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CONTEMPORARY INHERITANCE: THE APPLICATION OF INHERITANCE DIVISION IN JURIDICAL, PSYCHOLOGICAL, SOCIOLOGICAL AND ECONOMIC PERSPECTIVE

Abstract: The objective of this study is to explain the problem associated with the application of inheritance division *lidzdzakari mitslu hadhdhi al-unstsayain*, contemporary studies in juridical, psychological, sociological, and economic perspective. Data were collected through documentation and analyzed using the Miles and Huberman analysis method. The source triangulation method was used to validate and authenticate the data. The results obtained are as follows: *firstly*, juridically, the 2:1 division of inheritance has an underlying legal umbrella, named QS. An-nisa paragraph 11 and Compilation of Islamic Law (KHI) Book II on Inheritance is in accordance with article 176. However, the application varies with each community due to underlying factors. *Secondly*, psychologically, division of inheritance should not be done haphazardly to meet the criteria of justice for all parties to avoid conflict between families. *Thirdly*, sociologically, the application of inheritance is still a pro-con in society with a ratio of 2:1, which has not fulfilled the element of justice. *Fourthly*, economically, the 2:1 division of inheritance is firmly based on the amount of economic responsibility a man carries.

Keywords: Inheritance; Juridical; Psychological; Sociological; Economic.

INTRODUCTION

The law of inheritance is closely related to the scope of human existence because every individual would inevitably encounter legal matters during death. The consequences following the death of an individual include management problems and the transfer of rights and obligations. In the Republic of Indonesia legal pluralism, comprising ¹ customary, Islamic, and Western (civil) inheritance laws, are currently being practiced.² Islamic inheritance law derived from the Qur'an and the Sunnah of Rasulullah SAW, adds a layer of complexity to division of assets. Therefore, determining rightful inheritance requires careful consideration.³

Inheritance is one of the important branches of knowledge in Islam. This science provides guidelines for the just distribution of assets among the rightful heirs, to prevent disputes and ensure fairness. It focuses on ensuring that none of the parties feel disadvantaged.⁴ According to the Compilation of Islamic Law (KHI), in Book II, Chapter I, General Provisions, Article 171 (1), inheritance law is defined as regulating the transfer of ownership rights to heirs (*tirkah*), determining entitled individuals and specifying the shares.⁵

Justice in inheritance law is not measured by equal shares among heirs, rather it considers the responsibilities inherent in human life. Fairness in dividing inheritance includes balancing property distribution based on the needs and rights of these heirs. Therefore, division is based on equality in sharing inheritance as well as ensuring a

¹ Raissa Ardelia, "Kepastian Hukum Terhadap Penerapan Asas Ijbari Dalam Pembagian Waris Anak Kandung Di Indonesia" (Repository, Surabaya, Universitas Air Langga, 2020), <https://repository.unair.ac.id/97112/>. p. 34.

² Zainudin, "Hukum Waris Islam Perdata Dan Adat," *Fakultas Hukum Universitas Sumatra Utara* (blog), June 24, 2023, <https://fahum.umsu.ac.id/hukum-waris-islam/>. P1.

³ Maryam Desi Suryani, "The Right of Inheritance Between Man and Woman," *Kompasiana* (blog), July 11, 2021, <https://www.kompasiana.com/maryamdesysuryani5350/5ee6e0b2097f361e520cac12/rights-inheritance-between-male-with-female>.

⁴ Maimun Nawawi, *Pengantar Hukum Kewarisan Islam* (Surabaya: Penerbit Pustaka Raja, 2016), <http://repository.iainmadura.ac.id/24/1/BUKU%20MAWARIS.pdf>. P. 16.

⁵ *Kompilasi Hukum Islam (KHI)*, Cetakan 9 (Bandung: CV. Nuansa Aulia, 2021), nuansaaulia@yahoo.co.id.

balanced allocation that reflects the rightful responsibilities of each heir. This is reflected by ensuring that males receive two shares of the inheritance, while females get only one.⁶

Previous study conducted on inheritance law, based on Islamic perspective covers diverse topics. Maylissabet and Kudrat Abdillah focused on the philosophical aspects of Islamic law compilation⁷, while M. Luthfi Hakim studied the 2:1 division of inheritance between men and women from an Islamic legal philosophy perspective.⁸ In accordance with historical and sociological study, Anjar Kususiyannah focused on gender justice in Islamic warfare.⁹ However, none of these three previous research had examined the application of the 2:1 inheritance division from four perspective, namely juridical, psychological, sociological, and economic aspects of the heirs.

The 2:1 division of inheritance, as stated in certain verses, remains a societal problem. Contemporary study is responsive solutions to address this issue and meet the changing needs of the community. For example, there is an increasing recognition of the importance of equitable treatment for women who play significant roles in supporting themselves and family members. Therefore, it is essential to conduct contemporary study on the 2:1 inheritance division *lidzdzakari mitslu hadhdhi al-unstsayain* from various perspective, such as juridical, psychological, sociological, and economic aspects.

METHODOLOGY

This study adopted a literature review and juridical-normative method. The primary data collection method is the documentation of scientific journals and books. The analytical method used is the Miles and Huberman method, comprising three steps, namely information reduction, presentation, and determination. The method facilitated a thorough examination of intertwined aspects before, during, and after data collection.

