

Review of Islamic Law on the Distribution of Inheritance in Muslim Families

Muhammad Habib¹, Risky Eka Pratama², Jonathan James Kurniawan³, Muhammad Susilo Agung Saputro⁴, Asep prianto⁵, Yarmanto⁶

Program Studi S-1 Hukum, Fakultas Hukum Dan Bisnis, Universitas Duta Bangsa Surakarta

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Abstract

This research aims to study how methods for dividing inheritance assets based on Islamic Inheritance Law and the Compilation of Islamic Law are able to resolve requests or disputes over the distribution of inheritance assets between Muslim people. This research uses a literature study method by collecting data from various sources, such as books, journal articles and previous research results. then analyzed using a qualitative descriptive method which is a logical and systematic legal argumentation. This research aims to provide a deeper understanding of how Islamic law influences inheritance distribution practices in Muslim families, as well as providing a framework for understanding how Islamic law can be adapted in the context of civil law to achieve better justice for all parties involved.

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Corresponding Author:

Muhammad Habib

Universitas Duta Bangsa Surakarta

E-mail:: muhamadhabib58@gmail.com

1. INTRODUCTION

Distribution of inheritance is an important aspect in the social and economic life of Muslim families. In Islam, inheritance distribution is not only the process of distributing property owned by a deceased person, but also an obligation given to the family and heirs based on the laws and principles set out in the Al-Qur'an and Hadith. The aim of this journal is to provide an in-depth review of Islamic law regarding the distribution of inheritance in Muslim families, with a focus on the principles underlying this system of inheritance distribution, as well as how these principles are applied in daily practice.

The distribution of inheritance in Islam is not only limited to the distribution of physical assets, but also includes the distribution of rights and obligations related to these assets. This includes the distribution of assets accumulated during life, payment of debts, and distribution of legal inheritance. In Islam, inheritance distribution is regulated by applicable law, which includes principles such as justice, equality, and the interests of the family and heirs.

This division of inheritance analyzes various aspects of Islamic law related to inheritance distribution, including definitions and basic principles, the inheritance distribution process, and the roles and responsibilities of family and heirs in this process. In addition, this journal will also discuss how Islamic law handles various scenarios that may arise in the distribution of inheritance, including cases where there is inequality in the distribution of inheritance between heirs.

Islamic law explains the distribution of inheritance, so that we can better understand how Islam regulates aspects of the social and economic life of Muslim families, as well as how Islamic principles can be applied in daily practice. It is hoped that this journal will

provide new and in-depth insights into this topic, as well as contribute to increasing understanding of Islamic law and the division of inheritance in Muslim families.

2. RESEARCH METHOD (12 Pt)

This research uses qualitative methods, which is a research approach that produces discoveries that cannot be achieved using statistical procedures or other quantitative methods. The aim of this qualitative research is to understand the conditions of a context that is experienced, about what actually happens according to what is happening in the field of study. Data is collected through data collection techniques. This research uses a literature study method by collecting data from various sources, such as books, journal articles, and the results of previous research, as well as drawing conclusions or verification.

This approach focuses on understanding and applying Islamic inheritance law in the distribution of inheritance in Muslim families. This involves an analysis of the principles of Islamic law relevant to the distribution of inheritance and how they are applied in practice. This research aims to evaluate and analyze the understanding and application of Islamic inheritance law in the distribution of inheritance in Muslim families. By using qualitative methods, this research is expected to provide in-depth insight into the practices and challenges in the inheritance distribution process in the context of Islamic law

3. PROBLEM FORMULATION (12 Pt)

- A. What is the amount of the heir's assets based on the level of acquisition of assets?
- B. What are the steps for grouping heirs?

4. DISCUSSION

Problems in dividing inheritance within the family often become complicated because the heirs want to control all of the inheritance, which can result in losses for others and even lead to criminal acts such as robbery and murder. The nature of greed and covetousness is often triggered by a lack of understanding about the distribution of inheritance according to Islamic law. When the distribution of inheritance is delayed or several heirs die before the distribution is carried out, the problem becomes more complex and requires a clear legal basis to avoid losses for related parties. In Arabic, heirs are known as al-warith, namely people who have the right to receive inheritance left by someone who dies.

