

Distribution of Health Property before the Heavier Dies

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Abstract

The distribution of inheritance by heirs to heirs before the heir dies in the community is a customary and customary way of distributing inheritance to their children as heirs in the hope of getting benefits for children in supporting economic needs and avoiding conflicts in the family. The results show that The distribution of inheritance before the heir dies in the community in terms of Islamic law is a gift giving because in Islamic law inheritance occurs because of the principle of death. And the reason parents share inheritance during their lifetime is as a form of parental love for their children and is the initial capital for their children's lives in the future.

Keywords

Inheritance; inheritance;
aristocratic law



I. Introduction

The process of the journey of human life is birth, life, and death, all of these stages have an influence on the environment. Especially with people who are close to him, both in the sense of lineage and in the sense of the environment. During his life from infancy, childhood and puberty. Humans act as bearers of rights and obligations, both as individuals, family members, citizens and followers of religions who must submit and obey the provisions of the Shari'ah in the totality of their lives.

Every creature must die. No one knows when he will die because the time of death is one of the secrets of Allah. Death can neither be pursued nor avoided. Therefore everyone must be ready if at any time death picks up. In fact, humans must take the guidance of religion because it has never happened at any time that only reason is enough to guide a people and lift it up without the help of religion. So it can be seen that to build civilization is not enough with science and knowledge alone.

Jahiliyah Arabs in matters of inheritance law use the inheritance law system of the people before them (syar'un min qablina). A daughter does not inherit, either her position as mother, wife, or apart from them in the female line of law. The only person who inherits the inheritance is his older brother, his uncle's son, or his eldest son when he reaches adulthood. The Arabs of Jahiliyah provide inheritance requirements according to the living conditions of their society. Therefore, they do not pass inheritance to young children and women, because they are considered unable to carry out the task of maintaining order and security and carrying weapons on the battlefield.

Broadly speaking, the inheritance law system that applies among them only revolves around boys, adults and the mighty. Inheritance is the essence of causality (the main cause) in owning property, while property is the bandage of life, both individually and universally. With that treasure the soul of life always revolves. Inheritance law is the law that regulates the transfer of assets left by someone who dies and the consequences for his heirs. In principle, only rights and obligations in the field of property law can be inherited.

In Indonesia, there are three systems of inheritance law, namely Islamic inheritance law, customary inheritance law and western inheritance law (the book of civil law), which will be discussed by the author, namely customary inheritance law and Islamic inheritance

law. Inheritance according to Islamic law is based on the holy book al-Qur'an and al-Hadith, where after a person dies his inheritance can be divided into male and female heirs.

In addition, Indonesian families who obey religious law carry out inheritance according to their respective teachings. In the law of inheritance, it is determined who will be the heirs, who is entitled to get a share of the inheritance, how much of each of them is, how the provisions are distributed, and various matters relating to the division of inheritance are also regulated.

The problem arises because after the death of the muwaris there is one of the heirs who sued the inheritance. Not infrequently this case also takes its toll, even though this dispute occurs between biological families. Many people find it difficult to contain their emotions when it comes to wealth and wealth. Many things like that happen in the community, making parents worry about the condition of their children after they are gone. Therefore, to ensure that there are no more disputes and fights between families over inheritance, many parents choose to divide their inheritance before they die. Furthermore, it will be discussed more deeply how the law divides the inheritance before the testator dies.

II. Research Method

This research is a descriptive analysis using a normative approach carried out in a qualitative way. In accordance with the term, the word "normative" comes from English, norm, which means norms, teachings, references, provisions regarding good and bad problems, what can be done and what cannot be done. The normative approach is an approach that is based on the main legal material by examining theories, concepts, legal principles and laws and regulations related to this research. The source of the data for this research is Impres No. 1 of 1991 or Article 171 of the compilation of Islamic law which states that Islamic inheritance law is the law that regulates the transfer of ownership rights to inheritance (tirkah) of heirs.

