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# Inheritance Law in Indonesia: Challenges, Solutions, and the Role of Culture and Religion

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**ABSTRACT** – The law of inheritance, known as faraid or mawaris in Islamic law, is a rule governing the transfer of ownership of the heir's property to the heir after the testator's death. In Indonesia, the inheritance law system is related to kinship and various cultures and religions influence its understanding and implementation. Conflicts often arise due to the variety of settlement systems, including Islamic law, customary, and civil law. This article highlights the need for a better understanding of inheritance law at all levels of society to reduce conflict and proposes solutions to improve understanding of inheritance in Indonesia's diverse context. The research method uses a qualitative-descriptive approach with data from various literature sources, including law, research, journals, and interviews with legal experts and scholars. This study aims to explore aspects of inheritance law in Indonesia, including cultural and religious implications as well as potential conflicts that can arise. Proposed measures to address inheritance law issues in Indonesia involve legal reform, education, promotion of gender equality, legal aid, dispute mediation, legal oversight, cross-sector collaboration, and accurate data collection. Just legal change and better understanding will help achieve fairness in inheritance sharing and promote harmony in Indonesia's diverse society. In conclusion, a good understanding of inheritance law, legal reform, education, and cross-sector cooperation are essential to overcome inheritance law problems in Indonesia (Basyir, 2001). This joint effort will have a positive impact on justice, gender equality, and the well-being of the Indonesian people.

**Keywords:** inheritance law, faraid, conflict, settlement system, gender equality, legal aid, dispute mediation, legal supervision.

## A. INTRODUCTION

Inheritance law or in Islamic inheritance law called faraid or mawaris is a law that regulates the transfer of property / objects belonging to

an heir in the form of money, land and so on, who has died and left heirs as a result of the inheritance law (Rohidin, 2016).

The legal system in Indonesia recognizes the name of the family law system, which is the system in the process of dividing inheritance is settled familiarly. Over the past few decades, Indonesia has experienced a variety of significant social, economic, and cultural developments. However, in the context of inheritance law, we often encounter differences in views, interpretations, and implementation of the rules governing the distribution of inheritance. This becomes more complicated when we consider the cultural and religious diversity in Indonesia, where Islam is one of the main religions that has a large role in the regulation of inheritance.

Based on the practice of inheritance in the community in one family and in the Court, there are various religious settlement systems, such as using Islamic law, customary, civil inheritance law and even combining one system with another system in obtaining peace values so that heirs do not conflict with each other. Although the provisions of inheritance law have been regulated in detail from Islamic inheritance law and inheritance law in Indonesia, speaking of inheritance issues, people in Indonesia often arise disputes that may result in the destruction of inter-family relations. In practice, it can be seen as the division of inheritance is not divided exactly the same as the provisions of Islamic inheritance and inheritance in Indonesia to heirs. The division of inheritance carried out by parents before they die can also often be found in plural Indonesian society. This phenomenon is indeed different from the provisions of Islamic inheritance, because the time of distribution of inheritance is not due to death, but there is a concern of parents to their heirs that there will be disputes between each party after the parents die (Khisni, 2017). Inheritance should be the heir's property after the heir dies and can only be distributed to each heir, it cannot be said to be an heir if the heir is still alive.

This is actually not necessary if everyone understands what should be done, what is rightfully due and what are their obligations related to the inheritance. Due to ignorance and incomprehension, many factors are the cause or source of conflict in this inheritance problem. Thus, there is a need for a rule regarding inheritance law at every level of society, so that in the future the community does not experience confusion in solving problems about inheritance and fraternal disputes about inheritance can be minimized (Shiddieqy, 2010).

Based on this understanding, the author feels compelled to explore more deeply about aspects of inheritance in Indonesia, as well as explore further about various problems that may arise in the practice of inheritance law among Muslim communities in Indonesia (Ridwan & Ilyas, 2022). The main purpose of this paper is to deepen the understanding of inheritance law that applies in Indonesia, as well as perceive the complexity and issues that may arise in the field. In an effort to better understand and explore the complexities of inheritance law in Indonesia, we will discuss various aspects, ranging from applicable national laws to local and cultural practices that influence how inheritance is divided. In addition, there will be an exploration of how religious, customary, and cultural interpretations play an important role in the process of inheritance distribution.

