

Revealing the Economic Justice in the Inheritance Legal System in Indonesia

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Abstract

The purpose of this study was to reveal economic justice in the inheritance legal system in Indonesia. Qualitative research was used in this study to frame, analyze, and provide solutions in the form of a strategic role model for the Indonesian government in completing and streamlining the distribution of inheritance riches. It is hoped that the answers will be based on the difficulties that Islamic groups and religious courts have had in distributing inheritance riches. In addition to zakat, infaq, shodaqoh, and endowments, suggest inheriting money as a public fund. Religious courts and Islamic organizations handle the execution and resolution of inheritance wealth distribution disputes. In Indonesia, the distribution of inherited wealth takes on a new dimension thanks to the proliferation of different types of institutions. Individual family tensions, hoarding treasure, and societal economic inequities could all be avoided if legacy wealth distribution is handled correctly.

Keywords: *Economic Justice; Inheritance Law; Faraidh; Economic Balance; Wealth Distribution.*

INTRODUCTION

Justice is a principle that has a prominent place in society and is occasionally the subject of debate. Simply described, justice is an effort to put something back where it belongs. Justice can be achieved at any moment and opportunity in Islam, according to this teaching. The establishment of a stable social order is a logical outcome of the proper administration of justice. It is not restricted to one facet of life; true justice exists in a wide range of other areas, such as religious, social, economic, political and so on. However, if the principle of fairness is eroded, the social order is shaken (social unrest)¹

¹ Rangkuti, Afifa. 2017. "Konsep Keadilan Dalam Perspektif Islam." *Tazkiya* 6 (1).

In the context of the rule of law, justice and fairness can be seen as two sides of the same coin. If the rule of law is maintained, justice will be achieved. Rule of law is also a threat to justice if it is not upheld. As a result of the term justice's critical importance, this paper will examine a variety of connected topics²

This paper will also explain how justice is related to law and how it is applied in various sectors of life. Justice, as we know it, is a fabrication of our imagination, given the way things are going right now. It's because there aren't enough people who care about each other³

There are still some people who question, protest, or even utter the word "blasphemy" against Islam despite Islamic law. All Muslims, as well as those with various levels of education and degrees of scholarship ranging from S-1 to 3 are included in this category. Sharia law's "injustice" in inheritance law is among the systems that are still being challenged and even blasphemed by certain people. This is mostly in reference to the intended distribution of 2:1, with two portions going to male heirs and one going to female heirs. Relationships between siblings, especially those of the blood, as well as between spouses are especially fraught with conflict⁴.

When responding to claims of "injustice" in Islamic inheritance law, there are a number of arguments ranging from the most basic sociological-empirical and pragmatic thinking, to postulates and arguments that are based on concepts and systems of thinking that are permissible, and so forth. As a result, it's the most theoretical, methodological, and argumentative. Currently, and for some time to come, scientists are debating the merits and drawbacks of using the 2:1 balancing approach for distributing Islamic inheritance⁵.

METHOD

The method developed in this research is qualitative research with a normative legal approach. This study aims to observe and analyze the Indonesian system of

² Salfitra, Alifita, Auliya Izzah Hasanah, and Rachmad Risqy Kurniawan. 2021. "Keadilan Dalam Perspektif Ekonomi Islam."

³ Husni, Indra Sholeh. 2020. "Konsep Keadilan Ekonomi Islam Dalam Sistem Ekonomi: Sebuah Kajian Konseptual." *Islamic Economics Journal* 6 (1): 57-74.

⁴ Heryant, B Rini, Amri Panahatan Sihotang, and Aga Natalis. 2020. "Recognition of Traditional Inheritance Law in Indonesia: A Case Study of Sedulur Sikep Traditional Society." *PalArch's Journal of Archaeology of Egypt/Egyptology* 17 (10): 793-800.

⁵ Irianto, Sulistyowati. 2004. "Competition and Interaction between State Law and Customary Law in the Court Room: A Study of Inheritance Cases in Indonesia." *The Journal of Legal Pluralism and Unofficial Law* 36 (49): 91-112.

inheritance law from a stakeholder perspective in order to govern the distribution of inheritance wealth in accordance with the Islamic idea of inheritance in order to establish economic balance in the society. In order to complete and streamline Indonesia's inheritance wealth distribution, the authors of this study proposed a strategic role model solution for the government. Islamic organizations and religious courts face a variety of issues when it comes to distributing wealth, and our model will be built on those issues. The data in this study consisted of field data and secondary data.

