Inheritance settlement of descendants of children and siblings in Islamic law with local wisdom in Indonesia

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Abstract: Islamic inheritance law is one aspect that is regulated in Qur’an and Hadith. However, the inheritance distribution of the descendant of children and siblings is not explicitly explained in the Qur’an and the Sunnah, which often creates conflicts and disputes. Therefore, this study aims to reveal the approach of Islamic law in completing inheritance for the descendant of children and siblings with the local wisdom of Indonesian society. This research used a qualitative descriptive analysis method. This research also observed Indigenous Peoples in West Java Province, a local cultural representation in Indonesia. The results of this study found that there is a factor of kanyaah (love affection), which is local wisdom as a separate mechanism in resolving the distribution of inheritance for descendant of children and siblings without causing family conflict, besides the understanding of Islamic inheritance law and educational factors.

Subjects: Asian Law; Family, Child & Social Welfare Law; Islamic Law; Jurisprudence & Philosophy of Law; Religion & Law

Keywords: heirs; inheritance; Islamic law; kanyaah; local wisdom; love affection

1. Introduction
Islamic inheritance law, known as farāidh is an Islamic teaching that requires its adherents to be used as a guideline in inheritance-related actions (Asni et al., 2021; Barlenti, 2014; Hassan-Bello, 2018; Maryati, 2019; Uyunni & Adnan, 2021). If there is death among Muslims and the deceased has an inheritance, then what and how to transfer the property is regulated in detail in the inheritance law. The adherence of Muslims to this teaching is often used as a measure of the level of faith. This

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Inheritance law is thought to have been formulated in line with the application of religious education in other areas of Islamic law. The implementation of inheritance law is a logical consequence of the Islam of a person who is required to obey these laws. It is an implication of the ideal foundation of the principle of tauhidullah (unite God as the creator who has created everything from the smallest to the largest). A principle states that all thinking paradigms explore the content of Islamic teachings in the Qur'an and Hadith. Also, a ritual and social context must be based on the values of monotheism, namely about everything that exists and what may exist and is even impossible is the creation of God (Praj, 2000, p. 121). Islamic inheritance law is one aspect regulated in the Qur'an and the Sunnah of the Prophet because it is the settlement of property-related inheritance cases. If the distribution is not transparent and is not based on apparent legal force, there will be potential for the emergence of disputes or disputes among the heirs. That is why inheritance is seen as very urgent because Islamic teachings call for peace in all areas concerning individual rights in law, including having a preventive commitment from anything that damages the integrity of the family related to the property rights of the deceased. It proves that inheritance matters are crucial in Islamic teachings.

Unlike the case with inheritance law which is based on local culture, the settlement is based on the view of the community. It is considered a norm passed down from generation to generation and fair to the community. These cultural values arise in response to the behavior of the community. Islamic inheritance is strongly influenced by the developed kinship system and is enforced in a standard manner by the people who adhere to it (Rifai, 2020; Tono et al., 2019; Wahyuni & Harisah, 2019). In Islamic inheritance, for example, the determination of heirs and their division is very thick in the culture where the people draw patrilineal lineages. The text of the Qur'an does not explain it in detail. For example, the problem of offspring of children who can be recognized as heirs are only the children of male descendants or the grandchildren of sons. In contrast, the descendants of daughters are grouped in dzaw al-arham (all people who have a kinship with the heir but do not receive an inheritance because of a particular heir veil them), whose inheritance is determined mainly by the lack of male groups. Likewise, from the line of sibling heirs, those counted as heirs are groups of people or heirs of the offspring of brothers, whether siblings or identical brothers.

Several studies related to the implementation of Islamic inheritance law have been carried out by many researchers or Islamic inheritance law experts, such as:

1. Research on the Muslim community in Donggala Regency implemented Islamic inheritance law outside or inside the Religious Court (Ali, 1995). In certain conditions, Islamic inheritance law is governed by the Qur'an, Hadith, and the Compilation of Islamic Law, for example, determining heirs, heirs, inheritance, and transfer of inheritance. But on the other hand, they still use the “Kaili” customary law known as the “Sossora” custom. The results of this study show similarities and differences between the Islamic inheritance law and the “Kaili” customary inheritance law. Even Islamic law became Kaili’s established law. It is because Islamic law has accepted the customary law “Kaili,” which does not contradict the arguments in the al-Qur'an and Hadith. In this study, a case was stated regarding the individual principle in Islamic inheritance, that the Donggala community applied the individual principle concerning the benefits of heirs in managing coconut plantations or cultivating agricultural land.

