

Robert K. Merton's Structural Functionalism Analysis in The Determination of Heir in The Slawi Religious Court Decision Number: 3596/Pdt.G/2022/PA.SLW

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Abstract

Unregistered marriages blur family relationships between families, one of which is in inheritance rights. When a marriage is not registered, the husband or wife cannot inherit from each other, as well as children who only have a civil relationship with the mother, one of which is in the Slawi Religious Court Decision Number: 3596 / Pdt.G / 2022 / PA.Slw, where the panel of judges granted the plaintiffs' request as heirs, but there was no attachment of the plaintiffs' parents' marriage certificates as evidence to prove the sibling relationship between the plaintiffs and the heirs. The research is a qualitative juridical-sociological study using descriptive-analytical methods. The empirical analysis technique uses an evidence-based approach by integrating based on Robert K. Merton's structural functionalism sociology theory. The results of this study refer to the decision of the Slawi Religious Court Number 3596/Pdt.G/2022/PA.Slw, the dysfunction in the decision is by determining the heirs without considering the marriage certificate of the plaintiff's parents, weakening the perfect evidentiary power of the marriage certificate as authentic evidence of a marriage and this consideration triggers a sense of injustice for other parties so that the fulfillment of legal certainty from the decision becomes unclear in the long term. The real and visible function, where the decision provides legal certainty to the plaintiffs as siblings of the heir to be entitled to a share of the inheritance from the heir, as well as proving the existence of a family relationship as siblings between the plaintiffs and the heir. The intangible and hidden function, where the decision can confirm the legitimacy of the authority of the Religious Court in examining and adjudicating disputes, and the results of the decision must be obeyed by all parties in the case.

Keywords: marriage registration, determination of heirs, robert k. merton's structural functionalism.

Introduction

The validity of a marriage according to normative law in Article 2 paragraph (1) and (2) of the UUP is determined when the marriage is carried out in accordance with the provisions of each religion and the marriage is recorded with a marriage certificate as evidence of the marriage event. This is emphasized in Article 5 paragraph (1) of the KHI which states, "in order to ensure orderly marriage for the Islamic community, every marriage must be recorded." Based on these articles, it can be concluded that a marriage must be carried out in accordance with each person's beliefs and religion and must be recorded in the population register as an administrative requirement for a marriage with a marriage certificate as proof.

From a legal perspective, a marriage certificate plays an important role in protecting a person's rights and can be used as proof of a marriage, especially in settling cases in court as written evidence that has perfect force (Ma'arif, 2019) . A marriage registration will have an impact on many things that will affect the future life of a new family. In other words, marriage registration with proof of a marriage certificate can prove many relationships within a family, namely the relationship between husband and wife, the relationship between parents and biological children, and can also explain the relationship between biological children.

The real impact of an unregistered marriage is related to the distribution of inheritance. A husband and wife whose marriage is not registered do not have the right to inherit from each other and are not entitled to maintenance from the husband. Assets from an unregistered marriage are only owned by each of the individuals who produced the assets (Ma'sum, 2013) . The same applies to the child's right to inherit. In Article 852 of the Civil Code, children as direct heirs of both parents through blood and lineage relations, suddenly become gray and are threatened with not being able to inherit. When the marital status of their parents does not receive their rights in the state because it is not registered, it can be said that the marriage is considered never to have existed, which results in children born from an unregistered marriage being considered *a quo* according to the law as children born from an illegitimate marriage as stated in Constitutional Court Decision No. 46/PUU-VIII-2010. Children born from unregistered marriages only have a civil relationship with their mother, not a civil relationship with their father as stated in Article 43 Paragraph (1) of the Marriage Law and Article 100 of the KHI.

Unregistered marriage cases have occurred frequently, one of which is the Slawi Religious Court Decision Number: 3596/Pdt.G/2022/PA.Slw, which is a lawsuit for the determination of heirs and distribution of inheritance assets. The case was filed by two sisters of the testator against the testator's husband. In this case, the relationship between Plaintiff 1 (first child), Plaintiff 2 (third child) and the testator is the testator's biological sister. The testator himself is the second child. Plaintiff 1, Plaintiff 2, and the testator are children from an unregistered marriage. The plaintiff sued the Defendant, the testator's husband, for inheritance rights from the testator's heirs. This case is unique when linked to the process of proving the case, namely looking at several pieces of evidence submitted by the plaintiffs. In the evidence submitted by the plaintiffs, there was no attachment of evidence in the form of a marriage certificate from the plaintiff's parents and the testator. It is common knowledge that a marriage certificate is an authentic document that serves as a source of proof of a marriage that has occurred. In addition, the witness statement did not explain in detail how, when and where the witnesses directly saw the marriage between the Plaintiffs' parents being carried out, which is the reason for the blurring of family relationships, namely the blurring of the marital

relationship between the Plaintiffs' parents and the Heir which also intersects with the blurring of the child relationship between the Plaintiffs' parents and the Heir.

