



DOI: <https://doi.org/10.38035/gijlss.v3i2>
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Alternative Distribution of Muslim Community Heritage in Kampung Kauman Yogyakarta

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Abstract: The law of Islamic inheritance has been largely abandoned by the Indonesian Islamic community either directly or indirectly. This phenomenon illustrates that there has been a refraction of the sense of justice in settling inheritances in accordance with Islamic inheritance law. This shows that the values contained in the Qur'an regarding inheritance verses require a clear understanding according to the conditions and sense of justice while still paying attention to the purpose of the shari'a of Islamic law. In the distribution of inheritance, there are often problems when dividing the shares, so there are several alternatives in dividing the inheritance. The division of inheritance often causes disputes in the family, this journal examines alternative distribution that can be done if there are still problems in the distribution of inheritance for heirs based on positive law and Islamic law. A balance between rights and obligations will always be present from every wise and wise decision, including in the matter of property distribution. Every right of a male or female heir in obtaining property must be directly proportional to the needs and responsibilities needed for a more peaceful balance in life.

Keyword: Division, Inheritance, Alternative, Islamic Law

INTRODUCTION

Inheritance Law in Islamic law is one of the parts of family law, it is very important to learn so that in the implementation of the distribution of inheritance there are no mistakes and can be carried out fairly and wisely, because by studying Islamic inheritance law, a Muslim, will be able to fulfill the rights related to inheritance after it is left by the heir and conveyed to the heirs who are entitled to receive it. To be able to divide inheritance in the right way, a Muslim should need knowledge related to preparations and procedures before distributing inheritance. Islamic sharia has established the rules of inheritance in a very orderly and fair form. Among them, the right to property ownership is determined to every human being, both male and female, in a legal way. Islamic sharia also stipulates the right to transfer a person's

property after death to his heirs, from all his relatives and descendants, regardless of whether male or female, large or small.¹

Therefore, the Qur'an is the main reference material for the law as well as the determination of the distribution of inheritance, while the provisions on inheritance taken from the hadith of the Prophet Muhammad (peace be upon him) and the ijma of the scholars are very few. It can be said that in Islamic law and sharia there are very few verses of the Qur'an that detail a law, except for the law on inheritance. This is because inheritance is a form of legal ownership and is justified by Allah SWT., besides that property is also a pillar of life enforcer both individually and in community groups.² The implementation of inheritance distribution in Islam aims to create peace of life for those who carry it out, this is seen as part of sharia science.³ Islamic Sharia has given a place related to inheritance rules and laws regarding property as best and fairest⁴ as possible. Talking about Islamic inheritance law, the Compilation of Islamic Law is here to make it easier for the Muslim community in Indonesia which is a guideline in several family matters, including inheritance law.

One of the villages in Yogyakarta In line with that, Islam pays great attention to and regulates the use of property in a good way. Both in terms of buying and selling, borrowing, wills, without exception inheritance issues and so on. There is no doubt that in Islam wealth has high values or has an honorable position if in the use of wealth in accordance with what is recommended in Islamic Sharia, by owning wealth, perfection, happiness, honor, health, and prosperity will be easily obtained by everyone. The Islamic inheritance law listed in the Qur'an can be changed in accordance with the conditions and changes in the sense of justice and benefit needed by the community, especially Muslims in Indonesia.

METHOD

This research uses a normative-empirical approach. In this study, a normative-empirical legal approach is used. The data processing technique uses a descriptive qualitative method, which will then be compiled systematically. The data used were literature data and interview data. The data that has been collected is then analyzed normatively qualitatively, that is, by analyzing which then produces qualitative reasoning logic. Qualitative analysis applies to the data and cases studied

RESULT AND DISCUSSION

Heirs in the view of Islamic law

The definition of inheritance in the Encyclopedia of Islamic Law that the word inheritance comes from the Arabic language, namely *wartsa-yartsu-warisan* or *irsan/turas* which means to inherit are provisions on the distribution of inheritance which include provisions on who is entitled and not entitled to receive inheritance and how much property each receives, also alluding to the inheritance law brought by the Prophet Muhammad PBUH has changed the structure of pre-Islamic Arab inheritance law and At the same time overhauling the kinship system, and even overhauling the system of property ownership in Arab society at that time, Islamic inheritance law also contains rules that every person, whether male or female, has the right to have inheritance.