2. Research in Cirebon district Indonesia also found that people enforce inheritance law from customary inheritance law, Islamic inheritance law, and inheritance law sourced from the Civil Code. The application of Islamic inheritance law is relatively low compared to customary law. Then, community awareness is still relatively low on inheritance law (Salman, 1993). Furthermore, customary inheritance law is more dominant than Islamic inheritance law (Salman, 2010). This study uses the “theory of public legal awareness.”

3. The famous Indonesian who often studies Islamic law, Daniel S. Lev, has also researched the application of Islamic inheritance law in several regions in Indonesia (Lev, 1972). From the
study, it can be concluded that the number of inheritance cases submitted to the Religious Courts differs from region to region. It is influenced by various factors, including factors of customs, factors of settlement of inheritance at the level of scholars and clerics, the character and nature of religious court judges, and so on.

(4) Another research is conducted on inheritance about “The Choice of Community Law Relating to the Authority of Religious Courts in Inheritance Cases in five districts in East Java” (Afdol, 2002). From this research, it can be underlined that the number of people who resolve cases of Islamic inheritance at the Religious Courts is still low. People still tend to settle inheritance cases outside the Religious Courts. It can be proven from inheritance cases submitted to the Religious Courts, which are still relatively small in quantity compared to other issues, such as divorce cases. This study used the theory of applying Islamic law in Indonesia in the form of the recep tio theory, the receptio in complexu theory, and the receptio exit theory.

(5) The research on the law of inheritance distribution based on al-sulhu in Islamic communities is also conducted. This research found that the community’s low understanding of Islamic inheritance law so that the majority of people use East Javanese customs and culture (Komari, 2011), which is done by way of deliberation and peace known as “rembukan”, for example, dividing the share of boys and girls with equal parts. If there is no agreement, they will take the case to the District Court, not to the Religious Court. Regarding issues related to the pillars of inheritance, for example, heirs and inheritance, there is a standard settlement between Islamic law and customary law. The theory used in this study uses the theory of ijihad, mashlahah theory and maqashid al-Syari'ah theory.

(6) Another research discussed considering the pluralism of customary law in Indonesia for inheritance law (Judiasih & Fakhriah, 2018). This research also compares customary and Islamic inheritance law that applies in Indonesian society. This research found the issues are mainly related to the status of men and women in patriarchal and matriarchal systems. Inheritance is settled through discussion, approval, or legal action. The judges’ decisions indicate a renewal of the traditional inheritance system in which men and women have equal opportunities to become inheritors of their parents.

(7) Research about Islamic and customary law acculturation in Minangkabau, Indonesia, was conducted (Aziz et al., 2020). This research found that since Islam was introduced in the 8th century AD, Minangkabau customs and culture have assimilated. There were customs and cultures based on their habits before its introduction. Because this acculturation occurs peacefully, the traditional leaders’ decisions do not cause upheaval and opposition from adat stakeholders in the region. Minang customs and culture are assimilated into Islam through synthetism, while tradition adapts to its teachings. Three types of changes occur when Islam and Minang customs and culture merge.

