

Inheritance Development and Expiration

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Info Articles	Abstract
<p>Article History Received : 2019-07-03 Revised: 2019-07-11 Published: 2019-07-30</p> <p>Keywords: <i>Inheritance Law, Legal Reform, Jurisprudence, Mandatory Will, Expiration.</i></p>	<p>Inheritance law in Indonesia remains pluralistic due to the lack of a unified national inheritance law. Consequently, three legal systems apply: Western inheritance law, Islamic inheritance law, and customary inheritance law. This paper aims to analyze the development of inheritance law, particularly Islamic inheritance law, in court decisions in Indonesia and to examine the concept of statute of limitations in civil law. The method used is a normative juridical approach by examining statutory regulations, the Compilation of Islamic Law, and court jurisprudence. The study's findings indicate that Islamic inheritance law has been reformed through court decisions, reflecting judicial <i>ijtihad</i> (intelligible text) to address social dynamics. These reforms include the recognition of substitute heirs, the status of daughters who may hinder siblings, the implementation of mandatory wills, the granting of rights to children or adoptive parents, and the allocation of a portion to heirs of different faiths through wills or gifts. Furthermore, the principle of deliberation in inheritance distribution has been incorporated to achieve more flexible justice. On the other hand, the concept of a statute of limitations in civil law plays a crucial role as a means of acquiring rights or releasing obligations due to the lapse of a certain period. A statute of limitations can result in the loss of the right to sue in inheritance disputes if it is not exercised within the legally prescribed timeframe.</p>

I. INTRODUCTION

Inheritance law is part of civil law as a whole and the smallest part of family law. Inheritance law is closely related to the scope of human life, because every human being will experience the legal event of death which will give rise to problems in the form of how to settle the rights and obligations of the heir and his heirs in accordance with applicable law. Until now, the inheritance law system in Indonesia is still plural. This plurality occurs because in Indonesia itself there is no specific law regarding national inheritance law that applies to all Indonesian people. In connection with the absence of this law, Indonesia still applies three inheritance law systems, namely western inheritance law, Islamic inheritance law, and customary inheritance law. These three legal systems all also regulate the distribution of inheritance assets. Based on these legal principles, they provide guidelines for individuals and families in implementing

inheritance settlements and protecting the rights of heirs and their heirs.

The development of Islamic inheritance law in Indonesia continues to experience changes both in theory and in practice, as decided by the courts. This is done to accommodate and address inheritance issues that continue to develop in society. In theory, Muslims distribute their inheritance according to Islamic teachings. However, if a dispute arises, it is resolved in a Religious Court. This is reinforced by the enactment of Law Number 7 of 1989, which was later amended to Law Number 3 of 2006 and most recently to Law Number 50 of 2009 concerning Religious Courts. This law grants absolute authority to Religious Courts in resolving disputes between Muslims in the field of inheritance. As stipulated in Article 49 of Law Number 3 of 2006 concerning Religious Courts, Religious Courts are tasked and authorized to examine, decide, and resolve cases at the first level between Muslims in

the fields of: a. Marriage; b. Inheritance; c. Wills; d. Grants; e. Waqf; f. Zakat; g. Infaq; h. Shadaqah; i. Sharia economics. The field of inheritance as referred to in Article 49 letter b explains the authority of the Religious Court regarding determining who becomes the heir, determining the inheritance, determining the share of each heir, and implementing the distribution of the inheritance. In practice, the development of Islamic inheritance law in Indonesia has resulted in legal reforms in court decisions concerning inheritance issues. The decisions of the Religious Courts are the judges' *ijtihad* in providing solutions and responding to the development of social life and culture of today's society based on the values of justice and benefit. In addition to the development of inheritance law above, the development of law regarding expiration is interesting to discuss. In practice in society and the courts, the legal issue of expiration has developed both in terms of obtaining a right or being released from an obligation because a certain time has passed. If it turns out that the final time limit has passed, then the limit for obtaining and or releasing a right legally has expired or the time provided by law has closed because the party who should be able to obtain and or release a right does not use the time limit provided by law as it should. So that the rights that exist in it have been legally lost. So with the passing of the specified expiration time limit, legally a person who should have the right to obtain a right cannot use his right, likewise a person who should have the right to release a right cannot use his right because the time limit given by law has passed, so that the expiration has run. Based on the brief description above, this paper further discusses the development of inheritance law in court decisions in Indonesia and its expiration.

