

Harmonization of Islamic Inheritance Law and Indonesian Customary Law Regarding The Acceleration of Inheritance Distribution: Legal Philosophy Study

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Abstract

The concept of rahmatan lil 'alamin is a main characteristic in Islamic law, so that every existing law must not burden humans. Nowadays, inheritance problems often arise from the application of its distribution, where the heir (child) wants the distribution to be expedited, this is in accordance with the principles of Islamic inheritance. The other party (wife) is reluctant to grant her child's wishes, this is in accordance with the culture and customs of Indonesian society. This research is purely normative law, where the data only focuses on library materials, the legal philosophy approach is the main analytical tool, and is assisted by a comparative law approach. The results of the study show that the problem of expediting inheritance sometimes ends with a child's lawsuit against his mother in court, so that it often causes social polemics where the child is usually declared an unfilial child or a child who prays for his parents to die. This article provides an analysis related to this problem, because of the conflict between the principles of Islamic inheritance and the culture of Indonesian society, the analysis pattern in this article uses Islamic legal philosophy, so that a fair inheritance distribution is obtained for the Indonesian Muslim community. This article requires that the distribution of inheritance be adjusted to Indonesian culture, at least after all customary and cultural matters regarding the management of the deceased have been completed (:).

[Konsep rahmatan lil' alamin merupakan khas utama dalam hukum Islam, sehingga setiap hukum yang ada pasti tidak membebani manusia. Dewasa ini sering terjadi permasalahan waris yang beranjak dari penerapan pembagiannya, di mana ahli waris (anak) menghendaki pembagian disegerakan, hal ini sesuai dengan asas waris Islam. Pihak lainnya (istri) enggan mengabdikan keinginan anaknya, hal ini sesuai dengan kultur dan adat kebiasaan masyarakat Indonesia. Penelitian ini murni hukum normatif, di mana datanya hanya berfokus kepada bahan kepustakaan saja, pendekatan filsafat hukum menjadi alat analisis utama, dan dibantu dengan pendekatan perbandingan hukum. Hasil penelitian menunjukkan bahwa permasalahan penyelesaian warisan kadangkala berujung gugatan anak kepada ibunya ke pengadilan, sehingga tidak jarang menimbulkan polemik sosial di mana si anak biasanya dinyatakan sebagai anak durhaka atau anak yang mendoakan orangtuanya meninggal. Tulisan ini memberikan analisis terkait permasalahan tersebut, karena terjadinya pertentangan antara asas kewarisan Islam dengan budaya masyarakat Indonesia, pola penganalisisan dalam artikel ini memakai filosofi hukum Islam, sehingga didapatkan pembagian warisan yang berkeadilan bagi masyarakat Islam Indonesia. Artikel ini menghendaki supaya pembagian warisan disesuaikan dengan budaya

Indonesia, minimal setelah selesai semua urusan adat dan budaya dari kepengurusan mayyit.]

Keywords: Harmonization, Implementation, Inheritance, Piloshoffis.

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INTRODUCTION

The concept of inheritance distribution in Indonesia is highly diverse, reflecting the country's ethnic and religious pluralism. This diversity significantly influences the patterns and practices of inheritance division. Accordingly, the legal systems governing inheritance—namely Islamic law, customary (adat) law, and national law—continue to coexist and are applied based on the religious affiliation and belief systems of the disputing parties. (Fauzi Yasir, 2016).

The plurality of inheritance law in Indonesia is not universally applied to all individuals but is instead determined by each person's religion and belief system, as stipulated in Law No. 1 of 1974 on Marriage. Specifically for Muslims in Indonesia, the application of inheritance law continues to refer to Islamic law, as codified in the Compilation of Islamic Law (*Kompilasi Hukum Islam*, KHI), which serves as the primary legal reference for judges in the Religious Courts when adjudicating inheritance disputes (Syafuruddin, 2013).

The most fundamental principle of inheritance in Islamic law is the *ijbari* principle, which asserts that the transfer of inheritance occurs automatically upon the death of the decedent. As such, the deceased does not possess the legal authority to determine the distribution of their estate during their lifetime. Likewise, it is impermissible for any heir to assume full control over the estate without first distributing it equitably to all rightful heirs. This principle emphasizes the necessity of prompt distribution to ensure the lawful transfer of ownership and to prevent potential disputes arising from unilateral control of the inheritance.

