

# **Validity Analysis on Polahi Tribe Incest in Gorontalo Based on Law of Marriage Number 1 of 1974**

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## **ABSTRACT**

In this thesis, the author raises the issue of incest marriage in the Polahi tribe based on Law Number 1 of 1974 concerning Marriage. The problem in this thesis is to analyze the validity of incest marriage in the Polahi tribe based on the Marriage Law. Inbreeding is a taboo thing to do, especially in Indonesia, but at the present time inbreeding is a common thing to do marked by the number of incest marriages that occur. There are national laws and religious laws that forbid incest marriage. However, the number of incest marriages that occur makes the rules and reality not in line, this results in incest marriages that are declared null and void by law which means the relationship is null and void by itself because it has violated Islamic law or the established laws, in accordance with what regulated in Article 22 of the Marriage Law states that marriages that do not meet marital conditions can be canceled that is also strengthened by Article 37 Government Regulation Number 9 of 1975 concerning the Implementation of Marriage Law. Regarding children resulting from inbreeding, it is stated that the child outside of marriage or illegitimate child, and regarding the inheritance of the child outside marriage, only has a civilization that raises rights and obligations and inherits from his mother and does not have a civil status with his father.

**Keywords:** *Incest Marriage, Marriage Law, Child*

## **1. INTRODUCTION**

Basically, humans are social beings who cannot live alone and need other humans in all aspects of their lives. Therefore, humans want to always come together and live together, this starts with a family where the formation of a family begins with a man and a woman. To be able to say a family, a man and a woman must perform a bond which is also known as a marriage bond.

Marriage is regulated in the Marriage Law Number 1 of 1974 concerning Marriage (Marriage Law). The Marriage Law was formed with the reason or consideration that in accordance with the Pancasila philosophy and the ideals for the development of national law, it is necessary to have a Law on Marriage which applies to all citizens. The purpose of making the Marriage Law is for a country as well as a nation like Indonesia to regulate the principles and provide a legal basis for marriage which has been applicable to various groups in Indonesian society. This is in accordance with the basic philosophy of Pancasila and the 1945 Constitution (UUD 1945). On the one hand, the Marriage Law must be able to realize the principles contained in Pancasila and the 1945 Constitution, while on the other hand the Marriage Law must be able to accommodate all the truths that live in adult society. Article 2 Paragraph (1) of the Marriage Law stipulates: "Marriage is legal if it is carried out according to the law of each religion and belief." Furthermore, Article 2 Paragraph (1) states that: "Every marriage is recorded

according to the prevailing laws and regulations." [1] Then the contents of Article 2 Paragraph (1) of the Marriage Law are emphasized in the Compilation of Islam Law (KHI), which states in Article 4 of the KHI that: "Marriage is legal if it is carried out according to Islamic Law, in accordance with Article 2 Paragraph (1) of the Law Marriage Act." This becomes the basis for Muslims who will marry in accordance with the provisions of Article 4 of the KHI. This aims to ensure the orderliness of a marriage that is carried out by a person, therefore every marriage must be recorded. Marriage prohibition is also contained in the Marriage Law to be precise in Article 8 which explains that marriage is prohibited between two people who are related by blood in a straight line down or above. Although inbreeding is prohibited by the Marriage Law, religious law, and customary law, in reality there are still many people in Indonesia who carry out inbreeding. One example of inbreeding cases that occurred in Indonesia which the author will examine is in the interior of Gorontalo, to be precise in the Polahi group or tribe. A woman named Betty Mbereko who is 40 years old married her own child, Farai Mbereko, 23 years old, and the woman is pregnant with the result of an incestuous relationship with her biological son. This started because Betty's husband died and she became a widow because her husband died and raised her children alone. Farai Mbereko is on of Betty's children who has good achievements and also has an established life, because of that Betty doesn't want her son to fall into another woman's arms and she finally decides to marry her own biological child after

being widowed for 12 years. Apart from being afraid that their child would fall into another woman's arms, the reason they got married was because they both liked each other. This is of course prohibited by local residents and also the Village Head of their place of origin, namely in Mwenzi, Zimbabwe. The head of the village where they came from gave them the option of discouraging them from getting married or leaving the village and looking for an area that allowed for inbreeding, hearing this both preferred to leave the village and get married elsewhere. In the end, Betty and Farai Mbereko went to the interior of Gorontalo, to be precise in the Humohulo Forest where the Polahi tribe lived.