The existence of the people who are included in the list of heirs has been determined *ijbari* through normative rules both from the Koran and hadith as well as from the results of interpretations of the two sources above. Thus, no one can try to become a member of someone's heirs and vice versa. No one can erase or remove someone's right to leave the list of legal heirs

To maintain harmony in the family, the best solution is to refer to guidance from the Al-Quran and Sunnah. The distribution of inheritance is considered to have more value than just the economic aspect, disputes often arise due to social changes in society.

Inheritance law, or in the Islamic context known as *faraid* or *dewaris*, regulates the transfer of ownership of an heir's assets to his heirs after the testator's death. In Indonesia, there is a family law system where inheritance distribution is resolved amicably, with various settlement systems, including Islamic law, custom, civil inheritance law (BW), or a combination of these various systems.

Even though the provisions of inheritance law have been regulated in detail, both in Islamic inheritance law and in Indonesia, conflicts still often occur in inheritance distribution. Inheritance should only be distributed after the heir's death, but sometimes this

happens even before the heir dies. This can actually be avoided if all parties understand their rights and obligations regarding inheritance properly. Misunderstanding and ignorance are often the main causes of conflict in inheritance distribution. Therefore, it is necessary to have clear rules regarding inheritance law at all levels of society so that confusion in resolving inheritance problems can be minimized.

1. Inheritance not only depends on the closeness of family relationships, but also takes into account a number of factors related to the amount of property obtained by the heirs. The level of wealth acquisition can include various aspects, such as direct or indirect contributions to wealth accumulation, status in the family, and other factors that influence the inheritance process.

Having a deep understanding of how this system operates is not only important for ensuring the fair distribution of inherited assets, but also for understanding the values that underlie the principles of justice in inheritance law. In this discussion, we will explore how heirs are based on the level of acquisition of assets by the heirs

Understanding this system is key not only to ensuring the fair distribution of inherited assets, but also to understanding the values underlying the principles of justice in inheritance law. A journal on Islamic law and the distribution of inheritance in Muslim families highlights the importance of levels of acquisition in the division of inheritance. The journal explains that Islamic law provides rules that must be followed in dividing inheritance, including provisions regarding the level of acquisition.

This emphasizes that the level of acquisition is a key factor in the distribution of inheritance, and Islamic law provides rules that must be followed in this regard. The journal also notes that Islamic law offers various methods for calculating acquisition rates, including using established acquisition formulas.

By understanding how levels of acquisition affect inheritance distribution, we can better understand the inheritance process and create more fair and balanced solutions for all parties involved. This is important to maintain justice and sustainability in the inheritance law system. This discussion will not only provide a deeper understanding of the mechanisms for distributing inheritance assets, but will also emphasize the importance of justice and sustainability in the inheritance law system. By understanding how heirs are affected by the level of acquisition of assets, we can better understand the dynamics involved in the inheritance process and create more fair and balanced solutions for all parties involved.

The heirs who receive a certain share, namely the *dhaw al-furud* group, have certain predetermined rights, which are called *al-furud al-muqaddarah*. Before we get into the list of heirs who fall into this group, it is important to understand what is meant by *al-furud al-muqaddarah*. The term consists of two words, "*al-furud*" which is the plural form of "*fard*", and "*muqaddarah*", which are then combined in an adjective to express the parts that have been determined in accordance with the teachings of Allah and His Messenger. There are six predefined section types:

- a. Half (*al-Nisf*) = $1/2$
- b. One third (*al-thuluth*) = $1/3$
- c. Half (*al-rub'u*) = $1/4$
- d. Half of Half (*al-sudus*) = $1/6$
- e. Half of Half of Half (*thumun*) = $1/8$
- f. Two Thirds (*Thulutha'ni*) = $2/3$

The heirs who receive one of the parts specified above are referred to as "*ashab al-furu>d*" or often referred to as "*dhaw al-furu>d*", which means heirs who receive certain parts. This group is generally filled with female heirs, although there are also men. This

shows Islam's great attention to women's rights in receiving inheritance, which is contrary to the inheritance system during the Jahiliyah era which usually discriminated against women.