Research on inheritance proof has been widely studied, including a study entitled "The Position of Inheritance Assets Resulting from Marriage Confirmation for Deceased Couples at the Surabaya Religious Court (Study of Decision Number: 2735/Pdt.P/2020/PA.Sby)" compiled by Dewi Murniati, Zain Alwi Arafat, Imam Mawardi, Aliffatul Alfiah in 2023 (Dewi Murniati, Zain Alwi Arafat, Imam Mawardi, 2023) . This study reviews the case of an application to become an heir for a sibling's heir in the Surabaya Religious Court Decision Number: 2735/Pdt.P/2020/PA.Sby. The heir and sibling are children from an unregistered marriage. In 2018, the marriage of both parents was then confirmed. In an unregistered marriage (*sirri*) there is no position in determining inheritance law without the isbat nikah, and isbat nikah is a bridge from explaining a person's marital status in terms of rights and law. The result of this study is that a marriage can be legally declared valid by a court decision. When a marriage is not registered or cannot be legally proven by presenting evidence of marriage, namely a marriage certificate and book, then the legal determination of marriage can be submitted to a religious court through isbat nikah, and those who can submit isbat nikah are the husband or wife, children from their parents' marriage, marriage guardians and parties who have an interest in the marriage as an attachment to evidence when submitting the determination of heirs (Dewi Murniati, Zain Alwi Arafat, Imam Mawardi, 2023) . The difference between this research and the research to be compiled is in the submission of evidence with perfect legal force that can influence the proof of a lawsuit argument. In this article, the evidence submitted by the applicant is a copy of the marriage confirmation decision 2735/Pdt.P/2020/PA.Sby of the applicant's parents which is used as strong evidence to explain the relationship between parents and children, as well as the relationship between biological children, while the research to be compiled is a similar case, namely the inheritance lawsuit case between Plaintiff 1 and Plaintiff 2 (the testator's siblings) with the Defendant (the testator's husband), but in the evidentiary hearing the Plaintiffs did not attach evidence that could prove that the marriage of the Plaintiff's parents and the testator had taken place either in the form of a marriage certificate or a copy of the marriage confirmation decision.

Another study entitled "Legal Protection of Inheritance Rights of Children from Unregistered Polygamous Marriages (Study of Supreme Court Decision No. 671K/Ag/2015)" compiled by Fitri Ayu Sari Wijaya in 2020 (Wijaya, 2020) . This study reviews the inheritance lawsuit case from plaintiffs 1, 2, 3 and 4 to defendants 1, 2, and 3 in Supreme Court Decision No. 671K/Ag/2015. In his position, the heir is a husband who has been married 7 (seven) times during his life. In his first marriage he was blessed with 3 (three) children, then in his second marriage he was blessed with 1 (one) child, in his third marriage he was blessed with 1 (one) child, in his fourth marriage he was blessed with 6 (six) children, and in his fifth, sixth and seventh marriages he was blessed with 1 (one) child each. The plaintiffs numbered 4 (four) people, 3 (three) children were the result of the first marriage and 1 (one) child was the result of the fifth marriage. While the defendants numbered 3 (three) people, namely the wife from the fourth marriage, and her two children. This lawsuit was filed because the plaintiffs felt aggrieved by the defendants because of the actions of the plaintiffs who controlled the entire inheritance by pawning and even selling the inheritance, which was contrary to what was stated in Islamic inheritance law. The considerations made by the judge in deciding the case were to assess that the plaintiffs' lawsuit was formally flawed because it did not explain when the

testator's marriage to his wives (first wife to seventh wife) by attaching proof of marriage. Likewise, when the joint property with the fourth wife was obtained, whether at that time the testator was still bound to another wife or only bound to the fourth wife and as the sole heir. This is very important to explain because the joint property obtained in a polygamous marriage will be divided differently from the joint property obtained in a monogamous marriage. In its consideration, in determining a decision, the Supreme Court judge did not refer to the Constitutional Court decision No. 46 / PUU-VIII-2010, where in the decision it was stated that the legal certainty of proving children from unregistered marriages can be done through science such as DNA tests and so on. The conclusion of the analysis is that the principle of legal certainty can be achieved if the legal substance is in accordance with the needs of society, which can be achieved effectively not only through the articles in the law, but also from the judge's consistency in making decisions by correlating previous judges' decisions with other similar judges' decisions (Wijaya, 2020) . The difference between this research and the research to be compiled is seen from the legal subject of the case. The legal subjects of this research are the plaintiffs who are the children of the first wife and the fifth wife of the testator and the defendants are the fourth wife and the second child of the fourth wife's marriage and the testator. While the legal subjects of the research to be compiled are the plaintiffs who are the siblings of the testator and the defendant is the husband of the testator.

It is clear from previous research that many people still ignore the importance of marriage registration. In reality, once a marriage is registered, future administrative mobility will be easier and unimpeded by incomplete documents. When a marriage is unregistered, it can lead to the blurring of family relationships, namely the marital relationship between husband and wife and the relationship between parents and their biological children. Therefore, regarding the consequences of unregistered marriages, especially in inheritance cases in Religious Courts, it is necessary to understand more deeply the impact and consequences experienced by the parties of unregistered marriages from a sociological perspective using Merton's structural functionalism theory, thereby providing an understanding of awareness and minimizing the practice of unregistered marriages.

Referring to field facts, previous research, and theoretical and empirical urgency, the research that was compiled will examine how the judge's considerations in proving the determination of heirs from an unregistered marriage in the Slawi Religious Court Decision Number: 3596/Pdt.G/2022/PA.Slw in the perspective of Robert K. Merton's structural functionalism sociology, with the aim of compiling this research is to study and analyze the considerations used by the panel of judges in determining heirs from the perspective of Robert K. Merton's structural functionalism sociology.

Method

Research Design

Referring to the title and formulation of the problem, this type of research is a qualitative juridical-sociological research (*socio-legal research*) using *descriptive-* analytical methods. The data is collected, processed, and then analyzed in accordance with the theoretical basis chosen as the basis for analysis, so that it can provide an overview of the results of the formulation of the problem being studied (Mulyadi, 2013) . In this study, first describes the Decision of the Slawi Religious Court Number: 3596 / Pdt.G / 2022 / PA.Slw, then processed

based on the data that has been collected and looking at the facts in the field, then analyzed using the basic theory of structural functionalism to produce a conclusion.

