

## Contribution of Inheritance Assets by Islamic Law for Inheritance Recipients as Community Education

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### Abstract

This research aims to find out the distribution of inheritance which is divided equally between men and women, and the practice of dividing inheritance regarding contributions to heirs. This research method is a qualitative approach, which describes the research object that occurs in the field. The data collection techniques used were interviews, observation, and documentation. Data analysis was carried out including data reduction, data presentation, and verification withdrawal. The results of the research reveal that: (1) Heirs receive assets equally between men and women through family consultation. After the assets are divided, there are remaining assets that are allocated by the heir to an heir who contributes to the heir during his or her lifetime. (2) The heirs who contribute to the inheritance receive more inheritance than the remaining assets after dividing them equally. The remaining assets in Islamic Inheritance, especially from a legal perspective, are not justified. Because, in Maqāṣid shari'ah al-Khamsah, protection of religion is not implemented in society in terms of the division of inheritance between men and women. However, protection for the existence of religious descendants, as well as protection for assets, all of which are at a secondary or tertiary level, have been fulfilled.

**Keywords:** Inheritance Assets, Islamic Law, Inheritance Recipients

### A. Introduction

Inheritance in the language of Islamic law is called *tirkah*. Inherited assets cannot be separated from the Islamic inheritance law system, so Islamic inheritance law can be interpreted as the process of transferring the inheritance of someone who has died, both in the form of property and material rights to their family (heirs) who are declared entitled to a distribution of assets according to applicable law.

Laws regarding inheritance of assets to family members (heirs) already exist in the Koran and al-hadith of the Prophet. The Al-Qur'an and Al-Hadith explain the portions of inheritance from heirs to heirs, so that it is hoped that the heirs will truly know the amount of the portion of assets they are entitled to receive. Apart from that, the heirs do not take actions that result in taking away rights from other people in ways that are not by the texts of the Qur'an and al-Hadith. If the actions that occur in the inheritance process are by the texts of the Qur'an and al-Hadith, a sense of justice and security will arise among the heirs, so that there will be no monopoly of assets between one heir and another.

Inheritance matters in inheritance are one of the subjects that is often discussed and almost

everyone experiences it. Islamic law has laid down the rules and laws regarding inheritance in the best and fairest way possible. Islam determines a person's ownership rights over inherited property, both men and women, through Islamic law, such as the transfer of inherited property from the heir to his heirs after the testator dies. Islamic inheritance law completely regulates matters relating to the transfer of inherited property from the heir to his heirs. This process is known as alfar'id, which is a scientific discipline that discusses or explains the provisions of inheritance.

In the case of inheritance of a share of property that has been determined in inheritance law, an heir gets his share after the amount of the inheritance is reduced by debts and other matters. In it, there is a law that explains the rights and obligations of a person relating to inheritance and heirs. How a person has the right to become an heir and the process that occurs in dividing inheritance has been mentioned in the Al-Qur'an.

In the Qur'an, Allah SWT has explained several groups of heirs and their rights in detail. An heir is a living person or unborn child who has the right to inherit property, although in certain cases this will be hindered. Heirs are also included. people who are related by marriage and members of the closest family to the person who died. Meanwhile, other groups of heirs who are not stated in the Koran, are explained by Rasulullah SAW in his sunnah, for example, such as freeing slaves.

## **B. Research methods**

The research carried out is of the type of normative sociological legal research. This type of research is intended to discover existing legal rules/norms regarding the contribution of heirs to heirs

### **1. Data collection technique**

As for collecting data, the method used to obtain the data to be studied is carried out. In this research, the data collection method is as follows:

- a. Interview An interview is a meeting of two people to exchange information and ideas through questions and answers, so that meaning can be constructed in certain data. Where researchers conducted interviews with inheritance actors, especially regarding the share of inheritance obtained by the heirs who contributed to the heirs.
- b. Data documentation Documentation is a method used to collect data from non-human sources, namely written objects, books, magazines, or diaries. This document is used to obtain data about the share of assets obtained by heirs who contributed to the heirs, such as data obtained from existing data.