⁶ M. lutfi Hakim, "Keadilan Kewarisan Islam Terhadap Bagian Waris 2:1 Antara Laki-Laki Dengan Perempuan Perspektif Filsafat Hukum Islam," *IAIN Pontianak*, Nomor 1, Volume 12 (2016): 1-18.

⁷ Maylissabet and Kudrat Abdillah, "Hukum Waris Dalam Kompilasi Hukum Islam Perspektif Filsafat Hukum: Studi Analisis Terhadap Bagian Warisan Ahli Waris," *Sekolah Tinggi Ilmu Syariah As-Salafiyah Sumberduko Pakong Pamekasan*, Nomer 1, Volume 1 (2019): 1-19, <https://doi.org/10.35961/teraju.v1i01.51>.

⁸ Hakim, "Keadilan Kewarisan Islam Terhadap Bagian Waris 2:1 Antara Laki-Laki Dengan Perempuan Perspektif Filsafat Hukum Islam."

⁹ Kususiyannah, "Keadilan Gender Dalam Kewarisan Islam: Kajian Sosiologis Historis," Nomor 1, Volume 9 (2021): 63-82.

Triangulation of sources was adopted to ensure validity through the comparison of various data or information. Data analysis was conducted using deductive-inductive reasoning to draw certain inferences.

LITERATURE REVIEW

Islamic Inheritance Division

In Arabic, the word Waris originated from Al-miirats, which is the *mashdar* (infinitive) form of *waritsa-yaritsu-irtsan-miiraatsan*. Etymologically, it means the transfer of something from one individual or race to another.¹⁰ Heirs are the plural form of *mirats*, hence, *irts*, *wirts*, *wiratsah*, and *turats*, are interpreted by *mauruts* as the inherited estate of the deceased. The individual who left the property is called *muwarits*, while those entitled to receive heirlooms are called *warists*.¹¹

Inheriting the property of a deceased individual is a legal way to acquire property rights, making it a recognized form of ownership in Islamic law. Furthermore, Islam regulates the distribution of property among the rightful heirs with clear and detailed shares. Sulaiman Rasjid (1996),¹² stated that the Qur'an and hadith distinguish between permissible or halal and forbidden types of property, with inheritance categorized as halal. This ensures that the distribution of inheritance is performed fairly and according to Islamic principles. Allah SWT stated that,

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ

Meaning *let not some exploit the treasures of others for sinful purposes*. (QS. Al Baqarap:188)

Islamic inheritance law is of great importance, with the Al Qur'an providing clear and detailed instructions for the distribution process. This was understandable because the issue of inheritance directly depends on property, and, if not given definite provisions,

¹⁰ Muhammad Ali Ash-Shabuni, *Pembagian Waris Menurut Islam* (Jakarta: Gema Insani, 1995). p 33.

¹¹ Tengku Muhammad Hasbi Ash-Shiddieqy, *Fiqh Mawaris: Hukum Pembagian Warisan Menurut Islam*, Cetakan Kedelapan (Semarang: Pustaka Rizki Putra, 2018), rizkiputra@gmail.com. p. 5.

¹² Sulaiman Rasjid, *Fiqh Islam : Hukum Fiqh Lengkap*, Cetakan Ke-26 (Bandung: PT. Sinar Baru Algensindo, 1996).

caused disputes among heirs.¹³ Both the Qur'an and al-Hadit, provided explicit and occasionally implied legal basis for inheritance. Sura an-Nisa verses 11, 12, and 176, were frequently cited, supported by guidance from other suras. Inheritance process includes three main parties, namely (1) the deceased *Al-Muwaris*, (2). the heir who would collect the estate, (3). *Mauruts*, is the remaining estate, after settling funeral expenses *mayit*, debts, and executing the will of not more than one-third.¹⁴

The causes of inheritance (*ashabul mirots*), are

1. Kinship (*qorobah*) is defined as blood relations and the main basis of inheritance, as stated by Allah SWT in QS. An Nisaa' and Al-Anfal verses 7 and 75, respectively. It comprised two main categories, *ushul*, and *furu*. Furthermore, *ushul* consists of parents, grandparents, and other ancestors, while *furu'* are the children, grandchildren, and other descendants of the deceased. The sideways heirs, known as *hawashi*, are the siblings, uncles, aunts, and nephews of the deceased. Based on these blood relations, heirs are classified into three groups (1). *Ashhabul Furudinnasabiyah*, who receives a certain share, such as 1/2, 1/3, etc, (2). *'Ashabah Nasabiyah*, who inherits the remainder, assuming no specific shares are assigned. In situations, where there is no first class, this second group is entitled to all the property, and (3) *Dzawil Arham*, who are distant relatives of the deceased.
2. *Semenda (mushoharoh)*, is defined as when spouses inherit from each other, in the event of one passing. Inheritance provisions are as follows (a). Supposing the deceased wife had no children, the husband inherits half of the estate, but if there were children, the man gets a quarter. (QS. An Nisaa': 12), (b). Assuming the husband passes away, without children, the wife inherits a quarter of the estate, and if the man had a child, the woman receives one-eighth. (QS. An Nisaa':12), (c). *Wala'* is a legal fraternity arising from freeing enslaved individuals. The right of *wala'* belongs solely to the one who had freed the enslaved individual. These individuals are called the heirs of the *ushubah*

¹³ Imam Jauhari and T. Muhammad Ali Bahar, *Hukum Waris Islam*, Cetakan Pertama (Yogyakarta: Penerbit Deepublish, 2021), www.penerbitdeepublish.com. P3.