Data collection technique

The data collection techniques used in this study were data collection through interviews and documentation studies. The judge interviewed was the Chief Justice of the Slawi Religious Court, Case Number 3596/Pdt.G/2022/PA.Sl w . Interviews were conducted twice on January 6 and 23, 2025. Due to time constraints, location constraints, and the busy schedule of the Chief Justice, the interviews were conducted online by sending a questionnaire and the judge would send the questionnaire back along with the answers. In collecting data through documentation, the document used as the main reference for this study was the decision file of the Slawi Religious Court case Number: 3596/Pdt.G/2022/PA.Slw, which was then analyzed with other secondary data.

Data Analysis Techniques

The data analysis technique carried out by the researcher uses an empirical/field data analysis method, namely analysis using an evidence-based approach by integrating based on Robert K. Merton's structural functionalism sociology theory, in this case the analysis of the determination of heirs in the Slawi Religious Court Decision Number: 3596/Pdt.G/2022/PA.Slw to explore and interpret what is contained in the decision which is reviewed from the perspective of Robert K. Merton's structural functionalism theory (Rose, 2017) .

Result

Robert K. Merton's Structural Functionalism Theory

1. Merton's Conceptualization of Structural Functionalism

Robert K. Merton was a student of Talcott Parsons who later provided analysis and argumentation to complement Parsons' theories with his own (Raho, 2021) . Merton's work as a whole had a significant influence on the dynamics of empirical research and Parsons's theorizing process (Adibah, 2017) .

a. Structural Functionalism

Structural functionalism, also known as "Structural Functionalism," is a development of general systems theory that utilizes a functionalist approach adapted from the natural sciences, particularly biology. Its theoretical study focuses on how systems are organized and maintained. This approach stems from linguistics, where its approach emphasizes the organization of language and social systems. Structural functionalism is fundamentally divided into several concepts, but the most important concepts in this theory are the concepts of function and structure (Adibah, 2017) . The following are some of the fundamental principles of functionalism (Sanderson, 2000) :

- 1) As a complex system, humans have parts that are interconnected and interdependent, where each part of society has an impact or influence on every other part.
- 2) Each part of society has a primary function to maintain the reality and stability of society as a whole, therefore each part of society can be explained when knowing the function of the parts of society as a whole.
- 3) In general, societies have ways of integrating themselves into a unified whole. An important part of this process is a commitment by community members to harmony in their beliefs and social values.

- 4) In general, society tends towards a stable state, so that when there is a disturbance in one part, the other parts will try to make adjustments so that stability and harmony are achieved.
 - 5) Social change in society is something that is not natural to happen, however, when social change occurs, it often brings beneficial results for society as a whole.
- b. Middle Theory (Middle Range Theory)

Merton defines this intermediate theory as a theory that lies between simple but important hypotheses, whose research is dynamically evolving every day, and seeks to integrate them all in the development of a complete theory to be able to explain the diversity observed in social behavior (Adibah, 2017) . In principle, intermediate theory is used in sociology to guide empirical research that functions as a bridge connecting general theories about social systems that are too broad and irrelevant to specific behavioral groups, organizations, and changes, making it difficult to explain what is observed. In contrast, detailed descriptions regularly only describe certain things without making any generalizations at all (Adibah, 2017) . As a solution to the difficulties of Parsons' functionalism theory, Merton developed an intermediate theory approach. Intermediate theory essentially seeks to bridge the gap between theory and empirical evidence, considering Merton's criticism of theorists who do not pay attention to empirical evidence, as well as researchers who only collect data without understanding theory. Thus, intermediate theory aims to be a bridge between theorists and researchers (Susilo, 2008) .

2. Merton's Functional Analysis Paradigm

Merton begins his argument by sharing the concerns of anthropologists who previously failed to resolve contemporary functionalism. Merton presents his opinion by criticizing 3 (three) postulates: 1) the functional unity of the social system, 2) the functional universality of the social system, (3) the functional *indispensability* of the social system (Turner, 1974) . Merton begins his functional analysis by criticizing the weaknesses and unclear assumptions or postulates in functional theory, regarding the fact that “a term is too often used to symbolize different concepts, just as the same concept is used as a symbol for different terms” (Adibah, 2017) . Concepts in sociology should have clear boundaries if they are to function as the basis for testable statements. In addition, these statements must be stated clearly without confusing their meaning. Merton's model attempts to define some of the basic analytical concepts in functional analysis and to clarify some of the ambiguities in the postulates of the functionalists. Merton cites three postulates used in functional analysis that were later refined by Merton himself, as follows (Turner, 1974) :

- a. Functional unity in society occurs when all parts of a social system work together with a sufficient degree of harmony or internal consistency, without creating uncontrolled conflict. Merton asserted that perfect functional unity in a society contradicts the facts. As an example, he cited several social customs that may be functional for one group (facilitating group integration and cohesion) but dysfunctional for another (leading to disintegration).
- b. Merton's paradigm asserts that dysfunction (destructive elements) should not be ignored simply because one is interested in positive functions (integrative elements). Merton also emphasized that what is functional for one group may not be functional for the whole, therefore the boundaries of the group being analyzed must be clearly defined.
- c. Universal functionalism assumes that all established social and cultural forms have positive functions. As we have seen, Merton introduced the concepts of dysfunction and positive function. Some social behaviors are clearly dysfunctional. Merton suggested that cultural

elements should be judged based on the balance of functional consequences, that is, by measuring their positive and negative functions. In the case of religion in Northern Ireland, a functionalist must evaluate its positive and negative functions and then determine whether the balance between the two favors the negative or the positive.

