



## Comparison of Inheritance Law in Islamic Law and Civil Law

Anggi Wicaksono<sup>1\*</sup>, Zainal Arifin Hosein<sup>2</sup>

<sup>1,2</sup>Faculty of Law, Universitas Borobudur, Indonesia

E-mail: [anggiwicaksono@gmail.com](mailto:anggiwicaksono@gmail.com)<sup>1</sup>, [arifinhoesein55@yahoo.com](mailto:arifinhoesein55@yahoo.com)<sup>2</sup>

\*Korespondensi penulis: [anggiwicaksono@gmail.com](mailto:anggiwicaksono@gmail.com)

**Abstract.** This study aims to analyze the comparative law on inheritance in the Islamic legal system, civil law, and its impact on Indonesian implementations. The research method used is normative juridical with a statute approach and a conceptual approach, which focuses on analyzing applicable legal documents and norms. This study discusses the characteristics of each legal system, including differences in the distribution of inheritance, the obligations of heirs to the debts of the testator, and the inheritance mechanism regulated in the Civil Code (KUHPerduta) and Islamic inheritance law. Furthermore, this study explores the impact of implementing the two legal systems in Indonesia, considering the diversity of Indonesian society that influences the implementation of inheritance law. The results are expected to provide deeper insight into how the two legal systems interact and influence inheritance practices in Indonesia.

**Keywords:** Inheritance law, Islamic law, civil law, comparative law.

### 1. INTRODUCTION

The changes that have occurred in Indonesia from the era of kingdoms to the Unitary State of the Republic of Indonesia have brought about many transformations. However, one aspect that remains enduring is the cultural heritage, including in the realm of inheritance law. Inheritance law refers to the transfer of rights and obligations from the deceased heir to the rightful heirs, such as spouses, children, parents, or designated parties in a will. In addition to rights and obligations, inheritance encompasses valuable items, assets, and other movable property. Unfair or unexpected distribution of inheritance often leads to disputes among heirs, which can cause conflicts and divisions within families. These conflicts highlight that the purpose of inheritance, which is meant to provide for the heirs, often leads to the deterioration of family relationships (Sari, 2014).

From a customary law perspective, inheritance law is defined as a set of rules that regulate the process of transferring and passing on goods, both tangible and intangible (immaterial goederen), from one generation to the next (Soepomo, 1996). In Islamic inheritance law, known as the law of faraidh, inheritance is understood as the allocation (fate/qadar) of portions of the property that constitute the rights of the heirs. The term "faraidh" specifically refers to the meticulous division of inherited assets as determined by sharia, based on the proportionate shares designated for each heir. This system emphasizes fairness in the distribution of inheritance, governed by religious guidelines that uphold vital principles of

equity. Consequently, in both customary law and Islamic law, inheritance plays a significant role in maintaining balance and protecting the rights of future generations. (Syah, 1994).

Inheritance is not only related to the distribution of property, but also reflects important social, cultural, and religious aspects in the life of society. The inheritance process can maintain harmony in the family by ensuring that each heir receives his/her fair share under applicable laws. In addition, inheritance plays a role in preventing conflicts between heirs that have the potential to damage previously harmonious family relationships (Imron & Huda, 2023). From a cultural and religious perspective, inheritance is a symbol of respect for traditional values passed down from generation to generation. Therefore, inheritance law provides a firm and obvious framework to ensure fairness and stability in the inheritance process.

Inheritance assets such as land, houses, money, and other valuables are often the primary source or significant addition to the welfare of the bereaved family. Structured and legal inheritance distribution can help maintain the family's economic stability, especially when the inheritance is a mainstay for the heir's survival (Suwasta, 2019). Uncertainty or injustice in the distribution of inheritance can trigger disputes that disrupt social stability and threaten family unity. Thus, inheritance law plays a crucial role in ensuring that inherited assets provide optimal benefits to the heirs without provoking conflicts. In the long run, fair and orderly inheritance contributes to the overall well-being of society by maintaining social justice and familial stability (Effendi, 1997).