¹⁴ Abdul Hakim et al., *Inheritance Law* (Jakarta: Senayan Abadi Publishing, 2004), <https://opac.perpusnas.go.id/DetailOpac.aspx?id=275123>.

sababiyah class. (d). Religious relations, in cases where a deceased Muslim had no heirs, then inheritance is handed over to the mall hall for the benefit of other Muslims (QS. Al-Ahzab: 6).

Islamic Inheritance Law is an integral part of Islamic religion, and the implementation is inseparable from the faith atau aqidah of a Muslim. The legal principles governing Islamic inheritance, transmitted from the Qur'an and Sunnah are

a. Ijbari Principles

Di in Islamic inheritance law means the automatic transfer of the deceased property to the heirs according to the decrees of Allah SWT without depending on the will of these heirs. This element of force (*ijbari*) is reflected in the obligation of the heir to accept the transfer of the estate, irrespective of personal preferences following the predetermined shares established by Allah Almighty.

b. Bilateral Principles

Islamic inheritance law grants individuals the right to inherit from both the male and female descendants. This principle is clearly stated in Sura An-Nisa verses 7, 11, 12, and 176.

c. Individual Principles

Individual principles simply means that inheritance can be divided among heirs on a personal basis, as stated in the Qur'anic study. For example, Surah An-Nisaa' verse 7, stated that men have the right to receive inheritance from parents or immediate family members. Likewise, women are entitled to receive inheritance of parents or relatives, regardless of the number. The specific shares for each are already determined.

d. The principle of justice is weighed.

Justice is important in the Islamic legal system, specifically in matters related to inheritance. The principle of justice also serves as a guide, and the main objective of all human actions. This principle focuses on the need to maintain a balance between rights and obligations. It depicted that individuals should receive due entitlements, as well as fulfill the corresponding obligations.

Understanding Perspective

Perspective was derived from the Latin word *perspicere*, meaning picture, to see, or view. In linguistics, it is a point of view used to understand or interpret certain problems. Humans, as social creatures tend to possess different opinions and views, resulting in various perspective. According to Joel M. Carron, defining perspective in respect to conceptual framework, requires several assumptions, values, and ideas, that influences these responses in certain situations. Martono defined it as a method used to analyze occurring issues and phenomena.¹⁵

RESULT AND DISCUSSION

According to Islamic inheritance law, the transfer of property from one individual to another occurs after the property owner dies. This means that while the owner is alive, the property cannot be passed on and is not considered inheritance. Based on Islamic law, the transfer of property either before death, is not considered as inheritance. Islamic law recognizes only one form of inheritance, which occurs upon the death of the owner. The following data were obtained from the results of study that was carried out on various literature sources

Table 1. Data on inheritance division 2:1 juridical, psychological, sociological, and economic perspective

Perspective	Division of Inheritance <i>lidzdzakari mitslu hadhdhi al-unstsayain</i> (2:1)
Juridical	<ol style="list-style-type: none"> 1. Yuridis foundation in QS. An-Nisaa: 11 2. Compilation of Islamic Law (KHI) Book II Law of Inheritance Chapter II Magnitude Section Article 176
Psychological	<ol style="list-style-type: none"> 1. Inheritance must meet the criteria of fairness for all parties. Psychological content had the potential to cause friction

¹⁵ Rahma Fiska, "Pengertian Perspektif: Teknik, Jenis-jenis, dan Macamnya," *Gramedia Blog* (blog), accessed September 24, 2023, <https://www.gramedia.com/literasi/pengertian-perspektif/>.

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- between families due to the element of unfairness felt by each party.
2. The 2:1 division of inheritance is inseparable from the great responsibilities shouldered by men after marriage.
- Sociological
1. The implementation of inheritance distribution was basically to ensure order and justice for the transfer of the deceased property to the heirs.
 2. From sociological point of view, applied inheritance refers to community approval, including both written laws and cultural norms.
- Economic
1. When inheritance was examined in-depth from an economic perspective, the division was found to benefit women. This is because the responsibility of men towards family members from an economic point of view is greater.
 2. The 2:1 inheritance division varies with several conditions, such as women inheriting from the *ashobah*, assuming the female is an only child, and when there is another daughter and no son.

