



SALAM

Jurnal Sosial dan Budaya Syar-i

P-ISSN: 2356-1459. E-ISSN: 2654-9050

Vol. 8 No. 5 (2021), pp.1317-1332

DOI: 10.15408/sjsbs.v8i5.22224

<http://journal.uinjkt.ac.id/index.php/salam/index>



The Implementation of Islamic Heritage Distribution In Community of Setu Subdistrict South Tangerang Region*

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10.15408/sjsbs.v8i5.22224

Abstract

Islamic inheritance law is a law governing the distribution of inheritance left by the testator to the heirs, knowing the parts received from the inheritance for each heir who is entitled to receive it. In practice, what has happened in Setu Subdistrict, South Tangerang District, has not yet fully understood the inheritance system of Islam. The division of inheritance applied is a combination of Islamic inheritance with the customary inheritance of the local community, so that it still does not meet the requirements or conditions as an Islamic inheritance based on Sharia.

Keyword: Division of Inheritance, Testator, Heir, Inheritance

Abstrak

Hukum kewarisan Islam merupakan hukum yang mengatur tentang pembagian harta warisan yang ditinggalkan pewaris kepada ahli waris, dengan mengetahui bagian-bagian yang diterima dari peninggalan untuk setiap ahli waris yang berhak menerimanya. Dalam prakteknya yang terjadi di Kecamatan Setu Kota Tangerang Selatan belum sepenuhnya memahami secara utuh tentang sistem kewarisan Islam, hal ini terlihat dalam kehidupan sehari-harinya. Pembagian warisan yang diterapkan merupakan perpaduan antara kewarisan Islam dengan kewarisan adat masyarakat setempat, sehingga masih belum memenuhi ketentuan atau syarat sebagai suatu kewarisan Islam yang berlandaskan Syariah.

Kata kunci: Pembagian Warisan, Pewaris, Ahli Waris, Harta Warisan

*Received: May 03, 2021, Revision: May 25, 2021, Published: September 8, 2021.

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A. INTRODUCTION

Setu sub-district is a division of Cisauk sub-district, Tangerang Regency with the Cisadane river boundary, west of the Cisadane river in Cisauk sub-district and east in Setu sub-district. The area of Setu sub-district is 14.80 km² with a population of 77881 inhabitants². The number of Muslims in the South Tangerang Region is around 1,162,204³ people from the total population of the South Tangerang Region area is 1,543,209 inhabitants⁴. Through this population, the majority of the population is Muslim compared to the number of followers of other religions.

Because the population of the South Tangerang Region and especially the Setu sub-district are predominantly Muslim, then as a form of realization of the Islamic religion is carrying out their religious orders, including in terms of inheritance. As religious beings, humans need something to maintain and perfect their religion. Thus, there are five things that are prerequisites for human life, namely religion, reason, soul, wealth and progeny. The life aspects governed by Allah can be grouped into two. First, matters relating to the birth relationship of humans with the Allah, which is called *hablum min Allah*. Second, matters relating to relations between humans and the natural surroundings are called *muamalat* laws. Among the rules governing human relations that God establishes are rules about inheritance, that is, property and ownership that arise as a result of a death. The inheritance of a deceased person requires arrangements about who has the right to receive it, how much it is and how to obtain it.

Inheritance can be applied if one of the family members dies and leaves the property. Islam as a perfect religion governs the issue of inheritance. Inheritance according to Islam has been regulated in the Koran, including in Al-Nisa (4): 7, 8, 9, 10, 11, 12, 33 and 176. The verses of the Koran concerning inheritance law are the most explicit and detailed verses of the contents of the contents, namely determining who has the right to be an heir and when inheritance (*tirkah*) may be divided.

In the Compilation of Islamic Law (KHI) stated that "Inheritance Law is a law that regulates the transfer of the rights of the inheritance heirs (*tirkah*), determine who is entitled to become an heir and how much each part is". The definition of Islamic Inheritance Law according to Amir Syarifudin is "a set of written rules based on the revelations of Allah and the Sunnah of the Prophet regarding the matter of transfer of assets or tangible assets from the dead to the living, which are recognized and believed to be valid and binding for all who are Muslims".⁵ In the Compilation of Islamic Law, Book II Regarding Inheritance Law, Article 171 KHI item (a), referred to as inheritance law is a law governing the transfer of inheritance rights (*tirkah*) of the testator, determining who has the right to become an heir and how much each part.

