



Implementation of Islamic Inheritance Law in Kindang District of Bulukumba Regency: A Case Study in 2020-2022

Andi Sani Silwana¹, Misbahuddin², Supardin,³ & Husnul Maabi⁴

^{1,2,3,4}Universitas Islam Negeri Alauddin Makassar

Email: 80100221086@uin-alauddin.ac.id

ABSTRACT

The practice of implementing inheritance distribution that is patrilineal, matrilineal and bilateral differs from one region to another in Indonesia. This research investigated the distribution of inheritance in Kindang district, the implementation of inheritance distribution based on Islamic law, and the supporting and inhibiting factors for applying the distribution of inheritance based on Islamic law in Kindang district of Bulukumba regency. This study used a descriptive qualitative method with field research. Data were collected by conducting interviews, documenting information obtained in the field, and tracking the related research sources. Then, the data were analyzed by interpretation and explanation. The results indicated that the inheritance distribution system in Kindang district was divided into two conditions: before and after muwaris pass away. The distribution of inheritance had not followed Islamic inheritance law in Kindang district; it was based on traditions or following their customs. In applying Islamic inheritance laws, the supporting factors were knowledge and agreement/approval of the heirs. In contrast, the inhibiting factors were ignorance/lack of knowledge and awareness of Islamic inheritance law.

Keywords: Implementation, Islamic Inheritance Law.

1. INTRODUCTION

Al-Quran is the main source of Islamic law. Sharia (Islamic law) regulates the law of inheritance called faraid. Inheritance law is about inheritance rights (tirkah) and determines who has the right to become an heir and the number of shares (Basri, 2020). The science of inheritance is explained directly by the holy Qur'an, namely in 3 verses of QS. An-Nisa verses 11, 12, 13. The verses explain who is entitled to the inheritance and the number of shares heirs receive. Unlike the other sciences, such as fasting and zakat,

Qur'an only mentions them generally, while the details were explained by the Prophet Muhammad. The science of inheritance is half of the science of Sharia because humans experience two phases, namely, life and death. In contrast, the object of inheritance is a person's property after death, unlike other sciences where the discussion revolves around a person's life.

The practice of Islamic inheritance in Indonesia still tends to be patrilineal, matrilineal and bilateral. Each region and custom has different inheritance laws (Darmawan, 2018). Islamic communities seem not to know the distribution of inheritance based on Islamic inheritance law. They were unfamiliar with the implementation of Islamic law due to a misunderstanding of inheritance theory that developed during the Dutch colonial period, thus ignoring the existence of Islamic inheritance law. Customary law is applied rather than using sources of Islamic law in the distribution of inheritance. Islamic law should be the main guideline for people in everyday life; however, the communities only practice it when merged into customary law. This situation causes the practice of Islamic inheritance in Indonesia to be different.

Islamic inheritance law has regulated clearly and in detail who is entitled to be the heirs and the number that they receive. The main purpose of the distribution, of course, is to fulfill the aspect of justice (Haries, 2014). The distribution of inheritance has been regulated in the Qur'an and Hadith so that it becomes a guideline that inheritance law needs to be upheld because it is part of the law of Allah.

The distribution of inheritance among the Muslim community who live in Kindang District of Bulukumba Regency is still unfamiliar with the distribution based on Islamic law. The community tends to distribute inheritance using the parental system or bilateral, that is, a hereditary system drawn through the parental lineage or a two-sided line (father/mother) where the position of men and women in inheritance is not distinguished; they get the same share in the distribution of inheritance. However, sibling conflict sometimes arises with this inheritance system because the share obtained is unfair. Therefore, this research investigated the implementation of the distribution of inheritance based on Islamic law in the Kindang District, Bulukumba Regency. The research questions are as follows:

1. What is the understanding of Islamic community regarding the distribution of inheritance in Kindang district of Bulukumba Regency?
2. How is the implementation of inheritance distribution based on Islamic law in Islamic community in Kindang district of Bulukumba Regency?
3. What are the supporting factors and inhibiting factors for the distribution of inheritance based on Islamic law in Kindang district of Bulukumba Regency?