- d. Merton completes the three postulates of functionalism, namely the postulate of indispensable (independence), which states that "in every type of civilization, every custom, idea, thing, and belief has some important function, has a certain task that must be carried out, and is an inseparable part of the activity of the system as a whole" (Adibah, 2017). According to Merton, this postulate is still vague. It is not clear whether the function (such as social needs, for example, the replacement of new members) or the object (such as norms, for example, the family) is something that is mandatory. Merton wrote briefly that the postulate of indispensable, contains two related, but distinguishable statements, namely that there are certain functions that are absolute, in the sense that, unless they are carried out, society (or groups or individuals) will not be able to exist here.

3. Merton Functional Analysis

Another development of Merton besides the intermediate level theory is to complete the structural functionalism theory with several new main ideas, namely including dysfunction, real and visible functions (*manifest function*), as well as hidden and invisible functions (*latent function*).

a. Dysfunction

This dysfunction is Merton's critique of Parsons's opinion, which states that "all institutions are good in themselves or function well for society." Merton has another argument that there are things that do not function as they should, called "dysfunction," and calls for pointing out these dysfunctions (Raho, 2021). Merton has two different but complementary concepts of dysfunction. *First*, Merton's statement, "something can have consequences that reduce the adaptation or degree of adjustment of the system." From this statement, it can be seen that something can cause impacts that are generally dysfunctional. One example is bureaucracy. In general, bureaucracy functions very well in the industrial world because it places people based on their talents and abilities. However, Merton has another view that agrees with Weber, where when bureaucratic rules are implemented obediently as an end rather than as a means to an end, that is where the dysfunction of bureaucracy is tyranny due to its rigid and inflexible bureaucratic functions. Complying with regulations is important, but it should not be detrimental to humans in order to comply with regulations (Raho, 2021).

Second, actions or behaviors can have different impacts depending on the interests of each party involved. Merton argues that this second dysfunction shares similarities with conflict theory, in that both emphasize the different benefits each group derives from social rules. One example is religious institutions, which can serve to integrate religious values within society, but not for others, such as opponents who become victims of arbitrary treatment by individuals who use the name of religion. Therefore, Merton argues that sociologists must be careful in formulating an event or action and behavior by carefully considering the target object to ensure it functions efficiently (Raho, 2021).

b. *Manifest* Functions and *Latent* Functions

On closer inspection, the apparent and visible functions and the hidden and visible functions clarify functional analysis and balance Parsons's functionalism theory. In general, apparent and visible functions are the visible or predictable impacts of an action or social

situation, while hidden and invisible functions are the unexpected or unpredictable impacts that emerge after an action or social situation occurs (Raho, 2021) . An example is the enactment of a minimum wage law . The apparent and visible function of this law aims to improve the welfare of workers by providing a decent minimum wage. However, due to its hidden and invisible functions, this law can pose a threat to workers because high wages can be an excuse for company owners to replace workers with machines, resulting in increased unemployment. Therefore, Merton argues that empirical research can focus on functional analysis of the impacts that can arise from a policy or behavior, so that both visible and unexpected impacts can be considered. Thus, an action or behavior can be functionally implemented well in certain circumstances and can be dysfunctional in other circumstances (Raho, 2021) .

Marriage Registration

Article 2 paragraph (2) of the Marriage Law and Article 2 paragraph (2) of the Compilation of Islamic Law, both emphasize that "Every marriage is registered according to the applicable laws and regulations", both in the Compilation of Islamic Law and in the Marriage Law. Both postulate how a marriage must have proof of registration. Marriage registration is the beginning of the administration for a couple to form a new family. Everyone certainly desires a harmonious, peaceful, and safe family life to support their future family life. To form a family with the goals that have been aspired to, it requires legal certainty inherent in a family. Legal certainty can be obtained first before forming a husband and wife bond by registering the marriage. In Islamic law, marriage registration is not directly mentioned in general, but through *istinbathan* using the *qiyas method* . *Qiyas* according to scholars of *ushul fiqh* is a way of establishing law by connecting an event that does not yet exist or is not in the text to another different event that has been established in the text, where both events have similarities in their legal *basis* (Muslimin, nd) .

The registration of marriage is compared with the *mudayanah* verse in Al-Baqarah verse 282 by comparing the similarities in the *`illat* in both events based on the text. The *mudayanah* verse in QS. Al-Baqarah verse 282 explains the command to record debts in writing and witnessed by two witnesses. The verse explains the obligation and command to record debts in writing and witnessed before a witness (third person) and also explains the importance of recording debts even with a small value. The purpose is to avoid unpleasant things in the future (Shihab, 2004) , where this verse is in line with the obligation to register marriage, so that the law of marriage registration falls into the category of *qiyas aulawi* (*qiyas* whose *`illat* requires the existence of law) because the level of *`illat* of marriage registration as *far`u* (events that are not stipulated in the text which are then *interpreted* from events that have been determined in the text) is higher than the level of *`illat* in *ashal* (marriage registration) (Dinata, 2020) . Thus , it can be seen that the law of marriage registration has become mandatory. Given the increasingly advanced developments in the modern era, documents, data, or written evidence have become essential and are essential to reduce the risk and avoid marital disputes.