Inheritance law plays a critical function in regulating the distribution of the testator's assets so that the inheritance process arises in an orderly and fair manner. With clear legal rules, heirs can know their rights and obligations in receiving their share of the inheritance. (Asnawi, 2020) This law governs the distribution process, helping to prevent unnecessary disputes among heirs and preserving the stability of family relationships. Furthermore, it clarifies the procedures that must be adhered to during the distribution of assets, outlining the limitations that heirs must observe. Consequently, inheritance law plays a crucial role in fostering justice and minimizing the likelihood of conflicts regarding the distribution of inheritances.

Inheritance law not only determines who has the right to receive an inheritance but also outlines how the liabilities, such as debts, should be settled following their passing. In civil law systems, the distribution of inheritance is conducted equally, without regard to the gender of the heirs. Conversely, Islamic law adheres to stricter regulations, stipulating that sons receive double the share allotted to daughters. Islamic inheritance law is grounded in the provisions of Sharia, which explicitly delineate who is entitled to inherit and the size of their respective shares, unlike civil law, which offers more flexibility. Additionally, Islamic law recognizes

certain exceptions, such as gifts that may be given by the deceased during their lifetime (Suherman & Adnan, 2024). This distinction highlights the fundamental philosophical differences between the two legal systems regarding justice in inheritance distribution.

Islamic law has established a fair and wise framework for the distribution of inheritance based on the Qur'an and Hadith, with provisions that are permanent and cannot be altered by anyone. Adhering to these inheritance rules is obligatory for every Muslim. However, in practice, inheritance disputes often arise within Muslim communities and sometimes escalate to legal proceedings. Such conflicts contradict Islamic teachings, which stress the importance of maintaining family harmony and resolving disagreements through discussion and consensus (Islah). Resolution through deliberation aligns with the principles of Islamic law, which prioritize peace to foster benefits in this world and henceforth (Anshori, 2018).

In the Islamic inheritance law system, the estate is divided according to the predetermined provisions, where the share of males is generally twice that of females, as stated in the Quran, Surah An-Nisa, verse 7. Islamic inheritance law prioritizes the individual distribution of assets, and the right to inherit is granted to each heir based on their kinship. In contrast to Islamic law, the inheritance system in the Indonesian Civil Code (BW) operates on a bilateral or parental basis, meaning that lineage is traced from both sides, both father and mother. In this system, assets are distributed without distinction between males and females, who have equal inheritance rights. The principle of civil inheritance law establishes that the rights and obligations of the deceased automatically transfer to the heirs upon their death, as long as such rights pertain to property.

Civil inheritance law emphasizes the importance of distributing the estate to the rightful heirs as quickly as possible unless all heirs agree to postpone the distribution. The difference between inheritance property and the estate lies in the deduction of debts and other expenses, whereby the estate is ready for distribution. It is essential for both the deceased and the heirs, whether Muslim or non-Muslim, to have a sufficient understanding of inheritance law, both in Islamic law and civil law. This understanding can help prevent unnecessary disputes and ensure that the distribution process proceeds according to the applicable legal provisions. Thus, inheritance law not only regulates the distribution of assets but serves as an instrument to uphold justice, peace, and social welfare within families.

This research aims to answer key questions, such as: what are the differences and similarities between the Islamic inheritance law system and Western inheritance law, as well as the impact of the application of both systems on Indonesian society? The focus of this research is to comprehensively analyze the characteristics of each system, including basic

principles, methods of inheritance distribution, and the rights and obligations of heirs. In addition, this study will also examine the social, cultural, and legal implications of the use of Islamic inheritance law and Western inheritance law in Indonesia, particularly within the context of the diversity of applicable legal systems. The analysis aims to enhance understanding of how these two legal systems foster justice, peace, and stability in inheritance distribution within a diverse society.