### **2. Data analysis**

The qualitative data analysis model used in this research is qualitative data analysis (Miles and Huberman), where activities in qualitative data analysis are carried out interactively and continue continuously until completion so that the data is saturated. Data analysis carried out included: data collection, data reduction, data presentation, and concluding.

## **C. Results and Discussion**

### **1. Implementation of Inheritance Property Contribution by Islamic Law for Inheritance Recipients as Community Education**

Carrying out Islamic inheritance is muamalah worship, which means that the worship carried out is related to fellow humans and is carried out solely to gain the pleasure of Allah SWT. In Islamic teachings, if humans truly hope for the pleasure of Allah SWT in worship, they must

comply with the provisions and guidelines in the Qur'an and al-Hadith of the Prophet Muhammad. Based on the Qur'an al-Hadith and ijma', Islamic law was born.

Muslim communities in Indonesia, especially Java, do not necessarily implement Islamic lawfully, because according to Sidi Gazalba, those who implement Islamic law in a kaffah manner are Islamic communities, not Muslim communities. Because the Muslim community is a group of people who are Muslim or claim to be Muslim, but still practice a lot of culture that is not by the Shari'a, maybe they are still new to Islamic teachings, maybe there are even Islamic laws that they still shun.

Apart from that, Indonesia itself is not an Islamic country, unlike Saudi Arabia and other countries which use Islamic law as state law. That is one of the reasons why Indonesia has had a plural legal system until now, namely the customary law system, the Islamic law system, and the continental legal system. Regarding the legal rules governing inheritance, Indonesia does not yet have a national inheritance law. Suparman, in this connection, emphasized that the inheritance law in force in Indonesia has not yet been able to be realized in legal unification. Therefore, until now there is still no uniformity in the regulation of inheritance issues.

Likewise, what happens in Javanese society is that there is still no certainty in the application of Inheritance law which is an absolute guide in resolving problems that occur. The application of inheritance law that applies in Javanese society sometimes uses an Islamic inheritance perspective, and sometimes uses a Javanese traditional inheritance perspective. Paying attention to the perspective of Islamic inheritance law and Javanese traditional inheritance, it turns out that there are similarities between the two in terms of inheritance rights for children.

In Islam, the inheritance rights of sons are twice as large as those of daughters, whereas, in Javanese customary law, the division of inheritance as in Islamic law is very possible by applying the principle that a son's share is twice that of a daughter. However, apart from the capital, customary law also recognizes the distribution of inheritance equally between sons and daughters. This is what happens in society, in the habit of dividing inheritance between men and women, both men and women receive the same amount of assets, and sometimes female heirs even get larger assets than male heirs. For greater clarity, the author describes the habits of the people of Kab. West Bandung, in dividing inherited assets, among others, as follows:

- a. Distribution by way of grant of assets to the community which is predominantly Muslim. As Muslims, some of them know and understand the obligations as servants commanded by Allah SWT and His Messenger, including the distribution of inheritance which has been stated in detail and certain portions have been determined for heirs in the Qur'an. However, in practice, it is not always the same as the text of the Qur'an which has been stated in detail. Some have implemented it by Islamic inheritance law, while others are still not appropriate at first glance. The distribution of assets by Islamic inheritance law must be carried out by all Muslims everywhere in the world.
- b. Distribution of inheritance using customary methods. Customary inheritance law is a term that differentiates inheritance law in one system from another legal system. Customary inheritance law is different from other inheritance laws, the background of the Indonesian people's mind is the Pancasila philosophy with a society that has different customs and is Bhinneka Tunggal Ika. The background is a life together that is mutually helpful to create peace in life. One way to achieve peace in life is by holding amicable deliberations when there is a division of inheritance. This is considered to be the right solution and represents all parties so that no one feels intimidated. Family consultations usually only involve the nuclear family.