II. RESEARCH METHODS

This research uses a normative juridical

method, namely legal research conducted by reviewing library materials or secondary data as the primary source. This approach was chosen because the study focuses on legal norms governing inheritance and expiration, both contained in laws and court decisions.

The approaches used include the statute approach and the case approach. The statute approach is carried out by examining various relevant legal provisions, such as the Civil Code, Law Number 3 of 2006, and the Compilation of Islamic Law. Meanwhile, the case approach is carried out by analyzing various court decisions, especially the decisions of the Supreme Court of the Republic of Indonesia related to inheritance disputes as a form of legal development through jurisprudence. The legal materials used consist of primary, secondary, and tertiary legal materials. Primary legal materials include laws and court decisions. Secondary legal materials include books, scientific journals, and research results relevant to the topic of inheritance and expiration. Tertiary legal materials include legal dictionaries and encyclopedias that support conceptual understanding.

The technique of collecting legal materials is carried out through library research. Furthermore, the analysis of legal materials is carried out qualitatively using descriptive-analytical methods, namely by describing and interpreting legal norms and court decisions in order to obtain a comprehensive picture of the development of inheritance law and the application of the statute of limitations in Indonesia. With this method, it is hoped that a systematic understanding of the dynamics of inheritance law and the role of the courts in carrying out legal reform in Indonesia can be obtained.

III. RESULTS AND DISCUSSION

A. Development of Inheritance Law in Indonesia

The regulation of inheritance law in Indonesia is still pluralistic. Historically, this is inseparable from the legal history of the application of civil law in Indonesia. Before Indonesia's independence, as a result of Dutch colonial occupation, the legal policy of the Dutch government at that time was outlined in Articles 131 and 163 of the Indische Staatregeling (IS), there was a classification of law and population classification. Referring to these provisions, European Civil Law (Burgerlijk Wetboek) was applied in Indonesia based on Staatblad No. 23/1847 for the European Group, Customary Law for the Bumiputra Group (Native Indonesian Population) and Customary Law for the Foreign Eastern Group. In its course, the Burgerlijk Wetboek (Civil Code) was applied to the Foreign Eastern Group and provided the possibility for the Bumiputra group to voluntarily submit (*gelijkstelling*) to the Burgerlijk Wetboek (Civil Code) and Customary Law. This includes inheritance law. (A. Khisni, 2017)

Furthermore, in the development of Islam, Islamic inheritance law was applied which was codified into Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law. Thus, there is a pluralism of inheritance law systems that apply: the Western Inheritance Law System, the Customary Inheritance Law System and the Islamic Inheritance Law System. The inheritance law contained in the Civil Code is regulated in Book I Chapter XII to Chapter XVIII from Article 830 to Article 1130, the inheritance law contained in Customary law, namely in the customary inheritance law section, while the inheritance law contained in Islamic inheritance law, namely the inheritance provisions in Islamic jurisprudence called *mawaris* or *ilmu faraidh*

or Compilation of Islamic Law. (Abdul Manan, 2008)

B. Principles of Islamic Inheritance Law

1) Ijbari Principle

The principle of Ijbari is a principle that confirms that the transfer of property from a deceased person applies automatically according to the will of Allah SWT. This is seen from the point of view of the heirs who are forced to accept the fact that the testator's property is transferred to him according to the amount that has been determined. The existence of the element of *ijbari* in Islamic inheritance law is seen from the point of view of the transfer of property that is transferred and from the point of view of receiving the property. As stated in QS 4:7 which reads: "For men there is a right to a share of the inheritance of their parents and relatives, and for women there is a right to a share (also) from the inheritance of their parents and relatives, whether it is small or large according to the portion that has been determined." (Ahmad Kamil and M. Fauzan, 2005)

This verse explains that for both men and women, there is a *nashibun*, or portion of the inheritance of parents and close relatives. From the word *nashibun*, it can be understood that the inheritance rights are already present in the assets left by the testator, whether they are aware of it or not. Therefore, the testator does not need to promise to give anything before their death. Similarly, the word *mafrudha*, etymologically meaning determined or calculated, does not apply. The testator and the heirs have no right to increase or decrease the inheritance.