## **2. METHOD**

The normative legal research method is a process in legal studies that emphasizes the examination of legal documents and norms. Its purpose is to analyze applicable legal rules and their application or interpretation within specific contexts. The primary sources for this type of research include laws, regulations, and other legal literature. This method is particularly relevant for exploring theoretical and conceptual legal issues, such as the similarities and differences between Islamic inheritance law and Western inheritance law, as well as their impact on Indonesian society. This research aims to thoroughly analyze the characteristics of each system, utilizing approaches such as the statute and conceptual approaches (Marzuki, 2006). The legislative approach involves a thorough review and analysis of various regulations that address specific issues, including the Civil Code and its associated statutes. This methodology enables researchers to engage in a comparative study of inheritance laws as they exist in Islamic law relative to civil law.

## **3. RESULT AND DISCUSSION**

### **Comparison of Laws Regarding Inheritance in Islamic Law with Civil Law**

The term inheritance in language is not limited to property and includes non-material things. The word inheritance was first used in the Qur'an with various meanings. For example, in Surah An-Naml verse 16, inheritance means "replacing a position." Meanwhile, Surah Az-Zumar verse 74 contains the meaning of "gift" or "gift," and Surah Maryam verse 6 implies the meaning of "inheriting" or "receiving inheritance." Overall, this term describes the transfer of rights and obligations from one party to another. Terminologically, inheritance law can be interpreted as a set of rules that govern the distribution of the testator's inheritance to the entitled heirs. In Islamic law, this distribution includes determining who is entitled to receive the inheritance, the amount of the portion received, and the procedure for its distribution. The "fuqaha" defines the science of inheritance as the science that studies inheritance provision, who is entitled to receive it, who is not, and how the distribution is performed. (Shabuni, 1995)

Some key terms in Islamic inheritance law include "heir," referring to an individual entitled to receive an inheritance; "muwaris," which designates the heir or the individual who leaves behind assets; "al-irsi," meaning the inheritance that is ready for distribution once obligations—such as caring for the deceased, settling debts, and fulfilling wills—have been fulfilled; "warasah," which signifies the inheritance that has been received by the heirs; and "tirkah," referring to all inherited assets before any deductions for these obligations are made. According to the Compilation of Islamic Law (KHI), inheritance law is a rule regarding the transfer of ownership rights over the inheritance (tirkah) of the testator to the entitled heirs, including determining the amount of each portion according to the provisions of Article 171 letter a KHI. In the *fiqh mawaris*, there is a special branch of science called the science of *faraidh*, namely the science that studies how to determine certain parts for heirs that have been determined in the Qur'an.

The science of *faraidh*, which in Arabic is the plural form of *fariidhah*, refers to parts of the inheritance that have been determined in size. Scholars define it as the science of *fiqh* related to the division of inheritance, including the calculations needed to determine each heir's share. Oemar Salim defines *faraidh* as certain parts that require additional heirs, including the *ashabah* group (relatives who do not have a fixed share). Learning the *faraidh* is obligatory for every Muslim, both men and women, to avoid disputes on the inheritance division. The obligation aims to maintain the integrity of the family and prevent divisions that can damage the ties of friendship among Muslim families. Thus, mastery of the science of *faraidh* plays an important role in creating justice and harmony in Islamic society (Rahman, 1975).

The legal basis for the obligation to study and teach *faraidh* science can be found in the hadith of the Prophet Muhammad (peace be upon him), as narrated by An-Nasa'i. The hadith states that the Prophet commanded his followers to study the Qur'an and *faraidh* and to teach it to others. He underscored the significance of acquiring this knowledge by noting that disputes over the division of inheritance would arise, yet without this understanding, no one can issue the correct fatwa. This command is interpreted as a *fardhu kifayah*, indicating a collective obligation deemed fulfilled when some Muslim community has mastered it. However, if no one undertakes this learning, the entire community bears the sin. The Prophet also referred to inheritance knowledge as half of knowledge, emphasizing its urgency in maintaining justice in inherited property distribution.

