

Mandatory Wills for Adultery Children, Analysis of the Compilation of Islamic Law from the Perspective of Maqasid Syariah Al-Syatibi

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Received: 2021-December-10

Rev. Req: 2022-January-03

Accepted: 2022-January-29



10.0000/ijls.2022.4

How to cite this paper: Arifin, Z. & Mahmudi, Z., *Mandatory Wills for Adultery Children, Analysis of the Compilation of Islamic Law from the Perspective of Maqasid Syariah Al-Syatibi*, *International Journal of Law and Society (IJLS)*, 1(1), 36-47. <https://doi.org/10.0000/ijls.2022.4>

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ABSTRACT: *Over time, the development of Islamic law in Indonesia shows relatively rapid growth, both from the institutionalization of law and contemporary Islamic studies. One of them is the mandatory will listed in the Compilation of Islamic Law (KHI) Article 209 Paragraphs 1 and 2. The mandatory will intended in this KHI is the taking of property from the adoptive parent for the adopted child or from the adopted parent for the adoptive parent through a mandatory decision of the award, whether the deceased person pronounces or writes the will when living or not. This KHI is a set of Islamic laws that are the product of Indonesian scholars to answer problems in the community and become a formal reference of judges in deciding a case. Tururanan, from the will of the obligation in the KHI, can then be implemented a mandatory will for adultery children as a protection against it. This article uses the library research approach and philosophical qualitative-juridical methods, then analyzed using maqasid shari'ah al-Syatibi, in terms of propositions, illah, and maslahat justice by the purpose of shari'ah. Whether the concept of compulsory will for adulterous children is under the objectives of sharia to create ummat benefits or not, the results can later be used as references and evaluation materials by legal experts and legal practitioners in the termination of the court and study materials for academics.*

Perkembangan hukum islam di Indonesia dari masa ke masa menunjukkan perkembangan yang cukup pesat, baik dari proses pelebagaan hukum dan kajian-kajian keislaman kontemporer, salah satunya adalah wasiat wajibah yang tercantum dalam Kompilasi Hukum Islam (KHI) Pasal 209 Ayat 1 dan 2. Wasiat wajibah yang di maksud dalam KHI ini adalah pengambilan harta dari orang tua angkat untuk anak angkat atau dari anak angkat untuk orang tua angkat melalui keputusan pengadilan yang bersifat wajib, baik orang yang meninggal tersebut mengucapkan atau menulis wasiat Ketika hidup atau tidak. KHI ini adalah

merupakan sekumpulan hukum-hukum islam yang merupakan hasil produk ulama Indonesia untuk menjawab permasalahan-permasalahan yang terjadi di masyarakat dan menjadi rujukan hakim secara resmi dalam memutuskan suatu perkara. Turunan dari wasiat wajibah dalam KHI maka bisa diimplementasikan wasiat wajibah untuk anak zina sebagai perlindungan terhadapnya. Artikel ini menggunakan pendekatan library reserch dan metode kualitatif-yuridis filosofis, kemudian di analisis menggunakan maqasid syari'ah al-Syatibi, dilihat dari segi dalil, illah, dan maslahat keadilan yang sesuai dengan tujuan syari'at. Apakah konsep wasiat wajibah untuk anak hasil zina sudah bersesuaian dengan tujuan-tujuan syariat untuk menciptakan kemaslahatan uammah atau tidak. Hasilnya nanti bisa dijadikan rujukan dan bahan evaluasi oleh para pakar hukum dan para praktisi hukum dalam pemutusan pengadilan dan bahan kajian untuk para akademisi.