² https://webcache.googleusercontent.com/search?q=cache:6ho8F70j2d8J:https://id.wikipedia.org/wiki/Setu,_Tangerang_Selatan+&cd=1&hl=id&ct=clnk&gl=id downloaded, 6 November 2017.

³ http://ardi-lamadi.blogspot.co.id/2013/07/jumlah-penduduk-berdasarkan-agama-di_1081.html, downloaded, 6 November 2017.

⁴ <https://tangselkota.bps.go.id/linkTableDinamis/view/id/18>, downloaded, 6 November 2017.

⁵ Amir Syarifuddin, *Hukum Kewarisan Islam*, (Jakarta: Prenada Media, 2004), p. 6.

The purpose of Islamic Inheritance Law is "to arrange ways to divide the inheritance so that it can benefit the heirs fairly and well".⁶ Therefore, the inheritance is the property of the deceased either he found himself, an individual business or a legitimate gift from another person or hereditary inheritance, then the Islamic religion considers that the regulation of inheritance is a matter of heirs, cannot be interfered with by outsiders which does not include eligible families. The purpose of regulating inheritance is that there are no disputes or disputes regarding assets left by the deceased. Arrangement of inheritance, there will be no party or person who feels the most right to control the assets left behind. The distribution of inheritance will be more familial and not invite conflict. The distribution of inheritance will be more familial and not invite conflict, with inheritance problems, the family will become divided and fight over the struggle for inheritance.

Islamic law teaches the principle of inheritance individually, in the meaning that inheritance can be divided up to be owned individually, and each heir receives its portion separately, without being bound by other heirs. The whole inheritance is stated in certain value which may be divided; then the amount is distributed to each heir who is entitled according to their respective levels. The individual nature of inheritance can be seen from the rules of the Qur'an, which relate to the distribution of inheritance, as in Paragraph 7 of al-Annisa which outlines that both men and women are entitled to receive inheritance from their parents and their kinsman, regardless of the amount of assets, with a predetermined portion.

The inheritance is not necessarily an asset that will be distributed to the heirs, but there are also relics in the form of debt. The purpose of inheritance in the Qur'an as well as the Compilation of Islamic Law (KHI) always states that part of the inheritance will be ready to be distributed to all heirs if it has been reduced by debts and wills.

The discussion as stated above, then the problem that arises is whether the community in the Setu Sub-district, South Tangerang Region is fully understand the Islamic inheritance system.

Theoretical framework

Inheritance law is often known as *faraidh*, because in Islam, the parts of inheritance which are the rights of heirs have been determined in the Qur'an and Al Hadith. Inheritance law in Islam received great attention, because the distribution of inheritance often had unfortunate consequences.⁷ Etymologically, *faraidh* is taken from the word *fardhu* which means destiny (provision). In the term *syara* 'that the word *fardh* is a part that has been determined for the heirs.⁸ In terms of law, inheritance can be interpreted as a law governing the distribution of inheritance left by an heir, knowing the parts received from the inheritance for each heir who is entitled to receive it.⁹

⁶ M. Amin Suma, *Hukum Keluarga Islam di Dunia Islam*, (Jakarta: Grasindo Persada, 2004), p. 108.

⁷ Ahmad Rofiq, *Hukum Islam di Indonesia*, (Jakarta: PT Raja Grafindo Persada, 1995), p 355.

⁸ Sayyid Sabiq, *Fiqih Sunnah*, (Jakarta: Pena Pundi Aksara, 2006), p 479.

⁹ Ahmad Rofiq, *Op.cit*, p 355.