The issue of inheritance in Islamic law is fundamentally related to the transfer of ownership rights, responsibilities, and property from the deceased to their heirs. In the Islamic inheritance legal system, the process of inheritance is based on the principle of *ijbari*, which

means that the transfer of inherited property occurs automatically according to the decree of Allah SWT, without depending on the will of the deceased or the heirs. This transfer can only take place if the conditions and pillars of inheritance are met, and there are no obstacles that invalidate the inheritance rights. Scholars agree that three fundamental conditions must be fulfilled in the process of inheritance:

- 1) **Death of the Deceased (Muwaris):** The deceased must have passed away, whether through actual death (haqiqy), legal death (hukmy), or presumed death (taqdiry).
- 2) **Actual Death (Haqiqy):** This type of death can be directly proven by eyewitnesses and tangible evidence.
- 3) **Legal Death (Hukmy):** This death is declared by a judge based on specific legal considerations, such as in a person missing for a certain period without any news.
- 4) **Presumed Death (Taqdiry):** This is death that is assumed based on special circumstances, for example, a baby who dies due to violence against the mother while still in the womb.
- 5) **Existence of Living Heirs:** The heirs must be alive at the time of the deceased's passing. It include a fetus (al-haml), as long as it is born alive, even if only for a moment.

Every eligible heir should have a clear grasp of their position and the specific shares they hold in the inherited estate to navigate the journey of inheritance effectively. This understanding encompasses kinship relations, which may arise from blood connections (nasab), marital ties, or the emancipation of slaves. Beyond the necessary conditions for inheritance, it is imperative to fulfill the foundational pillars that govern the distribution of the estate. These pillars include the following elements: the deceased (mowers), and the individual bequeathing the estate. A primary prerequisite is that the deceased must have experienced a cessation of life, which can occur through actual death (haqiqy), legal death (hukmy), or presumed death (taqdiry), as elucidated in prior discussions.

The heirs (ahli waris) are identified as those entitled to receive the inheritance. Heirs must establish a relationship through blood, marriage, or the emancipation of slaves, and there should be no prohibitive factors against inheritance, such as religious discrepancies or circumstances where the heir has committed an act of murder against the testator. The estate or inheritance (maurus or al-miras) pertains to the assets left behind, after the deductions for funeral expenses, debt repayment, and the fulfillment of the deceased's will.

In civil law, inheritance law represents the procedural framework for transferring all rights and obligations associated with the deceased's wealth to their heirs. According to Article 830 of the Civil Code (Kitab Undang-Undang Hukum Perdata), inheritance is contingent upon

his/her death. Consequently, inheritance can be formally initiated only posthumously, necessitating that the rightful heirs must be alive at the moment the inheritance is opened. This principle asserts that inheritance does not transpire based on the testator's intentions while they are still living; rather, it occurs automatically following their death.

Three critical elements are essential to inheritance law per the Civil Code. First, the existence of a testator, or an individual who leaves behind distinct assets upon their death, is paramount. This element prompts inquiries regarding the interrelations between the testator and their possessions, as well as the impact of familial dynamics on the inheritance process. Second, there must be heirs who are legally entitled to receive the wealth left behind. This necessitates a legitimate legal relationship between the testator and the heirs, which can be established through blood ties or alternative legal relationships. Third, the existence of inherited property is required, encompassing the wealth transferred to the heirs. This component raises critical considerations regarding the nature and extent of wealth that can be inherited and the influence of familial relationships on wealth transfer.

Inheritance law is a part of civil law that regulates the transfer of wealth resulting from the death of an individual. Only rights and obligations that take the form of property can be inherited, while rights and obligations arising from public law or related to morality and decency cannot be inherited. In inheritance law, the transfer of wealth from the deceased to the heirs occurs based on the provisions that govern the obligations of the deceased and the rights of the heirs. Therefore, inheritance law pertains to the regulations regarding the transfer of the wealth left by the deceased and the legal consequences of such transfers, both among the heirs and between the heirs and third parties.

One of the principles in inheritance law is that when an individual passes away, their rights and obligations automatically and unconditionally transfer to their heirs provided that these rights and obligations are related to property that can be valued in monetary terms. In civil inheritance law, heirs have an absolute right to demand the distribution of inherited assets. When one of the heirs files a claim for the distribution of the inheritance in court, that claim cannot be denied by the other heirs. Article 1066 of the Civil Code (BW) stipulates that an individual entitled to a portion of the estate cannot be forced to accept the inheritance that has not yet been divided among the heirs. The division of the estate may be requested at any time, regardless of any existing agreement that prevents such distribution. Additionally, any agreement regarding the postponement of the distribution of inheritance is only valid for a specific period and can be extended if agreed upon by all parties.

