



## Historicity of Islamic Inheritance Law in Indonesia and Turkey

History of Author	Abstract
<p>Mega Puspita<sup>1</sup>, Ahmad Rezy Meidina<sup>2</sup></p> <p><sup>1</sup>Faculty of Sharia and Law UIN SunanKalijaga Yogyakarta <sup>2</sup>LaksdaAdisucipto Street Yogyakarta Special Region of Yogyakarta</p> <p><b>Corresponding Author:</b> ✉ <sup>1</sup>puspitamega63432@gmail.com, ✉ <sup>2</sup>ahmadrezymeidina@gmail.com</p>	<p><i>This article talks about renewal in the field of Islamic family law regarding inheritance. Islamic inheritance law is a law that regulates the inheritance of the assets of someone who has died and is given to those who are entitled. Islamic inheritance law in Indonesia is regulated in KHI Articles 176-191, this rule is also influenced by the school of thought that is developing in Indonesia, namely the Shafi'i. The basis for the renewal of Islamic Inheritance Law is the obligatory will, in which according to some Islamic thinkers, non-Muslim heirs can receive a share of the heir's assets through the obligatory will. Meanwhile, inheritance law in Turkish civil regulations has been regulated in the third book. The third book contains regulations on an inheritance without a will and these regulations are adopted from Swiss civil regulations. The Swiss civil code replaces Turkish law with the Hanafi school. Inheritance law in Turkey has the principle of equality between men and women so that they get the same distribution of inheritance.</i></p> <p><b>Keywords:</b> <i>Inheritance law, Indonesia and Turkey.</i></p>

### Introduction

Inheritance is one part of civil law as a whole and is the smallest part of family law. Inheritance law is very closely related to the scope of human life, that every human being will experience an event which is a law which is usually referred to as death. someone who died.<sup>1</sup>

The distribution of inheritance in a fair manner in accordance with applicable laws and regulations is the main thing in the inheritance process. Harmony, harmony, and peace are the most important things that must be able to run. Agreement in deliberations is a basic value of togetherness in family life that must be put forward. Togetherness without the need for disputes or disputes in the process of dividing the inheritance is the most important thing because in this case, the values of togetherness and kinship should be able to become a foothold without having to put forward the ego and interests of each party.

Islam as a perfect religion has regulated how the process of transferring one's wealth to another person after the human has died, with a rule, namely inheritance. In Islamic inheritance law, the distribution of inheritance must be given to the heirs in accordance with the provisions set by Islam<sup>2</sup>, and Islam has regulated these provisions in the Qur'an which were sent down by Allah as a guide for humans. Each verse and legal order it contain has its own purpose and wisdom for the benefit of mankind. Dishari'atannya a certain law has the purpose and benefits desired by Islamic law because Allah prescribes the law for the benefit of his servants.<sup>3</sup>

<sup>1</sup> Nur Moh Kasim, *Islamic Law and Contemporary Issues* (Yogyakarta: Interpena, 2014), p. 69.

<sup>2</sup> Abdul Qodir Djaelani, *Sakinah Family* (Surabaya: Knowledge Development, 1995), p. 57.

<sup>3</sup> Abdul Wahab Khallaf, *IlmUsulFiqh*, trans. Masdar Helmy (Bandung: Echoes of Risalah Press, 1996), p.111.

There are several previous studies that discuss inheritance law in Indonesia, namely Rahmat Haniru<sup>4</sup>, Muhibbuddin<sup>5</sup>, Bambang Yunarko<sup>6</sup>. Rahmat discussed inheritance law in Indonesia from the perspective of customary law and Islamic law. The distribution of inheritance in customary inheritance law is divided according to joint actions, runs peacefully, and takes into account every condition of each heir. Whereas in Islamic inheritance, the parts of the heirs have been determined in the Qur'an. Muhibbuddin discussed inheritance law in Indonesia, following the reform of Islamic law for descendants of different religions. Based on the Supreme Court Decree Number: 368/K/AG/1999 Coning and Number 51/K/AG/1999 inheritance, non-Muslims can receive an inheritance but through a mandatory will. Bambang discussed the choice of inheritance law for people in Indonesia who are Muslim. Termination of inheritance law for those who are Muslim in Indonesia based on Article 49 paragraph 1 of Law Number 7 of 1989 is located in the Religious Court, while the choice of inheritance law for Indonesians who are Muslim based on number 2 of the sixth paragraph, can only be made outside the Court of Justice.