In practice, inheritance distribution in Indonesian society is frequently delayed. It is often postponed until the death of the principal heir, resulting in the transfer of assets to the next generation, namely their children. For many in the community, the immediate division of inheritance is perceived as inappropriate and contrary to long-standing customary norms. Consequently, early distribution practices are often met with resistance and may even spark intra-family conflict.

For Indonesian Muslims, the acceleration of inheritance distribution also remains a contentious issue. Beyond being considered socially inappropriate, early distribution is often hindered by customary rituals and traditions—such as *tablilan*, which can continue up to the 40th or even 100th day after the decedent's passing and typically involve significant financial costs. These cultural obligations frequently delay the inheritance process, despite Islamic legal principles stipulating that distribution should occur after burial, payment of funeral expenses, fulfillment of bequests, and settlement of debts.

This social reality presents a major obstacle to the normative implementation of Islamic inheritance law within the Indonesian Muslim context. Numerous media reports—from print and online outlets to television—have highlighted inheritance-related disputes, particularly when children file lawsuits against their surviving parent (usually the mother) to

demand immediate inheritance distribution. Despite such actions being grounded in legal provisions, they are often perceived as disrespectful, leading to negative social stigma. Children in such cases are frequently labeled as disobedient or accused of wishing for their parents' death.

The divergence between Islamic legal provisions on inheritance and Indonesia's customary traditions has a significant impact on the Muslim community. On one hand, Muslims aspire to uphold Islamic inheritance law consistently; on the other, social pressure and community judgments often hinder its implementation. Although Indonesia's positive law, particularly through the Compilation of Islamic Law (*Kompilasi Hukum Islam*, KHI), encourages inheritance distribution in accordance with Islamic principles—and court decisions within the Religious Courts also refer to the KHI—social and cultural factors remain the main obstacles. The challenges surrounding inheritance distribution in Indonesian Muslim society have been widely discussed in previous studies. Khairuddin (2020), for instance, examined the causes of delayed inheritance distribution in Aceh Singkil. Zainal Muttaqin (2021) emphasized the urgency of timely distribution. Meanwhile, Faisar Ananda and Ansari Yamamah Lia Dahliani (2018) explored inheritance delays among Muslims in Langsa City. These studies highlight the complexity of the issue, particularly in light of the increasing number of legal disputes in which children file claims against their parents—a phenomenon frequently reported in recent years.

Given this context, the present article seeks to analyze the implementation of Islamic inheritance law in Indonesian Muslim society through a philosophical lens. The central aim is to explore whether Islamic law explicitly mandates the immediate distribution of inheritance or whether it allows room for contextual adaptation to local social realities. This analysis takes into account foundational Islamic values such as the concept of *rahmatan lil 'alamin* (a mercy to all creation) and the principle of non-imposition (*la yukallifullahu nafsan illa wus'aha*). Moreover, the article proposes a harmonization framework between Islamic legal norms and Indonesian cultural traditions to offer a constructive solution to the ongoing challenges in inheritance practice.

METHOD

Metode This article employs a library research method, commonly referred to as a normative juridical approach, as the study focuses on the analysis of existing legal materials (Nurhayati et al., 2021). The legal approach adopted is philosophical, aiming to explore in depth the underlying rationale behind inheritance distribution in Islamic law. In addition, a comparative approach is employed to examine the differences and similarities between Islamic inheritance law provisions and actual inheritance practices within Indonesian society (Muhaimin, 2018).

Primary legal materials were collected using documentation techniques, as all data utilized in this research are derived from existing documents. Upon collecting the legal materials, the analysis was conducted using a deductive method, drawing conclusions from general legal principles to address specific issues examined in the study.

RESULT AND DISCUSSION

Principles of Islamic Heir Law

The discussion of inheritance principles in Islam cannot be separated from the historical development of Islamic inheritance law itself. Prior to the advent of Islam, inheritance was granted exclusively to male heirs, while women were denied the right to inherit and, in some cases, were even treated as objects of inheritance. Similarly, children or individuals who were legally incompetent at the time were not entitled to any share of the

estate (A. Khisni, 2017). With the arrival of Islam, the inheritance system underwent significant reform. Islam established that both men and women, as well as minors and adults, are entitled to receive a share of the estate left by the deceased (Asrizal, 2016).