Source: extracted from various sources

Waris Lidzdzakari Mitslu Hadhdhi al-Untsayain (2:1) Juridical Perspective

Allah Almighty had regulated the provisions of inheritance in the Qur'an, making it the most emphatic and detailed content compared to other legal verses. This served as a profound lesson, that the Qur'an wanted to achieve about the strictness of the law in terms of literature. Children of the deceased, both male and female, are considered to have a significant relationship with parents and are most entitled to inheritance. The provisions for the distribution of inheritance 2:1 are juridically regulated by Allah in Sura An-Nisaa' verse 11, which is stated as follows:

Allah decreed the distribution of inheritance for your children the share of a son is equal to that of two daughters. Assuming the children are all girls, then the daughters collectively inherit two-thirds of the property, while an only daughter gets half..." (QS. An-Nisaa':11)

The Qur'an stated that men and women are equal, in terms of inheritance, and both genders are entitled to the rightful share of the estate. The most prominent aspect of this law is justice, which guarantees equal rights and mutual inheritance between men and women in a ratio of 2:1 favoring the males.¹⁶ The principle of inheritance *division lizdhakari mitslu hadhdhil al-unstsyain* (2:1), as stated in QS An Nisa verse 11, remains significant among Muslims, granting men double the share allocated to women. However, gender feminists stated that the principle discriminated against women. Ananda Luthfiyyah Azwan, stated that women received a portion of inheritance, reflecting the belief in Islam, where males bear greater responsibilities.¹⁷

Juridical basis for division of inheritance *lizdhakari mitslu hadhdhil al unstsyain* (2:1) is also stated in the Compilation of Islamic Law (KHI), specifically in Book II of the Law of Inheritance Chapter III. The magnitude of Article 176 stated that assuming the deceased had only one daughter, the girl gets half of inheritance, and if two or more, two-thirds should be allocated to the women. Supposing both sons and daughters are present, then the sons receive twice the share of the daughters. An alternative method such as a 1:1 ratio or using an agreed formula, is also permissible under certain conditions. This does not contradict the Compilation of Islamic Law (KHI) article 183, where heirs were allowed to make peaceful negotiations, provided it does not contravene the provisions of the Qur'an and Hadith.¹⁸

Zaynal *et al.* stated that several factors contribute to the even distribution of inheritance, such as:

1. The existence of economic inequality,
2. Avoid family disputes,
3. Long-standing tradition of inheritance division, and

¹⁶ Asrofi, "Hukum Waris Dalam Kompilasi Hukum Islam Ditinjau dari Perspektif Keadilan Gender," *Direktorat Jenderal Badan Peradilan Agama Mahkamah Agung Republik Indonesia*, July 2023, 1-26.

¹⁷ Ananda Luthfiyyah Azwan, "Memaknai Pemenuhan Hak-Hak Perempuan Dalam Implementasi Cedaw Terhadap Pembagian Waris Islam," Nomor 1, Volume 6 (2021): 122-42.

¹⁸ H. Faiz, "Filsafat Keadilan Dalam Hukum Waris Islam," *Fakultas Agama Islam Universitas Nurul Jadid Probolinggo*, Nomer 2, Volume 4 (2020), <https://doi.org/10.33650/jhi.v4i2.2156>.

4. Much inheritance.¹⁹

Inheritance (*Lidzdzakari Mitslu Hadhdhi al-Untsayain*) Based on Psychological Perspective

Psychology is briefly defined as the science that studies human behavior and the relationship between people. However, relationships are also manifested in the form of human behavior. Psychological material projections include observing how the activities of the soul are manifested through human actions. Psychologists use several assumptions in studying the human psyche— including focusing on human behavior, every phase of personal development, and interactions between individuals.²⁰

Based on psychological perspective, division of inheritance should be approached with careful consideration, ensuring fairness for all parties. In family settings, this process often leads to potential friction due to differing perceptions of justice felt by each member. It was reported that from psychological perspective, the 2:1 division of inheritance is inseparable from the great responsibilities placed on men, particularly roles as providers of the family after marriage. Men are expected to provide for themselves, the wife, children, and other family members, such as *khadimah*, parents, and relatives. Prof. Mahmud Yunus further stated that the wisdom of being given inheritance twice the share of women is justified by the expectation of bearing the financial responsibility of providing for the family, while women only spend on themselves.²¹

Jabal Alamsyah Nasution stated that the reason behind the 2: 1 division of inheritance was based on *first*, the needs of women are the responsibilities of the men. *Second*, women are not obliged to financially support themselves. *Third*, men are obligated

¹⁹ Zaynal, Rifianto Bin Ridwan, and Lukman Asha, "Praktik Pembagian Waris Secara Merata Antara Laki-Laki Dan Perempuan Di Kecamatan Kepahiang," *Sekolah Tinggi Ilmu Al Qur'an Amuntai*, Nomer 8, Volume 16 (November 2022): 2172-85.

²⁰ Wasty Soemanto, *Introduction to Psychology* (Jakarta: Bina Aksara, 1988), https://perpustakaan.mahkamahagung.go.id/slims/pn-jakartaselatan/index.php?p=show_detail&id=1945.

²¹ "Pembagian Warisan Sepikul Segendongan Hukum Adat Jawa," *123dok* (blog), 2022, <https://123dok.com/article/sepikul-segendongan-hukum-menganut-istilah-sepikul-segendongan-yakni.yd76mdl>.

to provide for the female relatives. *Fourth*, these men must pay dowry, and *fifth*, take care of the needs of wives and children.²²

Based on psychological perspective, division of inheritance certainly causes contrasting emotions, a sense of happiness among those who receive larger shares, and feelings of marginalization for individuals who received less. Similarly, implementing the 2:1 inheritance division *lidzdhakari mitslu hadhdhil al untsyain* may cause a sense of marginalization assuming it is not accompanied by gratitude and absolute faith in accepting the provisions of Allah SWT. Therefore, family disputes over inheritance distribution can break relationships, triggered by the dissatisfaction of some parties who perceived the share as unfair. The Sharia objective of inheritance division remains unfulfilled when interpreted subjectively by individuals.

