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CONTEMPORARY ASPECT OF GRANT AND INHERITANCE TO CHILDREN (STUDY PHILOSOPHY OF ISLAMIC LAW)

Nurfaizah[1*]
[1] Islamic State University of Alauddin, Makassar
Sabri Samin[2]
[2] Islamic State University of Alauddin, Makassar
Ahmad Musyahid[3]
[3] Islamic State University of Alauddin, Makassar
Misbahuddin Amin[4]
[4] Islamic State University of Alauddin, Makassar

Email: 80100322028@uin-alauddin.ac.id, Sabrisamin55@yahoo.com, achmad.musyahid@uin.alauddin,ac.id , 80100322036@uin-alauddin.ac.id

Abstract

Inheritance is the inheritance of an heir who has passed away to his heirs with sababiyah and nasabiyah relationships. Whereas a grant is a gift to someone for the assets they own, either to children or other relatives during their lifetime. The purpose of this research is to find out the theoretical review of inheritance and grants to children in the perspective of Islamic law, with this type of qualitative research and using a normative method. As a result of research that inheritance to children is an absolute right that is obtained by a child as a legal heir, while grants to children are gifts that provide the initial inheritance from their parents. So that it is categorized as inherited property and can be withdrawn.

Keywords: Inheritance; Grant; Children; Islamic Law.

INTRODUCTION

Inheritance law arrangements in Indonesia are still pluralistic, because currently three systems of inheritance law apply, namely customary inheritance law, Islamic inheritance law, and inheritance law from the Civil Code (KUHPerdata). R. Subekti believes that similar to

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marriage law, inheritance law in Indonesia also varies. Inheritance law arrangements in Indonesia have a pluralistic or multicultural character because there are three inheritance law systems that apply in parallel. The three systems are customary inheritance law, Islamic inheritance law, and inheritance law based on the Civil Code (KUHPerdata).

Customary inheritance law refers to the legal traditions and customs that apply to indigenous peoples in Indonesia. Each region in Indonesia has its own customs and rules regarding inheritance distribution. This customary inheritance law regulation applies to indigenous peoples who adhere to a kinship system and certain customary laws, such as the Javanese, Batak, Minangkabau, and so on. Customary inheritance law is generally based on a patriarchal system, in which the main heir is a son or male descendant who takes precedence.

Islamic inheritance law refers to the principles set out in the Qur'an, hadith, qiyas, and ijma'. Islamic inheritance law applies to Muslim communities in Indonesia. Islamic inheritance law bases inheritance distribution based on clear provisions in the Qur'an and hadith, such as the distribution of inheritance between sons and daughters, husband and wife, parents and children, and the wider family. The Islamic inheritance system adheres to the principles of justice and equality in the distribution of inheritance.

In addition to customary inheritance law and Islamic inheritance law, Indonesia also applies inheritance law based on the Civil Code (KUHPerdata). The inheritance law of the Civil Code applies to non-Muslim communities or people who do not adhere to a particular traditional or religious system. The inheritance law of the Civil Code is based on the principles of civil law governing rights and obligations regarding the ownership, transfer and distribution of inherited assets in general.

The existence of these three systems of inheritance law reflects the diversity of cultures, religions and customs that exist in Indonesia. Even though they operate in parallel, the three systems are legally recognized and have different rules for dividing inheritance. This shows that Indonesia as a country with heterogeneous population respects and accommodates the diversity of its people through various inheritance law arrangements.

The issue of inheritance is often a source of disputes within the family, especially to determine who is entitled and who is not entitled to an inheritance which in turn can lead to family rifts. According to one party it is considered fair while according to another party it still considers it unfair. Justice according to human thought is very subjective.

According to the Civil Code (KUHPerdata) Article 1666, it states that a gift is an agreement

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whereby the donor, during his lifetime, freely and irrevocably surrenders something for the purposes of the grantee who receives the gift. Grants include unilateral agreements, where only one party has an obligation to this agreement, namely the grantor, while the party receiving the grant has absolutely no obligation. Grants include free agreements (*om niet*) where the words "for free" are intended only for achievements from one party, while the other party does not need to provide counter-achievements as compensation. Such agreements are also called unilateral as opposed to reciprocal (bilateral) agreements. Of course, there are many agreements that are reciprocal, because what is common is that a person who undertakes an achievement because he will get a counter-achievement.

The word "at the time of his life" of the donor, is to distinguish the donor from the origin of the gifts made in a testament which will only have power and take effect after the giver dies and every time as long as the giver is still alive, can be changed or withdrawn by it. award in the testament in B.W. called a testamentary grant (*legaat*) which is regulated in inheritance law, while this grant means an agreement. due to a grant from B.W. it means an agreement, so it has used itself it cannot be withdrawn unilaterally by the donor.

In the Compilation of Islamic Law (KHI) Article 171 letter (g) it is said that the gift of giving something voluntarily and without compensation from someone to another person who is still alive is to be owned. Furthermore, Article 210 KHI in paragraph (1) states that a person who is at least 21 years old, has good sense without coercion can donate up to one-third of his property to another person or institution in the presence of two witnesses to own it. Furthermore, paragraph (2) states that the property that is donated must be the right of the grantor. Thus, if someone donates property that is not his right, then the gift becomes void.

