



3 (2), 2024, 61-69

Research in Education, Technology, and Multiculture

<https://imrecsjournal.com/journals/index.php/rietm>



An Islamic Legal Perspective on Inheritance Distribution in Panyangkalang Village, Takalar Regency

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Abstract: This research uses a qualitative method, namely describing the results of research findings related to procedures for dividing the inheritance of the Panyangkalang Village community based on a review of Islamic law. The results of the research show that the procedure for distributing community inheritance in Panyangkalang Village is carried out based on the traditions or customs of distributing the inheritance of their predecessors, that is, it is carried out evenly, whether the inheritance for men or women has the same amount. As for those who have more, the heir is the first person to take care of the heir either before or after he dies. So, the distribution of inheritance in Panyangkalang Village does not apply an inheritance distribution system based on Islamic law. This can be seen from the distribution procedure which is divided equally between men and women, there are inheritance disputes that occur which result in reporting to the Takalar Regency Religious Court.

Keywords: islamic law, inheritance distribution, qualitative research.

▪ INTRODUCTION

The procedures for dividing inheritance need to be known that there are binding rules or laws that we should use as guidelines, such as when you want to distribute inheritance you need to follow existing inheritance laws. Inheritance law is a rule or provision with the aim of providing justice and rights to someone who has the right to receive an inheritance (Assyafira, 2020). Inheritance law in Islam explains the procedures and urgency in dividing inheritance. The development of the times has influenced the flow of globalization and human behavior, becoming a phenomenon that influences each other and needs to be studied more deeply in relation to Islamic inheritance law.

The process of dividing inheritance is sometimes carried out not according to predetermined rules, which can lead to injustice and a breakdown in family relationships. As in one of the inheritance cases that occurred in 2020 which resulted in mutual complaints between mother and child in West Nusa Tenggara due to the fact that there were parties who were mutually disadvantaged. A brief explanation of the case by Mrs. Kalsum and her child named Mahsun, namely "The case began when a mother named Kalsum lost her husband who died (cnnindonesia.com, 2020).

Inheritance is property left by an heir to his heirs. Heirs do not immediately take the inheritance left by the testator, but they have obligations towards the inheritance, including paying *tajhīz* costs, paying off debts, carrying out or paying wills and distributing inheritance to the rightful heirs. One of the reasons heirs use inherited assets is that the distribution of inherited assets has not occurred or there has been a delay in the distribution of inherited assets (Wahyuni & Zubair, 2020).

According to Ahmad Rafiq, *Tirkah* is all the assets left behind by a person who dies before being taken for the purposes of maintaining the body, paying off debts, and carrying out wills made by the person who died while he was still alive. Then, the

inheritance that has been received by the heirs is called warasah (Khisni, 2017). Inheritance law is part of Islamic law with a fundamental position in Islamic law (Basri, 2020). Basically, inheritance law in Islam applies to all Muslims throughout the world. However, the style of an Islamic country and life in that country or region has a different influence on inheritance law, this is caused by several factors such as based on Islamic jurisprudence which regulates inheritance, which must be clear about who is the heir, heir, inheritance law, and clarity of inheritance (Wahyuni, 2018).

The elements in the inheritance distribution process are heirs, heirs and inherited assets. The meaning of these three elements can be found in KHI Article 171 b, c, d, and e. Regarding the elements of inheritance, this is also in line with Suwarna, who said that the elements of inheritance law in Islam are heirs and heirs. An heir is a person who dies leaving behind wealth. Meanwhile, an heir is a person who replaces the heir in legal position regarding wealth, either for the whole or for a comparable portion (Suwarna, 2018).

Obtaining an inheritance must fulfill the following conditions, namely: 1) the condition of being related to the heir, namely that the heir has died and the cause is legally known; 2) the conditions relating to the heirs, their lives in reality and legally. Then, the reasons for inheritance are kinship and marriage (Anwar, 2020). It is important to know that the inheritance process has pillars and inheritance requirements. According to the AL Azhar University Sharia Committee, in terms of terminology, rukun is the existence of something that is part of the existence of something else that is mandatory (Wakangi et. al, 2021).

Based on initial observations by the researcher and discussions with the Takalar Regency Court Registrar, he stated that there were several civil cases in the inheritance sector, including cases involving people from Panyangkalang Village. One of the causes of this case is because there are parties who do not want to share inheritance assets fairly and evenly. This problem certainly requires sharp analysis.

