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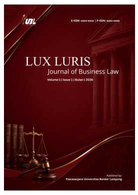

HEIRS' RIGHTS AND DISTRIBUTION OF INHERITANCE IN THE PERSPECTIVE OF THE INDONESIAN CIVIL CODE (KUHPERDATA) AND THE COMPILATION OF ISLAMIC LAW (KHI)

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Abstract

This study examines the inheritance rights of heirs under the Indonesian Civil Code (KUHPerdata) and the Compilation of Islamic Law (KHI), as well as the practical legal challenges arising from the coexistence of both systems in Indonesia. The research aims to analyze the legal basis, classification of heirs, inheritance distribution mechanisms, and the similarities and differences between KUHPerdata and KHI in regulating inheritance. This study uses a normative legal research method with statutory, conceptual, and comparative approaches. The legal materials consist of primary, secondary, and tertiary sources obtained through library research and analyzed descriptively and qualitatively. The findings show that KUHPerdata and KHI both recognize the rights of heirs and require the death of the decedent as the condition for inheritance to open. However, they differ in legal source, heir classification, distribution principle, testamentary limitations, and legal philosophy. KUHPerdata emphasizes civil law with equal distribution among heirs of the same class, while KHI applies Islamic inheritance principles based on fixed shares (faraid). In practice, the application of both systems faces challenges such as legal dualism, inheritance disputes, interpretation of wills, and new issues related to digital assets, joint marital property, and cross-border inheritance. Therefore, harmonization of inheritance law remains important to ensure legal certainty, justice, and orderly estate distribution in Indonesia.

INTRODUCTION

Inheritance law in Indonesia is a complex legal field because it is shaped by more than one legal tradition, including Islamic law, the Civil Code, and customary law. In academic writing, this topic is often discussed through a normative legal approach because it involves rules, legal principles, and their application in society. When people talk about inheritance, they are usually referring to the transfer of property, rights, and obligations from a deceased person to their heirs. In Indonesia, this transfer is not always governed by a single system, which makes inheritance disputes and legal interpretation especially important. For Muslim citizens, inheritance matters are generally linked to Islamic inheritance rules as recognized in the Compilation of Islamic Law and the jurisdiction of the Religious Courts under Law Number 3 of 2006, which amended the earlier Law Number 7 of 1989. For other situations, especially those involving non-Muslim citizens, the Civil Code is often used as the main reference. Because of this dual structure, Indonesian inheritance law has become an important subject in legal research, particularly when scholars want to understand legal certainty, justice, and the practical resolution of family property disputes (Nababan et al., 2024).

One important issue in Indonesian inheritance law is the difference between Islamic inheritance principles and Civil Code inheritance rules. In Islamic law, inheritance shares are generally determined by fixed portions that are based on the relationship between the deceased and the heirs. This system aims to create fairness through predetermined legal formulas, while also recognizing family structure and responsibility. In contrast, the Civil Code uses a different logic, emphasizing blood relations, marriage relations, and legal succession rules that are more general in nature. The Civil Code provisions on inheritance, especially those found in the section covering the opening of inheritance and the rights of heirs, provide a framework for identifying who inherits and how property is distributed. These differences often become the source of legal confusion in mixed-family cases, disputes over heir status, or situations where the deceased did not leave a will. As a result, legal scholars often compare the two systems to examine whether the law provides certainty, fairness, and practical solutions for modern Indonesian families (Mutsirah, 2023).

Another significant aspect of inheritance law is the role of the Religious Courts in resolving inheritance disputes among Muslims. Law Number 3 of 2006 expanded and clarified the authority of the Religious Courts, including matters related to inheritance, wills, gifts, and endowments for Muslim citizens. This legal authority is important because it gives a formal forum for settling disputes that arise from family disagreement, unclear asset ownership, or unequal distribution of estate property. In many cases, inheritance disputes are not only about legal interpretation but also about emotion, family relations, and social expectations. Therefore, the Religious Courts do not only apply legal rules; they also function as institutions that help preserve social order within families and communities. The Compilation of Islamic Law serves as a practical guide for judges in these cases, making the law more accessible and consistent in application. Through this framework, Islamic inheritance law is not only a religious obligation but also a recognized part of the Indonesian legal system (Salsabila et al., 2022).

