



# Islamic Inheritance Law Review in Notary Practices in Indonesia

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**Abstract.** In this world humans rule, exploit and explore. Human power becomes the center or focus of all life activities in the world. As subjects, people have interests in this world and demands that need to be fulfilled or fulfilled. Whether in the past, the present, or the future, from birth to death, people always have interests, wants, or needs that are expected to be met. Human interests are always thwarted by the dangers around them, so people want to protect their interests so that they are not thwarted by those dangers. Laws were then created as a place of protection for people with different interests. There are different types of laws in Indonesia, including religious law, criminal law, civil law, and constitutional law. Of these laws, civil law predominates in Indonesia and is divided into her three systems: Western law (European civil law), customary law and Islamic law. All three legal systems regulate the distribution of inheritance. Inheritance law stipulates who will be the heirs, who will be the heirs, how much property each heir can receive, and how the inheritance will be divided. Notaries in Indonesia often encounter problems in notary services, especially when dealing with client disputes (clients) with family members regarding inheritance. In this context, this research aims to clarify the issues and application of Islamic inheritance law in notary services in Indonesia. This study uses normative legal research and legal approaches. This study examines the Quran, Al Hadith, Islamic Law (KHI), Civil Code (KUH-Pdt), and Republic of Indonesia Law No. 2 (UUJN) on Amending Law No. 30 of 2004.) related to research. Data collection is through interviews and focus group discussions with notaries, Bandar Lampung, notary supervisors in Ulama, Lampung Provincial Religious Affairs Ministry, Bandar Lampung Religious Court, and municipalities to provide answers to key questions. It is done. Data analysis is done by organizing the data, dividing it into units, synthesizing it, assembling it into patterns, selecting what is important for research, and reaching conclusions that can be shared with others. The type of data analysis used in this study takes the form of qualitative data analysis, which draws data from written legal sources using various data collection techniques. The research urgency is the development of Islamic legal documents of inheritance law in notarization services, the optimization of the role of notaries in the inheritance process according to Islamic law, and the implementation of Islamic inheritance law procedures in notarization services.

**Keywords:** Application of Law · Islamic Inheritance · Notary Practices

## 1 Introduction

There are different types of laws in Indonesia, including religious law, criminal law, civil law, and constitutional law. Of these laws, civil law predominates in Indonesia and is divided into her three systems: Western law (European civil law), customary law and Islamic law. All three legal systems regulate the distribution of inheritance. Inheritance law is the law that regulates the transfer of rights and ownership related to inheritance of the testator. Inheritance law stipulates who will be the heirs, who will be the heirs, how much property each heir can receive, and how the inheritance will be divided.

For the judicial determination of an individual's application as to who is the heir, and the determination of the part of the heir based on the discussion of the scriptures Al-Qur'an, Al-Hadith and the Consent of the Scholar. This rule is the principle that guides the division of estates. All Muslims are obligated to carry out and practice the teachings of the Prophet and Messenger of Allah. This includes the application of inheritance laws in the distribution of inheritance. The legal basis for Islamic heritage was first given in Law No. 07 Year 1989 amended by Law No. 23 Year 2006 and lastly in Law No. 50 Year 2009 on the Religious Courts (Religious Courts Law). The second is Presidential Decree No. 01/1991 on the Dissemination of the Islamic Law Book (Inpres KHI).

Problems often occur in terms of the ongoing management of the assets and property rights left by the deceased heir. So don't be surprised if this inheritance becomes a sensitive thing to talk about in our lives as humans. So this inheritance is usually the cause of frequent disputes in the family. Family relationships can become messy and destroyed because there are issues regarding inheritance and distribution which are considered unfair. In Indonesia, more people use Islamic inheritance law because in Indonesia the majority of the people are Muslim. The use of Islamic inheritance law in Indonesia is understood by the public because it is based on Islamic law, namely the Qur'an and Al-Hadith.

