



Contemporary Islamic Jurisprudence Study on Inheritance from the Perspective of Islamic Law

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Abstract

Inheritance law is an important part of Islamic jurisprudence (fiqh mu'amalah) and holds a strategic position in Islam, as it regulates the transfer of property from a deceased person to his or her heirs in a fair and proportional manner. Normative Islamic inheritance provisions are regulated in detail in the Qur'an and Hadith, and further explained by scholars through the discipline of faraidh. However, the ever-evolving social, economic, and cultural dynamics demand a reexamination of the application of inheritance law in the context of modern life. The development of contemporary society presents various inheritance issues that have not been fully addressed in classical fiqh, such as the division of joint property between husband and wife, the inheritance of adopted children, the role of women in the family economic structure, the banking system and digital assets, and the plurality of legal systems prevailing in various Muslim countries. These conditions often create tension between the normative provisions of inheritance fiqh and the social realities faced by Muslims today. This study discusses inheritance law in classical Islamic fiqh and the challenges of its implementation in a modern context. Inheritance is regulated in detail in the Qur'an, Hadith, Ijma' and Qiyas, and is based on the principles of proportional justice and legal certainty. This study uses a literature review method with a qualitative descriptive approach. The results show that social and technological dynamics, such as adoption, in vitro fertilization, and interfaith marriage, give rise to new issues that need to be addressed through a contextual approach of maqashid sharia and ijtiha. Thus, Islamic inheritance law must continue to be studied to remain relevant and able to provide social justice in line with current developments. This study also emphasizes the importance of inheritance law education for the community to ensure that inheritance is carried out in accordance with sharia and avoids family conflict.

I. INTRODUCTION

Inheritance is a crucial aspect of Islamic family law, regulated in detail in the Quran, Hadith, consensus (ijma'), and qiyas (paraphrasing). The rules regarding the distribution of inheritance to legitimate heirs reflect the principles of justice, balance, and protection of individual rights within the family. In the context of a dynamic modern society, the application of Islamic inheritance law faces new and complex challenges. Phenomena such as the emergence of adopted children, reproductive technologies (test tube babies and artificial insemination), and interfaith marriages require an adaptive legal approach, while remaining compliant with sharia principles.

These new challenges raise fundamental questions about how Islamic inheritance law

responds to social and technological developments without losing its original substance. The presence of maqashid sharia (the objectives of Islamic law) and the contextual ijtiha method provide a crucial foundation for exploring just and relevant solutions to current conditions. Therefore, the study of inheritance law from a contemporary fiqh perspective is crucial, not only for Islamic legal academics and practitioners, but also for the general public who directly encounter these issues.

This research employs a qualitative approach with a literature review method. The analysis was conducted on primary sources such as the Quran, hadith, consensus (ijma'), and the opinions of classical and contemporary scholars. Furthermore, comparisons between schools of thought and a review of positive legal policies in

force in several Muslim countries, including Indonesia, were conducted. This study is expected to contribute to a more inclusive and adaptive understanding of Islamic inheritance law, capable of addressing contemporary issues while upholding the principles of justice and welfare.

II. RESEARCH METHODS

This research uses a qualitative method with a library research approach, namely research whose data sources are obtained from books, journals, and written works that are relevant to the study material. (Syad & Zariyah, 2020) This approach was chosen to explore and analyze Islamic inheritance jurisprudence concepts from both classical and contemporary perspectives. The data used are sourced from primary literature in the form of the Qur'an, hadith, ijma', qiyas, and relevant fiqh books from various schools of thought. Secondary sources such as scientific journals, inheritance law books, contemporary fatwas, and positive legal regulations applicable in Indonesia are also used.

The research stages include: problem identification through literature and social phenomenon reviews, data collection from various primary sources, comparative analysis between schools of thought, and legal interpretation using the maqashid sharia approach to address contemporary issues. The researcher also synthesized the views of various classical and contemporary scholars to provide adaptive solutions while remaining compliant with sharia principles.

This research does not use empirical samples or populations, as it focuses on normative and doctrinal studies. Administratively, the research location is the Faculty of Sharia and Law, State Islamic University of North Sumatra, and involves in-depth literature review in libraries and trusted digital sources.