The study of inheritance law in Indonesia is also relevant because it reflects broader questions about legal pluralism. Indonesia does not rely on a single legal source for family property matters. Instead, the system combines Islamic law, the Civil Code, and customary law, depending on the religion, background, and legal circumstances of the parties involved. This plural structure can be both an advantage and a challenge. It is an advantage because it allows the law to respect diversity and social reality. However, it is also a challenge because different legal systems may produce different outcomes for similar cases. This can lead to uncertainty, especially when family members do not understand which legal regime applies to them. For that reason, many legal researchers focus on harmonization, asking how these systems can coexist without creating injustice or confusion. They also examine whether current laws adequately protect the rights of all heirs, including women, children, spouses, and adopted children (Wiryawan et al., 2023).

From an academic perspective, inheritance law is a strong research topic because it connects doctrine with real social problems. It involves not only legal texts but also judicial practice, family conflict, and the distribution of economic assets. Scholars can explore it normatively by analyzing legislation and legal principles, or empirically by studying how courts and communities actually handle inheritance cases. This makes the topic highly flexible for journal articles, theses, and legal reviews. A well-written article on inheritance law should explain the legal basis clearly, compare the relevant systems carefully, and show why the issue matters in practice. It should also present inheritance law as a tool for achieving justice, not just as a set of technical rules. In the Indonesian context, inheritance law remains an essential subject because it affects family stability, property security, and legal certainty after death.

METHOD

This study uses a normative legal research method with a statutory approach, a conceptual approach, and a comparative approach. The statutory approach is used to examine the legal provisions governing inheritance in the Indonesian Civil Code (KUHPerdata) and the Compilation of Islamic Law (KHI) as the main legal foundations. The conceptual approach is used to understand the concepts of heirs, heirs' rights, inheritance shares, wills, and the mechanisms of estate distribution in both legal systems. Meanwhile, the comparative approach is applied to compare the similarities, differences, and relevance of the two inheritance systems in Indonesia. The legal materials used in this study consist of primary legal materials, namely the Civil Code, the Compilation of Islamic Law, and related laws and regulations; secondary legal materials, such as books, journals, academic articles, and previous research discussing inheritance law; and tertiary legal materials, such as legal dictionaries and legal encyclopedias to support the explanation of legal terms. The collection of legal materials is carried out through library research by reviewing legal documents, academic literature, and other relevant sources. The data are then analyzed descriptively and qualitatively, meaning that the legal norms are described, explained, and compared systematically before drawing logical conclusions.

RESULTS AND DISCUSSION

Heirs' Rights under the Indonesian Civil Code (KUHPerdata)

Heirs' rights under the Indonesian Civil Code (KUHPerdata) are regulated by a civil inheritance system that transfers the deceased person's rights and obligations to the heirs at the moment of death. The legal basis for this system is found in the inheritance provisions of the Civil Code, especially the articles that state inheritance opens only upon death and that heirs obtain their rights automatically by law. In this framework, inheritance may happen in two ways: by statutory inheritance when no will exists, or by testamentary inheritance when the deceased has left a valid will. The general principles governing inheritance in KUHPerdata include the principle of personal inheritance, the principle of bilateral kinship, and the principle of kinship degree, which means that closer relatives have priority over more distant ones. These principles create a structured system that aims to provide legal certainty and order in the distribution of an estate (Sartika, 2024).

The classification of heirs in KUHPerdata is based on kinship and marital relationship. The first group generally consists of descendants, such as children, together with the surviving spouse. If there are no heirs in this group, inheritance moves to the second group, which includes ascendants and siblings. The third group includes grandparents and other direct ascendants, while the fourth group includes collateral relatives such as uncles, aunts, and their descendants within the limits established by law. This classification is important because heirs in a higher group exclude heirs in a lower group. In other words, the existence of children or a surviving spouse usually prevents more distant relatives from inheriting. This hierarchy shows that KUHPerdata prioritizes family closeness in determining who is entitled to the estate.

The order of inheritance under KUHPerdata follows a priority system that gives preference to heirs with the nearest legal relationship to the deceased. If the first group of heirs exists, they receive the inheritance and exclude the later groups. If the first group does not exist, the inheritance passes to the next group according to the degree of kinship. The principle of representation is also recognized, meaning that if an heir dies before the decedent, that heir's descendants may replace him or her and receive the share that would have been inherited. This rule is important because it preserves the rights of descendants and prevents the estate from being unfairly concentrated in one branch of the family. Therefore, the order of inheritance in KUHPerdata is not only hierarchical but also designed to maintain fairness within the family line.