Problems after problems are often encountered by Indonesian Notaries in notarial practice, especially dealing with client disputes (clients) with their families in terms of inheritance. So there are several problems, including:

- The problem of clients who do not agree with the fatwa of inheritance. Inheritance fatwa contains the determination of who is entitled to become heirs and heirs who are entitled to inherit in the form of inheritance. The share of each heir is set forth in the form of a Religious Court Determination and is non-binding. If the heirs do not agree, they can take legal action or cancel it through a lawsuit.
- Obstructed during the distribution of inheritance, because basically the person who is entitled to become the heir is the person who has blood relations with the heir.
- The problem of polygamous heirs. Joint assets from a marriage carried out by a husband who has more than one wife, each separate and independent.
- The bride and groom who have been married. If all the heirs are present, then only the father, mother, husband/wife (heirs) and children are entitled to inherit the property.
- When divorced. If the iddah period has expired, then there is no longer an inheritance relationship because the marital relationship has been severed.
- A will is greater than an inheritance. The heir can make a will as he wishes as long as it does not exceed the amount of the inheritance unless all heirs agree.

Based on the above background, the researchers are interested in analyzing this, so the main study that will be discussed in this study is the Review of Islamic Inheritance Law in Notary Practices in Indonesia. The problems in this research focus on 2 (two) basic things, namely:

- How are the inheritance problems in the Islamic inheritance law system encountered in notarial practices in Indonesia?
- How is the application of Islamic inheritance law in notarial practice in Indonesia?

The purpose of this research is to organize the guidelines and rules that serve as the legal basis for the Islamic law-based inheritance system in notary services in Indonesia, and to examine the problems and applications of Islamic law in notary services in Indonesia. It is to be. Used in Islamic law. The urgency of this research is to develop instruments of Islamic inheritance law in notarization business, optimize the role of notaries in the inheritance process according to Islamic law, and implement Islamic inheritance law procedures in notarization business. Through all the regulations that constitute the legal basis for inheritance under Islamic law, it is hoped that:

- Realizing and enforcing Islamic law in people's lives, especially in terms of inheritance for Muslims in Indonesia.
- The legal consequences that occur will help improve the Notary's disciplinary attitude in administrative order, especially regarding inheritance procedures according to Islamic inheritance law in notarial practice.

## 2 Literature Review

### A. *Islamic Inheritance Law*

A. Pitlo's Inheritance Law is a collection of rules governing property rights upon the death of a person. That is, of the transfer of the property left by the heir, and of the consequences of this transfer to those who receive both the relationship with the heir. in the relationship between them. Her and a third party. On the other hand, according to Sebeki and Titrosdivio, inheritance law is the law that stipulates how the property of the deceased should be treated. Furthermore, according to Wirjono Prodjodikoro, inheritance law concerns whether and how the various rights and obligations regarding a person's property at death are transferred to another person who is still alive. From these three definitions, we can conclude that three elements must be satisfied for inheritance:

- An heir is a person who dies leaving his property to someone else.
- An heir is a person who replaces the heir in his position with respect to inheritance, either in whole or in part.
- Inheritance is all the assets of the person who died [1].

Inheritance law is the regulations governing the position or legal status of the assets of a person who has died to his descendants or other people. Inheritance laws that apply in Indonesia are diverse or pluralistic. There are at least three inheritance laws that apply to Indonesians, namely:

- Islamic inheritance law, sourced from the holy book the Qur'an and the Sunnah of the Prophet Muhammad.
- Customary inheritance law, sourced from community habits.
- Western inheritance law, sourced from the Civil Code (KUHPerdata) [2].

Islamic inheritance laws apply to Muslim Indonesians. Customary inheritance laws currently apply to indigenous Indonesians, i.e. descendants of indigenous peoples. But in reality, there are native Indonesians who choose the law (choice of law) in the inheritance. That is, the choice between Islamic inheritance law or customary inheritance law. Western inheritance laws apply to European, Chinese and Chinese Indonesians. Although he legally holds Indonesian citizenship, he still pays attention to family descendants in civil law, especially in inheritance law. This indicates that inheritance law relates to kinship or the kinship system. Inheritance in Western inheritance law is divided into two types: statutory inheritance (*ab intestato*) and testamentary inheritance (*testamentair*). Inheritance provisions of the Civil Code provide for inheritance, i.e. beneficiaries and their distribution [1].