Inheritance (*Lidzdzakari Mitslu Hadhdhi al-Untsayain*) Based On Sociological Perspective

Sociology is the study of human interactions and societal structures, aiming to investigate how individuals live together and influence the lives of one another. It examined the formation, development, and evolution of social bonds, as well as the beliefs, and ideologies that influence communal living.²³

Atho' Mudzhar, an Indonesian scholar, explained Islamic studies with several themes: *first*, the examination of religious influence on society and the role in societal change. *Second*, is studying the influence of societal structures on understanding religious teachings or concepts. *Third*, the study of individual religious experiences, and *fourth*, analyzing the social patterns of Muslim communities. This included studying behavioral patterns in urban and rural areas, religious interactions within society, and differences in

²² Abdul Aziz, "Pembagian Waris Berdasarkan Tingkat Kesejahteraan Ekonomi Ahli Waris Dalam Tinjauan Maqashid Shariah," Nomor 1, Volume 8 (2016): 48-63.

²³ Abuddin Nata, *Metodologi Studi Islam*, Cetakan ke-22 (Jakarta: PT. RajaGrafindo Persada, 2016), <http://rajagrafindo.co.id>. Pages 38-39

behavior between educated and less educated segments of the Muslim communities. *Fifth*, how the exploration of community movements can either weaken or support religious life.²⁴

Based on a sociological perspective, the process of inheritance distribution often leads to debates within society regarding the allocation of shares among heirs. Social norms dictated that the implementation of legal inheritance ensured order and justice in transferring property from the deceased to the heirs. Justice in this context implied treating everyone equally and without discrimination, ensuring equal rights. The existence of customary practices in communities, such as patrilineal, matrilineal, and bilateral kinship systems also contributed to differences in inheritance distribution processes. Although the verses on inheritance clearly distinguished between males and females, these diverse customs also contain the principle of justice.²⁵ Maylissabet stated that from a social or logical point of view, inheritance practices applied must be in line with the consent of the community, including both written laws and cultural norms. The aim is to establish inheritance system that fulfills the societal sense of justice. When justice is upheld, it fosters peaceful, secure, and harmonious societal dynamics, characterized by mutual respect, love, and tolerance.²⁶

Muslim scholars are well-acquainted with the actualization of the 2:1 inheritance division (*lidzdzkari mitslu hadhdhi al unstsayain*), a fundamental aspect of Islamic inheritance law. It is not surprising that some individuals perceive the 2:1 principle as unfair and discriminatory. However, others stated that there are elements of justice in this principle of division. Before continuing with the debate on fairness or unfairness of the 2:1 principle, it would be ideal to revisit the concept of justice put forward by the famous Greek philosopher, Aristotle. According to Aristotle, justice comprises two kinds of principles, namely distributive and cumulative justice. Distributive justice includes allocating resources

²⁴ Asmawi, *Studi Hukum Islam: Dari Tekstualitas-Rasionalis Sampai Rekonsiliatif*, Cetakan I (Yogyakarta: Penerbit Teras, 2012), esaqok@yahoo.co.id. pp. 9-10.

²⁵ Sarpika Datumula, "Makna Keadilan Pada Ketentuan 2 : 1 (Dua Banding Satu) Dalam Konsep Waris Islam," *Fakultas Agama Islam Universitas Al Khaia Palu*, Nomor 2, Volume 9 (February 2022): 1-13.

²⁶ Kudrat Abdillah, "Hukum Waris Dalam Kompilasi Hukum Islam Perspektif Filsafat Hukum: Studi Analisis Terhadap Bagian Warisan Ahli Waris."

based on individual merits, rather than ensuring equal shares for all. Conversely, cumulative justice, aims to rectify imbalances without considering individual merits.

When evaluated through perspective of philosophical justice, Islamic inheritance law showed adherence to both distributive and cumulative justice. Furthermore, distributive justice is exemplified in the 2:1 division principle *lidzdhakari mitslu hadhdhil al unstsyai*, where men receive twice the share of women, considering the respective roles and responsibilities. Cumulative justice, is a non-discriminatory division principle, that ensures men, women, including children inherit the property according to the established provisions of the applicable law.

Considering the societal context, it was reported that the persistence of the 2:1 inheritance division *lidzdhakari mitslu hadhdhil al unstsyain* favoring men may be rooted in certain assumptions. It was commonly believed that men bore greater responsibilities, particularly in terms of financial provision, and were also expected to pay dowry when getting married. Meanwhile, women are not burdened with financial obligations both in household upkeep and dowry payments.

In Java there is a practice of unequal inheritance division between men and women, despite the notion of the *sepikul segendongan*, although, it is not common. Presently, families rely on dual incomes, contributed by both spouses. Zulham Wahyudani stated that this shift in inheritance reflects the changing social dynamics, where economic resources result from the joint efforts of husband and wife.²⁷ In such contexts, applying the 2:1 inheritance rule is considered a form of injustice. Prof. Munawir Sadjali was among those who opposed this system in modern times. In addition, the Compilation of Islamic Law (IPR), Book II of the Law of Inheritance, was established when Prof. Munawir Sadjali held the position of the Indonesian Minister of Religious Affairs.