With the shares obtained by women, no one has the right to reduce or even eliminate their rights to inheritance. This emphasizes that women should not be wronged in this matter.

To understand further who the heirs are who are included in the *dhaw al-Furu* group, it will be described in accordance with the sections that have been determined:

a. Heirs who receive half ($\frac{1}{2}$):

- A daughter if there is only one
- Granddaughter from the male line if there are no joint daughters
- Husband if there are no children
- Siblings if there is only one
- Father's sister if there is only one. The heirs who receive a third share ($\frac{1}{3}$):
- Mother, if the testator has no children or grandchildren, and is not together with two or more brothers or sisters.

- Siblings of the same mother, both male and female, or both (*musharakah*).

- Grandfather if with one or more siblings (*muqasamah*).

c. The heirs who receive a quarter share ($\frac{1}{4}$):

- Husband if there are children.
- Wife if there are no children or grandchildren.

d. The heirs who receive one sixth ($\frac{1}{6}$):

- Father if there are children or grandchildren from the male line.
- Grandfather if there are children or grandchildren from the male line.
- Mother if there is a child or two or more brothers or sisters.
- Maternal grandmother.
- Grandmother from the father's line.
- Granddaughter if with daughter.
- A father's sister if she is with a full sister.

e. The heirs who receive one-eighth ($\frac{1}{8}$):

- There is only one heir who receives one-eighth, namely the wife whose husband dies and leaves behind children or grandchildren, and so on. The one-eighth share for wives applies to both one wife and more than one, ranging from two to four wives, but the share is still $\frac{1}{8}$ and will be divided evenly according to the number of wives. The condition is that the wife is still in the care of the deceased, or at least still within the *iddah* period for *talak raj'i*.

f. The heirs who receive the two-thirds share ($\frac{2}{3}$):

- There are three heirs who receive a two-thirds share:
 - 1) Two or more daughters if there are no sons.
 - 2) Two or more granddaughters from the male line if there are no grandsons from the male line.
 - 3) Two sisters of the same father or more if there are no brothers of the same father.

It should be noted that some of the heirs receiving certain portions (*dhaw al-furu*) may only be heirs receiving certain portions and never receive the remaining portion (*'asabah*). However, there are also those who in one situation receive a certain share and in another situation receive the remainder as heirs of *dhaw al-'asabah* because of themselves

('asabah bi nafsih), or receive a certain share and in another situation receive the remainder because of someone else ('As}abah ma'a al-ghair).

The heirs who are only recipients of certain shares include wives/husbands, half-sisters, mothers and grandmothers. Meanwhile, fathers and grandfathers may become recipients of the remainder due to themselves ('as}abah bi nafsih) if the heir has no male descendants at all, even though he has female descendants. Siblings receive the remainder because they are with their biological brothers or fathers, as well as biological daughters who receive the remainder if they are with their biological sons, and the same applies to granddaughters if they are with their male grandchildren.

2. Distribution of inheritance within a Muslim family has great significance in Islamic law. One factor that influences this process is the grouping of heirs. In this research, we will explore Islamic law's view of the grouping of heirs and its impact on the division of inheritance within the Muslim family. Grouping of heirs refers to the division of heirs into groups based on family relationships and closeness to the heir.

1) Expert nasabiyah heir

are those who receive a share of the inheritance because they are related by blood to the inheritor, whether hereditary, upward, or sideways, based on lineage or hereditary relationships. In one example, there are a total of 20 Nasabiyah heirs who can be divided into 13 men and 8 women.

The following is a complete list of groups of male Nasabiyah heirs in order:

1. The son of the heir, who has a direct relationship with the heir as a male descendant.
2. The testator's son, who is the testator's grandson.
3. The son of the heir's daughter, who is the grandson of the heir through the daughter's line.
4. The biological brother of the testator.
5. The heir's half-brother.
6. Brother of the heir's mother.
7. The male uncle of the testator, namely the biological brother of the testator's father.
8. The male uncle of the testator, namely the sibling of the testator's mother.
9. The male uncle of the heir's father.
10. Uncle of the heir's mother.
11. The natural male uncle of the testator's father.
12. The male uncle of the testator's father.
13. A male uncle who is the same mother as the testator's father.

