

# Legal Review of Land Inheritance in the Perspective of Islamic Law Compilation Implementation of Article 178 Paragraph 2 of the Islamic Law Compilation

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**Abstract.** In Islamic law, inheritance ensures fair distribution of a deceased person's estate among legitimate heirs. Indonesia's Compilation of Islamic Law (KHI) guides Muslims on inheritance, particularly Article 178, Paragraph 2, mandating equitable distribution according to Sharia principles to prevent heir disadvantage. This rule is crucial in land inheritance, deeply tied to family law and human existence, regulated by Islamic principles. This normative study used statutory and conceptual approaches, analyzing secondary data qualitatively. Conclusions were drawn deductively, focusing on Article 178, Paragraph 2 of the KHI. The study found that inheritance is extensively discussed in the Quran, reflecting family systems and ensuring property rights based on the heir's relationship to the deceased. The KHI's inclusion of substitute heirs aims at legal justice in inheritance. Overall, Article 178, Paragraph 2 of the KHI is crucial for just land inheritance under Islamic law. Effective implementation requires understanding and support from stakeholders, including government and religious institutions, to uphold Sharia principles and ensure equitable distribution. This approach guides Religious Courts in litigation, promoting legal consistency in inheritance practices.

**Keywords:** Legal Review of Land Inheritance; Compilation of Islamic Law; Article 178 Paragraph 2

## 1 Introduction

Inheritance law in Islam has a very significant part in regulating the inheritance share of someone who has died to the legal heirs. In the Indonesian context, the Compilation of Islamic Law (KHI) is the main guide for Muslims in resolving inheritance issues. One of the relevant articles in this discussion is Article 178 Paragraph 2 KHI. Article 178 paragraph 2 KHI states that inheritance distribution must be carried out fairly and equally by sharia provisions. It emphasizes the importance of balance in the inherited assets distribution so that no heirs feel disadvantaged. The enactment of this article in the context of land inheritance has several significant implications.[1].

Inheritance law in Islam has an important role in controlling the distribution of heritable advantages, including land, to legal heirs. In Indonesia, provisions regarding Islamic inheritance law are legalized in the Compilation of Islamic Law (KHI), which is a guide for Muslims in resolving inheritance issues. One of the relevant articles in this context is Article 178 Paragraph 2 KHI, which emphasizes the importance of distributing inheritance assets fairly and equally by

sharia provisions. Article 178 Paragraph 2 KHI underlines the idea that inheritance should be divided fairly. With regards to acquired land, this article requires every main successor to get an offer by the arrangements of *faraid*, to be specific the legacy circulation framework in Islam. *Faraid* explicitly manages who is qualified for get a legacy and what portion they receive. For example, boys receive two shares, while girls receive one share. This principle aims to ensure that the distribution of inheritance is carried out fairly without discrimination. Implementation of Article 178 Paragraph 2 KHI in the field often faces various challenges. One of the main challenges is the heirs' lack of understanding regarding Islamic inheritance law. Many heirs do not fully understand the provisions of *faraid*, which can cause disputes in the process of dividing inheritance land. In addition, administrative issues such as land certification and legalization processes often become additional obstacles that slow down the inheritance distribution process[2].

Inheritance law governs the transfer of privileges and responsibility for resources, figuring out who has the option to be beneficiaries and their separate parts. The meaning of legacy law, such as Islamic inheritance, seems to be to oversee the transfer of property rights from the deceased to the primary heirs. In Islamic law literature, Islamic inheritance law is referred to by several names or designations, namely legacy, *faraid* law, and *al-mirats* law. The division of legacy has the point of guaranteeing that individuals who have been left behind do not cause fights and debates.[3]. The development of inheritance law can be traced back to the experiences of Umm Saad, an orphan whose father, Saad ibn Rabi'ah, was killed in the Battle of Uhud. She was born a few months after Saad's death.

Islamic inheritance regulation has been directed in a manner in the Al-Quran, remembering for Surah Al-Nisa (4) in the Paragraph 7 to 12, Paragraph 33, and Paragraph 176. Contrasted in different stanzas of the Al-Quran, these refrains on legacy regulation are the most unequivocal and comprehensive legal provisions in their substance. Figuring out who has the privilege to be a main successor and when legacy resources (*tirkah*) can be partitioned. In the Gathering of Islamic Regulation (KHI) noticed that "Inheritance Law is the law that regulates the transfer of the rights of the owner of inherited property (*tirkah*) to heirs, determining who has the right to be an heir and how much each person shares." In the interim, the importance of Islamic inheritance regulation as per Prof. Dr. Amir Syarifudin can be deciphered as "a bunch of composed guidelines in light of the disclosure of Allah and the Prophet's Sunnah concerning the exchange of resources or substantial resources from the deceased to the alive one, which are perceived and accepted to be legitimate and restricting for every Muslim.[4]