Heirs under KUHPerdata have several important rights. First, they have the right to receive inheritance once the estate opens at the death of the decedent. Second, they have the right to accept or reject the inheritance, because acceptance is not always beneficial if the estate has more debts than assets. Third, certain heirs have the right to claim a compulsory portion, known as *legitime portie*, which protects close family members from being completely excluded by a will. Fourth, heirs have rights connected to the administration of the estate, including the management, settlement of debts, and protection of property before final distribution. These rights show that the Civil Code does not merely divide assets, but also protects family members from unfair exclusion and financial loss (Sartika, 2024).

The distribution of inheritance under KUHPerdata can occur through intestate succession or testamentary succession. In intestate succession, the estate is distributed according to statutory rules when there is no will. In testamentary succession, the distribution follows the wishes written in a valid will, although this freedom is limited by the rights of compulsory heirs. In principle, heirs in the same class receive equal shares, especially in the first group, where children and the surviving spouse generally inherit in balanced portions. The distribution process usually begins with identifying the heirs, listing the estate assets, settling debts and obligations, and then dividing the remaining property according to the applicable legal rule. In this way, KUHPerdata creates a clear legal mechanism for inheritance that combines equality, family protection, and legal certainty.

Heirs' Rights under the Compilation of Islamic Law (KHI)

Heirs' rights under the Compilation of Islamic Law (KHI) are based on Islamic inheritance principles that have been formalized in Indonesian positive law. The legal foundation comes from the Qur'an and Hadith, which establish inheritance as a divinely regulated distribution system, and these principles are then translated into the KHI, especially the provisions on heirs, shares, and estate settlement. In the Indonesian context, the KHI functions as the main reference for Muslim inheritance cases and is applied by the Religious Courts when resolving disputes.halojpn.kejaksaan. The eligible heirs under the KHI include male and female relatives who meet the legal requirements of inheritance. Male heirs generally include the father, son, grandfather, grandson through the male line, brothers, and other male relatives in the line of succession, while female heirs include the mother, daughter, grandmother, sister, wife, and other female relatives recognized by law. The KHI also recognizes inheritance through blood relations and marital relations, so both nasab and marriage can create a valid inheritance relationship.halojpn.kejaksaan (Rana et al., 2021).

For inheritance to occur, several conditions must be fulfilled. First, the death of the deceased must have occurred, because inheritance only opens after death. Second, there must be surviving heirs who are legally entitled to receive the estate. Third, there must be no legal impediment to inheritance, such as differences in religion or other barriers recognized in Islamic law and KHI practice. These conditions ensure that inheritance is not merely a family matter but a legally regulated process with clear requirements.

Heirs under the KHI have rights to fixed inheritance shares, which are commonly known as *faraid*. These shares are determined by Islamic legal rules and are designed to create a fair and structured division of property. Sons, daughters, spouses, parents, and siblings each have specific shares depending on the presence or absence of other heirs. For example, daughters may receive one-half if alone, or two-thirds if there are two or more daughters, while sons generally receive twice the share of daughters when they inherit together. Spouses also have clearly defined portions, and parents receive shares depending on whether the deceased leaves children or not.halojpn.kejaksaan.

The KHI also protects the rights of compulsory heirs, meaning close family members who cannot be arbitrarily deprived of inheritance rights. This protection reflects the Islamic principle that inheritance is not entirely dependent on personal will but follows divine rules. In addition, the KHI recognizes that some family members who do not receive a regular inheritance share may still obtain protection through mechanisms such as *wasiat wajibah* in certain circumstances. This shows that the KHI balances fixed legal shares with social protection for vulnerable relatives (Saputri, 2023). The distribution mechanism under the KHI follows a specific order. First, funeral expenses of the deceased are settled. Second, debts of the deceased must be paid. Third, any valid will is executed within the limits allowed by Islamic law. Only after these obligations are completed is the remaining estate distributed to the heirs according to Islamic inheritance rules. This sequence is important because it ensures that the estate is not divided before the deceased's obligations are fulfilled. The KHI also allows heirs to reach a peaceful agreement in division, but if there is a dispute, the matter may be brought before the Religious Court.