2. METHODS

This study used a descriptive qualitative method with field research, which examined events that occur in the field. This study used 3 research approaches: the Sharia approach, the formal juridical approach, and the sociological approach. Data were collected by conducting interviews with the people in Kindang district, documenting any information obtained in the field, and tracking the related research sources (books, journals, articles, and websites) as additional research data to explore in-depth information. Then, the data were analyzed by interpretation and explanation.

3. RESULTS AND DISCUSSION

Overview of the Research Location

Kindang district is one of 10 districts in Bulukumba Regency, South Sulawesi, Indonesia, located in the mountains, especially on the slopes of Mount Lompobattang. Kindang means a kingdom. It is called a kingdom because, formerly, Kindang was a small kingdom belonging to Gowa kingdom. Previously, Kindang was part of the Gangking district. Now it is called Gantarang district.

Islamic Community's Understanding of Inheritance Distribution

The understanding of the Islamic community in Kindang district regarding the distribution of inheritance differs from the theory of Islamic inheritance law, which is regulated and explained in the holy Qur'an. Based on the interviews, the people in Kindang district understand that inheritance was the assets obtained or given to them from their parents. The inheritance distribution system in Kindang is divided into two conditions. Some share their inheritance when the parents are still alive (given to married sons), and some will only receive it when their parents pass away. Commonly, the Islamic community in Kindang distributed a lot of inheritance to their heirs when they were still alive by equal shares between men and women; they adhered to a kinship system in the distribution of inheritance following a parental or bilateral system, that is, the lineage taken from both sides (father and mother).

In Islamic law, there are two conditions for heirs to receive inheritance. Firstly, the heirs can receive the inheritance after the death of muwaris (people who died or left assets). However, the reality that occurred to the Islamic community in Kindang district was the implementation of the distribution of inheritance to sons before the death of muwaris, which violated the rules for distributing the inheritance itself. The second condition is that the heir is still alive, even if only for a moment, and the party who will receive (heir) is known definitively, as well as the existence of assets left as an inheritance.

The inheritance distribution implemented is individual, where heirs obtain distribution through individual control. This system has an advantage because the heirs can directly control their inheritance individually without being influenced by other family members. Still, there is also weakness in this individual system. Sometimes heirs do not agree to distributions. Disputes often arise between heirs because of obtaining an inheritance that is felt to be insufficient. This fact often occurs in the reality of Islamic society in Kindang district. An heir wants to control an inheritance based on greed or a tendency to lust, so he/she wants to control the property solely.

The disagreement of inheritance distribution can certainly result in damage to fraternal relations. Therefore, Islam as *rahmatan lil 'alamin* (blessed religion) regulates inheritance so that portions are adjusted to fulfill the justice aspect for the heirs (Jaya, 2020). The distribution of heirs has been explained in the Qur'an according to the provisions of "*al-furudhul al-muqaddara*," namely the portion of the heirs consisting of 1/2 (half), 1/3 (one third), 1/4 (one quarter), 2/3 (two-thirds), 1/6 (one-sixth) and 1/2 (one-eighth). In Islamic inheritance law, there is a principle that men inherit greater than women, as explained in QS. An-Nisa [4] verse 11 as follows:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ ۚ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۚ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ ۚ

Translation:

"Allah commands you regarding your children: the share of the male will be twice that of the female. If you leave only two (or more) females, their share is two-thirds of the estate (Ministry of Religion of the Republic of Indonesia, 2016)."

While Article 176 of Islamic Law Compilation also regulates:

If the daughter is only one, she gets half the share; if two or more of them together 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.

This research also revealed many cases of inheritance disputes in Kindang district. Interestingly, none of the cases registered at Bulukumba Religious Court regarding resolving inheritance disputes in 2020-2022. The people in Kindang had a mindset that registering cases in the religious courts cost a lot of money and decreased opportunities. Thus, solving problems is done only as a form of deliberation by presenting the local government as the mediating party for the litigants with efforts in the form of conciliation, which is an attempt to bring together the wishes of the parties to reach an agreement and resolve the dispute.