This is a brief explanation of the group of male Nasabiyah heirs, who are entitled to a share of inheritance based on their blood relationship with the heir in Islamic law.

The female heirs from the Nasabiyah group consist of 8 people if broken down in detail. Here is their list:

1. The daughter of the heir, who has a direct relationship with the heir as a female descendant.
2. The daughter of the heir's son, who is the heir's granddaughter through the son's line.
3. The daughter of the testator's daughter, who is the testator's granddaughter.
4. The biological sister of the testator.

5. The half-sister of the testator.
6. The heir's maternal sister.
7. The testator's aunt, namely the testator's father's sibling.
8. The testator's aunt, namely the testator's mother's sibling.

They are all part of the group of female Nasabiyah heirs who have the right to a share of inheritance based on their blood relationship with the heir in Islamic law.

The order in the list of Nasabiyah heirs above reflects the level of closeness of their kinship with the deceased. In Islamic law, usually heirs who are more closely related will get their share of the inheritance first, and those who are more distant in kinship will follow in order.

To make it easier to understand Nasabiyah heirs, they can be grouped based on the level of close relationship with the deceased. These groups include:

1. Furu' al-Warith Group:

This group consists of direct descendants of the deceased, from children to the lowest generation.

2. Usul al-Warith Group:

This group includes heirs who have a direct kinship relationship with the deceased, such as siblings, half-siblings and half-siblings.

3. Al-Hawashi Group:

This group consists of heirs who have a more distant kinship with the deceased, such as aunts, uncles or other distant relatives.

By grouping them based on the level of closeness of kinship, it makes it easier to understand who has priority in dividing inheritance in accordance with the principles of Islamic law.

The first group, namely the branch heir group, is the group whose position is closest to the deceased. Therefore, in terms of receiving inheritance, this group takes precedence over other groups. This group consists of:

1. Boy
2. Daughter
3. Grandson of the male line
4. Granddaughter of male lineage.

The second group is the group of proposed heirs, which consists of the parents and ancestors of the deceased. They are in second place after the branch group in their proximity to the deceased. This group includes:

1. Mr
2. Mother
3. Paternal grandfather
4. Maternal grandmother.

The final group is the hawashi group, namely the side relatives starting from the closest ones to their descendants. They consist of:

1. Sibling brothers
2. Siblings
3. Father's brother
4. Father's sister
5. Mother's brother
6. Mother's sister

7. Sibling's son (ponaan)
8. Father's brother's son
9. Sibling uncle
10. Father's uncle
11. Uncle's child
12. My father's uncle's son.

Thus, this grouping provides a clear picture of who has priority in receiving inheritance based on close kinship relations with the deceased in Islamic law.

2) Heir Sababiyah

Sababiyah heirs are those who receive inheritance for certain reasons regulated by the Shari'a. For example, legal marriage and freeing slaves are factors that cause a person to become an heir. Due to these reasons, someone can inherit and give inheritance, so they are known as sababiyah heirs. Therefore, the number of sababiyah heirs is not that many, consisting of:

- a. Heirs by marriage, consisting only of the husband or wife.
- b. Heir due to the release of a slave, namely the master (both male and female) who freed the slave.
- c. According to the Hanafi school of thought, heirs can also include those who receive an inheritance due to an agreement and assistance between two parties.

In this modern era where neat administration is needed in all fields and in all countries, written proof is very important. A sababiyah heir by marriage must have written documents showing valid marital status according to religion and applicable law, in order to receive a share of the inheritance. Without this evidence, one party's rights as an heir may be lost.

The same applies to heirs who obtain their rights through the release of servants or through agreements and assistance between parties. Legal documents recorded in writing are very important to ensure the inheritance process is not complicated. For example, if someone has been freed by a benefactor and dies, then some of the assets he left behind will become an inheritance for the benefactor who freed him. Likewise, two people promise each other to inherit from each other.