Sharia guideline is the regulation that controls the trading of assets deserted by the passed away person, which is known as heritage. The Qur'an characterizes how Islamic legacy is partitioned, and arrangements in regards to main beneficiaries' portions of resources have been resolved in view of the idea of equity. Along these lines, the legacy doesn't fall on one individual, yet every one of the main beneficiaries abandoned. The dissemination of every beneficiary, whether male or female, still undecided. In any case, how much legacy privileges they should get isn't expressed. In the dispersion of legacy, it is contained in Surah An-Nisa stanza 11 "*Allah has prescribed for you regarding (distribution of inheritance to your children. Namely: the share of one son is equal to the share of two daughters; and if all the children are more than two daughters, then for them two-thirds of the property is left behind; If there is only one daughter, then she gets half the wealth. and for two parents, for each of them one-sixth of the property left behind, if the deceased has children; if the person who dies has no children and he is inherited by his parents (only), then the mother gets one third; if the deceased has*

*several siblings, then the mother gets one-sixth. (The distributions mentioned above) after fulfilling the will he made or (and) after paying his debts? (Regarding) your parents and your children, you do not know which of them is closer (of much) benefit to you. It is a decree from Allah. Indeed, Allah is All-Knowing, All-Wise."* 122 QS[5]. Surah An-Nisa Section 11 specifies that the portion of men is two times as extensive as the portion of ladies since they get property from their spouses and guardians. In this way, contrasting two sections and one section is definitely not an outright computation that is viewed as unjustifiable, yet rather an equilibrium of freedoms among people.

The exchange of resources that are moved in Islamic regulation can be programmed or non-programmed. These arrangements have been directed in the Qur'an, among others, specifically concedes, wills, blessings, offerings, and legacy. These arrangements are contained in the right text and mean to give a path of least resistance to people towards a blissful life *fi al-dunya wa al-akhirah* (in this world and the Hereafter). One of the arrangements contained in the text of the Koran which examines the matter of moving resources from an individual who passes away to their beneficiaries is called Islamic inheritance regulation. The regulation of Islamic inheritance is a crucial matter in Islam and a source of contention between pillars of regulation, which is straightforwardly from consecrated textbooks that have been firmly established. It is undeniable that the existence of Islamic inheritance regulation is outlined in detailed, methodical, tangible, and equitable manuscript.

Legacy is a topic that is frequently examined and encountered by nearly everyone. The Qur'an discusses this extensively, and among the various rules that govern society, inheritance reflects the family structure. Therefore, it is vital for everyone, particularly those in the Muslim community, to have a good understanding of this topic, as Islam provides a detailed explanation of inheritance laws. Islamic law establishes inheritance rules clearly and equitably, assigning responsibilities to individuals in a genuine way. Islamic guidelines ensure that the responsibility for distributing an individual's estate after death is passed on to their heirs, regardless of their relationship or status. The Qur'an elaborates on and specifies the regulations concerning inheritance rights, ensuring that no one's rights are overlooked. The shares that each heir is entitled to are clearly defined by their position in the line of succession.[6]

In Islamic law, inheritance regulations hold a significant position. The verses in the Al-Quran comprehensively address inheritance laws. It is natural for individuals to encounter inheritance matters. Failure to provide clear provisions can easily lead to disputes among heirs regarding property. In some regions, Islamic inheritance laws are not yet implemented or are not uniformly enforced, as traditional inheritance practices continue to be observed. Utilizing Islamic distribution methods may lead to disputes among individual beneficiaries and potential challenges to the distribution of inheritance. Family law encompasses inheritance regulations, which signify the structure of society's families and play a defining role. Inheritance laws are intricately linked to human existence as they involve the transfer of wealth from one individual to another. Death is a universal event marking the end of a person's life process.[7].

## **2 Methodology**

This kind of investigation falls under the umbrella of standardized research, which utilizes legal and analytical methodologies. The data used is derived from secondary sources. The data analysis was presented illustratively using qualitative methods[8]. The end is drawn utilizing

the rational strategy, which includes getting ends from universal to narrow, especially associated with the examination topic, in particular the Audit of Legacy Law of Land in the Viewpoint of the Aggregation of Islamic Regulation: Execution of Article 178 Section 2 of the Accumulation of Islamic Regulation. Subjective information examination is directed when the experimental information acquired is as assortments of words as opposed to successions of numbers and cannot be arranged into information classifications accumulated in different ways (perception, interviews, report occurrences, and tape accounts) and generally go through handling before being utilized in subjective exploration. This interaction incorporates interview record, reduction in data, examination, information understanding, and triangulation.[9]