Keywords: *Mandatory Wills, Islamic Law Compilation, Maqasid Syariah Al-Syatibi.*

I. INTRODUCTION

The law and inheritance status of children resulting from adultery is still quite exciting discussions to be studied theoretically and critically to the results of the Constitutional Court no. 46/PUU-VIII/2010, which caused much controversy among scholars and scholars, thus eliciting a response from the MUI with the issuance of the MUI fatwa no. 11 of 2012 concerning the Position of Children Resulted in Adultery and Treatment of them (MUI, 2012b). Supreme Decree No. 46/PUU-VIII/2010 stipulates that a child resulting from adultery can be obtained civilly with a biological relationship, even though it is not legally valid if the child born can be scientifically proven with DNA testing (Amar, 2010), in this case, the scholars and legal experts are divided into two groups.

The first opinion considers the Supreme Court's decision No.46/PUU-VIII/2010. This is a form of progressive law to protect the rights of children resulting from adultery (Musawwamah, 2013), who do not have to bear the sins of their parents. While the second opinion in which there is MUI disapproves of the Constitutional Court's decision because they judge that the Constitutional Court's decision is not by sharia law which has been written in classical books which have always been the reference for MUI as long as the classical laws are still relevant and by sharia objectives. MUI also considers that the Constitutional Court's decision can open up opportunities for the legality of adultery, which is strongly condemned in Islam (Detiknews, 2022).

In the provisions of the classical Islamic books, the status of an adulterous child only has kinship and inheritance ties with the biological mother who gave birth to him (Ikhwan, 2018). In contrast, with men who have caused his birth, there are no ties of lineage and inheritance because the child was not born from a legal marriage. Therefore, legal experts and Islamic scholars consider that the Constitutional Court's Decision No. 46/PUU-VIII/ 2010 has placed an adulterous child equal to a biological child born with a legal marriage. Even the decision of the Constitutional Court No.46/PUU-VIII/2010 tends to legalize adultery because of the determination of children resulting from relationships outside of marriage with their biological fathers. This is very dangerous for the future of

the nation's children because it seems there is no difference between children born from legal marriages and children conducted out of wedlock. Meanwhile, adultery is an act that violates Islamic norms and even violates the standards of any religion.

Therefore, the MUI responded to the decision of the Constitutional Court No. 46/PUU-VIII/2010 by issuing the MUI fatwa no. 11 of 2012 concerning the Position of Children Resulted in Adultery and Treatment of It, to straighten out legal confusion that tends to deviate from Islamic law as a legal principle in Indonesia, especially regarding marriage whose provisions are under the religious courts for those who are Muslim. In its fatwa No. 11 of 2012, MUI explains that children born out of wedlock (adultery children) do not have a civil law with their biological father, even though it can be proven by DNA testing, so there is no guardianship relationship in marriage. There is also no inheritance right for the adulterous child (MUI, 2012a). However, in its fatwa No. 11 of 2012, MUI offers another solution for children resulting from adultery as protection and maintenance of the welfare of children resulting from infidelity. The MUI recommends the government to give *ta'zir* to men and women who have been proven to commit adultery to give birth to children with two sanctions (MUI, 2012c): The first sanction is that the man who has caused the birth of an adulterous child is obliged to provide a living and meet the needs of the child, the second of which must be given a portion of the wealth from the inheritance of the man who caused the birth of the child with a *wasiat wajibah* which a judge decides.

Regarding obligatory will law, scholars have different opinions. According to the majority of scholars, will law is sunnah, but according to some scholars, including Ibn Hazm al-Dhahiri, al-Thabari, Abu Bakr bin Abdul Aziz from the Hanabilah school of thought that wills are obligatory for relatives. and their parents who did not receive an inheritance, because they did not get a share in the *faroid* distribution or because they were prevented from getting an estate due to religious differences and so on. This is also stated in the Egyptian Inheritance Law No. 71 of 1946 Articles 76-79 and the Law of al-Ahwal Al-Shakhshiyah in Syria Article 257 (Al-Zuhayly, 1989). As for the mandatory testamentary law, as stated in Article 257 section of the Syrian law (alif), grandchildren's compulsory will is to get a share like the share of their father. He died before his grandfather because the claim did not exceed 1/3 of the inheritance (Rafiq, 1995).