However, this research reveals Islamic inheritance law and culture in the representative community amidst modernization that is Mahmud Village. Mahmud Village is a traditional village in West Java, Indonesia, where the people adhere to and carry out traditions inherited from their ancestors. The inheritance settlement in the Indigenous people of Mahmud village, who are generally Muslim, is fascinating. On the one hand, they are required to implement Islamic law. On the other hand, they must comply with local cultural norms. They usually draw bilateral or parental lineages to settle the inheritance of the children and siblings. They should be in line with the kinship system of the people of West Java, whose kinship adheres to the bilateral system. The implementation of inheritance for descendants of children and siblings in the indigenous community of Mahmud village, Bandung Regency, is by the community that draws a patrilineal lineage, not like the way of sharing the heritage of the people of West Java whose kinship system adheres to the Parental or Bilateral system. This research differs from previous studies, especially in settlement of inheritance cases related to children and siblings. These two cases are not explained in detail in the al-Qur’an or Hadith. In various kinds of literature of the book of Jurisprudence, the settlement of the inheritance of children and siblings is strongly influenced by kinship culture and systems and how to draw lineages. The most highlighted in this study is that the Mahmud Traditional Village
community is in the West Java region where West Java people, based on Social Anthropology, enter areas where people draw parental or bilateral lineages. However, the Mahmud village is a community of indigenous peoples who hereditary enforces Islamic law as a guide for settling their lives, including completing inheritance cases. Therefore, this article will examine the implementation of the distribution of the inheritance of children and siblings in the indigenous community of Mahmud village. Then, it elaborates on the mechanism for settlement of the indigenous community's inheritance of the children and siblings. The factors influence the distribution of the inheritance of descendants of children and siblings also explained in this article.

2. Research methodology
Research related to inheritance for descendants of children and siblings in the study of Islamic inheritance law is included in the field of research on Islamic law and social institutions. This study aims to reveal the application of inheritance law in society in a descriptive local cultural context. Descriptive analysis is a qualitative research method that describes a situation, social, or phenomenon (Association for Educational Communications and Technology, 2001; Bevan, 2014; Giorgi & Giorgi, 2004; Koh et al., 2000). In general, Figure 1 describes the activities of this research.

This research will be seen from the values that develop in society, including the views of traditional leaders. The research location was in Mahmud Traditional Village, Bandung Regency, Indonesia. Sources of data in this study use primary data sources and secondary data sources. The primary data source is the Indigenous community group of the Mahmud traditional village of Bandung Regency as a source of information for the research conducted. Meanwhile, secondary data sources are books and other literature related to inheritance for offspring of children and siblings. The type of data in this study uses qualitative data collected directly from data sources. It has coherence with the research theme, namely the inheritance settlement for the descendants of children and siblings, and the study of the legacy of Islamic law in the Mahmud traditional village community in Bandung Regency. Figure 2 shows the situation in Mahmud traditional village.

**Figure 1. Research activities.**
3. Result and discussion

3.1. Analysis of Islamic inheritance law

According to al-Syatibi, Islamic law adapts to the social conditions of its society due to several reasons. First, broad descriptions of social changes. Second, the occurrence of changes in new social conditions will automatically lead to a change in the law related to it. Third, with the developments that have occurred, legal concepts and methods have shifted to deal with changing social conditions (Syah, 1998, pp. 79–80). This concept illustrates that Islamic law will always apply in a more flexible social context, including indigenous peoples' context, in line with ever-evolving changes (Abdelgawwad, 2019; Ahmad et al., 2017; Thalib, 2018). The customary community, predominantly Muslim, has practiced the values of Islamic teachings, including the applicable Islamic law. Therefore, two different sides can coexist as the prevailing norm.

To analyze the implementation of the distribution of inheritance, syncretism theory can be used as a reference. Syncretism comes from syncretism, which is looking for adjustments, balance, and so on between two religious schools. Syncretism is a concept that combines various schools to seek harmony, conformity, and so on (Setiawan, 2019). The syncretism theory was put forward by Hoeker, who argued that there is nothing in the legal system, both customary law and Islamic law, that is mutually exclusive. Both are endowed and have equal binding power, giving rise to the community's legal awareness peculiarities. The equality of degree of the application of the legal system of society does not always run on a unidirectional legal path because it can sometimes lead to contradictions (Hooker, 1975, p. 25).

Furthermore, Yahya Harahap said that Hoeker's syncretism theory contains two things. First, the relationship between customary law and Islamic law in people's life in Indonesia is very close. Second, the closeness of the two legal systems develops in the form of mutual respect and respect, mutual giving and receiving, compromised to form a new order (Harahap, 1993, p. 62).

