



Islamic Inheritance Law in Indonesia: Analysis of Legal Implementation and Compliance Among Muslim Communities

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ABSTRACT

This research discusses the implementation of Islamic Inheritance Law for Muslims in Indonesia, which in its application is still not fully implemented for Muslim heirs. When referring to the Law, Muslim heirs are obliged to divide the inheritance property by Islamic law, but in practice in Indonesia, many heirs still use customary law and civil law (Burgerlijk Wetboek) based on various reasons. The purpose of this research is to find out the implementation of Islamic Inheritance Law for the Muslim Population in Indonesia. This research method uses the Law approach method, which is carried out by analyzing various laws and regulations related to the field of Inheritance Law. Based on the results of the research, Islamic Inheritance Law cannot be implemented in Indonesia for the Muslim population because Indonesian society is still influenced by customary inheritance law, either following the individual-patrilinial, matrilineal or bilateral-collective inheritance system. Apart from the strong influence of tradition or customary law, another obstacle is that Muslims do not fully understand the concept of justice and equality in Islamic inheritance law, especially when it comes to the portion of sons and daughters. It is necessary to formulate a national inheritance law system by taking into account the general principles of inheritance and accommodating each inheritance law system in the country.

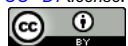
Keywords: Inheritance Law; Islamic Inheritance; Customary Inheritance; Western Inheritance.

ABSTRAK

Penelitian ini membahas tentang *Implementasi* Hukum Waris Islam Terhadap Penduduk Muslim di Indonesia yang dalam penerapannya masih belum dilaksanakan secara penuh bagi ahli waris yang beragama islam. Jika mengacu pada Undang-undang, ahli waris yang beragama islam wajib membagi harta waris secara hukum islam, namun dalam praktek di Indonesia, ahli waris masih banyak yang menggunakan hukum adat maupun hukum perdata (Burgerlijk Wetboek) dengan dilandasi berbagai alasan. Adapun tujuan dari penelitian ini adalah untuk mengetahui implementasi Hukum Waris Islam terhadap Penduduk Muslim di Indonesia. Metode penelitian ini menggunakan metode pendekatan Undang-undang, yaitu dilakukan dengan menganalisis berbagai peraturan perundang-undangan terkait dibidang Hukum Waris. Berdasarkan hasil penelitian Hukum Kewarisan Islam belum dapat terlaksana di Indonesia bagi penduduk muslim karena masyarakat Indonesia masih dipengaruhi oleh hukum kewarisan adat, baik yang mengikuti sistem kewarisan individual-patrilinial, matrilineal atau pun bilateral-kewarisan kolektif. Selain dari kuatnya pengaruh tradisi atau hukum adat, yang menjadi hambatan lain yaitu umat Islam belum sepenuhnya memahami konsep keadilan dan kesetaraan dalam hukum waris Islam, khususnya ketika berkaitan dengan porsi anak laki-laki dan perempuan. Diperlukan penyusunan sistem kewarisan hukum waris nasional dengan memperhatikan prinsip prinsip umum kewarisan serta mengakomodir masing masing sistem hukum waris di Indonesia.

Kata Kunci: Hukum Waris; Waris Islam; Waris Adat; Waris Barat.

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INTRODUCTION

In Islamic law, someone who dies and leaves behind property, his property must be inherited. The distribution of the property must be in accordance with applicable law, namely inheritance law. Inheritance Law is the law that regulates the transfer of ownership rights of the testator's inheritance (tirkah), determines who is entitled to be an heir and how much each portion is. Inheritance law regulates who is entitled to be an heir, who gets a portion of the inheritance, who is prevented from receiving an inheritance, how much each portion is, how the provisions for the distribution are, and regulates the rights related to the distribution of the inheritance (Rofiq, 2001). The Qur'an has regulated the method of dividing inheritance, heirs and the requirements as heirs, wills and matters that discuss inheritance in detail. Ideally, the provisions determined by the Qur'an must be implemented. However, due to various factors that surround it, these provisions are not implemented, so that an understanding arises of the existence of



Islamic inheritance law as if it were only a series of rules without any practice. In fact, if studied in depth, inheritance law occupies a very important place in Islamic law.