In the realm of inheritance law, it is imperative to consider several critical elements, particularly those related to the deceased individual. A thorough understanding of these factors is essential for the effective management and distribution of their estate. The deceased is the individual who has passed away, leaving behind property that can be inherited by their heirs. According to legal provisions, an individual who has died and has proof of death, along with property, can be considered a legitimate testator. If a testator dies without leaving any property, then inheritance issues will not arise, as there is no wealth to be divided.

Furthermore, in inheritance law, two groups have the right to be heirs. The first group consists of individuals explicitly entitled to inherit under the law, such as blood relatives, whether legitimate or illegitimate, as well as surviving spouses. If no blood relatives or living partners remain, the estate will belong to the state, obligated to settle the deceased's debts, provided that the inherited property is sufficient to cover those debts. The second group consists of those who have the right to be heirs due to legal actions taken by the deceased during their lifetime, such as the acknowledgment of illegitimate children or the drafting of a will. (Darmabrata, 2003)

Lastly, inheritance refers to the assets left behind by the deceased for distribution among the eligible heirs. The allocation of an estate isn't always straightforward, as it must take into account the marital status of the deceased. If the decedent was married without a prenuptial agreement, the property acquired during the marriage will be classified as marital property and must be divided between the surviving spouse and the heirs, with half of the jointly owned property going to the surviving spouse and the other half allocated to the heirs. If the decedent was married with a prenuptial agreement, the property remains under the control of each party, and when one spouse passes away, the property left by the decedent will form part of the estate distributed to the heirs by applicable regulations.

Islamic inheritance law and Western civil inheritance law share several similarities and significant differences. One primary similarity is in the transfer of inheritance, where, in both systems, the inheritance is transferred from the deceased to the rightful heirs. This means that the assets left by the decedent will be divided according to the applicable provisions within each legal system among the legitimate heirs. Another similarity concerns the payment of funeral expenses. In both Islamic inheritance law and civil inheritance law, funeral costs constitute a debt that must be settled from the decedent's estate before the distribution of the inheritance takes place. This reflects a shared principle that funeral expenses take precedence and must be addressed before the distribution of inherited assets.



Furthermore, a third similarity can be observed in law subjects, namely the deceased and the heirs. In both legal systems, the deceased is the individual who has died and left behind the property, while the heirs are those entitled to receive the inheritance according to the applicable legal provisions. A fourth similarity is the freedom granted to the deceased to create a will or testament, allowing the decedent to determine the distribution of their assets based on their wishes. Additionally, a fifth similarity is that the right to inheritance is fundamentally granted to the blood relatives of the deceased, both in Islamic inheritance law and civil inheritance law, although there are discrepancies regarding the technical aspects of distribution and who qualifies as an eligible heir.

However, there are notable differences between the two legal systems, particularly regarding the regulation of the estate. In civil inheritance law, the property received by the heirs is cleared of any encumbrances, meaning it is distributed only after deducting payments for the decedent's debts and other obligations, including funeral expenses. In contrast, Islamic inheritance law differentiates between the estate left behind and the inheritance itself. The estate refers to the property left by the decedent, encompassing both tangible assets and rights, while the inheritance consists of the remaining assets after various obligations, such as the decedent's debts, medical expenses, and funeral costs, have been fulfilled. Under Islamic inheritance law, only the remaining estate can be inherited, while the decedent's debts do not form part of the inheritance received by heirs.

Another significant difference relates to the heirs' obligations regarding the decedent's debts. In civil inheritance law, any debts left by the decedent become the responsibility of the heirs and must be settled. However, heirs can avoid this obligation by rejecting the inheritance or accepting it under the condition that they are not required to settle debts exceeding the share of the inheritance they receive. Conversely, in Islamic inheritance law, the decedent's debts are to be paid solely from the remaining estate after fulfilling other obligations, without exceeding the amount left by the decedent. Consequently, the methods by which each legal system addresses the transfer of debts illustrate fundamental differences in inheritance principles.

