


**DIVISION OF INHERITANCE IN MUSLIM COMMUNITIES  
PARI CITY, PANTAI CERMIN DISTRICT, REGENCY  
SERDANG BEDAGAI**

**Sakban Lubis<sup>1</sup>, Muhammad Yunan Harahap<sup>2</sup>**

<sup>1,2</sup>Islamic Religious Education Study Program, Pembangunan Panca Budi University  
of Medan

<sup>1</sup>sakbanlubis.76@gmail.com, <sup>2</sup>yunan@dosen.pancabudi.ac.id

ARTICLE INFO	ABSTRACT
<p><i>Keywords:</i> Division, Heritage, Muslim Community, Pari City.</p>	<p>The law of inheritance in Islam is systematically regulated, detailed and full of justice. However, it is different from the people of Pari City Village, Pantai Cermin District, has its own way of dividing its inheritance. That is by evenly dividing the property, without distinguishing both men and women, the important thing is that there is a sense of comfort and causes a sense of justice. Even the majority of the people of Pari City Village distributed the inheritance before the heir died, When one of their family members is already married then they immediately get their share.</p> <p>The formulation of the problem of this study is: 1.What is the understanding of the people of Pari City Village about Islamic inheritance law. 2. How to implement the distribution of inheritance in Pari City Village. The objectives of this study are: 1. To find out the understanding of the people in Pari City Village about Islamic inheritance law. 2.To find out the implementation of the distribution of inheritance in Pari City Village. The method used in this study is a qualitative approach, or research using field studies (Field Research). Research like this is carried out by going directly to the field to be able to obtain the data needed in this research. Data collection techniques are carried out by means of observation, interviews and documentation studies.</p> <p>In conclusion, this research is about the Division of Inheritance in the Muslim Community of Pari City, Pantai Cermin District that the understanding that occurs in Pari City Village regarding inheritance law is very diverse. The distribution of inheritance in Pari City Village is distributed before the parents die and divided equally without distinguishing between boys and girls. The division of inheritance in Pari City Village is not in accordance with Islamic law, The distribution of inheritance in Pari City Village is not in accordance with Islamic law, although the distribution is carried out by deliberation, and it is distributed before the parents die, there is also after death.</p>
	<p><i>This is an open access article under the <a href="https://creativecommons.org/licenses/by-nc-sa/4.0/">CC BY-NC-SA</a> license.</i></p> 

## **1. INTRODUCTION**

The provision of the division of property in Islam as an ingrained Islamic law among Muslims, Islamic heirs are also known by other designations such as the estate of the deceased is called *tirkah heir*, whose meaning gives to anything that deserves to be accepted and how many rights each person can get. (KHI, 1995:355). Another opinion that *ihukum* inherited one of the Islamic laws in the family order got an inseparable position, because the provision of inheritance cannot be separated from the side of social life, Because society really needs it as the scope of human life, both in society, individuals, and groups. (Sakban Lubis, 2020:1).

The division of inheritance is one of the important civil laws, which is one of the regulations that apply in the family law of the Indonesian people. The enactment of the law of inheritance is very important and closely related to human life even every human being will inevitably experience an event of this law, with the death of one of the family members, it will simultaneously cause the consequences of family civil law, even how to take care of and continue the rights and obligations of the deceased. This event will cause a family law consequence that requires the settlement of each other's rights and obtain a sense of justice and comfort in having a family.

The occurrence of death that carries a juridical impression, in the form of a legal relationship of inheritance, or mutual inheritance between the *muwarrits* (bequeath person) and the heir, is one inevitable event and *nmesti* applies to every human being in social life. The rules of distributing heirlooms among heirs, as a continuation in family rights, with the recognition of the existence of individual property rights both to movable property, nor immovable property is a possibility that a person's property must be divided equally between his heirs after meeting certain conditions and conditions to obtain. (Amiruddin Siahaan, 2022) The questioning of inheritance issues will make a description of a society how to transfer its rights in the form of objects or other from the family of the deceased to the next generation of living, the state of division of the inheritance of a society provides information and has a relationship with the kinship system, (Harahap, Boarding School Perguruan Tinggi Islam (Kajian Berbasis Data Penelitian Lapangan), 2020) the social order, history and social turns and changes occurring in the society in question.