The Egyptian inheritance law and the Syrian inheritance law were the forerunners to the implementation of the mandatory will test the concept in Indonesia so that the compulsory testamentary concept can be applied to adopted children and adoptive parents, husbands and wives of different religions, stepchildren and stepparents who have lived together since childhood, brothers of other faiths and close family who deserve inheritance rights. Still, the religious judge gave a new solution by providing a mandatory will because of obstacles. Therefore, to protect and safeguard children's rights, even though they were born as a result of adultery, the government should take action to impose sanctions on men who have caused the birth of the child to give a mandatory will after the death of the man.

Al-Syatibi and his Maqasid Sharia Theory

The theory of maqasid shari'ah existed in tandem with the emergence of Islam because maqasid shari'a is the goal of shari'ah. When there is shari'ah, there must be goals that have been desired by Allah SWT. and the Messenger of Allah. For example, when in the early days of Islam, the Messenger of Allah forbade his best friends to visit the graves for fear of falling into shirk and not accepting destiny, but after the faith of the companions was strong, the teachings of Islam were fused in the souls of the companions, the Messenger of Allah allowed them to make a pilgrimage. Grave, because the *ziarah kubur* can remind people to remember death (Syahabudin, 2014). And along with the times, the development of Islamic legal thought also continues to grow, although, in the literature of the books of previous scholars, the name *maqasid sharia* has not appeared. They have discussed it in *masalik al'illah* in the qiyas method. They wrote it in the books of fiqh, such as in *al-Risalah*, *al-Burhan*, *al-Mustasyfa* and others.

Al Syatibi is the umpteenth cleric from many scholars who discuss *Maqasyid Sharia* (Musolli, 2018). Chronologically starting at Imam al Haramain al Juwayni (died in 478 H), who laid the foundations of *maqashid sharia*, namely *dhoruriyat*, *Hajiyyat*, and *tahsiniyat*. Imam al Ghazali (died 505 H) He continued the thoughts of his teacher. With the theory of al-Maslahah in the book *al-Burhan*. Then Imam al Izzuddin bin Abdusalaam (died 660 H) in the book *Qawaidul ahkam fi mashalihil anam*. After the three great scholars above, Imam al-Syatibi emerged in the eighth-century hijriyah. His monumental work *al-Muwafaqat fi Usul al-Syariah* became an early sign of developing a study orientation regarding ushul fiqh, especially regarding the concept of *Maqasid Sharia*.

The study of maqasid shari'ah has been discussed by scholars before al-Syatibi, such as al-imam al Haramain al-Juwaini (478 H), who addressed the division of maqasid called *dharuriyat*, *hajiyyat* and *tahsiniyat*. Then Al Imam al Ghazali (505 H) continued the teacher's thinking with the *Maslahah* theory in the book *al-Burhan*. Then the study of maqasid was continued by al-Imam Izzuddin bin Abdussalam (660 H) in the book *Qawaidul ahkam fi mashalihil anam*. In the 8th century H, there appeared what was called the father of maqasid shari'ah, namely al imam al-Syatibi because he wrote in more detail and detail than the previous scholars contained in the book *al-muwafaqat*.

Al-Imam al-Syatibi's real name is Abu Ishaq bin Ibrahim bin Musa bin Muhammad al-Syatibi (Rohman, 2017). Brmadzhab Maliki, an expert on commentary, hadith, Arabic, fiqh proposals of his time (Syahabudin, 2014). He died in Granada, Spain, in the month of Sha'ban on 8 790 H, while the year of his birth historians has not explained for sure. Some say he was born in 730, and some say 720 H.