III. Result and Discussion

3.1 Inheritance Concept

a. Definition of Inheritance

In Islamic law known by several terms such as: Faraid, Fiqh Mawaris, and others. So the definition of Islamic inheritance according to Hasbi Ash-Shiddieqy argues that inheritance law is a science that we can know that people receive the inheritance and the levels received by each heir and how it is distributed.

Mawaris etymologically is the plural form of the singular word alcohol which means inheritance. In Islamic law, it is known that there are provisions regarding who is the heir who is entitled to receive an inheritance, and heirs who are not entitled to receive it. The term Fiqh Mawaris means the science of jurisprudence which studies who the heirs are entitled to receive, as well as certain parts that they receive. Fiqh of Mawaris is also called faraid science, the plural form of the singular word faridah means the provisions of the heirs which are regulated in detail in the Qur'an.

In terminology, it is fiqh or the study of who are the heirs and who are not, how many parts are there and how to calculate it. Al-Sharibiny in the book Mugni Al Muhtaj Juz 3 says that the jurisprudence of the Mawaris is the jurisprudence relating to the distribution of inheritance and the parts that must be received from the inheritance for each entitled.

Islamic inheritance law is a rule that regulates the transfer of property from someone who dies to his heirs. This means determining who will be the heirs, the portion of each heir's share, determining the inheritance and inheritance for the person who died.

The definition of Islamic inheritance law is contained in Article 171 of the Compilation of Islamic Law which states that Islamic inheritance law is: The law that regulates the transfer of ownership rights to the inheritance (tirkah) of the heirs, determines who is entitled to become heirs and how much of each.

Inheritance is one of the sciences that must be studied/mastered in Islam, at least there is someone who knows in detail and is able to explain (provide solutions) if there are problems regarding inheritance. This is because inheritance is related to wealth, and it is human nature to be greedy for wealth. Even because of wealth, blood relations (brotherhood) can fall apart.

Islamic inheritance law or what in fiqh books is commonly called faraid is inheritance law that is followed by Muslims in their efforts to complete the distribution of the inheritance of the deceased family.

This knowledge is an obligation from Allah SWT that must be carried out as well as doing prayer, fasting, zakat, pilgrimage. This is because the knowledge of inheritance already has provisions that have been described by the Book of Allah (al-Qur'an) and the Sunnah of the Prophet Muhammad. The division of inheritance (inheritance) in the Qur'an is known as hudud Allah (limits or provisions set by Allah (al-Nisa:13-14).

For Muslims to carry out the Shari'ah designated by the authentic texts is a must. Therefore, the implementation of inheritance based on Islamic inheritance law is mandatory. This obligation can also be seen from the words of the Prophet Muhammad. As follows:

ابن ابي اسحاق قال قال رسول الله صلى الله عليه وسلم لم اقسموا المال لى الفرائض لى ابى الله (رواه مسلم)

From Muslim narration from Ibn Abbas RA said: "Divide the inheritance among the heirs according to the book of Allah (al-Qur'an)". (HR Muslim).

In this Islamic inheritance law, before the inheritance is distributed to the heirs, it must be calculated first for the payment that must be paid off by the deceased, namely:

- a. Starting from taking the remains of the corpse for the cost of shrouding and equipping it according to the method mentioned in the corpse chapter;
- b. Pay off the debt;
- c. Execution of the will from one third of the remaining assets after the debt is paid;
- d. The distribution of the remaining assets among the heirs.

b. Basic Law of Inheritance

Inheritance law is a very complex and complicated issue in Indonesian society. The formulation of the rules must be aligned with the same source as other aspects of Islamic teachings. The basis or sources in question are the Qur'an, hadith, and ijtihad.

a. Al-Qur'an

The Qur'an is the main source of Islamic teachings, including the issue of inheritance, which discusses various kinds of Islamic inheritance provisions. The holy verses that contain the provisions of inheritance law in the Qur'an, are mostly contained in the An-Nisaa' letter, including the following:

Surah An-Nisaa'(4) verse 7:

لِلرِّجَالِ مِنَ الْوَالِدِينَ الْأَقْرَبُونَ لِلنِّسَاءِ مِنَ الْوَالِدِينَ الْأَقْرَبُونَ أَلٌ أَوْ نَصِيبًا مَّفْرُوضًا

It means: "For men there is a right to share in the inheritance of both parents and their relatives, and for women there is a right to share (also) from the inheritance from both parents and relatives, either a little or a lot according to a predetermined share."