Based on the provisions above, it can be said that everyone may give or receive grants, except for people who are declared incapable of doing so. In addition, the element of willingness to carry out legal actions without coercion from other parties is an element that must exist in the implementation of grants.

Furthermore, Article 211 KHI states that gifts from parents can be counted as inheritance. In connection with the function of grants as a social function that can be given to anyone regardless of race, creed and class, then grants can be used as a solution to solving inheritance law problems today. Article 212 KHI states, grants cannot be withdrawn, except for gifts from parents to their children.

The problem of grant cancellation is a problem that often occurs because the recipient

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of the grant does not meet the requirements to carry out the grant that has been given. based on the rules, grants that have been given cannot be withdrawn, however there are some exceptions as a result of which grants can be withdrawn. Regarding grants in Indonesia, it is regulated in several provisions, namely in the Compilation of Islamic Law (KHI), customary law and the Civil Code (KUHPerdata). from these provisions, a grant means a solution in the distribution of inheritance to his family.

Based on this explanation, this research will discuss the Contemporary Aspects of Grants and Inheritance what is the Philosophical Basis for giving grants and inheritance and what are the benefits of equalizing grants and inheritance?

METHOD

This study uses a qualitative method with a normative approach in order to examine information related to reason and revelation in the grounding of Islamic law. This method is used to understand the legal concepts and principles that underlie Islamic inheritance law by exploring various relevant reference sources. The data collection method used in this study involved literature study and interviews with several respondents, namely the grantor and grantee as inheritance. Literature study is carried out by searching, collecting, and analyzing primary legal materials related to inheritance and grants. These primary legal materials can be in the form of books, articles, journals, or other reference sources that specifically address topics relevant to research. In addition, this study also involved interviews with grantees as informants. Interviews are used as a data collection tool that allows researchers to obtain more detailed and in-depth data and information about understanding and practical experience related to inheritance and grants. The interviewees were selected based on their expertise and experience in grant-making as inheritance. The data obtained from the literature study and interviews were used as the basic material for the consideration of this research. The data is analyzed systematically and interpreted in the context of the concepts of reason and revelation in the grounding of Islamic law. A normative approach is used to examine and interpret Islamic legal concepts related to inheritance and grants. This study aims to gain a deeper understanding of the concept of Islamic inheritance law, especially in the context of grants as an alternative to overcome legal injustices that may arise in the distribution of inheritance. By using qualitative methods and a normative approach, this study seeks to provide a comprehensive and contextual understanding of legal issues related to inheritance and grants in Islam.

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DISCUSSION

A. Contemporary Aspects of Grants and Inheritance

Inheritance is property that is contractually new after the testator dies. This means that the inheritance provisions are waiting for a member of the family to pass away. Inheritance is given of course after one of the family (for example parents) dies. The grant is given his property before he dies. At that time the ownership changed. In this case, the inheritance is given to the heirs who are entitled to receive it in accordance with applicable legal provisions, as stipulated in the legislation or religious norms adhered to. (Muhammad Ajib, 2019:80)

It is important to note that the determination of the distribution of inheritance occurs after the heir dies, namely when there is a transfer of ownership of the property from the heir to his heirs. Before the heir dies, the property is still the personal property of the heir and cannot be legally distributed to the heirs.

On the other hand, a grant is a form of giving property by the owner to the recipient of the grant as long as the owner is still alive. In a grant, ownership of the property transfers directly to the recipient of the grant when the grant is given, and the owner of the property no longer has any claim or ownership of the property that has been donated.

In other words, the fundamental difference between inheritance and grants is when the transfer of ownership of the property occurs. In inheritance, ownership of the property transfers after the heir dies, whereas in grants, ownership of the property changes when the grant is given by the owner of the property who is still alive.

However, it is important to ensure that both inheritance and grants are carried out in accordance with the legal provisions in force in a particular country or jurisdiction, as well as taking into account the religious requirements of the individual or family concerned. Many countries have laws and regulations governing inheritance and grants, including rules regarding requirements, procedures and restrictions to be followed in the context of inheritance and grants.

Islamic inheritance law is formulated as "a set of legal provisions governing the division of assets owned by a person when he dies". The main source of Islamic inheritance law is the Koran and the hadith of the Prophet. then Qiyas (analogy) and Ijma' (Ulama Consensus). This inheritance law is based on the main sources of law in Islam, namely the Koran and the hadiths of the Prophet Muhammad SAW, and involves analogical reasoning methods (qiyas) and the

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consensus of the scholars (ijma'). (Surini Ahlan Sjarif and Nurul Elmiyah, 2005:2)

1. Al-Qur'an: Al-Qur'an is the main source of Islamic teachings and serves as a guide for Muslims in all aspects of life, including inheritance law. Although the Qur'an does not provide detailed rules regarding the distribution of inheritance, there are several verses that provide guidance on the principles that must be considered in the distribution of inheritance. For example, in Surah An-Nisa verses 11-12, Allah mentions the division of inheritance between sons and daughters and the roles of husband and wife in this division.
2. Hadith of the Prophet Muhammad SAW: Hadith are the sayings, actions or agreements of the Prophet Muhammad SAW which are the second source of law in Islam. There are many hadiths that provide further instructions and explanations regarding inheritance law. An example is the hadith which mentions how the division of inheritance is carried out between heirs in accordance with religious provisions.
3. Qiyas (Analogy): Qiyas is a method of reasoning used to obtain new laws by combining the principles contained in the Qur'an and hadith for cases that are not regulated directly by these sources. In the context of inheritance law, qiyas is used to adapt the principles contained in the Qur'an and hadith to more contemporary situations and conditions.
4. Ijma' (Ulama Consensus): Ijma' refers to the agreement of the scholars regarding inheritance law. When scholars unanimously agree on a particular interpretation or opinion regarding inheritance law, it is considered a binding authority for Muslims. Ijma' plays an important role in shaping Islamic inheritance laws by ensuring agreement and consistency in the application of Islamic principles in the context of inheritance.