The history of al-Syatibi's education journey so far has not been explained in detail and with certainty as to the place of his birth date. However, historians say that Imam al-Syatibi studied science since he was a teenager in the city of Granada, which at that time was the capital of the Nasr kingdom, the condition of the city ruled by king Muhammad V al-Ghany Billah, was very supportive of developing his knowledge, he studied many scientific disciplines as evidenced with excellent results in various fields of Islamic science. His famous Arabic teacher was Abu Abdillah Muhammad ibn Fakhkarn Al-Biri (Melis, 2016).

Imam al-Syatibi is a very productive scholar in writing (Rohman, 2017), so he gave birth to works including al-Muwafaqat fi ushul al-Syariah, al-I'tisam al-Ifadat wa al-Inshadat, Sharah al-Khulasah, Fatawa al -Syatibi, Kitab al Majaalis, Unwan al Ittifaq fi al Ilmi al Isytiqaq, Usul an-Nahw (Kasdi, 2014).

Maqasid shari'ah according to al-Syatibi

Al-Imam al-Syatibi in his book al-Muwafaqat expresses maqasid shari'ah with different expressions, sometimes using *maqasidu al-Syaari'*, *maqasid al-Syari'ah*, *al-maqsid al-syar'iyah* although al-Syatibi using words that are different but have the same meaning, namely the intent and purpose of enacting a law from Allah SWT. one of his expressions in his book, namely: *"Indeed, the Shari'ah aims at realizing the benefit of humans in the world and the hereafter at the same time."*

From al-Syatibi's expression above, it can be understood that maqasid shari'ah means a benefit for humanity, al-Imam al-Syatibi in his book al-Muwafaqat, which consists of four volumes discusses maqasid al-Shari'ah in almost every In the volume he discusses maqasid shari'ah and discusses it in sufficient detail compared to the works of previous scholars so that he is dubbed the father of maqasid shari'ah.

The emphasis on maqasid shari'ah described by al-Imam al-Syatibi is based on the arguments of the Koran. After al-Syatibi's search for the content of the verses of the Koran, he concludes that every law contained in the Koran and hadith must benefit humanity because it is impossible for Allah SWT to order a matter without a purpose that has wisdom and honour. After all, Allah SWT is the justest and wise God (Al-Syatibi, 2019).

The following verses show that every law sent down by Allah swt. It contains the purpose and maqasid shari'ah, namely in the letter al-Zariyat verse 56 Allah says:

وَمَا خَلَقْتُ الْجِنَّ وَالْإِنْسَ إِلَّا لِيَعْبُدُونِ

"And I did not create the jinn and mankind except that they might serve Me." (Q.S. al-Zariyat: 56).

According to al-Syatibi maqasid syaria'ah can be found in every Islamic law taken from the Koran and hadith. Because Allah SWT. will not make rules in vain without a purpose, we can understand that Allah SWT from the verse above. We are revealing the Qur'an with clear objectives for the benefit of his servants. Suppose there are legal issues for which the benefits are not found in the Qur'an and hadith, then through the maqasid shari'ah theory and the kulliyyat theory about the objectives of shari'a in general. In that case, we will know the benefits in public.

The division of Maqasid al-Shari'ah according to al-Syatibi

To realize and maintain maqasid shari'ah al-Syatibi divides it into three parts. Namely the level of *dhoruriyyat*, *hajiyyat*, and *tahsiniyyat*. Regarding the *dhoruriyyat* level, Imam Syatibi explained that this level is divided into five categories: protect religion, soul, mind, lineage, and property. These five categories are mutually supportive and complementary to realize the dharuriyat category. For example, wealth is the principal capital to maintain religion because if there is no wealth, then Muslims will not be able to carry out Hajj,

provide for children and wives, which are obligations for husbands, health and common sense also support the realization of worship such as prayer, fasting, and pilgrimage of course. Without wealth, mental health and reason, it won't be easy to carry out the obligations imposed by the Shari'ah. So these five elements are mutually sustainable, not an alternative.