## Research Finding

### History of Inheritance in Islam

The distribution of pre-Islamic inheritance was carried out using two systems, namely the hereditary system and the causal system.<sup>7</sup>The tradition of dividing inheritance during the Jahiliyya era was patrilinear, meaning that children who were not yet mature and women were not entitled to inheritance, even if they were the heirs of those who had died.<sup>8</sup>It is very clear that before Islam came the Arabs treated women unjustly. They do not give inheritance rights to women and children, either from the inheritance of their fathers, husbands, or relatives. Apart from that, they also argued that women could not participate in the war to defend their people and tribe. The ignorant Arabs firmly stated, "How is this possible we give inheritance (inheritance) to people who can't and never haveridden a horse, unable to bear arms,nor does he fight against the enemy."<sup>9</sup>

They forbid women from receiving inheritance just as they forbid it for small children.<sup>10</sup>In fact, some of them think that widowed women who are deceased include assets that can be passed on to and inherited by their husband's heirs. In pre-Islamic times, inheritance could be given if there was a kinship relationship. In addition, they believe that inheritance can be given to people who have a pre-faith agreement, and <sup>11</sup>children who are adopted (adopted).

Whereas in the early days of Islam, the inheritance distribution system was still in effect during the ignorance period until a verse was revealed which explained that men (regardless of adults or children) received a share (inheritance) of the assets left by their parents and closest relatives, as well as women, whether the treasure is little or much. As Allah SWT explains in the letter al-Ahزاب verse 5:

<sup>4</sup> Rahmat Haniru, "Hukum Waris Di Indonesia Perspektif Hukum Islam Dan Hukum Adat," *Al-Hukama: The Indonesian Journal of Islamic Family Law* 4, no. 2 (2014): 456.

<sup>5</sup> Moh Muhibbuddin, "Renewal of Inheritance Law in Indonesia," *AHKAM Journal, IAIN Tulungagung* 3, no. 2 (2015).

<sup>6</sup> Bambang Yunarko, "Inheritance Law Options for People in Indonesia who are Muslim", *Perspective* 10, no. 3 (2005): 274.

<sup>7</sup> Muhammad SuhailiSufyan, *Practical Fiqh Mawaris* (Bandung: The Heritage of Pioneer Media, 2012), p. 7.

<sup>8</sup> Moh. Muhibbudin, et al, *Islamic Inheritance Law* (Jakarta: Sinar Graphic, 2009), p. 32.

<sup>9</sup> Muhammad Ali ash-Shabuni, *Distribution of Inheritance According to Islam*, trans. AM Basamalah (Yogyakarta: Gemalnasani Press, 1995), p. x.

<sup>10</sup> Muhammad Ali ash-Shabuni, *Division...*, p. x.

<sup>11</sup> SayyidSabiq, *Fiqh as -Sunnah*, trans. (Semarang: Toha Putra, 1972), p. 3.

“Call them (adopted children) by (using) the names of their fathers; That is what is more just in the sight of Allah, and if you do not know their fathers, then (call them as) your brothers in religion and your masters. and there is no sin on you for what you mistake in it, but (in which there is sin) what your heart willed. and Allah is Most Forgiving, Most Merciful.”

With the revelation of the verse above, the ignorance tradition was erased which did not give inheritance to women and small children. On the other hand, in the early days of Islam, the Prophet had implemented the law of inheritance. This was seen when the Prophet and his companions migrated from Mecca to Medina. When he arrived in Medina, the Prophet and his companions were greeted with joy by the people of Medina by being placed in their homes, having all their daily needs met, protecting their souls from the pursuit of the Quraysh, and assisting them in dealing with the enemies who attacked him.