The term inheritance in Islam is also called *fara'id*, which is the plural form of *faridah* which literally means a predetermined portion and this understanding is closely related to *fardu* which means an obligation that must be carried out. (Juhaya S. Praja 1995). Thus, Inheritance Law in Islam is an obligation that must be carried out by every person who adheres to Islam because its existence is considered to be absolutely valid. A Muslim, whether male or female, is obliged to study Islamic Inheritance Law. In fact, it is also obligatory for those who have understood and mastered Islamic Inheritance Law to teach it to others.

According to (Abdurrahman 1992) in the Compilation of Islamic Law, Inheritance Law is a law that regulates the transfer of ownership rights of inheritance (*tirkah*) of the testator, determining who is entitled to be an heir and how much each part is. We can see this in Book II KHI, article 171point A. Inheritance law is part of civil law which is included in family law which is closely related to human life. Every human being will definitely experience a legal event called death. The legal consequences that arise when a person dies occur include the issue of how to manage and continue the rights and obligations of the person who dies. Likewise with the rights and obligations of the heirs left behind, in this case children (Idris 1982).

The division of Islamic inheritance law applies to Indonesian people who are Muslim and is regulated in Articles 171-214 of the Compilation of Indonesian Law, namely Islamic law material written in 229 articles. Islamic inheritance law adheres to the principle of bilateral individual inheritance, not collective or majority. Thus, the heir can come from the father or mother's side. As a country with a majority Muslim population, Indonesia is also an archipelagic country consisting of various ethnicities, religions, and customs that differ from one another. This affects the laws that apply in each group of society known as customary law. Customary law itself is unwritten, only in the form of norms and customs that must be obeyed by certain communities in an area and only apply in that area with certain sanctions for those who violate it. Therefore, customary inheritance law is greatly influenced by the structure of society or kinship.

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In addition to Islamic Inheritance Law and Customary Inheritance Law, the inheritance law system in Indonesia is also based on western inheritance which is sourced from the Civil Code (*Burgerlijke Wetboek*). This applies to some Indonesian people who are bound by the western legal system, namely the European group and their descendants, considering that in the pre-independence era, the source of law applicable in Indonesia was the Civil Code which is still used today.

Pluralism in Indonesia can be seen from the existence of three legal systems adopted in Indonesia, namely the European legal system, the customary legal system, and the Islamic legal system. The three legal systems are continuous with each other to achieve the same goal, namely to achieve justice and welfare, but by following the rules in each of these legal systems. This can be a problem for Islamic heirs in Indonesia because of the differences in the characteristics of each inheritance law system in Indonesia. Even though Islamic heirs are required to use the Islamic inheritance system, the influence of western inheritance and customary inheritance is still very prominent in society.

METHOD

This study uses the Law approach method that analyzes various laws and regulations in the field of Islamic inheritance law, Customary Law, and Civil Law. The data sources come from primary legal materials in the form of laws and regulations on Inheritance Law, while secondary legal materials come from books related to Islamic



inheritance law, civil law, and customary law, as well as books on legal research methods, and scientific papers related to Law.

RESULT AND DISCUSSION

Legal Basis for the Distribution of Islamic Inheritance, Civil, Customary and Principles of Islamic Inheritance Law Applied in Indonesia

Legal System for Distribution of Inheritance

Islamic Inheritance Distribution

The first legal basis for Islamic inheritance is stated in Law Number 7 of 1989 concerning Religious Courts. Then it was amended to Law Number 3 of 2006 and last amended by Law Number 50 of 2009 as the Second Amendment to Law Number 7 of 1989 concerning Religious Courts. While the second legal basis for Islamic inheritance is from Presidential Instruction Number 1 of 1991 concerning the Dissemination of the Compilation of Islamic Law. The distribution of Islamic inheritance according to the Compilation of Islamic Law is as follows:

Article 176

A daughter if there is only one, she gets half the share, if two or more people together they get two-thirds of the share, and if the daughter is together with the son, then the son's share is two to one with the daughter.