1. Ijbari Principle

The *ijbari* principle constitutes the most fundamental tenet within the Islamic inheritance system. Under this principle, inheritance is transferred automatically upon the death of the decedent (Sarmadi, 2013). This means that neither the deceased nor the heirs have the authority to determine when the inheritance may be distributed or how it should be divided. All procedures and stipulations are governed by Islamic law. The term *ijbari* itself denotes “compulsion” or “authority established by the Shari‘ah,” indicating that the transfer of inheritance occurs automatically upon the death of the decedent, with the heirs receiving their prescribed shares in accordance with religious rulings.

The *ijbari* principle is a key distinction between Islamic inheritance law and other inheritance systems, such as that outlined in the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata*, KUHPerdata). According to the Civil Code, “children acknowledged by the deceased as heirs, even if born out of wedlock, may still inherit” (KUHPerdata, n.d.). This indicates that, under non-Islamic systems, the testator retains the authority to determine who qualifies as an heir, including the proportion of inheritance, as is also evident in various Indonesian customary law systems.

Moreover, the *ijbari* principle entails that heirs automatically acquire their status as inheritors and cannot legally refuse it. This differs from the Civil Code, where heirs may choose to accept or reject the inheritance, as acceptance entails legal responsibility, including the obligation to settle the decedent's debts if the estate is insufficient (Yunus, 2019). In Islamic law, however, the obligation to repay the deceased's debts is limited to the value of the estate left behind. If the estate is insufficient, the heirs are not legally obligated to cover the remaining debt. Nonetheless, if an heir voluntarily chooses to settle the outstanding debts, such an act is regarded as a moral responsibility toward the deceased rather than a legal requirement.

The *ijbari* principle also underscores the necessity of promptly distributing the estate. Delays in distribution—whether due to the instructions of the deceased during their lifetime or decisions made by the heirs—are not permissible. This contrasts with provisions in the Civil Code and customary legal systems across Indonesia, where the distribution of inheritance often depends on mutual agreement among the heirs. In customary practice, distribution is frequently postponed for an indefinite period, sometimes until the inheritance is passed down to the next generation (Ginting, 2018).

2. Bilateral Principle

The bilateral principle is a key feature of the Islamic inheritance system that distinguishes it from pre-Islamic inheritance practices. In Islam, inheritance rights are granted equally to heirs from both the paternal and maternal lines. This stands in stark contrast to the pre-Islamic system, which recognized inheritance rights exclusively for male descendants through the paternal line, while women were entirely excluded—and in some cases were treated as objects of inheritance themselves.

The bilateral nature of Islamic inheritance receives strong support from the thoughts of Hazairin, a prominent Indonesian Islamic legal scholar, who firmly asserted that the Islamic inheritance system is inherently bilateral. According to Hazairin, the bilateral principle is a system implicitly endorsed by the Qur'an (Jamil, 2017). His perspective also serves as a critique of the patriarchal tendencies often associated with Islamic inheritance

practices, which are frequently misunderstood as reflecting Islamic teachings, while in reality they contradict the Qur'an's core values of justice (Aniroh, 2020).

Hazairin consistently opposed Western legal theories that tended to marginalize the role of Islamic law within the national legal system—particularly the *receptie* theory introduced by Christiaan Snouck Hurgronje. This theory posited that Islamic law could only be applied if it had been accepted by customary (*adat*) law, effectively subordinating Islamic law to local traditions. Hazairin even described the *receptie* theory as a “devilish theory,” arguing that it obstructed the implementation of Islamic law in society. As a counter-proposal, he introduced the *receptie exit* theory, which rejected the *receptie* framework and advocated for full recognition of Islamic legal authority. His ideas were later reinforced by Sayuti Thalib through the theory of *receptie a contrario*, which maintained that customary law could only be applied insofar as it did not contradict religious law.

The bilateral principle in Islamic inheritance is grounded in strong normative foundations within the Qur'an. One such foundation is found in Surah al-Nisā' (4:11), which states that both sons and daughters are entitled to inherit from their parents. The verse also affirms inheritance rights for the father and mother of the deceased. Furthermore, verse 12 of the same surah clarifies that spouses are entitled to inherit from one another. The structure of inheritance outlined in these verses demonstrates that the Islamic inheritance system does not favor males exclusively, but rather allocates inheritance to both men and women proportionally, based on the closeness of their kinship and the responsibilities they bear.