Through a combination of these legal sources, Islamic inheritance law continues to develop and adapt to changing times and social conditions. This aims to achieve justice, equality, and meet the needs of the Muslim community in regulating the fair distribution of inheritance in accordance with Islamic teachings.

Islamic inheritance law is a law that regulates the transfer of inheritance rights (*tirkah*) to heirs, determines who has the right to become an heir and how much is each share. Islamic inheritance law receives great attention, because the matter of inheritance often causes unfavorable consequences for families whose heirs die, it is human instinct to like property as stated in QS. Ali Imran: 14:

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Meaning: "It is made beautiful in (the view of) humans to love what they desire, namely: women, children, wealth of many types of gold, silver, selected horses, livestock and fields. That is the pleasure of living in the world, and with Allah is a good place to return (heaven) "

Islamic inheritance laws basically apply to Muslims anywhere in the world. Even so, the style of an Islamic state and the life of the people in that country or region have an influence on the inheritance law in that area. This influence is a limited influence that cannot go beyond the main lines of the provisions of Islamic inheritance law.

Islamic inheritance laws basically apply to Muslims anywhere in the world, following the teachings of the Islamic religion which are the main guide in their lives. However, the influence of the style of an Islamic state and people's lives in that country or region can affect the implementation and application of inheritance law.

Each country or region has a unique system of laws and regulations, including in the context of inheritance law. As a result, the implementation of Islamic inheritance law may vary according to the cultural influences, traditions and social norms that exist in that society.

The influence of the style of an Islamic state and people's lives can be reflected in several aspects of inheritance law, including:

a. Legal Interpretation: The influence of state or regional features can influence the interpretation of applied Islamic inheritance law. Although the basic principles of Islamic inheritance law are recognized, interpretations of certain aspects may vary. Cultural factors, local traditions, and community habits can influence the interpretation and application of this inheritance law.
b. Rule of Law: Countries or regions that follow Islam as an official religion can have laws governing inheritance based on Islamic principles. These regulations may include administrative procedures, requirements or obligations that must be met in the distribution of inheritance.
c. Courts and Judicial System: The influence of state or regional characteristics can also be seen in the court system adjudicating disputes or issues related to inheritance law. The Islamic justice system in countries that apply Sharia law has the authority to decide inheritance disputes based on Islamic inheritance law.

However, it is important to note that the influence of state or regional characteristics on

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Islamic inheritance law must not go beyond the main lines of the legal provisions. The basic principles of Islamic inheritance law which are based on the Qur'an, the traditions of the Prophet Muhammad SAW, qiyas, and ijma' remain the main basis in determining the distribution of inheritance.

In this regard, Islamic scholars, religious scholars and jurists play an important role in maintaining the integrity of Islamic inheritance law and ensuring that state or regional influences do not violate these principles.

Overall, Islamic inheritance law has a strong foundation and remains in force for Muslims around the world. The influence of state or regional characteristics can affect the implementation and application of the inheritance law, but must still comply with the basic provisions of Islamic law in terms of inheritance distribution.

In addition, customary inheritance law covers all principles, norms and decisions or legal provisions related to the process of transmitting and controlling property (material) and assets (non-material) from one generation to the next. Customary inheritance law varies greatly depending on the region. In this customary inheritance there is a patrilineal, matrilineal, or bilateral. This shows that there are differences between one customary law area and another, which are related to the family system and the type and status of the assets to be inherited. (Surini Ahlan Sjarif and Nurul Elmiyah, p.1)

The legal basis for inheritance to children is in QR Surah An-Nisa (4): 11.

> Meaning: "Allah advises you regarding (the distribution of inheritance for) your children. Namely: the share of one son is equal to the share of two daughters; and if the children are all girls more than two, then for them two-thirds of the assets left behind; if the daughter is only one, then he gets half the treasure".

This verse mentions the discourse on the division of inheritance for children whose parents have died, either by the father or by the mother. there are three basic principles in terms of inheritance provisions for children in this verse, if a person who dies leaves children among whom there are sons, then this verse emphasizes that the share received by sons is more twice as large as the original portion received by the daughters.

Furthermore, grants come from Arabic which has been standardized into Indonesian, namely the word Wahaba-yahibu-hibatan which means giving or giving. (Louis Ma'luf, 1986:920)

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Whereas in the Big Indonesian Dictionary it means giving voluntarily by transferring the rights of something to someone else. (The Language Center Dictionary Compilation Team, 2005:398)

Based on the Qur'anic Dictionary of Science, what is meant by a grant is a gift to someone during their lifetime, with no expectation of a return or bond, either verbally or in writing.