If the orphan has assets left by his parents or by his relatives, then the children are equally inherited, both male and female, according to the predetermined level, whether the property is small or large. In the coming verses, the provisions for the distribution of inheritance (the verse of Mawaris) will be explained which provide a global explanation (mujmal).

If the assembly for the distribution of inheritance is attended by ulul qurba: relatives, orphans, and the poor, then give them a little of the property and cheer their hearts so that they are not jealous and envious. Therefore, give a little wealth to your father-in-law who is limited by your father's siblings, and give a little wealth to your uncle who is limited by your father. Those who are ordered to carry out what is stated in this inheritance are orphans who are old enough and able to receive the inheritance.

Surah An-Nisaa'(4) verses 11 and 12:

Allah ﷻ لَدُّنْ إِنْ لَمْ لَهُ دَدٌ أَبَوَهُ لَأَمِّهِ الثَّلَاثُ إِنْ إِنْ لَهُ إِخْوَةٌ لِأَمِّهِ السُّدُسُ أَوْ أَبَاؤُكُمْ أَبْنَاؤُكُمْ لَا أَيُّهُمْ أَقْرَبُ لَكُمْ فَرِيضَةً لِلَّهِ إِنْ اللَّهُ إِنْ لَيْمًا حَكِيمًا أَرْوَاجُكُمْ إِنْ لَمْ لَهُنَّ لَدٌّ فَإِنْ إِنْ هُنَّ وَ إِنْ إِنْ كُنَّ لِلَّهِ أَوْ امْرَأَةٌ لَهُ أَخٌ أَوْ أُخْتٌ لِكُلِّ إِحْدَى السُّدُسُ إِنْ أَنَا أَكْثَرَ لِ

Meaning: "Allah has prescribed (obligatory) on you regarding (the division of inheritance for) your children, (ie) the share of a son is equal to the share of two daughters. And if the children are all girls whose number is more than two, then their share is two-thirds of the property left behind. If she (daughter) is only one, then she gets half (the property left behind). And for both parents, the share of each one-sixth of the property left behind, if he (the deceased) has children. If he (who dies) has no children and he is inherited by his two parents (only), then his mother gets a third. If he (the deceased) has several siblings, then his mother gets one-sixth. (The distributions mentioned above) after (fulfillment of) the will he made or (and after paying) the debt. (About) your parents and your children, you do not know which of them will benefit you more. This is God's decree. Indeed, Allah is All-Knowing, All-Wise. And your share (husbands) is one-half of the property left by your wives, if they do not have children. If they (your wives) have children, then you will get a quarter of the property they left after (fulfilling) their will or (and after paying) the debt. Wives get a quarter of what you leave if you have no children. If you have children, then the wives get one-eighth of the property you left (after fulfilling) the will you made or (and after paying) your debts. If someone dies, both male and female, who has not left the father and left no children, but has a brother (seibu) or a sister (seibu), then for each of the two types of brothers is one-sixth property. But if the mother's brothers are more than one, then they are together in the third share, after (full of the will) he made or (and after paying) the debt without trouble (to the heirs). Such is the provision of Allah. Allah is Knowing, Most Forgiving.

This verse details the stipulations by stating that: Allah has made a will for you, which is to prescribe the division of inheritance for your children, women and men, adults and children. After prioritizing the rights of children, because in general they are weaker than parents, the rights of parents are explained because they are the closest to the children, namely; And for the two parents, namely the mother and father of the child who died, both

male and female, for each of them, namely for the mother and father, one sixth of the property left behind. The distributions mentioned above have been fulfilled after the will he made before his death or also after the debt has been paid off if he is in debt.