However, not only that, this paper also aims to investigate potential conflicts or tensions that may arise between national law, religious law, and local traditions in terms of inheritance. With a deeper understanding of inheritance law in Indonesia, we can try to find solutions or recommendations that can reduce potential conflicts and ensure that the distribution of inheritance is fair and in accordance with the values upheld in Indonesian society.

## **B. METHOD**

Our research is an in-depth exploration of the provisions of inheritance law in force in Indonesia, with a particular focus on the problems that arise in the practice of inheritance among Indonesian Muslim communities. An important part of this understanding of inheritance law is deeper research into how the rule of law and cultural values interact with each other in the context of inheritance in Indonesia.

The research method we apply is a qualitative-descriptive approach. We chose this approach because it allows us to explore it, examine

existing phenomena, and analyze complex social problems more thoroughly. We are not only trying to understand the legal framework in force, but also trying to capture the nuances, points of view, and thoughts of the Indonesian Muslim community related to this inheritance law.

The data and information on which our research is based are obtained from various related literature sources. This includes law books, research papers, scientific journals, legal documents, and other textual sources that have relevance to our research topic. We can also draw on data from case studies, interviews with legal experts, clerics, or individuals experienced in inheritance law in Indonesian Muslim communities.

In undergoing this research process, we hope to describe in more detail how the legal rules that apply in Indonesia in the context of inheritance, especially those that apply to Muslim communities, affect people's practices and views on inheritance rights, and how this can create various social problems that need to be understood and overcome.

Using qualitative-descriptive methods, we hope to generate a deeper understanding of the complexities of inheritance law in Indonesia and how this affects the Muslim community in the country. This is the first step in identifying relevant issues and finding appropriate solutions to improve equity and understanding of heritage in the context of a culturally and religiously diverse society like Indonesia.

## **C. RESULTS AND DISCUSSION**

Inheritance law, or in Islamic law known as "faraid" or "mawaris," is a legal system that is very important in the social and legal structure of many countries, including Indonesia. Inheritance law governs how property or property belonging to a deceased person will be transferred ownership to heirs determined by established rules.

When a person passes away, inheritance law becomes relevant, especially for determining how the property left by the deceased or deceased will be divided among his heirs. The property can be money, land, property, jewelry, business, or other assets. In some cases, the estate may also include debts or financial responsibilities that must be handled by heirs.

Inheritance law serves as a legal guideline that determines who has the legal right to receive a share of the estate, how much share they get, and the legal procedures that must be followed to

ensure fair distribution and in accordance with applicable regulations. In inheritance law, the concept of "faraid" in Islam is the principle that governs how inheritance is divided among heirs in accordance with Islamic religious teachings.

However, it is important to note that inheritance laws can vary across countries and religions. In Indonesia, as a country with diverse cultures and religions, inheritance law applies in accordance with the religious teachings adopted by the individual or family concerned. This means that Muslim communities will follow Islamic faraid principles in the division of their inheritance, while non-Muslim communities will be subject to inheritance laws that match their religious beliefs (Rafiq, 2002).

The importance of inheritance law is not only limited to financial aspects, but also has a large social and cultural impact (Abdullah et al., 2012). The division of inheritance can affect relationships between family members, affect the economic stability of the family, and also have implications in the broader context of society. Therefore, a good understanding of inheritance law, both in religious and cultural contexts, is essential to maintain harmony in society and ensure fairness in the division of inheritance property.

Overcoming inheritance law problems in Indonesia is a complex challenge that requires legal change, public awareness, and collaborative efforts from various parties. Here are some steps that can be taken to overcome inheritance law problems in Indonesia:

1. **Inheritance Law Reform:** The government can reform inheritance law by updating relevant laws and regulations. This includes aligning inheritance law with the values of justice and gender equality. These reforms could also include simplifying inheritance law procedures to minimize time- and costly bureaucracy.
2. **Legal Education:** Increasing people's understanding of inheritance law is essential. Education programs and socialization campaigns can help disseminate information about heirs' rights and obligations as well as inheritance legal processes. This education can be done through schools, community groups, and social media.
3. **Promotion of Gender Equality:** Gender equality is an important element in overcoming inheritance law issues. Governments and non-governmental

organizations can conduct campaigns to raise awareness about women's rights in inheritance and support fairer legal changes related to the division of inheritance between boys and girls (Naik, 2010).