As explained above, it can be seen that between *das sollen* and *das sein* is not compatible, because the inbreeding case violates and also does not fulfill the legal requirements of marriage. Based on the explanation that has been attached above, the author is interested in presenting a thesis with the title "Validity Analysis on Polahi Tribe Incest in Gorontalo Based on Law of Marriage Number 1 of 1974."

### **1.1. Formulation of The Problem**

Based on the things that have been described previously, the problem to be investigated is how the validity of inbreeding on Polahi Tribe in Gorontalo based on the Marriage Law?

### **1.2. Research Methods**

Legal research is a process which aims to be able to find legal rules, some legal principles, and legal doctrines in order to answer legal issues at hand, this was stated by Peter Mahmud.[2]

To find out the problems that support the author to evaluate the problems that have been previously identified, so that the collection of materials, facts, and data required by the author uses the following methods:

#### **1. Types of Research**

The type of research used is normative legal research. The definition of normative legal research is legal research that places law as a norm system building.[3] This type of legal research uses normative case studies in the form of legal behavior products, for example reviewing laws. The main point of study of this type of normative legal research is that the law is conceptualized as a norm or rule that applies to society and also becomes a reference for behavior for everyone.

#### **2. The Nature of Research**

Normative legal research is legal research that places law as a norm system building. The purpose of the norm system is regarding the principles, norms, and also the rules of the laws and regulations, court decisions, as well as agreements and doctrines (teachings). [4] The nature of this research is prescriptive, as a prescriptive science, law studies the objectives of law, the values of justice, the validity of legal rules, legal concepts, and also legal

norms. As an applied science, the science of law establishes standard procedures, provisions, and guidelines for carrying out legal activities."[5]

#### **3. Type of Data**

In research, it is necessary to have materials or data that must be sought to be processed and then analyzed to be able to find answers to the research problems posed.[6] secondary data used in this paper are as follows:

a. Primary Legal Materials, these primary legal materials consist of statutory regulations, official minutes, court decisions and official State documents.[7] In the scientific proposal, the primary legal material used is the Marriage Law.

b. Secondary Law Materials, the main thing is in secondary legal materials, namely textbooks because textbooks contain some of the basic principles of law science and the classical views of highly qualified scholars.[8] In this study, the secondary legal materials used by the author are: books, marriage laws and Islamic law, journals, theses, and documents from the internet.

c. Non-Legal Materials, non-legal materials are research materials consisting of non-legal textbooks related to the research being researched. For example, language dictionaries and so on which can support the legal analysis process.[9]

#### **4. Data Collection Technique**

The data collection Technique used by the author is literature study of primary legal materials, secondary legal materials, and non-legal materials. Tracing of the legal materials that have been mentioned can be done by reading and also viewing and listening as well as through the media on the internet.[10]

#### **5. Data Analysis Technique**

The data that has been collected will then be processed, and then the results of the processed data are analyzed with the theory that has been previously obtained. In prescriptive research, the writer will provide arguments for the results obtained through several research sources. The argument is in the form of an assessment of whether or not it is true, or what should be according to the law regarding facts or legal events from the results of the research.[11] Data analysis is needed because data analysis is an activity in research that seeks to analyze the results of data processing assisted by the theory that has been obtained. The technique used in the normative type is qualitative normative analysis, which is an explanation of existing data in words or statements rather than numbers. Qualitative data analysis is an effort made with data, organizing data, sorting data into manageable units, looking for and also finding patterns, finding what is important and what is learned and deciding what to tell others.[12]

## 2. DISCUSSION

### 2.1. Theoretical Framework

#### 2.1.1. Pure Legal Theory

According to Hans Kelsen, pure legal theory is “because as we know, Legal Positivism (Positive Law Flow) is between the applicable law and the law it should be. According to Hans Kelsen, the highest norm is also called Grundnorm (basic norm) [13] and he also said that law is normative science. Hans Kelsen’s student Adolf Merkel discovered the *das doppelte rechtsantlitz* (double-faced norm) theory which became the basis for the birth of the norm level theory by Hans Kelsen. A norm can become a legal norm if it meets the requirements as State law. According to Adolf Merkel, each norm has a double face, that is a face up and down. The face of the norm upwards means that the norm originates from or is based on the norms above it, while the face of the norm downwards means that the norm becomes the source or basis for the formation of the norms under it. The theory of pure law is associated with the validity of inbreeding in Polahi Tribe on Gorontalo because in this theory it separates the law that is in effect and what it should be, so it is like there is a law that applies to the reality that occurs in the local community, for example in this case there is a prohibition on marriage, blood as regulated in the Marriage Law and in fact there are still many people who carry out inbreeding.