The reality in society is that there are often disputes over inheritance, in which the habit is focused on the division of property and rights in inheritance. (Harahap, Pelaksanaan Pendidikan Boarding School di Sekolah Tinggi Agama Islam as-Sunnah Deli Serdang, 2019) This event should happen because in essence humans are more inclined to own and control property. The state of inheritance can result in disputes and even hostilities, quarrels and prolonged disputes between fellow heirs.

Basically the slam teachings do not talk about the difference between men and women and all of them are heirs, Both men and women have the same rights as heirs. but he is just a different comparison. (Harahap, Sejarah Dinasti Bani Umaiyyah dan Pendidikan Islam, 2019) In fact, in the inheritance of Islamic law that emphasizes balanced justice is used, not justice is the same right as the inheritance part. (Harahap, Sejarah Pendidikan Islam. , 2022) Because

of this agreement, which is often a problem and a difference once in a while, it brings disputes and hostility to fellow inheritance rights.

As is the case with the village community of Pari City which is located in Pantai Cermin District, Serdang Bedagai Regency. (Muhammad Sapii Harahap D. , Learning Al-Quran and Arabic at the Orphanage, 2022) Although the geographical location of the village of Pari City is around the outskirts of the sea, the soil is very fertile, so it is very suitable for agricultural activities. The villagers of Pari City are mostly farmers by utilizing the fertile land. The religion of the people of Pari City is 90% Muslim, of course, people whose tribes are multi-ethnic Javanese, (Muhammad Sapii Harahap D. , Observing the Development of the As-Sunnah Islamic College, 2022) Malayu, Chinese, Batak, Tapsel Madina and others will have an effect on the implementation of Islamic law, (Muhammad Sapii Harahap I. , 2021) especially in the division of inheritance that occurs in this society.

## **2. RESEARCH METHODS**

This research uses content analysis, which is a research method aimed at explaining a problem that is theoretical historically and normatively based on the content or material contained in various literature or texts. This analysis method (content analysis) is used by researchers to identify and map concepts and regulations on inheritance law in Islamic law and customary law. In addition, it is possible that researchers also use descriptive methods to describe data findings and interviews with related parties. (Eka Rahayu,2017:4). The next source is a secondary source of data obtained from books related to the title under study, especially books on inheritance, hadith, and Islamic inheritance books in Indonesia.

## **3. RESEARCH FINDINGS**

### **A. Bibliography Theory**

#### **1. Definition of Inheritance**

Inheritance in Indonesian which means the person who is entitled to receive the inheritance of the deceased person, (Department of Education and Culture, 1994:1125). It is a term derived from the Arabic "wâritsâ" which means to inherit property. Wâris is a variety of rules regarding the transfer of property rights of a deceased person to his heirs. (Isnawati, 2022) In other terms, Wâris is also called fârâ'idh which means a certain part divided according to Islam to all who are entitled to receive it. (Beni Ahmad Saebani,2009:13).

Muhammad al-Sarbiny interpreted the science of faraid as follows, The science of fiqh related to inheritance, knowledge of the means of calculation that can complete such inheritance, and knowledge of the obligatory parts of the estate for each owner of the right of inheritance (heir). Hasbi Ash-Shiddieqy defines as an Ilmu that learns about who gets the inheritance and who does not get it, the rate received by each heir, and the way it is distributed. (Suparman Usman,2002:14). While Wahbah az-Zuhaili defines the science of inheritance by: Inheritance according to language is the permanence of a person after being left behind by one after the death of another by approximately obtaining a living person to the property of the mayit's relics. (Muhammad Sapii Harahap N. Z., 2022) Meanwhile, according to jurisprudence scholars: that is, the property left by the deceased is in the form of property that the living person receives the right that was previously owned by the deceased according to the syara'. (Wahbah Zuhaili,1987:243).

## 2. The Basis of Heritage in Islam

Ayat-ayat waris, dalam Firman Allah swt surat an-Nisa' ayat 7 yang menjelaskan tentang bagian ahli waris laki-laki dan perempuan yang berbunyi:

لِلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ  
وَالْأَقْرَبُونَ مِمَّا قَلَّ مِنْهُ أَوْ كَثُرَ ۚ نَصِيبًا مَّفْرُوضًا

That is to say: For a man there is a right of a share of the estate of his parents and relatives, and for a woman there is a right of a share (also) of the estate of his parents and relatives, either a little or a lot according to the established part. (QS. An-Nisa/4: 7).