Inheritance law is usually closely related to the normative system, society's social structure, and the family system (Handayani & Khusni, 2020; Rizki et al., 2020). If viewed historically, for example, inheritance law generally cannot be separated by following the family lineage. If the origin is patrilineal, the existing order is that the male heir takes precedence over females. In pre-Islamic societies, inheritance was determined based on the principles of brotherhood and warfare, essentially the strength of each individual and their participation in warfare. Therefore, the issue of inheritance and women and children, both boys and girls are not heirs, and even the marriage system seems neglected as the cause of inheriting so that widows are not heirs (Azis, 1956, pp. 507–508).

Other aspects of inheritance law also appear to be influenced by indications of social change. For example, girls have been assessed for their ability since the beginning. They are considered unable to continue leadership in particular indigenous communities or certain religions, so they will lose
their inheritance rights. For example, in Greek and Roman societies, girls will not receive anything before and after marriage. It is pretty different in Roman society that the inheritance right is debt if the girl is married to another man of custom or another religion, then follows her husband’s religion and denies her parents’ religion (Verburg, 2019; Wells, 2020). In indigenous peoples, the existing marriage system greatly influences the kinship system. It will reflect the prevailing inheritance system. The form of marriage that reflects patrilineality will emerge as a patrilineal kinship system. The form of matrilineal marriage will emerge as a matrilineal kinship system. Likewise, the parental marriage system will emerge form of parental kinship.

In the fiqh books, it is also mentioned that there is a replacement of heirs, as stated by Isma'il Muhammad Syah, who is quoted from the book Khulasah “Ilmi al-Faraid written by Muhammad al-Amin al-”Asyi as follows (Syah, 1998, pp. 79–80): (a) A son from a boy is like a boy only he cannot share twice with a girl; (b) A daughter of a boy is like a girl, except that the presence of a boy can be prevented; (c) The grandmother of a woman is like a mother, only she cannot receive 1/3 or 1/3 of the remainder; (d) A grandfather is like a father, except that he cannot get in the way of siblings and siblings; (e) A father’s brother is like a mother-to-father brother, except that he does not receive twice as much as a father’s sister; and (f) A fatherly sister is like a mother-to-father sister, except that she can be deterred by having a mother-to-father brother.

3.2. The findings of the distribution of inheritance for descendant of children and siblings with Islamic law and local wisdom

The Indigenous Community of Mahmud Village is a community that adheres to the Islamic religion. Moreover, the village is known as the holy land of Muslims in Bandung. It cannot be separated from the prominent figures who spread Islam in Bandung, namely the ancestor of the village, Eyang Dalem Haji Abdul Manaf. Because the majority are Muslims, the implementation of inheritance law that develops in the community is the inheritance they know as farā’idh. In Islamic legal literature, farā’idh is from lafadh faridhah, which means mafrudah commensurate with the sentence muqaddarah, which is something whose parts are clearly defined. In the Qur’an there are more precise than unspecified, that is why the Islamic inheritance law is called farā’idh (Al-Mahalli, n.d., pp. 134–135). Meanwhile, the study of Islamic inheritance law is called the science of farā’idh or the science of mirāts which is equivalent to mawrūts. It means the inheritance of a deceased person who is passed on during execution to his heirs (Al-Siba’i, 1966, p. 445). Figure 3 shows the documentation of research in Mahmud traditional village.

The knowledge of farā’idh is known to the public as a reference in the implementation of inheritance settlement in the Indigenous community of Mahmud Village. The settlement of inheritance which is considered as implementation originating from the Qur’an and Hadith, including the settlement of inheritance in children and relatives as well as settlement of inheritance in the descendants of children and siblings, as follows:

(1) Settlement of Inheritance of Children’s Descendants

In principle, discussing the child’s inheritance cannot be separated from the settlement of the child’s inheritance. In the Mahmud Traditional Village community, in completing inheritance, the child is the main heir as the wife or husband, mother and father, and in carrying out the inheritance settlement, grandchildren are not entitled to inheritance as long as there are children, both boys, and girls. According to respondents, the community understands Islamic inheritance law in general, they know that as Muslim people, they are obliged to implement Islamic law, and inheritance law is one of the teachings of Islam that they should know and understand how to complete inheritance by the teachings of Islam. Most people know about the teachings of the Islamic religion, such as prayer, zakat (alms), pilgrimage, fasting, marriage, inheritance, and so on. Still, they do not know Islam’s science, including inheritance law, because knowledge of inheritance is different from just knowing about inheritance law. Community knowledge is limited to just hearing, seeing, and feeling from the surrounding information and from the experiences of their
families who have previously solved the problem of inheritance distribution, not based on knowledge gained from formal or informal education.

