

---

**Received:** 9 Mei 2026 | **Accepted:** 5 April 2026 | **Published:** 06 Juni 2026**CASE STUDY: ALTERNATIVE DISPUTE RESOLUTION FOR THE DIVISION OF AN INHERITANCE BETWEEN STEPCHILDREN AND CHILDREN BORN OUT OF WEDLOCK****Noer Zaini Khalis<sup>1</sup>, Muhammad Yadi Harahap<sup>2</sup>, Abdul Mukhsin<sup>3</sup>**<sup>1,2,3</sup> Islamic Family Law, State Islamic University of North Sumatra, IndonesiaCorrespondence email: [noer0221253028@uinsu.ac.id](mailto:noer0221253028@uinsu.ac.id)**Abstract:**

Disputes over the distribution of inheritance frequently arise within families, particularly when stepchildren and children born out of wedlock are involved, as they are subject to different inheritance distribution systems. Generally, stepchildren have no blood relationship with their stepfather or stepmother, whilst children born out of wedlock are only related by blood to their mother. These differences in status frequently give rise to disputes over the distribution of inherited assets. Consequently, this study aims to determine the legal status of stepchildren and children born out of wedlock in the distribution of inheritance under Islamic law, as well as to analyse alternative dispute resolution methods that may be employed to resolve such disputes. The methodology employed in this study is a normative approach combining statutory analysis and a literature review based on Islamic law, specifically the Compilation of Islamic Law (KHI) and relevant existing literature. The findings of this study indicate that stepchildren and children born out of wedlock, in principle, do not have inheritance rights from a party with whom they have no blood relationship. However, there are several avenues for resolving these disputes, including family consultation, gifts, wills, mandatory bequests, and mediation, all aimed at achieving justice and maintaining family harmony. Therefore, the resolution of these inheritance disputes must take into account the applicable legal mechanisms—both Islamic law and general law—which prioritise the common good of all parties involved.

**Keywords:** *inheritance, stepchildren, children born out of wedlock, Islamic inheritance law, alternative dispute resolution.*

**INTRODUCTION**

Issues surrounding inheritance law in Indonesia remain a complex matter to this day, particularly with regard to determining which parties are entitled to the deceased's estate. This complexity becomes even more apparent when inheritance disputes involve the status of children within the family, specifically stepchildren and children born out of wedlock or as a result of adultery. Differences in the legal provisions under Indonesia's current legal system—whether based on the Civil Code (KUHPPerdata), the Compilation of Islamic Law (KHI), or legal developments through court rulings—mean that issues concerning the inheritance rights of these two categories of children frequently give rise to debate within society. Therefore, a comprehensive understanding is required of the legal status of stepchildren and children born out of wedlock in the distribution of inheritance, as well as dispute resolution mechanisms capable of providing legal certainty and maintaining harmonious family relationships.

In principle, a child born of a lawful marriage has a clear legal status as an heir. Within the national legal system, both the Civil Code and the Compilation of Islamic Law recognise the civil rights of legitimate children, including the right to receive a share of their parents' estate in accordance with the applicable provisions (Hamzani, 2016). The status of a legitimate child means that the civil relationship between the child and the parents is not disputed, so that the distribution of the estate can be carried out in accordance with established legal provisions. Consequently, the status of legitimate children under Indonesian inheritance law does not generally give rise to significant issues compared with the status of other children.

Unlike legitimate children, the legal status of stepchildren in inheritance law is distinct. A stepchild is a child from a previous marriage of one of the spouses and therefore has no blood relationship (*nasab*) with their step-parent. Under both Islamic inheritance law and the provisions of the Civil Code, inheritance rights are fundamentally based on blood ties, marital ties, or adoption within certain limits. Consequently, stepchildren do not automatically acquire the right to inherit from their step-parent, as there is no blood relationship to form the basis of inheritance (Hamzani, 2016). However, this does not mean that stepchildren are entirely unable to receive a share of their step-parent's estate. In practice, the transfer of assets to a stepchild is still possible through the mechanisms of a gift, a will, or, under Islamic law, through the concept of a '*wasiat wajibah*' (mandatory bequest), provided certain conditions are met in accordance with current legal developments.