According to formal Indonesian law, marriage is regulated in Article 2 paragraph (1) and (2) of the Marriage Law, it is very clear that according to Indonesian legal regulations, legally, the validity of a marriage is based on two aspects, namely that it is carried out according to each person's religion and when the marriage is registered. When a marriage is not registered, it can be said that according to law the marriage is considered non-existent or invalid. Article 5 paragraph (1) of the KHI states that marriage registration aims to be a form of administrative order, provide certainty and protection for the status of a family, namely husband, wife and

children, also provide guarantees and protection for certain rights that arise due to marriage such as inheritance rights, birth certificate rights, and other rights (Liky Faizal, 2016) .

Likewise, Article 5 of the KHI states that in order to ensure orderly marriages for the Islamic community, every marriage must be registered. Marriages in Article 7 paragraph (1) of the KHI must be registered under the supervision of a Marriage Registrar as evidenced by a marriage certificate. According to Article 6 paragraph (2) of the KHI, marriages conducted without the supervision of a Marriage Registrar are considered not to have permanent legal standing, so that the marriage can be considered null and void. This is continued in Article 2 paragraphs (1) and (2) of PP No. 9 of 1975 concerning the Implementation of the Marriage Law .

The consequence of an unregistered marriage is the neglect of the rights and obligations of the husband and wife, which will also have an impact on their future lives. In this case, the wife is the one who suffers the most. There is no demand for the husband's obligations in terms of assets to provide for his wife, nor joint assets or inheritance (Ma'sum, 2013) . According to Constitutional Court Decision No. 46/PUU-VIII-2010, the status of a child born is also illegitimate, following his marital status, and when registering a birth certificate, the child will have the status of an illegitimate child. The relationship obtained by the child is only a civil relationship with his mother, not with his father as stated in Article 43 Paragraph (1) of the Marriage Law and Article 100 of the Compilation of Islamic Law. Therefore, the child cannot inherit assets from his father. It can be seen that the impact of an unregistered marriage greatly affects future life, especially for the wife and children.

Proof in Inheritance Matters

Inheritance is one of several civil cases that can be brought to court. Islamic jurisprudence recognizes inheritance with the word *faraidh* (فرائض) which means parts. *Faraidh* is the plural form of the word *al-faridhah* (الفريضة) which means certain parts. Article 171 letter (a) of the KHI explains that inheritance law is the law that regulates the transfer of ownership rights of inherited property (*tirkah*) from the testator, determining who has the right to be an heir and the share of each heir. Article 830 of the Civil Code states that "Inheritance only occurs because of death." It can be seen from this article that the elements of inheritance include three things, namely the heir (the deceased person), the heirs (the people who receive the inheritance), and the inheritance (property left by the testator). This is in accordance with QS. An-Nisā' (4): 176.

When filing a lawsuit regarding inheritance, both the plaintiff and the defendant must be able to properly prove the arguments of the lawsuit or their rebuttal arguments by submitting evidence that can support their arguments so that the panel of judges can consider the evidence in determining the final decision of the case. All evidence contained in Article 1866 of the Civil Code, such as written evidence, witnesses, confessions, allegations, oaths, all of which can be used and submitted at the evidentiary hearing. According to the results of an interview with the Chief Judge of the Slawi Religious Court Case Number 3596 / Pdt.G / 2022 / PA.Slw, the evidence that can be submitted in proving the heirs in civil inheritance cases are written evidence or letters and witness evidence. Written evidence or letters include KTP, marriage certificates, family cards, birth certificates, death certificates, property ownership certificates and wills from the testator.

Discussion

Overview of the Slawi Religious Court Decision Number 3596/Pdt.G/2022/PA.Slw

1. Description of the Problem Sitting

That in the Slawi Religious Court Decision Number 3596/Pdt.G/2022/PA.SLW, the plaintiffs submitted a lawsuit with the following case in point:

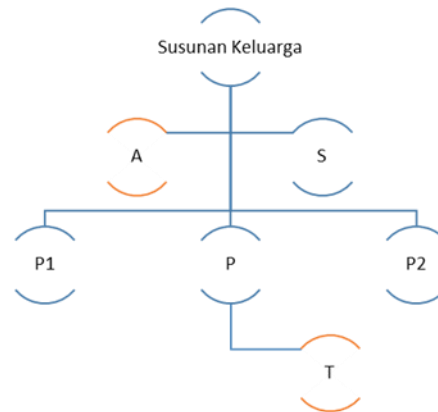


Figure 1. Family Structure Diagram

In the case, it was stated that A was a man who had married a woman named S on an unknown date. From their second marriage, they gave birth to three children, all of whom were girls. The three children were named P1, P, and P2. They lived together in Penusupan Village, Tegal. Until November 22, 2009, the woman who played the role of wife and mother, S, died of illness. One year later, on March 16, 2010, A died of illness. From the death of the father and mother, the inheritance or inheritance was divided among their three children, with a total of P1's share of 1,156 m², P's share of 1,219.7 m² (792 m² of the gift given by P's parents in 2006 and 427.7 m² of inheritance), and P2's share of 1,254 m².

P married T on October 7, 1998 at the Pangkah District Religious Affairs Office. From their marriage, P and T were not blessed with children. However, due to illness, on November 13, 2014 P died. P died leaving behind inherited property in the form of a plot of land with a building on it and a plot of land without a building. After P died, T remarried and married twice. Regarding the inheritance and joint property of P and T, until the lawsuit was filed by the plaintiffs in this case P1 and P2, the property had not been divided by T.