In recontextualizing the Islamic teaching, Prof. Munawir Sadjali stated that the 2:1 inheritance distribution practice had been abandoned by Indonesian Muslims, either directly or indirectly. The deviation from *faraidh* was not solely religious but also caused by

²⁷ Zulham Wahyudani and Muhammad Firdaus, "Faktor-Faktor Perubahan Sosial Yang Mempengaruhi Pembagian Harta Warisan Di Banda Aceh, Indonesia," *IAIN Langsa*, Nomor 1, Volume 3 (2022): 13-33.

cultural and social factors. In the Muslim culture, strict adherence to *faraidh* was less acceptable to the prevailing notion of justice.

This argument was supported in terms of understanding social structure. While Arab societies typically adhered to the *patrilineal kinship* system, favoring men in inheritance was considered appropriate and positively preserved familial bonds. This method is not common in Islamic societies, for example, in West Sumatran, *matrilineal*, is the prevailing and dominant kinship system because rights and responsibilities are imposed on women. Moreover, modern societies tend to shift towards equal opportunities favoring *bilateral* kinship structures that promote gender equality.²⁸

Inheritance (*Lidzdzakari Mitslu Hadhdhi al-Untsayain*) Based on an Economic Perspective

Initially, the 2:1 inheritance division tends to benefit men from an economic perspective, as sons receive double the share of daughters. However, an in-depth analysis showed that this provision can only benefit women economically. This is because men are highly responsible for supporting the family, including wives, children, sisters, and elderly parents.²⁹ In addition, the terms of inheritance division may change depending on certain situations and conditions, such as

1. When a woman gets inheritance from *the ashobah*, then the share would be less.
2. Assuming the woman is an only child, the daughter undoubtedly gets half of inheritance. This implied that daughters might inherit more shares than other heirs.
3. Supposing the woman has another daughter but no son, the mother is entitled to two-thirds of the estate.

According to Prof. Sulaiman Rasjid (1996), in Islam men are responsible for providing for the family, including the expenses of the children and wife, such as food,

²⁸ S. Asufah, "Biografi dan Pemikiran Hazairin dan Nunawir Sadjali Tentang Bagian Waris Anak Laki-Laki dan Perempuan," Repository (Bandar Lampung: UIN Raden Intan Lampung, 2017), http://repository.radenintan.ac.id/1520/4/BAB_III1_sufah_-_Copy.pdf. pp. 60-61.

²⁹ Kususiyanah, "Keadilan Gender Dalam Kewarisan Islam: Kajian Sosiologis Historis."

clothing and other household needs.³⁰ Men carry the burden of ensuring the well-being of the household and upkeep of children. Meanwhile, the women are mainly responsible for nurturing the children and managing household affairs. Men also have several obligations and responsibilities towards society, both domestically and abroad. However, women are relieved of these responsibilities, particularly the financial aspect. Women are not obliged to provide for themselves, even when income is received from the husband or other sources. Therefore, the 2:1 rule offers an economic advantage for women in this context. Similarly, Asep Fauzi Firmansyah stated that according to the Islamic family law system, men are mainly responsible for bearing the economic responsibility of the family. This obligation is considered a *hu kum* or religious decree, while women are granted rights by the husbands.³¹

There is a need to acknowledge that women are the responsibility of four men, namely the father, husband, brother, and son.³² Conversely, men are responsible for supporting the wife, daughter, mother, and sister. When deeply interpreted, it benefits the women economically, even with a 2:1 inheritance division. Meanwhile, men bear greater responsibilities than women regarding finances, physical, and emotional burdens. In accordance with the justice of Allah the Just and All-Knowing, the male share in the distribution of inheritance is greater.

The Wisdom of Inheritance Distribution According to Islam

Muslims certainly believe that all Islamic provisions made by Allah SWT are for the benefit of humanity. Similarly, the 2: 1 inheritance distribution, was believed to offer numerous benefits or *mashlahat*, including³³

³⁰ Raha Bahari and Ezmi Sivana, "The Meaning Of Socio Cultural Values Fraom The Islamic Law Perspective," *MILRev : Metro Islamic Law Review* 1, no. 1 (December 27, 2022): 90-102, <https://doi.org/10.32332/milrev.v1i1.6192>.

³¹ Asep Fauzi Firmansyah, "Konsep Keadilan Dalam Pembagian Harta Warisan Terhadap Isteri: Studi Isteri Yang Menanggung Nafkah Keluarga" (Cirebon, IAIN Syekh Nurjati, 2011), <https://repository.syekhnurjati.ac.id/2505/PERDAIS-116050001/>. Thing. 6-7

³² Annisa Permatasari, "Elasticity Of Islamic Law In Social Dynamics (Analysis Of E-Commerce A Fiqh Perspective)," *MILRev : Metro Islamic Law Review* 1, no. 1 (December 26, 2022): 34-53, <https://doi.org/10.32332/milrev.v1i1.6189>.