2) Bilateral Principle

The bilateral principle means that a person receives inheritance rights from both sides, both male and female relatives. This principle is based on QS 4: 7, 11, 12 and 176. In these verses, it is explained that a man has the right to receive inheritance from both his father and mother. Likewise, a woman receives inheritance from

both her parents. From these verses, it is clear that inheritance passes downwards (children), upwards (father and mother) and sideways (siblings) from both sides of the family line, namely men and women and receives inheritance from both family lines, namely the male and female lines. (Ahmad Rofiq,2001)

3) Individual Principle

The individual principle refers to the distribution of inherited assets for individual ownership. The total inheritance is stated at a specific value, which may be distributed to each entitled heir according to their share, without being tied to other heirs. This is based on the provision that every individual has the capacity to receive rights and carry out obligations, which in ushul fiqh is called "Ahliyah Al-Wujub." The individual nature of inheritance can be examined from the rules in the Qur'an. Among them is the verse in Surah An-Nisa' which emphasizes that the amount of the share for an heir cannot be determined by the amount of assets left behind. Instead, the amount of assets is subject to applicable provisions. This individual distribution is a binding provision and must be carried out by every Muslim, namely every heir who is deemed capable of acting on his/her property, or better known as "Ahliyat Al-Ada." For heirs who do not yet meet the capacity to act, they are under the forgiveness of their guardian, and their expenses are taken from the inheritance. This is based on QS 4: 5 which states that it is not permissible to hand over property to a "safih" person, namely a person who is not yet an adult. d. The Principle of Balanced Justice

The principle of balanced justice is the balance between rights and obligations, and the balance between what is obtained and what is needed. Based on this, justice is seen in Islamic inheritance law. Gender differences are not a determining factor in inheritance rights, namely that men receive inheritance rights, and women also receive inheritance equal to men. This is

based on QS 4:7 which equalizes the position of women and men in inheritance rights. When viewed from the aspect of the amount of property received, there is indeed inequality. However, this does not indicate injustice. Because justice is not only measured by the amount received, but also linked to needs. In general, men need more material than women, because men bear dual obligations, namely to themselves and also to their families, including women. This is as stated in QS 4: 34. If the amount of income is linked to obligations and responsibilities, it will be seen that men will feel the benefits as well as women. The inheritance rights received by the heirs are basically the continuity of the testator's responsibility towards his family, so that the amount of the portion received by the heirs is balanced with the difference in the responsibility of a person (who later becomes the heir) towards his family (who later becomes the heir). For a man, his primary responsibility is his wife and children. This is a religious obligation that must be borne. As QS 1: 223 states: "...and the obligation of the father is to provide food and clothing for the mothers (wives) and children in a manner that is ma'ruf. e. Principle of the Consequences of Death

This principle stipulates that the transfer of one person's assets to another through inheritance takes effect after the death of the owner. All forms of transfer of assets of a living person, whether directly or after death, are excluded from the term inheritance, such as gifts and wills. Regarding assets that become the rights of heirs, Islam has outlined that such assets are the property of the heirs after deducting the costs of the funeral service, debts, and the heirs' will. Therefore, Islamic inheritance law only recognizes one form of inheritance: inheritance due to death alone. In Civil Law (BW) terms, this is called inheritance *ab intestato*. Therefore, the transfer of ownership rights not due to death cannot be considered an inheritance event. (Fiqh Mawaris,2012)

C. Renewal of inheritance law in court decisions in Indonesia

1) Substitute Heirs

In classical Islamic jurisprudence, the concept of substitute heirs is not explicitly recognized. In the Islamic inheritance system, which is based on legal sources such as the Qur'an, hadith, and the opinions of scholars, there is no specific explanation or provision regarding substitute heirs. However, in the development of inheritance law in Indonesia, there are provisions regarding substitute heirs in the Compilation of Islamic Law (KHI) Article 185. Article 185 of the KHI states that if an heir dies before the testator, then his position can be replaced by his child, unless the child commits a crime as regulated in Article 173 of the KHI. (Amien Husein Nasution, 2002)

This provision recognizes the existence of substitute heirs in the context of Islamic inheritance law in Indonesia. The recognition of substitute heirs in Article 185 of the Compilation of Islamic Law can be an effort to reform Islamic inheritance law to address situations where the main heir dies before the testator and ensure that the inheritance is not neglected. This provides an opportunity for the child of the heir who died first to take over as the main heir, unless the child commits a crime as stipulated in Article 173 of the Compilation of Islamic Law. Essentially, the regulation regarding substitute heirs in Article 185 of the Compilation of Islamic Law is a legal innovation adopted in the context of Islamic inheritance law in Indonesia. This regulation provides flexibility in addressing situations where the main heir cannot or refuses to accept the inheritance. However, it is important to understand that the recognition of substitute heirs is not based on the concept existing in classical Islamic jurisprudence. The development of Islamic

inheritance law, including the recognition of substitute heirs, is the result of the interpretation and adaptation of Islamic law carried out in accordance with the social, cultural context and needs of society in Indonesia. In the case of substitute heirs, the Supreme Court has issued a decision that considers the grandchildren of the testator or the children of the heirs can be substitute heirs as reflected in Decision Number 86 K/Ag/2001, Decision Number 59 K/Ag/2005 and Decision Number 152 K/Ag/2006. (Amir Syarifudin, 1999)