The meaning according to the language is 'the transfer of something from one person to another', or from one people to another and is not limited only to matters related to property,

¹ Muhammad Ali ash-Shabuni, *The Law of Inheritance in Islam* (Depok, West Java: Pathan Prima Media, 2013), p. 31

² Ibid, p.34

³ Ibid, p.34

⁴ T.M. Hasbi ash-Shiddieqy, *Fiqhul Mawaris: Hukum 2 Warisan Dalam Sharia Islam* (Jakarta: Bulan Bintang, 1973), p. Sec. 21.

but includes property and non-property. Al-Miirats according to the term is "the transfer of ownership rights from the deceased to his surviving heirs, whether what is left behind is in the form of property (money), land, or anything in the form of legal property rights according to sharia". While inheritance according to the term, namely, "the transfer of the property rights of the deceased to his surviving heirs, whether what he left behind is in the form of fixed property or immovable property or rights according to sharia law."

According to Fiqh, "mawaris" contains the meaning of the rights and obligations of the heirs towards the inheritance, determining who is entitled to the inheritance, how to divide each one. Fiqh inheritance is also called Faraidh Science, because it talks about certain parts that are the right of the heirs.⁵ The discussion of Fiqh inheritance, including Tazhij issues, namely the management of the corpse, the payment of debts and wills, then about the distribution of property. It was also discussed about the obstacles to inheritance, Azhabul Furudh, ashobah, hijab inheritance dzawil arkam, the rights of children in the womb, the problem of mafqud or missing persons, children resulting from adultery, as well as special problems, such as aul, problems of deliberation, tsulusul baqi, and so on.⁶ What is meant by Islamic Inheritance Law is a law that regulates everything related to the transfer of rights and or obligations to a person's property after he or she dies to his heirs. The main basis of Islamic inheritance law is the Qur'an and Al-Hadith, especially regarding the share of each heir. In surah An-Nisa' verses 11 and 12. Allah said:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ فَإِنْ كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ وَإِنْ كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِنْ كَانَ لَهُ وَلَدٌ فَإِنْ لَمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَتْهُ أَبَوَاهُ فَلِأُمِّهِ الثُّلُثُ فَإِنْ كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ مِنْ بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ آبَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفَعًا فَرِيضَةٌ مِنَ اللَّهِ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا ﴿١١﴾ وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُمْ إِنْ لَمْ يَكُنْ لَهُنَّ وَلَدٌ فَإِنْ كَانَ لَهُنَّ وَلَدٌ فَلَكُمُ الرُّبُعُ مِمَّا تَرَكْنَ مِنْ بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ وَلَهُنَّ الرُّبُعُ مِمَّا تَرَكْنَ إِنْ لَمْ يَكُنْ لَكُمْ وَلَدٌ فَإِنْ كَانَ لَكُمْ وَلَدٌ فَلَهُنَّ الثُّمُنُ مِمَّا تَرَكْتُمْ مِنْ بَعْدِ وَصِيَّةٍ تُوصُونَ بِهَا أَوْ دَيْنٍ وَإِنْ كَانَ رَجُلٌ يُورِثُ كَلَّةً أَوْ امْرَأَةً وَلَهُ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ مِنْ بَعْدِ وَصِيَّةٍ يُوصَى بِهَا أَوْ دَيْنٍ غَيْرَ مُضَارٍّ وَصِيَّةً مِنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَلِيمٌ ﴿١٢﴾

I'm going to be in a state of disbelief. It's a matter of fact that you're going to be a man, but you're going to be a man who's going to be a man. It's a matter of time that's not a matter of fact that it's not a matter of time for you. It's a matter of time that you're going to be a man who's in a state of disbelief. I'm going to be a man who's in a state of shock. Fahum shurkaa

The verses about inheritance mentioned above are provisions of Allah SWT in general regarding anyone who becomes an heir based on kinship relationships such as father, mother, child, and brother, or because of a marital relationship (husband/wife). Apart from that, it also determines how much of each heir's share and what steps are taken before determining the inheritance's inheritance, it is said to be inheritance (first completing the heir's will and paying the heir's debt).