It is narrated that the cause of descent of this verse is: 'Aus ibn Samit al-Anshari died, he left behind a wife namely Ummu Kahlan and three daughters. Then the two children of uncle 'Aus namely Suwaid and Arfathah did not give the inheritance to the wife and three daughters of 'Aus, In the traditional view of jahiliyah children and women are not entitled to inheritance. (Muhammad Sapii Harahap N. I., 2022) Then the wife of 'Aus complained to the Messenger of Allah SAW. In the Al-fadhih mosque inhabited by ahlus suffah in Medina. The Rasulullah SAW met Suwaid and Arfathah. Both of them explained to the Rasulullah SAW that his children could not ride horses, unable to carry the burden, nor can we resist the enemy, and we are the ones who strive for him. So down comes this verse that cancels the jahiliyah custom. (Ahmad Musthafa,t.t:191).

In addition to the Qur'an, the law of inheritance is also based on the hadith of the Prophet Muhammad SAW.

1) Hadith narrated by al-Bukhārī and Muslims:

قَالَ لِنَبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، اَلْحُقُّوْا الْفَرَايِضَ بِأَهْلِهَا فَمَا بَقِيَ فَهِيَ لِأَوْلَى رَجُلٍ ذَكَرٍ. (متفق عليه)

It means: "Prophet Muhammad SAW. Said: give heirloom property to those who are entitled, after that, the rest to the greater male person". (Muhammad ibn Isma'īl al-Kahlāniy,t.t:98).

2). Hadith narrated by al-Bukhārī and Muslims:

لَيْسَ لِلْقَاتِلِ مِنَ الْمِرَاثِ شَيْءٌ (رواه النسائي والدر قطني)

It means: "The murderer does not get any inheritance from the murdered (H.R. An- Nasāi and Addārqtūnī)". (Muhammad ibn Isma'īl al-Kahlāniy,t.t:98).

## 3. Causes and Barriers to Inheritance

In the books of fiqh it is stated that there are three things that cause a person to receive inheritance from a deceased person, namely: kinship, marital relations, and bondage relations (alwala'). (Said Bakri,t.t:234).

1. Kinship Relationship (al-Qarabah) or Nasab Relationship, The inheritance-relationship due to such kinship includes: 1) The child and offspring are both male and female. 2) Father, father of father and mother, meaning mother, mother of mother and mother of father. 3) Brothers and sisters. 4) Uncles and their male children. (Said Bakri,t.t:234).

2. Marital Relationship (al-Mushahahar), The marital relationship referred to herein, is a marriage with a valid contract, whether accompanied by intimate relationships or not. (Wahbah Zuhaili,1987:7704).
3. The Relationship of Slavery (Al-Wala' ), Al-Wala' is the relationship of inheritance due to a person freeing the servant of the sahaya, or through the covenant of help. (Ahmad Rofiq,1998:36).

## **2. Heritage Barrier**

The scholars of the school agreed that there were three things that hindered inheritance, namely slavery, religious differences, and murder.

1. Slavery (ar-Riq), Ar-Riq according to the language is al-'ubudiyah which means "devotion". According to the term is the legal inadequacy that exists in a person. (Wahbah Zuhaili,1987:7713). A slave is seen as belonging to his master, he must be obedient and submissive to carry out the responsibility given to him. (Abdul Aziz Dahlan,2000:222).
2. Different Religions, The difference in religion between muwarris and his heirs who are Muslim and other religions is a barrier to inheritance based on the agreement of the Hanafi school, the Maliki school, the Shafi 'i school, and the Hambali school. A Muslim cannot inherit property from an infidel and vice versa even if there is a kinship or marriage. (Wahbah Zuhaili,1987:7719). In the hadith of the Prophet which reads: That is to say: From Usamah ibn Zaid said: The Messenger of Allah saw said 'Muslims do not inherit the property of the infidels and the kafi r do not inherit the property of the Islam.HR. Bukhari  
In addition to the historical hadith of Abu David: That is to say: It cannot inherit from each other between two adherents of different religions. (Abu Dawud Sulaiman,t.t:117).
3. Murder, Jumhur the cleric has agreed to establish that the murder is in principle a barrier to the murderer's possession of the estate of the person he has killed. (Beni Ahmad Saebani, 2000:115). In accordance with the words of the Prophet which reads: That is to say: From 'Amr bin Syu'aib from his father from his grandfather said he: said the Messenger of Allah saw: "There is not the right for the murderer in the slightest to inherit" (Abi Bakr bin Husein bin Ali Al-Baihaki,t.t:220).