Apart from stepchildren, an issue of no less importance is the legal status of children born out of wedlock or as a result of adultery. For many years, the legal status of children born out of wedlock was limited to civil relations with their mother and her family, as stipulated in Article 43(1) of Law No. 1 of 1974 on Marriage, prior to amendments made by a ruling of the Constitutional Court. This situation meant that children born out of wedlock had no legal relationship with their biological father, including with regard to inheritance rights. Consequently, many children who were biologically related to a man did not, in legal terms, receive protection of their civil rights.

A significant development in Indonesian law occurred following the issuance of Constitutional Court Ruling No. 46/PUU-VIII/2010. Through this ruling, the Constitutional Court affirmed that a child born out of wedlock has civil relations not only with their mother and her family, but also with the man who can be scientifically proven, and on the basis of legal evidence, to be their biological father (Jurjanih, 2021). This ruling marks a significant milestone in the protection of children's rights as it recognises civil relationships that were previously not acknowledged by legislation. With the ' ' of this ruling, children born out of wedlock are now able to assert their civil rights, including those relating to care, maintenance and, under certain conditions, the inheritance of their biological father's estate, in accordance with applicable legal provisions.

Nevertheless, the implementation of the Constitutional Court's ruling has not always proceeded without obstacles. In practice, there are still various differences of interpretation regarding the scope of the civil relationship in question, particularly concerning the inheritance rights of children born out of wedlock in relation to their biological fathers. Some argue that the ruling does not automatically confer inheritance rights equivalent to those of legitimate heirs, whilst others maintain that the recognised civil relationship also encompasses inheritance rights, provided these can be legally proven. These differing interpretations often give rise to inheritance disputes within families.

Disputes concerning the distribution of an estate involving stepchildren or children born out of wedlock are generally influenced by various factors, such as differing interpretations of the law, economic interests, and emotional conflicts between family members. If the matter is resolved through litigation in court, the process often takes a long time, involves relatively high costs, and has the potential to worsen family relationships. It is not uncommon for disputes that initially concerned only the division of assets to develop into protracted conflicts that undermine family harmony.

Consequently, alternative dispute resolution (ADR) has emerged as one of the mechanisms considered most effective in resolving inheritance disputes. Forms of ADR, such as negotiation, mediation and arbitration, provide the parties with the opportunity to reach an amicable agreement through consultation without having to undergo lengthy court proceedings. Among these various forms of ADR, mediation is the most widely used mechanism as it involves a neutral third party to help the parties find a mutually acceptable solution. This approach is not only focused on resolving the dispute but also on maintaining good relations between family members so that family values are preserved.

In Indonesia, alternative dispute resolution has been given a legal basis through Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution. Furthermore, the mediation mechanism within the judicial system has been strengthened through Supreme Court Regulation No. 1 of 2016 on Mediation Procedures in Courts. The existence of these various regulations demonstrates the state's commitment to promoting the peaceful, swift, straightforward and cost-effective resolution of disputes. In the context of inheritance disputes involving stepchildren or children born out of wedlock, the application of alternative dispute resolution is expected to produce an agreement that not only provides legal certainty but also reflects a sense of justice for all interested parties.

Based on the above discussion, it is clear that the legal status of stepchildren and children born out of wedlock in the distribution of inheritance continues to present various legal and practical issues. Legal developments, as set out in Constitutional Court Decision No. 46/PUU-VIII/2010, have brought about significant changes regarding the recognition of civil relationships involving children born out of wedlock, although

their implementation still requires careful interpretation. Therefore, a more in-depth analysis is required regarding the effectiveness of alternative dispute resolution mechanisms in resolving inheritance disputes involving stepchildren and children born out of wedlock, in accordance with the applicable legal provisions in Indonesia. It is hoped that this analysis will contribute to the development of a fairer national inheritance law, provide legal certainty, and facilitate dispute resolution that prioritises the principles of utility, justice and family harmony.

## METHOD

This research method falls within the category of normative legal research, focusing on the examination and analysis of alternative dispute resolution mechanisms in the division of an estate involving stepchildren and children born out of wedlock. The study was conducted by examining various legal norms derived from legislation, court rulings, expert doctrine, and academic literature relating to inheritance law and dispute resolution mechanisms.

This study employs a combination of the statutory approach, the case-based approach and the conceptual approach. The legislative approach examines the legal provisions relating to inheritance and alternative dispute resolution, such as Law No. 1 of 1974 on Marriage, the Compilation of Islamic Law (KHI), the Civil Code (KUHPerdota), Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, and Supreme Court Regulation No. 1 of 2016 on Mediation Procedures in Courts.