Sometimes also by bringing in village elders and village communities in West Bandung Regency to carry out the distribution of inherited assets according to custom, the distribution varies. The distribution is equal and gives preference to one part of the heirs as follows:

- a. Equal Distribution When someone dies, the first thing the heirs do is purify the assets owned by the testator. This means first paying the costs for arranging the body, paying

the heir's debts, and carrying out wills and bequests. From the remaining assets that have been purified, the new assets can be said to be inherited assets that are the rights of the heirs. The way of dividing inheritance that applies and is the rule in Kadilajo village is by dividing the inheritance equally between men and women. So, for example, the heir has five children, two boys and three girls. inheritance of a plot of land and two fields of rice fields.

- b. Distribution by giving preference to one of the heirs. The distribution of inherited assets by giving preference to one of the heirs is carried out for various reasons that are influenced by the situation and conditions in a family. Some give preference to one of the heirs because the other heirs think that the heir is considered less established and needs more. Sometimes female heirs get a larger share than the share of female heirs, this is what happened in Mr. Kiswanto's family, in the form of land with the size/amount that the female heirs got being larger than the land share of the male heirs.

There is also an increase in distribution to one of the heirs because they think that he is the one who has contributed to caring for and looking after their parents all this time, therefore for this service, the other heirs agree to increase their share. As was done by Fatmi's mother, she got a house on 200m<sup>2</sup> of land because she had contributed to taking care of and caring for the heir throughout her life. In this case, it can be said that the heir contributes to the heir. Referring to the Kadilajo community's habit of dividing inheritance above, shows that the habit of dividing inheritance in Kadilajo Village is not in line with Islamic inheritance law. Allah SWT has said in the Al-Quran, Surah an-Nisa verse 11, which means: Allah has prescribed for you regarding the distribution of inheritance to your children. Namely: the share of a boy is the same as the share of two girls. (QS. an-Nisa: 11).

The verse above is a verse that explains directly about inheritance and there are many more verses relating to inheritance which are used as sources and also the basis for inheritance law. In another verse, it is also mentioned about Allah's provisions for His servants regarding the worship of a servant with his Lord. These provisions are found in Allah's word in Surah An-Nisa Verses 13-14, which means: These laws are provisions provisions from Allah. Whoever obeys Allah and His Messenger, Allah will surely admit them to Paradise where rivers flow, while they will abide therein eternally and that is a great victory.

And whoever disobeys Allah and His Messenger and violates His provisions, Allah will surely put him in hell fire while he will remain there forever and for him will be a humiliating punishment" (QS. An-Nisa': 13-14). The verse above confirms that someone who carries out everything that is commanded by Allah and the Messenger of Allah will receive a reward in the afterlife in the form of eternal victory, where he will be placed in the most beautiful place that has been described. Meanwhile, those who do not carry out the commands of Allah and the Messenger of Allah will receive very humiliating rewards in the afterlife. In this case, Islamic inheritance (faith) is a knowledge that must be studied by Muslims.

Therefore, carrying out the Islamic order to distribute inheritance is one of the orders that Muslims must carry out. Its relation to the timing of the distribution of inheritance is one of the commands contained in the science of faith. Islamic inheritance law considers that the transfer of assets occurs solely due to death. In other words, a person's assets do not transfer with inheritance, if he is still alive. However, there is also Islamic law that allows this, namely dividing inherited assets using gifts. This distribution of gifted assets is the custom of the people of Kadilajo Village in the process of dividing inheritance when the heir is still alive. Regarding grants to heirs, most scholars agree on their permissibility.

In the book *Bidayatul Mujtahid*, it is said: Meaning: And according to the ulama leaders: it is permissible by agreement for someone to give away all his assets to other people who are not his family, without his children when he is in good health. So if the gift is given more importantly to their children than to other people. The majority of Ulama condemn it as *makruh* if the assets given to children are not equal, while Hanabilah thinks that the distribution is the man's share twice

as much as the woman's, as is one of the principles in inheritance law. This is different from Hanabillah's opinion that Imam Malik and the Dzahiriah group require equality according to the principles of justice. They argue with the hadith: Meaning: Nu'man Bin Basyir came to the prophet Muhammad SAW saying: O Rasulullah, I am giving this something to my son. Then the Messenger of Allah asked: Did you give all your children like that? No, Rasulullah: Answered Nu'man. Then take the gift back!" The Messenger of Allah said." (HR Bukhari and Muslim).