The second part of maqasid is *Hajiyat*, and this part is support for realizing *dharuriyat*. Its implementation is in the form of *rukhsah* or relief from the performance of obligations, such as relief from the permissibility of *jama'* and *qashar* prayer for Muslims who are travelling, relief from fasting in Ramadan for people who are sick and pregnant who are concerned about their health and replaced on another day. These waivers are a form of Islamic flexibility in responding to difficulties in carrying out the obligations imposed by the Shari'ah. The Islamic ummah remains in the corridor of religion.

The third part is *Tahsin*. As a complement and complement to the previous two sections, the implementation of *Tahsin* emphasizes more on noble characters, such as dressing modestly, doing a lot of sunnah that have been taught by the Prophet Muhammad. and not wasteful when *mu'amalah* (Kurniawan, 2021).

The division of maqasid that has been described above can be used as material to understand maqasid shari'ah by the will of Allah SWT. and the Messenger of Allah. To know the benefit and justice of every command and prohibition contained in the Al-Quran and Hadith as a source of Islamic law (Febriansyah et al., 2021).

II. METHOD

This article uses a library research approach and philosophical qualitative-juridical methods to examine the legal principles written in KHI with an intellectual process (Arikunto, 2002). The author's theory is the theory of maqasid shari'ah al-Syatibi which is part of philosophy. And the data analysis technique is a descriptive-collective-analytical study. You describe the data of adulterous children, the concept of mandatory will in the Compilation of Islamic Law, collecting books on mandatory wills, KHI books and books or journals about children resulting from adultery, then analyzing them critically (Ikhwan, 2021).

III. RESULT AND DISCUSSION

Mandatory Wills in the Compilation of Islamic Law (KHI) and Protection for Adultery Children

According to Wahbah Al-Zuhaili الوصية is الايضاء which means a promise to another person to carry out a case, during a person's life or after someone's death. And this mention also applies "to make a property belong to someone else". Meanwhile, according to the terms of fiqh experts, a will is "possession or a gift that is based on the death of a person for nothing whether the facility is in the form of goods or benefits (Al-Zuhaili, 2017).

Meanwhile, obligatory (الواجبة) means must, must and cannot be avoided (Munawwir, 1997). So the mandatory will are two words related to each other so that it gives birth to a new meaning. In the Arabic language, it is called *mudhaf* and *mudhaf ilaih*. So the mandatory will is a compulsory message and must be implemented.

Mandatory will In terminology, it cannot be separated from the general definition of will. According to KHI in book II article 170, the details are as follows: A will is "Giving an object from the testator to another person or institution which will take effect after the testator dies" (Anonimus, 1992). After knowing the meaning of a will, we can conclude that the purpose of the mandatory will stated in the KHI is "Giving an object from the heir to another person who is not an heir who the judge takes after the heir dies".

The Compilation of Islamic Law (KHI) is the result of deliberation and agreement by Indonesian scholars which cannot be denied the perspective and wisdom behind the making of this KHI is influenced by the culture and customs of the people of the archipelago, in this case, the mandatory will in the KHI regarding adopted children and parents. Adoption is to answer the problems in Indonesian society to achieve justice which the Shari'a means because mandatory intentions for adopted children and adoptive parents have not been found in other Muslim countries. This achievement brings fresh air to the development of law in Indonesia based on justice. However, the determination of KHI regarding adopted children and adoptive parents is not arbitrary in their decision because Indonesian scholars have also studied Egyptian law and Syrian law regarding mandatory wills and the results of studies on the opinions of scholars who require wasiat such compulsory as Ibn Hazm, al. -Tabari and Abu Bakr bin Abdul Aziz from the Hanabilah school. And they also examine the maximum amount of mandatory wills given to adopted children or adoptive parents (Ramulya, 2004).