To strengthen and perpetuate the bonds of brotherhood, the Prophet made this one of the reasons for mutual inheritance from one another. For example, if a friend does not have a guardian (heir) who joins the migration, then the inheritance is inherited by the guardian who joins the migration. Heirs who are reluctant to migrate to Medina are not entitled to inherit any property. However, if there is a friend who does not have a guardian who joins the emigration, then his inheritance can be inherited by his brother from the people of Medina who become the guardian because of kinship ties.

Thus, it can be concluded that in the early days of Islam, it was possible for a person to get an inheritance if: <sup>12</sup>a) there was a kinship, b) there was adoption, c) there was hijrah, and d) there was a brotherhood. From the description above, it can be understood that in early Islamic inheritance, relatives who were entitled to receive inheritance were not limited to adult men, but also to children and women. The existence of hijrah and brotherhood ties also made it possible to get an inheritance, and in Islamic inheritance, there were no promises of pre-loyalty and adoption.

Inheritance law has a strong legal basis (argument), namely the Koran in Surah an-Nisa’: 7, 8, 9, 10, 11,12, 13, 14, 33, 176, Surah Al-Anfal: 75 , and some hadiths of the Prophet SAW. Strictly speaking, Allah promises paradise for those who practice this law through an-Nisa: 13, and the threat of hell for those who break it through an-Nisa’: 14. As for an-Nisa’: 11, 12, and 176 which are verses main inheritance clause, provides details of the heirs and their respective parts in fractional numbers, namely 1/2, 1/4, 1/8, 2/3, 1/3, and 1/6.<sup>13</sup>

As the Word of God Qs an-Nisa’ verses 11-12:

“Allah prescribes for you regarding (the distribution of inheritance for) your children. Namely: the share of one son is equal to the share of two daughters; and if the children are all girls more than two, Then for them two-thirds of the assets are left behind; if the daughter is only one, then he gets half the property. and for two parents, for each of them one-sixth of the property left behind, if the deceased had children; if the person who dies does not have children and he is inherited by his parents (only), then his mother gets a third; if the deceased has several siblings, then his mother gets one-sixth. (The distributions mentioned above) after fulfilling the will he made or (and) after paying his debts. (About) your parents and your children, you do not know which of them is closer (many) of benefit to you. this is a decree from Allah. Verily, Allah is All-knowing, All-Wise .” And for you (husbands) half of the property left by your wives, if they do not have children. if your wives have children, then you get a quarter of the property left by

<sup>12</sup> Suparman Usman and Yusuf Somawinata, *Fiqh Mawaris* (Jakarta: Gaya Media Pratama, 2002), p. 55.

<sup>13</sup> Ahmad Bunyan Wahib, “Inheritance Law Reform in Muslim Countries,” *Asy-Syir’ah: Journal of Shari’ah dan and Law* 48, no. 1 (2014): 30.

them after fulfilling the will they made or (and) paying off the debt. Wives get a quarter of what you leave if you don't have children. if you have children, then the wives get one-eighth of the property that you left after fulfilling the will that you made or (and) after paying your debts. if a person dies, both male and female who did not leave a father and did not leave children, but has a brother (only one mother) or one sister (only one mother), then for each of the two types of brothers, is a one-sixth treasure. but if there are more than one mother's brothers and sisters, then they partner in that third, after fulfilling the will made by him or after paying the debt by not giving harm (to the heirs). (God determines that as) the true shari'ah from Allah, and Allah is All-Knowing, Most Forbearing."