According to the theologians, inheritance law (*mawaris*) is *fiqh* relating to the distribution of inheritance, knowing the calculation so as to know the inheritance portion and the parts that must be received from the inheritance for each entitled to receive it.¹⁰ In Arabic, the term transfer of something from one person to another or from one people to another is called *Al-miirats*¹¹. The meaning of *Al-miirats* according to terms known by the theologians are the transfer of ownership rights of the deceased to his heirs who are still alive, whether left in the form of property (money), land or whatever are in the form of legal ownership according to *shari'i*. The definition of inheritance law according to Article 171 letter a Compilation of Islamic Law is the law governing the transfer of ownership rights to the inheritance (*tirkah*) of the heirs, determining who has the right to become heirs and how much their respective parts are. In a more general context, inheritance can be interpreted as the transfer of material rights from a deceased person to his surviving heir.¹²

Inheriting means replacing the place of someone who died in the legal relationship of his wealth. Other legal relationships, for example legal relationships in family law.¹³ Hasbi Ash-Shiddieqy argues, inheritance law is a law that regulates who inherits and does not inherit, the portion of each heir's acceptance and the ways of its distribution. Wirjono Prodjodikoro explained, inheritance is a matter of what and how various rights and obligations regarding one's wealth when he dies will be transferred to others who are still alive.¹⁴

In Indonesian inheritance is called heirloom, which is property and rights left by the dead to be distributed to those entitled to receive it. The division is commonly called *Faraidh*, meaning according to the *syara* 'is the distribution of heirlooms for those entitled to receive it.¹⁵ According to Syamsul Rijal Hamid that the definition of inheritance is the transfer of rights and obligations to everything both property and dependents of the deceased person to his family who are still alive.¹⁶ Inheritance is channeling people's thoughts and attention toward an important event in a particular society, that is, a member of that community has died.¹⁷ For this reason, seeing Islamic inheritance law requires historical insights, at least the social system and legal system that surrounds when Islam was revealed.¹⁸

Understanding inheritance law according to Islam is a scientific discipline that discusses inheritance, about how the process of transfer, who is entitled to receive the share of inheritance / inheritance and how much each part of inheritance according to Islamic inheritance law. Islamic Sharia rules the inheritance in a very orderly and fair

¹⁰ <http://edon79.wordpress.com/2009/07/10/fiqh-mawaris/>, downloaded 22 Juni 2012.

¹¹ Muhammad Ali Ash-Shabuni, *Pembagian Waris Menurut Islam*, (Jakarta: Gema Insani Press, 1995), p 33.

¹² Ahmad Rofiq, *Fiqh Mawaris*, (Jakarta: PT Raja Grafindo Persada, 2002), p 4.

¹³ R Soetojo Prawirohamidjojo, *Hukum Waris Kodifikasi*, (Surabaya Airlangga University Press), p 3.

¹⁴ Ahmad Rofiq, *Hukum Islam*, *Op.Cit.*, p 355.

¹⁵ Moh Rifai, *Ilmu Fiqih Islam*, (Semarang: CV Toha Putra, 1978), p 513.

¹⁶ Syamsul Rijal Hamid, *Buku Pintar Agama Islam*, (Bogor: Cahaya Salam, 2011), p 366.

¹⁷ Wirjono Prodjodikoro, *Hukum Warisan di Indonesia*, (Bandung: Sumur Bandung, Bandung, 1991), p 11.

¹⁸ Ahmad Rofiq, *Hukum Islam.....*, *Op.Cit.*, p 358.

form. In it is stipulated the right of ownership of property for every human being, both men and women in a legal manner. The Islamic *Shari'a* also stipulates the right of transfer of ownership of a person after death to his heirs, from all his kinsmen and relatives, without distinguishing between men and women, large or small. The Qur'an explains and details in detail the laws relating to inheritance rights without ignoring the rights of any person. The parts that must be accepted are all explained according to the position of the *nasab* to the heir, whether he is a child, father, wife, husband, grandfather, mother, uncle, grandchild, or even limited to half-family siblings.

Therefore, the Qur'an is the main reference to the law and the determination of the distribution of inheritance, while the determination of inheritance is taken from the hadith of Rasulullah Saw. and *ijma'* the *Ulama* are very few. It can be said that in Islamic law and law there are very few verses of the Qur'an that specify a law in detail and detail, except for this inheritance law. This is because inheritance is a form of legal ownership and is justified by Allah SWT. In addition, property is a milestone for the maintenance of life for both individuals and community groups. The purpose of the Islamic inheritance law itself is "regulating the ways of dividing the inheritance so that it can benefit the heirs fairly and well".¹⁹ heirlooms are the property of those who left either he found himself, individually or legally gifted from someone else or hereditary, then Islam considers that the regulation of inheritance is a matter of heirs, cannot be interfered with by outsiders who are not included entitled family.