Based on this background, the author intends to conduct research related to the distribution of inheritance entitled Analysis of the Distribution of Inheritance Based on a Review of Islamic Law in the Community in Panyangkalang Village, Takalar Regency. Reviewing the distribution of inheritance in society is very necessary so that there are no more actions that deviate from the rules of Islamic law.

▪ **METHOD**

The type of research used in this research is qualitative research methods. The qualitative method is a research method that can be interpreted as an interpretation method because research data is more favorable to the interpretation of data found in the field (Sugiyono, 2012). This research approach uses a descriptive qualitative approach. Through this approach, the researcher tries to explain in depth the distribution of inheritance based on a review of Islamic law and examines how community inheritance is distributed in Panyangkalang Village, Takalar Regency.

This research was carried out in Panyangkalang Village, Takalar Regency, with the research objects being the community, village officials, ulama and clerks of the Takalar Regency Religious Court. The research entitled Analysis of the Distribution of Inheritance Based on a Review of Islamic Law in the Community in Panyangkalang Village, Takalar Regency, the focus of the research lies in the procedure for distributing community inheritance in Panyangkalang Village which is connected to the distribution of inheritance based on a review of Islamic law, namely Q.S An-Nisa verse 11 and verse

12. Source There are two types of data used in this research, namely primary sources and secondary sources (Sugiyono, 2018). The data collection techniques used were observation, interviews and documentation. The data analysis technique used is qualitative descriptive and identification of various data collected in detail so as to obtain a relevant conclusion and the components in data analysis go through three stages, namely data reduction, data presentation, and finally drawing conclusions.

▪ **RESULT AND DISCUSSION**

Procedure for Distribution of Community Heritage in Panyangkalang Village

Inheritance must function as a bridge for the smooth running of a person's life. Procedures for distributing community inheritance must be carried out as well as possible and honestly. Whether the distribution of an inheritance is fair or not depends on the components of inheritance distribution based on applicable Islamic inheritance law. The division of inheritance is certainly inherited property that has a clear origin. As in a marriage, not only are two hearts united, but all assets, whether inherited or joint assets, remain joint property and must be used according to applicable Islamic law. So it is necessary to jointly understand the composition of inheritance distribution based on a review of Islamic law.

Reasons why people inherit

Because there are three reasons for inheritance, namely; First, there is a kinship relationship, meaning a relationship of descent (descendants) from the father or mother. Second, because there is a legal marriage bond between a man and a woman. Third, because of *alwalaa`* (because of the liberation of slaves). This means that children, mothers or fathers, siblings and certain people who have been appointed as heirs based on a will have the right or title to inheritance. Based on the results of an interview I got with one of the people and the mother (DN) regarding who is entitled to inheritance.

"yang pastinya semua hartaku itu semua untuk anak-anakku. mulai dari sawah, kebun, rumah, uang, dan semua harta yang saya miliki bersama suami saya untuk anak-anakku semuanya."

DN's mother explained that all the assets they owned would only be given to their children and would not be given to anyone else. Because his son is the one who has the most right to inherit his inheritance. Based on the information provided, it was further corroborated by the public's statement, namely Mr. (DR).

"harta yang saya miliki bersama isteri saya ada sapi, sawah, kebun, lahan tempat tinggal, rumah, semua itu akan saya bagi dan saya berikan kepada dua orang anak saya"

The same thing was given by Mr. DR, that all the property they and his wife owned would be given to their children only. Not only two people said that. However, other people also said the same thing, as was also conveyed by Mrs. (DNg) and Mrs. (DS).

"berapapun banyaknya hartaku, tidak ada yang lain yang saya berikan hanya kepada anakku". Kemudian hal senada dengan menurut ibu DS "selagi saya memiliki anak, maka harta saya semua nya untuk mereka. Dan memang seperti itu cara kami dalam melakukan pembagian sudah turun menurun"

Based on the results of the interview, it can be seen that only the children are entitled to inherit the family's inheritance and they determine the heirs based on the habits of their predecessors which have been carried out from generation to generation.