Implementation of Distributing Inheritance Based on Islamic Law

The interview result in Kindang district revealed that most of the Muslim community who experienced inheritance disputes argued that the Islamic inheritance law rules were fair as Allah presented to regulate Muslims in distributing their inheritance. However, the reality of the Islamic community in Kindang district indicated that the distribution of inheritance had not followed Islamic inheritance law. Distributing inheritance was based on traditions passed down from people before them or following their customs.

Distribution based on Islamic inheritance law can be applied when there is awareness by the Kindang community to carry out the rules themselves properly. The difficulty of distributing inheritance based on Islamic inheritance law was that the people in Kindang district were unfamiliar with distribution based on Islamic inheritance law, which is a law that Allah has brought to regulate human life.

The implementation of Islamic inheritance law in Kindang district is in line with Snounck Hugronje and Van Vallenhoven through their Receptie theory where they state that Islamic law can be accepted as long as it does not conflict with customary law, meaning that Islamic law follows customary law or local communities. The distribution of inheritance based on Islamic law is obligatory for Muslims. However, inheritance is regarding a right. That right must be requested, may be requested, or not taken.

Supporting and Inhibiting Factors of Distributing Inheritance Based on Islamic Law in Kindang District

The factor urgently needed to support the distribution of inheritance based on Islamic law is knowledge of the Islamic community, especially in Kindang district of Bulukumba Regency. It is related to Islamic inheritance law, which includes the procedure for distributing assets, the recipient's heirs, and the number of shares to receive. However, the reality in Kindang district in distributing inheritance is different from Islamic inheritance law.

Knowledge of Islamic inheritance law can be found in the holy Qur'an and hadith from Prophet Muhammad, the results of *ijtihad* (mutual agreement) of Islamic authorities, and the dissemination of Islamic inheritance law. It would be a good term for religious instructors to take an important role in socializing the teachings of Islam, especially Islamic inheritance law, to the Islamic community in Kindang district. In addition, Islamic leaders should also take part in spreading Islamic teachings not only in the field of worship but also in the law aspects of Islam itself.

Another supporting factor is the approval factor of the heirs to distribute assets based on Islamic law. The agreement of the heirs in establishing the rules for distributing inheritance was a very important aspect in establishing the legal system for determining inheritance based on Islamic law to avoid a dispute among them. As Muslims, implementing the distribution of inheritance following Islamic inheritance law does not require approval from any party. Muslims carrying out the laws of Allah is a must. Therefore, distributing inheritance based on Islamic law is mandatory for Muslims.

The inhibiting factors in applying Islamic inheritance law are ignorance/lack of knowledge related to Islamic inheritance law. The division of inheritance based on Islamic law has never been applied by Islamic societies before them in Kindang district. This problem was because they knew nothing about asset distribution based on Islamic inheritance law. Therefore, the role of religious leaders in dissemination regarding Islamic inheritance law in Kindang district is important so that the Islamic community knows and understands the Islamic inheritance law following Qur'an and hadith, which is a law that comes from Allah which Muslims should know and understand this problem.

Another inhibiting factor is the awareness of the Islamic community itself to carry out the distribution based on Islamic inheritance law. The lack of awareness to apply Islamic law, a rule from Allah, can hinder distributing shares to the right heirs based on inheritance law. Even though the supporting factors, which include aspects of knowledge related to inheritance law, are fulfilled, the Islamic community does not have the awareness to apply the law that Allah has established; it is still pointless.

4. CONCLUSION

In conclusion of this research, the results revealed that the inheritance distribution system in Kindang is divided into two conditions: the heirs can receive the inheritance before muwaris pass away (given to married sons), and they can get the shares after the death of muwaris. The distribution of inheritance had not followed Islamic inheritance law in Kindang district. Distributing inheritance was based on traditions passed down from people before them or following their customs. In applying Islamic laws, the supporting factors were knowledge and agreement/approval of the heirs. In contrast, the inhibiting factors were ignorance/lack of knowledge and awareness of Islamic inheritance law.

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