Legal subjects in inheritance law consist of:

- Heir, is a person who dies leaving his wealth.
- Heirs, are certain people who are limited to receiving inheritance.

The legal object in inheritance law is the assets transferred from the heir to the heirs. The heirs are essentially family members. In this case, family members can be distinguished based on lineage, both vertically and horizontally, so that they can be grouped into heirs. For example, the first group consists of descendants of heirs in a straight line, children who are not distinguished by birth order. The second group consists of parents and siblings of the heir. The inheritance is called *boedel waris*, which is the property of the heir as a whole. Part of the inheritance there is what is called *legitiemeportie*, which is part of the inheritance that has been determined to be the right of the heirs that cannot be abolished by the testator or the person leaving the inheritance. A person who is entitled to receive a *legitieme portie*, is called a *legitimaris* [2].

According to the rules of Islamic law, the transfer of inheritance from heir to heir is obligatory/compulsory, meaning that both the heir and the heir give and receive the inheritance according to the provisions of the Quran. Inheritance is limited to immediate family members and relatives based on marriage [3]. Under Sect. 171 (point a) of the KHI, the law of inheritance is the law governing the transfer of property rights to the heirs (*tirqah*), who are entitled to be heirs, and the amount of each inheritance. Said to decide. Section 171 (point e) of the KHI, in turn, states that the heir shall have custody of the corpse, in addition to part of the common property after it has been used for the needs of the heir, during illness and until death. (*Tajhiz*), debts and gifts to relatives.

The division of inheritance for Muslims has been explained in the Word of Allah SWT, as stated in the QS. An-Nisa (verses 11, 12, 176), as follows:

- QS. An-Nisa (verse 11), regulates the distribution of inheritance inherited from parents (father/mother) for sons and daughters, as follows:

فَوْقَ مَا عَسَدَكُنَّ قَالَنَ ۖ الْأَتْنَيْنِ حَطَّ مَثَلُ الذَّكَرِ ۖ أَوْ لَادِكُمْ فِي اللَّهِ يُؤْصِيكُمْ  
 لَكُنْ يُولَاوِي ۖ النَّصْفَ فَلَهَا وَاحِدَةً كَانَتْ وَإِنْ ۖ تَرَكَ مَا تَلْتَا فَلَهُنَّ التْنَيْنِ  
 وَوَرَثَةٌ ۖ وَلَدٌ لَهُ يَكُنْ لَمْ يَنْ ۖ وَلَدٌ لَهُ كَانَ إِنْ تَرَكَ مِمَّا السُّنْسُ مِنْهُمَا وَاحِدٌ  
 وَصِيَّةٌ يَبْدُ مِنَ السُّنْسِ فَلَا مَهْ حَوْفًا لَهُ كَانَ فَإِنَّ ۖ التَّلَاثُ فَلَا مَهْ أَبَوَهُ  
 ۖ انْفَعَهُ لَكُمْ أَقْرَبَ إِلَيْهِمْ تَدْرُونَ ۖ لَا وَإِنَّا لَكُمْ أَبَاؤُكُمْ ۖ تَدِينُ أَوْ بِهَا يُؤْصِي  
 حَكِيمًا عَلِيمًا كَانَ اللَّهُ إِنْ ۖ اللَّهُ مِنْ فَرِيضَةٍ

It means:

*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 being paid) 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. (Q.S. An-Nisa: 11).*

- QS. An-Nisa (verse 12), regulates the distribution of the inheritance of the spouse (husband/wife), as follows:

وَلَدٌ لَهَا كَانَ فَإِنَّ ۖ وَلَدٌ لَهَا يَكُنْ لَمْ يَنْ ۖ أَرْوَالِكُمْ تَرَكَ مَا نَصَفْتُمْ وَلَكُمْ  
 رُبُعَ الْوَالِدَيْنِ ۖ تَدِينُ أَوْ بِهَا يُؤْصِي وَصِيَّةٌ يَبْدُ مِنْ تَرَكَ مِمَّا الرُّبُعُ فَلَكُمْ  
 رُبُعَهُ مِمَّا التَّمَنُّ فَلَهُنَّ وَلَدٌ لَكُمْ كَانَ فَإِنَّ ۖ وَلَدٌ لَكُمْ يَكُنْ لَمْ يَنْ ۖ رَكْبَتُهُ مِمَّا  
 أَوْ كَلَّةٌ يُورَثُ رَجُلٌ كَانَ وَإِنْ ۖ تَدِينُ أَوْ بِهَا يُؤْصِي وَصِيَّةٌ يَبْدُ مِنْ  
 ذَلِكَ مِنْ أَكْثَرِ كَانُوا فَإِنَّ السُّنْسُ مِنْهُمَا وَاحِدٌ فَلِكُلِّ أَخْتٍ أَوْ أُخٍّ وَلَهُ امْرَأَةٌ  
 ۖ لَأَرْمَضَ عَوْرَتِي تَدِينُ أَوْ بِهَا يُؤْصِي وَصِيَّةٌ يَبْدُ مِنْ التَّلَاثُ فِي شِرْكَاءِ فِيهِمْ  
 حَلِيمٌ عَلِيمٌ وَاللَّهُ ۖ اللَّهُ مِنْ وَصِيَّةٍ

It means:

*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 left by them after (fulfilling) the will they made 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 a person dies, both male and female, who has not left his father and left no children, but has a brother (seibu) or a sister (seibu), then for each of the two types of brothers one-sixth of the 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 All-Knowing, All-Forgiving.*

- QS. An-Nisa (verse 176), regulates the distribution of inheritance inherited from siblings, as follows:

أَخْتٌ وَوَلَةٌ لَدُوْهُ لَيْسَ هَلِكُ امْرَأًا ۖ إِنْ الْكَلَالَةُ فِي بَيْتِكُمْ اللهُ فَمَنْ يَسْتَفْتُوْكَ  
 مِنْ أَهْلِ اللَّهِ كَانَتْهَا فَإِنَّ ۖ وَوَلَدٌ لَهَا يَكْفُرُ لَمْ يَنْ يَرِثْهَا وَهُوَ تَرَكَ مَا نَصَفَ فَلَهَا  
 طَرَفٌ مِثْلُ فَلَذَكَرُ وَنِسَاءً رِحَالًا أَحْوَةَ كَأَقْوَامٍ ۖ وَإِنْ تَرَكَ مُرَبِّهُمَا فَلَهُمَا  
 عَلَيْهِمْ شَيْءٌ بِكُلِّ وَاللَّهُ ۖ تَصَلُّوا أَنْ لَكُمْ اللهُ بَيْنَ الْأَنْثَيْنِ ۖ

It means:

*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 the sisters are two people, 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".*

The division of inheritance is also explained in Al-Hadith narrated by Ibn Abbas r.a., as follows:

Meaning: Give those who have a fixed share according to their respective portions, while the excess is given to those who are closer, namely men who are more important. (Narrated by Bukhari – Muslim).

The heirs have 3 (three) kinds of attitudes in determining their position as heirs, namely:

- Receiving the inheritance entirely purely, meaning that the heir can expressly express that he is an heir of the heir and can be done in 2 (two) ways, namely:
  - a. Strictly by making an authentic deed or with a deed under the hand stating that he has received an inheritance.
  - b. Secretly, that is, if the heir performs his actions, it clearly shows his intention to receive the inheritance.
- Receiving with the privilege of holding a registration of inherited goods (beneficiary rights). Basically the heir receives the inheritance but on the condition that he can know all the assets and debts of the heir. If the assets are less than the debt, then the heirs are not required to pay debts that exceed the existing assets. This means that he does not want to be a minus heir. The heir's debt does not pass to the heirs but the debt can only be paid as long as the goods and receivables left by the testator are sufficient for it.
- Refusing an inheritance, an heir can refuse an inheritance if it is felt that he not only receives property but also other obligations left by the heir. For example, the debt of the heir is quite large which cannot be paid with the existing inheritance [4].

## B. Notary

Pursuant to Article 1 of Law No. 2 of the Republic of Indonesia (No. 2 of 2014) amending Law No. 30 of 2004 on the Status of Notaries Public (UUJN), notaries are empowered to

create authentic certificates. Given civil servant. It has other powers within the meaning of this law or any other law. Section 1868 of the Civil Code states that a deed is a deed in a form established by law by or before an authorized official at the place where the deed is issued. One of the full-fledged deeds issued as a notary public in front of a notary public is an inheritance contract.