Before filing a lawsuit to the court, P1 and P2 had attempted to resolve the property issue amicably with T. However, T rejected the attempt, so P1 and P2 filed a lawsuit to the court. In their lawsuit, P1 and P2 requested to be designated as P's heirs and the property could be determined according to applicable legal provisions. Likewise with the dwangsom money and collateral seizure when T as the Defendant neglected to submit the distribution of the inheritance.

2. Evidence of the Parties

In the evidentiary stage of the trial, the burden of proof is directed to the party who claims the lawsuit or the party who refutes or rejects the lawsuit's arguments. So, in the evidentiary hearing, the Plaintiff has the right to submit evidence first to the panel of judges. After that, the Defendant can respond to the evidence submitted by the Plaintiff, either accepting or admitting or even rejecting the Plaintiff's evidence by submitting evidence to strengthen the rebuttal argument. The proof in the trial process is a follow-up effort carried out after the Plaintiff and Defendant have provided replies and duplicates or answered each other regarding what is argued with the obligation to prove the arguments in accordance with Article 163 HIR *in conjunction with* Article 1685 of the Civil Code.

In filing the lawsuit, the Plaintiffs argued that A and S were married and had three children, all of whom were female. These children can be referred to as P1 (first child, still alive, with the status of plaintiff 1), P (second child, deceased, heir), and P2 (third child, still alive, with the status of plaintiff 2). The Plaintiffs also argued that the Plaintiffs requested to be designated as heirs of P. To prove this argument, the plaintiffs submitted several pieces of evidence and five statements of testimony.

The Plaintiff submitted evidence, namely 22 letters of evidence and statements from 5 witnesses. Documentary evidence in the form of a photocopy of the Resident Identity Card (KTP) in the name of P1 which is then marked as (P.1), a photocopy of the Birth Certificate in the name of P1 (P.2), a photocopy of the Elementary School Graduation Certificate (SD) in the name of P1 (P.3), a photocopy of the Junior High School Graduation Certificate (SMP) in the name of P1 (P.4), a photocopy of the Senior High School Graduation Certificate (SMA) in the name of P1 (P.5), a photocopy of the Resident Identity Card (KTP) in the name of P2 (Plaintiff II) (P.6), a photocopy of the Birth Certificate Extract in the name of P2 (P.7), a photocopy of the Elementary School Graduation Certificate (SD) in the name of P2 (P.8), a photocopy of the Junior High School Graduation Certificate (SMP) in the name of P2 (P.9), a photocopy of the Senior High School Graduation Certificate (SMA) in the name of P2 (P.10), a photocopy of the Death Certificate Duplicate in the name of A (P.11), a photocopy Duplicate Death Certificate in the name of S (P.12), photocopy of Death Certificate in the name of P (P.13), photocopy of Certificate of Genealogy of Heirs of Adan S (P.14), photocopy of Family Genealogy of Mr. A (P.15), photocopy of Marriage Certificate Extract in the name of T and P (P.16), photocopy of Family Card in the name of (P.17), photocopy of Certificate of Ownership in the name of T and P (P.18), photocopy of Deed of Gift Number 338/PGK/IV/2006 dated 18 April 2006 (P.19), photocopy of Certificate of Ownership in the name of P Number 2882 (P.20), photocopy of Certificate of Ownership in the name of P2 Number 2883 (P.21), and photocopy of Certificate of Ownership in the name of P1 (P.22).

Based on the evidence presented above, it can be seen that the evidence P.1-P.10, P.21 and P.22 are evidence as authentic deeds that have fulfilled the formal and material requirements, and therefore have perfect and binding evidentiary power in accordance with Article 165 HIR *in conjunction with* Article 1870 of the Civil Code. Based on the evidence of authentic deeds presented by the Plaintiff, from evidence P.2 and P.7, the panel of judges analyzed that the evidence can prove the relationship between the biological children of the Plaintiffs P1 and P2 with their parents through evidence of birth recognition letters. From evidence P.3, P.4, P.5, P.8, P.8, P.9, and P.10 the judge considered that P1 and P2 are children of A who are stated to have graduated from elementary school, junior high school and high school.

The evidence P.11-P.15 is evidence of a private deed or can be called an ordinary letter because it was made without the presence of an authorized official according to the statutory regulations in Article 1874 of the Civil Code. Furthermore, in Article 1875 of the Civil Code, a private deed has the same formal force of proof as an authentic deed, namely perfect and binding if the deed is recognized as true by the parties. Therefore, a private deed cannot stand alone, it must be accompanied or accompanied by other evidence such as witness statements or other evidence.

The evidence is the statements of four witnesses submitted by the plaintiffs, who have provided information based on their direct knowledge. The five witnesses have fulfilled the

formal and material requirements as witnesses according to Article 145 paragraph (1) HIR and Articles 171 and 172 HIR, so that from the statements of the four witnesses it can be proven that A and S have been married and are a married couple who have been blessed with three children, all of whom are female, namely P1 as the first child, P as the second child, and P2 as the third child with sibling relations, and there are no other children born or adopted children from the couple A and S.

The witnesses also testified that A had died in 2010 due to illness, S had died in 2009 due to illness, and P had died in 2014 due to illness. After S died, A did not remarry another woman. When he was still alive, P had married T and had no children. After P died, T had remarried but it is not known who he married and when. Since P died, T has never divided P's assets to P1 and P2. Regarding P's inheritance, the witnesses knew clearly and in detail where the assets were located. However, regarding the proof of the marriage of A and S, where, when, and how the marriage process was carried out were not explained in detail by the witnesses.