Knowledge of Indonesian Muslims’ norms of inheritance law only knows in general. It means knowing about inheritance law but not understanding the norms of inheritance law, so they do not know the inheritance law system in effect in Indonesia (Hazairin, 1981, pp. 147–149). That is why it is considered natural that many people are Muslim, but many still have not implemented the Islamic inheritance law norms as desired in the al-Qur’an and Hadith. Based on the results of the research, it was found that in addition to the community’s low understanding of inheritance law. Other respondents, namely the Kiyai as community leaders who protect and can complete inheritance because they understand Islamic inheritance law, still consider that people's habits in completing inheritance use the prevailing customary norms. Heredity is highly valued and applied.

Their knowledge of farā’idh is limited to what is contained in fiqh books. They know the laws governing family law in Indonesia but do not know the legal material in a clear and detailed manner. Family law in Indonesia is called state law in the form of Marriage Law No. 1 of 1974 or the Compilation of Islamic Law, which regulates marriage and inheritance (Abdullah, 1994; Nurlaelawati, 2010). The community of Mahmud village agrees if inheritance issues are resolved based on state law, for example, regarding the share of boys and girls, the existence of joint assets, and the barrier of siblings because the heir has both a son and a daughter. It’s just that the cultural values of society and positive habits must also be considered as a form of settlement that can be felt fairly by the community.

The inheritance law that applies in the community is customary law, which has greatly influenced Islamic law. In general, the inheritance in the fiqh books especially the Compilation of Islamic Law as applied law in the Religious Courts, has not been understood by the majority of the community, including community leaders. or traditional leaders of the Mahmud Traditional Village Community as community leaders. Islamic inheritance law has only been understood by a small number of people or Ulama, Kiyai, or community leaders. It is closely related because of the level of education and lack of socialization in the community about Islamic inheritance law. Children are the main group of heirs in Islamic inheritance law. Children of heirs are heirs who cannot be eliminated from their inheritance rights but can be reduced, and that right cannot be transferred to anyone other than their descendants, namely their grandchildren. Of course, they cannot receive an inheritance if their parents are still alive. The heir’s children will be able to inherit provided they are born from and as a result of a legal marriage between the two parents.

In customary law, for example, children are the essential heirs after their parent’s death. Therefore, they are essentially the only class of heirs because other family members do not
become heirs, so with children, there is another possibility for family members to become close. Children are important in indigenous communities. In principle, the kinship system is adopted by the indigenous peoples themselves. For example, the Karo indigenous people adhere to the patrilineal kinship system. So parents are the inheritors of their male children, and only boys men inherit their children. The difference in determining the portion of children to inherit is based on differences in perceptions of the implementation of inheritance, which divides by determining the son's two parts of their daughter's reason according to the Qur'an and the fiqh provisions books. The Qur'an clearly states that a more significant proportion of boys than girls. For example, in Qur'an Surah al-Nisa verse 11, “the share of a boy is equal to two parts of a girl.” This verse serves as the main principle and principle in inheritance which is the reference for them when inheritance is distributed. For some scholars, this law cannot be contested because it is classified as a muhkamat verse (clearly the legal stipulation) so that there is no longer the possibility of ijtihad or there is no change, just following what it is.

The Indigenous People of Mahmud Village prioritize children as the main heirs so that the grandchildren, the second descendant after the child, do not have a place as heirs after their parents die. The grandchildren are given a part of the kadueudeuh or kanyaah (affection) of the heir’s children with an uncertain part, namely, the amount depends on the agreement of the heir’s children as the main heir. Thus, the Indigenous people of Mahmud traditional village do not recognize the existence of a replacement heir as found in the existing indigenous peoples in Indonesia.

