

STUDY OF INHERITANCE LAW FOR TRANSGENDERS IN MUI FATWA NUMBER 03/MUNAS-VII/MUI/2010

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Abstract

Background - The development of medical science allows individuals to change their gender identity through surgery or hormone therapy, which raises ethical, legal, and religious challenges, especially in Indonesia, where the majority of the population is Muslim. Transgender, who have a gender identity different from their birth sex, is gaining support as a form of respect for human rights. However, Islamic law prohibits gender change without medical reasons, contrary to the decree of Allah SWT.

Purpose - This study aims to analyze the implications of gender change on the application of Islamic inheritance law in Indonesia.

methodology - This study uses a normative juridical methodology that combines a legislative approach, document analysis, a study of Islamic legal literature such as the Compilation of Islamic Law (KHI), and a study of the fatwa of the Indonesian Ulema Council (MUI).

Findings - This study identifies the inconsistency between Islamic law and Indonesian civil law, where civil law recognizes gender transitions through court decisions. This poses a challenge in harmonizing inheritance law in a multicultural society. The results of the study show that in Islamic law, the status of heirs is determined based on their original gender. Gender changes do not affect inheritance rights except in the case of khunsa, where double genitalia are identified through medical intervention. MUI Fatwa Number 03/MUNAS-VIII/MUI/2010 emphasizes that sex change without medical reasons is haram, while genital enhancement in khunsa individuals is allowed. However, Indonesian civil law recognizes gender change through court decisions, thus posing challenges in the harmonization of inheritance law in a multicultural society.

Originality - The originality of this research lies in its critical exploration of the interaction between religious doctrines, legal frameworks, and societal dynamics, particularly in relation to gender transitions and their implications for inheritance rights.

Keywords: gender, inheritance, transgender