Gifting assets to legal heirs is permissible if there is a legal purpose and contains elements of benefit both in this world and the hereafter. However, what needs to be underlined is that the conditions for the validity of the gift contract must be fulfilled, such as the transfer of ownership directly without having to wait for the death of the person who will make the gift, and the donor must be in good health, in other words, not in a state of imminent death.

## 2. Part of the Heirs Who Have Contributed to Inheritance During Their Lifetime from the Maqāṣid Syari'ah Perspective

The purpose of law is one of several literary disciplines whose discourse is related to Islamic law. Maqāṣid shari'ah has also become part of several important references in Islamic shari'ah. Apart from that, Legal objectives also have a significant contribution to understanding Allah's laws and carrying out *ijtihad* towards several phenomena that come up whose answers are not stated in the text of the Qur'an and as-Sunnah as well as the *Ijma'* of the ulama.

Apart from that, knowing and understanding the purpose of the law will at least make us free from claims of heresy in religion. *Jumhur 'ulama* has agreed that the Qur'an and al-Hadith are the main sources for studying Islamic law, but it cannot be denied that these two sources still have many things that are global and do not cover all legal issues that are constantly changing over time, with the passage of time and changing times.

Maqāṣid sharia is seen as explained in the discussion of Legal objectives, that Islamic teachings are also about the distribution of inheritance intended to bring benefit and at the same time reject harm to human life both in this world and in the afterlife. Benefits in Maqāṣid al-shari'ah include five main things, namely: protection of religion, soul, mind, lineage, and property. Each of the five main things has a primary, secondary, and tertiary ranking.

As far as the author has searched in several literature, we have not found any discussion of Maqāṣid al-Syari'ah regarding the distribution of inheritance which systematically follows the systematic legal objectives of al-Ghazali and al-Syatibi, especially in classifying problems in the three domains of primary, secondary and tertiary. However, the explanation of Maqāṣid al-Syari'ah regarding the distribution of inheritance can still be found as a reference in the realm of protecting five main things: religion, soul, mind, lineage, and property.

In the al-usual-khamsah several lessons are obtained from the distribution of inheritance, these lessons are as follows:

a. Maintaining family unity. The distribution of inheritance is directly related to property, if it is not given based on the provisions (details of the sections) it is very easy to cause disputes between the heirs. This is because human nature is very fond of wealth. In this case, the distribution of inherited assets in Kadilajo uses the principle of kinship, so that one heir is happy with each other regarding their respective shares.

b. As a means to prevent misery or poverty of the heirs. It can be seen that in the inheritance system that occurs, there is a habit of dividing inherited assets using a gift system. It is hoped that in this grant system, the assets received can be used to increase children's productivity and independence, and will strengthen family relationships in a community.

c. As a means of preventing the possibility of hoarding someone's wealth. By detailing the rules regarding the distribution of inheritance, it is hoped that each heir will proportionally receive their proper rights. This rule was stated by a community leader, Mr. Sripurdadi, that the regulation for the distribution of inheritance in Kadilajo village is an equal distribution between male heirs and female heirs and is carried out on the principle of kinship.

d. Realizing the benefit of family members in community and state life. This is because the distribution of traditional inheritance in Kadilajo village has indeed been determined by village officials.