### **3 Result and Discussion**

#### **3.1 The Review of Land Inheritance Law in the Perspective of the Implementation of Article 178 Paragraph 2 of the Compilation of Islamic Law**

Legacy regulation in Islam plays a significant part in controlling the conveyance of acquired resources, including land, to lawful beneficiaries. The Compilation of Islamic Law (KHI) is the document that governs Islamic inheritance in Indonesia as a guide for Muslims in resolving inheritance issues. One of the relevant articles in this context is Article 178 Paragraph 2 KHI, which emphasizes the importance of distributing inheritance assets fairly and equally by Sharia provisions. Article 178 Paragraph 2 KHI underlines the idea that inheritance should be divided fairly. With regards to acquired land, this article requires every main successor to get an offer by the arrangements of *faraid*, to be specific the legacy circulation framework in Islam. *Faraid* explicitly manages who is qualified for get a legacy and what portion they receive. For example, boys receive two shares, while girls receive one share. This principle aims to ensure that the distribution of inherited assets is carried out fairly without discrimination.[10]

Overall, Article 178 Paragraph 2 KHI is an important basis for ensuring justice in the distribution of land inheritance by Islamic law. Implementation requires good understanding from all relevant parties as well as support from the government and religious institutions. With these steps, it is expected that the distribution of land inheritance can be carried out fairly and evenly, under Sharia principles and the provisions regulated in the KHI. Good implementation of this article will also help reduce family conflicts that often arise due to ambiguity or injustice in inheritance distribution. Through better understanding and a better system, KHI's goal of realizing social justice in Indonesian Islamic society can be achieved.

The field of inheritance law is undergoing significant changes due to the increasingly complex societal demands and evolving perspectives over time. One area experiencing development is Islamic inheritance regulation, particularly in Indonesia, where it is governed by the Compilation of Islamic Regulation (KHI). The Civil Code comprehensively regulates the substitution of primary heirs in cases of *plaatsvervulling*. Although the Qur'an does not explicitly mention substitute beneficiaries, their status as primary heirs can be inferred by broadening the definition of direct heirs outlined in the Qur'an. The Qur'an and Hadith do not provide clear guidance on the extent of the position of substitute heirs compared to the primary heirs they succeed, both regarding the portion they inherit and the strength of their claim. In this context, the law is left to the discretion of individuals to determine, as ordained by God.[11].

It is important to note that the portion received by a substitute main successor should be equal in value to the portion of the main successor being replaced. Therefore, Islamic inheritance law should accommodate substitute primary inheritors. This adjustment would not disadvantage other beneficiaries. Some argue that Islamic regulation does not acknowledge substitute beneficiaries in legacy matters. They argue that it would be unfair for a grandson to replace his parents as a main successor, for a nephew to replace his parents as a beneficiary sibling, or for cousins to replace their parents as successor, and so on. In Islamic inheritance regulation, there are substitute beneficiaries, which in a few regards contrast from the substitution of beneficiaries (*plaatsvervulling*) in the Common Code's legacy regulation. To explain the abovementioned, further examination is required, restricted to a correlation between Islamic inheritance regulation and the Common Code legacy regulation regarding substitution main beneficiaries. It is not because of the absence of standard value on legacy regulation in Indonesia.

Islamic heritage guideline applies to Muslims wherever in the world, but the traits of an Islamic country and the presence of people in that country or area impact on inheritance guideline around there. The effect is a limited effect that cannot go past the crucial lines of the plans of Islamic heritage guideline [12]. In any case, this impact can happen in parts that begin from *ijtihad* or the assessments of Islamic legitimate specialists themselves. Indonesia is a nation where most of the populace is Muslim and uses the Qur'an as a wellspring of legitimate guidelines in day-to-day existence, no matter what the type of the country which did not depend on conviction, and Muslims execute the Sharia assigned by credible manuscripts is required, consequently the execution of legacy in light of Islamic inheritance regulation is obligatory.

As society creates, to response legitimate necessities, the law is likewise expected to have the option to stay aware of social changes. Similar to the standard of statute, different existing lessons and circumstances cause contrasts in direction, so it is perceived that there is a requirement for guidelines that oblige contrasts of assessment in a legitimate unification and to give lawful conviction. Through the Official Guidance (Inpres) Number 1 of 1991, which was given on June 10, 1991, and the Announcement of Religious Minister of the Republic of Indonesia No. 154 of 1991, issued on July 22, 1991, incorporated the Compilation of Islamic Law (KHI) into Indonesian legal framework.