3. Principle of Death

The principle of death is one of the most fundamental tenets in the Islamic inheritance system. Without the occurrence of death, inheritance law cannot be applied. As long as the owner of the estate is still alive, they have no legal right to distribute their wealth as inheritance. Likewise, prospective heirs are not permitted to claim or take possession of any portion of the estate on the grounds that it constitutes their inheritance. This principle affirms that inheritance can only be distributed following the legally recognized and actual death of the decedent.

This principle is firmly grounded in normative sources from the Qur'an, including Surah al-Nisā' verses 11, 12, and 176. These verses use the term *waratha*, which clearly indicates that the distribution of inheritance is to occur only after death. Therefore, any distribution of wealth made while the owner is still alive does not fall under the category of inheritance but is instead considered a voluntary transfer in the form of *hibah* (gifts), donations, *waqf*, or other types of charitable giving (Jaya, 2020).

In contrast to Islamic legal principles, which categorically require death as a condition for inheritance, Western civil law systems—such as the one adopted in Indonesia's Civil Code (*Kitab Undang-Undang Hukum Perdata*, KUHPerdata)—allow for the distribution of assets through a will even while the testator is still alive. This is stipulated in Article 899 of the Civil Code (Sari, 2014). However, such a distribution is not referred to as inheritance *per se*, but as a testamentary bequest. In civil law, wills are typically directed toward third parties or individuals outside the circle of legal heirs and become legally effective only upon the death of the testator.

In the context of customary law, greater flexibility exists. In some regions, asset distribution may occur during the lifetime of the estate owner, with the aim of ensuring the welfare of the heirs and preserving family harmony. This form of distribution is not strictly based on formal legal provisions but also takes into account the prevailing social and cultural considerations within the community.

4. Individual Principle

The individual principle in Islamic inheritance law affirms that every heir—whether a child, an adult, or an elderly person—has full and independent ownership of their respective share of the inheritance. This right applies equally to both men and women and is not contingent upon the consent or approval of other heirs. Accordingly, each share of the inheritance becomes the personal property of the respective heir, who is entitled to manage it independently.

Although, from a legal competence perspective, children and the elderly may not possess the optimal ability to manage wealth, they are nevertheless entitled in principle to full ownership of their inheritance. In practice, the management of assets for those deemed legally incompetent may be conducted through guardianship or legal supervision, without undermining their ownership rights.

This individual principle is strongly supported by the Qur'an, including verses from Surah al-Nisā' (4:7, 8, 11, 12, 33, and 176), which explicitly outline specific shares for each eligible individual (Rasyid, n.d.). These provisions demonstrate that inheritance in Islam is not distributed collectively or communally, but is allocated to each heir as personal property.

5. Principle of Balanced Justice

The principle of balanced justice in Islamic inheritance reflects the notion that each individual's inheritance rights are proportionate to their respective burdens, responsibilities, and social roles in life. For instance, male heirs typically receive a larger share than female heirs because men are responsible for financially supporting their families, providing dowries in marriage, and fulfilling household needs. Women, by contrast, are not assigned such financial obligations, and their share is therefore adjusted in accordance with their relatively lighter responsibilities.

Although men may receive a larger nominal share, in reality, those assets are generally used to meet the needs of the entire family, thereby allowing women to benefit from them as well. Hence, what may appear as quantitative inequality in distribution is, in fact, substantively just, as it aligns with the social functions and responsibilities of each party (Jamhir, 2019).

Furthermore, the differing inheritance shares between children and parents also illustrate the principle of balanced justice. Children, as the successors of the family line, tend to receive a larger portion of the estate, given their role in continuing the family's legacy, responsibilities, and aspirations. Meanwhile, parents—who are nearing the end of their lives from a legal and religious standpoint—are no longer burdened with these obligations, and their respective shares are thus adjusted to reflect their roles and conditions within the family structure.

The Islamic Inheritance System in Indonesia

In principle, the inheritance system applied in Indonesia consists of three main legal frameworks: civil inheritance law, Islamic inheritance law, and customary inheritance law (Nasution, 2018). These systems continue to coexist and operate today, adapted to the religious and cultural backgrounds of respective communities. Non-Muslim communities generally adhere to the civil law system in resolving inheritance matters (Hilarius Kunto Dewandaru & Paramita Prananingtyas, 2012), while Indonesian Muslims refer to Islamic

inheritance law. At the same time, customary communities maintain inheritance practices rooted in long-standing traditional norms.