After combining the two groups of Nasabiyah and Sababiyah heirs based on gender, there are a total of 25 heirs, with 15 male heirs and 10 female heirs. Here are the 15 male heirs:

1. Boy
2. Grandson from a son's descendants
3. Mr
4. Grandfather from the father's line and so on upwards
5. Sibling brothers
6. Father's brother
7. Mother's brother
8. The son of a sibling
9. The son of a father's brother
10. Sibling uncle
11. Father's uncle
12. The son of a biological uncle
13. Son of a father's uncle
14. Husband
15. Generous man who freed his servant

This is a complete list of male heirs who can receive part of the inheritance in accordance with applicable regulations.

The following are 10 Nasabiyah and Sababiyah female heirs who can receive a share of the inheritance:

1. Girls (al-Bint)
2. Granddaughter from male descendants and so on down (bint al-Ibn wa in nazal)
3. Mother (al-Umm)
4. Maternal grandmother (al-Jaddah min al-Umm)
5. Grandmother from the father's line (al-Jaddah min al-Ab)
6. Siblings (al-Ukht al-Shaqiqah)
7. Father's Sister (al-Ukht li Ab)
8. Sisters of one mother (al-Ukht li Umm)
9. Wife (al-Zaujah)
10. Benefactor who frees servants (Maula Mu'tiqah)

They are female heirs who have the right to a share of the inheritance in accordance with applicable legal provisions.

Because each group of Nasabiyah and Sababiyah heirs above is considered to be very close to the heirs and the deceased, then if 15 male heirs gather and all are present without the presence of female heirs, only 3 people will get a share, namely:

- a. Father
- b. Boy
- c. Husband

If 10 female heirs gather and all of them are present without male heirs interfering, then only 5 heirs will get a share of the assets, namely:

- a. Girl
- b. Granddaughter of the male line
- c. Mother
- d. Biological sister
- e. Wife

If 25 male and female heirs gather and all of them are present, then only 5 heirs will get a share, they are:

- a. Boy
- b. Girl
- c. Father
- d. Mother
- e. Husband and wife

The decrease in the number of heirs who receive a share of inheritance when all are gathered in one family is the result of the principle of justice in Islamic inheritance law. This principle gives priority to closer relatives, while considering their long future. To achieve this goal, Islamic law applies a closed and covering system (hijab-mahjub), where heirs who are closer will be given priority over those who are further away. More details about this principle will be explained in detail in the next section.

5. CONCLUSION

This journal aims to provide an in-depth understanding of how Islamic law influences inheritance practices among Muslim families and offers a framework for adapting Islamic law in the context of civil law to achieve better justice. This journal covers various aspects

of Islamic law related to inheritance, such as definitions, basic principles, inheritance distribution processes, as well as the roles and responsibilities of family members and heirs.

In addition, this journal also discusses how Islamic law handles various different inheritance scenarios, including cases of inequality between heirs. The aim is to provide insight into the social and economic aspects of Muslim family life, so that it can be better understood how Islamic law influences inheritance practices among them. Thus, this journal offers a comprehensive and in-depth view of the importance of understanding Islamic law in the context of inheritance and how it can be adapted in the civil law system to achieve better justice.

6. SUGGESTION

This journal aims to provide an in-depth understanding of how Islamic law influences inheritance practices among Muslim families and offers a framework for adapting Islamic law in the context of civil law to better justice various aspects of Islamic law related to inheritance, including definitions, basic principles, processes distribution of inheritance, and the roles and responsibilities of family members and heirs how Islamic law addresses different inheritance scenarios, including cases of inequality among heirs, providing insight into the social and economic aspects of Muslim family life to provide an in-depth understanding of how Islamic law influences practice inheritance among Muslim families and offers a framework for adapting Islamic law in the context of civil law for justice that better addresses various aspects of Islamic law related to inheritance, including definitions, basic principles, inheritance distribution processes, and the roles and responsibilities of family members and Islamic law heirs addresses different inheritance scenarios, including cases of inequality among heirs, providing insight into the social and economic aspects of Muslim family life

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