

Inter-Religious Inheritance Relationship

Muhsin Aseri

STAI Darul Ulun Kandangan, Indonesia

muhsinaseri7@gmail.com

Abstract

The general principle of the Qur'an regarding inheritance rules is that every relative gets an inheritance in a fair and balanced manner, regardless of gender, small or old children, or religious differences. When there is a hadith that explicitly states that religious differences are a barrier to inheriting each other, it has implications for inheritance law problems for relatives of different religions. This study aims to reveal how the inheritance relationship between religions is for heirs. This research, which is literature research, is sourced from primary, secondary, and tertiary legal materials with conceptual and philosophical approaches and using qualitative descriptive analysis. This study found that religious differences remained a barrier to inheritance. However, the obstruction of both parents and relatives from obtaining an inheritance due to religious differences does not prevent them from obtaining a share of the inheritance of the testator through the legal will or wills of obligatory.

Keywords

heirs; interfaith; inheritance relationship



I. Introduction

One aspect of the Islamic law that is described in detail in the Qur'an is the law of inheritance. Inheritance is an issue that is a serious concern of Islam and it is closely related to property and the transfer of ownership, even inheritance is one of the most important causes of property ownership (Riyanta, 2012). Property is one of the causes among several problems that become human tendencies and love as emphasized by Allah SWT in Surah Ali Imran verse 14 and al-Taubah verse 24.

Among the objectives of Islamic law is to maintain or protect property, with the intention that property remains sacred, including inheritance so that it will not fall into the hands of people who are not entitled to receive it. In addition, we do not know which of our relatives is more beneficial to us (Q.S. al-Nisā: 11). That is why the issue of inheritance distribution is explained in detail about who is entitled and their respective parts (Wahyudi, 2015).

Based on Surah al-Nisa verse 7, the 'illah of inheritance is kinship. For men, there is a share of the inheritance from their parents and relatives, and for women, there is a share (also) of the inheritance from their parents and relatives, either a little or a lot according to the share that has been determined (Sari, 2017).

Islamic law regulates lineage or kinship, one of the factors that cause a person to inherit from one another. Kinship as the cause of inheritance includes kinship in essence, namely because of kinship relationships such as parents, children, brothers, and uncles/aunts, or

kinships that occur due to marital relations or legal kinship due to wala (slave liberation) (Rohmawati, 2018).

The general principle held by the Qur'an in terms of establishing inheritance rules is that every relative gets an inheritance in a fair and balanced manner, regardless of gender, child or adult, or religious differences (Merta, Hukum, Sjahkyakirti, & Belakang, 1974).

Meanwhile, Muslims, of course, are obliged to carry out the laws and teachings as well as the rules set by Islam. The law states that heirs of different religions do not get inheritance because it violates the conditions stipulated in the hadith of the Prophet SAW. However, to change this quickly is impossible because there will be rejection by Muslims if people of different religions are declared will receive the inheritance as other heirs (Sriani, 2018). On the other hand, the community's sense of justice also demands that heirs of different religions get a share in the inheritance and demand that the legal provisions be made into law. However, if it is made into law, it will clash with a higher law, namely Islamic law (Muhibbuddin, 2015).

Taking into account the problems above, the question arises of how the inheritance relationship between religions according to Islamic law is.

II. Research Methods

This research uses qualitative methods and is a literature study. Literature research collects detailed information and data through various books, notes, journals, and another bibliography, as well as the results of previous work related to answers to the problems to be researched and theoretical foundations (Yaniawati, 2020). This research produces information in the form of notes and descriptive data contained in the text under study (Mantra, 2008) (Raco, 2018).

As a library research, there are two kinds of data sources that will be explained, namely:

1. Primary Sources

Primary sources are the main data sources that are directly collected by researchers from the object of research, namely books, articles, which are the objects in this study.

2. Secondary Source

Is an additional data source that according to the researcher supports the main data, namely books or articles that act as supporters of the primary book or article to strengthen the concepts in the primary book or article.

The method used to collect research data in library research is to select, search, present, and analyze library data. This research institute is looking for library materials whose substance requires philosophical and theoretical processing. The literature search here is a literature study without empirical verification (Muhadjir, 1998). The data presented is data in the form of words that need to be processed to be concise and systematic.

This study using data analysis techniques in the form of content analysis (content analysis). The analysis is a scientific analysis of the message content of a data (Muhadjir, 1998). According to Zed (2004), analysis is a simple attempt at how research data are developed and processed for a simple framework. The data that has been collected is then analyzed to obtain information, but first, the data is selected on the basis of its reliability (Mantra, 2008). The purpose of this data analysis is to find the truth of the data that has been obtained so that conclusions can be drawn from the results of the research that has been done. In this study, researchers used 3 stages, namely: data reduction, data display, data verification, and conclusion drawing.