2) The position of daughters that hinders brothers

In classical Islamic jurisprudence, daughters do not veil their siblings. The status of the sibling becomes that of ashabah after the inheritance is taken by the daughter (along with her husband/wife). This Islamic jurisprudence tradition has been updated by the Compilation of Islamic Law (KHI) and has become the current norm of inheritance law. In the KHI, if all heirs are present, then only the children, father, mother, widow, or widower are entitled to the inheritance. In this article, the term "child" is used absolutely without any specification of male or female. This means that if there are children, regardless of whether they are boys or girls, the veil is applied to the testator's siblings. Several cassation decisions regarding inheritance that touch on girls indicate a renewal of inheritance legal thinking through jurisprudence. This can be seen from several decisions including: Cassation Decision Number: 86/K/AG/1994 dated July 20, 1995, Cassation Decision Number 184/K/AG/1994 dated September 30, 1996 and Cassation Decision Number 327/K/AG/1997 dated February 26, 1998. In these decisions, the Cassation Panel of Judges considered that the existence of a daughter as an heir caused the

brother to be prevented from receiving the inheritance. (Bagir Manan, 2007)

3) Mandatory Will

A mandatory will is an important concept in Islamic law that regulates the inheritance of assets after a person dies. In Islamic inheritance law, the testator has the right to make a will that can affect the distribution of the inheritance. A mandatory will is a type of will that is considered obligatory or required to be carried out by the testator under certain conditions. A mandatory will is a will that is required or required to be carried out by the testator under Islamic law. In this case, the testator issues a will that affects the distribution of the inheritance in accordance with the provisions of Islamic law. (Eko Budiono, 2004)

There are certain conditions that allow or require an heir to make a wajibah will. For example, if a person has certain outstanding debts or obligations, it may be considered mandatory for the heir to make a will allocating a portion of the inheritance to pay off those debts. A wajibah will cannot exceed one-third of the testator's inheritance. This is in accordance with the provisions of the Quran (Surah An-Nisa' 4:11), which states that an heir is not permitted to revoke the rights of heirs determined by Allah SWT. Therefore, a wajibah will cannot be used to change the portions already determined for the entitled heirs. The heir who makes a wajibah will must ensure that the will is executed after his death. The heir can also appoint an executor who is responsible for carrying out the will in accordance with the specified provisions. In implementing a wajibah will, it is crucial to understand the applicable provisions of Islamic law, including the limits on the number of wills and the requirements that must be met. Consult with a trusted Islamic legal expert or cleric to gain

a deeper and more accurate understanding of mandatory wills in Islamic inheritance law. (Eko Budiono, 2004)

4) Inheritance for Children or Adoptive Parents

One significant reform in Islamic inheritance law in Indonesia is the recognition of adoptive children or parents. Previously, Islamic inheritance law in Indonesia explicitly recognized only Muslim heirs. However, with this reform, Islamic inheritance law grants children or adoptive parents the right to receive a share in the inheritance proportional to the Muslim heirs.

In classical Islamic jurisprudence, adopted children or adoptive parents have no way to obtain inheritance. Article 209 paragraphs 1 and 2 of the Indonesian Islamic Law (KHI) emphasizes that adoptive parents or adopted children have the right to receive inheritance through a mandatory will mechanism. Supreme Court Decision Number 489 K/AG/2011 dated December 23, 2011 M jo. Supreme Court Decision Number 02 PK/Pdt/2013 dated July 18, 2013, has given stepchildren and adopted children the right to enjoy the inheritance of the testator based on a mandatory will. Previously, the granting of inheritance to adopted children was mentioned in Supreme Court Decision Number 368 K/AG/1999 dated April 17, 1999 jo. Decision of East Java PTA Number 238/Pdt.G/1998/PA.Sby dated December 2, 1998 and Decision of Malang PA Number 1034/Pdt.G/PA.Mlg dated September 2, 1998. In the decision, a will must be given to an adopted child. Among the considerations in the decision is that a person is not only considered an adopted child based on the Court's decision, but a child who is cared for, living in the testator's family environment.

e. Inheritance of assets for heirs of different religions

In the context of inheritance

distribution, Islamic law imposes very strict provisions, so not all heirs are recognized as heirs and receive a share of the inheritance if one of the requirements is not met, such as heirs of different religions. In classical Islamic jurisprudence, there is a view that inheritance distribution can be hindered if the heirs adhere to different religions. This is linked to concerns that the inheritance will be used to support a different religion and could cause disruption within the family. Therefore, there is a view that non-Muslim children are not entitled to receive a share of the inheritance.