³³ Jaenal Arifin, *Filsafat Hukum Islam Tasyri dan Syar'i* (Tangerang: UIN Jakarta Press, 2006), <http://opac.fidkom.uinjkt.ac.id/index.php/>.

1. Division of inheritance played a critical role in safeguarding property (*hifdzul maal*). This is in line with the main objectives of shari'ah (*maqasidus shari'ah*) to preserve assets.
2. This served as a means of alleviating poverty in families, as the inherited assets provide capital or economic resources for newly formed households.
3. Inheritance fosters and establishes ties between family members, ensuring harmony.
4. It symbolizes being trusted with the responsibility to manage the property as stated by Allah SWT which must be maintained and accounted for later.
5. Inheritance promotes justice between both genders, contributing to social welfare as well as reducing inequality and social jealousy through equitable distribution among family members.
6. In addition, it serves as a facilitator for individuals to settle financial obligations and debts.
7. Inheritance benefits the broader Muslim community by contributing to the overall welfare.
8. Viewed from various perspective, inheritance embodied the principles of truth, justice, and social benefit.
9. The provisions of inheritance law guarantee protection for the family and do not hinder the independence and progress of successive generations in society.

CONCLUSION

In conclusion, the 2:1 system of inheritance division found juridical basis in QS. An_Nisaa: 7 and the Compilation of Islamic Law (KHI) Book II Law of Inheritance Chapter III, Magnitude of Article 176. Psychologically, this division was closely linked to the significant responsibility placed on men who provided for the family after marriage, including the wife, children, and other dependents residing in the household, such as *khadimah*, parents, and relatives.³⁴ Sociologically, the continued practice of the 2:1 system

³⁴ Suud Sarim Karimullah, "The Implications Of Islamic Law On The Rights Of Religious Minorities In Muslim-Majority Countries," *MILRev : Metro Islamic Law Review* 2, no. 2 (November 9, 2023): 90-114, <https://doi.org/10.32332/milrev.v2i2.7847>.

was based on the assumption that men had greater responsibilities, particularly in terms of financial provision. Economically, this division appeared to favor men over women, although the applications might have varied depending on certain circumstances.

BIBLIOGRAPHY

- Abduloh. "Pembagian Warisan Sepikul Segendongan Hukum Adat Jawa," 2022.
<https://123dok.com/article/sepikul-segendongan-hukum-menganut-istilah-sepikul-segendongan-yakni.yd76mdl>.
- Ardelia, Raissa. "Kepastian Hukum Terhadap Penerapan Asas Ijbari Dalam Pembagian Waris Anak Kandung Di Indonesia." Repository, Universitas Air Langga, 2020.
<https://repository.unair.ac.id/97112/>.
- Arifin, Jaenal. *Filsafat Hukum Islam Tasyri dan Syar'i*. Tangerang: UIN Jakarta Press, 2006.
<http://opac.fidkom.uinjkt.ac.id/index.php/>.
- Ash-Shabuni, Muhammad Ali. *Pembagian Waris Menurut Islam*. Jakarta: Gema Insani, 1995.
- Ash-Shiddieqy, Tengku Muhammad Hasbi. *Fiqh Mawaris: Hukum Pembagian Warisan Menurut Islam*. Cetakan Kedelapan. Semarang: Pustaka Rizki Putra, 2018.
rizkiputra@gmail.com.
- Asmawi. *Studi Hukum Islam: Dari Tekstualitas-Rasionalis Sampai Rekonsiliatif*. Cetakan I. Yogyakarta: Penerbit Teras, 2012. esaqok@yahoo.co.id.
- Asrofi. "Hukum Waris Dalam Kompilasi Hukum Islam Ditinjau dari Perspektif Keadilan Gender." *Direktorat Jenderal Badan Peradilan Agama Mahkamah Agung Republik Indonesia*, July 2023, 1-26.
- Asufah, S. "Biografi dan Pemikiran Hazairin dan Nunawir Sadjali Tentang Bagian Waris Anak Laki-Laki dan Perempuan." Repository. Bandar Lampung': UIN Raden Intan Lampung, 2017. http://repository.radenintan.ac.id/1520/4/BAB_III1_sufah_-_Copy.pdf.
- Aziz, Abdul. "Pembagian Waris Berdasarkan Tingkat Kesejahteraan Ekonomi Ahli Waris Dalam Tinjauan Maqashid Shariah," Nomor 1, Volume 8 (2016): 48-63.
- Azwan, Ananda Luthfiyah. "Memaknai Pemenuhan Hak-Hak Perempuan Dalam Implementasi Cedaw Terhadap Pembagian Waris Islam," Nomor 1, Volume 6 (2021): 122-42.