### Causes of Inheritance in Islam

There are several reasons for inheritance in Islam related to a person's right to inherit, namely kinship and marriage. The two forms of the relationship are as follows.

a. Kinship Relations

Kinship relations or commonly called family relations are determined by blood relations, and blood relations can be known at the time of birth, a mother has a kinship relationship with the child she is born with and the child has a kinship relationship with both parents. The kinship relationship between the child and the father is determined by the existence of a valid marriage contract between the mother and the father, knowing the kinship relationship between the mother and the child and the child and the father, it can also be known that the kinship relationship is upward, namely to the father or mother and so on, downwards, to the child. along with their descendants. From such a relative relationship, it can also be known the kinship structure classics fied as heirs when a person dies and leaves an inheritance. If the kinship is analyzed, according to Hazairin, he will classify them into three groups of heirs, namely dzawulfaraid, dzawulqarabat and mawali. What is meant by mawali are substitute heirs, or it can also be interpreted as people who become heirs because they are no longer a liaison between them and the heir. This is the opinion of Ahlus Sunna who classifies them into three groups, namely DzawulFaraid, Ashabah, and DzawulArham.

b. Marital Relations

The relationship between marriage and Islamic inheritance law means a marriage relationship that is legal according to Islam. If a husband leaves an inheritance and is a widow, then the wife who is left behind is included in the heirs and vice versa.

c. Al-Wala' (Freeing slaves or slaves)

Al-Wala' is an inheritance relationship as a result of someone liberating a slave, or through an agreement to help each other. For the latter, it seems rarely done if not even exist at all. The first al-wala' is called wala' al-'ataqah or 'ushubahsababiyah, and the second is called wala' al-mualah, namely wala' which arises as a result of someone's sadness to help others through a trusteeship agreement. . People who free slaves, if men are called al-mu'tiq and if women are al-mu'tiqah. The helping guardian is called a maula' and the person being helped is called a mawali.

The part of the person who frees the servant is 1/6 of the inheritance. If then there is a question of whether there are still slaves today, then the answer is that the abolition of slavery is one of the successes of the mission

## Inheritance Law in Indonesia and Turkey

### a. Indonesia

Before the birth of the Compilation of Islamic Law (KHI), the Bureau of Religious Courts through its circular letter No. B./1/735 dated 18 February 1958 recommended to the Judges of the Religious Court or the Syar'iyah Court to use 13 books as a guide for the judges of the Religious Courts in examining and deciding cases. This is intended to obtain certainty of Islamic law.<sup>14</sup> But in reality, the resulting decisions are still diverse, because there is no definite reference to serve as a guideline.<sup>15</sup> Therefore, it is hoped that the Compilation of Islamic Law (KHI) can serve as a uniform (unification) guideline for Religious Court Judges and become a positive law that must be obeyed by all Indonesians who are Muslims. Because in substance the compilation throughout its history has become positive law that applies and its existence is recognized. In reality, the Compilation of Islamic Law has been used by judges in Religious Courts in deciding cases submitted by justice seekers.

Article 171 letter c explains that the heir is Muslim at the time the heir dies. This article explains that the heir must be Muslim at the time of the heir's death so it has the implication that if he is not Muslim then he is not considered the heir of the Muslim heir. As for identifying an heir who is Muslim, Article 172 of the KHI explains that an heir is seen as Muslim, which is known from his identity card or confession or practice or testimony, while for newborns or immature children, their religion is according to their father or environment.<sup>16</sup>

The identity of the heir is explained in Article 171 letter b, namely a person who at the time of his death or who was declared dead based on a court decision, was Muslim, leaving heirs and inheritance. From the provisions above, it can be concluded that in the Islamic Inheritance Law in Indonesian legislation, an heir who can inherit both heirs must be Muslim. The implication is that non-Muslim heirs are not the heirs of Muslim heirs.

However, there is something interesting that exists within the Supreme Court. In decision number 368 K/AG/1995 it was stated that non-Muslim heirs get a share of the inheritance of Muslim heirs based on the obligatory will of the share of Muslim heirs, in this decision non-Muslim heirs are not declared as heirs, and in decision number 51 K/AG/1999 it is stated that non-Muslim heirs are declared as heirs of Muslim heirs and get the same share as Muslim heirs based on a mandatory testament, in this decision it is stated that non-Muslim heirs are considered as heir.