The Defendant stated his objection regarding the evidence submitted by the Plaintiffs on the grounds that of all the evidence submitted by the Plaintiffs, there was no authentic evidence that became the basis for the lawsuit to be filed, namely the absence of evidence of marriage between A and S. Because, from the absence of evidence of a valid marriage, legitimate children will be born who can be designated as heirs. In proving the rebuttal to the arguments submitted by the Plaintiff, therefore the Defendant submitted six pieces of written evidence in the form of a photocopy of the Resident Identity Card in the name of T which is then referred to as (T.1), a photocopy of the Resident Identity Card in the name of P (T.2), a photocopy of the Family Card in the name of T (T.3), a photocopy of the Marriage Certificate Extract in the name of T and P (T.4), a photocopy of the Death Certificate in the name of P (T.5), and a photocopy of the Deed of Gift (T.6).

The evidence submitted by the Defendant, namely T.1-T.6, can be seen that all of them are photocopies of evidence that have been matched and are in accordance with the original so that the panel of judges considers the evidence valid as evidence in accordance with Article 1888 of the Civil Code and has fulfilled the formal and material requirements as an authentic deed that has formal force in perfect and binding evidence in accordance with Article 165 HIR in conjunction with Article 1870 of the Civil Code.

Evidence T.4 submitted by the Defendant has proven the existence of a marriage between T and P on October 6, 1998 which was bound by a legal marriage in accordance with Article 2 paragraph (2) of Law No. 1 of 1974 concerning Marriage as amended by Law No. 16 of 2019 in conjunction with Article 7 paragraph 1 of the Compilation of Islamic Law. Evidence T.5 is a photocopy of a private deed which is in accordance with Article 1874 of the Civil Code as an ordinary letter or private deed signed by the party who made it only so that the evidence can have full legal force as an authentic deed when accompanied by other evidence in accordance with Article 1875 of the Civil Code. Therefore, other supporting evidence is evidence from the witness statements submitted by the Plaintiff, so that it can prove that the death of the Heir was due to illness on November 13, 2014.

3. Legal Considerations

In the Decision of the Slawi Religious Court No. 3596/Pdt.G/2022/PA.Slw regarding the petition for determining heirs (P), the panel of judges considered that basically the principle of inheritance law is the principle of *ijbari* (coercion), where the assets of a deceased person will directly be transferred to the heirs of the deceased person as stated in QS. An-Nisā' verse 7.

This verse explains that there are rights and portions to inherit assets from a deceased person, whether male or female, whose amounts and amounts vary, according to what has been determined, known, and limited in time. In the theory of Islamic inheritance law, the pillars and conditions that must be met are also explained, namely the existence of *al-Muwarits* (heirs or deceased people), *al-Warits* (heirs of the testator who are still alive when the testator dies with certainty, are not prevented from receiving inheritance, and have a legal relationship with the testator), *al-Mauruts* (inheritance left by the testator).

Looking at the legal considerations and facts contained in the evidentiary trial process, namely evidence regarding the relationship between A and S as a husband and wife who gave birth to three female offspring, namely (P1), (P) and (P2) and did not have adopted children, evidence of the existence of a marital relationship between (P) and (T) as a husband and wife but had not been blessed with children and did not have adopted children, and evidence that A had died on October 16, 2016, S had died on November 22, 2009, and P had died on November 13, 2014 due to illness and in a state of Muslim religion.

Based on the legal facts that have emerged in the trial, the panel of judges a quo has a legal conclusion that the petitum lawsuit for the determination of heirs (P) filed by the Plaintiffs has legal grounds. This is based on QS. An-Nisā' verses 11-12 and Article 174 paragraphs (1) and (2) of the KHI. In the interpretation of Ath-Thabari, Imam Abu Ja' far gave his opinion that QS. An-Nisā' verses 11 and 12 are an explanation of the provisions of the obligations of a person who is still alive to be able to inherit the property of a deceased person, and about the rights and obligations to receive inheritance owned by the heirs, also explained regarding the parts of the property obtained by each heir, as well as the obligation to fulfill the rights of the deceased before the inheritance is divided.

Based on the plaintiffs' lawsuit which has been proven and has legal grounds, the panel of judges granted the plaintiffs' petition by determining T, P1, and P2 as heirs of P's heir.

Discussion

In the Slawi Religious Court Decision Number 3596/Pdt.G/2022/PA.Slw, the panel of judges' considerations in determining their decision were inconsistent with statutory regulations, including in their considerations regarding the determination of heirs. The plaintiffs were unable to attach their parents' marriage certificates, which serve as the basis and initial document for proving familial relationships, namely the marriage relationship between the plaintiff's parents and the relationship between parents and children. Therefore, unregistered marriages or those that cannot be proven by a marriage certificate or book risk obscuring family relationships. However, in the decision, as seen in the verdict, the panel of judges granted the plaintiffs' lawsuit by determining the plaintiffs and defendants as heirs of the Testator. The panel of judges' considerations were guided by documentary evidence submitted by the plaintiffs and supported by witness statements.