The principle of justice in Islamic inheritance law contains the understanding that there must be a balance between the rights obtained and inheritance property with the obligations or burdens of life that must be borne/fulfilled among the heirs, therefore the meaning of justice in Islamic inheritance law is not measured by the equality of levels between the heirs but is determined based on the magnitude of the burden or responsibility that is carried on them. Reviewed from the general situation/human life.⁷

This shows that justice in Islamic inheritance law is not only distributive justice (which determines the amount of the share based on the obligations imposed on the family),

⁵ H.A Djazuli, *The Science of Fiqh Excavation: The Development, and Application of Islamic Law*, (Prenada Media Group, 2005), p. 48.

⁶ Ibid, pp. 48-49

⁷ Ahmad Zahari, *Three Versions of Islamic Heritage Law: Shafi'i, Hazairin and KHI*, (Romeo Grafika, Pontianak, 2003), p. 25

but also is commulative, i.e. the inheritance is also given to women and children. This is different from the laws of Jewish and Roman heritage and also pre-Islamic customary law, even some of which are still in force today.

The difference based on the magnitude and size of the burden and responsibility of men and women as described above, is based on the law of causality of rewards and responsibilities, not containing elements of discrimination. The specified part of women is balanced with their obligations. Because in Islam, women are basically freed from carrying the economic responsibility of the family. Therefore, if a person receives a high share of inheritance, it means that it is a manifestation of his level of obligation, which is the concept of sociological difference in Islamic society.

Islamic inheritance law has the following principles:

1. Islamic inheritance law takes a middle ground between giving a person full freedom to transfer his inheritance by way of a will to the person he wants, as is the case in capitalism/individualism and prohibiting the distribution of inheritance altogether as is the principle of communism which does not recognize the property rights of individuals, which in itself does not recognize the inheritance system
2. Inheritance is a legal stipulation. The testator cannot deprive the heir of his or her right to the inheritance, and the heir is entitled to the inheritance without the need for a voluntary declaration of acceptance or by a judge's decision. However, it does not mean that the heirs are burdened with paying off the heir's debts.
3. Inheritance is limited in the family environment, with the existence of a marital relationship or due to a legitimate lineage/descendant relationship. The family whose relationship with the heir is closer takes precedence over the more distant one, the stronger the relationship with the heir is preferred over the weaker. For example, fathers take precedence over grandfathers, and siblings take precedence over cousins.
4. Islamic inheritance law tends to distribute inheritance to as many heirs as possible, by assigning a certain share to several heirs. For example, if the heirs consist of father, mother, husband or wife, and children, they are all entitled to inheritance.
5. Islamic inheritance law does not distinguish between children's rights to inheritance. A grown child, a young child, a newborn, are all entitled to their parents' inheritance. However, the difference in the size of the share is held in line with the difference in the size of the burden of obligations that must be fulfilled in the family. For example, boys who bear the burden of family support have greater rights than daughters who are not burdened with family support.
6. Islamic inheritance law distinguishes the size of a certain part of the heir in harmony with his needs in daily life, in addition to looking at the close relationship with the heir. Certain parts of the treasure are $\frac{2}{3}$, $\frac{1}{2}$, $\frac{1}{3}$, $\frac{1}{4}$, $\frac{1}{6}$, and $\frac{1}{8}$. This provision is included in the nature of worship that must be done because it has become a provision of the Qur'an that there is a part of the heirs whose nature of Ta'abbudi is one of the cirri of Islamic inheritance law.⁸

In Islamic inheritance law, there are also pillars of inheritance, namely:

1. Heirs, namely people who have died, and their heirs have the right to inherit their inheritance.
2. Heirs, namely those who have the right to control or receive the inheritance's inheritance due to the existence of a kinship bond (nasab), or marriage bond, or other bond.