As previously explained, the legal agreement in the KHI, in addition to the results of the study of the arguments of the ulama's opinion, which requires mandatory wills, cannot be separated from the influence of the customs of the Indonesian people, which are rich in culture because Indonesia consists of various tribes and cultures in different parts of the country. Such as Balinese customary law, which considers that the position of an adopted child is equal to that of a biological child. Even in terms of the distribution of inheritance, there is no difference with that of a biological child because it is considered legal by customary law. In contrast to the customs of the people of East Java, Central Java and West Java, the practice of adopting children is to take the child and then live in one house and include it in their family without breaking the ties of their blood family, especially if the child adopted is a girl, child marriage guardianship The adoption was still handed over to his biological father (Wignjodipoero, 1990).

The mandatory will is mentioned explicitly in the Compilation of Islamic Law (KHI) in Article 209 paragraphs 1 and 2, namely (Abdurrahman, 2015):

- a. The adopted child's inheritance is divided based on Article 176 to Article 193. At the same time, the adoptive parents who do not receive a will are given a mandatory choice as much as 1/3 of the inheritance of their adopted child.

- b. An adopted child who does not receive a will is given a mandatory choice as much as 1/3 of the inheritance of his adoptive parents.

From the above explanation regarding the mandatory will in the compilation of Islamic law (KHI), we can understand that the compulsory intention is the granting of a choice which is determined through a judge's decision to be given to an adopted child from the property of his adoptive parents or to adoptive parents from the hatra of his adopted child which they do not get a will other than the mandatory will. The property is taken after the person's death whose property is taken a maximum of 1/3 of the total property (Alam & Fauzan, 2008).

The Position of Adultery Children According to Islamic Law

The term adulterous child, according to Iqbal, is a child born to a woman who has sex with a man who is not legally married (Iqbal, 2015). Meanwhile, according to Islamic law, the term adulterous child and also called illegitimate child can be detailed as follows:

- a. Child resulting from adultery is a child born due to sexual relations outside a legal marriage according to religious provisions and produces offspring. This offspring is called the child of the affair.
- b. A *mula'annah* child is a child who has been born to a wife who has been *li'an* by her husband. This *mula'annah* child in Islamic law has the same position as a child who is the result of adultery and does not follow the lineage of a husband who cheats on his wife. However, *mula'annah* children follow their mother's line, who gave birth to them. Provisions like this also apply to inheritance law, marriage and others.
- c. The child of doubt. Islamic law distinguishes two kinds of doubtful children: a. Subhat deeds. This happens when a husband wrongly has intercourse with a woman considered his wife and produces offspring from his actions. The progeny of these actions are called adulterous children b. Subject to the law. This happens when a man marries a woman where after intercourse, it is discovered that the woman he is marrying is his mahrom. The child resulting from this treatment is called an adulterous child.

Meanwhile, according to Dr Wahbah al-Zuhaili, which was delivered at the 20th Daurah of Majma' Fiqh Islami in Mecca on 25 – 29 December 2010 with the title "Ahkam al-Aulad al-Natijin 'an al-Zina", which explained that, if there is a man who If a man commits adultery with a woman who has a husband and then gives birth to a child, there is a consensus of scholars, as conveyed by Imam Ibn Abdil Barr in "*al-Tamhid*" (8/183) which asserts that the child is not assigned to the man who commits adultery, but to the husband of the woman who commits adultery. The mother provided that she does not deny the child through *li'an*. Meanwhile, suppose he commits adultery with a woman who is not married and gives birth to a child, then according to the number of scholars of the eight schools of thought. In that case, the child is only assigned to his mother even though there is an acknowledgement from the man who committed adultery. This is because the observance of children to men who are adulterers will push the door of

adultery open, even though we are ordered to close the door that leads to haram (*sadd al-dzari'ah*) to maintain the sanctity of the lineage from evil behaviour.

When a child resulting from adultery is not assigned to the man who caused his birth and is only related to his mother, it will result in inheritance law in which the child will not get inheritance rights from his biological father, which will cause problems for the child. Who was born because the child is innocent in this case, why should he accept the mistakes made by his parents. Even though the child will also take the moral burden in society because he was born without a father, therefore, this fair Islamic law must find a solution to this adulterous child, one of which is to provide a mandatory will for this unfaithful child so that he can live adequately even though he was born without a legal father status.