Etymologically, grant means passing or channeling from the hands of those who give to the hands of those who are given. While the terminology that grant means a contract of giving one's ownership to another person without any compensation, which is done voluntarily when during the life of the giver. (Ibn 'Ãbidîn, n. y.:530)

The scholars of the Hambali School define grants as giving ownership of an asset which is known or unknown because it is difficult to know, exists, can be handed over, does not have to, while still alive, without any compensation and uses the pronunciation which according to the norm is a gift, giving ownership or the like, by people who are allowed to spend assets.

According to fiqh scholars, the word grant is formulated in Arabic from the Hanafi school, grant means to give something without promising an immediate reward, whereas according to the Maliki school, it is to give the property of something without compensation to the person who is given it, and it can also be called a gift. The Shafi'i school of thought briefly states that grant means consciously giving property while alive.

Meanwhile, we can guide and recommend the legal basis of grants based on the word of Allah SWT: Surat al-Baqarah verse 177 which reads:

> Meaning: "... and give the property he loves to his relatives, orphans, the poor, travelers (who need help) and people who beg; and (liberate) slaves, establish prayers, and pay zakat; and those who keep their promises when they promise, and those who are patient in adversity, suffering and in war. They are the true (faith); and they are the pious ones."

Grants are seen from a horizontal aspect (relations between humans and their environment), namely that they can function as an effort to reduce the gap between the rich and the poor and can eliminate feelings of social jealousy, and by giving will create an atmosphere of intimacy and affection.

Therefore, gifts can strengthen the sense of love between humans and can also strengthen our faith. Islam delivers and conveys salvation as a whole having very complete teachings in all aspects of life.

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Grants are a form of getting closer to God, in order to narrow the gap between family relationships and foster a sense of loyalty to friends as well as social awareness.

Grants for children and relatives are especially better, because in them there is an element of connecting ties. The priests agreed that a gift is valid with the consent, qabul and handing over of objects. As Allah SWT has prescribed grants because it can unite hearts and strengthen the bonds of love between people.

B. Review of Islamic Law on Inheritance and Grants to Children

As has been explained that a grant is a gift from a grantor to another person who becomes a recipient of a grant when the grantor (who has assets) is still alive, while inheritance is given when the heir (who has assets) has died. Although the time of giving is not aligned, the two have a very close relationship. especially the grant is given to children or heirs because it will determine the portion of the inheritance that will be received. according to Article 211 KHI that grants given by parents to their children can be counted as inheritance.

Grants and inheritance have a close relationship in the context of the distribution of assets. Although the timing of giving grants and handing over an inheritance differ, both have a significant impact on the portion received by the grantee or heir.

A grant is an act of giving property by one person (the grantor) to another person (the grantee) while the grantor is still alive. In this context, the grantor voluntarily transfers ownership of the property to the grantee without waiting for his death. These grants can be given to children or heirs, and grants given to children by parents can be counted as part of the inheritance.

Meanwhile, inheritance is the property given to the heir after the death of the heir. In this case, inheritance becomes the absolute right of heirs, especially children, in accordance with the provisions of Islamic inheritance law. Determination of the share received by children in inheritance can be influenced by the grants that have been given to them by their parents during their lifetime. For example, if a parent gives a gift to a certain child, the value of the grant can be calculated in the distribution of inheritance, so that the portion received by the child can be reduced according to the value of the grant that has been received.

Article 211 of the Compilation of Islamic Law (KHI) stipulates thus grants given by parents to their children can be counted as part of the inheritance. This shows that grants have a significant influence on the distribution of inheritance, and giving grants before the death of the

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heir can affect the size of the portion received by the heirs.

Thus, both grants and inheritance have an important role in regulating the distribution of assets. Even though the timing of giving a grant and handing over an inheritance are different, the two are interrelated and can affect the rights and shares of the heirs.

Indeed, the principle of implementing parental grants to children is in accordance with the instructions of the Prophet Muhammad, namely that their parts should be equal. Even if they are distinguished, it can only be done if they mutually agree. Therefore, there are differences of opinion regarding the legal status of exaggerating grants to one child, not to other people. The most important thing is that grants are made by deliberation and with the consent of the existing children. This is important so that there are no divisions in the family.

Thus, it can be emphasized that grants can be counted as inheritance. It may be that this pattern of distribution is considered by some to be the ambivalent attitude of Muslims in Indonesia in dealing with the matter of inheritance. On the one hand, Islamic inheritance law is required to be carried out, but the realization has been achieved by grant, even before the heir dies. Whereas KHI later emphasized this, it seemed that it was based on habits that were considered "positive" by the community. Because, it is not something strange, if the distribution of inheritance is carried out, it will cause suffering for certain parties, especially if the settlement is in the form of a lawsuit in court.