Article 177

The father gets one-third of the share if the testator leaves no children, if there are children, the father gets one-sixth of the share.

Article 178

The mother gets one-sixth of the share if there are children or two or more siblings. If there are no children or two or more siblings, then she gets one-third of the share.

The mother gets one-third of the remainder after being taken by the widow or widower if together with the father.

Article 179

The widower gets half of the share, if the testator leaves no children, and if the testator leaves children, then the widower gets one-fourth of the share.

Article 180

A widow gets a quarter of the share if the testator leaves no children, and if the testator leaves children, the widow gets one-eighth of the share.

Article 181

If a person dies without leaving children and a father, then the brother and sister of the same mother each get one-sixth of the share. If there are two or more of them, then they together get one-third of the share.

Article 182

If a person dies without leaving children and a father, while he has one biological sister or half-father, then the two get half of the share. If the sister is together with two or more biological sisters or half-father, then they together get two-thirds of the share. If the sister is together with a biological brother or half-father, then the brother's share is two to one with the sister.

Article 183

The heirs may agree to make peace in the division of inheritance, after each is aware of his/her share.

Article 184

For heirs who are not yet adults or are unable to carry out their rights and obligations, a guardian shall be appointed based on a Judge's decision upon the recommendation of a family member.

Article 185

- 1) An heir who dies before the heir can be replaced by his/her child, except for those mentioned in Article 173.
- 2) The share of the substitute heir may not exceed the share of an heir who is equal to the one who was replaced.

Article 186



A child born out of wedlock only has a mutual inheritance relationship with his/her mother and the family from his/her mother's side.

Article 187

- 1) If the testator leaves an inheritance, then the testator during his/her lifetime or the heirs may appoint several people as executors of the distribution of the inheritance with the following duties:
 - a) recording in a list of the inheritance, whether in the form of movable or immovable objects which are then ratified by the heirs concerned, if necessary, valuing the value in money;
 - b) calculating the amount of expenditure for the benefit of the testator in accordance with Article 175 paragraph (1) sub a, b, and c.
- 2) The remainder of the expenditure referred to above is the inheritance that must be distributed to the entitled heirs.

Article 188

The heirs, either jointly or individually, may submit a request to the other heirs to distribute the inheritance. If any of the heirs do not agree to the request, then the person concerned may file a lawsuit through the Religious Court for the distribution of the inheritance.

Article 189

- 1) If the inheritance to be divided is agricultural land with an area of less than 2 hectares, its unity must be maintained as before, and it must be used for the common benefit of the heirs concerned.
- 2) If the provisions in paragraph (1) of this article are not possible because some of the heirs concerned need money, then the land can be owned by one or more heirs by paying the price to the entitled heirs according to their respective shares.

Article 190

For heirs who have more than one wife, each wife is entitled to a share of the share of the household with her husband, while the entire heir's share is the right of the heirs.

Article 191

If the heir does not leave any heirs at all or whether heirs are unknown or not, then the possession of the assets by the decision of the Religious Court is handed over to Baitul Mal for the benefit of the Islamic religion and general welfare.