B. METHODS

This type of research is a descriptive study with a normative descriptive approach or can also be said normative juridical research. According to Philipus M. Hadjon, normative juridical research or normative legal research is research aimed at finding and formulating legal arguments through analysis of the subject matter.²⁰ In the normative legal approach, the law is conceptualized as what is written in the law (law in book) or the law is conceptualized as a rule or norm which is a benchmark for proper human behavior.²¹ According to its application, this research is a problem focused research, that is the problem under study is based on theory or seen the relationship between theory and practice.²² In this case, juridical analysis of inheritance issues is practiced in the community, especially in the sub-district of Setu of South Tangerang Region. Data obtained through library research and field research (empirical data) and data analysis using qualitative analysis.

¹⁹ M. Amin Suma, *Hukum Keluarga Islam di Dunia Islam*, (Jakarta: PT Grasindo Persada, 2004), p 108.

²⁰ Philipus M. Hadjon dan Tatiek Sri djamiati, *Argumentasi Hukum* (Yogyakarta: Gadjah Mada University press, 2005), p 3.

²¹ Amiruddin dan Zainal Asikin, *Pengantar Metode Penelitian Hukum*, (Jakarta: Raja Grafindo Persada, 2006), p 118.

²² Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normative – Suatu Tinjauan Singkat*, (Jakarta: Raja Grafindo Persada, 1994), p 5.

C. RESULTS AND DISCUSSION

1. Implementation of Islamic Inheritance Law for the Community of South Tangerang Region

Basically the problem of inheritance in the people of the South Tangerang Region which is the result of research conducted shows that the community has different views in understanding inheritance, wills and grants. Most people do not understand well between inheritance and grants, nor do they understand the will (testament).

The results of the research showed that inheritance problems that were always associated with wills that were understood as inheritance issues were testaments, so that their understanding was not in full about wills. In general, testamentary assets were given entirely to children, this was indicated by the majority of respondents, which was around 60% answered that the will was given to the child as the beneficiary. 30% of respondents answered that some of the inheritance was given to children, while those who answered the will were one third percent of all assets, only about 10% of respondents who understood the will was given. Thus, the community understood that the child was the successor to the assets of his parents who died through a will, so they understand the recipient of the will was a child.

Regarding inheritance and grants to the people of Setu sub-district, the South Tangerang Region, they were still the same. The results of the interview showed that, although most of the community (80%) did not understand inheritance, the results of the questionnaire indicated that there were answers that understood the problem of inheritance. Can be explained in points as follows:

a. If the father died, his assets were inherited to:

- 1) Child
- 2) Wife

As many as 70% of respondents answered that if a father died, all his assets will be inherited to his child and 30% of respondents answered 1/3 or 1/2 the inheritance bequeathed to his wife.

b. If the mother died, the assets will be inherited to:

- 1) Child
- 2) Mother's sister
- 3) Father (in this case Husband)

Most respondents answered that if a mother died, the assets will be inherited by children (70%), mother's sister (10%) and fathers (husbands) 20%. Assets that were inherited to the child when his mother died, the respondent's answer was that he answered all assets, 1/3 of the assets and 1/2 the assets. Assets inherited from mother's sister if the mother of the child died, the respondent answered there who answered all assets and 1/3 assets. Assets inherited to the father (in this case the

husband) if the mother died, the respondent answered that there is $\frac{1}{2}$ wealth and $\frac{1}{3}$ of the assets.

c. If the wife died, the assets are inherited to:

- 1) Her Husband
- 2) Wife's brother
- 3) His parent

There are 70% of respondents answered if the wife who died was her husband who received the inheritance, his brother by 25% of respondents and his parents by 5% of respondents. If the wife died, then the inheritance was given to: the respondent who answered all the assets to her husband, who answered $\frac{1}{3}$ of the assets, $\frac{1}{6}$ of the assets, and $\frac{1}{2}$ the assets. If the wife dies, the property was inherited from his wife's brother, there were respondents answering all assets, $\frac{1}{3}$ of the assets, and responders who answered the inheritance to their parents were answering $\frac{1}{6}$ of the assets.