⁸ Muhammad Hasballah Thaib, *Islamic Heritage Law*, (Master of Notary at the Postgraduate School of the University of North Sumatra, Medan, 2009), pp. 8-10.

3. Inheritance, which is any type of object or possession left by the heir, either in the form of money, land and so on.⁹

The principles of Islamic inheritance law, which are derived from all the legal verses in the Qur'an and the sunnah of the Prophet Muhammad PBUH, are:

1. Asas Ijbari

The basis of ijbari is the transfer of property from a deceased person to his heirs happens by itself according to the will of Allah SWT without depending on the will of the heirs or the request of his heirs. The element of coercion according to the meaning of the terminology can be seen in terms of the heirs being forced to accept the reality of the transfer of property to themselves in accordance with what has been determined.¹⁰

2. Asas Bilateral

The bilateral principle in inheritance means that the inheritance passes to or through two directions. This means that everyone receives inheritance rights from both sides of the family line, namely the male lineage relative and the female lineage relative. This principle can be clearly seen in the words of Allah SWT in Surah Al-Nisa' (4): 7,11, 12 and 176.¹¹

3. Single Handles

Islamic law teaches the principle of individual inheritance in the sense that inheritance can be divided to be owned individually. Each heir receives his or her share separately, without being associated with the other heirs. The entire inheritance is expressed in a certain value that may be divided, then the amount is distributed to each entitled heir according to the proportion of their respective shares.

4. The Basis of Balanced Justice

The word fair in relation to inheritance can be interpreted as a balance between rights and obligations as well as a balance between what is obtained and its needs and its uses. This as a means that there must always be a balance between rights and obligations, between what a person gets and the obligations that he must fulfill. Men and women, for example, get rights that are proportional to the obligations they carry (later) in family and community life. In the Islamic inheritance system, the inheritance received by the heirs from the heirs is in essence an extension of the heir's responsibilities towards his family. Therefore, the difference in the share received by each heir is balanced by the difference in their respective responsibilities towards the family.

5. The Sole Basis of Death

Islamic law stipulates that the transfer of one's property to another using the term inheritance only takes effect after the owner of the property dies. This principle means that a person's property cannot be transferred to another person (family) in the name of heir as long as the owner of the property is still alive. It also means that all forms of transfer of a person's assets that are still alive, either directly or after his death, are not included in the term inheritance according to Islamic Law.¹²

Kampung Kauman Yogyakarta

Kampung Kauman Yogyakarta, an area that is thick with the nuances of Islamic values and Javanese culture and is a residential environment that has existed for a long time in the central area of Yogyakarta City which has a very distinctive character, especially the

⁹ Mukhlis Lubis, *The Science of Inheritance Distribution*, (Al-Manar Islamic Boarding School, Medan, 2011), p. 7

¹⁰ Amir Syarifuddin, *Islamic Heritage Law*, (Kencana, Jakarta, 2004), pp. 17-18

¹¹ Ibid, p. 29

¹² Amir Syarifuddin, *The Law of Inheritance...*, p. 28

characteristics of its historicity and Islamic religiosity. Kampung Kauman which means village where the 'people' live. The word 'people' comes from the Arabic word *qoumuddin* which means enforcer.¹³

The long history of Kampung Kauman as one of the oldest communities in Yogyakarta has formed a unique and distinctive inheritance law system. Javanese customs that uphold the values of kinship and mutual cooperation have permeated the practice of heirs in Kampung Kauman. And also the Kauman Village of Yogyakarta as an area where one of the largest Islamic organizations in Indonesia, namely Muhammadiyah was founded by Kyai Haji Ahmad Dahlan, the presence of Muhammadiyah in the Kauman Village of Yogyakarta indirectly provides a pattern of understanding and religious practices of its people. However, the development of the times and modernization have also brought changes in inheritance practices in Kampung Kauman Yogyakarta. The emergence of various new challenges and problems requires the people of Kampung Kauman Yogyakarta to continue to adapt and align the practice of inheritance with the demands of the times.