Principles of Islamic Inheritance Law

Islamic inheritance law is basically a direct expression of sacred texts as well as those that have been agreed upon, a manifestation of a series of sacred document texts and has received high priority in its involvement as a fundamental principle phenomenon in Islamic teachings. Its birth was not merely a response to legal problems in the era of its emergence but furthermore was to fill the needs of Islamic law as a construction of teachings (Sukris, 1997: 1). The principles of inheritance law are the initial guidelines of the inheritance system. The principles of Islamic inheritance law include:

Principles apply automatically (ijbar)

In Islamic inheritance law, the transfer of assets of a person who has died to the heirs applies automatically. No individual or institution can suspend it. Individuals, whether heirs or heirs, let alone individuals outside the family, do not have the right to postpone or not receive inherited assets. Because there are definite provisions in the text. They are "forced" (ijbâr) to give and receive inheritance according to their respective shares. 13 Meanwhile, heirs are only given the freedom to transfer their inheritance through the institution of a will to the person they wish. This transfer of assets is solely due to the death of the person who owns the assets. This means that the principle of self-applicability only applies after the testator dies and does not apply if the person who owns the assets is still alive.

Bilateral-individual principle

The bilateral-individual principle is the principle that each male or female heir can receive inheritance rights from the paternal or maternal relatives, while the portion is owned individually by the heir according to the portion that has been determined. This principle can be seen from the text of the verses in the core inheritance



verse group (al-Nisa [4]: 7, 11, 12, and 176). The essence of this verse emphasizes that every man or woman receives a portion of the inheritance from the father or mother.

The principle of distribution with priority in the family circle

A principle that emphasizes that the distribution of inheritance is likely to include many heirs. Not only children but more broadly to husbands, wives, parents, siblings, even grandchildren down and parents up and descendants of siblings are equally included. This can be seen in the text of the verses on the heir group.

Principle of equal rights

Islamic inheritance law does not differentiate the right to receive inheritance between men and women, between children who are still young and those who are already adults. All have the same right to receive inheritance (Ghofur 2005).

Principle of Balanced Justice

This principle provides the understanding that in the provisions of Islamic inheritance law there is always a balance between rights and obligations, between the rights obtained by a person and the obligations that must be fulfilled. Men and women receive rights that are comparable to the obligations they each bear in family and community life. Because basically the Islamic inheritance system, the inheritance received by the heirs from the testator is essentially a continuation of the testator's responsibility to his family (Daud 2001).

Inheritance Law System according to the Civil Code (Burgerlijke Wetboek)

Civil inheritance law or what is often called western inheritance law applies to non-Muslim communities, including Indonesian citizens of Chinese and European descent, the provisions of which are regulated in the Civil Code (KUHPerdata). Civil inheritance law adheres to an individual system where each heir receives or owns inheritance according to their respective portions.

According to the Civil Code, there are two ways to obtain inheritance, namely: 1) As an heir according to the law. 2) Because appointed in a will (testament).

The first way is called inheriting according to the law or "ab intestato" and the second way is called inheriting by "testamentair". In inheritance law, a principle applies, that only rights and obligations in the field of property law can be inherited. In other words, only rights and obligations that can be valued in money (Subekti, 1993).

If the deceased does not make a testament, then the Civil Code stipulates the division of inheritance as follows: 1) The first to receive the inheritance is the husband or wife and children, each of whom is entitled to receive an equal portion (Article 852 BW). 2) If there are no people as mentioned above, then those who are entitled to receive the inheritance are the parents and siblings of the deceased parent, with the provision that each parent receives at least a quarter of the inheritance (Article 854 BW). 3) If there are no people as mentioned above, then the inheritance is divided in two, half for the mother's family and half for the father's family of the deceased, the closest family is entitled to receive the inheritance. If the children or siblings of the testator die before the testator, then their place is replaced by legitimate descendants (Article 853 BW).

Customary Inheritance Law System

Indonesia is an archipelago consisting of various ethnic groups, religions, and customs that differ from one another. This affects the laws that apply in each social group known as customary law. Customary law itself is unwritten, only in the form of norms and customs that must be obeyed by certain communities in a region and only apply in that region with certain sanctions for those who violate them. Therefore, customary inheritance law is greatly influenced by the structure of society or kinship. The inheritance system that exists in Indonesian society according to Djaren Saragih is (1) an inheritance system where inherited property can be distributed, (2) an inheritance system where inherited property cannot be distributed. The first system is generally found in bilateral societies such as in Java, while the second system is found in unilateral societies. The second system can be further distinguished in the form of a collective inheritance system and a mayoral inheritance system.