So obeying the government in a society becomes an obligation that needs to be obeyed. Based on the wisdom of inheritance distribution, it can be drawn into the realm of legal objectives as follows:

- a. To implement Islamic law. Carrying out God's provisions regarding the distribution of inheritance is a symbol of a servant's submission to his Lord. This is as stated in the Qur'an, Surah al-Nisa verse 13. This means: "(These laws) are provisions from Allah. Those who obey Allah and His Messenger, Allah will surely admit them to heaven in which rivers flow, while they will remain eternal therein; and that is a great victory." (QS. An-Nisa 59)
- b. To maintain family integrity and harmony. By dividing inheritance using the Islamic inheritance system, it is hoped that there will no longer be divisions between families due to fighting over their shares. This has been mentioned in detail in the Qur'an, especially in surah al-Nisa verses 11 and 12.
- c. Provides a guarantee that the heirs can live well after being abandoned by the heirs.
- d. To maintain assets, especially related to the distribution of assets. With the Kadilajo village's traditional inheritance system, it is hoped that there will be no accumulation of wealth for anyone. Assets can be distributed fairly to all heirs.

Looking at the function or wisdom of inheritance distribution mentioned above, the legal objective of inheritance distribution is more dominated by the protection of descendants than the protection of assets, and even then none of them are in the primary rank, but all are in the secondary or tertiary rank. Then, in Islamic inheritance, when someone dies, the first thing the heirs do is purify the assets owned by the testator. This means first paying the costs for arranging the body, paying the heir's debts, and carrying out wills and gifts if any.

From the remaining assets that have been purified, the new assets can be said to be inherited assets which are the rights of the heirs. However, what happened in Kadilajo Village was that the inherited assets were divided among the heirs using a gift system, as was done by Mrs. Fatmi an expert. heirs who contribute to the heir. So, apart from receiving inherited assets from her parents as heir, Fatmi's mother also received additional inherited assets from the heir after the heir died.

This column explains that the heir receives the inheritance during the testator's lifetime. In Islamic Inheritance law, this is called giving property from the heir to the heirs using a gift. A gift is a gift from someone to another without any element of coercion. Gifts are made while the person giving is still alive or has not died. Meanwhile, the implementation of a mandatory will is not influenced by and does not depend on the will or will of the deceased. So, the implementation of the will requires evidence and is based on legal reasons that justify that the will must be implemented.

Column number 5 explains that the heirs receive assets by calculating Islamic inheritance knowledge. Islamic inheritance law or what is commonly called faith in Islamic legal literature is one part of the overall Islamic law which regulates the transfer of assets from people who have died to people who are still alive. This kind of distribution means that all heirs have the right to inherit the inheritance. However, what happened in Kadilajo was that only one heir received the property, for example, what happened to Mr Sugi's family, his younger sibling, Fatmi, received the inheritance.

It is said that Mrs. Fatmi received additional inheritance because the heir had contributed to the heir during his lifetime. This proves that this kind of distribution is contrary to Islamic Inheritance, because when viewed from the perspective of Islamic inheritance law, if someone dies, the inheritance must be distributed to all the heirs. Islamic inheritance law or what is commonly called faith in Islamic legal literature is one part of the overall Islamic law which

regulates the transfer of assets from people who have died to people who are still alive.

It is also explained in a hadith narrated by Imam Bukhari: Meaning: Give the specified portion to those who are entitled and the rest to men from the closest male descendants. (HR. Imam Bukhari). The information above proves that existing Islamic inheritance practices are contrary to Islamic law. However, the author tries to analyze this matter further, namely using the perspective of the purpose of the law, which is the purpose of all God's provisions that are prescribed to mankind to obtain benefits in this world and the hereafter. Benefits in Maqāṣid al-Shari'ah include five main things, namely: protection regarding religion, soul, reason, lineage, and property.

In Islamic Inheritance Law, Maqāṣid al-Shari'ah can be seen as a perspective in realizing benefits and at the same time rejecting benefits for the process of dividing assets related to heirs who contribute to living heirs. The heirs aim to contribute to the heir getting a share of the inheritance because he is the one who has contributed to looking after and looking after the parents during the testator's life, therefore for these services, the other heirs agree to increase their share. As happened with Fatmi's mother, she got a house on 200m<sup>2</sup> of land because she had contributed to taking care of and caring for the heir throughout her life.