From the decision above, one picture can be drawn that through its jurisprudence the Supreme Court has reformed Islamic inheritance law from not giving assets to non-Muslim heirs to giving assets to non-Muslim heirs and from not recognizing non-Muslim heirs as heirs of Muslim heirs. towards the recognition that non-Muslim heirs are also considered heirs of Muslim heirs. In other words, the Supreme Court has granted heir status to non-Muslim heirs and provided an equal share of assets to Muslim heirs. With the emergence of this decision, it is clear that the Supreme Court has violated the provisions in the Compilation of Islamic Law

<sup>14</sup> Ministry of Religion of the Republic of Indonesia, *Compilation of Islamic Law*, p. 127-128. Moh. Mahfud MD, et.al. (ed.), *Religious Courts and Compilation of Islamic Law in Indonesian Legal System* (Yogyakarta: UII Press, 1993), p. 47.

<sup>15</sup> Amrullah Ahmad, *Dimensions of Islamic Law in the National Legal System* (Jakarta: Gemalnsani Press, 1996), p. 1.

<sup>16</sup> Adelina Nasution, "Pluralism of Heritage Law in Indonesia," *Al-Qadha: Journal of Islamic Law and Regulations* 5, no. 1 (2018): 28.

which do not give assets to non-Muslim heirs and do not recognize non-Muslim heirs as heirs of Muslim heirs.

In this context, it is necessary to mention that judges have the authority to deviate from existing written legal provisions in order to achieve justice and benefit in the midst of people's lives. In the case above, the basis for reforming the Islamic Inheritance Law is the obligatory will, in which according to some Islamic thinkers, non-Muslim heirs can receive a share of the heir's assets through the obligatory will.

b. Turkey

Turkey is the first country to reform family law.<sup>17</sup> Renewal is carried out in the form of a law. For Turkish Muslims, Hanafi is a school of thought that underlies formal religious life until 1926, before there was a policy of eclectically codified legislation. The Islamic Civil Law or the so-called *Majallat al-Ahkam al-Adliyah*, most of which is based on the Hanafi school of law, has actually been prepared in Turkey since 1876, although it is not yet comprehensive, because it includes family law and inheritance law.<sup>18</sup>

Turkey is the first Muslim country to codify family laws in modern times, namely with the birth of The Ottoman Law of Family Rights in 1917. This law was frozen for some time, with the hope that it could be replaced with a more complete law, namely at the suggestion of Mustafa Kemal Pasha. Even this law was enforced only two years, after being frozen in 1919. In 1923, the government formed a committee to draft a new law. However, the jurists who were entrusted with the task of updating the law for five years failed to make the law in question. Finally, Turkey adopted The Swiss Civil Code in 1912, which became the Turkish Civil Code in 1926, with a few changes in accordance with the demands of Turkish conditions. The renewal material in this law is about Marriage Law (engagement, marriage age, mahram, polygamy, wedding receptions, marriage cancellations), Divorce and separation, compensation, and inheritance law.<sup>19</sup>

In 1926, the *Turkish Civil Code* was created which contained marriage (betrothal, age of marriage, mahram, polygamy, wedding reception, cancellation marriage), Divorce and Separation, Compensation, and Law Inheritance. This 1926 law was born by adopting *The Swiss*. Regarding this inheritance, it is contained in book III of the *Turkish Civil Code*. This book does not mention the issue of wills at all, that this law was adopted from the *Swiss Civil Code* (non-Islamic) which incidentally does not recognize the term will.<sup>20</sup>

The regulations regarding inheritance in the provisions of Turkish civil regulations have been regulated in the third book. The third book contains regulations on an inheritance without a will and these regulations are adopted from Swiss civil regulations. The Swiss civil regulations replaced Turkish legal regulations with the Hanafi school which had been in force before 1926. The inheritance regulations in the provisions of Turkish civil regulations have the principle of equality between men and women so that they get an equal distribution of inheritance. Whereas

<sup>17</sup> Mega Puspita dan Nindya Octariza, "The Rule Minimum Age of Marriage in Islamic Family Law in the Muslim World," *International Journal of Social Science and Religion (IJSSR)*, 2022, 194.