## **B. Special Findings**

In the division of inheritance in the village of Pari Serdang Bedagai City, several models are used:

## **1. Division of Property Before Death**

### **a. Division by Consensus**

This is done if the heirs have settled down or have married, therefore the testator distributes part of his property to the heirs who has been married, therefore the testator distributes part of his property to the heirs who has been married, so that the heirs can support their children and wives, and no longer depend on their parents (not dependent) and have owned own earnings, but heirs are not allowed to sell inheritance such without the consent of the testator, because the estate has not the whole becomes the property of the heir or in other words the heir still has the right on the inheritance he has given to the heirs, Doing this is to help their children to be independent, mostly when they have been given to their children and that is what will become their mother after their parents have died.

### **b. Giving to the smallest boys**

The form of distribution of inheritance property carried out in the Muslim community of Pari City village in a traditional way that has long been prevailing in this village is by giving it to the youngest child (the youngest child). The division of inheritance for boys in the patrilineal system is also not arbitrary, because the division of inheritance has a specificity that is the smallest boy.

## **2. Dividing Inheritance After Death**

### **a. Kinship**

This is done after the death of the heir, the division of the estate is usually preceded by the deliberation of the heirs first, and such deliberations shall usually be conducted after three days from the death of the testator, It was only after these three days that the heirs had deliberations on how to distribute the estate to each heir, Usually the deliberations go smoothly but it is also possible that there is also a mismatch between the heirs regarding the division of the inheritance left by the heir. If there has been a problem then the first thing the heirs do is to call the local traditional figures, Religious leaders, the purpose of this call is so that their role can be to provide proposals or opinions on how good the issue is about the division of inheritance. (Akbar, Interview:2022).

### **b. Folding the Village device**

If there are no bright spots or problems still occur, the next step is to call local village officials such as village heads, village secretary, and accompanied by the head of the local Religious Affairs Office. In this way, the problem of inheritance in the pari city village family can be resolved peacefully.

### **c. Lawsuit to the Court**

In addition to the above means, the heirs who still feel unfair in the division of inherited property and file a lawsuit with the court, and then the court which has the right to decide and determine as best and fairly as possible the dispossession of the estate, so that neither party feels aggrieved or feels unjust. In this case the judge's decision is final and concrete, so

whatever the decision of the court will have to be implemented by the heirs because they have agreed to leave the issue of the division of the inheritance to the court, to obtain a judge's verdict that is as fair as possible in the division of the estate. (Abdullah, Interview:2022).

But most societies do not share the inheritance with a lawsuit to the courts, as long as you can still use deliberation and consensus, because the kinship system in Pari city village, Pantai Cermin District, is still thick. ". (Isnawati M. S., 2022) So society in this case the heirs do not want to argue or fight over the inherited property left by the heir. The heirs prefer the path of kinship for the sake of unity and the integrity of the family.

### **3. Obstacles in the distribution of inheritance in the Muslim community of Pari City village.**

In general, the obstacles to the distribution of inheritance to the village community of Pari city are:

1. The influence of religious beliefs, knowledge of religious people will be able to influence one's religious practice. As is the case in the village community of Kota Pari that a strong religious person can more easily accept the law itself especially about inheritance that he thinks property or inheritance is not everything in this life.
2. Marriage factors, hamabatan in the implementation of the distribution of inheritance to the people of Pari City Village are also caused by marriage factors that will make it difficult to be categorized can differ in opinion with the wife's family / family.
3. Lack of knowledge of religious figures in the issue of inheritance, obstacles in the implementation of inheritance are also due to the lack of socialization by religious figures on the importance of Islamic heritage law.
4. The absence of sanctions in the implementation of the division of inheritance, the problem of obstacles in the implementation of inheritance the absence of sanctions from the family, community leaders, especially from the government so it seems that the law is up to you because it is a family matter.
5. The influence of needs on property, obstacles to the implementation of inheritance is also influenced by each person in dire need of property so that the family is very ambitious about the property itself.