Customary law considers the existence of inheritance replacement regulations, that if a child dies while his parents are still alive, the children of the deceased person will jointly replace their parents as heirs for their grandparents. This provision is in accordance with the decision of the Supreme Court dated 18 March 1959 Reg.No.391 K/ Sip/1958 reads as follows: “The right to fill or replace the position of an heir who dies earlier than his parents who left an inheritance is in the descendant line. Islamic inheritance law in Indonesia recognizes the existence of a replacement heir in the Compilation of Islamic Law contained in article 185 paragraph (1), namely: (1) Heirs who pass away earlier than the heirs, then their position can be replaced by their children, except for those mentioned in article 173; and (2) The share for the replacement heir must not exceed the share for the heir which is equivalent to the one who was replaced. Besides, the ijtihad (joint decision made by the Muslim scholars) regarding the successor heir is based on Hazairin’s thinking in interpreting verse 33 of the letter al-Nisa “For every inheritance left by mothers and fathers and relatives, we make it the inheritor (mawali).” (Hazairin, 1981).

(2) Settlement of Inheritance of Sibling’s Descendant

Siblings are sided heirs, and in Islamic inheritance law, they are grouped into non-main heirs: children, mothers, fathers, husbands, or wives. Brothers of Islamic heritage will inherit if there are no children and a father. This concept is known as kalalah. The word kalalah is formed from mashdar, which means kalal (exhaustion). But what is meant here is that people who die do not leave their ancestors (ashl), male and female. Qur'an mentions kalalah in two verses in surah al-Nisa, namely, verse 12 and verse 176.

Meanwhile, no Hadith describes the kalalah in detail so that the companions and fiqh scholars have different opinions. Ahlu Sunnah, for example, explains that kalalah is a person who dies without leaving his child and father (Glasse, 2002, p. 377). Children in the definition referred to are sons or grandchildren of boys, while daughters or grandchildren of mothers and mothers do not cover the heir siblings.

The scholars of fiqh have interpretations of the meaning of akhun and ukhtun (brothers and sisters) in verses 12 and 176 in the letter al-Nisa above, namely siblings or siblings for verse 176 and siblings, both male and female for interpretation of verse 12 (Al-Maqdisy, 1968, p. 166). This
opinion is based on the interpretation of Abu Bakr, which Qatada quoted. He said that Abu Bakr explained in one of his sermons on the inheritance verse. At the end of his sermon, he explained that what is meant by akhun and ukhtun in verse 12 is a thousand brothers because in this verse there are additional min al -um after the word al-akhi which is then recited by the reading and what is meant by akhun and ukhtun in verse 176 are siblings or brothers (Kathir, 2000, p. 565).

This interpretation affects the distribution of inheritance received by the siblings. For a thousand siblings, the share is 1/6 if one person is either a brother or sister or a sister, and if the sibling is two more people, then the share is 1/3 by the union, the distribution. This is because of the similarity of furudh with the mother. There is no point in common with the other parts except for the 1/6 and 1/3 parts, such as the mother’s part. What is stated in the letter al-Nisa verse 12 is meant to be siblings.

For the part of a sibling or a part of it according to verse 176, that is, if the sibling is a sibling or a sister is a brother, then the portion is 1/2, if the sibling is a sibling or a sister is a sibling of two more, then the share is 2/3 if it is a sibling or a sibling. Some are male and female, the portion of a male sibling or as much as two parts of a sibling’s sibling or a brother’s sister, and if the sibling or brother of the same brother consists of all men, then they get ‘asabah or spend a fortune.

It seems that this division cannot be implemented absolutely. Because, for a sister who is together with a daughter or granddaughter of the daughter’s son, she gets ‘ashabah ma’al ghaer as explained in the above Hadith. Ibn rejected this opinion, ‘Abbas that sisters do not get the right of ‘asabah if they are with daughters because he once gave a fatwa on the issue of people leaving their daughters and sisters as heirs, for girls 1/2 of the inheritance. There is no part for sisters because, based on verse 176, sisters receive an inheritance if the heir does not leave children, either male or female.