RESULT AND DISCUSSION

1. The Legal System of Inheritance: Islamic and Indonesian Law

Fara'idh or the science of Islamic inheritance, which is based on the idea of textual revelation in the Quran and Hadith, is where Islam gets its idea of how to distribute inherited wealth. There are numerous stages outlined in Al-Nisa (woman) from verses 7 to 14 and in Quran's verse 176 that encapsulate the notion of inheritance wealth distributions⁶

The Holy Quran not only explains inheritance, but it also goes into detail about how previous generations' wealth was distributed. People who are actively involved in inheritance wealth distributions are more likely to have disagreements if they don't have this information. "For men is a share of what the parents and near relatives leave, and for women is a share of what the parents and close relatives leave, be it small or much - an obligatory share," al-Nisa, verse 7 states. Then, if other relatives, orphans, and the destitute are present at the moment of division, then supply them with something from the estate and speak to them with words of suitable kindness." the eighth chapter of the Qur'an According to this passage, the most significant parts of legacy wealth distribution, such as speaking with kindness and distributing a set amount, are immediately addressed⁷

Al-Nisa verses 11, 12 and 176, all of which are chapters from al-Fara'idh al-Fa'idh, describe the distribution of wealth in great detail in the Holy Quran (science of Islamic inheritance). According to the verses, the inherited wealth distribution is not only explained, but also a provision that the division of inheritance wealth distribution is fair, wise, meritorious and valuable to anybody who studies it⁸.

⁶Fauzi, Mohammad Yasir. 2017. "Legislasi Hukum Kewarisan Di Indonesia." *Ijtima'iyya: Jurnal Pengembangan Masyarakat Islam* 9 (2): 53-76.

⁷Judiasih, Sonny Dewi, and Efa Laela Fakhriah. 2018. "Inheritance Law System: Considering the Pluralism of Customary Law in Indonesia." *Padjadjaran Journal of Law* 5 (2): 315-30.

⁸Prasetyo, Yuli Adhi, Triyono Triyono, and Muhyidin Muhyidin. 2021. "Questioning the Customary Inheritance Law After Law No. 3 of 2006 about Religious Jurisdiction." *Indonesian Journal of Advocacy and Legal Services* 3 (1): 111.

In Indonesia, three distinct legal systems govern the transfer of inherited wealth: customary inheritance law, civil inheritance law as enshrined in the Civil Code, and Islamic inheritance⁹. Traditionally, the distribution of an inherited fortune is inextricably linked to the structure and content of a family's religious and cultural traditions. For example, a big family with joint ownership of property makes it impossible to divide the estate of a deceased person. It has been suggested by Sarono that the ever-shifting nature of kinship has resulted in a wide range of inheritance patterns, some of which are based solely on maternal or paternal lineage (parental)¹⁰.

When someone passes away, the distribution of their estate is governed by civil law (Article 830 of the Civil Code). The civil inheritance system focuses more on the transmission of such property to biological family members, including from lawful and illegitimate marriages, and the husband or wife who lived longer⁹. According to the articles, inheritance wealth is distributed equally to everybody, regardless of gender or age. According to Islamic Law Compilation's second volume, Indonesia acknowledges Islamic inheritance as well as two other inheritance systems¹¹

Distribution of inherited money occurs automatically in the Islamic inheritance system without the need for a request (or a will) from the assets' owner or its relatives, and instead is based on the Islamic textual sources of the al-Quran and the Sunnah¹². According to these sources, the Islamic system of inheritance differs from those of other religions¹³ (Uyuni and Adnan 2021). Inheritance wealth distribution cannot be divorced from the parties involved in establishing economic balance. Inheritance wealth distribution is also influenced by the heirs' geographic location, habit or local wisdom, as studied in this study, which includes rural communities, industrial communities, urban communities in South Sulawesi¹⁴. In the next discussion, we'll go over the specifics.

2. Inheritance Legal System: Revealing the Economic Justice

⁹ Suprihatin, Supriatin, and Nurrohman Syarif. 2020. "The Meeting Point of The Development of Formal Islamic Inheritance Law In Indonesia with International Law." *Ulu'muna: Jurnal Studi Keislaman* Vol. 6 No. 2: Desember 2020 P-ISSN 2442-8566 E-ISSN 2685-9181 6 (2): 219-35.

¹⁰ Sarono, Agus. 2022. "THE IMPLEMENTATION SYSTEM FOR THE DISTRIBUTION OF INHERITANCE TO MUSLIM COMMUNITIES IN INDONESIA IN THE PERSPECTIVE OF ISLAMIC LAW." *Journal of Legal, Ethical and Regulatory Issues* 25 (1): 1-11.