The position of a notary is a position which is given direct authority by the state in which there is management authority in the form of delegation of some areas of state management, namely in the case of making a notarial deed as authentic evidence that a community legal act has been carried out. The authority directly granted by the state through law is attribution authority, namely authority that is new or original [5]. In Islam, it is known as the teachings or science of Tasawwuf, namely the science that teaches about how to carry out worship to get closer to Allah SWT. The science of Tasawwuf has 4 (four) teachings, namely about morality, sharia, nature and ma'rifat. When juxtaposed between 4 (four) legal concepts positive values, namely values and morals, law, justice and truth with 4 (four) teachings of Tasawwuf, namely morals, sharia, nature and ma'rifat there is a mutual connection. Values and morals go hand in hand with teachings on morality, law with teachings on sharia, justice goes hand in hand with teachings on nature, and truth goes hand in hand with teachings on ma'rifat. Ideally, values and morals, law, justice and truth in positive law must be guided by God's law, which in Islam is guided by the teachings of morality, sharia, nature and ma'rifat [5].

### 3 Research Methods

#### A. *Problem Approach*

This study uses normative legal research and legal approaches by studying the Quran, Al Hadith, KHI, Civil Code, and UUJN. The subject of study is law, conceived as the norms or rules that apply to society and are the standards of conduct for all. Normative legal research therefore concentrates on substantive law, legal principles and doctrines, legal findings in specific cases, legal systems, parallel levels, legal comparisons, and lists of legal histories [6].

#### B. *Collection and Processing of Legal Materials*

In legal research, there are several approaches that researchers use to obtain information from different aspects related to the question they are trying to answer. The approach in this research is a legal approach [7]. Normative research must of course follow a legal approach. This is because different legal norms are explored that are both the focus and focus of the study. Data collection was done through interviews and focus group discussions with notaries, notary district administrators of Lampung province, notary supervisors of Bandar Lampung city, Ulemasu, Ministry of Religious Affairs of Lampung district, religious courts of Bandar Lampung city and municipalities. It is done.

Legal materials are collected through the process of identification, classification and systematization of legal materials according to the research question. The classification and systematization of legal documents includes primary legal documents and secondary legal documents. The primary legal materials used in this research include all legally

binding legal materials. Specifically, it consists of the Quran, Al Hadith, KHI, Civil Code, and UUJN. The main legal material is categorized by subject and systematized for further analysis, ultimately yielding answers on each subject area. The secondary legal material of this study is a primary legal document consisting of books, literature and supporting data by conducting interviews with notaries, notary supervisors in Bandar Lampung city, the Ulama Party, and provincial ministry. Takes the form of materials or materials related to material issues. Religion Lampung, Religious Court of Bandar Lampung City, Municipality.

### C. *Legal/Data Material Analysis*

The analysis of legal material is normative-analytical by examining legal concepts, legal principles, legal norms, and legal systems in relation to the application of Islamic inheritance law in the notary practice. Data analysis is done by organizing the data, breaking it down into units, synthesizing it, assembling it into patterns, choosing what is important to study, and drawing conclusions that can be shared with others [8]. The type of data analysis used in this study is the form of analysis. Qualitative data obtained from legal sources where data analysis is written using various data collection techniques. Based on the obtained data, we conducted an analysis and formulated a hypothesis.

## 4 Research Results and Discussion

Talking about inheritance or inheritance will always be related to human life, as it is known that humans will later experience an event of death which has become a natural law. Inheritance itself is property or debt owned and left by the testator when the testator experiences death. Problems often occur in terms of the management and continuation of the property and property rights left by the deceased heir. So don't be surprised if this inheritance becomes a sensitive thing to talk about in our lives as humans. Even this inheritance is usually the cause of frequent disputes in the family. Family relationships can fall apart and can be destroyed because there are issues about inheritance and distribution that are considered unfair.