Article 171 letter (c) of the Indonesian Islamic Law (KHI) states that an heir is a person who, at the time of the testator's death, is related by blood or marriage to the testator, is Muslim, and is not legally prevented from becoming an heir. This provision reinforces the prohibition on giving a portion of inheritance to non-Muslim heirs, as stated in the hadith and the consensus of the majority of scholars. In Islamic law, the prohibition on mutual inheritance does not necessarily prevent care for maintaining family and human relationships.

In the context of resolving inheritance disputes in court, the application of mutual assistance is used as a legal basis for interfaith inheritance issues. The spirit of sharing through *qismah* is not merely understood as a meager gift but has been interpreted as providing a portion equivalent to the portion received by Muslim heirs. One mechanism that can be used to provide a portion of the inheritance to non-Muslim heirs is through a will or a gift. A will is a written statement from the testator containing his or her wishes regarding the distribution of the inheritance after death. A gift, on the other hand, is a voluntary gift of assets by the testator to another party during his or her lifetime. When providing inheritance to non-Muslim children

through a will or a gift, there are several provisions that must be considered. In the author's opinion, the inheritance given to non-Muslim children through a will or a gift may not exceed without the consent of the other heirs. This means that the portion received by non-Muslim children must be in line with the distribution stipulated in Islamic inheritance law.

In principle, the transfer of inheritance to a non-Muslim child through a will or gift requires the consent of the other heirs. This aims to maintain balance and fairness in the distribution of inheritance and prevent conflict among heirs. In practice, if there is a disagreement or dispute regarding the transfer of inheritance to a non-Muslim child, the parties involved can seek a solution through deliberation or assistance from a competent Islamic legal expert. The goal is to reach a fair agreement in accordance with Islamic principles. The application of the mechanism for transferring inheritance to a non-Muslim child through a will or gift in the Compilation of Islamic Law demonstrates the adaptation of Islamic law to the social and cultural context in Indonesia. This allows non-Muslim children the opportunity to receive their rightful share of the inheritance through the mechanisms stipulated in Islamic inheritance law. Provisions regarding the transfer of inheritance to a non-Muslim child may also differ in different countries, depending on the inheritance laws in force in each country. Therefore, it is important to consider the context of the inheritance laws in that country and seek advice from a competent Islamic legal expert or Islamic legal institution.

A number of Supreme Court judges have made a legal breakthrough by granting a portion of inheritance to non-Muslim heirs through a mandatory will. The underlying

philosophy and legal considerations are that granting inheritance to non-Muslim heirs is solely for the sake of humanity and to uphold a sense of justice. Supreme Court Decision Number 368/K/AG/1995, is a decision that contains a legal breakthrough in the field of inheritance, where based on this decision, the Supreme Court, grants a portion of inheritance to non-Muslim biological children, equal in status to the rights of Muslim biological children. This decision was then followed by Cassation Decision Number 51/K/Ag/1999, Cassation Decision Number 368 K/Ag/1999, Cassation Decision Number 16 K/AG/2010 and Number 331 K/Ag/2018.

Heirs who change religions and do not share the same religion as the Testator, are considered with the same portion as other heirs who share the same religion as the Testator through a mandatory will. In addition to granting inheritance to biological children of different religions, there is also Supreme Court jurisprudence that provides a portion of inheritance to non-Muslim biological fathers who have different religions from the Testator. Supreme Court Decision of the Republic of Indonesia Number 59 K/AG/2001 dated May 8, 2002 in conjunction with the Decision of the High Religious Court of Jakarta Number 07/Pdt.G/2000/PTA.JK dated June 21, 2000 and the Decision of the North Jakarta Religious Court Number 54/Pdt.G/1999/PA.JU dated October 13, 1999. In these decisions, a non-Muslim father has the right to the inheritance of his Muslim child.