- Bahari, Raha, and Ezmi Sivana. "The Meaning Of Socio Cultural Values Fraom The Islamic Law Perspective." *MILRev : Metro Islamic Law Review* 1, no. 1 (December 27, 2022): 90-102. <https://doi.org/10.32332/milrev.v1i1.6192>.
- Datumula, Sarpika. "Makna Keadilan Pada Ketentuan 2 : 1 (Dua Banding Satu) Dalam Konsep Waris Islam." *Fakultas Agama Islam Universitas Al Khaiat Palu*, Nomor 2, Volume 9 (February 2022): 1-13.
- Firmansyah, Asep Fauzi. "Konsep Keadilan Dalam Pembagian Harta Warisan Terhadap Isteri: Studi Isteri Yang Menanggung Nafkah Keluarga." IAIN Syekh Nurjati, 2011. <https://repository.syekhnurjati.ac.id/2505/PERDAIS-116050001/>.
- Fiska, Rahma. "Pengertian Perspektif: Teknik, Jenis-jenis, dan Macamnya." *Gramedia Blog* (blog). Accessed September 24, 2023. <https://www.gramedia.com/literasi/pengertian-perspektif/>.
- H. Faiz. "Filsafat Keadilan Dalam Hukum Waris Islam." *Fakultas Agama Islam Universitas Nurul Jadid Probolinggo*, Nomer 2, Volume 4 (2020). <https://doi.org/10.33650/jhi.v4i2.2156>.
- Hakim, Abdul, Addys Aidizar, Fathurrahman, and Halid. *Hukum Waris*. Jakarta: Senayan Abadi Publishing, 2004. <https://opac.perpusnas.go.id/DetailOpac.aspx?id=275123>.
- Hakim, M. lutfi. "Keadilan Kewarisan Islam Terhadap Bagian Waris 2:1 Antara Laki-Laki Dengan Perempuan Perspektif Filsafat Hukum Islam." *IAIN Pontianak*, Nomor 1, Volume 12 (2016): 1-18.
- Jauhari, Imam, and T. Muhammad Ali Bahar. *Hukum Waris Islam*. Cetakan Pertama. Yogyakarta: Penerbit Deepublish, 2021. www.penerbitdeepublish.com.
- Karimullah, Suud Sarim. "The Implications Of Islamic Law On The Rights Of Religious Minorities In Muslim-Majority Countries." *MILRev : Metro Islamic Law Review* 2, no. 2 (November 9, 2023): 90-114. <https://doi.org/10.32332/milrev.v2i2.7847>.
- Kompilasi Hukum Islam (KHI)*. Cetakan 9. Bandung: CV. Nuansa Aulia, 2021. nuansaaulia@yahoo.co.id.

- Kususiyannah. “Keadilan Gender Dalam Kewarisan Islam: Kajian Sosiologis Historis,” Nomor 1, Volume 9 (2021): 63–82.
- Maylissabet, and Kudrat Abdillah. “Hukum Waris Dalam Kompilasi Hukum Islam Perspektif Filsafat Hukum: Studi Analisis Terhadap Bagian Warisan Ahli Waris.” *Sekolah Tinggi Ilmu Syariah As-Salafiyah Sumberduko Pakong Pamekasan*, Nomer 1, Volume 1 (2019): 1–19. <https://doi.org/10.35961/teraju.v1i01.51>.
- Nata, Abuddin. *Metodologi Studi Islam*. Cetakan ke-22. Jakarta: PT. RajaGrafindo Persada, 2016. <http://rajagrafindo.co.id>.
- Nawawi, Maimun. *Pengantar Hukum Kewarisan Islam*. Surabaya: Penerbit Pustaka Raja, 2016. <http://repository.iainmadura.ac.id/24/1/BUKU%20MAWARIS.pdf>.
- Permatasari, Annisa. “Elasticity Of Islamic Law In Social Dynamics (Analysis Of E-Commerce A Fiqh Perspective).” *MILRev : Metro Islamic Law Review* 1, no. 1 (December 26, 2022): 34–53. <https://doi.org/10.32332/milrev.v1i1.6189>.
- Rasjid, Sulaiman. *Fiqh Islam : Hukum Fiqh Lengkap*. Cetakan Ke-26. Bandung: PT. Sinar Baru Algensindo, 1996.
- Soemanto, Wasty. *Pengantar Psikologi*. Jakarta: Bina Aksara, 1988. https://perpustakaan.mahkamahagung.go.id/slims/pn-jakartaselatan/index.php?p=show_detail&id=1945.
- Suryani, Maryam Desi. “Hak Waris Antara Laki-Laki Dengan Perempuan.” *Kompasiana* (blog), July 11, 2021. <https://www.kompasiana.com/maryamdesysuryani5350/5ee6e0b2097f361e520cac12/hak-waris-antara-laki-laki-dengan-perempuan>.
- Wahyudani, Zulham, and Muhammad Firdaus. “Faktor-Faktor Perubahan Sosial Yang Mempengaruhi Pembagian Harta Warisan Di Banda Aceh, Indonesia.” *IAIN Langsa*, Nomor 1, Volume 3 (2022): 13–33.
- Zainudin. “Hukum Waris Islam Perdata Dan Adat.” *Fakultas Hukum Universitas Sumatra Utara* (blog), June 24, 2023. <https://fahum.umsu.ac.id/hukum-waris-islam/>.

Zaynal, Rifianto Bin Ridwan, and Lukman Asha. "Praktik Pembagian Waris Secara Merata Antara Laki-Laki Dan Perempuan Di Kecamatan Kepahiang." *Sekolah Tinggi Ilmu Al Qur'an Amuntai*, Nomer 8, Volume 16 (November 2022): 2172-85.