<sup>18</sup> Tahir Mahmood, *Family Law Reform in The Muslim World* (New Delhi: NM TRIPATHI PVT. LTD., 1972), p. 15; Isroqunnajah, "Islamic Family Law in the Republic of Turkey," in M. Atho' Muzdhar and Khoiruddin Nasution (ed.), *Family Law in the Modern Islamic World* (Jakarta: Ciputat Press, 2003), p. 36-52, on p. 37.

<sup>19</sup> Tahir Mahmood, *Family Law...*, p. 41.

<sup>20</sup> Turkish Inheritance Law "Asy-Syari'ah, Vol. 5. No. 2. (2015): 92.

in the provisions of Islamic law, as explained in the Koran, men get twice the portion that women receive.<sup>21</sup>

Renewal of family law in Islamic countries always sparked debate among modernist-progressive and traditionalist-conservative. Renewal of family law is at least related to legal material that is considered *out of date* which is done with certain methods. It is interesting to examine family law reforms in Turkey further, especially with regard to inheritance law. One of the principles of the Turkish Civil Code is equality between men and women, as well as in inheritance. Because it is this principle that the Turkish Civil Law in its terms of inheritance stipulates equal distribution, in the sense that women and men get an equal share in terms of inheritance distribution, no longer two to one, but one to one.

*Hanbali schools of thought agree that the division of inheritance between women and men is one to two based on the word of Allah: (for) your children i.e. the share of a son is equal to the share of two daughters.*

Based on this one-to-one inheritance system, it is clear that the Republic of Turkey wants to elevate women who were previously highly discredited, especially during the reign of the Ottoman Empire.<sup>22</sup> After turning into a secular state, Turkey adopted the Swiss law of 1912 as law.<sup>23</sup> The Civil Law, which came into effect on October 4, 1926, among other things, concerned: implementing monogamy; prohibiting polygamy, and providing equal rights between men and women in deciding marriages and divorces. As a consequence of this equality of rights and obligations, the inheritance law “based on Islam” was abolished. In addition, civil law also provides freedom for interfaith marriages. So in terms of inheritance, Turkey does not use Islamic law at all but uses Swiss law which gives equal rights to men and women. Regarding this inheritance, it is contained in book III of the *Turkish Civil Code*. This book does not mention the issue of wills at all, because as mentioned above, this law was adopted from the *Swiss Civil Code* (non-Islamic) which incidentally does not recognize the term will.

Before using the Swiss Civil Code, Turkey used Islamic inheritance law based on the Hanafi school, because the majority of Turkish people adhere to the Hanafi school.<sup>24</sup> However, since turning into a secular country, Turkey no longer uses the Islamic inheritance system in the slightest and uses the 1912 Swiss Civil Law inheritance system. The most striking provision in the new Turkish inheritance law system is that there is an equal position between men and women in obtaining a share of the inheritance. This is a logical consequence of their equal position in family law in general. This is understandable because Switzerland does equalize rights between men and women in the law. Such a system is completely different from the Islamic inheritance law system taken from the Koran, which states that the share of men is double that of women. This stipulation has become *ijma'* among *madhhab* scholars because in general, they consider that verses related to inheritance are verses of *qath'i al-dilâlah* which have been regulated in detail in the Al-Quran.<sup>25</sup>

Book III of the *Turkish Civil Code* also states that the children left by the heirs get the same share from one another, there is no division based on gender or the position of the child.

<sup>21</sup> Tahir Mahmood, *Family Law Reform in the Muslim World* (Bombay: NM Tripathi, 1972), p. 24.

<sup>22</sup> Turkish Inheritance Law Renewal”, *Asy-Syari'ah*, Vol. 5, No. 2, (2015): 93.

<sup>23</sup> Umar Faruq Thohir, “Renewal...”, p. 93.

<sup>24</sup> Tahir Mahmood, *Family Law Reform in The Muslim World* (New Delhi: NM TRIPATHI PVT. LTD., 1972), p. 24.