A major problem faced by Muslims in Indonesia is how to develop an Islamic legal system that is compatible with the traditions (customs) that exist in this region (Haryanto 2024). Collective inheritance system, the inheritance



is seen as a whole and is not divided and is owned jointly by the heirs, such as in the Minangkabau and Ambon communities. Mayorat Inheritance System, the inheritance as a whole is not divided, but falls into the hands of the eldest child. In the mayorat inheritance system, there are male mayorats which means the inheritance falls into the hands of the eldest son and female mayorats where the inheritance falls into the hands of the eldest daughter (Saragih 1980).

Implementation of Inheritance Law and Problems of Distribution of Inheritance Property in Indonesian Society

Islam regulates the inheritance method based on justice between the interests of family members, the interests of religion and the interests of society. Islamic law does not only provide inheritance to the husband or wife, but also provides inheritance to the descendants of both husband and wife, either in a straight line down, a straight line up, or a straight line sideways, both male and female. Thus, Islamic inheritance law is individual. In Islam, heirs who are Muslim must divide their inheritance by faraid, not by civil law or customary inheritance. In the Third Paragraph Number 2 of the General Explanation of Law Number 7 of 1989 concerning Religious Courts, it is stated that the field of inheritance is about determining who becomes the heir, determining the inheritance, determining the portion of each heir, and implementing the distribution of the inheritance, if the inheritance is carried out based on Islamic law. In connection with this, the parties before going to court can consider choosing which law will be used in the distribution of inheritance. This explanation is the reference for the concept of choice of law in the distribution of inheritance for Muslims.

The choice of law emerged because at that time there was no unification in the field of inheritance law. At that time, three inheritance law systems were still in effect, namely inheritance law according to western civil law (a legacy of the Dutch), inheritance law according to customary law, and inheritance law according to Islamic law. The choice of law is a manifestation of the will of the parties to the case in the distribution of inheritance to determine what law is used in resolving inheritance disputes that will be submitted to the court.

According to (Gani 1999) this principle of choice of law is useful to avoid disagreements or disagreements in determining the law and not to depend on their respective religions. Thus, the parties to the case are free to choose between western civil law, customary law, or Islamic law. So that the court that has the authority to resolve inheritance cases depends on the law chosen. In other words, Muslims can resolve inheritance cases in the District Court based on the Civil Code or according to custom using the customary law system, or in the Religious Court based on Islamic law. However, after the enactment of Law 3/2006, the principle of choice of law or the right of option was abolished. In the Second Paragraph of the General Explanation of Law 3/2006 it is stated that:

“... the sentence contained in the general explanation of Law Number 7 of 1989 concerning Religious Courts which states:

"The Parties before going to court may consider choosing which law to use in the distribution of inheritance", is declared deleted.”

With the elimination of the choice of law or option rights, it means that the resolution of disputes or inheritance distribution cases for Muslims becomes the absolute authority of the Religious Court and is resolved based on Islamic law and Muslims are no longer allowed to resolve inheritance cases in the District Court or according to customary law.

The principles underlying Islamic inheritance law are: 1) Islamic inheritance law does not give a person full freedom to empty his inheritance by way of a will to his loved ones. 2) Islamic inheritance law tends to distribute inheritance to heirs in the amount they are entitled to receive to be owned individually according to the extent of each portion, whether the property left behind is alone or in large numbers.

The characteristics of Islamic inheritance law are: 1) Acquisition of individual heirs. 2) Acquisition intended for individuals, namely certain portions for certain people in certain circumstances. 3) Variation in the reduction of heirs' acquisitions. 4) Variation in the reduction of acquisitions occurs because certain people obtain certain portions or the presence of other dzawul furud. 5) Method of settling the division of inheritance. 6) The existence of a settlement method known as auld an rad.