5) Deliberation in Distribution

In Islamic inheritance law, the distribution of inheritance is usually based on provisions stipulated in classical Islamic jurisprudence, which includes details of each heir's share in accordance with legal texts and other secondary arguments. However, in the

context of inheritance law in Indonesia, there are provisions regarding deliberation in the distribution of inheritance in the Compilation of Islamic Law (KHI) Article 183. Article 183 of the KHI states that the heirs can hold deliberations or negotiate in the distribution of inheritance after knowing their respective shares.

This means that the heirs have the freedom to discuss and reach an agreement regarding the distribution of the inheritance, even though the original distribution ratio may differ. In practice, deliberation in the distribution of inheritance can allow for changes to the initial distribution determined in classical fiqh. For example, if the initial distribution follows a 2:1 ratio (e.g., two heirs receive two-thirds and one heir receives one-third), through deliberation, they may reach an agreement to change the distribution to 1:1 (each heir receives half).

However, it's important to note that these changes must be made with the agreement of all parties involved. The provisions regarding deliberation in the distribution of inheritance in Article 183 of the Indonesian Criminal Code (KHI) provide flexibility and opportunity for heirs to communicate and reach a fair agreement on the distribution of inheritance.

This principle of deliberation is also in line with the spirit of deliberation and consensus in Islam, which encourages problem solving through dialogue and consultation. However, it is important to remember that deliberation in the distribution of inheritance must not violate the underlying provisions of Islamic law, such as the distribution determined by clear texts or evidence. Deliberation must be conducted within the boundaries of Islamic law and with due regard for the rights of each heir. In practice, if a disagreement arises during deliberation, the disputing parties can seek a resolution through a dispute resolution

institution or with the assistance of an Islamic legal expert to ensure that the inheritance is distributed fairly and in accordance with Islamic principles. (Eko setiawan, 2011)

The law is said to be backward when the legal norms contained in statutory regulations fail to fulfill their function of maintaining order in society or providing legal certainty in relations between people and their communities, or between people and the state. The Supreme Court, as a law enforcement agency, is tasked with filling the legal vacuum in maintaining order in society and providing legal certainty by issuing new legal principles outlined in its decisions (jurisprudence). The following are Supreme Court decisions regarding developments in inheritance issues.

Grants in Inheritance Disputes

1. The prohibition on donating all assets because it will be detrimental to the heirs (Supreme Court PK Decision Number 02 PK/AG/2007 dated January 4, 2008).
2. List the total amount of the inheritance to determine the limit of the amount of the gift (Supreme Court Cassation Decision Number 75 K/AG/2003 dated May 14, 2004).
3. The retroactive principle in grant cases is not adopted in the KHI (Supreme Court Cassation Decision Number 11 K/AG/2010 dated March 2, 2010). (Eman Suparman, 2005)

Joint Property in Inheritance Disputes

1. Settlement of joint assets cumulative inheritance dispute (Supreme Court PK Decision Number 14 PK/AG/2010 dated June 11, 2010).
2. A non-Muslim wife or husband does not hinder the right to joint property (Supreme Court Cassation Decision Number 16 K/AG/2010 dated April 30, 2010).
3. Inheritance rights of wives in polygamous

marriages (Supreme Court Cassation Decision Number 651 K/AG/2015 dated 28 September 2015 and Supreme Court PK Decision Number 11 K/AG/2016 dated 18 May 2016).

4. The wife's inheritance rights to her husband's inheritance when the wife sues for divorce (Supreme Court Judicial Review Decision Number 11 K/AG/2017 dated April 10, 2017).
5. Insurance funds can be considered joint assets or inherited assets depending on the contents of the agreement (Supreme Court Cassation Decision Number 2831 K/AG/1996 dated July 7, 1996 and Supreme Court Cassation Decision Number 16 K/AG/2010 dated April 30, 2010). (Hazairin, 1968)

Heir Substitute Versus Dzawil Arham

1. Heirs who die before the heir can be replaced by their children (Article 185 paragraph (1) Compilation of Islamic Law).
2. Substitute Heirs replace heirs who died before the testator died (Supreme Court Cassation Decision Number 113 K/AG/2016 dated December 22, 2016).
3. Limited substitute heirs to grandchildren (Supreme Court Cassation Decision Number 57 K/AG/2016 dated 26 February 2016).
4. A sibling's child is not an heir, but can be given a mandatory will (Supreme Court Cassation Decision Number 137 K/AG/2016 dated 18 May 2016).
5. The portion for the Substitute Heirs may not exceed or be at least the same as the portion of the daughter of the Heir (Supreme Court Cassation Decision Number 109 K/AG/2016 dated March 29 2016). (Hilal Malarangan, 2008)