Comparative Analysis of KUHPerdata and KHI

KUHPerdata and the Compilation of Islamic Law (KHI) are two important inheritance systems in Indonesia that both regulate the transfer of a deceased person's estate to lawful heirs, yet they differ in several essential ways. The two systems share common principles because both recognize the legal rights of heirs, require the death of the decedent before inheritance begins, protect heirs from unfair exclusion, and seek to create legal certainty in the distribution of property. In both KUHPerdata and KHI, inheritance is not treated as an arbitrary family matter, but as a legal process that must follow established rules. However, the differences between the two systems are more significant than their similarities because they are based on different legal philosophies and serve different legal subjects. KUHPerdata is rooted in the Civil Code tradition and is generally applied to non-Muslim citizens, while KHI is based on Islamic law and is used for Muslims. This difference in legal source creates a different structure of inheritance rights, distribution methods, and estate settlement procedures (Nababan et al., 2024).

One of the main distinctions between KUHPerdata and KHI is the classification of heirs. Under KUHPerdata, heirs are grouped into four classes based on kinship priority, and the inheritance is given according to the existence of the nearest heirs. The first class is usually the most important, and if heirs in that class exist, the lower classes are excluded. In contrast, KHI does not use a four-class structure but recognizes heirs based on Islamic legal categories that are already prescribed by religion and codified in the Compilation of Islamic Law. Another major difference is the way inheritance is distributed. KUHPerdata generally follows an equal distribution principle among heirs of the same class, while KHI applies fixed inheritance shares or faraid, which determine the portion of each heir according to Islamic rules. This means that the two systems produce different results even when the family structure appears similar (Wiryawan et al., 2023).

The rights of male and female heirs also show a clear contrast. In KUHPerdata, male and female heirs are generally treated equally when they are in the same legal position. KHI, however, often gives male heirs twice the share of female heirs in comparable positions, reflecting the Islamic principle of proportional responsibility. Testamentary freedom is also regulated differently. KUHPerdata allows broader freedom to make a will, although this freedom is limited by the existence of compulsory portions for certain heirs. KHI is more restrictive because a will may generally cover only up to one-third of the estate unless the heirs agree to a larger amount. This limitation shows that Islamic inheritance law prioritizes fixed shares and family protection over complete testamentary autonomy. In terms of legal philosophy, KUHPerdata is more civil and individual-centered, while KHI is religious and normative, emphasizing divine order and mandatory legal rules.

Legal Challenges in Practice

Inheritance law in Indonesia faces several practical challenges because it operates within a plural legal system and must respond to changing family, property, and social conditions. One of the main problems is the dualism of inheritance law, meaning that different legal systems may apply depending on the religion and legal status of the parties. In Indonesia, inheritance matters can be governed by the Civil Code or by the Compilation of Islamic Law, so legal pluralism often creates confusion about which rule should apply. This leads to a choice of law issue, especially in families with different religious backgrounds or in situations where the parties do not agree on the applicable legal framework. Jurisdictional problems also emerge because the correct court depends on the legal system being used, and this can make the dispute more difficult even before the substance of the case is examined (Qurani, 2023).

Inheritance disputes are also a frequent practical challenge because family members often disagree about who has the right to inherit, how much each heir should receive, and whether the estate has been properly managed. Conflicts among heirs usually arise from distrust, unequal treatment, or the belief that one person has controlled the property in an unfair way. Another common issue is the interpretation of wills, especially when the language is unclear or when the contents of the will seem to conflict with the legal rules that govern inheritance. Disagreements also occur during the distribution stage, particularly when heirs cannot agree on the value of the assets, whether property should be divided directly or sold first, or how joint family property should be separated before inheritance is shared. These conflicts often make inheritance disputes longer and more emotionally difficult than other civil cases (Putra et al., 2020).

Judicial resolution plays a very important role in solving inheritance conflicts. For Muslims, the Religious Courts are the main forum for inheritance cases because they have authority over disputes governed by Islamic inheritance rules and the Compilation of Islamic Law. For non-Muslims or cases based on the Civil Code, the General Courts are the proper place for settlement. In practice, mediation and other forms of alternative dispute resolution are also highly important because inheritance disputes usually involve close relatives, and a negotiated settlement may preserve family relationships better than a long court process. Mediation can help heirs reach an agreement about asset division, estate management, or compensation without escalating the conflict further. This makes judicial resolution not only a legal process but also a social mechanism for reducing family tension.

Contemporary issues have also made inheritance law more complicated. Digital assets such as online accounts, cryptocurrency, and electronic banking funds create new questions about ownership and transfer after death. Joint marital property is another important issue because the estate cannot be divided properly unless the common property of husband and wife is first separated from the deceased's personal assets. Cross-border inheritance is becoming more relevant as families increasingly have property or heirs in different countries, which creates problems of legal conflict and enforcement. Gender equality debates also continue, especially when people compare inheritance shares under different legal systems and question whether the rules still match modern social expectations. Because of these developments, there is a growing need to harmonize inheritance law so that it becomes more consistent, predictable, and suitable for present-day legal realities.