Finally, differences in the distribution of inheritance are also apparent in the classification of heirs. In Islamic inheritance law, there are two primary groups of heirs: "asabat," who are automatically entitled to inherit based on Islamic law provisions, and other categories established by the Qur'an. Meanwhile, civil inheritance law recognizes four groups of heirs whose rights are sequential; if the first group is absent, the second group has the right to inherit, and so forth. Thus, in Islamic inheritance law, the order of the heir groups is fixed,

whereas in civil inheritance law, that order is adjusted based on the absence of the earlier groups of heirs.

## **The Impact of the Application of Civil Law and Islamic Law Regarding Inheritance in Indonesia**

The application of civil law and Islamic law to inheritance in Indonesia has been a complex and often controversial topic. As a predominantly Muslim country, Indonesia has a diversity of legal systems used to regulate the distribution of inheritance. Civil law, which originated from the Dutch colonial legal system, provides more flexible provisions in the distribution of inheritance, allowing the testator to determine the distribution of assets according to his/her will. On the other hand, Islamic law, which is the guideline for Muslims, has strictly regulated how inheritance assets should be divided according to the principles in the Qur'an and Hadith. The fundamental differences between the two legal systems often give rise to inconsistencies in practice, particularly when inheritance involves heirs from diverse legal backgrounds. These inconsistencies not only disrupt the legal process but also strain familial relationships, intensifying conflicts and generating legal uncertainty. Therefore, understanding the implications of these two legal systems is crucial for fostering better harmony in the distribution of inheritance assets, minimizing the potential for disputes, and ensuring that the rights of heirs are upheld according to the relevant provisions. This sub-chapter will explore in greater detail the impact of Civil and Islamic law on the inheritance process in Indonesia, considering the legal, societal, and cultural dimensions.

The application of civil law and Islamic law in the distribution of inheritance often shows inconsistencies, which is one of the main impacts on the inheritance system in Indonesia. Civil law tends to be more flexible and gives the heir the freedom to divide the inheritance based on his will, with the provision that the heir's debt obligations must be fulfilled first. Meanwhile, Islamic law has more rigid principles regarding the distribution of inheritance, with the division having been regulated in detail in the Qur'an, which includes debt payment obligations, funeral costs, and portions for each heir. This inconsistency can trigger disputes among heirs, especially if they have different understandings or legal preferences. This condition is further exacerbated if the inheritance involves heirs bound by different legal systems, for example, an heir who adheres to Islamic law with an heir who refers to civil law. In practice, this inconsistency can cause confusion in the distribution of inheritance, especially regarding who is entitled to receive the inheritance and how the remaining debt obligations

should be settled. This ambiguity can lead to legal conflicts that not only affect the relationship between heirs but also require the intervention of authorities to resolve the dispute.

The differences in legal systems adopted by each heir often have a significant impact on the inheritance distribution process in Indonesia. Most Muslims in Indonesia follow Islamic law when determining the distribution of inheritance, while many non-Muslims refer primarily to civil law. When inheritance involves family members who adhere to different legal systems, this can lead to confusion and even disputes. For example, heirs who follow civil law may feel that they are entitled to a larger share, while heirs who adhere to Islamic law must follow the principles of distribution established by their religion, which can differ significantly from civil law. These differing perspectives create a complex situation in the settlement of inheritance, especially if there is no agreement between the parties involved. This can result in delays in the distribution of inheritance or even give rise to lengthy disputes in court. In some cases, heirs who feel disadvantaged because they disagree with the legal system they adhere to may demand their rights through legal channels, prolonging the settlement process and increasing tensions within the family. Therefore, awareness of these differences and the importance of dialogue between heirs are essential to avoid escalating conflict.