That is one of the reasons the people of Bulusan took the initiative to establish a school independently. The school land came from a grant from a Bulusan resident. The vision and mission of SDN 3 Bulusan include the following: Vision is a picture of planning the desired future state by looking at the potential and needs of the school. The vision of SDN 3 Bulusan is to form disciplined human resources, and master IMTAQ and skilled science and technology, able to actualize them as creatures in people's lives. Mission Utilize time effectively and efficiently; Explore and practice religious teachings or according to their respective beliefs and beliefs. Make the atmosphere of the teaching and learning process orderly, calm, comfortable and fun. Always creative, innovative in applying teaching and learning methods; Conditioning togetherness in carrying out tasks, creating a conducive atmosphere, mutual respect – respect, respect, respect, and giving each other the advantages that exist in us for the betterment of the school and prioritizing the interests of the school over personal interests; Get used to living clean physically and spiritually; Strive for a friendly, safe, comfortable and reassuring atmosphere; Maintain school relations with the community.

III. Discussion

3.1 Differences in Religion as Inheritance Barriers

The difference in religion, the meaning is between muwarits (dead people who inherit their property) and warits (living people who have the right to inherit inheritance due to inheritance reasons) each of whom adheres to a different religion, namely one Muslim and the other non-Muslim. while the difference occurs at the time of the death of the beneficiary. Does not include religious differences due to differences in understanding or sects/schools within one religion (Islam, Islam, Cetak, & Online, 2020). Religion is vividly brought out as a major theme and it seems to have a stronger influence on how the people (Eskandari, 2020). Religion has the potential to be used as a tool to achieve political power in a nation, which may lead to inter-religious and inter-religious conflict itself (Nuruddin, 2019).

In Islamic jurisprudence, religious differences are one of the barriers to inheritance. That is, between muwarits and heirs of different religions cannot inherit from each other. This is based on a hadith narrated by al-Bukhari, Muslim, Abu Dawud, al-Turmudzi, and Ibn Mājah from Usāmah bin Zaid ra., that the Prophet saw. He said: A Muslim cannot inherit the property of a disbeliever and a disbeliever cannot inherit the property of a Muslim (Tangerang, 2020).

This hadith explicitly states that the existence of different religions is a barrier to inheriting each other between the heirs and heirs. The law states that heirs of different religions do not get inheritance because it violates the conditions stipulated in the hadith of the Prophet SAW. Muslims cannot inherit property left by father/mother, children, or wives/husbands who are non-Muslim (kafir); and vice versa, the infidel cannot inherit the inheritance of the father/mother, children, or husband/wife who is Muslim (Bachtiar, 2012). According to al-Khatthabi in Ma'alim al-Sunan as quoted by Shidqī Jamil 'Aththar when giving tahqiq to the book of Sunan Abi Dawud, "the generality of this hadith requires that there are barriers to inheritance between every Muslim and non-believer, both infidels because of their religion. from the start or because of apostasy that required him to be killed. Since the property of the Muslim is not given to the disbeliever, the property of the disbeliever (also) should not be given to the Muslim."

The above hadith explicitly indicates that religious differences are absolute mani ' (barriers) of inheritance, even though the causes of inheritance are fulfilled, such as the existence of a legal marriage or essential kinship, even though according to the Qur'an, Surah al-Nisa' verse 11 which uses the aulad pronunciation correctly. explicitly states that all children have the right to inherit, both believers and non-believers (Wahyuni, 2018).

These two texts seem to show a contradiction (contradictory/ta'arudh); but according to the opinion of scholars, the general understanding of verse 11 of Surah al-Nisa' is specified by the hadith which stipulates that religious differences are barriers to inheritance. So, with the authentic hadith of the Prophet Muhammad, who says that Muslims cannot inherit the property of infidels, it is known that Allah SWT. willed (in the word *aulad*) it was some of the children, not some of the others (who disbelieved, killed their parents, and so on) (IDZHAR, 2013). Therefore, "Muslims cannot inherit unbelievers, and unbelievers cannot inherit Muslims according to the birth of hadith". This opinion is the opinion of scholars who adhere to the rule that it is permissible for the sunnah to *takhshish* (specialize) the generality ('am) of the Qur'an or the application of the rule that "what is desired by the general Qur'anic texts (*aulad*) is specifically for fellow Muslims, as confirmed by the hadith of the Prophet. saw. and the rule in question is *al-'am yuradu bih al-khash*".