Furthermore, this case-based approach is applied by examining various cases and rulings relating to inheritance disputes involving stepchildren and children born out of wedlock, including Constitutional Court Ruling No. 46/PUU-VIII/2010, which has had a significant impact on the recognition of the civil relationship between such children and their biological fathers. From a conceptual perspective, the aim is to better understand and analyse the laws relating to heirs, the status of stepchildren and children born out of wedlock, inheritance rights, mediation, negotiation and arbitration, based on legal theories and the opinions of legal experts.

Data collection was carried out through *library research*, utilising *primary*, *secondary* and *tertiary* legal sources. The use of *primary* legal sources includes relevant legislation and court rulings. *Secondary* legal sources consist of excerpts from books, academic journals, articles, and previous research findings relevant to the study. *Tertiary* legal sources are drawn from legal dictionaries, encyclopaedias, and other reference materials used to strengthen the analysis.

The data collected was then analysed using *descriptive* and *qualitative* methods, namely by describing, interpreting and linking variousin force to gain a comprehensive understanding of the application of alternative dispute resolution in

the distribution of inherited assets involving stepchildren and children born out of wedlock, as well as to assess its effectiveness in realising justice, benefit and legal certainty.

## RESULTS AND DISCUSSION

### The Status of Stepchildren in Inheritance Law

A stepchild is a child brought into the family by a husband or wife from a previous marriage, who subsequently joins the new family after their parent remarries. Under Islamic law, a stepchild has no blood relationship with their stepfather or stepmother; consequently, the relationship is limited to social and familial ties, rather than the blood relationship which forms the primary basis of Islamic inheritance.

Inheritance relationships in Islam are based on three main grounds: blood ties (descent), marital ties, and *wala'*. Consequently, as stepchildren have no blood ties with their step-parents, in principle they are not included among the heirs of their step-parents. (Ahmad Rofiq 2013)

The Qur'an emphasises that heirs are those with blood ties and marital relationships, as stated in Surah An-Nisa' verse 7:

“Male heirs shall have a share of the estate of their parents and relatives, and female heirs shall also have a share of the estate of their parents and relatives...” (Ministry of Religious Affairs of the Republic of Indonesia 2019)

This verse indicates that the basis of inheritance is the existence of a family relationship that is valid according to Islamic law.

From the perspective of Islamic inheritance law, a stepchild has no blood relationship with their step-parent. Therefore, in principle, a stepchild is not considered a lawful heir. However, the social bonds that have been forged within the family often give rise to demands for justice that cannot be ignored. (Ahmad Rofiq 2013)

#### b. The Status of Stepchildren Under Islamic Law

Under classical Islamic inheritance law, a stepchild does not acquire inheritance rights from their stepfather or stepmother due to the absence of a blood relationship. A stepchild may only inherit from their biological father or biological mother.

Scholars of Islamic jurisprudence agree that the conditions for a person to be an heir are the existence of a blood relationship, a marital relationship, or a relationship arising from the manumission of a slave (*wala'*). (Wahbah Az-Zuhaili 1985) As stepchildren do not meet these conditions, they are barred from being heirs.

Nevertheless, Islam still provides protection for stepchildren through the concept of:

Case Study: Alternative Dispute Resolution

1. Gift
2. Will
3. mandatory bequest.

A step-parent may give a portion of their assets to a stepchild through a gift during their lifetime or a will before their death, provided that it does not exceed one-third of the estate, unless agreed to by the other heirs. (Sayyid Sabiq 2015)

b. The Status of Stepchildren According to the Compilation of Islamic Law (KHI)

In the Compilation of Islamic Law, stepchildren are not explicitly mentioned as heirs. Article 174 of the KHI explains that heirs consist of:

1. Blood relationship
2. Marital relationship.

As a stepchild has neither a blood relationship nor a direct marital relationship with the testator, they are not considered an heir under the KHI (Abdurrahman 2007).

However, legal protection for those who do not receive an inheritance can be provided through a mandatory bequest as stipulated in Article 209 of the KHI. Although this article places greater emphasis on adopted children, in religious court practice, a progressive interpretation is often applied to grant a specific share to stepchildren in the interests of justice and the common good.

This can serve as a basis for the consideration that stepchildren often live with, are raised by, and are financially supported by their stepparents for many years, thereby forming a close family bond from a sociological perspective.

c. Practices for Resolving Stepchild Disputes

To avoid further conflict, there are several alternative dispute resolution methods that can be pursued:

Family Consultation

Consultation is the simplest method and is frequently used within the community. In this context, all family members sit together to reach an agreement that is considered fair.

