Dasar Pertimbangan Hakim Pengadilan Agama Tidak Memberikan Wasiat Wajibah Kepada Kerabat Beda Agama
Berdasarkan Asas Egaliter (Studi Putusan Nomor 361/Pdt.G/2019/PA.Sidrap dan Putusan Nomor 832/Pdt.G/2023/PA.Bms)
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DASAR PERTIMBANGAN HAKIM PENGADILAN AGAMA TIDAK MEMBERIKAN WASIAT WAJIBAH KEPADA KERABAT BEDA AGAMA BERDASARKAN ASAS EGALITER (Studi Putusan Nomor 361/Pdt.G/2019/PA.Sidrap dan Putusan Nomor 832/Pdt.G/2023/PA.Bms)

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INTISARI

Penelitian ini bertujuan untuk menganalisis kedudukan asas egaliter dalam hukum kewarisan Islam di Indonesia yang memberikan wasiat wajibah kepada kerabat beda agama, serta dasar pertimbangan Hakim Pengadilan Agama Sidrap dan Banyumas tidak memberikan wasiat wajibah kepada kerabat beda agama pada Putusan Nomor 361/Pdt.G/2019/PA.Sidrap dan Putusan Nomor 832/Pdt.G/2023/PA.Bms.

Penelitian ini merupakan jenis penelitian yuridis normatif yang didominasi pencarian terhadap data sekunder. Pengumpulan data dilakukan melalui studi kepustakaan yang dilengkapi wawancara terhadap narasumber. Data yang terkumpul selanjutnya dianalisis secara kualitatif, dan disajikan secara deskriptif.

Hasil penelitian menunjukkan, *Pertama,* kedudukan asas egaliter yang termuat dalam Buku II Mahkamah Agung merupakan ketentuan yang bersifat imperatif karena Buku II MA dimaksudkan sebagai pedoman bagi para hakim Pengadilan Agama di seluruh Indonesia dalam menyelesaikan perkara salah satunya kewarisan Islam dan berdasarkan Yurisprudensi dengan Nomor Induk 1/Yur/Ag/2018, maka asas egaliter telah diterima baik melalui putusan hakim di tingkat pertama, banding maupun kasasi. *Kedua*, dasar pertimbangan Hakim Pengadilan Agama pada Putusan Nomor 361/Pdt.G/2019/PA.Sidrap dan Putusan Nomor 832/Pdt.G/2023/PA.Bms, tidak memberikan wasiat wajibah kepada kerabat beda agama berdasarkan asas egaliter adalah Pasal 171 huruf (c) Kompilasi Hukum Islam, tentang pengertian ahli waris yang harus beragama Islam. Dasar tersebut sebenarnya juga digunakan dalam putusan-putusan hakim sebelumnya terkait hak kerabat beda agama, karena mereka mendapatkan sebagian harta waris, bukan karena kedudukannya sebagai ahli waris, namun sebagai penerima wasiat wajibah.

Kata Kunci: Dasar Pertimbangan, Pengadilan Agama, Wasiat Wajibah, Asas Egaliter

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THE RELIGIOUS COURT JUDGE'S CONSIDERATION FOR DECLINING THE WASIAT WAJIBAH TO RELATIVES OF DIFFERENT RELIGIONS BASED ON THE EGALITARIAN PRINCIPLE (Decision Study Number 361/Pdt.G/2019/PA.Sidrap and Decision number 832/Pdt.G/2023/PA.Bms)

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ABSTRACT

This research aims to analyze the position of the egalitarian principle in Islamic inheritance law in Indonesia, particularly regarding the mandatory bequest (wasiat wajibah) to relatives of different faiths. It also examines the reasoning of the judges in the Religious Courts of Sidrap and Banyumas for not granting the mandatory bequest to relatives of different religions in Decisions Number 361/Pdt.G/2019/PA.Sidrap and Number 832/Pdt.G/2023/PA.Bms.

This study is a normative legal research that primarily focuses on secondary data. Data collection was conducted through literature review complemented by interviews with relevant sources. The gathered data was then analyzed qualitatively and presented descriptively.

The research findings indicate that, first, the principle of egalitarianism enshrined in Book II of the Supreme Court is an imperative provision, as this book serves as a guideline for judges in the Religious Courts throughout Indonesia in resolving cases, particularly in Islamic inheritance. Based on Jurisprudence No. 1/Yur/Ag/2018, the principle of egalitarianism has been accepted through decisions made by judges at the first instance, appeal, and cassation levels. Second, the reasoning of the judges in the Religious Courts in Decisions Number 361/Pdt.G/2019/PA.Sidrap and Number 832/Pdt.G/2023/PA.Bms for not granting the mandatory bequest to relatives of different faiths based on the egalitarian principle is rooted in Article 171 letter (c) of the Compilation of Islamic Law, which defines heirs as those who must be Muslim. This basis has also been used in previous rulings regarding the rights of relatives of different faiths, as they receive a portion of the inheritance not as heirs, but as beneficiaries of the mandatory bequest.

Keywords: Basic Considerations, Religious Courts, Wasiat Wajibah, Egaliter Principles

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