CONCLUSION

Based on the discussion, it can be concluded that the Indonesian Civil Code (KUHPerdata) and the Compilation of Islamic Law (KHI) both regulate inheritance as the transfer of rights and obligations from the deceased to the heirs after death. Both systems share the same general objective, namely to protect heirs and provide legal certainty in the distribution of inheritance. However, there are fundamental differences between the two, especially in their legal sources, classification of heirs, distribution principles, limitations on wills, and legal philosophy. KUHPerdata emphasizes civil law principles with a relatively egalitarian distribution among heirs according to classes, while KHI emphasizes Islamic legal principles with distribution based on faraid and sharia rules. In practice, the implementation of both legal systems often faces challenges such as legal dualism, disputes among heirs, different interpretations of wills, and new issues such as digital assets, joint marital property, and cross-border inheritance. Therefore, a good understanding of both systems is essential so that inheritance can be distributed fairly, orderly, and in accordance with the applicable law. Thus, harmonization between KUHPerdata and KHI remains an important need in Indonesia's inheritance law system.

REFERENCES

Mutsirah, A. (2023). *Peran Kantor Urusan Agama dalam Sertifikasi Harta Wakaf Dan Penyelesaian Sengketa Wakaf (studi pada KUA Banda Aceh)* [UIN Ar-Raniry]. https://repository.ar-raniry.ac.id/id/eprint/30940/

Nababan, F. S., Erikman, Purwanto, H., & Rakhman, S. (2024). Analisis Pengambilan Keputusan Dalam Penyelesaian Klaim Asuransi: Penolakan Klaim Berdasarkan Interpretasi Polis Yang Berbeda. *JURNAL DELIBERATIF*, *02*(02), 1–23. https://ejournal.gardapoli.or.id/index.php/deliberatif/article/view/19

Putra, I. G. N. B. P., Budiono, A. R., & Susilo, H. (2020). Hak Mewaris Anak Luar Kawin Berdasarkan Pengangkatan oleh Kakeknya Menurut Hukum Waris Adat Bali. *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan.*, *5*(1), hlm: 131-138. http://journal2.um.ac.id/index.php/jppk/article/view/7820/3749

Qurani, H. (2023). *Ragam Sengketa Harta Wakaf: Penarikan Kembali oleh Ahli Waris*. Hukumonline. https://www.hukumonline.com/stories/article/lt640c6041dc96a/ragam-sengketa-harta-wakaf--penarikan-kembali-oleh-ahli-waris/

Rana, I. G. Y., Suwitra, I. M., & Sudibya, D. G. (2021). Kedudukan Anak Astra (Anak Luar Kawin) Dalam Hukum Waris Adat Bali. *Jurnal Interpretasi Hukum*, *02*(03), 280–289. https://doi.org/https://doi.org/10.22225/juinhum.2.3.4172.662-666

Salsabila, N., Sutisna, & Nawawi, K. (2022). Penggunaan Harta Waris yang Belum di Bagi Sebagai Objek Transaksi Menurut Hukum Islam. *Rayah Al-Islam*, *6*(2), 120–130. https://doi.org/10.37274/rais.v6i2.543

Saputri, R. K. (2023). Pemahaman Masyarakat Tentang Penerapan Pembagian Harta Warisan Menurut Hukum Waris Islam. *Journal of Comprehensive Islamic Studies*, *2*(2), 205–220. https://doi.org/10.56436/jocis.v2i2.255

Sartika, D. (2024). *Peran Puang Desa Dalam Penyelesaian Sengketa Waris Non-Litigasi Di Desa Maddenra Kecamatan Kulo Kabupaten Sidrap (Analisis Hukum Islam)* [Institut Agama Islam Negeri Parepare]. https://repository.iainpare.ac.id/id/eprint/6174/1/DEWI SARTIKA SKRIPSI

.pdf
Wiryawan, I. B. A., Sukarno, & Rifai, A. (2023). Perlindungan Anak Angkat Dalam Hak Waris Dari Pandangan Agama Hindu Berdasarkan Hukum Adat Bali di Kabupaten Buleleng. *Unizar Recht Journal*, *2*(2), 185–200. https://e-journal.unizar.ac.id/index.php/ur