The Position of Girls When They Are With Their Brothers

1. Daughter wears hijab to her sister (Supreme Court Cassation Decision Number 86 K/AG/1994 dated July 20, 1995 and (Supreme

- Court Cassation Decision Number 327 K/AG/1197 dated February 26, 1998).
- 2 (two) girls wearing hijab for their brother and sister (Supreme Court PK Decision Number 19 PK/AG/2014 dated 13 August 2014).
 - 2 (two) daughters spent the remaining assets from the wife's share (Supreme Court Cassation Decision Number 47 K/AG/2017 dated 28 February 2017).
 - You do not have the legal standing to sue for inheritance when you still have a daughter (Supreme Court Cassation Decision Number 286 K/AG/2016 dated 26 June 2016).
 - Siblings are like children when there are no descendants and parents (Supreme Court Cassation Decision Number 356 K/AG/2017 dated July 10, 2017). (Komari, 2011)

Mandatory Wills as a Solution for Non-Muslims

- A Mandatory Will is a will determined by a judge because the testator did not previously provide a will (Supreme Court Cassation Decision Number 558 K/AG/2017).
- A Mandatory Will can be given to adopted children (Supreme Court Cassation Decision Number 368 K/AG/1999 dated 17 April 1999).
- Prioritize Mandatory Wills before dividing inheritance (Supreme Court Cassation Decision Number 16 K/AG/2010).
- The provisions on Mandatory Wills in the Compilation of Islamic Law are not retroactive (Supreme Court PK Decision Number 826 PK/AG/2017 dated 27 December 2017).
- Mandatory wills can be given to non-Muslim heirs (Supreme Court Cassation Decision Number 59 K/AG/2001 dated May 8, 2002). (M. Idris Ramulyo, 2004)

HeirMultilevel and Disappearance of Munasakhah

- Munasakhah means when an heir dies but has not received a share of the inheritance from the first, second and subsequent heirs (Supreme Court PK Decision Number 43PK/AG/2017 dated May 17 2017).
- Hierarchical Heirs, including the first wife, husband, second wife and their descendants (Supreme Court PK Decision Number 7PK/AG/2008 dated 5 September 2008).
- Determining the death of the testator/heirs is very important in cases of Multiple Heirships (Supreme Court PK Decision Number 7PK/AG/2017 dated May 31, 2017).
- The object of the inheritance dispute must originate from the first heir (Supreme Court PK Decision Number 37PK/AG/2017 dated May 17, 2017).
- Distribution of tiered inheritance rights according to the group (Supreme Court PK Decision Number 122 PK/AG/2016 dated December 27, 2016). (Moh. Muhibbin, 2009)

D. Development Of Statute Of Limitations Law

Development of Statute of limitations law

A statute of limitations is a means of obtaining something or being released from an obligation by the passage of a certain period of time and under conditions determined by law. Western law recognizes the concept of statute of limitations. Book 4 of the Civil Code, among other things, regulates statute of limitations:

- Whichcausing someone to be released from an obligation or causing someone's right to sue to be lost, praescriptio (Latin) and extinctieve verjaring (Dutch).
- Whichcauses a person to obtain a certain right. This expiration requires good faith from the person who will obtain the right, usucapio (Latin) and acquistieve verjaring (Dutch). (Muchit A Karim, 2010)

Pitlo stated that expiration (verjaring) or lapse of time is "a tool to obtain something or be released from an obligation by the passage of a

certain time and on the conditions determined by law (Article 1946 of the Civil Code). A person cannot obtain a right because of expiration, if the time has not yet arrived. However, a person can relinquish a right that he has obtained because of expiration. (Mulyadi,2008)

A person can say that there is a statute of limitations and the validity of the statute of limitations, if it can be proven that by the passage of the statute of limitations, the person will obtain or own an object such as: immovable, both tangible and intangible; and immovable intangible objects that are not receivables that must be paid by bearer, or he is free from an obligation, performance or obligation that should have been carried out, implemented or fulfilled by him, outside the two contexts above there is no statute of limitations at all. For statute of limitations in the field of civil law, the Civil Code provides time periods. The period that often exists is thirty years. After thirty years the law adapts to the facts, after thirty years, the real situation grows into law. According to Article 584 of the Civil Code, a person can obtain ownership rights, including rights to immovable objects (land). According to Article 584 of the Civil Code, this right of ownership is related to "the right of ownership of an object cannot be obtained in any other way, except by ownership, by attachment, by expiration, by inheritance, either according to law or by will, and by appointment or transfer based on a civil event to transfer ownership rights, carried out by a person who has the right to act freely with respect to the object." (Pitlo, A, 1986)

In addition, the provisions in Article 1963 of the Civil Code formulate a statute of limitations as a tool to obtain something, namely "Whoever in good faith, and based on a legal basis, obtains an immovable object, an interest, or another receivable that does not have to be paid by sight, obtains ownership rights over it, by way of statute of limitations, with control for twenty years."