Surah An-Nisaa'(4) verse 33:

لِكُلِّ لَنَا إِلَىٰ الْوَالِدِينَ الْأَقْرَبُونَ وَالَّذِينَ آيْمَانُكُمْ أَتَوْهُمْ إِنَّ اللَّهَ أَعْلَمُ بِمَا تَعْمَلُونَ □

Meaning: "And for each (male and female) We have determined the heirs of what was left by his parents and close relatives. And those whom you have sworn allegiance to, so give them their share. Verily, Allah is Witness of all things."

Surah An-Nisaa'(4) verse 176:

لِ اللَّهِ الْكَلْفَةُ إِنْ أَمْرًا لَكَ لَيْسَ لَهُ □ دَدٌ لَهُ □ أُخْتُ لَهَا إِنْ لَمْ يَلَهَا دَدٌ إِنْ أُمَّتَا اثْنَتَيْنِ لَهُمَا التُّلُثُ إِنْ □ لَانُؤَالَ □

Meaning: They ask you for a fatwa (about losing). Say, "Allah gives you a fatwa regarding kalalah (ie), if a person dies and he has no children but has a sister, then his share (his sister) is half of the property he left behind, and his male brother inherits (all of your property). daughter), if she has no children. But if there are two sisters, then for them two thirds of the property left behind. And if they (the heirs consist of) brothers and sisters, then the share of a brother is equal to the share of two sisters. Allah explains (this law) to you, so that you do not go astray. Allah knows all things."

b. Hadith

Although the Qur'an has discussed inheritance clearly, there are some parts that require more detailed provisions. The Hadith of the Prophet is a reinforcement for Allah's decrees (Al-Qur'an), in the sense that the Messenger of Allah is given the right of interpretation in the form of the right to explain, either in the form of words (qaul), actions (fi'il), or in other ways (suqut taqrir).

History of Imam al-Bukhari and Imam Muslim

اسامة الله النبي لى الله ليه لم : لا المسلم الكافر لا الكافر لو لا الكافر لم (روا البخارى)

From Osama bin Said ra. That the Prophet SAW said: "It is not right for a Muslim to inherit a disbeliever, nor do a disbeliever inherit."(History of Bukhari and Muslim).

Muslim history

ابن اسيس ال ال لى الله ليه لمان الله اعطى ل لا لوارث (رواه لم)

From Ibn Abbas ra. Prophet Muhammad SAW said, "Give the inheritance to those who are entitled, after that the rest goes to men who are more important." (Muslim HR)

c. Ijtihad

To deal with social and cultural changes, efforts are needed to devote all thinking skills to issue sharia law from the arguments of the Qur'an and sunnah, and this is called ijtihaad. What is meant here is ijtihaad in applying the law, not changing existing understandings or provisions. Thus, the results of ijtihaad are used as a source by Muslims

in dealing with problems that are not mentioned in the Qur'an and the Sunnah of the Prophet, as well as issues related to inheritance.

3.2 Implementation of Inheritance Law

a. Inheritance Conditions

The conditions for the implementation of Islamic inheritance law, found three conditions, namely:

- a. Certainty of the death of the person who has property
- b. Certainty of the heir's life when the testator dies
- c. Know the reasons for the status of each heir.

The certainty of the death of a person who has assets and the certainty of his heir's life at the time of the death of the heir shows that the transfer of rights to property in the form of inheritance depends entirely on a certain time. Therefore, the death of the owner of the property and the life of the heir is a guideline for determining the event of the implementation of Islamic inheritance law. Determination of the property of deceased property and living heirs as an absolute condition for determining the occurrence of inheritance in Islamic law, means that Islamic inheritance law aims to completely resolve the problem of inheritance of deceased, missing persons without news, and children living in the womb as heirs shows that the law Islamic inheritance has the characteristics of solving all problems that may arise in inheritance cases.