The application of Islamic inheritance law in Indonesia is inseparable from the historical entry of Islam into the archipelago, which significantly shaped public perceptions of property rights and inheritance distribution. Over time, the system became institutionalized within Muslim communities and was formally codified through the Compilation of Islamic Law (*Kompilasi Hukum Islam*, KHI) in 1991. Today, the KHI serves as the official legal reference for religious courts in adjudicating inheritance cases (Assyafira, 2020).

Islamic inheritance law clearly regulates the transfer of wealth and rights from the deceased to the heirs. This process includes the fulfillment of bequests, settlement of debts, and distribution of assets in accordance with the Qur'an and hadith (Ilham & Suhasti, 2016). Accordingly, Islamic inheritance law offers a comprehensive and fixed legal structure that cannot be unilaterally altered by human intervention.

Nevertheless, in practice, Islamic inheritance law in Indonesia is not always implemented in its pure form. This is evidenced by the prevailing tendency to delay inheritance distribution following the death of the decedent—a practice deeply embedded in local tradition (Syaifullah et al., 2020). Such delays are influenced by customary legal culture, which often regards immediate distribution as contrary to prevailing values and social norms.

Inheritance provisions in the KHI are systematically arranged, beginning with definitions and proceeding to technical guidelines for distribution. Article 171 defines inheritance (letter a) as the transfer of ownership rights from a deceased Muslim to their heirs. The decedent (letter b) is defined as a Muslim who has passed away, either naturally or by court declaration, and who has left behind assets. Heirs (letter c) are described as Muslims related to the deceased by blood or marriage, unless legally disqualified (e.g., by apostasy or by murdering the decedent). The estate is categorized into: (1) the deceased's personal assets (letter d); and (2) the inheritance (letter e), which refers to the remaining assets after deducting medical expenses, funeral costs, debts, and the execution of bequests (Kompilasi Hukum Islam, n.d.).

The inheritance distribution patterns outlined in the KHI largely reflect the provisions found in classical Islamic jurisprudence (*fiqh*) across the major legal schools (*madhāhib*). For instance, a male child receives twice the share of a female child, and specific shares are assigned to spouses. However, the KHI also accommodates the evolving social dynamics of Indonesian society. This is evident in Article 299, which empowers judges to consider living legal norms in society when issuing verdicts, with the aim of upholding a sense of justice.

The closing provisions of the KHI indicate that Islamic inheritance laws may be adapted to local social realities. For example, Article 183 allows for inheritance to be distributed based on mutual agreement or reconciliation among heirs, even if the outcome does not fully align with *fiqh* doctrines, provided that all parties are aware of their respective entitlements. Furthermore, Article 209 permits adoptive parents to inherit from their adopted children (S. H. & A. Khisni, 2018), a provision that contradicts classical Islamic legal norms. This brings to mind the case of Prophet Muhammad's adopted son, Zayd ibn Ḥārithah, whose legal affiliation and inheritance rights were annulled by the revelation in Surah al-Aḥzāb (33:4–5) (Sasmiar, 2007).

Additionally, the KHI addresses the concept of jointly owned property (*harta bersama*), which is relevant to inheritance distribution in modern Indonesian contexts, even

though this concept is not found in classical *fiqh*. This demonstrates an intentional adaptation of Islamic inheritance law to the sociocultural realities of Indonesian society.

Ultimately, the Islamic inheritance system in Indonesia is not only grounded in textual sources such as the Qur'an and Sunnah or classical *ijtihād* based on *ijmā'* and *qiyās*, but also integrates the higher objectives of Islamic law (*maqāṣid al-sharī'ah*). Therefore, interpretive methods such as *istiḥsān*, *maṣlaḥah mursalah*, *istiṣḥāb*, *sadd al-dharā'i'*, and even *'urf* (custom) are considered in deriving adaptive and contextually responsive legal rulings.

Comparative Analysis of the Urgency of Inheritance Distribution in Islam and the Customs of Indonesian Society

As previously discussed, the Islamic inheritance system has a strong normative foundation that mandates the prompt distribution of inheritance following the death of the decedent. This section focuses on the imperative of expedited inheritance distribution from the perspective of Islamic law and compares it with the prevailing practices and customs among Indonesian Muslims, which are still largely influenced by local culture and customary law.