Civil law grants the testator greater freedom to draft a will, allowing for more detailed specifications on how the inheritance should be distributed. A will can include explicit instructions, such as designating a portion of the estate to someone who is not an heir or arranging the distribution differently than current legal provisions dictate. In contrast, Islamic law recognizes a will only if it adheres to religious guidelines; specifically, it must not exceed one-third of the total inheritance and requires approval from the other heirs. This limitation restricts the testator's capacity to allocate their assets as they wish. This difference in the recognition of wills can lead to legal challenges when an heir seeks a distribution that diverges from Islamic law's stipulations. If the other heirs disagree, the inheritance distribution will be governed by Islamic law, which may conflict with the testator's wishes. Such situations can create disputes among heirs, especially when opinions vary regarding their rightful shares. Therefore, it is crucial for the testator to understand the constraints imposed by Islamic law regarding wills and to pay careful attention to the views of all heirs to prevent unnecessary conflicts.

Inheritance disputes involving parties who follow different legal systems are often very complicated to resolve. The fundamental differences between civil law and Islamic law regarding the distribution of inheritance, in terms of who is entitled to receive, how much their share is, and how the testator's debts must be paid, can prolong the dispute resolution process.

Courts, which generally follow civil law, must face various arguments from parties who feel their rights have been ignored based on their religious beliefs or the laws they adhere to. This process can lead to long disputes that require a lot of time and money. On the other hand, in cases involving people with different religious backgrounds, the courts must handle both with great care so that injustice does not occur. The resolution of inheritance disputes becomes more complex due to differences in the provisions regarding the rights and obligations of heirs in each legal system. Therefore, the courts often need expert assistance or consultation with religious authorities to overcome these differences, which prolongs the resolution time and worsens the relationship between the heirs involved in the dispute.

Another impact of the application of civil law and Islamic law is the need for more intensive socialization regarding the differences in these legal systems to the wider community. Effective socialization will help the community understand the basic principles underlying the two legal systems, and how they affect the inheritance distribution. If the community is more aware of their rights and obligations based on the legal system they choose or adhere to, this can reduce the potential for conflict within the family. In addition, socialization can also help reduce the misunderstanding that often occurs between families with different religious or cultural backgrounds. In addition, adjustments to the legal system are needed to create harmony between civil law and Islamic law in legacy distribution. This is not only important to prevent inequality or injustice in the distribution of inheritance but also to ensure that each individual can undergo the inheritance process following their beliefs and rights. The government and related institutions need to develop policies that can unite these two systems in practice so that a system is created that is fair and does not harm either party.

The distinctions between Islamic inheritance law and civil law significantly influence the development of laws and regulations in Indonesia. The government must adjust existing regulations to reconcile these two legal frameworks, particularly regarding inheritance distribution. Current statutes, such as the Civil Code (KUHPPerdata), primarily follow the principles of the civil law system, yet they must also consider Islamic law provisions for Muslims. Consequently, it is essential to update and harmonize these regulations to ensure equity between the two legal systems and to protect the rights of heirs fairly. Achieving this harmony necessitates deeper discussions among policymakers, academics, and religious leaders to identify solutions that accommodate both legal systems. Several laws and regulations related to inheritance that need to be updated are the Law on Inheritance, as well as regulations governing wills and the rights of heirs. By updating regulations, it is hoped that inheritance law

in Indonesia can be implemented more fairly and efficiently, and avoid legal tensions that can harm the testator's family in the future.

The application of Islamic inheritance law and civil law also has a significant social impact on family structures. Conflicts that arise due to differences in legal systems in the distribution of inheritance often cause tension among family members. For example, when an heir who follows civil law leaves a will that is not approved by heirs who follow Islamic law, or vice versa when the heir follows Islamic law and does not pay attention to the diversity of legal systems that exist in their family. This conflict can lead to family breakdown, disrupt relationships between family members, and damage long-standing bonds. The importance of paying attention to these social impacts must be part of improving a more integrative legal system. Not only do legal regulations need to be adjusted, but it is also important for society to strengthen their education and understanding of the importance of unity in the family so that inheritance conflicts can be resolved more wisely and follow social norms.