The conditions for inheritance in the Civil Code to obtain inheritance are:

- a. The conditions relating to the heir for inheritance are that the heir must have died/dead, as stated in Article 830 of the Civil Code. The death of the heir in this case can be divided into:
 - 1) The death of the heir is known in earnest (essential death), that is, it can be proven by the five senses that he is really dead.
 - 2) Death by law, declared by the Court, namely: it is not really known according to the fact that can be proven that he is dead.
- b. The conditions relating to the heirs of the people who are entitled to the inheritance must have existed or were still alive at the death of the testator. The life of the heir is possible by:
 - 1) Real life, that is, according to reality, he is really still alive, and can be proven by the five senses.
 - 2) Legally alive, i.e. he is not known to be in fact alive. This includes the baby in the mother's womb (Article 1 paragraph 2 of the Civil Code).

b. Pillars of Inheritance

There are three pillars of Islamic inheritance, namely:

a. Heir

Inheritance is a person who dies, both male and female, who leaves a number of property and rights acquired during his life, either with a will or without a will. As for the basis for the right to inherit or the basis for obtaining a share of the inheritance according to the Qur'an, namely:

- 1) Because of blood relations, this is clearly defined in (Surah An-Nisaa': 7, 11, 12, 33, and 176).
- 2) Relationship or marriage.
- 3) Brotherly relations, because the religion determined by the Qur'an is not more than a third of the inheritance (Surah Al-Ahzab: 6).

4) Relatives because of fellow hijrah at the beginning of the development of Islam, even though there is no blood relationship (Surah Al-Anfaal: 75).

In Article 171 letter (b), it is explained that an heir is a person who at the time of death or who is declared dead based on a decision by a Muslim court, leaves heirs and inheritance.

Heirs in the Qur'an Surah An-Nisaa' verse 7, 11, 12, 33, and 176 can be seen that the heir consists of parents/father or mother (alwalidain), and relatives (al-aqrabin). Al-Walidain can be expanded to mean grandfather or grandmother if the father and mother are not present. Likewise, the notion of children (al-walad) can be expanded to become grandchildren if there are no children. Likewise, the notion of relatives (al-aqrabin) is all family members who can and legally become heirs, namely kinship relationships from a straight line up, down, and sideways. In addition, the marriage relationship is also the heir, both from the wife and husband.

The heirs mentioned above need to be emphasized that a person becomes the heir if he has actually died. Therefore, as long as it is not clear when someone dies, his property remains his property as well as people who are still alive. Likewise, if there is no certainty of someone's death, that person is considered to be still alive. The certainty of a person's death is possible in a true, legal, and taqdiry manner.

b. Inheritance

Inheritance assets are inherited assets plus a part of joint assets after being used for the needs of the testator during illness until death, the cost of managing the corpse, and paying debts and the testator's will. Inheritance or inheritance is referred to by the Qur'an letter An-Nisaa 'verse 7 with the term Tarakah or property to be left behind, Surah Al-Baqarah verse 180 turns to the person who is entitled to receive it (heirs). Tarakah which is referred to by the Qur'an Surah An-Nisaa' verses 11 and 12, which is then translated as inheritance consists of objects and rights whose distribution is carried out according to the determined portion after the payment of debts and the testator's will. The remaining assets after fulfilling their obligations, that is what must be divided by the heirs as inheritance.

In Article 171 letter (e) Inheritance Assets are inherited assets plus a share for the needs of the testator during illness until death, costs for managing the corpse (tazhiz), payment of debts and gifts to relatives,

In relation to the heirs mentioned above, the majority of Sunni scholars stipulate three obligations that must be carried out by the heirs before distributing the inheritance of the heir, namely the cost of managing the corpse, paying off the debt of the heir, and fulfilling the testator's will.

Whereas in Article 175 KHI paragraph (1) the obligations of the heirs to the testator are: (a) to take care of and complete until the funeral of the corpse is completed; (b) settle both debts in the form of treatment, care, including the obligations of the testator and the debt collector; (c) finalize the testator's will; (d) dividing the inheritance among the entitled heirs.

c. Heir

Heirs are people who have the right to inherit because of kinship (nasab) or marital relations (marriage) with the heir, are Muslim and are not hindered by law from becoming heirs.