Consultation allows for:

1. Consideration of humanitarian aspects
2. Recognition of a stepchild's contribution
3. Protection of children born out of wedlock

However, this method relies heavily on the good faith of the parties involved. (Soerjono Soekanto 2012)

Mediation

Mediation involves a neutral third party to help the parties reach an agreement. The mediator does not make a decision, but facilitates dialogue.

Advantages of mediation:

Case Study: Alternative Dispute Resolution

1. Faster than court proceedings
2. Lower costs
3. Preserves family relationships

In cases involving stepchildren and children born out of wedlock, the mediator can help formulate solutions such as the allocation of a share through mutual agreement. (Akdir Rahmadi 2010)

Mandatory Bequest

The obligatory bequest is a solution frequently used in modern Islamic law. This concept allows for the allocation of a share to parties who are not included amongst the heirs, such as stepchildren or children born out of wedlock. The amount of the bequest is usually no more than one-third of the estate. This serves as a middle ground between formal legal provisions and a sense of social justice.

d. Inter Vivos Gifts

The gifting of assets (hibah) before the testator's death can serve as a preventative measure to avoid disputes.

Through a gift:

1. Stepchildren may receive a lawful share
2. Children born out of wedlock can be provided with financial security
3. Post-death conflicts can be minimised

However, bequests must be made fairly so as not to cause resentment amongst the heirs. (Subekti 2005)

e. Resolution through the courts

If all attempts at an amicable settlement fail, litigation becomes the last resort. The court will rule in accordance with applicable law.

Weaknesses of this approach:

1. The process is lengthy
2. High costs
3. Potential to damage family relationships

However, in some cases, the court may also consider aspects of justice through progressive rulings (Sudikno Mertokusumo 2010). Judges often take into account aspects of social justice and the stepchild's contribution to the family. Therefore, although stepchildren are not, strictly speaking, heirs, the court may provide a solution through a public interest approach.

This approach is in line with the objectives of Islamic law (maqashid al-shari'ah), namely to safeguard:

1. lineage;
2. property;
3. family harmony;
4. social justice.

The Status of Children Born Out of Wedlock in Inheritance Law

An illegitimate child is a child born outside a marriage that is valid under both religious and state law. In Islamic law, an illegitimate child is born as a result of a relationship between a man and a woman without a valid marital bond.

The narrations of Imam Bukhari and Imam Muslim regarding the determination of a child's lineage. According to a hadith of the Prophet Muhammad (peace be upon him):

الْوَلَدُ لِلْفِرَاشِ، وَاللِّغَايِرِ الْحَرَجُ

“The child is attributed to the owner of the bed (the lawful husband), whilst for the adulterer there is only loss.” (Narrated by Muhammad al-Bukhari)

This hadith serves as the basis for the principle that a child born out of wedlock has no legal lineage to the man responsible for their conception if there is no valid marriage.

#### a. The Status of a Child Born Out of Wedlock According to Islamic Law

The majority of scholars are of the view that a child born out of wedlock has a blood relationship only with the mother and her family. Consequently, a child born out of wedlock:

1. may inherit from their biological mother
2. may be inherited by their biological mother
3. does not inherit from his biological father
4. is not inherited from his biological father. (Amir Syarifuddin 2012)

This provision aims to maintain the order of lineage in Islamic law. Lineage is one of the important aspects protected by Sharia law as it relates to:

1. family identity;
2. guardianship rights;
3. inheritance rights;
4. maintenance obligations.

Meanwhile, under Islamic law, a child born out of wedlock has a blood relationship only with his or her mother. He or she has no right to inherit from his or her biological father, except through other mechanisms such as a will or a gift. (Wahbah Az-Zuhaili 1985) This often becomes a source of conflict, particularly when the child has lived and been raised within the family environment of his or her biological father.

#### b. The Status of Children Born Out of Wedlock According to the Compilation of Islamic Law

Article 100 of the Compilation of Islamic Law states:

“A child born out of wedlock has a blood relationship only with their mother and their mother's family.”

Based on this article, a child born out of wedlock only acquires inheritance rights from the mother's side and the mother's family. They do not receive a share of the inheritance from their biological father.