Thus, if a husband is left dead by his wife, which was understood by the community, his wife's assets will be inherited to her husband who had the right to inheritance if his wife died and left the inheritance.

d. If the husband died, and left his wife and property, his property was inherited to:

- 1) Wife
- 2) Husband's brother

The majority of respondents (90%) answered that his wife had the right to inherit their husband's assets, 10% of respondents answered that her husband's brother. While the respondent's answer about the amount of inheritance for the husband's wife and her husband's brother, there were respondents who answered that the wife would get all the assets, $\frac{1}{3}$ of the assets, $\frac{1}{4}$ assets, $\frac{1}{6}$ assets and also the respondent answered that the husband's brother would get $\frac{1}{3}$ of the assets.

e. If the grandfather/grandmother died and left the property, the right to inherit the inheritance is:

- 1) Child
- 2) Grandchild

The majority of respondents (70%) answered that inheritance was inherited to their children and respondents who answered grandchildren were 30%. The amount of assets obtained for each heir, there were respondents answered that their children were entitled to inherit all assets, there were answered $\frac{1}{2}$ assets, $\frac{1}{3}$ assets, and $\frac{1}{6}$ assets, while respondents who answered grandchildren who were entitled to inherit were $\frac{1}{3}$ assets. Thus, the majority of respondents answered that if the grandfather/grandmother died and left the asset, then the inheritance is inherited to grandchildren, namely obtaining $\frac{1}{3}$ of the asset.

- f. The problem of adopted children in the Setu sub-district community inheritance system, some respondents answered "can inherit" and some answered "cannot inherit". People who understand adopted children get an inheritance that is getting 1/3 of inheritance.

2. The Problem Among Heirs

Inheritance is a very tight and around to human life because inheritance is something that cannot be avoided when death occurs. One of the principles of inheritance is the principle of *ijbari* which explains about the transfer of assets from testator to heirs after death. In the view of Islam, inheritance is one part of fiqh or provisions that must be obeyed by Muslims and used as a guide in completing the inheritance of someone who has died. Allah establishes provision on this inheritance because it involves property that on one side human tendencies towards him can lead to disputes and on the other hand Allah does not want human to steal property that is not his right.

Specific problems in inheritance are inheritance issues about the procedure for settlement that is different from the usual settlement method, in other words the way the distribution of inheritance is not carried out as is usually in accordance with sharia requirements. Special problems in inheritance occur due to an oddity if the settlement of inheritance is done in the usual way. To eliminate this irregularity, the settlement of the distribution of inheritance is done in a special way, the meaning that the settlement of inheritance problems according to the custom in the community.

The problem that occurs around the struggle for inheritance is that each heir feels that he does not receive inheritance fairly or there is disagreement between each of the heirs about the law they will use in dividing inheritance. Human instincts that love property often motivate a person to justify various ways to obtain the property, including the inheritance of his own inheritance. This fact has happened to people in Setu sub-district, South Tangerang Region until now. The occurrence of cases of inheritance lawsuits in courts, both the Religious Courts and the District Courts show this phenomenon.

Things that need to be considered in the Muslim community in the Setu sub-district, South Tangerang Region, there is a tradition of inheritance carried out when parents are still alive. Conflicts occur between heirs when parents are still living dividing inheritance. Whereas in syaria, there is no division of inheritance as long as the owner of the asset is still alive. If it is divided into conditions of living owner of the property, the name is a grant.

The next problem is in the distribution of inheritance for the portion of girls to get a greater share than boys. Usually the children who get more inheritance are children who will be followed by parents when they are elderly, and most of the habits in the community in the Setu Sub-district of South Tangerang Region, parents choose to live together with their daughters than their sons. This is due to various considerations, one of which is to avoid discord and disputes between heirs, and also girls who always spend

more time at home and are more loyal and have greater affection for their parents. This tradition has been valid since the ancestors of the Islamic community in the Setu Sub-district of South Tangerang Region, and is still maintained in community life until now.