Inheritance according to Islamic law is a law that regulates the transfer of assets left by someone who dies. As a result, for the heirs, the transfer of family property rights in the form of the assets of an heir of a deceased person to his heirs, seeing from these problems finally there is a law to regulate matters relating to inheritance and its distribution. Inheritance law in Indonesia itself is still diverse because every community has their own beliefs, whether it's inheritance law that follows religious and customary rules. Each region in Indonesia has more people using Islamic inheritance law, because in Indonesia the majority of the people are Muslims. Not only that, the use of Islamic inheritance law in Indonesia is understood by the public because it is based on Islamic law, namely the Qur'an and Hadith, so that people believe that law based on Islamic law can regulate life to achieve happiness in the world and the hereafter.

Tri Firdaus Akbarsyah, S.H., M.Kn as a Notary/PPAT for the city of South Jakarta who is also the General Secretary of the Indonesian Notary Association, explained that problems after problems that are often encountered by Notaries include when a client comes to a Notary to make an inheritance or they have a dispute over the matter.



Inheritance. There are several problems that occur, namely there are parties who do not agree with the fatwa of inheritance or the determination of the Religious Courts regarding who the heirs are entitled to inherit, in the form of inheritance and the share of each heir which is outlined in the form of a religious court ruling. If the heirs do not agree, they can take legal action or cancel it through a 2 (two) lawsuit. Basically, people who are entitled to become heirs are people who have blood relations with the heir. For example, there is a parcel of land that has not been divided, one of the heirs has the right to ask for the distribution of the inheritance while the other heirs do not want it to be distributed. Then there is the problem of polygamous heirs, joint property of a husband who has more than one wife, each separate and independent [9].

Neng Zubaidah, S.H., M.H. as an expert on Islamic inheritance law and teaching academic from the Faculty of Law, University of Indonesia, explained that there are 3 (three) kinds of inheritance law in Indonesia, namely customary inheritance law, Islamic inheritance, and western (civil) inheritance. The 3 (three) kinds of inheritance laws are the key when a notary settles inheritance cases. As for the parties who come to the notary in Islamic inheritance law itself regarding the group of heirs. In customary law, the first group is the descendants of the heirs, while according to western law the first group is the children of the heirs and then the husband/wife who is still alive. There is a very fundamental difference between Islamic law, customary law, and western law. These three legal systems are those contained in the two compilations of Islamic law which of course have developed [10].

According to Article 173 of the compilation of Islamic law, a person who is prevented from becoming an heir if by a decision that has permanent legal force is punished, because:

- Has carried out an act of proving the convict of murder or attempted a criminal act or a severe assessment of the heir.
- Convicted of slanderously filing a complaint that the testator has committed a crime punishable by 5 years imprisonment or a heavier sentence.

Allah SWT directly determines in the Qur'an and the Hadith of the Prophet Muhammad regarding the size of the child, mother, father, brother, widow/widower, and grandmother. In the Qur'an Surah An-Nisa (verse 7) determines that for men there is a right to share in the inheritance of both parents and relatives, and for women there is also a right from the inheritance of both parents and relatives, either a little or a lot according to assigned part [9].

In Islamic law there is no rejection as an heir, because to avoid the debt responsibility of the heir. As stated in Article 175 (paragraph 1) of the KHI concerning the obligations of the heirs to the heirs, that the obligations of the heirs to the heirs are to take care of and settle until the funeral of the corpse is completed, settle both debts in the form of treatment and care including the obligations of the heirs and debt collectors, complete the will heirs, as well as dividing the inheritance among the entitled heirs. Article 175 (paragraph 2) of the KHI states that the responsibility of the heirs for the debts or obligations of the heirs is only limited to the amount or value of his inheritance.