¹¹ Irawaty, Irawaty, and Diyantari Diyantari. 2017. "Inheritance Laws in Indonesia." *Hayula: Indonesian Journal of Multidisciplinary Islamic Studies* 1 (2): 209-28.

¹² Eleanor, Fransiska Novita, and Andang Sari. 2019. "Distribution of Inheritance Based on The Principle of Justice According to National Law." *Varia Justicia* 15 (1): 9-17.

¹³ Uyuni, Badrah, and Mohammad Adnan. 2021. "APPLICATION OF ISLAMIC INHERITANCE LAW AMONG MUSLIM SOCIETY." *El-Arbah: Jurnal Ekonomi, Bisnis Dan Perbankan Syariah* 5 (1): 19-32.

¹⁴ Masakke, Fransisca Utami, Irena Hapsari, and Syaukah Az-Zahro. n.d. "THE EXISTENCE OF CUSTOMARY INHERITANCE LAW IN INDONESIA." *Tadulako Law Review* 5 (1): 89-98.

There are many different ethnic groups living in Parepare because it is the one of big city of South Sulawesi province, and this fact has an impact on the city's inheritance distribution model. According to the Vice Chairman of the Religious Court of Parepare, the number of cases in which heirs are determined or inheritance distribution disputes are settled each year is on the rise, based on statistics from the Religious Court of Parepare. If people's awareness about Parepare law is to be taken into account when dealing with inheritance-related transactions like buying and selling land or retrieving a deceased person's property from the bank (in the form of savings and deposits), then Sharif, Registrar of the Religious Court of Parepare says this cannot be separated from the rise in inheritance wealth distribution cases.

1. The case number 719/Pdt.P/2016/PA is an example of a recently concluded case in which the heirs were determined.
2. The case number is 4590/Pdt.G/2015/PA involving Sby and his heirs.
3. This case has been dismissed for lack of compliance with a number of plaintiff-supplied conditions (Settlement Directory of Religious Court of Parepare 2015b).

A few years ago, things were very different, according to Rahim¹⁵. Only a few cases have been brought to court since the residents of the village or district felt that having a legal body from that area was sufficient. However, because of the flaws in the inspection process, this could lead to a conflict. According to his prior work experience, Parepare differs from the place where few individuals litigate their legacy wealth distribution to the court because they may finish it through the family council, as he found. When it comes to dealing with inherited assets, banks and other parties will demand that Parepare's urban community be more aware of the law and treat it as an obligation that must be fulfilled before conducting a transaction linked to inheritance assets.

It is critical that the religious community, as well as government agencies (such as the Religious Court), play an active role in distributing inherited riches¹⁶. There has been no explicit debate on inheritance wealth distribution in their Islamic legal research institute, according to Muhiddin¹⁷. When it comes to inheritance problems, this is a gesture known as *ikhtiat* or *Kiai* (cleric) prudence, especially in metropolitan towns like Parepare. When dealing with legal concerns, a strategy is needed to avoid future complications.

In spite of this, he argued that the lack of socialization from preachers had contributed to a widespread ignorance about the science of *faraidh* (Islamic inheritance

¹⁵ Abdul Rahim Gaffar. Personal Interview. A Judge

¹⁶ Tono, Sidik, M Roem Syibly, Amir Mu'allim, Ahmad Nurozi, and Muhammad Roy Purwanto. 2019. "The Harmonious Relationship between Minangkabau Custom and Islam in the Distribution of Inheritance." *Al-Shajarah: Journal of the International Institute of Islamic Thought and Civilization (ISTAC)*, 39-55

¹⁷ Muhiddin Bakry. Personal Interview. Cleric and caretaker in Batsu al masa'il NU Parepare

law). This may be due to the lack of a Kiai (cleric) who understands inheritance law, which involves a lot of mathematics. To make matters worse, according to al Ghazali's remarks in the book *Fath al Rabbani*, "Kathir al Khutaba 'qalil fuqaha," Indonesian society is sociologically prone to idolizing individuals (A lot can speak, but only few can understand).

Other factors, such as the property's psychological impact, also play a role in this issue. Inheritance wealth distribution is a problem that many people in society are unwilling to address, and preachers do not play an active part in providing solutions (Darwis 2020). Hannani¹⁸ gave a presentation on inheritance problems that he had dealt with in three different locations in Parepare, based on his own experiences. For starters, consider the inheritance dispute, which sparked a family feud over unequally divided heirlooms. Second, there was a dispute between parents-in-law and their children-in-law in Semampir over inheritance distribution. As an example, in one case, a child took possession of the entire estate, leading to a fight between the parents. In his own words, Mustakim (one of the heirs) admits that Parepare's attitudes around the transfer of inherited riches have shifted. Parepare had few inheritance disputes in the past, as most people viewed inheritance as something private and only a few people claimed their portion of the legacy riches. In Parepare, however, people's attitudes toward inherited wealth distribution have altered over time, and he has personally observed and felt this shift¹⁹.