### **4. CONCLUSIONS**

The division of inherited property is carried out in the form of Islamic law and customary law. But the most widely used way in society Pari City Village, Pantai Cermin Serdang Bedagai District is legally customary, such as the division of houses is not included in the inheritance. Usually the house is given to the youngest son and the mother is taken care of by the youngest son. The reason for using customary law is because the law is commonly used from the past / hereditary and has been inherent in the community. However, there are still those who use Islamic law in dividing inheritance, usually Islamic law is used by people who have education, especially religious education, the reason is to use Islamic law because it is equally beneficial and no one is harmed.

In literature, the implementation of inheritance law in Indonesia is through the implementation of Islamic law, however, in reality Indonesia carries out different divisions of heritage. However, the reality in Pari City Village is that the settlement of inheritance can be through jalu before death by way of consensus or will and agreed upon by the family, and there is also by way of giving to the youngest child or a man ready to own a home. Another way after passing away is to have a family meeting religious, community leaders. On the other hand, if there is a dispute and it cannot be resolved by a new family, invite the village officials to decide it. Other settlements go through the path of a lawsuit to a religious court and this is very rare.

## **BIBLIOGRAPHY**

### **Al-Quran al-Karim**

- Abdullah, Hasil wawancara dengan salah satu tokoh Agama masyarakat desa Kota Pari Kecamatan Pantai Cermin.
- Abi Bakar bin Husein bin Ali Al-Baihaki, *Sunanul Qubra*, juz 6, (Beirut: Dar al-Fikr, t.th).
- Abu Dawud Sulaiman al-Asy'as al-Sajistani, *Sunan Abi Dawud*, (Beirut: Dar al-Ma'rifah, t.th).
- Ahmad Musthafa Al-Maraghi, *Tafsir Al-Maraghi*, Jilid IV, Musthafa Al-Babi Al-Halabi, Mesir, tt., hlm. 191-192.
- Abi 'Abdillah Muhammad bin Ahmad Al-Anshari al-Qurthubi, *Al-Jaami' al-Ahkaam al-Qur'an*, Jilid V-VI, Dar al-Kutub al-'ilmiyah, Beirut, tt.
- Akbar, Hasil wawancara dengan Akbar salah satu warga tokoh masyarakat desa Kota Pari Kecamatan Pantai Cermin. .
- Beni Ahmad Saebani, *Fikih Mawaris*, (Bandung: Pustaka Setia, 2000).
- Departemen Pendidikan dan Kebudayaan RI, *Kamus Besar Bahasa Indonesia*, (Jakarta: Balai Pustaka, 1994).
- Eka Rahayu, *Implementasi Hukum Waris Islam Pada Masyarakat Kecamatan Kepahiang Kabupaten Kepahiang*, Jurnal QIYAS Vol. 2, No. 1, April 2017.
- Departemen Pendidikan dan Kebudayaan, *Kamus Besar Bahasa Indonesia*, cet. V Edisi II (Jakarta: Balai Pustaka, 1995).
- Kompilasi Hukum Islam, pasal 171 huruf a. Lihat Ahmad Rofiq, *Hukum Islam di Indonesia*, (Jakarta: RajaGrafindo Persada, 1995).
- Muhammad bin Isma'il al-Kahlāniy, *Subul al-Salām*, Juz III, Semarang: Toha Putra, 2000.
- Said Bakri, *I'anatu at-Thalibin*, Jilid III, (Bairut: at-Turath al-'Arabi, t.t).
- Sakban Lubis, *Pembagian Harta Waris Pada Masyarakat Muslim Mandailing Natal (Kajian Sosiologis Hukum Islam di Mandailing Natal)*, Disertasi Pascasarjana Universitas Islam Negeri Sumataera Utara, Medan 2020.
- Ramulyo Idris, *Hukum Waris Islam*, (Jakarta: Ind.Hill, 1987).
- Suparman Usman dan Yusuf Somawinata, *Fiqh Mawaris (Hukum Kewarisan Islam)*, Jakarta: Gaya Media Pratama, Cet. 2, 2002.
- Wahbah al-Zuhaili, *al-Fiqh al-Islam wa Adillatuhu*, Juz x (Damsyk: Dar al-Fikr, 1997).