However, legal developments in Indonesia have changed following Constitutional Court Ruling No. 46/PUU-VIII/2010. This ruling states that a child born out of wedlock may have a civil relationship with their biological father if this can be proven

## Case Study: Alternative Dispute Resolution

on the basis of science and technology, as well as other evidence admissible under the law. (Jurjanah 2021)

This ruling provides broader legal protection for children born out of wedlock, particularly in relation to:

1. maintenance;
2. recognition of the child;
3. responsibility of the biological father.

Nevertheless, in the practice of Islamic inheritance law, there remains debate as to whether such civil relationships automatically give rise to inheritance rights.

Some judges and academics argue that civil relationships do not automatically alter the provisions regarding lineage in Islamic law. Consequently, the solution most often adopted is through:

1. a mandatory bequest
2. a gift
3. voluntary gift from the biological father.

### c. The Perspective of Human Rights and Child Protection

Modern legal developments place greater emphasis on the protection of children without distinguishing between their birth status. Children are not considered to be liable for the consequences of their parents' actions.

This principle is in line with the United Nations Children's Fund and the United Nations through the Convention on the Rights of the Child, which guarantees every child's right to:

1. an identity
2. legal protection
3. welfare
4. a decent standard of living

In the Indonesian context, child protection is also enshrined in Law No. 35 of 2014, which stipulates that every child has the right to protection without discrimination.

### Case Study: Inheritance Dispute

By way of illustration, suppose that in a family a man passes away and leaves behind an estate. He owned:

1. Biological children from a lawful marriage
2. A stepchild whom he had raised since childhood
3. A child born out of wedlock

In the process of inheritance distribution, biological children demand a share in accordance with the laws of faraid, whilst stepchildren and children born out of wedlock demand a share on the basis of fairness and emotional ties. This dispute then escalates into a protracted family conflict as each party feels they have a legitimate right.

## **An Analysis of Justice in the Distribution of Inheritance**

In inheritance disputes involving stepchildren and children born out of wedlock, the most fundamental issue is the clash between normative justice and social justice. Islamic inheritance law is essentially normative and textual in nature, as the provisions regarding inheritance shares are clearly set out in the Qur'an, the hadith and the science of faraid. However, in the practical realities of modern society, family relationships are not always as straightforward as depicted in classical fiqh. Many families are formed through remarriage, the raising of stepchildren, or social relationships that give rise to emotional and economic interdependence.

Consequently, the application of inheritance law in a purely normative manner is sometimes regarded as failing to fulfil the sense of social justice within society. A stepchild who has been raised and provided for since childhood, and even regarded as a biological child by their step-parents, for example, still does not legally inherit because they lack a blood relationship. Similarly, a child born out of wedlock, who is biologically the father's own flesh and blood, has, under classical fiqh, an inheritance relationship only with their biological mother.

It is this situation that gives rise to a legal dilemma: on the one hand, Islamic law must be upheld in accordance with the provisions of Sharia; on the other hand, there are demands for humanity and a sense of social justice that are developing within society. Consequently, several legal approaches have emerged in the resolution of modern inheritance disputes, namely the normative approach, the sociological approach, and the maslahat approach.

### **The Normative Approach: Strictly Adhering to the Laws of Faraidh**

The normative approach is one that adheres strictly to the rules of Islamic inheritance law as set out in the Qur'an, the hadith, ijma' and the principles of the science of Faraidh. Under this approach, the distribution of an estate must be carried out on the basis of kinship, marriage and the grounds for inheritance that are valid under Sharia law. (Amir Syarifuddin 2012)

The basis of the normative approach is found in the words of Allah SWT:

“Allah has prescribed for you regarding (the distribution of inheritance to) your children...” (Ministry of Religious Affairs of the Republic of Indonesia 2019)

This verse indicates that the distribution of inheritance is a direct provision of Islamic law, and therefore humans must not alter it at will.

Under this approach:

1. stepchildren do not have inheritance rights because they have no blood relationship with the deceased

Case Study: Alternative Dispute Resolution

2. children born out of wedlock are only entitled to an inheritance from their biological mother;
3. inheritance shares are distributed in accordance with the provisions of faraidh without taking into account emotional ties or social contributions.

The normative approach has the primary aim of safeguarding:

1. legal certainty;
2. purity of lineage;
3. the order of the Islamic system of inheritance.