Parepare economy relies heavily on agriculture, the city is also recognized for its religious school students. Growth in the number of mosque-affiliated boarding schools affects the community's knowledge of Parepare, especially how wealth is distributed in wills.

According to the Religious Court of Parepare, there has been a rise in the number of cases involving inheritance distribution. The majority of them are heirs themselves. Since 2013, the Religious Court of Parepare has received around 24 instances of inheritance each year²⁰

Rahim said that the numbers are still tiny compared to the many inheritance conflicts that take place in society. – According to Rahim, this is due to a high volume of petitions to determine heirs, rather than inheritance disputes, in the court. Parepare's absence of inheritance conflicts can be explained in two ways, he noted. To begin, in Parepare, there is no such thing as a lineal descent. As a second example, the public may

¹⁸ Hannani, Personal Interview. The chief of the Islamic Propagation Institutes of NU in Parepare

¹⁹ Zuleika, Adelina, and Ni Putu Desinthya. 2013. "Islamic Inheritance Law (Faraid) and Its Economic Implication." *Tazkia Islamic Finance and Business Review* 8 (1).

²⁰ Annual Report Directory of Religious Court of Parepare 2017.

have been able to handle inheritance issues on their own without the court's intervention, but they include anyone (such as priests) who is considered a master in inherited wealth distribution affairs of the family.

According to Mahsyar²¹ Parepare is a distinct city. This was confirmed by him directly Parepare is also renowned as a student city in relation to inherited wealth distribution issues that were directly handled through meetings with the clerics. Parepare is both an industrial city and a student city. based on his own experience, he claims that he is frequently approached and urged by society to address family inheritance issues.

With Umar Fakhrudin²², according to his declaration, all assets have been distributed according to the norms of Islamic inheritance, and there have been no conflicts or judicial proceedings. A parent's ability to help their children grasp the world around them while they are still living is an essential part of this, according to him As Arfan Muammar²³ discovered, inheritance wealth is transferred only after both parents have passed away, therefore there has been no family strife, despite the fact that the money has not been distributed directly.

Because it is not yet time to disperse an estate's wealth, some of its beneficiaries are unwilling to share. There are also heirs who believe that they are the rightful owners of the bequest even though they haven't spoken to other heirs about it. A judicial battle before the Religious Court of Parepare, which only occurs once a year, is a good example of this. Finally, South Sulawesi's Parepare regency, which is seeing fast economic growth as a result of the rise of the oil drilling industry. While the majority of people in rural areas are involved in agriculture, they nonetheless maintain a rural lifestyle. This adds to the rarity of the topic of distributing inherited riches. A review of the records kept by the Religious Court of Parepare shows that there were only five inheritance cases in 2015, of which four dealt with the determination of heirs and one was a dispute over an inheritance. Even before 2012, there had only been one case of inheritance²⁰. Rahim stated that this is not a common practice in the area.

In Parepare, there aren't many arguments over how to distribute inherited riches because most families' possessions are agricultural, which is more likely to be put to good use. As an Mustakim²⁴ of the Religious Court in Parepare, Salihin constantly wondered if the residents of the city were able to maintain economic equilibrium, particularly in the family, through the practice of inherited wealth distribution. Furthermore, the Religious

²¹ Mahsyar. Personal Interview. The Legal Affairs Committee of Regional Muhammadiyah of Parepare

²² Heir. Personal Interview

²³ Heir. Personal Interview

²⁴ Mustakim. Personal Interview. A judge

Court is merely a spectator, completing cases when they are brought before it by the heir apparent.

Mrs. Masunah²⁵ explains that she and her siblings alternately handle their siblings' inheritance fortune and that wealth management is cycled every year. Furthermore, there was never any discussion or conflict within the family around the issue of inheritance. Findings from the field show that there are few models of wealth distribution in the communities, whether urban, industrial or rural. Parepare and Parepare are two Indonesian cities that have similar growth areas and are geographically contiguous, which means that most individuals in both cities litigate on legacy wealth distribution to the Religious Court, particularly the designation of heirs. Parepares, on the other hand, are a more pious people. Some models can be seen in these two regions, according to interviews with diverse stakeholders.