In addition to the case, there is also a division of inheritance based on an agreement with fellow heirs, without regard to the provisions contained in the Al-Quran and As-Sunnah which have been determined to be Islamic sharia. The reason used is as long as the parties are equally pleased (*ridha*) and not demanding anything. This is because it is considered unnecessary to be divided based on sharia provisions. Equating the share of assets between boys and girls is a problem that often occurs in the community of Setu Sub-district, South Tangerang Region. In Islam, the stipulation that the portion for girls is half that of boys has never been carried out, because the community believes that evenly divided among heirs will be more just.

Another problem that occurs in Setu Sub-district, South Tangerang Region, is that the heirs have made an issue of inheritance for immediate distribution, while the parents as the owner of the property are still alive. In fact, sometimes the problem is precisely the owner of the property itself. Likewise, another problem is that when a husband died, his wife immediately becomes the sole ruler of her husband's property, especially if the children are still small, so that the husband's property is definitely the wife's whole. The problem of property with a husband and wife, known as "Gono Gini assets". Joint assets or Gono Gini property is a western legal system that is still believed to this day. The case of Gono Gini became ambiguous because of difficulties in dividing it up, unless both of them had died. If the wife is still alive then she must wait for him. Even though Islam does not recognize gono gini assets. Husband's wealth remains the husband's property, and vice versa. However, part of the husband's property can be the wife's right after going through a clear contract, for example as a dowry, or a livelihood that is obligatory or through grants or gifts. Without a clear contract it will be very difficult to divide it, especially if the wife of the husband who died more than one.

Furthermore, the problem regarding the distribution of inheritance is not the heirs but feels most entitled. This makes the distribution of inheritance quite complicated, especially if the marriage process is not recorded so that the name of the heir cannot be confirmed. According to Islamic law there are 22 registered heirs, but there are only 6 who will certainly never be veiled/protected (*terhijab*) from division, including: sons, daughters, husbands, wives, fathers and mothers, besides that, it is still very likely may die from receiving an inheritance.

3. Understanding of Setu Sub-district, South Tangerang Region on Islamic Inheritance Law

Islamic inheritance law is the most important part of Islamic family law, Islamic inheritance law is part of the knowledge possessed by humans as confirmed by the Prophet Muhammad. Studying and studying Islamic inheritance law means studying half of the knowledge possessed by human beings who have and continue to live in the midst of Muslim societies from the early days of Islam to the Middle Ages, modern and

contemporary times and in the future. Inheritance law is concerned with the distribution of inheritance, knowing calculations, knowing parts of inheritance and parts that must be received from inheritance for each person entitled to receive it.

The inheritance law also deals with wills and grants (gifts), which are different from each other. Therefore, in understanding these three things, it is necessary to deliver intensive information to the community in order to be able to distinguish them, even though they are still related to one another.

The results showed that the community did not understand these three things and equated that between inheritance, wills and grants, and did not understand the distribution of inheritance both after the testator died and before the testator died. Below is a table of community responses to inheritance, wills and grants. The majority of respondents interviewed did not understand either inheritance law, wills or grants.

Table
Community Understanding of Inheritance, Testaments and Grants

No.	The Problem	Understand	Not Understand
1.	Inheritance	20%	80%
2.	Testament	30%	70%
3.	Grant	20%	80%

Source: 2017 research data

The low level of community understanding of inheritance, wills and grants is caused by a variety of factors, including no legal counseling conducted by the South Tangerang Regional Ministry of Religion and also religious counselors do not provide a complete understanding of inheritance, wills and grants, so understanding of inheritance, wills and grants in the case of transfer of inheritance are still equated with inheritance. Another factor is low formal education, so the problem of inheritance is a religious problem which will later be solved by local religious leaders. Thus, inheritance law which is one of the characteristics of Islam is actually left behind by many followers of Islam itself. As said in the words of the Prophet Muhammad SAW that the knowledge of inheritance will be forgotten, and including the first time will be revoked from the people of the Prophet Muhammad SAW.

أُمَّتِي مَنْ يُنَزَعُ مَا أَوَّلُ وَهُوَ يُنْسَى وَإِنَّهُ الْعِلْمُ نِصْفُ فَإِنَّهُ وَعَلَّمُوهَا الْفَرَائِضَ تَعَلَّمُوا

“Learn faraidh science and teach it. Because he is half of knowledge and forgotten. And he is the first to be taken away from my people” (HH Ibnu Majah, Ad-Daruquthuny and Al-Hakim).