#### 2.1.2. Legal Certainty Theory

According to Gustav Radburch, law must contain 3(three) identity values, in the form of principles, called:

- a. The Principle of legal certainty (*rechmatigheid*), the principle of legal certainty, looks at it from a juridical point of view.
- b. The principle of legal justice (*gerechtigheid*), the principle of legal justice, looks from a philosophical point of view, where justice is equal rights for all people before the court.
- c. The principle of legal usefulness (*zwechmatigheid*) or *doelmatigheid* or utility, this principle examines from the point of view of whether the existing law is useful for all legal subjects.

The theory of legal certainty is related to the validity of inbreeding in the Polahi customary tribe on Gorontalo, which is that basically the law must contain 3 principle of legal certainty and with the existence of legal certainty makes every individual know what actions are allowed and what is not allowed to be done, and also know what the State can impose or do against individuals. So in this case, legal certainty is linked so that the public can actually know that inbreeding, which still often occurs, is something that should not be done.

#### 2.1.3. *Receptio a Contrario* Theory

According to Prof. Sayuti Thalib, the theory of *receptio a contrario*, namely the law that applies to society, namely the religious law that is embraced by every society. Customary law only applies if it does not conflict with the religious law adhered to by the community. So according to this theory customary law can only apply and be implemented in the social life of the community if the customary law does not conflict with Islamic law. So in essence, customary law only applies if it does not contradict the religious law adhered to by the community and if it is not in line, the customary law must be kept away from community life. The connection of the theory of *receptio a contrario* with the legality of inbreeding in the Polahi Tribe on Gorontalo is because in this theory, if it is not in line, then the customary law should be kept away from the life of the community.

## 2.2. Research Data

### 2.2.1. Data Rules

Gorontalo is an area that has the strongest influence of Islamic culture because according to the people of Gorontalo, this is the most acceptable thing for local people to accept. Therefore, every custom in the Gorontalo people must have a very strong Islamic religious relationship and color. In accordance with the customary rules that apply in Gorontalo following the national legislation and also following religious law. The customary rules in Gorontalo do not allow inbreeding because it is against national legislation and also against Islamic law. However, in Gorontalo there is a tribe called the Polahi tribe, where the Polahi tribe still holds strong to the culture of their ancestors. The Polahi people are known to have no religion and are used to inbreeding where the father can marry a child, brother and sister as long as they like each other. The historical factor is the main factor in the inbreeding that occurred in the Polahi Tribe, in ancient times the Polahi people were only a few people because they fled Dutch colonialism and to avoid Dutch colonialism they fled to survive nomadically from one forest to the forest other. As a result of the small number of Polahi people, they have no other choice but to marry between siblings and their own children, and even though today the Polahi Tribe has gradually opened up to civilization but inbreeding has become a habit and is still being practiced by the Polahi Tribe. Inbreeding is medically confirmed to have deformed or underdeveloped offspring, but for Polahi people this does not apply because inbreeding carried out by the Polahi Indigenous Tribe can give birth to normal children who are not disabled or underdeveloped children.

### 2.2.2. National Legislation

Article 8 of the Marriage Law describes the prohibited or prohibited marriage between two persons who:

- a. relating blood in a straight line down or up;
  - b. by blood in side-to-side lineage, namely between siblings, between one and one parent's brother and between one and his grandmother
  - c. having sex relations, namely parents-in-law, stepchildren, son-in-law and mother/stepfather;
  - d. related to breastfeeding, breastfeeding children, siblings and aunts/uncles;
  - e. relative to relatives with the wife or as the wife's aunt or nephew, in the case that a husband has more than one wife;
  - f. those who have a relationship which is prohibited by their religion or other regulations from getting married.
- Based on the provisions described above, it can be said that inbreeding is prohibited by law.