In the Compilation of Islamic Law, the brothers’ position as heirs is regulated in articles 181 and 182 as follows: “If a person dies without leaving the child and father, then the brother and sister of a thousand each get one-sixth of the share. If it is two or more people, they get a third of the share. If a person dies without leaving their father and child while having one sibling, he gets half of the share. If the sister is together with two more siblings or siblings, they receive two-thirds of the share. If the sister is together with a sibling or same brother, then the portion of the brother is two to one with the sister. “. Article 181 regulates the position of both male and female siblings, and Article 182 regulates the portion of siblings or siblings. The meaning of kalalah in the Compilation of Islamic Law is if a person dies without children and offspring and does not leave his father. This definition provides a more general picture in interpreting lafadz walad, meaning that children may be boys or maybe girls and descendants of boys and descendants of girls. Suppose it is understood that what is meant by children is only boys. In that case, the effect is that if the heir leaves the daughter and his offspring, the heir, whether siblings, siblings, or one father, will inherit, this is the same as the interpretation according to fiqh scholars.

Brother heirs in the Mahmud Traditional Village community are the main heirs as long as there are no children and fathers, as is the case with the concepts set out in the fiqh books. The siblings are not considered heirs who receive a share as a substitute for their parents, and siblings are given based on the kanyaah of the surviving siblings. Kanyaah (love affection) that giving to the descendant of children and siblings with an agreed share between the children of the heir and the siblings of the heir is a policy model that has developed in the Indigenous community of Mahmud village as a form of local policy that has been agreed or is also known as Muslim local community wisdom.

Thus, even though Indonesia’s Islamic inheritance law has several provisions regulating a pluralistic society. Especially in the traditions that apply in local communities, people’s perceptions of completing inheritance have the freedom to have different views because it stems from their beliefs on inherent cultural values, so they still use their way of distributing inheritance.
Customary and Islamic laws are combined so that there is a willingness among the heirs. Even the community agrees that the distribution of inheritance is carried out by wisdom. Not mathematically as written in fiqh books, perhaps even in the Compilation of Islamic Law, which is a legal product compatible with culture Indonesia, is often referred to as genuine Indonesia.

3.2.1. Affecting factors of inheritance for the descendants of children and sibling

As explained above, the inheritance for the offspring of children and siblings whose parents passed away earlier than the heir is given a part that is not certain because the inheritance share only reaches the child and siblings. The uncertain part is in the form of kanyaah, given by the sons of the surviving heirs and his siblings, the living heirs. Several factors cause the distribution of inheritance by giving kanyaah to the heirs of the descendants of children and siblings whose parents have passed away earlier than the heirs as part of the local wisdom that develops in the Indigenous community of Mahmud village, including:

(1) Customary Factors

Customs are identical to the culture that is developing and continuously carried out in society. Culture is the result of creativity, initiative, and taste that the community believes is true and good. Culture is the power of the mind in the form of creativity, initiative, and a sense of the result of culture is a culture that is the result of such creativity, initiative, and taste. In terms of cultural anthropology, this difference is eliminated. The word culture is only used as an abbreviation of culture with the same meaning. Culture in a foreign language is the same as culture in other languages called the word colere which means processing. Working from this word develops into a culture as all power human efforts and actions to cultivate and change life (Koentjaraningrat, 1983, 2002, pp. 181–182).

Customs are carried out in the inheritance settlement by sitting together to find a solution with the principle that no one is harmed (a win-win solution). They hold consensus deliberations by involving other parties, religious leaders, and even village officials as administrators next. The value of local wisdom, known as cultural values in determining inheritance among the Indigenous people of Mahmud village, is a non-material object that is difficult to measure with material benchmarks. Still, cultural values, commonly known as wisdom values, can be felt as a guide for everyone. Instinctive comes to the level of goodness as a form of non-litigation resolution that involves all families and local community leaders if asked by the family.

Wisdom values such as togetherness, kinship, and consensus deliberation in the inheritance settlement are a must together. Every problem of life and relationships with legal issues such as marriage and inheritance is carried out in deliberation by prioritizing harmony, balance, and harmony in life by prioritizing common interests by upholding the values—cultural values that have been passed down from generation to generation.