<sup>25</sup> Tahir Mahmood, *Family ...*, p. 24-25.

However, this law does not explain the status of adopted children. <sup>26</sup>The inheritance law in the *Turkish Civil Code* continued to be used until finally, Turkey made an amendment which was approved by the Turkish National Assembly on November 27, 2001, and socialized through the Turkish Daily Newspaper on December 8, 2001. This amendment contains 1030 articles. The contents of this amendment related to inheritance law in Turkey include:

- 1) Husband and wife have the same position in the family, and one of them can represent the family before the law or court.<sup>27</sup>
- 2) For members who have mental disorders, drunkenness, or other mental disorders that threaten their families, or the people around them, then with a Court decision they can be placed in a rehabilitation center to receive treatment and protection; he is also entitled to a share of inheritance as healthy heirs.<sup>28</sup>
- 3) If there is a part that has been determined, the provision can be canceled in order to expand the rights of other heirs.<sup>29</sup>
- 4) Taking into account the tradition of family structure in Turkey, under any circumstances, the aunt or uncle who takes care of the heir's children can take part of the inherited land.<sup>30</sup>
- 5) If the wife or husband dies, in order to maintain the survival of the heirs who are left behind, the husband or wife who is still alive can claim the inheritance left behind. If the reason is only to maintain the continuity and welfare of the spouse left behind or other legal heirs to be able to have a place to live, then this can be fulfilled as ownership.<sup>31</sup>
- 6) If the inheritance is in the form of agriculture, then it is handed over to competent heirs so that it can generate profit, based on the request of the party who wants to manage it; and if it is possible to share it, then share it with those who are able to manage it in order to generate profit.<sup>32</sup>
- 7) Regarding joint ownership between heirs, they should make a mutually agreed upon provision to avoid dissatisfaction with one of the parties and ask for a distribution of assets.<sup>33</sup>

If we look at the results of the amendments above, we can draw the following conclusions: *First*, in terms of heirs, the heirs are the nuclear family, namely the husband or wife left behind and their children (*nuclear family*), while relatives outside the nuclear family can become heirs of services to take care of heirs or inheritance. *Second*, regarding the status of men and women, it is still determined that the status of men and women in the family is the same, so it does not differentiate them in obtaining inheritance. *Third*, the law above has made provisions regarding inheritance in *cash* and in the form of deposits. this is a form of progress in inheritance law in the modern era as it is now.

<sup>26</sup> [http://www.sriwahyuni-suka.blogspot.com/renewal of Turkish inheritance law](http://www.sriwahyuni-suka.blogspot.com/renewal%20of%20Turkish%20inheritance%20law)

<sup>27</sup> Article 188 *The Turkish Civil Code*

<sup>28</sup> Articles 432 and 437 *The Turkish Civil Code*.

<sup>29</sup> Article 506 *The Turkish Civil Code*.

<sup>30</sup> Article 497 *The Turkish Civil Code*.

<sup>31</sup> Article 625 *The Turkish Civil Code*.

<sup>32</sup> Articles 659, 667 and 668 *The Turkish Civil Code*.

<sup>33</sup> Article 689 *The Turkish Civil Code*

## Conclusion

Islamic Inheritance Law in Indonesian legislation an heir who can inherit both heirs must be Muslim. The implication is that non-Muslim heirs are not the heirs of Muslim heirs. However, there is something interesting that exists within the Supreme Court. In decision number 368 K/AG/1995 it was stated that non-Muslim heirs get a share of the inheritance of Muslim heirs based on the obligatory will of the share of Muslim heirs, in this decision non-Muslim heirs are not declared as heirs, and in decision number 51 K/AG/1999 it is stated that non-Muslim heirs are declared as heirs of Muslim heirs and get the same share as Muslim heirs based on the obligatory will, in the decision it is stated that non-Muslim heirs are considered as heir. Meanwhile, heirs in Turkey can be seen in terms of heirs, the heirs are the nuclear family, namely the husband or wife left behind and children (*nuclear family*), while relatives outside the nuclear family can become heirs if they are credited with taking care of the heirs or inheritance. Then, regarding the status of men and women, it is still determined that the status of men and women in the family is the same so it does not differentiate them in obtaining inheritance. Finally, the law regarding *cash inheritance* in the form of deposits.