Sometimes a grant given to some heirs is followed by an agreement, that if he has received a certain amount of grant, he promises not to ask for a share of the inheritance in the future if the grantor dies. This kind of agreement is called resignation (*takharruj*). Fatchur Rahman defines Takharuj as an agreement entered into by the heirs to resign (reject) one of the heirs in receiving an inheritance share by giving an achievement, whether the achievement comes from the property of the person who resigns, or comes from the inheritance left by him. will be distributed. (Ahmad Rofiq, 2000:474)

Resignation (takharruj) is an agreement that can occur in the context of grants and inheritance. Sometimes, when a person receives a grant of a certain amount from the grantor, they agree not to claim a future share of the inheritance if the grantor dies. This kind of agreement aims to regulate the fair distribution of assets and avoid conflicts between heirs.

Resignation or takharruj can occur at the initiative of the heir who received the grant or at the request of the grantor. In the takharruj agreement, the heirs who receive the grant agree to surrender their inheritance rights or leave the inheritance distribution process by providing a

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certain achievement or contribution. These achievements can be in the form of assets owned by the heirs who resign or can come from inheritance that will be distributed to other heirs.

Takharruj agreement provides flexibility in the division of inheritance. With this agreement, the heirs who receive the grant can choose not to ask for a share in the inheritance and provide opportunities for other heirs to get a larger share. The takharruj agreement can be an effective solution to avoid potential conflicts and strengthen the relationship between heirs.

However, it should be noted that the takharruj agreement must fulfill legal requirements in accordance with applicable law. The process of making a takharruj agreement must be carried out in good faith and with the approval of all parties involved. In addition, this agreement must also comply with the provisions of applicable inheritance law and not violate the rights of heirs guaranteed by religion and legislation.

With resignation (takharruj), grants can be an effective mechanism for dividing assets fairly between heirs. This allows the parties to communicate, negotiate and reach an agreement that meets the interests of all parties concerned. The takharruj agreement gives freedom to individuals in managing their inheritance by considering factors such as justice, equality, and family harmony.

By definition, takharruj means a transaction between two or more parties, one party surrenders something to another party, and the other party surrenders his inheritance to the first party.

The problem now is that it needs to be identified so that it is clear, whether a gift given by someone to their children is called an inheritance, or is it an ordinary gift because the two have legal consequences that are not in harmony. First, if the grant is calculated as inheritance, then it really depends on the agreement of the children, or it is calculated according to the inheritance system, because as stated by Umar ibn al-Khattab that peace is actually better, rather than later having to involve a court. secondly, if the gift is stated to be a grant only, then according to the instructions of the Prophet Muhammad, the distribution must be even. This is confirmed by the action of Rasulullah SAW, "If you do not give your other children with the same gift, then withdraw the gift" (Ahmad Rofiq, 2000:475)

As it is known that Islamic inheritance law, if applied in accordance with the provisions of the classical fiqh book, still causes a lot of problems when faced with the social reality of the Indonesian people, including:

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1. There is a Tendency for Some Indonesian People not to Distinguish between the Inheritance Rights of Sons and Daughters.

The inheritance rights of sons and daughters are 2: 1 which are considered final because the legal basis is *qath'i al-wurud* and *qat'i al-dilalah* (the definite argument is from the Al-Qur`an and Sunnah of Rasulullah SAW) so that no could be interpreted differently, but the fact is that the Indonesian Muslim community has a tendency not to discriminate in giving gifts to both boys and girls, moreover using the issue of gender equality, which has implications for the distribution of inheritance without discriminating between the rights of sons and daughters. boys and girls, as for the Muslim community who consistently carry out the distribution of inheritance two: 1 seems to be more inclined to the form of obedience and adherence to religious teachings, not based on legal enlightenment.

In this regard, many Muslim communities who adhere to their religion distribute their wealth while they are still alive to their children, without discriminating between male and female children so that only a small portion becomes inheritance. This is nothing but a form of "avoiding" the division of the system for inheritance two to one (2:1) and is more directed to the distribution of inheritance one to one (1:1). (Ibn Rusydi, p. 159)

Distributing assets in the form of grants while the heir is still alive, with the intention and aim that the sons and daughters get the same share cannot be blamed, even that is a solution to Islamic inheritance law, there is even a history from Ibn Abas R.A. he said, the Prophet once said as follows: “Equalize the gifts you do to your children; and if you want to exaggerate, then let the excess be given to daughters ". (HR. Bayhaqi, 1994, juz 6, 177). (Ibn Rusydi, p. 159)

Dividing the property in the form of grants while the heir is still alive to ensure that sons and daughters receive an equal share is a solution recommended in Islamic inheritance law. This approach is based on the principles of fairness and equality in dividing inheritance between heirs.

In the Islamic inheritance tradition, there are provisions that require a fair distribution of inheritance between heirs, including sons and daughters. This principle is recognized as an effort to realize social justice and avoid inequality in the distribution of inheritance. Grants given by heirs to their children, especially grants to daughters, can be used as a means of ensuring that they get the same share as their sons.

In the view of Islam, men and women have the same rights in owning and using property. Therefore, grants are one way that heirs can use to ensure that sons and daughters receive an equal share in the inheritance. By giving grants to daughters, heirs actively acknowledge their

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right to inheritance and avoid potential injustices that may arise in inheritance distribution.

In addition, the principles of justice and equality are also reflected in Islamic teachings which emphasize the importance of fair treatment of all individuals. In the hadith narrated by Ibn Abbas, the Prophet Muhammad SAW. never conveyed a message to equalize gifts to children and give advantages to girls if they want to exaggerate. This shows the importance of providing equal treatment to children, including in terms of distribution of inheritance.