The Amount of Inheritance Distribution of Assets to Heirs

Inherited assets are of course not divided just like that. However, it is necessary to pay attention to gender, the origin of the relationship between the testator and heirs to determine how much to give to male and female heirs. Apart from that, the assets being divided must be clean assets, meaning that the heir's assets must have been reduced by debts and all the heir's needs (Wantaka, et al: 2019). Referring to Q.S An-Nisa verse 11 and Q.S An-Nisa verse 12 (Kementerian Agama, 2016). Based on information obtained from interviews with respondents with one of the people, namely Mr. (DR).

"jadi anak-anak itu nanti kami kasi warisan kalau adami keluarga semua. itu kami disini dalam pembagian warisan kami. Misalnya saya bersama isteri kan punya anak laki-laki 1 orang dan 1 orang perempuan. Saya punya sapi, sawah, rumah dan tanah tempat tinggal. Nah, kami itu membagi harta secara rata. Tetapi, untuk sawah saya kan ada 5 itu 3 untuk laki-laki anak saya si bungsu dan 2 untuk anak perempuan saya. Karena laki-laki itu memiliki tanggung jawab yang lebih besar nanti karena dia akan menafkahi isterinya. Jadi, laki-laki harus lebih banyak sawahnya sebagai tempat menafkahi keluarganya nanti. Jadi semua harta itu akan kami bagi sesuai dengan kondisi kebutuhan anak-anak saya nanti. Dan tentunya saya harus melunasi hutang saya dulu baru saya bagi harta ke anak-anak."

Information from an interview with one of the people, namely Mr. DR, can be concluded that all the assets owned by his family will be divided and given to all of his children only. However, the amount of inheritance, especially agricultural fields such as rice fields, will be given to sons more than daughters because sons will later start families and have a much heavier burden than daughters. So, the assets they own are not divided equally but will be divided fairly based on the conditions of a child's needs and responsibilities when they grow up and start a family and based on the children's behavior towards them as parents. Whoever is dutiful to them (parents) will receive inheritance such as the house and land where they now live. If they are both devoted, this inheritance will be considered to be divided equally and fairly.

However, if one day they lose their child, all their assets will be given to their siblings and parents according to how they behave towards them and their wives. If his family does not behave well, he will pass on his wealth to a neighbor or whoever behaves kindly to him. This means that whoever will take care of them is the one who has the right to inherit the inheritance.

His statement regarding the amount of inheritance obtained by the heirs is the same as the procedure for distributing inheritance carried out by other people, namely the mother's sister (DN).

"Jadi saya memiliki anak 1 perempuan dan 1 laki-laki. Saya punya 3 sawah, 1 tanah tempat tinggal beserta rumahnya. 3 Sawah itu akan saya bagi kepada anak-anak saya nanti. 1 sawah untuk anak perempuan saya, 1 untuk anak laki-laki saya. dan yang 1 nya lagi itu untuk saya sama suami saya. Jadi harta saya itu tidak dibagi habis untuk anaku"

saja tapi juga untuk kebutuhan saya sama suami saya untuk kehidupan kami selama masih hidup.”

Then this information was strengthened by information from other members of the public, namely DS's mother.

“Kami itu hanya punya rumah dan tempat tinggal sama motor.. Semuanya akan saya berikan kepada anak-anak. Saya punya 2 anak perempuan dan 1 laki-laki. Tidak ada perbedaan jumlah pembagian harta mau itu laki-laki atau perempuan semua sama. Harta saya sedikit, jadi yang saya kasi rumah nanti sudah pasti tidak dapat sawah.”

The same as the information conveyed by the previous respondent. That all the assets owned will be divided equally among the children before they die to avoid quarrels between them and to avoid children not inheriting just because they were not divided while their parents were still alive. Then it was further strengthened by the results of interviews with the mother (DNg).

“Saya punya 1 orang anak saja dan laki-laki anak saya. Jadi semua harta saya itu diberikan kepada dia semuanya. Mulai dari rumah, sawah, tanah tempat tinggal, motor, itu semua kami berikan kepada dia. Sebenarnya ada adat pembagian warisan kami dan itu sudah menjadi kebiasaan kami didesa ini. Kalau harta itu semua di bagi rata mau itu laki-laki atau perempuan. Tapi, Rumah dan tanah tempat tinggal itu biasanya dikasi ke anak bungsu karena orang tua nantinya itu akan tetap berada dirumah tempat tinggal mereka dan yang merawat itu anak bungsunya. karena yang lainnya itu sudah menikah lebih dulu jadi otomatis itu orang tua diurus sama anak terahirnya.”