Talking about the division of inheritance always raises pros and cons in Indonesian Muslim society. As is known in Islamic law, the division of inheritance has been determined in the Qur'an. Even the polemic is that men get two



parts and women get one part. In this modern era, many women maintain the honor of the family by becoming the backbone of the family. So the division of men 2:1 is a question that raises pros and cons. The division of inheritance in Indonesian society was originally in accordance with the customary laws of each tribe.

In Indonesian Muslim society, the inheritance distribution is not the same, some use Islamic law, and some use customary law, and some even combine the two, namely using Islamic law and customary law. This non-uniform distribution practice is due to several things, including: the firmness of adhering to customary law, the firmness of adhering to Islamic law, considering it unfair in the distribution according to Islamic law, not wanting to bother with the distribution/practicality. The question is when customary law is considered fairer in the distribution of inheritance than Islamic law, this gives rise to a negative response. On the one hand, considering Islam unfair is wrong, on the other hand, the community that insists on adhering to Islamic inheritance law feels sinful if it does not implement it. In this case, it requires a deeper interpretation. Even the leadilan is relative based on the customs of each region and is related to the kinship system (Usman 1992).

To establish a new Indonesian fiqh, a high level of awareness and wisdom is required from many parties, especially when taking the first step, which is conducting a historical reflection on Islamic legal thought during its early stages of development. This perspective teaches that Islamic law can only function effectively if it aligns with the legal consciousness of society. That is, law shaped by environmental conditions, or local culture and traditions, rather than imposing a pre-established Islamic legal framework(Haryanto 2024).

The polemic of Islamic inheritance law is very obvious when the issue touches on customary law, such as in Indonesia. Understanding customary inheritance law in Indonesia, there are at least three systems that apply, namely: 1) Individual inheritance, which is characterized by the distribution of property to those who are entitled to it, either in a patrilineal, matrilineal or bilateral distribution system. The consequence when Islamic inheritance law is applied will result in a number of people being closed off from getting property or a number of benefits from the distribution being reduced. 2) Inheritance based on a collective system, which is characterized by property that is not divided among a group of heirs except to be used productively, especially for those who need it more. Consequently, the attitude of kinship among them that has been fostered could be, when Islamic inheritance law is applied, they as adherents of Islam will implement it by opening up the possibility of peace (ishlah) in the distribution of inheritance property. Especially if it turns out that the inheritance property is considered small and less productive. 3) The mayoral inheritance system, which is characterized by the eldest child who will control all the heir's property. The consequence is that their property is reduced as a result. For certain parents, before they die, there is the possibility of donating part of their property to their eldest child, where the element of kinship is very close to the eldest child, which has long been supported by customary law customs before Islamic law was implemented (Hasan 1994).

In addition to when it intersects with customary law, the polemic of Islamic inheritance law is related to the understanding of justice in the distribution between heirs. As stated above, justice is one of the principles (doctrines) in Islamic inheritance law, which is concluded from an in-depth study of the basic principles contained in the law on inheritance. The most prominent thing in the discussion of justice concerning Islamic inheritance law is about the equal and mutual rights of inheritance between men and women and the 2:1 ratio between the portions of men and women, which is considered unfair because there is no equality in the distribution.

Understanding the principle of justice in Islamic inheritance law is not measured by the equality of rank between heirs, but is determined based on the magnitude of the burden or responsibility imposed on them, viewed from the generality of human circumstances/life. If associated with the definition of justice put forward by Amir Syarifuddin²⁴ as "a balance between rights and obligations from the balance between what is obtained with needs and uses", or a balance between burdens and responsibilities among heirs of equal standing, then it will be seen that justice will be apparent in the implementation of the division of inheritance according to Islam. The comparison ratio of 2:1, does not only apply between sons and daughters, but also applies between husband and wife, between father and mother and between brothers and sisters, all of which have wisdom if studied and examined in depth.