Classical scholars emphasise that inheritance law is part of the ta'abbudi branch of law, that is, provisions established directly by Allah SWT and which must not be altered on the basis of human reason alone. (Wahbah Az-Zuhaili 1985)

The advantages of the normative approach are:

1. it provides legal certainty;
2. maintaining clarity regarding lines of descent;
3. avoiding conflicts of interpretation;
4. preserving the purity of Islamic law.

However, its weakness is that this approach is sometimes considered to pay insufficient attention to the evolving social conditions in modern society. A stepchild who has lived with and served the family for a long time may receive no share of the inheritance at all, whilst a distant relative may receive a share simply because of a blood relationship.

### **The Sociological Approach: Considering Relationships and Contributions**

The sociological approach views the law not merely as written rules, but also as a means of creating justice in society. In this approach, judges or the parties involved take into account social relationships, contributions, and the emotional closeness between the heir and the bereaved. (Soerjono Soekanto 2012)

This approach has developed because the realities of modern families often differ from the traditional family structures found in classical fiqh. Many stepchildren who:

1. have been brought up from childhood;
2. have had their education funded;
3. have cared for their step-parents until their passing;
4. have been an integral part of the family for decades.

From a sociological perspective, such relationships are considered to foster strong moral bonds and social responsibilities. Consequently, if a stepchild receives no share of the estate whatsoever, society often regards this as unfair.

The sociological approach is usually applied through:

1. family deliberation;
2. mediation;
3. gifts during one's lifetime;
4. wills;
5. voluntary gifts by heirs.

In the practice of religious courts, judges also frequently take into account social values and the community's sense of justice. This is in line with the judge's role as both an enforcer of the law and a seeker of substantive justice.

A sociological approach does not necessarily alter the laws of faraidh, but seeks to find a middle ground so that family relationships remain harmonious. For example:

1. legitimate heirs still receive their share under the law of faraidh;
2. stepchildren are granted a gift or a mandatory bequest;
3. the distribution is carried out through a family settlement agreement.

This approach emphasises that the law must be a 'living law' within society, rather than merely a set of textual rules.

However, the sociological approach also has its weaknesses, namely:

1. it has the potential to give rise to subjectivity;
2. it may lead to differing rulings;
3. is considered by some scholars to stray too far from the textual provisions of Sharia.
4. The Maslahat Approach: Seeking the Greatest Benefit for All Parties

The maslahat approach is one that is oriented towards achieving benefit, justice and the common good in the resolution of inheritance disputes. This approach stems from the concept of maqashid al-shari'ah, namely the primary objectives of Islamic Sharia to safeguard:

1. religion;
2. life;
3. reason;
4. lineage;
5. property.

In the context of inheritance by stepchildren and children born out of wedlock, the maslahat approach seeks to strike a balance between:

1. the normative provisions of Islamic law;

2. a sense of social justice;
3. protection of the vulnerable.

The maslahat approach is often used by contemporary judges to provide more humane solutions without contravening the fundamental principles of Islamic law. Its application includes:

a. Mandatory bequest

Wasiat wajibah is used to grant a specific share to a party who has a close social relationship with the testator but is not a legal heir under the laws of faraidh. This concept has developed in modern Islamic legal practice, including in Article 209 of the Compilation of Islamic Law concerning adopted children and adoptive parents. In practice, this concept is often progressively extended to stepchildren in order to achieve justice and public interest.

b. Inter Vivos Gift

The testator may transfer a portion of their assets to a stepchild or a child born out of wedlock whilst still alive through a gift. This method is considered safer as it does not directly conflict with the provisions of the Faraidh.

c. Family Reconciliation

Islam strongly encourages the resolution of disputes through reconciliation (ishlah). In the context of inheritance, the heirs may consult with one another to grant a portion of the estate to a stepchild or a child born out of wedlock on the basis of mutual consent.

Allah SWT says:

وَالصُّلْحُ خَيْرٌ

“And reconciliation is better.” (Ministry of Religious Affairs of the Republic of Indonesia 2019)

The maslahat approach has the following advantages:

1. it fosters family harmony;
2. avoiding protracted conflict;
3. providing protection for vulnerable parties;
4. adapting the law to societal developments.

However, the *maslahat* approach must still be applied with caution so as not to directly contradict the fundamental principles of Islamic sharia. In a modern context, a combination of these three approaches offers a more relevant solution.