Alternative Distribution of Inheritance for Muslims in Kampung Kauman Yogyakarta

The distribution of inheritance in Kauman Village usually uses Islamic inheritance law, and with the existence of the Compilation of Islamic Law, now the people of Kampung Kauman Yogyakarta also accept the new regulations if there is a distribution of inheritance according to Islamic law has not been clearly regulated but is already in the KHI regulations.

An example of a case found by researchers in Kampung Kauman Yogyakarta is the distribution of inheritance for successor heirs, where the rules regarding the share for successor heirs are not specifically mentioned in the Qur'an, but in the Compilation of Islamic Law Article 185 heirs who die first from the heir, then his position can be replaced by his son. As well as the share for the surrogate heirs is not greater than the equivalent heirs.

According to the information of Envhy's mother as the heir to replace his deceased father first from his grandfather (heir). His grandfather left an inheritance for his two sons, one of whom was the father of Envhy's mother who had passed away in the form of yard land in Pakualaman. Because there was a difference in the understanding of inheritance between Envhy's mother and her uncle, the distribution of inheritance was carried out by consensus deliberation in which the share of Envhy's mother was not as large as if her father were still alive. This happened because the envhy mother did not want there to be a long problem in the distribution of inheritance, so the envhy mother gave up her share.

Inheritance problems that are not resolved properly will generally lead to disputes. The following is the settlement of inheritance disputes in Islamic law: According to Komar Kantaatmadja, in a colloquial sense "dispute" is intended as a situation in which parties who make certain efforts (for example: business, inheritance, family) have problems, namely wanting or wanting the other party to do something but the other party refuses to do so.¹⁴ A conflict can develop or turn into a dispute if the aggrieved party has expressed its dissatisfaction or concern either directly or indirectly to the party considered to be the cause of the loss or to another party.

Islamic sharia establishes the rules of inheritance in a very orderly and fair form. It stipulates the right to property ownership for every human being, both men and women in a legal way. Islamic sharia also stipulates the right to transfer a person's property after death to his heirs, from all his relatives and descendants, without distinguishing between men and women, large or small

¹³ Fazri, Bambang, "A Study of Kauman Islamic Village in Gondomanan District, Yogyakarta City", in *Bandung Conference Series: Urban & Regional planning*, Vol. 2 No.2, 2022

¹⁴ Komar Kantaatmadja, *Some Problems in the Implementation of ADR* (Paper, FH-Unpad, Bandung, 1997), p.

Islamic law recognizes the way of distributing inheritance called *Takharruj* or *tashaluh*. Islamic sharia allows one of the heirs to declare that he will not take his inheritance rights and that part will be given to the other heirs. This case is known among scholars as the "resignation" of their inheritance rights.

Ash Shabuni mentions the way of settlement with *at takharaj min at tarikah*, which is the resignation of an heir from the right he has to get a share according to shari'i, in this case he only asks for a reward in the form of a certain amount of money or goods from another heir or from existing inheritance. This is allowed and justified in Islamic law.¹⁵

Tashaluh means the division of inheritance based on the principle of peace by means that a certain heir wills his share to be given to another heir, after he knows his share. The purpose of this peace is to settle quarrels or disputes among the heirs. According to Ahmad Rofiq, the way of peace is in accordance with what was expressed by Muhammad Salam Madkur, that Umar Bin Khattab advised Muslims so that among those who have affairs can choose the way of peace. Umar said: "It is permissible to make peace among the Muslims, except to make peace that legalizes what is haram and prohibits what is halal." Even more emphatically Umar ordered: "Restore the settlement of the matter between the relatives so that they can make peace, for indeed the settlement of the court causes bad feelings."¹⁶

In addition, according to Ahmad Rofiq, in a peaceful way (*Sulhu*) it is possible to make efforts to reduce the economic gap between one heir and another, because the economic gap between families can trigger conflicts between them.¹⁷