### 2.2.3. Case

Betty Mbereko and her own child, Farai Mbereko, are examples of inbreeding couples. This inbreeding couple, which is a mother and child, occurs in the interior of Gorontalo, in the Polahi Tribe. Betty and Farai Mbereko are incestuous mothers and children. Farai is the biological child of Betty Mbereko and her deceased ex-husband. According to Betty, Farai is one of her children who is successful, well-established and also independent. Farai is not a child who does not know his biological mother and father, but he knows his parents from childhood and was raised by his mother and father. So the inbreeding carried out by Farai and Betty Mbereko is not like the story of Sangkuriang where Sangkuriang did not know the blood relationship he had with Dayang Sumbi, his birth mother. Farai and Betty who know the blood relationship between them, still intend to formalize a legal marriage. The beginning of this inbreeding story is that Betty was left forever by her husband, who in fact is Farai Mbereko's father, this made Betty Mbereko a dead widow, so she became a single parent. Due to the death of her husband, Betty became a widow and single parent and made Betty raise her children alone. One of her children is Farai Mbereko, who according to Betty has an established life, this is what makes Betty as a mother afraid that her child will be owned by another woman besides herself because according to her, she has rights over all her child including Farai. The marriage that was expected by Betty and Farai Mbereko of course received opposition from the local community they lived in, not only the prohibition they got, but Betty and Farai were also evicted from their place of origin by the residents and also the local village head. This inbreeding is prohibited or not approved by many people because it is against the norm and also religion. Nathan Muputirwa, who is the local leader, has prohibited inbreeding (incest) which Betty and Farai Mbereko wanted, because according to him inbreeding is the worst

thing in their region, Zimbabwe, South Africa. According to Narhan, in the past inbreeding had to be killed, but nowadays residents and local leaders do not dare to do this because they are afraid of the police. Almost all residents of their place of origin disagree with the forbidden love between Betty and Farai, who is none other than the mother and child, let alone an inbreeding. Their wish made them evicted from their place of origin, before expelling the two of them from the village the local village head had suggested that the two of them give up their intention to enter into an inbreeding, but Betty and Farai still insisted that the marriage could work, because that choice made Betty and Farai Mbereko were driven out of their hometowns. The great feelings of liking that occurred between Betty and Farai Mbereko and especially the feeling of not wanting to lose each other made them choose to keep married and choose to keep married and choose to leave their hometown, another reason is because Betty Mbereko is already pregnant with Farai Mbereko's child. They looked for a place where they could carry out the incestuous marriage, and in the end Betty and Farai Mbereko found a place that accepted them and tolerated the events they had experienced and tolerated the inbreeding. For the general public, the existence of a special relationship between siblings or blood relatives is something that can be said to be odd, taboo, even some people cannot accept this because this is of course prohibited by the Marriage Law and also prohibited by Islamic Law and Custom Law. However, this is not the case for the Polahi Tribe, the special relationship that occurs between siblings and/or blood relatives is a common thing, in fact it is usually up to a more special relationship, called marriage. One of the women of the Polahi Tribe, Mama Tanio said why there was a habit of inbreeding in the Polahi Tribe because they initially fled and exiled themselves from Dutch colonialism since the Vereenigde Oostindische Compagnie (VOC) era, the meaning of the word Polahi itself, called escape in the Gorontalo language. The Polahi Tribe chose to escape and exile during the VOC era around the 17<sup>th</sup> century because their ancestors rejected the rules and oppression imposed by the VOC at that time, and they preferred to form their own communities to guerrilla from forest to forest before finally they found Humohulo forest, to stay until now the Polahi tribe people do not want to socialize with the outside community, they prefer to live in their current place even though it is pitch black than they have to live in other residents villages. The reason they are nomadic is because they have the belief that if one of them dies in the place they are staying at that time, they must immediately move to another place because according to belief if that happens and they don't move they will get a curse or bad luck. Not wanting to socialize with other residents makes them unfamiliar with the outside world and even more so, they don't know anyone other than the Polahi people themselves, this makes them unable to increase the number of Polahi tribes or not to have children. In order not to become extinct, they also perpetuate inbreeding in which a father can marry his own biological child, brother and sister as long as they like each other. According to Mama

tanio in another village there were a lot of people but here were only a few of us, so there was no other choice but to marry siblings or by blood. The Polahi tribe is in the Boliyohuto Mountains, Paguyaman District, Boalemo Regency. The Polahi Tribe is a tribe that is still living in the interior forests of the Gorontalo area with several primitive habits, for example they do not recognize religion and also do not recognize education and they tend not to want to live in social life with other residents outside the Polahi Tribe, this is what makes them marry each other between their blood relatives and because they do not know a religion which is basically religion definitely prohibits inbreeding. The Polahi group is led by a man named Tahilu. The core of the Polahi group was formed by the marriage of Tahilu with two sisters named Lumaye and Ipa. The marriage with Ipa produced 4 children, while marriage with Lumaye produced 3 children. The second family was then formed from a marriage between Mauliya (the first child of Tahilu and Ipa's marriage) and Ipa, this marriage is an incest between the child and the biological mother, this is the same as the case that happened between Betty Mbereko and Farai Mbereko.