There are 22 (twenty two) problems in the implementation of Islamic inheritance law for the Muslim population and others that often occur in Indonesia in the practice of notary, namely:

- Polygamous inheritance in terms of the distribution of joint property as an element of inheritance.
- Restitution/*Diyat* of the deceased victim (before or after receiving Restitution/*Diyat*).
- The heirs of different religions, contained in the *Fatwa* of the Indonesian Ulema Council Number 05/Munas VII/MUI/9/2005 concerning Inheritance of Different Religions that the giving of assets between people of different religions can only be done in the form of grants, wills and gifts.
- Children born out of wedlock (children resulting from adultery), are contained in the Decision of the Constitutional Court Number 46/PUU-VIII/2010 concerning Children Born in Unregistered Marriages.
- Children from cohabitation (children from cohabitation).
- The child of Mula'nah (child being denied).
- Heirs of victims of terrorism.
- Heirs of mixed marriages (Different Citizenship).
- Children resulting from reproduction with assistance are contained in Law Number 36 of 2009 and Government Regulation Number 61 of 2014.
- Reproductive children with assistance (the uterus is not the owner of the ovum).
- Adopted child.
- Stepdaughter.
- Mother's brother, brother and sister, even siblings.
- Transgender (change gender).
- Khuntsa/Androgynous Person.
- The child is born a surrogate mother.
- Child of Cloning.
- Children resulting from rape, there are many cases in terms of child protection to inheritance rights.
- Marriage heirs of Indonesian citizens – original citizens (Government Regulation Number 105 of 2015).
- Marriage heirs of Indonesian Indigenous Indonesian citizens – Indonesian citizens of non-Indigenous Islamic descent.
- Will.
- Grant [9].

As for examples of inheritance cases that occur in notarial practice in terms of the consequences of Postponing the Distribution of Inheritance or Delaying the Implementation of Islamic Inheritance Law for Muslim Residents and Others, among others:

- There is a substitute heir.
- Munasakha.
- The initial incident since 1937 (regarding the borrowing of funds) was completed in June 2012, finally the problems could be resolved by the stipulation of the Religious Courts.

- The incident of the death of the inheritor in 1996. The gift of the adopted child (grant) to the mother as the heir, then the Munasakhah.
- The incident of the death of the heir in 1997, regarding the joint property of polygamy.
- The heirs as children are born out of wedlock (3rd wife) and are legitimate children. Problems occur in terms of making a Notary Deed.
- The child has a dispute in court, because the distribution of inheritance has been delayed [9].

Article 15 of the UUJN states that a Notary has the authority to make an authentic Deed regarding all actions, agreements, and stipulations required by laws and/or desired by the interested parties to be stated in an authentic Deed, guarantees the certainty of the date of making the deed, keeps the deed, gives grosse., copies and excerpts of the Deed, all of which are as long as the making of the Deed is not assigned or excluded to other officials or other people stipulated by law. Based on Article 15 of the UUJN, the public always turns to a Notary to be able to resolve inheritance problems and ratify inheritance rights obtained in the form of a Notary Deed.

Eka Chandre, S.H., M.Kn., as a Notary/PPAT for the city of Bandar Lampung, explained that an heir usually comes to the Notary's office in terms of making an inheritance deed for the purpose of ratifying inheritance rights. The majority of heirs use civil inheritance, both Muslims and non-Muslims. Although the heirs are Muslims who are obliged to use the Islamic inheritance system, the majority still use the civil inheritance law policy. Usually, if the heirs come with and show proof of inheritance rights, the Notary can make a certificate of inheritance rights. However, if the heir does not have proof of inheritance rights, he usually uses the calculation and civil inheritance system. So far, there has never been such a thing as an Islamic inheritance deed.

Mrs. Ismarina, S.H., M.Kn. as a Notary/PPAT for the city of Bandar Lampung, explained that now every time to change the name of inheritance in terms of changing names to land rights, changing fiduciary names, and others, there must be a certificate of heirs from the sub-district that is known by the lurah. This is usually done by indigenous people. The heir certificate only explains how many heirs there are and who are entitled to become heirs. Notaries can only process the name transfer, later on the certificate will include the name of the heir when the name transfer process has been carried out. As for the distribution of inheritance, it is usually done internally by the heirs, for example if the heirs are Muslims, usually use the inheritance system of Islamic law. Likewise, non-Muslims usually use a civil law inheritance system. Usually the heirs are only limited to asking about the technical transfer of names to the object of inheritance. If the heirs ask for an explanation of the inheritance count, inheritance system, and distribution of heir rights to a Notary, usually the Notary will direct the request for the determination of heirs to the Religious Courts or District Courts.

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