Mandatory Will for Adultery Children, Analysis in KHI Perspective of Maqasid Syari'ah Al-Syatibi

According to most scholars, the law of will, which was initially sunnah, is not excluded for children resulting from adultery. Along with the passage of time and the need for justice for mandatory intentions for children resulting from the affair, it is fitting for scholars and experts in Islamic law to make guidebooks for Islamic law that can be made into a reference by the judges in which it was decided that the child resulting from adultery received a mandatory will, in this case when compared with the *maqasid shari'ah* theory according to the author of the compulsory choice of children resulting from an affair can be said to be legal progressivism in the field of distribution of assets based on justice and benefit because there is a change to achieve justice for the community where the law is located.

'Illah, according to al-Syatibi has a broad meaning because 'illah is the benefit of the wisdom of the commands and prohibitions of the Qur'an and al-Sunnah. Al-Sa'di admits that as far as he knows, the notion put forward by al-Syatibi is a manhaj (style) that other ushul experts have never put forward (Al-Sa'di, 1986). In general, ushul scholars place 'illah as mu'arrif li al-hkm (announcer of the enactment of the law) *bal-ba'its 'ala al-tasyri'* (promoter for the formation of law) *al-wasf al-mu'atsir fi al-ahkam* (the nature that gives effect to the law (Al-Syatibi, 2000). In the sense of 'illah, a law includes benefit and harm itself. Because Allah's commandments must contain benefits for humans, prohibitions must have prevention against injury.

About the mandatory will, as stated in the KHI concerning adopted children and can subsequently be applied to children resulting from adultery, it is intended as a form of responsibility for a decent life for children resulting from the affair. The *maslahah* with mandatory wills is that children resulting from adultery will not suffer after their death. Their parents, and with the existence of a compulsory choice, can maintain the property so that it can be used according to its place and responsibility so that parents do not bear the sin of abandoning an innocent child caused by their actions.

The theory of *al-istiqrar 'al-ma'nawi* stipulates the application of interrelated Quranic texts to determine justice. In this case, a verse states that the assets obtained by a person must be used to maintain the family; children descend from the weakness of their

life (Sarmadi, 2012). The property left behind will provide capital for the strength of the offspring, including the child resulting from adultery, to be protected from liability and poverty after the death of both parents. The verse related to the poetry of maintaining offspring from poverty is Q.S. Al-Nisa verse 9.

According to the author, children resulting from adultery are very worthy of getting a mandatory will so that they are protected from weakness and misery after the death of their biological parents because they are not supposed to bear the sins of both parents. So with the mandatory will, which is reinforced by the argument of Surah al-Nisa verse 9, which commands to fear Allah SWT. Suppose to leave weak children after they die. Then the children resulting from adultery will later live appropriately after the death of their biological father and mother so that justice to protect offspring will be adequately achieved.

IV. CONCLUSION

A will is الوصية which means a promise to another person to carry out a case, during a person's life or after someone's death. And this mention also applies "to make a property belong to someone else". Meanwhile, obligatory (الواجبة) means must, must and cannot be avoided. So the mandatory will are two words related to each other so that it gives birth to a new meaning. In Arabic language, it is called *mudhaf* and *mudhaf ilaih*. So the mandatory will is a compulsory message and must be implemented.

Children resulting from adultery who are born pure without sin and do not deserve to bear the prayers of their parents have the right to be protected from weakness and misery after the death of their mother and father, so with a mandatory will which is strengthened by the argument of Surah al-Nisa verse 9 which commands the fear of Allah S.W.T. Suppose to leave weak children after they die. Then the children resulting from this adultery will later live appropriately after the death of their father and mother so that justice to protect offspring will be adequately achieved.

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