions of Article 36 paragraph (1) of the Company Law. However, if there is no marriage agreement according to the provisions of Article 29 paragraph (1) of the Company Law that at the time or before the marriage takes place[25]the two parties with a joint agreement can enter into a written agreement which is legalized by the Marriage Registry Officer, the contents of which also apply to the third party as long as the third party is involved, then the principle of distribution of marital assets applies in the provisions of Article 35 of the Company Law regarding joint assets acquired during marriage and inheritance. each husband and wife, which is obtained as a gift or inheritance, is under their respective control as long as the parties do not determine

23. Eman Suparman, op. cit., p. 30.

24. *Ibid.*, Thing. 41-43.

25. Berdasarkan putusan Mahkamah Konstitusi Nomor 69/PUU-XIII/2015 bahwa Perjanjan Kawin dibuat setelah perkawinan berlangsung.

otherwise. With regard to joint assets in marriage if a marriage agreement is not made, then according to the provisions of Article 128 of the Civil Code, that after the dissolution of joint assets, their joint assets are divided in half between husband and wife, or between their heirs, regardless of which party the goods originate. that.

Taking into account the description as mentioned above, it can be explained that acting as an heir is due to blood relations or because of a marital relationship with the heir. Among the heirs who are related by blood to the heir are legal children, meaning children born at that time, both parents are bound in a legal marriage as stipulated in Article 42 of the Company Law. This means that it does not include children born when their parents are not bound in a legal marriage, such children only have a civil relationship with their mother and / or their mother's siblings in accordance with the provisions of Article 43 of the Company Law. unless a child born out of wedlock has a civil relationship with his mother and his mother's family as well as with a man as his father which can be proven based on science and technology and / or other evidence by law to have a blood relationship, including civil relations with his father's family "as Constitutional Court decision No. 46 / PUU-VIII / 2010, the child also has a civil relationship with the father who breeds it.

If it is linked to a child resulting from a marriage that is not carried out according to the law of their respective religion and belief, but is recorded, if it is linked to the provisions of Article 2 paragraph (1) of the Company Law, then the marriage is invalid, because the validity of the marriage is not registered but the one that legalizes the marriage. Marriage is if it has been carried out according to the law of each religion and belief.

The legal consequence of a marriage that is carried out is not based on the law of each religion and belief, then the marriage is null and void. For children born from marriage, according to the provisions of Article 28 UUP, that the cancellation of a marriage begins after the Court's decision has permanent legal force and is valid since the time the marriage took place. The decision shall not retroactively apply to children born from that marriage.

Marriages that are null and void also have an impact on the children born to them, because if the marriage is canceled, then it is not retroactive to the children born from the marriage, but if the marriage is null and void, then annulment does not need to be requested but cancels automatically. The legal consequences for children who are born are illegitimate children, therefore children born in interfaith marriages that are only recorded have a civil relationship with their mother and their mother's siblings. This means that the position of the biological child on the inheritance of the parents who are married with different religions does not have the right to inherit the inheritance of the father who seeds them, because the child is born even when both parents are married, but the marriage is not valid. because it is not carried out according to the law of each religion, the marriage is contrary to the provisions of Article 2 paragraph (1) of Law no. 1 of 1974, whose legal force has also been guaranteed by the Constitutional Court.

4. Conclusion

a. The legal consequence of interfaith marriage is based on the WonosoboNo District Court Decree. 27 / Pdt.P / 2014 / PN Wsb, then the marriage is not valid,

and in this case it is null and void. Marriage is declared valid if it is carried out according to the law of each religion and belief. The Court's decision on interfaith marriages instructs the Population Service to record marriages, this registration is like recording of other important events such as recording deaths, births, even though it is the law of religion that legalizes the marriage, not because of the registration of the marriage.

b. The position of biological children on the inheritance of parents who are married to different religions, children born from interfaith marriages are children outside of marriage, because interfaith marriages are null and void and are considered never to have occurred. Because the status of a child is an out-of-wedlock, it only has a civil relationship with the mother or the mother's sibling, unless a DNA test shows that the child is a child from the result of a marriage which was carried out not based on the law of religion, but rather a marriage which was only registered administratively.

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