However, in reality, the case that happened to Fatmi's mother's family, if we look back at it, is that if an heir dies and wants to leave his property to the heirs, they can use several methods, including using the law of wills, grants and obligatory wills. A will is a person's message to give something to another person after he or she dies. If before death a person has made a will, then the will is fulfilled from his inheritance with no more than the assets if he had heirs and if he will make a will more than that, he must obtain the consent of his heirs. A gift is a gift of an object voluntarily and without compensation from someone to another person who is still alive to own.

This shows that the gift is made when the person giving is still alive or has not died. Meanwhile, the implementation of a mandatory will is not influenced by and does not depend on the will or will of the deceased. So, the implementation of the will does not require proof but is based on legal reasons that justify that the will must be implemented. If someone makes a will to the heirs and another person, and the other person gets half of the will then the will for the heirs is invalidated.

Because he made a will with someone who has the right to receive the will and someone who does not receive the will, the first is valid and the second is not valid. The distribution of a will by the testator by giving priority to the testator over the heirs is permissible, while the distribution by giving priority to the heirs before the testator is invalid.

Looking at the explanation above, the researcher concludes that the giving of assets from the heir to heirs who contribute to the heir is called distribution using the Will system with a legal objective perspective. If you use a gift a gift is a gift of an object voluntarily and without compensation from someone to another person who is still alive to own it.

In fact, in this case, the person who acquires the assets has contributed to the heir during their lifetime. If you use a mandatory will, this is not by the Sharia, because a mandatory will is only intended for other than heirs. After all, the implementation of a mandatory will is not influenced by and does not depend on the will or will of the deceased. So, in this case, the most appropriate way to distribute the assets obtained by the heirs which contribute to the testator's lifetime from the perspective of legal objectives, is by dividing the will law. Because, if you look at it, the purpose of what is happening is to look after and care for your parents, and the process that is happening has also gone through family deliberation, besides that the gift is also done while the heir is still alive. This is as illustrated in the following table of inheritance distribution functions about Legal objectives:

Based on the description above, the most dominant protection that occurs in the Kadilajo community is the protection of descendants, property, mind, and soul. Protection of religion is not implemented because the Kadilajo community does not fully carry out God's commands regarding the division of inheritance between men and women. So, it can be understood that the distribution of assets to heirs who contributed during the testator's lifetime means that the issues that want to be protected are the protection of the existence of descendants, religion, and also the protection of

assets, all of which are at a secondary or tertiary level. So, the most important thing that happens in the case of an heir who contributes to the heir during his or her lifetime from the perspective of legal objectives is the creation of benefits among the heirs in their family. Every legal enactment by Allah contains a goal, namely the benefit of humans.

## Conclusion

Based on the findings and discussion above, several conclusions can be drawn, including the following:

- a. The distribution of inheritance in Kadilajo Village takes place while the heir is still alive by dividing the assets equally between male heirs and female heirs. The distribution is carried out using family consultation so that one heir and the other heirs are mutually happy.
- b. Heirs who contribute to the heir during their lifetime receive more inheritance (from the remaining equally distributed assets). The remaining assets are not permitted in Islamic Inheritance, especially from the Maqāṣid sharia perspective. Because, in the Legal objectives, protection of religion is not implemented by the Kadilajo community in terms of dividing a male and female inheritance. However, protection of the existence of descendants, religion, and also protection of property (hifdh al-mal) which are all at a secondary or tertiary level (tahsiniyyat) have been fulfilled.

## Suggestion

Based on the discussion and conclusions above, recommendations can be given in the form of suggestions, namely as follows

- a. For the people of Kadilajo village, to implement inheritance law by Islamic teachings as a whole so that the law is not just a sheet of regulations whose existence does not affect the community.
- b. For religious leaders and community leaders to reformulate the meaning of amar ma'ruf so that the invitation conveyed is not only in aspects of worship but also Islamic inheritance law as an effort to ground Islamic law.
- c. For the government, the formulation of the law regarding inheritance law in Kadilajo village should be reviewed, so that customary law is in line with Islamic inheritance law.
- d. Other researchers with similar themes, can focus their research on aspects of the relationship between law and religious knowledge with an interest in dividing inheritance using Islamic inheritance law.

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