In this context, grants become instruments that can be used to regulate the distribution of assets fairly and respect the rights of all heirs. By giving grants to daughters, heirs not only ensure equality in the distribution of assets, but also promote harmony in the family. This practice can also reduce the potential for conflict or disputes over inheritance distribution in the future.

It is important to note that while grants can be used as a tool to ensure equality between sons and daughters, this does not eliminate the obligation of the testator to comply with the provisions of Islamic inheritance law which stipulates a proportional distribution of property among all heirs. Grants are only one of the methods that can be used in order to achieve these goals, and the decision to grant grants must be based on wisdom and fairness that takes into account the needs and desires of the heirs and the interests of all the families involved.

In Islam, the principle of equality between sons and daughters in the distribution of inheritance is upheld. Although in Islamic inheritance law there are provisions that determine how the distribution of inheritance is carried out, the Prophet Muhammad SAW also suggested that giving to children be done with equality. History from Ibn Abbas R.A. states that the Prophet Muhammad SAW once said, "Equalize the gifts you do to your children; and if you want to exaggerate, then let that excess be given to daughters."

In this context, grants made by Muslim heirs can be a means of achieving equality in the distribution of property between sons and daughters. Heirs can give grants to daughters in the same amount or in excess of the assets given to sons. This aims to balance the distribution of assets fairly and avoid inequality that may arise.

Giving grants to girls as a form of strength is also considered a form of kindness and appreciation for their role and contribution in the family. In addition, this can also help reduce the potential for injustice and dissatisfaction that may arise in the distribution of inheritance.

However, it is important to note that while giving grants to girls as a form of excess is encouraged, caution and consultation with experienced lawyers or notaries is required. Such

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grants must be made with due observance of applicable legal provisions and by ensuring justice for all the heirs involved.

In addition, keep in mind that grants can only be made on a voluntary basis and at the will of the testator. Heirs have the freedom to decide the amount and form of grants to be given to their heirs, while still adhering to the principles of justice and religious norms adhered to.

From this explanation it can be understood that grants given by the grantor while still alive can be used as a solution in the distribution of inheritance to his heirs. With the aim of dividing it amicably and peacefully, so that in the future there will be no conflict between the heirs, so that each heir's inheritance is clear.

2. Non-Muslim Heirs are not the Heirs of Muslim Heirs, so They will not Receive Inheritance.

The legal basis for non-Muslim heirs not inheriting Muslim heirs is the hadith of Usamah bin Zaid, that the Prophet said: "A Muslim does not inherit from an infidel, (likewise) an infidel does not inherit from a Muslim." (Sayyid Sabiq: 1997, 261).

The legal basis stating that non-Muslim heirs cannot inherit Muslim heirs is based on a hadith narrated by Usama bin Zaid. In this hadith, the Prophet Muhammad SAW said, "A Muslim does not inherit from an infidel, nor does an infidel inherit from a Muslim."

This hadith is one of several hadiths that discuss the issue of inheritance between Muslims and non-Muslims. The principle contained in the hadith is that inheritance rights are directly related to the religion adhered to by the heir and heirs. In this context, Islamic inheritance law stipulates which non-Muslim heirs cannot receive a share of the inheritance left by Muslim heirs.

This hadith is considered as an authoritative source in Islam and is used as a basis for administering inheritance in a fair manner according to the religious beliefs adhered to. This is in line with the principle that Islam has specific rules and regulations that govern various aspects of life, including inheritance.

The application of this principle may differ in different countries or jurisdictions that apply Islamic law. In some countries with an Islamic legal system, this principle is strictly applied and does not allow non-Muslim heirs to receive a share of the inheritance of Muslim heirs.

However, it is important to note that the interpretation and implementation of this principle may vary. Some Islamic scholars and jurists argue that in certain cases, such as in countries that adhere to the principles of justice and equality, there is scope for providing fairer

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treatment to non-Muslim heirs. In this context, inheritance law can be adjusted or there is an option to enter into grants or agreements that allow non-Muslim heirs to receive part of the inheritance.

In this regard, it is important to seek the views and interpretations of Islamic scholars and consult experienced Islamic jurists to understand how this principle is implemented in the relevant jurisdictions. Legal interpretations and approaches to resolving these issues may vary depending on Islamic legal traditions and the social, cultural and legal context prevailing in a particular country or region.

According to Islamic inheritance law which has been applied in the religious court environment, non-Muslim heirs will not receive the inheritance from their Muslim heirs on the basis of the hadith above. Likewise, article 171 letters (b) and (c) KHI, states that heirs and heirs must be Muslim.

According to Islamic inheritance law which is generally applied within the Religious Courts, the principle that applies is that non-Muslim heirs will not get a share of the inheritance of Muslim heirs. This principle is based on the interpretation of Islamic law related to inheritance and religious beliefs adhered to by the heir and heirs.

In several countries that apply Islamic law, including those regulated in the Compilation of Islamic Law (KHI), there are special provisions regarding heirs and heirs who must be Muslim. Article 171 letters (b) and (c) in KHI state that heirs and heirs must be Muslim. This means that non-Muslim heirs are legally ineligible to receive inheritance from Muslim heirs.