In Islamic tradition, inheritance can serve either as a blessing or a source of conflict. It becomes a blessing when the deceased's estate can be utilized by heirs to improve their livelihood. Conversely, it may lead to disputes and familial discord, and in extreme cases, inheritance conflicts have resulted in physical violence or legal battles. It is within this context that Islam emphasizes the importance of fair and immediate inheritance distribution to prevent potential disputes arising from delayed implementation.

Islam explicitly encourages the prompt execution of all virtuous acts, including the distribution of inheritance. Although the Qur'an does not contain a specific verse that directly mandates immediate inheritance distribution, such instruction is inferred from general legal principles, such as the doctrine of *ijbārī*, which implies that the transfer of ownership from the deceased to the heirs occurs automatically upon death (Rahmawati, 2016). Under this principle, the decedent has no authority to distribute the inheritance while still alive, and the heirs are not permitted to delay the distribution based on mutual agreements or subjective reasoning alone.

Zainal Muttaqin (2021) explains that inheritance distribution in Islam is classified as *wājib mu'qqat al-muwassa'*, a time-bound obligation. In other words, although the distribution may be deferred until after the death of the decedent, it must not be delayed without a valid *shar'i* reason. In certain circumstances—such as the presence of injustice, emerging conflict, or urgent needs of an heir—the distribution must be expedited. This perspective is supported by the normative argument in Surah al-Nisā' verse 14, which contains a stern warning to those who disregard Allah's laws concerning inheritance.

In contrast, the prevailing practice among Indonesian Muslims generally leans toward delaying inheritance distribution. This tendency is influenced by socio-cultural values that consider immediate distribution after death to be inappropriate, or even a sign of greed or disrespect toward the deceased. Such perceptions often generate negative social stigma, including accusations that heirs wish for the decedent's death in order to claim their inheritance.

The tradition of delaying inheritance distribution is deeply rooted in Indonesian society. Many believe that the mourning period must take precedence, and discussing inheritance during this time is deemed unethical. Ironically, this practice often contributes to conflicts within families, as inheritance assets are frequently monopolized, sold without consent, or distributed unfairly due to limited access to legal information and

documentation. This reveals a clear contradiction between the normative provisions of Islamic law and the more flexible, customary norms grounded in local practice.

Numerous studies have highlighted the widespread delay in inheritance distribution across Indonesia. Lia Dahliani and her team (Rahmawati, 2016), in their research in Langsa—a predominantly Muslim city in Aceh that implements Islamic law—found that inheritance delays were caused by several factors, including mutual agreement among heirs to postpone distribution, the presence of underage heirs, unilateral control of assets by certain heirs, and community perceptions that early distribution is taboo.

Khairuddin (2020), in his study of Aceh Singkil, identified five primary reasons for such delays: (1) the surviving spouse of the deceased is still alive; (2) the existence of child heirs; (3) the presence of unmarried heirs; (4) the social taboo surrounding inheritance discussions; and (5) the entrenched nature of inheritance delays as a community tradition.

These two studies indicate that the postponement of inheritance distribution among Indonesian Muslims is not merely due to ignorance of Islamic legal provisions but is largely shaped by prevailing socio-cultural norms. These customs have become a form of *living law* firmly upheld by much of the population, despite their incompatibility with Islamic legal standards.

Consequently, there exists a significant disparity between Islamic legal principles, which advocate for the prompt distribution of inheritance, and the social reality in Indonesia, which tends to favor delayed implementation. This tension poses a unique challenge in applying Islamic inheritance law in Indonesia and underscores the need for renewed *ijtihad* and a sociological-philosophical approach in formulating legal solutions that are not only normatively sound but also culturally adaptive.

Philosophical Analysis

In Islamic law, the distribution of inheritance is only permissible after the death of the decedent. However, prior to the distribution of assets to heirs, all financial obligations of the deceased must be settled. These include funeral expenses, debt repayment, and the fulfillment of any bequests. Only the remaining estate after these obligations have been met is subject to inheritance. If no residual assets remain—or if the estate is insufficient to cover the debts—heirs are not legally obligated to assume the liabilities. Nonetheless, they may bear a moral responsibility due to their close kinship with the deceased.

Although Islamic legal principles emphasize the prompt distribution of inheritance, in practice this ideal is not always strictly adhered to in the context of Indonesian Muslim communities. Deeply rooted socio-cultural values, customary traditions, and local norms often conflict with the normative legal provisions. In this context, immediate inheritance distribution may be perceived as unethical or even socially condemned. Heirs may be stigmatized as disrespectful or accused of wishing for the death of the decedent solely to claim the inheritance.