III. RESULTS AND DISCUSSION

A. Research result

The research results show that the concept of inheritance law in Islam (faraidh) is

regulated in detail in the Qur'an, Hadith, Ijma', and Qiyas. The principle of proportional justice is the main basis for the distribution of inheritance assets, where men's shares are generally larger than women's due to their responsibility for providing for their family. Furthermore, the distribution of assets also takes into account the closeness of family ties and social burdens. In contemporary times, various new issues have emerged that require adjustments to inheritance law. These issues include the inheritance rights of adopted children, children resulting from reproductive technologies (such as IVF or artificial insemination), and interfaith marriages. In general, classical inheritance law does not provide space for adopted children to inherit, but the modern approach through the wajibah will provides a solution so that the social and economic rights of adopted children are still fulfilled. In the case of reproductive technologies, determining family lineage status is the main key in determining inheritance rights. If the family lineage is valid according to sharia, then the child is entitled to inherit. However, if the reproductive process involves a third-party donor (such as a surrogate uterus or egg donor from another woman), then the child is not recognized as a legal heir. Furthermore, the phenomenon of interfaith marriages has also sparked debate. Most Islamic scholars believe that non-Muslims cannot inherit Muslim property. Common solutions include lifetime gifts or mandatory bequests to maintain family harmony. Overall, the study's findings demonstrate the need for a maqasid sharia approach and contextual ijtihad (intelligible text) to ensure inheritance law remains relevant and adapts to modern social realities without neglecting sharia principles.

B. Discussion

Mawaris fiqh is the science that discusses inheritance law in Islam. The term mawaris is derived from the word al-mirats, meaning "inheritance" or "heritage." This science

regulates the distribution of assets according to sharia law, ensuring that the rights of each heir are granted according to the provisions set out in the Quran and Hadith.

Allah says in Surah An-Nisa' verse 11:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ الْفُعْلَيْنِ نُنْتَنَا مَا تَرَكَ وَإِنْ كَانَتْ وَاحِدَةً فَلَهَا ۖ الْيَتِيمُ

Meaning: "Allah has ordained for you concerning (the division of inheritance for) your children. Namely: the share of a son is equal to the share of two daughters; and if the children are all daughters, more than two, then for them two-thirds of the estate left behind; if there is only one daughter, then she gets half the estate."

Islamic inheritance law aims to maintain justice, protect the rights of heirs, and ensure the survival of the surviving family. Each individual receives a share determined by sharia to ensure there is no inequality in the distribution of assets.

Sources of Mawaris Fiqh Law

Inheritance law in Islam comes from the Koran and Hadith. Allah SWT says in Surah An-Nisa' verse 13:

إِنَّكَ حُدُودُ اللَّهِ وَمَنْ يُطِيعِ اللَّهَ وَرَسُولَهُ يُدْخِلْهُ جَنَّاتٍ تَجْرِي مِنْ تَحْتِهَا الْأَنْهَارُ خَالِدِينَ فِيهَا ۚ وَذَٰلِكَ الْفَوْزُ الْعَظِيمُ

This means: "(These laws) are the ordinances of Allah. Whoever obeys Allah and His Messenger, Allah will admit him into gardens beneath which rivers flow, wherein they will abide forever; and that is the great triumph."

The hadith of the Prophet also confirmed in the following history:

اللَّهُ وَرَسُولُهُ أَحَقُّ مِنْ أَنْفُسِهِمْ

Meaning: "Allah and His Messenger have more rights over believers than themselves..." (HR Muslim).

From this source, it can be concluded that inheritance laws in Islam are not merely cultural or traditional, but rather laws derived from revelation. Therefore, Muslims are obligated to adhere to them to maintain social and economic justice within the family.

In Islam, a person can receive an inheritance based on three main reasons:

1. Lineage (blood relationship)

Heirs who are directly related to the testator

by blood, such as children, parents, and siblings. This kinship is the primary reason a person receives a share of the inheritance.

2. Marriage

A legitimate husband or wife has inheritance rights over their spouse. This right remains valid throughout the marriage and is not revoked unless a divorce occurs before the testator's death.

3. Wala' (freeing slaves)

In the past, a person who freed a slave was entitled to inherit the slave's inheritance if the slave had no other heirs. This concept confirms that in Islam, protection for individuals who were once enslaved remains guaranteed.

Even if a person has a reason to receive an inheritance, there are several conditions that can prevent it:

1. Murder

Heirs who intentionally kill the deceased are not entitled to receive the inheritance. This is a form of sanction to prevent any criminal motive for obtaining the estate more quickly.

2. Religious differences

According to the majority of scholars, a Muslim cannot inherit from a non-Muslim, and vice versa. This is based on the principle that Islamic inheritance laws apply to Muslims.

3. Slave

In the past, slaves had no inheritance rights due to their status as the property of their masters. However, this concept was no longer valid after slavery was abolished in Islam.

The science of Mawaris has a very important role in Islam for several reasons:

1. Maintain justice

Inheritance distribution is carried out in accordance with sharia law to ensure that no heir feels disadvantaged. This law thus prevents family conflict and ensures that each individual's rights are met.

2. Protect the rights of heirs

Both men and women have the rights that have been determined by Allah, different from the practices of the time of ignorance which tended to ignore women's rights in inheritance.