- Amiruddin Siahaan, M. S. (2022). *Book Chapter “ Sistem Finansial Pendidikan .* Deli Serdang: As-Sunnah Press.
- Aryati, L. (2010). *Menjadi MC Acara Pernikahan .* Lies: PT Gramedia Pustaka Utama.
- Harahap, M. S. (2019). Pelaksanaan Pendidikan Boarding School di Sekolah Tinggi Agama Islam as-Sunnah Deli Serdang. *Edu Religia.*
- Harahap, M. S. (2019). Sejarah Dinasti Bani Umaiyah dan Pendidikan Islam. *WARAQAT: Jurnal Ilmu-Ilmu Keislaman*, 21.
- Harahap, M. S. (2020). *Boarding School Perguruan Tinggi Islam (Kajian Berbasis Data Penelitian Lapangan).* Gunung Tua: PKBM AL-AMIN.
- Harahap, M. S. (2022). *Sejarah Pendidikan Islam. .* Deli Serdang: As-Sunnah Press.
- Ibrahim, M. (2007). *Syari’at dan Adat Istiadat.* Takengon: Yayasan Maqam Mahmuda.
- Ibrahim, M. (2013). *Nilai-nilai Pendidikan Islam Dalam Adat Gayo.* Banda Aceh: Al-Mumtaz Institute.
- Indonesia, U.-u. R. (Nomor 1 Tahun 1974). *tentang Perkawinan,.*
- Isnawati, M. S. (2022). Melatih Motorik Halus Anak Melalui Kegiatan Meronce Studi Kasus Lembaga Pendidikan Islam di Aceh Tengah. *Bunayya: Jurnal Pendidikan Guru Madrasah Ibtidaiyah* 3 (2) , , 164-183.
- Liza Zakariya, d. (2007). *Let’s Get Married .* Jakarta: Penebar Plus.
- Muhammad Sapii Harahap, D. (2022). Learning Al-Quran and Arabic at the Orphanage. *Al-arkhabiil: Jurnal Pengabdian Masyarakat*, 19-31.
- Muhammad Sapii Harahap, D. (2022). Observing the Development of the As-Sunnah Islamic College. *WARAQAT: Jurnal Ilmu-Ilmu Keislaman*, 134-149.
- Muhammad Sapii Harahap, I. (2021). Teachers’perceptions Of Reward And Punishment And Its Implementation In Learning At Smp It Khairul Imam Medan. *Faculty of Islamic Religion, Muhammadiyah.*
- Muhammad Sapii Harahap, N. I. (2022). The Effectiveness Of Using Audio-Visual Aids To Improve The Listening Skill Of Second Year Secondary Students At The Institute Of Islamic Education Al-Hadith Bagan Batu Riau. *Proceeding of International Conference on Islamic Education (ICIED)* , , 477-487.
- Nasional, D. P. (2008). *Kamus Besar Bahasa Indonesia.* Jakarta: Pusat Bahasa.
- Nata, A. (2010). *Ilmu Pendidikan Islam.* Jakarta: Prenada Media Group.
- Nurdin, A. F. (2009). Integralisme Islam dan Nilai-nilai Filosofis Budaya Lokal pada Pembangunan Propinsi Lampung. *Unisia*, 71.
- Pinan, A. H. (1998). *Daur Hidup Gayo.* Aceh Tengah: Ikatan Cendekiawan Muslim Indonesia (ICMI).
- Sulma Mafirja, d. (2018). Seminar Nasional dan Workshop Bimbingan dan Konseling.
- Zainuddin, d. (2017). *Kepastian Hukum Perkawinan Siri dan Permasalahannya Ditinjau dari Undang-Undang Nomor I Tahun 1974.* Yogyakarta: Deepublisher.