On the other hand, the widespread practice of delaying inheritance distribution is also not justifiable in Islam, especially if such delay results in disputes, unilateral control, or injustice toward other heirs. Therefore, a philosophical approach is needed to reconsider how the fundamental principles of Islamic law can be applied adaptively and contextually, in accordance with the diverse conditions of society.

Philosophically, Islamic law possesses flexible and dynamic characteristics. Its elasticity is reflected in its ability to change in form while preserving its core objectives (*maqāṣid*). The dynamic nature of Islamic law is evident in its capacity to adjust to changing social realities without deviating from *sharʿi* values. Hence, the use of reason and rational

deliberation is strongly encouraged in interpreting and implementing scriptural texts to ensure their continued relevance to contemporary societal needs.

In the context of inheritance, the flexible and dynamic nature of Islamic law allows for contextual adjustments in its application based on local social and cultural conditions. This is essential to prevent disharmony between the textual norms of Islamic inheritance law and the entrenched customary practices of Indonesian society. Such contextualization does not imply a disregard for Islamic legal norms, but rather ensures that Islamic law remains a living and functional system capable of addressing the realities of the Muslim community.

The social fabric of Indonesian society, which differs significantly from that of Arab society during the time of revelation, necessitates legal adaptation. For instance, the concepts of joint marital property and inheritance rights of adoptive parents over adopted children are recognized in Indonesia, despite not being found in classical Arab traditions. Additionally, the Islamic ideal of prompt inheritance distribution often clashes with Indonesian customs involving post-mortem religious rituals—such as the 7th, 40th, and 100th day commemorations. These rituals are not only seen as acts of respect toward the deceased but also as moral obligations of the family that require financial support, often derived from the deceased's estate.

Within this context, delaying inheritance distribution until after the 100th day commemoration may serve as a relevant and realistic social compromise. This delay can help avoid familial and communal conflicts, thereby preserving harmony, which is also a central aim of Islamic law. Numerous studies have shown that the Indonesian Muslim community considers prompt inheritance distribution to be socially taboo, often accompanied by societal criticism or negative perceptions.

Islamic law, as a mercy for all creation (*rahmatan lil-'ālamīn*), fundamentally does not advocate for rigid implementation that burdens the community. The principle of gradual application (*tadarruj*) in the implementation of Islamic law reflects Islam's consideration for the psychological and sociological readiness of its adherents. If the prohibition of alcohol—a deeply ingrained practice—was revealed gradually, then a gradual and contextual approach to inheritance implementation, which lacks explicit textual instruction on urgency, is even more justifiable.

Furthermore, from the perspective of *maqāṣid al-sharī'ah*, the delay of inheritance distribution until the completion of post-mortem religious rituals such as the 100-day *tablīl* can be interpreted as a form of *maṣlaḥah* (public benefit), as it prevents *mafsadah* (social harm) that could arise from rigid legal enforcement. Therefore, the urgency of inheritance distribution should not become a source of conflict, but rather a means to realize justice, tranquility, and familial harmony within the broader community.

CONCLUSION

The implementation of prompt inheritance distribution remains a taboo among many Indonesian Muslim communities, primarily due to the strong influence of deeply rooted local customs and traditions that have evolved into a form of *living law*. Attempts to enforce immediate distribution of inheritance often lead to conflict, both within the family and in broader societal contexts. Social stigma, such as accusations of being disrespectful or undutiful children, is frequently directed at those who seek to carry out inheritance division shortly after the death of the decedent.

To prevent such controversies and social frictions, it is crucial for Islamic law to align itself with the lived realities of society so that its foundational principles of justice and public benefit (*maṣlaḥah*) can be fully realized. In the Indonesian context, delaying

inheritance distribution until the 100th day after death can be viewed as a socially relevant compromise. Not only does this practice respect customary rituals that often require significant financial resources—typically drawn from the deceased's estate—but it also helps avert tension and potential disputes among family members and within the surrounding community.

From a philosophical standpoint, this approach does not conflict with the core principles of Islamic law. In essence, Islamic law is characterized by its nature as a *rahmatan lil-'ālamīn* (a mercy to all creation) and its inherent flexibility and dynamism, which allow it to adapt to diverse social and cultural settings. Accordingly, Islamic law is not intended to be implemented rigidly but must be responsive to the needs and well-being of the Muslim community in varying circumstances.

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