(Sari, N,2019)

Thus, anyone who has good intentions and has controlled it for thirty years, obtains ownership rights, and cannot be forced to show the basis of his rights. Article 1955 of the Civil Code explains that to obtain ownership rights over something, it is necessary that a person controls it continuously, uninterruptedly, undisturbedly, in public, and expressly, as the owner. Furthermore, Article 1963 of the Civil Code makes clear several conditions for obtaining ownership rights through the statute of limitations, such as:

- a) The existence of position of power as owner.
- b) This position of power must be obtained and maintained in good faith.
- c) This position of power must be proven in public.
- d) This position of power must be carried out continuously and without stopping. (R. Subekti, 2004)

The expiration of land ownership rights is also regulated in Supreme Court Decision No. 200.K/Sip/1974, dated April 15, 1976: Due to the death of the Defendant-Appellant (Tolong Karokaro), the Suppletoir oath, as stated in the Interim Decision of the High Court dated July 25, 1970 No. 528/1967, is imposed on all his heirs, in accordance with Article 185 HIR. Because the Plaintiffs-Appellants allowed the disputed land to be controlled by the late Mrs. Ratiem and her children for more than 30 years, the rights of the Plaintiffs-Appellants as other heirs of the late Atma to claim ownership rights to the land have expired (rechtsverwerking). The Court's decision became the jurisprudence followed by the Wates District Court judge in the registration case No: 06/PDT.G/2007. PN.WT stated that the panel of judges had decided the land dispute case based on the jurisprudence of the decision of the Supreme Court of the Republic of Indonesia No: 200K/Sip/1974. (Retnowulan Sutantio & Iskandar, 2005)

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

The development of Islamic inheritance law in Indonesia continues to undergo changes, both in theory and in practice, as determined by the courts. This is done to accommodate and address the ever-evolving inheritance issues within society. Theoretically, Muslims distribute their inheritance according to Islamic teachings. However, if a dispute arises, it is resolved in a religious court.

This was reinforced by the enactment of Law Number 7 of 1989, which was later amended to Law Number 3 of 2006 and finally amended to Law Number 50 of 2009 concerning Religious Courts. This law grants absolute authority to Religious Courts in resolving disputes between Muslims in the field of inheritance. Some of the innovations in inheritance law in court decisions include; substitute heirs, the status of daughters who prevent siblings, mandatory wills, inheritance for children or adoptive parents, heirs of different religions, and so on.

Expiration is a tool to obtain something or release from an obligation by the passage of a certain time and under conditions determined by law. The development of the law on expiration as per Supreme Court Decision No. 200.K/Sip/1974 which considers expiration as a basis for obtaining ownership rights to abandoned land.

B. Suggestions

It is recommended that the development of Islamic inheritance law in Indonesia continue to be strengthened through legal reforms that are responsive to contemporary social changes while remaining grounded in the fundamental principles of Islamic law. The government, legislators, and judicial institutions should provide clearer and more comprehensive regulations regarding emerging inheritance issues, including substitute heirs, mandatory wills, inheritance rights involving adopted children or parents, and inheritance disputes among heirs of different religions, in order to

reduce legal uncertainty and differing interpretations. Furthermore, greater public awareness and education regarding Islamic inheritance law and the role of Religious Courts should be promoted so that Muslim communities better understand their rights and obligations in inheritance distribution and dispute resolution.

In addition, consistency in judicial decisions is necessary to ensure legal certainty, fairness, and protection for all parties involved in inheritance disputes. The Supreme Court and Religious Courts should continue to develop progressive legal interpretations that balance Islamic legal principles with contemporary societal realities. Regarding the issue of expiration (prescription) as a legal basis for acquiring ownership rights, clearer regulations and judicial guidelines are needed to avoid misuse and to ensure that the application of expiration aligns with the principles of justice, legal certainty, and social benefit. Ultimately, collaboration between lawmakers, judges, legal scholars, and society is essential to create a more adaptive, equitable, and effective Islamic inheritance law system in Indonesia.

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