DNg's mother said that all the assets she owned were given to her only child. Because he is only one person and a man. How much or how little property he owned was given to his children. Because the only male child is the sole heir. Based on information from several respondents, it can be seen that the distribution of inheritance in Panyangkalang Village refers to the habits of their previous parents. As in giving inheritance for the house and land where you live, it is given to the youngest child because he will be the one who will look after his parents and live in the house with his parents.

Mr. FT also explained that the inheritance that would be given to the heirs in the form of houses, rice fields, gardens, livestock, motorbikes and all other things in the form of goods would all be given to the heirs. Mr. FT has one daughter and she will be the sole heir along with his wife. Because he provided this item only for his children and wife. This inheritance has not been given to the heir while the heir is still alive. Unless an heir is already married, at that time they will be given inheritance rights. So, only 1/2 is given to his daughter as an only child and the other 1/2 is still managed by him and his wife as long as it can still be managed by him. However, in distributing the heritage of the people of Panyangkalang Village, there are also people who implement policies in the process of distributing their heritage.

However, people usually quarrel and be hostile regarding inheritance because of policies that are sometimes made by the heir but which are not approved by the heir. Then, the people of Panyangkalang Village will give the heir inheritance rights if he is married or has his own family. There are several considerations to ensure that the child or heir becomes an independent individual and to measure the heir's ability to manage assets, as

well as to provide a field for him to fulfill his daily living needs. If you are seen to be capable of managing the assets, you will be given all the assets, especially to the sole heir. So, the people of Panyangkalang Village regulate the distribution of inheritance based on previous community habits.

In general, people divide inheritance based on the amount of inheritance which is adjusted to the number of children as heirs with several considerations such as one child gets a share of the assets because he is married or has a family, the youngest gets the house and land to live on because he is the one who will live with the other person. parents, assets are divided based on compensation for expenses and needs that are in accordance with a child's needs while still prioritizing the principles of justice (Imron & Huda, 2023). So, property given by parents to children who have transferred ownership before the death of the deceased parent is a gift, not an inheritance. Inheritance occurs when the heir has died and the heir is still alive and there are items as inherited assets.

The distribution of community inheritance does not prioritize Islamic principles as in the foundation of Q.S An-Nisa verse 11 and verse 12. However, referring to the habits of previous people and society still prioritizes and upholds the origins of justice. Inheritance assets are divided equally for both men and women equally. So, to avoid undesirable things such as property claims by the heirs, this inheritance must be divided as fairly as possible with logical considerations and proven by a letter or certificate that is legally recognized by the state as proof that the assets are truly the responsibility and belongs to the heir.

So those who are entitled to be heirs are sons and daughters by reason of heredity and also because of a will. The will in question is that the heir gives inheritance to someone outside of kinship or blood ties, but due to the existence of rights that enable him to obtain it, such as the fact that during the lifetime of the heir they have extraordinary services to the heir. Then, if there is an heir who has no children, then the heirs are his siblings or nephews where they live. Then the inherited assets will change ownership after the heir starts a family and after the heir dies. Sometimes inheritance disputes occur due to heirs suing because of unfair principles committed by the heirs, there are heirs who did not clearly divide the inheritance while they were still alive, so that the inheritance left behind was controlled by one side and not shared with other heirs. So quarrels arose between the heirs.

So, inheritance is a necessity that must occur even if the testator does not say so when he is still alive because it is clear in Islamic law, namely Q.S An-Nisa verses 11 and 12. Meanwhile, a will is something that is done by the testator while he is still alive. However, when the testator wants to give assets to the person who is bequeathed, it cannot exceed 1/3 of the testator's total assets. It can be more, but you have to get agreement from all the heirs. Ownership rights to an inherited property will transfer when the testator dies. So, if there is an heir who gives property to his children or heirs while he is still alive, that means it is not an inheritance but is still considered a gift or bequest.

Then, if there is an heir who has a son, he will get 2 shares, if he also has a daughter, he will get 1 share. If there is an heir who does not have any children, that means it is Kalalah. Kalalah means: someone who dies without leaving behind father or children. Ulama agree to define kalalah as a person who has no roots or branches. Yan is part of the kalalah, namely his parents and siblings. Then, if you have only one child and it is a boy, then the entire property belongs to the boy as the sole heir. However, if there is only one woman and only one child, it means she gets 1/2 of the assets left by the heir.