Heirs in Article 171 paragraph (c) of the KHI are people who at the time of death have blood relations or marital relations with the heirs, are Muslim and are not hindered by law from becoming heirs.

3.3 Legal Review of Inheritance Distribution before the Heir Dies

The transfer of inheritance after the testator dies is a universal process in every inheritance law. An heir is a person who at the time of death is Muslim, leaves inheritance and living heirs. The term heir is specifically associated with a process of transferring rights to property from someone who has died to his living family. A person who is still alive and transfers his rights to his family cannot be called an heir, even though the transfer is carried out at the time of his death.

The implementation of the distribution of assets to the heirs by the heir when the heir is still alive can be accommodated in Article 195 point (3) and 211 of the Compilation of Islamic Law. Article 195 point (3) states that "A will to heirs is only valid if it is approved by all heirs". As for Article 211 it is stated that "Grants from parents to their children can be counted as inheritance". This means that the inheritance of assets carried out by the heir to his heirs while the heir is still alive can be identified with inheritance through a will or inheritance through a grant.

Islamic inheritance law has the principle of death, which means inheritance occurs when someone dies, inheritance exists as a result of someone's death. Therefore, the transfer of one's property to another, called inheritance, occurs after the person who owns the property dies. This means that one's property cannot be transferred to another person as long as the person who owns the property is still alive. Likewise, all forms of transfer of property of a person who is still alive to another person, either directly or which will be carried out later after death, are not included in the category of inheritance according to Islamic law.

If Islamic inheritance law only recognizes one form of inheritance, namely inheritance as a result of the death of a person or what is referred to in Western civil inheritance law, inheritance *ab intestato* or inheritance due to death or inheritance according to the law, Islamic inheritance law does not recognize inheritance on the basis of a will or inheritance due to being appointed or appointed by a will made by a person while he was still alive, which is referred to in Western civil law as inheritance by testament.

The occurrence of pluralism of Muslim awareness of Islamic law is caused by several things behind the existence of such understanding pluralism. That Islam came to Indonesia through a country that already has a culture that is colored by local religion. Islam entered Indonesia where Hinduism, Buddhism and Belief had existed in Indonesia and that the process of moving from Hinduism/Buddhism to Islam took a long time to evolve, so the boundaries were very common, especially from the experience of the people.

With this fact, the acceptance and appreciation of the Indonesian population towards religion and Islamic law is different, even regarding *aqidah*. It is natural that in Indonesia there are *abangan* groups, whose knowledge of religious law is very vague, limited to the time of circumcision, marriage and death. Another group called *mutian*, is a group that is aware of being followers of a religion, they are trying to know and explore the teachings of their religion and practice them. There are also those who accept Islam only on matters that are in accordance with local customs, by reducing/adding provisions that are already standard in *Shari'ah*.

So the distribution of inheritance before the heir dies which is carried out by some people, it can be said that the distribution does not include inheritance but as a gift from parents to their children, because according to Islamic law inheritance occurs when there is death, while in the application in some communities it is not appropriate. with the inheritance process according to Islamic law even though they already know the process.

Allowing the heirs to fight to seize the inheritance after the heir dies, is the same as allowing the heirs to do damage or damage on earth, especially the kinship relationship between the heirs. So the fiqh qaidah related to the disadvantages as the main qaidah was made as follows:

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"This harm must be eliminated (HA Djazuli, 2010)."

Because the harm must be eliminated, then if the harm is met with prohibitions, for example the prohibition on dividing inheritance before the death of the heir, then the prohibition becomes invalid if it will cause harm. This is reinforced by the branch qaidah that is drawn from the main qaidah mentioned above.

الات المحظورات

"The harm justifies the prohibitions (HA Djazuli, 2010)."