### 2.2.3. Problem Analysis

Inbreeding or incest can still be found in Indonesia. As one example of inbreeding cases that occurred in Indonesia was in the interior of Gorontalo, to be precise the Polahi group or tribe. A woman named Betty Mbereko who is 40 years old married her own child, Farai Mbereko 23 years old and the woman is pregnant with the result of an incestuous relationship with her biological son. This started because Betty's husband died and she became a widow who was left behind by her husband and she lived alone raising several children. One of her sons, Farai Mbereko has good achievements and has an established life, because of that Betty did not want her son to fall into another woman's arms and she finally decided to marry her own biological child after being widow for 12 years. Apart from being afraid that their child would fall into another woman's arms, the reason they got married was because they both liked each other. This is of course prohibited by local residents and also the Village Head of their place of origin, called in Mwenezi, Zimbabwe. The head of the village where they came from gave them the option of discouraging them from getting married or leaving the village and looking for an area that allowed for inbreeding, hearing that both of them preferred to leave their hometown and marry elsewhere. In the end, Betty and Farai Mbereko went to the interior of Gorontalo, to be precise in the Humohulo Forest where the Polahi tribe lived. With the background of several existing cases, incest is known to have the potential to have a significant impact, especially on the children of the marriage. It is said that regarding children from the result of inbreeding will be born with mental or physical disabilities, and also these children will indirectly suffer losses both spiritually and materially, called regarding their status or position in

the State and religion.[14] The incident that occurred, called inbreeding in Indonesia was not in line with the prevailing laws and regulations in Indonesia and was not in line with the prevailing religious law. Based on the analysis of cases of inbreeding that occurred the Marriage Law in Indonesia is still considered incomplete because there are still areas where the customary law is still valid and it is still permissible to have inbreeding marriages. Basically inbreeding is carried out because the assets owned for the inheritance will not fall into the hands of other people or so that their family clan remains and is not mixed with outsiders. In this case, inbreeding is carried out because the mother does not want her established child to fall into another woman's embrace. Regarding children resulting from inbreeding in the end they do not get national recognition because the child resulting from inbreeding is considered illegitimate, and if the child resulting from inbreeding goes to school there will be no certificate because the child is illegitimate and also the child resulting from inbreeding is not recorded in the country.

## 3. CLOSING

### 3.1. Conclusion

Based on the discussion of the subject matter regarding inbreeding according to the Marriage Law seen from the National law and also the compilation of Islamic Law that the author has adopted as a thesis-shaped legal study, the author has completed it through the stages of research using prescriptive normative legal research methods with selection stages theoretical framework, data collection stages, to the main problem analysis stage that the author has described above, then in this section the author will provide conclusions on the analysis of the validity of inbreeding where the author's conclusions are as follows: Over time, many cases of inbreeding have occurred in Indonesia. This of course violates the National Law and also the Compilation of Islamic Law, these prohibitions are contained in Article 8 of the Marriage Law which explains: "A marriage is prohibited between a man and a woman who if related by blood is in the lower line of descent or above, have blood relations in the line of lateral lineage, relationship, sex, breastfeeding, intercourse with the wife or as an aunt or nephew of the wife and a marriage is prohibited if having a relationship which is prohibited by religion or other applicable regulations." Then in Chapter IV Article 39 of the Compilation of Islamic Law stipulates that: "A marriage is prohibited to be entered into between a man and a woman if the two candidates have a family relationship, an affinity for kin, and a breastfeeding relationship." Based on the prohibitions in Article 8 of the Marriage Law and also the Compilation of Islamic Law Chapter IV Article 39, it is clear that marriage is between a man and a woman who is still related by blood such as marriage between siblings,

