

ABSTRACT

Wahidah, Uzlah. 2014. Overview of Justice Division of Child Lift was borrowed (Study of Religious Court Judges view Jember). Thesis, Master of the Al-Ahwal Al-Syakhiyyah Graduate Program of State Islamic University of Maulana Malik Ibrahim Malang, Supervisor: (1) Prof. Dr. Kasuwi Saiban, M.A (2) Dr . Hj . Mufidah Ch, M.Ag.

Keywords : wills, wajibah, child, foster.

Once the importance of the presence of children in the family life , sometimes making couples willing to do to get it any way , such as by doing her promotion of children. In positive law in Indonesia , adoption set out in Article 39 to Article 41 of Law No. 23 of 2002 on Child Protection. Adoption deed contains juridical consequences. Adopted children have the basic rights that must be met by the adoptive parents , such as the right to life, acquiring identity, a proper education , and other rights are no different than children in general. Problems arise when one of them died because of the Islamic law, there is no mutual relationship between the adopted child to inherit his adoptive parents . So that adopted children are often in a weak position .

This research was conducted in Jember aims to determine How do religious court judges and Jember Jember Islamic Law Expert of the concept of fairness in the distribution of adopted children was borrowed and How the Religious Court judgment and Jember Jember Islamic Legal Experts in the division was borrowed for foster child . In this study the authors use this type of empirical legal research . The method of this research approach is empirical , data collection through observation , interview and documentation .

From the findings of this study , to address the first problem formulation about How do religious court judges Jember and Jember Islamic Law Expert of the concept of fairness in the distribution of adopted children was borrowed authors found that the informants agreed that justice could be worth subjective, everyone can define it differently . In the context of inheritance adopted child , the informants considered that part specified in Article 209 KHI is the embodiment of distributive justice or fairness that are proportional . The answer to the second problem formulation considerations regarding How religious court judges and Jember Jember Islamic Legal Experts in the division was borrowed for adopted children authors found . In rendering the verdict was borrowed , to use basic research informants consider the contribution of the child welfare and foster to adoptive parents . Thus , it is not essential that every person should be given the maximum part , that third part . In addition , it should be noted also treasures number and also the number of heirs entitled to inheritance