Therefore, if the distribution of illegitimate inheritance is carried out before death, then the harm that occurs between the heirs because the distribution of inheritance is carried out after death, eliminates the prohibition of dividing the inheritance before the heir dies. This is based on the fiqhiyah qaidah below.

لام الضرورة لاحة الحاجة

"There is no prohibition and emergency and there is no evil with needs (Mukhtar Yahya and Fatchurrahman)."

The implementation of the distribution of inheritance as stipulated in Article 187 paragraph (1) which deviates from the provisions of Article 171 letter b and deviates from the provisions of inheritance fiqh books and books, with reasons to avoid harm can be justified. Likewise to bring benefit among the heirs. It is based on the fiqh rules as follows:

المفاسد لى لب المصالح

"Refusing mafsadah takes precedence over achieving mashlahat."

Disadvantages in the distribution of inheritance often occur because for humans property or wealth occupies a very important position in their lives and even some people make property everything because by having property, various kinds of life needs can be fulfilled, all existing desires can be realized. . Living with more wealth than what is expected, feels very pleasant. Having a house that is a lot coupled with a luxurious design, content and equipment. It feels good and happy if the needs of life are met.

The translation: Made to feel beautiful in the eyes of humans, love for what they want, in the form of women, children, wealth piled up in the form of gold and silver, selected horses, livestock (animals that include camels, cows, goats). , and sheep) and rice fields. That is the pleasure of living in the world, and with Allah is a good place to return (Ministry of Religion of the Republic of Indonesia, 2012).

Please note, what is explained in the QS Al-Imran that wealth is a test for mankind. Wealth can be meaningful, but often becomes empty and even painful for the owner. There is no human who does not need wealth in his life, even some important worship in Islam is closely related to wealth. Therefore, Islam commands people to look for wealth in a lawful way and use it in a lawful way too. Although Islam commands people to look for wealth in a lawful way, wealth often causes quarrels and disputes between family members. Many end up in Court, break up or even die because of it. There is a wife who acts tyrannically to her stepson, a husband who acts tyrannically to his in-laws, a nephew of a husband who is tyrannical to his wife's family,

Ahmad Rofiq said that the distribution of inheritance often leads to consequences that often lead to prolonged disputes between family members, because humans instinctively love property which often motivates a person to justify any means to obtain property including the property of his own heir.

Therefore, the solution offered by Islam for a person's property to transfer to another person when he dies is through the process of transferring ownership in the form of inheritance, so that the property he leaves becomes an inheritance. However, to avoid quarrels and disputes between family members caused by the human nature of wanting to get a lot of wealth and ignorance and the sinking of knowledge about inheritance law, it is possible to divide the inheritance while the heir is still alive and of course pay attention to the possibilities that can occur. as described in the description above.

If the fear of disputes and disputes between family members resulting from the distribution of inheritance after the death of the testator will not occur, or there will be no harm, then the distribution of inheritance after the death of the testator must still be carried out. This is based on the fiqhiyah qaidah below.

ايبح للضرورة ا

"Something that is allowed because of an emergency is only determined as an emergency"

Based on the fiqhiyah qaidah, the distribution of inheritance is carried out after the death of the heir and there is no concern that disputes and disputes between family members will cause harm, it must still be carried out because to avoid the five things that need to be considered as explained above.

IV. Conclusion

Islamic inheritance law is a rule that regulates the transfer of property from someone who dies to his heirs. This means determining who will be the heirs, the portion of each heir's share, determining the inheritance and inheritance for the person who died. Heirs are people who at the time of death or who are declared dead based on the decision of the Islamic Court, leave the heirs and inheritance. Based on the above understanding, the distribution of inheritance can only be done after the testator dies.

The distribution of inheritance before the heir dies which is carried out by some people can be said that the distribution does not include inheritance but as a grant from parents to their children, because according to Islamic law inheritance occurs when there is death, while in the application in some communities it is not in accordance with the process of inheritance according to Islamic law even though they already know the process.

The Compilation of Islamic Law provides another alternative that the distribution of inheritance can be carried out before the death of the testator through a grant.

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