father and daughter, as well as between mothers and sons are not allowed and it is prohibited under applicable religious law and national law. If the marriage does not meet the legal requirements of marriage, the marriage can be canceled, this is in Article 22 of the Marriage Law and is strengthened again by the presence of rules contained in Article 37 of Government Regulation Number 9 of 1975 concerning Implementation of Law Number 1 of 1974 about Marriage. Even though there have been several prohibitions from various regulations, over time there have been many shifts in moral values. One example of inbreeding cases that occurred in Indonesia that will be discussed by the author is the case of inbreeding between a mother and her biological son, Betty Mbereko and Farai Mbereko which occurred in the Gorontalo interior, the Polahi Tribe. Inbreeding in Indonesia is clearly prohibited because it violates the provisions stipulated in the Marriage Law and also the Compilation of Islamic Laws. Therefore, a marriage registration officer was formed who was hoped to prevent inbreeding and was expected not to allow the marriage to take place if it was found that there was a violation or unfulfilled conditions. From a medical point of view, it is said that it is not certain that all inbreeding will produce offspring who are disabled or have health problems or disorders. However, the risk of getting hereditary disease still exists and tends to be greater because the chances of the homozygous gene appearing are also greater. If there is a prohibition on marriage that is carried out by a husband and wife in carrying out a marriage, then the marriage bond will be null and void, the meaning of by null and void is that the marriage relationship between husband and wife is canceled or damaged by itself because it has violated Islamic Law and laws which applies. Regarding the inheritance of children born from this marriage, illegitimate children or children outside of marriage only have civil rights that give rise to rights and obligations such as living and inheriting from their mother only and

have no civil rights with their father. According to Article 283 in conjunction with Article 867 of the Civil Code, adultery and donated children can not be legalized, and because they can not be legalized these children are not entitled to inherit property from the male or female who caused their birth, adultery and donated children are only possible to obtain the necessary share of living expenses of the parents who caused the birth. Children born outside of legal marriages only become heirs of the mother and mother's family but not the father's heirs and also the father's family. According to Hans Kelsen, pure legal theory is "because as we know, Legal Positivism (Positive Law Flow) is between the applicable law and the law it should be. According to Hans Kelsen, the highest norm is also called.

### 3.2. Suggestion

whereas based on the conclusions listed above, the author will provide the following suggestions:

- a. to the government to further expand law number 1 of 1974 concerning marriage and so that the marriage law is further studied while considering whether the marriage law is effective or not and the government must also take even tighter prevention and sanctions so that incest marriage is not done easily anymore.
- b. to parents to pay more attention to their children in growing and developing and pay attention to their children using the internet.
- c. to the community to think more about the impact of inbreeding and to be more obedient to following and implementing existing laws and regulations.

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## REFERENCES

- [1] Indonesia, *Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan (Lembaran Negara Republik Indonesia Tahun 1974 Nomor 1, Tambahan Lembaran Negara Nomor 3019)*, Pasal 2.
- [2] Peter Mahmud Marzuki, *Penelitian Hukum*, Kencana Prenada Media Group, Jakarta, 2011, hlm. 35.
- [3] Mukti Fajar ND dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif dan Empiris*, Cetakan Ke-1 (Yogyakarta: Pustaka Belajar, 2010), hal. 34.

[4] Abdulkadir Muhammad. 2004. *Hukum dan Penelitian Hukum*. Cet. 1. Bandung: PT. Citra Aditya Bakti. Hal. 34.

[5] Peter Mahmud Marzuki. *Op.cit.* hal. 22

[6] Mukti Fajar ND dan Yulianto Achmad. *Op.Cit.* hal. 41.

[7] Mukti Fajar ND dan Yulianto Achmad. *Op.Cit.* hal. 42-43.

[8] Peter Mahmud Marzuki. *Op.Cit.* hal.142.

[9] Peter Mahmud Marzuki, *Penelitian Hukum*, Cetakan ke- 9, (Jakarta: Prenadamedia Group, 2014), hal. 43.

[10] Mukti Fajar ND dan Yulianto Achmad. *Op.Cit.* hal. 41

[11] Mukti Fajar ND dan Yulianto Achmad. *Op.Cit.*  
hal. 184.

[12] Lexy J.Moleong, *Metodologi Penulisan Kualitatif*,  
(Bandung: PT Remaja Rosdakarya, 2006), hal. 248.

[13] Hans Kelsen, *General Theory of Law and State*,  
New York, Russell & Russell, 1945, hlm. 35.

[14] Siti Nurhasanah, *Perlindungan Hukum Terhadap  
Hak Anak Dari Perkawinan Sedarah (incest) Dalam  
Perspektif Hukum Islam dan Hukum Negara*, Fakultas  
Hukum Universitas Lampung 2017. Hal. 6.