Second, evidence from the religious court shows that inherited wealth distribution occurs infrequently in Parepare. Religious courts' role in inheritance matters can be seen from the above data to be inactive or waiting for new cases to come in. Annual reports from the religious courts show that Parepare Religious Courts receive the most cases of inheritance from society. There are a few exceptions to this rule, though. The Religious Court, as a state-authorized judicial organization, should be able to ensure that the distribution of inheritance money is in accordance with the science of faraidh, rather than relying solely on the wishes of the claimant. As a result, the distribution of inherited wealth will help maintain economic equilibrium within families and in society as a whole. In addition to the Religious Court, the community undoubtedly plays an essential role in the implementation of economic balance through the distribution of inheritance riches. Members of Islamic groups like Muhammadiyah and NU religious are considered members of the community in this perspective. However, both NU and Muhammadiyah lack a well-structured and well-maintained program in inheritance law instruction and mentoring. Because they provide aid or answers to questions about inheritance or to anyone who asks them, both groups are passive even though some of its members are participating in the wealth distribution. In order for Islamic organizations to fulfill one of their responsibilities in society, mandated by the Community Organization Act, i.e., to assist people directly, especially in implementing balance on the economy through the inheritance wealth distribution, this issue should be a common awareness for Islamic organizations.

Problems with the distribution of inherited wealth are getting better. Disagreements within the family can lead to the smallest level of violence, such as squabbles over inheritance wealth distribution, all the way up to the most extreme level

²⁵ Heir. Personal Interview

of violence, such as murder. Since NU and Muhammadiyah are organizations that directly engage in the concerns of society and have acquired confidence in leading society and religious matters, the question of inherited wealth distribution should be of major concern. The heirs, on the other hand, must play an active role in developing and preserving their attitude toward dispersing the inheritance in each family in order to achieve a balance in the economy. An understanding of inheritance wealth distribution in the family should be maintained in accordance with the standards of faraidh science. The state's religious court, as well as Islamic groups, should be consulted regarding inheritance issues when there is a disagreement or question of inheritance wealth distribution in the family.

Stakeholders and their references must also be taken into account when developing an inheritance distribution model²⁶. People in three regions have practiced a variety of inheritance wealth distribution models, and a model that can serve as a role model for establishing economic balance by combining many models as phases or steps in the inheritance wealth distribution can be seen from these examples²⁷. Listed below are the steps involved:

1. The first step is to find out who the heirs are to the treasures (religious court)
2. The second step is to figure out how much of the bequest will be given away and how much will be left for the heirs to manage as a productive legacy riches.
3. The third step is to distribute the inherited money in accordance with the principles outlined in Islamic inheritance law, known as the science of faraidh.

A property's net income (profit) can be divided among heirs in accordance with the rules of Islamic law or the science of faraidh, or in accordance with the time period (e.g., yearly) that is counted based on the portion of the inheritance wealth that each party is entitled to according to the rules of Islamic law.

It is appropriate not to receive and offer his/her part to other heirs who need more from inherited money in order for them to live in the fifth step for those who have accepted the distribution of inheritance wealth Any heir can consult religious organizations (such as NU and Muhammadiyah) as a kind of mediation outside of the court or immediately submit a lawsuit to the Religious Court if there are inconsistencies in inheritance wealth distribution

²⁶ Nasrul, Muhammad Amrullah Drs, Zati Ilham Abdul Manaf, Syafwendi Syafril, and Moh Fathurrohman. 2021. "AN OVERVIEW OF THE INHERITANCE LEGAL SYSTEM IN MALAYSIA AND INDONESIA: ISSUES FACED BY BOTH COUNTRIES." *Journal of Shariah Law Research* 6 (2): 181-200.

²⁷ Andayani, I Dewa Ayu Yus, M H SH, Anak Agung Ngurah Alit Suteja, and Anak Agung Putu Oka Seputra. n.d. "THE VALIDITY OF THE HEIR TO REJECT THE INHERITANCE ACCORDING TO INHERITANCE LAW IN INDONESIA."

CONCLUSION

Islamic Inheritance Law, Civil Inheritance Law, and Customary Inheritance Law are the three main inheritance legal system in Indonesia. Each of these methods of distribution has its own unique features. In Islamic law, each heir receives a portion of the inheritance based on the amount of his or her share, which is determined in articles 176-185. The influence of different kinship communities on customary inheritance law is inseparable.

While there are some attempts to improve the economic justice and wealth disparity in Indonesia, the current inheritance distribution model frequently some fails to do so. As a result, the issue of inheritance has been a major source of conflict in Indonesia's urban, industrial, and rural areas. When a wide range of inheritance wealth distribution models in society still have issues. This study found that A role model with stages that complement each other can be created when the models are combined to achieve economic justice.

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