In this case, the Compilation of Islamic Law (KHI) has actually accommodated this system of distribution of inheritance in a peaceful way (*sulhu*) in article 183 which states: "The heirs can agree to make peace in the distribution of inheritance after each has realized his share." The compilation with the above clause requires that the distribution of the inheritance by peaceful means or deliberation the heirs understand the rights and shares received, as stipulated in the Qur'an on *furud al-muqaddarah*. After that, each party reconciled. If there are among the existing heirs who are economically deficient and get a small share, then the heirs who receive a large share sincerely give to the others is a very positive and commendable action or everything is left to the agreement of the heirs to determine their respective shares. Some state that the division of inheritance by peaceful means or deliberation is a form of dual attitude. On the one hand, they want the provisions of sharia as a reference in the distribution of inheritance to be implemented, but on the other hand, in reality, they divide the inheritance by way of deliberation. But if you pay attention, the division of inheritance by deliberation is not automatically considered a dual attitude.

The division of inheritance by way of deliberation is usually carried out by the heirs so that family relations are maintained properly. Actually, the main point of this principle is the willingness of the existing heirs to give a share according to the "will" of the heir. If there are heirs who are economically sufficient, while other heirs are poor, then willingly, the poor heirs take a larger share. Likewise, it can happen that an heir gives an additional share to the other heirs, while the heir concerned sincerely does not take his share at all.

The consensus generated based on deliberation sometimes results in a difference between the share received by the heir and the share according to the one determined in Islam. Nevertheless, the spirit or soul of Islamic inheritance law is not abandoned, meaning that the heirs have an awareness of the share that must be obtained based on *faraid* figures, but it is often subordinated (pulled backwards) by giving the principle of "willingness" an opportunity to play a greater role. This is proven when the heirs do not reach an agreement,

¹⁵ Muhammad Ali Ash Shabuni, *The Distribution of Inheritance According to Islam*, (Gema Insani Press, Jakarta, 1995), p. 141

¹⁶ Ahmad Rofiq, *The Renewal of Islamic Law in Indonesia*, (Gama Media, Yogyakarta, 2000), p.15

¹⁷ Ahmad Rofiq, *Fiqh Mawaris Revised Edition*, (Raja Grafindo Persada, Jakarta, 2002), p. 199

which means that there is no willingness among the heirs, then the only alternative is to carry out the provisions as enshrined in Islamic inheritance law.

Various reasons may prompt some heirs to give up some of their rights to other heirs. For example:

1. One of the heirs is a person who is successful in his economic life when compared to other heirs. Thus he voluntarily gives his rights to those who are less successful in their economic life
2. One of the heirs realizes that the one who takes the most care of his parents during his life is one of the heirs who is left behind, so it is natural that the heir gets more inheritance than the inheritance of the heir

In principle, the way of deliberation is the way that is allowed, so that the atmosphere of brotherhood can be well established, as long as the peace is not intended to prohibit the halal and legalize the haram, then it is permissible, as the Hadith of the Prophet PBUH which means: "Peace is permissible among Muslims, except (peace) to legalize what is haram and prohibit what is halal.

However, the practice of dividing inheritance based on deliberation and consensus must also meet 2 (two) conditions, namely:

1. The necessity of legal action from the parties involved in the distribution of inheritance. This is because in the division of inheritance based on deliberation, it is possible for some parties to sacrifice or abort their rights, both in whole and in part. The issue of property rights, because it is related to the practice of removing one's property rights, is closely related to the issue of the ability to act legally, meaning that the abortion of a new property is considered legal, if it is done by a person voluntarily and has the ability to act.
2. The distribution of inheritance based on deliberation and consensus is not carried out because of dissatisfaction with the existing provisions based on Islamic inheritance law, for example, such as successor heirs, their position and share in the Qur'an are not clearly mentioned regarding the part of the successor heir, but in the Compilation of Islamic Law Article 185 it has been explained that the successor heir has the right to replace the main heir if he dies. In the past, from the heirs whose share of the inheritance did not exceed the equal heirs, he proposed the distribution of the inheritance based on deliberation.