These customs are built based on values considered suitable by the community as long as they contain beneficial values. In several aspects regarding the distribution of inheritance in the Indigenous community of Mahmud village, it is guided by farāidh lines, and the color of the qat’i mindset looks rather dominant in the initial steps to determine the parts of the heir. For example, the part of the child and the part of the siblings still adheres to the lines determined in the Qur’an. Still, cultural values and customs are carried out in a compromising manner whose spirit of stipulation has approached a bilateral kinship system, which befits most people in Indonesia, especially in West Java.

The phenomenon of the Indigenous people of Mahmud village in settling the inheritance of the descendants of children and siblings is often judged to be contrary to political relations that are accommodated in the normative values prevailing in Indonesia. It is because the community is positioned as an object to be protected by law, and society. It is used as a working arena by law
because, without a society, normative and sacred laws do not have an operational arena in the form of a place for applying laws. Therefore, applying laws for the community that upholds the values of local wisdom and has become latent requires a change in community law. Change is often understood as a shift in thinking that wants to develop. However, change is a natural process as what happens in humans who are first born, then grow and develop, mature until they eventually decline or even reach the level of death. It is also the same in society, namely, experiencing the cycle of life from birth to death. This cycle is known as the cycle of change in society caused by several internal factors, such as a lack of resource development and innovation by leaders, for external factors, such as changes in community needs or perhaps changes in legislative policies and so on.

(2) Understanding Factors of Jurisprudence (Fiqh)

One thing that is felt is the understanding of the Indigenous people of Mahmud village towards fiqh, which is identical to Islamic law. In contrast, Islamic law is seen as God’s law or religion. The settlement of the inheritance of the children and your descendants with the share of the surviving children of the heir and the share of your descendants is also the same. They judge it is not against religion so that it is considered valid according to religion because their share is there and is stated in the al-Qur’an as a religious guideline, while the part of the descendants of children and siblings is only part of the opinion of the ulama. As a result, fiqh is not considered a human work and is even considered a divine rule. With this view fiqh is seen as a collection of Islamic law. Fiqh is not only seen as a product of religious thought but is already a religious book of Islam. From here also the fiqh book occupies a very important place as part of religion and not as part of a product of religious thought.

(3) Education Factors

The community leaders who were used as respondents in this study did not have their education level up to the tertiary level. However, even though they were undergraduates, many still did not fully understand Islamic inheritance law. They know that the science of farā’idh is part of the teachings of the Islamic religion, which and its methods have been described in the Qur’an and Hadith. Most people in the settlement of inheritance in Mahmud Village always involve community leaders known as Ajengan as people who are considered to have an understanding of Islamic law and are considered to have a charisma that can create influence in society. This influence is obtained from generation to generation, for example, due to genealogical ties with previous Ajengan or obtained through the ability to be accompanied by morality and a pious personality and loyalty to the community (Hartono, 2004, p. 32).

4. Conclusion

From the discussion about the distribution of inheritance in the indigenous community of Mahmud village, several findings can be concluded. In general, the distribution of inheritance is carried out by the farā’idh stated in the fiqh books, which are sourced from the Qur’an and Hadith, and the inheritance of the children and siblings is uncertain, this is because their share depends on the giving of children. The son of the heir and the surviving siblings of the heir. The erratic part is meant as the kanyaah of the surviving sons of the heir and relatives of the heirs. The law of inheritance used in settlement of the descendants of children and siblings is farā’idh (Islamic inheritance law). The distribution is very dependent on the child and sibling heir as the main heir. Then, the share of the descendants of the children and siblings based on the kanyaah (love affection) of the heir is local wisdom that the community has agreed as a law that has been developed from generation to generation and has become a community habit. Several factors influence the pattern of inheritance distribution for the offspring of children and siblings in the Mahmud Village Indigenous community: habits, understanding of Islamic inheritance law (farā’idh), and education. This kanyaah is one of the local wisdom in Indonesia that can affect the settlement of inheritance for a descendant of children and siblings.
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