#### **4. CONCLUSION**

Inheritance law in Islam not only regulates the distribution of property but also involves non-material aspects such as rights and obligations that are transferred from the testator to his heirs. The distribution of inheritance is determined based on the provisions contained in the Qur'an and Hadith, as well as the science of faraidh which ensures that each heir obtains his rights by these provisions. The inheritance process in Islam is based on the principle of *ijbari*, where the distribution of inheritance occurs automatically according to the will of Allah SWT, contingent upon specific conditions and pillars that must be satisfied, including the death of a legitimate testator, the presence of living heirs, and the certainty regarding the status of those heirs. Thus, a thorough understanding of inheritance principles is essential for upholding justice and harmony within Islamic society, effectively averting disputes over the distribution of inheritance. Inheritance law, encompassing both civil law and Islamic inheritance law, governs the transfer of assets from the deceased to the heirs following death while considering the applicable provisions of each legal system. Although there are fundamental similarities in the principles of asset transfer—such as prioritizing funeral expenses and recognizing the testator's right to make a will—significant differences emerge in managing the testator's debts and the distribution of inheritance. Under civil inheritance law, debts must be settled by the heirs, whereas Islamic inheritance law restricts debt payments to the remaining assets. Furthermore, the heir classification system in Islamic inheritance law is fixed, while civil inheritance law varies according to the existing class order. Both systems underscore the importance of the

legal relationship between the testator and the heirs, as well as the lawful distribution of assets, albeit through differing mechanisms.

The implementation of civil law and Islamic law in the distribution of inheritance in Indonesia reveals a significant discrepancy that can have far-reaching legal, social, and cultural implications. The differences between these legal systems frequently lead to confusion and disputes among heirs, particularly when they adhere to different legal frameworks—either civil or Islamic. This divergence not only prolongs the process of settling inheritances but can also strain familial relationships, sometimes necessitating court intervention. Therefore, it is crucial for the government and relevant organizations to harmonize regulations that support both legal systems and to enhance public understanding of these differences. By renewing and adjusting to a more inclusive legal framework, we can aspire to achieve more equitable justice in inheritance distribution, thereby reducing the potential for conflict and fostering harmony within families. This approach aims for a fairer, more efficient inheritance process that aligns with applicable legal principles.

## REFERENCES

- Anshori, A. G. (2018). *Filsafat hukum hibah dan wasiat di Indonesia*. Yogyakarta: UGM Press.
- Asnawi, N. (2020). *Hukum harta bersama: Kajian perbandingan hukum, telaah norma, yurisprudensi, dan pembaruan hukum*. Jakarta: Kencana.
- Darmabrata, W. (2003). *Hukum perdata asas-asas hukum waris*. Jakarta: Fakultas Hukum Universitas Indonesia.
- Effendi, P. (1997). *Hukum waris*. Jakarta: Raja Grafindo Persada.
- Imron, M., & Huda, M. (2023). Fungsionalisme pembagian waris sebelum pewaris meninggal dunia dalam keberlanjutan keluarga. *Sakina: Journal of Family Studies*, 514-529.
- Marzuki, P. M. (2006). *Penelitian hukum*. Jakarta: Kencana Prenada Media Group.
- Rahman, F. (1975). *Ilmu waris*. Bandung: PT Alma'arif.
- Sari, I. (2014). Pembagian hak waris kepada ahli waris ab intestato dan testamentair menurut perdata barat. *Jurnal Ilmiah Hukum Dirgantara*, 1-20.
- Shabuni, M. A. (1995). *Pembagian waris menurut Islam*. Jakarta: Gema Insani Press.
- Soepomo. (1996). *Bab-bab tentang hukum adat*. Jakarta: Universitas.
- Suherman, & Adnan, I. (2024). Analisis penyelesaian sengketa waris perspektif hukum Islam dan hukum perdata di Indonesia. *Al-Muqarrah: Jurnal Perbandingan Mazhab Dan Hukum*, 13-30.

Suwasta, A. D. (2019). *Pengantar hukum perdata*. Makassar: Tohar Media.

Syah, A. (1994). *Hukum waris ditinjau dari segi hukum Islam*. Medan: Fakultas Hukum Universitas Sumatera.