This provision aims to regulate inheritance in accordance with the religious beliefs adhered to by the testator and prevent deviations from the will and provisions of Islamic inheritance law. In this context, Islamic inheritance law gives priority to heirs who have religious ties with the heir.

However, it is important to note that the application of these provisions may differ in different countries or jurisdictions that apply Islamic law. Some countries may apply these provisions strictly, while others may have exceptions or adjustments in certain cases.

Apart from that, there is also debate and critical thinking among Islamic scholars and jurists about how to overcome injustices that might arise as a result of this provision. Some views propose fairer treatment of non-Muslim heirs, such as through a grant or agreement mechanism in order to ensure fairness in the distribution of inheritance.

In practice, the implementation and interpretation of Islamic inheritance law may vary

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depending on the country or jurisdiction in force. Therefore, it is important to seek the views and interpretations of Islamic scholars and consult with experienced Islamic jurists to understand the inheritance laws that apply where you are.

If this is maintained, then there is a kind of legal injustice that needs to be resolved, including the settlement with grants that must be given by parents (Muslim heirs) while still alive to non-Muslim heirs so that social upheaval in a family can be avoided.

If the stipulation that non-Muslim heirs cannot inherit Muslim heirs is maintained, this may result in legal injustice in some situations. In cases where there is a family consisting of Muslim heirs and non-Muslim heirs, injustice can arise if the non-Muslim heirs feel unfairly treated and do not get a share of the inheritance left by the Muslim heir.

To overcome the potential for injustice in the distribution of inheritance between Muslim and non-Muslim heirs, one solution that can be considered is through a grant mechanism. Hibah is a way in which Muslim heirs can give part of the property to non-Muslim heirs during their lifetime. In this context, the heir has the freedom to distribute assets according to his wishes, including giving a number of assets to non-Muslim heirs.

In Islam, a grant is a form of voluntary giving from the heir to the recipient of the grant, which is given as long as the heir is still alive. By providing grants to non-Muslim heirs, heirs can ensure that they also participate in distributing wealth fairly and equally. In this case, the heir has the right to determine how much grant to give to non-Muslim heirs.

Through the grant mechanism, heirs have control over the distribution of their assets and can show concern for non-Muslim heirs. This paved the way for equality in inheritance distribution, where the rights of non-Muslim heirs are recognized and respected.

However, it is important to note that grants must be made in compliance with the principles of Islamic law and not in conflict with existing provisions. Grants must also be made in good faith, without any element of coercion or fraud. In this case, the obligation and responsibility of the testator is to ensure that the grant is made in earnest and with sincere intentions.

In addition, it should also be noted that grants do not replace inheritance rights that have been stipulated in Islam. Muslim heirs still have their inheritance rights in accordance with the provisions of the applicable Islamic inheritance law. Grants are only an additional way to accommodate religious diversity in the context of inheritance distribution.

With the existence of a grant mechanism, Muslim heirs can actively participate in creating

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injustices that may arise in the context of inheritance between Muslim and non-Muslim heirs. Grants provide flexibility in maintaining balance and fairness in the distribution of inheritance, while still adhering to the principles of Islamic law. In this context, Muslim heirs can voluntarily give part of their assets to non-Muslim heirs throughout their lives as a form of justice and avoid conflicts within family after death. This grant can be made through a valid grant agreement and in accordance with applicable legal provisions.

By providing grants, it is hoped that social upheaval in a family can be avoided. This can help maintain family harmony and unity, as well as reduce potential conflicts that may arise between non-Muslim heirs and families of Muslim heirs.

However, it is important to note that the grant mechanism is also subject to legal provisions in force in certain countries or jurisdictions. Therefore, Muslim heirs who wish to provide grants to non-Muslim heirs should consult an experienced legal expert or notary to ensure proper legal procedures are carried out.

It is important to note that seeking a fair settlement in an inheritance situation involving grants is one approach that can be considered, but this option must also take into account the legal principles and norms that apply in the Islamic religion as well as the provisions of civil law that apply in the local country.

3. Adoptive Children and Adoptive Parents do not Inherit from Each Other because They Have no Correlation.

As stipulated in Article 209 paragraph (1) of the Compilation of Islamic Law (KHI) stipulates that the inheritance of adopted children is divided according to the provisions that apply in Articles 176 to 193 of KHI. This means that adopted children have the same inheritance rights as natural children. However, regarding adoptive parents, Article 209 paragraph (1) KHI also states that if the adoptive parents do not accept a will, they will be given a mandatory will of up to 1/3 of the adopted child's inheritance. That is, in this case, the adoptive parents have the right to a portion of their adopted child's inheritance in the form of a mandatory will.

Furthermore, Article 209 paragraph (2) KHI states that if the adopted child does not receive the obligatory will, they are entitled to 1/3 of the inheritance of their adoptive parents. In this case, the adopted child has the right to part of the inheritance of their adoptive parents.

However, regarding this problem, Article 211 KHI provides a solution that provides flexibility in resolving inheritance disputes or disputes. This article states that grants given by

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parents to their children can be counted as part of the inheritance. That is, if some of the heirs have received grants, then the inheritance that has not been granted can be distributed to all heirs according to their respective portions.