4. **Legal Aid:** Communities need access to affordable and accessible legal aid. This will help individuals and families who may be facing inheritance law issues to get the legal protection they need.
5. **Mediation and Dispute Resolution:** Facilitation of mediation and dispute resolution can help reduce disputes among family members related to inheritance sharing. Governments and NGOs can provide neutral mediation and dispute resolution facilities.
6. **Supervision and Enforcement:** It is important to have an effective system of supervision and enforcement to ensure that the rules of inheritance law are adhered to. This includes taking action against violations of inheritance law, such as coercion or abuse of the law.
7. **Cross-Sectoral Collaboration:** The most effective solutions often involve cooperation between governments, non-governmental organizations, civil society organizations, and faith communities. Cross-sector collaboration can result in more significant changes in addressing inheritance law issues.
8. **Accurate Research and Data:** Collecting accurate data on inheritance law practices in different regions of Indonesia can help detail issues that need to be addressed. This data can be used as a basis for making more effective policies.

Overcoming inheritance law problems in Indonesia is a challenge that requires not only time, but also hard work, collaboration between various parties, and sustainable change. This is a long journey, and improvements in the inheritance law system will have a significant positive impact on Indonesian society as a whole. First of all, it's important to remember that a change in law is one of the key steps in this effort. Thoughtful and just changes in the law can create a stronger basis for fairness in the division of inheritance. These include changes that promote gender equality, protect the rights of weaker heirs, and simplify inheritance legal processes. This kind of legal change will not only create better legal protection, but also provide a fairer foundation for all individuals involved in the inheritance process (Khan & Rehman, 2016).

Furthermore, education plays a crucial role in overcoming inheritance law problems. Awareness of the rights and obligations of heirs, as well as understanding of the rules of inheritance law, needs to be improved in all walks of life. This can include educational programs in schools, community training, seminars, and information campaigns involving educational, religious, and civil society institutions (Wahyuni, 2018).

Increased public awareness should also be encouraged to trigger behavior change in inheritance law practice. When communities have a better understanding of their rights and an awareness of the importance of fairness in inheritance sharing, they can become powerful agents of change in combating discriminatory or unfair practices (Misbahi, 2013).

Commitment from various parties is also very important in efforts to overcome inheritance law problems. Governments, non-governmental organizations, religious institutions, and community groups need to work together actively to achieve this goal. Collaboration between different sectors can result in strong synergies and greater resources to achieve positive change.

With the right legal changes, strong education, and commitment from various parties, improvement in the inheritance law system in Indonesia is not an unattainable dream, but an achievable goal. This will bring significant positive impacts to Indonesian society, such as increasing justice, equality, and protection of individual rights, as well as supporting sustainable social and economic development.

#### D. CONCLUSION

The conclusion of this statement is that inheritance law or inheritance law has an important role in the social structure and law of Indonesia. However, the practice of inheritance law in Indonesia is often complex and varied, mainly due to the country's diverse cultures and religions. This can lead to conflict and tension in the inheritance distribution process, which can damage relationships between family members.

To overcome these problems, measures such as legal reform, increased public understanding, promotion of gender equality, accessible legal assistance, dispute mediation, legal supervision, cross-sector collaboration, and accurate data collection are needed. With wise legal changes, strong education, and commitment from

various parties, improvements in the inheritance law system in Indonesia can be achieved, having a positive impact on Indonesian society as a whole.

The importance of a good understanding of inheritance law, both in religious and cultural contexts, is key to maintaining harmony in society and ensuring fairness in the distribution of inheritance. Overcoming inheritance law problems is a long-term effort that requires commitment and cooperation from all parties, but with joint efforts, positive changes can be achieved for the welfare of the Indonesian people.

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