## CONCLUSION

Based on the findings of this study, Islamic inheritance law, in principle, only grants inheritance rights to those with a blood relationship, a valid marital relationship, or other grounds for inheritance recognised by Sharia. Therefore, stepchildren are not included as heirs as they have no blood relationship with their step-parents, whilst children born out of wedlock, according to Article 100 of the Compilation of Islamic Law, have only a blood and civil relationship with their biological mother and her family. However, in the practical realities of community life, both categories of children often have strong social, emotional and economic ties with the deceased, giving rise to a conflict between legal certainty and a sense of justice.

The resolution of inheritance disputes involving stepchildren and children born out of wedlock can be achieved not only through a normative approach based on the provisions of *faraidh*, but also through sociological and *maslahat* approaches. These approaches take into account family relationships, contributions, and the interests of the parties to achieve a more substantive form of justice. In practice, resolutions through family consultation, mediation, gifts, wills, or mandatory bequests are considered more effective as they can reduce conflict, preserve family harmony, and provide protection to those who have social ties to the deceased even though they are not heirs under Islamic law.

Furthermore, developments in national law through Constitutional Court Ruling No. 46/PUU-VIII/2010 indicate an expansion of protection for children born out of wedlock by recognising a civil relationship with their biological father, provided this can be proven scientifically and legally. This development reflects efforts to harmonise legal principles, the protection of children's rights and social justice. Consequently, the resolution of inheritance disputes involving stepchildren and children born out of wedlock requires a balance between the normative application of Islamic inheritance law and an approach based on the public interest, child protection and humanitarian values, so as to create legal certainty and justice that is acceptable to society.

## REFERENCES

- Abdurrahman, *Kompilasi Hukum Islam di Indonesia*, Jakarta: Akademika Pressindo, 2007.
- Abdullah Yusuf Ali, *Tafsir Yusuf Ali*, terj. Ali Audah, jld II, Bogor: Pustaka Lintera Antar Nusa, 2009.
- Abu Ishaq Asy-Syatibi, *Al-Muwafaqat fi Ushul al-Syari'ah*, Juz II, Beirut: Dar al-Kutub al-Ilmiyah, 2003.

- Ahmad Rofiq, *Hukum Islam di Indonesia*, Jakarta: Raja Grafindo Persada, 2013.
- Akdir Rahmadi, *Mediasi Penyelesaian Sengketa melalui Pendekatan Mufakat*, (Jakarta: RajaGrafindo, 2010).
- Askar, *Kamus Arab Indonesia Al-Azhar, Cet-ke 2*, Jakarta: PT Senayan Publishing, 2011
- Asy-Syaukani, *Tafsir Fathul Qadir*, terj, Amir Hamzah Fakhruddin, jld. II, Jakarta: Pustaka Azzam, 2009.
- Asy-Syanqithi, *Tafsir Adhwa'ul Bayan*, terj. Hamid Abdullah, jld. I, Jakarta: Pustaka Azzam, 2010.
- Amir Syarifuddin, *Hukum Kewarisan Islam*, Jakarta: Kencana, 2012.
- A. Mudjab Mahali, *Asbabul Nuzul Studi Pendalaman Al-Qur'an*, Jakarta: Raja Grafindo Persada: 2002.
- Departemen Agama RI, *Al-Qur'an dan Terjemahannya* Jakarta: PT Syaamil Cipta Media, 2006.
- HR. Muhammad al-Bukhari, *Shahih al-Bukhari, Kitab al-Faraidh, Bab "Al-Walad lil-Firasy"*, No. Hadis 6818
- Kompilasi Hukum Islam*, KHI, Pasal 209.
- Muhamma bin Shalih al-Utsaimin, *Panduan Praktis Hukum Waris*, (Jakarta: Pustaka AlKatsir.
- Muhammad Suhaili Sufyan, *Fiqh Mawaris Praktis (Perbandingan Empat Mazhab dan Kompilasi Hukum Islam di Indonesia)*, Bandung : Cita Pustaka Media, 2012.
- Sayyid Sabiq, *Fiqh Sunnah*, jld. IV, Jakarta : Pena, 2015..
- Soerjono Soekanto, *Sosiologi Suatu Pengantar*, Jakarta: Rajawali Pers, 2012.
- Subekti, *Pokok-Pokok Hukum Perdata*, Jakarta: Intermasa, 2005.
- Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia*, Yogyakarta: Liberty, 2010.
- Wahbah Az-Zuhaili, *Al-Fiqh Al-Islami wa Adillatuhu*, Juz 8, Damaskus: Dar al-Fikr, 1985.