If there are still Muslims who run Islamic law, but only carried out in a way that is no longer in accordance with the true doctrine of Islam. This can be found many

deviations of inheritance law committed by the majority of Muslims, including those practiced by Muslims in the Setu sub-district, South Tangerang Region, namely:

a. Equating the Sections of Boys and Girls

Equating a portion between boys and girls is a classic problem and most often occurs in the Setu sub-district community, South Tangerang Region. Whereas the provisions of the portion for girls are half the portion of boys is not just a bouquet or human creation, but a direct provision of Allah SWT. The reasons can vary, it could be because they do not know the existence of the verse, because so far more educated with the Dutch or customary (Adat Law) version of the inheritance system. All this time they never knew anything about the distribution of inheritance. Another reason could also be not because they do not know, but consider easy matters of inheritance distribution. He thought that violating the provisions of sharia in this matter was not a problem, because indeed all this time his religion had been carried out only as a matter of ritual. It is said that the affairs of prayer, fasting, pilgrimage, religious holidays, as well as matters that are generally related to religion, may never be separated and always sought. However, dividing the inheritance is done in a deviant way, unaware that it is essentially an act contrary to Islamic law.

b. Dividing Inheritance When the Testator is Still Alive

Dividing inheritance when the heir is still alive has often been done and sharing it is the Testator himself, in addition, prospective heirs have wanted to immediately do the distribution of inheritance. Sharia, there is no division of inheritance as long as the owner of the asset is still alive, because one of the conditions in the distribution of inheritance is the death of the testator. If the testator is still alive, then there is no business with the distribution of inheritance, all that can be done is a testament or grant, but not for inheritance. The practice that often happens, the owner of the property since he was alive has divided the property to the prospective heirs, by calling it the distribution of inheritance. Likewise, there are many cases where heirs who are unclean to receive a will are also given a will.

c. The Joint Property of husband and wife

The case of joint property belonging to a husband and wife is a heritage from the western legal system, but due to western thinking which is very closely attached to a system of ownership of assets like this, which came to be known as Gono-Gini assets. The existence of a system of joint property or gono-gini, then the implementation of the distribution of inheritance becomes ambiguous, because once a husband dies, property cannot be divided inheritance. This is because taking into consideration that the assets to be divided up are in fact joint property between husband and wife. If the wife is still alive, the distribution of inheritance is usually delayed, because they have to wait for his wife to died. In the Islamic Shari'ah system, the principle is that all husband's assets will always be husband's assets, and that all wife's assets will also remain fully the wife's property. However, some of the

husband's assets, there are indeed the rights of the wife, but must go through a clear contract, for example through the gift of dowry, or the income is obligatory, or through grants, or gifts, without surrender that uses a definite contract, husband's property is not automatically become the wife's treasure.

d. Husband's inheritance is controlled by his wife

One custom that is often practiced by Muslims is that when a husband dies, his wife automatically becomes the sole ruler of her husband's property. If the testator leaves the children as a child, the husband's property habit will definitely belong to the wife entirely, even though the wife's right to her husband's property is only $\frac{1}{8}$ or $\frac{1}{4}$. If the husband has children, then the wife only has the right to receive $\frac{1}{8}$ of all her husband's property, the remaining $\frac{7}{8}$ shares are the rights of the children who are orphans. This does not mean that children are not allowed to receive inheritance, they are still entitled to inheritance from their father. The wife may store and preserve the assets of her children, for one day it must be given to them. If the assets are to be used for the benefit of the children, the wife must mandate to spend them and not to waste the property, let alone control it for their own interests. If this widow remarries another man, there is an assumption in society that the man who marries a rich widow becomes the luckiest person. Likewise, if a wife dies, the husband seems to be the sole heir, and appoints himself as the only person entitled to all of his wife's inheritance. He felt free to remarry and give all of his late wife's property to his new wife. When it should, the husband only gets $\frac{1}{4}$ of his wife's assets. The other part which is $\frac{3}{4}$ does not belong to him but belongs to another heir.