## Reference

- Ahmad, Amrullah. *Dimensions of Islamic Law in the National Legal System*. Jakarta: Echoes of Human Press, 1996.
- Article 188 *The Turkish Civil Code*
- Article 497 *The Turkish Civil Code*.
- Article 506 *The Turkish Civil Code*.
- Article 625 *The Turkish Civil Code*.
- Article 689 *The Turkish Civil Code*
- Articles 432 and 437 *The Turkish Civil Code*.
- Articles 659, 667 and 668 *The Turkish Civil Code*.
- Ash-Shabuni, Muhammad Ali. *Distribution of Inheritance According to Islam*, trans. AM Basamalah. Yogyakarta: Gemalnasani Press, 1995.
- Djelalani, Abdul Qodir. *Sakinah Family*. Surabaya: Science Development, 1995.
- et al, Moh. Muhibbudin. *Islamic Inheritance Law*. Jakarta: Sinar Graphics, 2009.
- Haniru, Rahmat. "Hukum Waris Di Indonesia Perspektif Hukum Islam Dan Hukum Adat." *Al-Hukama: The Indonesian Journal of Islamic Family Law* 4, no. 2 (2014): 456–74.
- [http://www.sriwahyuni-suka.blogspot.com/renewal of Turkish inheritance law](http://www.sriwahyuni-suka.blogspot.com/renewal%20of%20Turkish%20inheritance%20law).
- Kasim, Nur Moh. *Islamic Law and Contemporary Issues*. Yogyakarta: Interpena, 2014.
- Khallaf, Abdul Wahab. *IlmUsulFiqh*, trans. Master Helmy. Bandung: Echoes of Press Minutes, 1996.
- Mahmood, Tahir. *Family Law Reform in The Muslim World*. New Delhi: NM TRIPATHI PVT. LTD, 1972.
- MD, Moh. Mahfud et.al. (ed.). *Religious Courts and Compilation of Islamic Law in Indonesian Legal System*. Yogyakarta: UII Press, 1993.
- Muhibuddin, Moh. "Reform of Islamic Inheritance Law in Indonesia". *Ahkam: Journal of Islamic Law* 3, no. 2 (2015).

- Nasution, Adelina. "Pluralisme Hukum Waris di Indonesia." *Al-Qadha: Jurnal Hukum Islam dan Perundang-Undangan* 5, no. 1 (2018): 20–30.
- Nasution, M. Atho' Muzdhar and Khoiruddin (ed.). *Family Law in the Modern Islamic World*. Jakarta: Ciputat Press, 2003.
- Puspita, Mega, dan Nindya Octariza. "The Rule Minimum Age of Marriage in Islamic Family Law in the Muslim World." *International Journal of Social Science and Religion (IJSSR)*, 2022, 185–98.
- Sabiq, Sayyid *Fiqh as-Sunnah*, trans. Semarang: Toha Putra, 1972.
- Somawinata, Suparman Usman and Yusuf. *Fiqh Mawaris*. Jakarta: Primary Media Style, 2002.
- Sufyan, Muhammad Suhaili. *Fiqh Mawaris Practical*. Bandung: The Heritage of Pioneer Media, 2012.
- Thohir, Umar Faruq. "Turkish Inheritance Law Renewal". *Asy-Shari'ah* 5, No. 2, (2015): 92.
- Yunarko, Bambang. "Inheritance Law Options for People in Indonesia who are Muslim". *Perspective* 10, no. 3 (2005): 274–88.
- Wahib, Ahmad Bunyan. "Inheritance Law Reform in Muslim Countries," *Asy-Syir'ah: Journal of Shari'ah dan and Law* 48, no. 1 (2014).