3.2 The Difference between Religion and Will (*Wasiat Wajibah*)

Religious differences are one of the barriers to inheritance because their existence ensures that there is no law to get the inheritance, even though the causes of inheritance are evident because of the kinship (lineage relationship or legal marriage) between the Muslim and the infidel (Drs & Rasyid, 1991). But is it because of religious differences that it is completely closed off the opportunity for someone to get a share of the inheritance of *muwarits*, even though there is a legal opportunity that gives someone to get a share of the inheritance, namely in the form of a will. The law of wills does not require that the giver and the recipient of the will must be of the same religion (fellow Muslims), but the obligation of the will is addressed to people who are about to die (die) for the benefit of both parents and relatives (Isihlayungdianti et al., n.d.).

In surah al-Baqarah verse 180, Allah SWT. said as follows: It is obligatory on you when one of you comes (signs of) death, if he leaves a large amount of wealth, making a will for his parents and close relatives in a good manner, (this is) an obligation on people - pious people (CAHYANI, 2018). The verse above clearly emphasizes to us the obligation of wills for people who are about to die and the will is addressed to both parents and close relatives in general, without considering whether the two parents or close relatives are still entitled to receive the inheritance or are no longer entitled to it. , such as because of different religions (Jamil, 2017).

According to the *jumhur fuqaha'* and the jurists of the Shi'i Zaidiyyah, the law of will to both parents and close relatives who are entitled to receive an inheritance, for people who will die and have inheritance, are not *fard 'ain*, according to Ibn Hazm's opinion and the law of wills it is not obligatory to give to parents and close relatives who are not entitled to inherit, as is the opinion of Ab Dāwud and the Salaf scholars (Sari, 2017).

Therefore, both parents and close relatives, whether entitled to inherit or not, no longer have the right to receive a will. Meanwhile, "Abu Dawud and Salaf scholars, such as Masruq, Thawus, Iyas, Qatadah, and Ibn Jarir are of the opinion that it is obligatory to carry out wills to parents and relatives who for one or more reasons cannot inherit."

The rationale of Abū Dāwud and his friends is their attempt to compromise the verses and hadiths that are literally contradictory (ta'arudh), namely between verse 180 of surah al-Baqarah with verse 11 of surah al-Nisā' and the hadith that states that there is no will for heirs. There are two ways proposed by Abū Dawud to bring together the two texts that are considered to contain these contradictions, namely, first, verse 180 of Surah al-Baqarah is textually general, but what is desired is special (*al-'am yuradu bih al-khash*) (Mustari & Ag, 2013). So explicitly in the verse, it is stated that the obligations of the will to both parents and relatives are general in nature, both parents and relatives are still entitled to inherit or are no longer entitled. But implicitly, the obligation of the will is specifically aimed at those who are

no longer entitled to receive an inheritance (inheritance). Second, there is indeed a text of verse 180 of surah al-Baqarah by verses and hadiths of mawārits, but the text is only part of the law. Thus, the obligation to make a will to both parents and relatives who are no longer entitled to inheritance (inheritance), for example, due to different religions, acts of murder and slavery, still applies (Khisni, 2017).

Although Abu Dawud's opinion received criticism and rebuttal from the jumhur circles, the legal conclusion he drew from an attempt to compromise two texts that were considered contradictory was a very moderate attitude and closer to truth and a sense of justice. Parents and relatives who are nasabiyyah (because of the strongest inheritance) should get a share of the inheritance from the muwaris, but because of obstacles (māni' syar'i) such as religious differences, as a result, they are not entitled to the inheritance as they should. In such a condition, the parents or close relatives can get a share of the inheritance of their muwarits in the form of a will, whether the will has been mentioned by the washi before his death or the will is mandatory (Mahmudi, 2012). What is meant by mandatory will is a will that is determined by the authorities or judges as state officials who have the authority to compel or issue a mandatory testamentary decree to certain people in certain circumstances. So parents and relatives of different religions and muwarits are prevented from getting an inheritance, but there is still a legal opportunity to get a share of the inheritance through the legal will of a will or obligatory will (Rifenta, 2019).

IV. Conclusion

From the description above, it can be concluded that between the Qur'anic texts, which literally adhere to the general principle of equality of inheritance rights between Muslims and non-Muslims, and the special authentic hadiths, which assert that Muslims do not inherit infidels and unbelievers do not inherit Muslims, efforts must be made. Compromise it (al-jam' wa al-taufiq) so that the two texts can be implemented, either through the takhshīsh al-'am or al-'am yuradu bih al-khash processes.

The implication is that the legal principles of the Qur'an specifically discuss inheritance law between fellow Muslims, not about inheritance law between religions. Religious differences become one of the barriers (mani') of inheritance, therefore Muslims cannot inherit the inheritance of infidels, and vice versa, unbelievers cannot inherit the inheritance of Muslims. However, the obstruction of both parents and relatives from obtaining an inheritance due to religious differences does not prevent them from obtaining a share of the inheritance through the legal channels of wills or mandatory wills.

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