3. Maintain family harmony

With Islamic inheritance law, every family member understands their rights and obligations. Clear rules prevent disputes and ensure the family's well-being.

Research shows that the concept of inheritance in Islam has a comprehensive legal framework, in which each heir's share is determined based on the Qur'an, Hadith, consensus (ijma'), and qiyas (echoic text). The main principle in inheritance distribution is proportional justice, which takes into account the family relationship and the social and economic responsibilities of each heir. For example, sons receive twice the share of daughters because the burden of supporting the family falls on men.

However, in the context of modern society, various issues have emerged that require legal adjustments. One major issue is the inheritance rights of adopted children. Under classical law, adopted children do not have inheritance rights because they lack a blood relationship with their adoptive parents. However, socially, adopted children are often treated like biological children, so the mandatory will approach is used as a solution to protect the rights of adopted children. This approach is based on the principle of public interest (maslahah mursalah) and the objectives of sharia (maqasid sharia), which prioritize justice and social protection.

Another issue that arises concerns children born through modern reproductive technologies such as in vitro fertilization (IVF) or artificial insemination. In contemporary Islamic jurisprudence, lineage status is key in determining inheritance rights. If the reproductive process uses sperm and ovum from a legally married couple and is implanted in the uterus of the legitimate wife, the child is recognized under Islamic law and entitled to inheritance. However, if a third-party donor or surrogate mother is involved, the majority of Islamic scholars believe that lineage is invalid and therefore denied inheritance rights.

The issue of interfaith marriage also poses a serious challenge in inheritance distribution. According to most Islamic scholars, non-Muslims cannot inherit Muslim property. However, to maintain family harmony, the proposed solution is to provide a lifetime gift or mandatory will to non-Muslim relatives. This reflects a contextual approach that maintains sharia principles while also taking into account social realities.

Furthermore, the issue of inheritance obstruction is common in society, where one heir delays or withholds the inheritance rights of another. In Islam, this act is considered an injustice and is strictly prohibited. Resolution can be achieved through family mediation, religious courts, or positive legal channels in accordance with applicable regulations in the local country.

Polygamy also presents its own challenges. Under Islamic inheritance law, wives have a predetermined share: $\frac{1}{4}$ if they are childless and $\frac{1}{2}$ if they are. However, this division practice often triggers internal conflict among wives and children. Therefore, contemporary scholars advocate making gifts or bequests during a husband's lifetime to prevent disputes and ensure fairness between all parties.

Overall, this discussion demonstrates that Islamic inheritance law is highly adaptive and dynamic. Through the ijihad method and the maqasid sharia approach, inheritance law not only upholds the principle of substantive justice but also addresses contemporary social, cultural, and technological challenges. Thus, the application of Islamic inheritance law in a contemporary context can remain relevant, wise, and humane.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

This research shows that inheritance in Islam is an integral part of family law, regulated in detail in the Qur'an, Hadith, consensus (ijma'), proportionality, and qiyas. The principles of legal certainty, justice, and

the prohibition of changing inheritance shares are the main foundations underlying the distribution of inherited property. However, the dynamics of modern society present various new and complex issues, such as the status of adopted children who do not have direct inheritance rights, children resulting from reproductive technology that give rise to debates regarding lineage status, and interfaith marriages that give rise to polemics regarding inheritance rights.

The maqasid sharia approach provides a philosophical basis for maintaining the values of justice and welfare, allowing Islamic inheritance law to be adapted to the contemporary context without abandoning sharia principles. The concept of mandatory wills for adopted children and lifetime gifts for non-Muslim relatives provide relevant, concrete solutions. Furthermore, the obstacles to inheritance that occur in society indicate the need for in-depth education so that inheritance law can be applied fairly and avoid family conflict.

Thus, Islamic inheritance law is dynamic and flexible, driven by mechanisms of ijihad and contextual adaptation, capable of addressing contemporary social, technological, and cultural challenges. This study confirms that Islamic inheritance law is not only legally formal but also possesses powerful social and moral dimensions for building justice and harmony in society.

B. Suggestion

This study recommends further efforts to strengthen education and public awareness of Islamic inheritance law to ensure effective implementation of the principles of justice and welfare. Academics, legal practitioners, and policymakers are expected to develop policies that accommodate contemporary issues, such as adoption, in vitro fertilization, and interfaith marriage, while remaining grounded in Islamic sharia values.

Furthermore, further, more in-depth, empirical research is needed to explore the

application of inheritance law in real-world situations, thereby providing more practical and applicable recommendations. Utilizing interdisciplinary approaches, such as legal sociology and family psychology, is also crucial to support a more humanistic and inclusive application of inheritance law. Thus, it is hoped that Islamic inheritance law will not merely be a static norm but also a guideline for life capable of addressing the various social and technological challenges of the modern era.

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