e. Sharing Inheritance Awaits One of the Couples to Died

Sharing inheritance awaits one of the couples to died, with the reason to respect one of their partners who are still alive, for example a mother who is still living alone because her husband died, often the distribution of inheritance is not carried out. This action is based on the previous mistake, namely that the property of a husband automatically and surely become the property of his wife too. This view is not in line with Islamic law which views that each person has the right to their property. If a man has a wife, then his property does not automatically become his wife's property, also applies vice versa, wife's property does not automatically become husband's property. If one of them dies, the property must be divided immediately, without having to wait for his spouse to die first. Likewise what happens in the community, generally the distribution of inheritance is not immediately carried out as soon as possible, the reason is simply because they still respect their mother or father. Mothers who have become widows are also no better way of thinking. This happens because of lack of knowledge and following the habits that exist in the community, and also feel offended if one is still alive, the inheritance of the husband's inheritance has been divided up to the children of the deceased.

f. Not an heir but feel the Most Have a Right

There is a form of error in the distribution of inheritance that often occurs, namely the provision of inheritance from the deceased to people who are not heirs, on behalf of the distribution of inheritance. For example those who are not actually a right to inheritance but are often given inheritance, there are several types:

1) Not Registered in the Heir Structure

People who are not included in the list of heirs but often demand that they get a share of the inheritance, namely those who use the terms adoptive, step and former.

- a) Through a adopted family, what is meant by a family that uses the term 'adopted' includes adopted children, adopted fathers, foster mothers, foster brothers, adopted aunts, adopted aunts and so on. The appointment of a sibling or child is unknown in Islamic law.
- b) Through a Step Family, that is to say, a family with a step status, for example stepchildren, stepmothers, stepfathers, other stepbrothers, other fathers, and so on.
- c) Through the Family of Former Status, the point is the family path that is a former status. like ex-husband or ex-wife.
- d) Not the heirs, that means not including the heirs are son-in-law, parents-in-law and some of his nephews, brother-in-law, grandchildren from the path of most uncle's daughters.

2) Registered In Heirs But Hijab and Forbidden

Not everyone included in the list of heirs will get a share of the inheritance. Those who are blocked by the existence of other heirs who are closer, of course also do not get inheritance.

g. Distributing Inheritance Based on Agreement

Another mistake in the distribution of inheritance is the distribution based on an agreement with fellow heirs, without regard to the provisions in the Koran, Sunnah and also what has been established Islamic sharia. The reason that is usually used is as long as the parties are equally pleased and do not demand anything, so it is considered unnecessary to be divided based on sharia provisions.

The forbidden parable of this action is like a man and woman who are not husband and wife agree and are willing to be willing to have sex outside of marriage, or commit adultery. Although both like and do not feel disadvantaged, but that does not mean adultery is permitted. This is because outside of them, there is a Almighty Allah who has instituted forbidden adultery. Likewise, the distribution of inheritance that violates the provisions of Allah SWT, the heirs may voluntarily share it, but on the other hand they have agreed to leave the provisions of Allah SWT.

Neither party has the right to prevent these methods, both from the clergy (ulama), especially from the government, both of them are mere passive spectators. They often never feel obliged to straighten the people from various deviants committed. In many cases, both parties more often turn this matter over to family meetings and agreements, as long as all are equally sincere and accepting, the problem is deemed resolved. This agreement is a denial of the verses of Allah and al-Hadith and ijtihad of the scholars (*Ulama*) who justify the provisions and determination of the distribution of inheritance.

D. CONCLUSION

The people of Setu sub-district of South Tangerang have not fully understood the Islamic inheritance system, which is evident in everyday life. Incomprehension society against Islamic Inheritance is also associated with their understanding of the teachings of Islamic religion as a whole. They understood the teachings of Islam merely as formalities in his life. Other matters relating to Islamic teachings are not full of their duties including inheritance.

The inheritance applied to the community of Setu Sub District of South Tangerang is the customary inheritance of the Tangerang local people in general and especially the South Tangerang community. The Division of inheritance applied is a mixture of Islamic inheritance with indigenous inheritance of local people. Thus, the law of Islamic inheritance has not been fully applied to the community of Setu sub-district in particular and the people of South Tangerang in general.

Advice, there needs to be more intensive socialization conducted by religious leaders and the Ministry of Religious Affairs in the area of South Tangerang, so that the Islamic inheritance system can be applied as a whole in accordance with Islamic law.

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