The faraid system in Islam provides an opportunity for the heirs to divide the inheritance without having to follow the details of the division that have been established by the Qur'an and Hadith. On the basis of the agreement of the heirs, the amount of each heir's share can then change according to the agreement of the heirs. On the basis of the full awareness and sincerity of each heir, one heir may even fully surrender his right to be granted to another heir on the basis of objective and rational considerations.

Factors that affect the use of the inheritance distribution system with deliberation include economic conditions, hereditary customs, and the social situation of the heirs. In the division of inheritance by deliberation, it must meet the conditions that have been determined in order to create a fair and safe distribution, The requirements are:

- 1) Ability to act before the law

The ability to act before the law is because in the division of inheritance by deliberation there may be the tone of the party who sacrifices and aborts his rights both in whole and in part, meaning that the abortion is considered valid if it is done by a person voluntarily and has the ability to act.

- 2) Baligh

A person is considered puberty according to Shafi'I, Hambali when a person is 15 years old while according to Maliki when he is 17 years old and according to Hanafi

when a boy is 18 years old and a girl is 17 years old. When measured physically, a person is considered puberty when boys have experienced wet dreams and girls have experienced menstruation.

3) Rusdy (ability to control wealth)

Not everyone who is sensible and puberty is able to control his property. The rusdy nature is a person's ability to control property so that the use of property is not redundant.¹⁸

In addition to the requirements, there are also principles of deliberation inheritance, namely:¹⁹

1. The principle of divinity and self-control
2. The basis of equality and equal rights
3. The Basics of Harmony and Family
4. The basis of deliberation and consensus
5. Principles of justice

Settlement of inheritance distribution If the method of peace as above cannot reach an agreement, other alternatives can be used in resolving the distribution of inheritance in other ways, namely:

1. **Family Deliberation (Informal Mediation):** This is the most basic option, where the heirs seek to resolve the issue internally with the guidance of an elder or a respected neutral party. Success depends heavily on the willingness of all parties to dialogue and compromise.
2. **Formal Mediation:** If family deliberation is deadlocked, mediation facilitated by a professional (certified) mediator may be the solution. The mediator will help identify the root of the problem, facilitate effective communication, and guide the parties to reach a fair and binding agreement. This mediation can be done out of court (non-litigation) or under the auspices of the court as part of the litigation process.
3. **Arbitration:** In arbitration, the heirs agree to submit the estate division dispute to an arbitrator or panel of arbitrators who will make a final and binding award. This process is more formal than mediation but is still faster and more private than litigation in court.
4. **Distribution of Inheritance Through a Notary Deed:** If all the heirs agree on the portion and how it is divided, they can make a deed of division of joint rights before a notary. This deed has strong legal force and avoids complex litigation processes.
5. **Will Grants (Testaments):** Although not an alternative to dispute resolution, estate planning through a will grant made early on by the heirs can greatly minimize the potential for conflict later on. With a clear will, the heirs have determined how their assets will be divided.

CONCLUSION

The settlement of inheritances cannot only be completed by ordinary calculations. Traditional inheritance settlement is often time-consuming, expensive, and potentially leads to conflicts between heirs. However, the success of settling inheritances with an alternative, namely by deliberation not dividing the inheritance according to the portions of the Qur'an and legal regulations in Indonesia, depends on good faith, openness, and sincerity and willingness to compromise from all heirs. An adequate understanding of inheritance law is also important so that the agreement reached does not conflict with the provisions of applicable law. By considering these various alternatives, it is hoped that the settlement of

¹⁸ Satria Efendi m.Zein, (Contemporary Islamic Family Law Problems),p.343-344

¹⁹ Eric, The Relationship Between Islamic Law and Customary Law in the Distribution of Inheritance in the Minangkabau Society, (*Journal of Muara Social Sciences, Humanities and Arts*, Vol.3, No.1 2019),p.64

inheritance distribution can run smoothly, fairly, and without leaving deep wounds for the family

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