It is important to note that the word "can" in Article 211 KHI does not mean it is imperative or obligatory, but is one way that can be used to resolve inheritance disputes or disputes. Therefore, if there are no heirs who question the grants that have been received by some of the heirs, then the inheritance that has not been granted can be distributed to all heirs according to their respective portions.

Thus, the provisions in Articles 209 and 211 KHI provide flexibility in the distribution of inheritance related to adopted children and adoptive parents. Grants are one of the instruments that can be used to consider the rights and interests of all heirs in complex or controversial situations.

However, if there are some heirs who question the grant given to some of the other heirs, then the grant can be counted as an inheritance, by calculating the grant that has been received using the portion of the inheritance that should have been received. if the grant that has been received is still less than the portion of the inheritance then all that remains is to add to the deficiency, and vice versa if the grant exceeds the portion of the inheritance. Then, the excess grant can be withdrawn to be handed over to the heirs who are lacking from their share.

In the Civil Code in Article 1086 till 1099. The calculation must be made by the heirs of the descendants of the person who left the inheritance, namely children, grandchildren, and so on down, except when the person who left the inheritance expressly releases them from this calculation, while the calculation is carried out by other heirs only even if it is carried out. if this is desired by the person who left the inheritance, then the gifts that were previously made by the person who left the inheritance while he was still alive, are considered as giving up front (*voorschot*) from the heir's share in the inheritance. (Book of Civil Codes. Articles 1086 to 1099)

Based on these rules, it is understood that gifts or grants given by parents to their children during their lifetime are considered as giving at the beginning of a part of the inheritance which is calculated later.

Apart from that, Article 211 KHI states that grants cannot be withdrawn, except for gifts from parents to their children. Cancellation or withdrawal of a gift (grant) is an act that is forbidden, even if the gift occurs between two people who are brothers or husband and wife. (Presidential Instruction No. 1 of 1991 concerning Compilation of Islamic Law, Article 211)

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The grants that may be withdrawn are only grants made or given by parents to their children. from the hadith comes from Ibn Abbas that the Messenger of Allah said which means: "that a person who asks for his gift back is like a dog that vomits and then eats the vomit back up". (HR. Muslim: 2000, jus 3, 1240) in another history, Ibn Umar and Ibn Abbas argued that the Messenger of Allah once said which was: "It is not lawful for a Muslim to give a gift and then he asks for it back, except for parents on a gift he gave to his child" (HR. Tirmidhi, Ibn Hibban, Al-Hakim, An-Nasa' and Ibnu Majah).

However, even if it is impossible to withdraw an item that has been donated (based on some opinions, except for a gift given to a child), the withdrawal can also be made if the gift given is in order to receive compensation and recompense for the gift given. For example, someone who is elderly gives a gift to a certain person, with the hope that the recipient of the grant will take care of it, but after the grant is made, the recipient does not pay attention to the condition of the grantor. So, in cases like this the recipient of the grant can withdraw the grant that has been given.

In connection with this description, it can be stated that in principle the grant cannot be canceled or withdrawn, but if the grant given by a grantor exceeds one-third (1/3) of his assets, then the grant can be canceled, because it does not meet the requirements for granting as well as violating the provisions as stipulated in Article 210 KHI.

Thus, inheritance for children is property that a child has the right to receive because it is a designated heir and no one can prevent it. Meanwhile, grants for children were gifts given to parents during Muwarris' lifetime and the law disobeyed them. This can happen for mutual benefit and justice among the heirs.

CONCLUSION

Inheritance is property left behind by someone after death. When a person dies, the property he has is passed on to the heirs who are entitled to receive a share of the inheritance. Heirs are people who have a family relationship with the heir, such as children, husband/wife, parents, siblings or other close relatives. Inheritance of assets is carried out based on the laws in force in that country. Usually, these rules regulate the distribution of inheritance fairly between the heirs who are entitled. The process of inheriting property may involve courts or other institutions responsible for settling claims and disputes related to inheritance. On the other hand, a grant is the gift of property by the owner of the property (the person giving the property)

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to another person during his lifetime. Grants are the prerogative of the person giving the property to give the property to the person he wants. The awarding of grants is not governed by a legal inheritance process and is not tied to the death of a person. Grants can be made to anyone the person giving the property wants, be it family members, friends, or other parties outside the family. The giver of property has absolute freedom to determine who will receive the grant and the type of property given. The basic difference between inheritance and grants lies at the time of giving the property. Inheritance is given after a person dies and is regulated by inheritance law, while grants are given when the person giving the property is still alive and related to the personal will of the person giving the property. In the context of inheritance, an heir has the absolute right to inherit his property to his children or legal heirs in accordance with legal provisions. However, in the context of grants, the giver of assets has the freedom to give assets to someone other than the heir, including other people he wants during his lifetime. It is important to note that inheritance and grant laws may vary by jurisdiction or country. Therefore, it is important to understand the laws that apply in your country regarding inheritance and grants in order to understand your rights and obligations in this matter.

SUGGESTION

The process of granting the origin of the grantor to the recipient of the grant involves potential heirs, so as not to result in disputes in the future, and the official who makes the deed of grant pays attention to the pillars and conditions of the grant, so that there is no cancellation of the grant due to the non-fulfillment of the pillars and conditions of the grant.

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