In the life of Muslim society, men are responsible for the livelihood of their families, unlike women. If the woman is a virgin/still unmarried, then she becomes the responsibility of her parents or guardians or her brothers. While after a woman gets married, she becomes the responsibility of her husband (male). Islamic law does not require women to spend their wealth for their own interests or the needs of their children, even though they are classified as



capable/rich, if they are married, because providing for the family (residence, food and clothing) is an obligation imposed by sharia on the husband (Ahmad 2013).

The problem of implementing Islamic inheritance in Indonesia for Muslim residents also often collides with the realm of inheritance law which is a private law that is based on agreements or agreements. Although Islamic inheritance is known by family members, both the testator and the heirs, the heirs still use the customary inheritance system in the distribution of inheritance assets on the grounds of family agreement. From this it can be seen that Islamic inheritance is still limited to being known (knowledge but not yet fully implemented).

Group Two to One

The first group is Islamic religious leaders who distribute and/or receive inheritance in accordance with the provisions of the Qur'an, especially Surah An-Nisa verse 11, namely the distribution of inheritance based on a ratio of two to one between boys and girls so that in this case boys get two parts while girls get only one part.

The factors that motivate Islamic religious leaders in distributing and/or receiving assets through inheritance with a ratio of two parts for boys and one part for girls, namely: 1) Referring to the teachings of Islamic Law; 2) Contains complete values of faith and Islam; 3) Down to earth teaching the teachings of fiqh mawaris; 4) Allah's command; 5) Contains high wisdom.

One to One Group

The second group is Islamic religious leaders who distribute and/or receive inheritance property in a one to one ratio between sons and daughters, so that in this case both sons and daughters receive only one portion. The factors that motivate Islamic religious leaders to distribute and/or receive property through inheritance with a ratio of one portion for sons and one portion for daughters are: 1) There is an agreement between Heirs; 2) The family is accustomed to dividing equally; 3) Other Heirs need it more; 4) Orders from parents; 5) Fair to all parties; 6) Does not cause differences; 7). The role of daughters is no less important than the role of sons.

If we look further, inheritance law in Indonesia still has no unification of inheritance law. This is because each existing inheritance law system has its own characteristics that cannot be equated. For example, in Islamic inheritance, each heir gets a predetermined portion, while Western inheritance only regulates which heirs have the right to inherit and for all parts they get the same portion (except for legitimize portie). Meanwhile, customary inheritance law is based on the agreement and customs of each indigenous community.

This is the reason why it is difficult to unify the inheritance law system for all Indonesian people. The idea of legal unification or the preparation of a National Inheritance System is needed to accommodate all the interests of each existing inheritance law system. This is because the differences in characteristics that arise can actually be a bridge in building unity and harmony in relations between groups. This is because if we look closely, there are actually similarities in the three inheritance law systems, which indicates that the preparation of a National Inheritance System is not impossible.

Thus, the preparation of national inheritance law needs to pay attention to and consider the norms of inheritance law that apply in society as long as they do not conflict with the religious beliefs, culture, and customs of each society that are still valid and adhered to by the Indonesian people, so that each inheritance law system feels appreciated and its existence is recognized.

CONCLUSION

Based on the research results, Islamic Inheritance Law has not been implemented in Indonesia because society is still influenced by customary inheritance law, whether following the individual-patrilineal, matrilineal or bilateral-collective inheritance system. Apart from the strong influence of tradition/customary law, another obstacle is that Muslims do not fully understand the concept of justice and equality in Islamic inheritance law, especially when it relates to the portion of male and female children. In overcoming the problem of pluralism of inheritance law in Indonesia, the idea of compiling a national inheritance law needs to be pursued and implemented by considering the general principles of inheritance without leaving the characteristics of each inheritance law system.



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