Inheritance Distribution in Panyangkalang Village Based on Islamic Law Reviews

The distribution of inheritance must be based on the provisions of inheritance distribution in Islam, namely the Al-Qur'an and Hadith for those who are Muslim. Meanwhile, a will is a statement made by an heir regarding inherited assets given to someone that is said while they are still alive. So, inheritance occurs and is valid if the heir has died and those entitled to inheritance are those who have been determined based on Q.S An-Nisa verse 11 and verse 12. The following are the heirs who are entitled to inheritance and the amount of distribution: (a) Boys get two shares of girls. This applies if the deceased leaves only one son and one daughter as heirs, then both share the property. And if the heirs are a combination of men and women, then they inherit the property by giving men two shares and daughters one share, (b) If there are heirs with their children whose share has been determined, such as husband and wife or mother and father, then it is given to the heirs first, then the remainder is distributed among the children as stipulated in point (a), (c) If a deceased leaves only one son, then he takes all the property. Even though the verse does not say it clearly, it can be understood from the text of the verse above, (d) Mother and father each get 1/6, if the deceased has children or grandchildren (branches) who inherit, (e) If the deceased has no children and only the mother and father, then the mother inherits 1/3 of the property and the remaining 2/3 is inherited by the father, (f) If the deceased leaves several siblings (two or more) besides the father and mother, then the mother inherits 1/6 and the remaining 5/6 is taken by the father. The brothers or sisters did not get anything, because the father covered (hijab) them, (g) The heir is obliged to pay debts before distributing the inheritance to the heirs. Or the heir is obliged to pay the heir's debts if the heir has not had time to pay his debts when the heir dies. The distribution of inheritance and the obligation to pay the heir's debts before the distribution of inheritance is carried out based on Islamic law as stated in Q.S An-Nisa verse 12

Based on the results of interviews that I have conducted with 4 community respondents, 1 cleric respondent, and 1 respondent clerk of the Takalar Regency Religious Court, it can be concluded that the process of distributing community inheritance in Panyangkalang Village is viewed from Islamic law in this case Q.S An-Nisa verse 11 and verse 12 it can be concluded that there are still people in Panyangkalang Village who do not comply with the foundations of the Koran, as is the case with all community respondents, they divide inheritance based on the habits of previous people, namely dividing it evenly. However, the respondent, in the name of mother DNg, was in accordance with Q.S An-Nisa verse 11, who had an only son, and all assets were given to her only child because he was a son.

Then, referring to inheritance cases involving the community in Panyangkalang Village which were complained to the Takalar Regency religious court, it provides evidence that the community is in dispute due to the lack of a sense of justice in the distribution of inheritance. This is of course because society does not divide inheritance based on Islamic recommendations. There are still people who do not prioritize the interests and needs of their siblings so they think about having the entire inheritance and do not want to give part of the inheritance to other heirs. This inheritance case is also greatly influenced by the heir, in this case the heir's parents did not share the inheritance while they were still alive, so this inheritance is divided unilaterally. Meanwhile, this community does not understand the distribution of inheritance that should be carried out by Islamic communities.

In the end, there was an inheritance dispute. The advice given by the ulama and clerks of the Takalar Regency Religious Court to avoid community disputes or quarrels regarding the distribution of inheritance is that the community should distribute inheritance based on Allah SWT's recommendations. as outlined in Q.S An-Nisa verses 11 and verse 12, making compensations in accordance with the conditions and needs of the heirs, dividing the inheritance since the heir is still alive, paying off the heir's debts, prioritizing a sense of kinship and justice in the family, and carrying out deliberation with heirs and heirs.

▪ CONCLUSION

Based on research conducted with the title "Analysis of the Distribution of Inheritance Based on a Review of Islamic Law in the Community in Panyangkalang Village, Takalara Regency" it can be concluded that: a) The procedure for distributing the inheritance of the community in Panyangkalang Village is carried out based on the traditions or habits of distributing the inheritance of their predecessors. that is, it is carried out evenly, whether the inheritance for men or women has the same amount. As for those who have more, if the heir is the first person to take care of the heir either before or after death; b) The distribution of inheritance in Panyangkalang Village does not apply an inheritance distribution system based on Islamic law. This can be seen from the distribution procedure which is divided equally between men and women, there are inheritance disputes that occur which result in reporting to the Takalar Regency Religious Court.

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