In the dysfunction section, an event, action, or circumstance can cause two different concepts or two different impacts. *First*, an event or action can cause an impact that cannot function generally. Referring to the Slawi Religious Court Decision Number 3596/Pdt.G/2022/PA.Slw, this first dysfunction is seen in the determination of heirs by the panel of judges who are not based on evidence of marriage, but rather only consider legally binding documents as initial evidence and witness statements. This can weaken the perfect legal force of the marriage certificate or book as authentic documentary evidence as proof of a

marriage event. Furthermore, the legal determination of marriages determined by other than a marriage certificate or book can further reduce public compliance and neglect the orderly registration of marriage administration, which has previously been rife with numerous applications for marriage confirmation. Therefore, it is crucial for the panel of judges to examine in more depth the evidence presented by each party in the evidentiary hearing, which will then serve as the basis for the panel of judges' considerations in making their decision. This is done so that the decision made by the panel of judges is fair and acceptable to all parties.

second dysfunction is that actions or behaviors can have different impacts depending on the interests of each party involved. The decision of the panel of judges in determining the plaintiffs as heirs of the testator without considering the absence of proof of marriage in the form of an authentic marriage certificate or marriage book as perfect evidence, serves to establish the legal certainty of the plaintiffs as heirs of the testator, but does not function to legally confirm with concrete evidence the marriage of the plaintiffs' parents, so that the family relationship between the plaintiffs and the testator becomes administratively unclear. This creates a sense of injustice for the defendant regarding the panel of judges' decision which can trigger the filing of an appeal or extraordinary legal remedy (*verzet*) by the defendant, so that the settlement of this inheritance dispute cannot be resolved quickly and easily, and the legal certainty obtained by the plaintiffs from the decision becomes unclear in the long term. Dispute resolution through litigation often creates a lot of feelings of injustice received by one of the parties, which leads to the filing of further efforts such as appeals and cassation so that the resolution of the problem takes a long time. This litigation resolution differs from non-litigation dispute resolution methods, such as mediation, arbitration, negotiation, and other non-litigation methods. Problems are often resolved through conciliation. Therefore, the outcome achieved through non-litigation is more acceptable to both parties, and the relationship between the two parties remains harmonious.

The second function of Merton's structural functionalism theory is the manifest function , which is the visible or predictable impact of an action or social situation. Referring to the Slawi Religious Court Decision Number 3596/Pdt.G/2022PA.Slw, the manifest and visible function of the decision is to establish legal certainty for the heirs of the testator. The plaintiffs, as people who have a sibling relationship with the testator, through the panel of judges' decision to grant the plaintiffs as heirs of the testator, provide legal certainty for the plaintiffs to receive a share of the inheritance, which was previously withheld by the defendant because the defendant insisted on not sharing the inheritance from the testator with the plaintiffs. The defendant refused to share the inheritance on the grounds that there was no relationship that could be proven because there was no attachment of evidence of marriage certificates from the plaintiffs' parents, so that the relationship between the plaintiffs and the testator became unclear. Therefore, the unclear family relationship between the plaintiffs and the testator was the reason the defendant had not divided the inheritance until this lawsuit was filed with the court. With this ruling, the plaintiffs are legally entitled to receive a share of the inheritance from the testator. This ruling also impacts the familial relationship between the plaintiffs and the testator, directly proving the judge's determination that the plaintiffs are related as siblings to the testator. Therefore, all civil rights related to the sibling relationship can be legally owned by the plaintiffs.

The final function of Merton's structural functionalism theory is the latent function , where unforeseen or unpredictable impacts emerge after an action or social situation occurs.

Referring to the Slawi Religious Court Decision Number 3596/Pdt.G/2022/PA.Slw, the latent and invisible function of the decision is that it indirectly strengthens the legitimacy of the Religious Court's authority to legally examine and adjudicate disputes, including Islamic inheritance cases. The disputing parties must accept the judge's decision as correct and are obliged to comply with the decision, in accordance with the principle of *res judicata pro veritate habetur*. Therefore, even if the decision is not in accordance with what was desired, the disputing parties are still obliged to comply with what has been stipulated in the decision.

This research has limitations in data collection through interviews. The interviews were limited in terms of access to the interview process, limited time, and limited to only one source, namely the chief judge who made the decision. This may have resulted in a lack of diverse interview results from various sources' perspectives. Therefore, in future research, the interview process can be structured more thoroughly and more planned to minimize unexpected obstacles. This research is also limited by Robert K. Merton's structural functionalism theory; therefore, future research can develop research using other theories in greater depth.

Conclusion

In the Slawi Religious Court Decision Number 3596/Pdt.G/2022PA.Slw, there was a gap in the consideration of evidence in the dispute over the determination of heirs, where the judge determined the plaintiffs as heirs of the testator without a marriage certificate or book from the plaintiffs' parents, resulting in a blurring of the sibling relationship between the plaintiffs and the defendants. In Robert K. Merton's structural functionalism theory, Merton complements Parsons' structural functionalism theory with three new main ideas, namely dysfunction, real and visible functions, and hidden and invisible functions. Referring to the Slawi Religious Court Decision Number 3596/Pdt.G/2022/PA.Slw, the dysfunction in the decision is that by determining heirs without considering the marriage certificate or book from the plaintiff's parents, weakening the perfect evidentiary power of the marriage certificate as authentic evidence of a marriage and this consideration triggers a sense of injustice on the part of the other party so that the fulfillment of legal certainty from the decision becomes unclear in the long term. The second function is a real and visible function, where the decision provides legal certainty to the plaintiffs as siblings of the testator to be entitled to a share of the inheritance from the testator, as well as proving the existence of a family relationship as siblings between the plaintiffs and the testator. The last function is an intangible and hidden function, where the decision can confirm the legitimacy of the authority of the Religious Court in examining and adjudicating disputes, and the results of the decision must be obeyed by all parties in the case.

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Conflict of interest

The authors declare that they have no conflict of interest.

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