### **3.2 The Urgency of Reviewing Land Inheritance Laws in the Perspective of the Implementation of Article 178 Paragraph 2 of the Compilation of Islamic Regulation**

Implementation of Article 178 Paragraph 2 KHI in the field often faces various challenges. One of them is the heirs' lack of understanding regarding Islamic inheritance law. Many heirs do not fully understand the provisions of *faraid*, which can cause disputes in dividing inheritance land. Apart from that, administrative problems such as land certification and the legalization process often become additional obstacles that slow down the inheritance distribution process. More intensive outreach efforts regarding Islamic inheritance law and KHI are needed to overcome challenges. The government, through religious institutions and related agencies, can play an active role in public education about the significance of understanding and following KHI provisions in inheritance distribution, and improving the land administration system is also essential to ensure that the process of distributing land inheritance can run smoothly and by applicable laws.

Generally, Article 178 Section 2 KHI is a ground starting point for guaranteeing equity in the dispersion of land legacy observing Islamic regulation. Execution requires great comprehension from all important gatherings to help from the public authority and strict organizations. With these means, it is normal that the circulation of land legacy can be done decently and equally under Sharia standards and the arrangements controlled in the KHI.

The Social Event of Islamic Guideline (KHI) was assented to be a standard for cases in severe magistrates, which control marital affairs, heritage, and waqf, was finished to simplify it for judges to get references. Thus, the Get-together of Islamic Guideline (KHI) has transformed into a judicial consolidation in the High Courts. The Get-together of Islamic Guideline (KHI) is a sort of unification of prevailing Islamic family guidelines, yet a several articles include revisions of heritage guidelines. For this circumstance, the expert examined one of the articles, explicitly Article 185 of the Collection of Islamic Guideline (KHI), which analyzes the issue of substitute recipients. The bequeathing inheritance to grandchildren or relatives whose parents have predeceased the deceased benefactor is to provide the continuity of the lineage and financially support the family members, thereby alleviating their sadness. Alternate recipients in Islamic heritage guidelines are to enhance existing guidelines and, in any event, yearning to search for a sensation of value for principal recipients. Substitute recipients are primary recipients because of a difference in ready.[13]

Even though the allocation of specific beneficiaries is not explicitly outlined in Islamic inheritance law, there are differing opinions among *fiqh* legitimate specialists. Disagreements may arise when an issue is not addressed in the Qur'an. One such issue pertains to the entitlement of grandchildren. The Qur'an does not delineate the inheritance share for grandchildren from their grandparents' estate. Consequently, the status of a grandchild's inheritance has led to debate, particularly regarding the concept of substitution in Islamic inheritance law. For instance, in a scenario where a person passes away bequeathing a son and two grandsons through his son, the full inheritance is bequeathed to the son, while the grandsons do not inherit as they are precluded (hijab) by the presence of the son. Recognizing the inequity of this situation, the law addresses this shortfall by introducing what is termed a compulsory will. The Wajibah Wills Institution was established under the Egyptian Wills Law of 1946, specifically to address this issue.[14]

The issue of replacement primary heirs, or somebody who passes on first and is supplanted by his relatives (in this situation, the kid) to get the legacy from his granddad, is one part of the re-establishment of Islamic regulation. Integrating substitute beneficiaries into Islamic regulation is fully intent on accomplishing a feeling of lawful equity based on Book II of the Accumulation of Islamic Regulation with respect to legacy. Except the people who cannot become beneficiaries since they are rebuffed in light of a judicial decision that has legitimate power, as expressed in Article 173 of the Compilation of Islamic Regulation, beneficiaries who bite the dust before the main successor can be supplanted by their youngsters. In this situation, there is definitely not an undeniable explanation concerning who the recipients who can be displaced are.

Legacy is a legitimate reality, not a lawful demonstration, for example, a will and award because main lawful demonstrations should be possible given Islamic or different regulations. As a legitimate truth, legacy has lawful outcomes, and that implies taking care of the issue of legacy ought to be no decision for Muslims except in light of Islamic inheritance regulation. Hence, legacy can be thought of as a collection of choices that dictate the rights and obligations of a person that have been inherited from a predecessor or another legal entity. The necessities

and mainstays of legacy in Islamic inheritance regulation depend on the standard of *ijbāri* which says that the successor should give 66% of his legacy to the main beneficiaries, while the other third, the beneficiary, can hand down give the acquired property to whomever he needs as *taqarrub* and expecting a reward from God, without being reliant upon the desire of somebody, either the beneficiary or the beneficiary. *Ijbāri* rule additionally implies: 1) the exchange of property that should happen after the "Mawāris" passes on, 2) how much property not set in stone for every one of the beneficiaries, 3) individuals who will get the acquired property still undetermined with sureness, to be specific they who are connected by blood and matrimonial [6].

By Islamic inheritance laws, transferring assets through inheritance only occurs after someone who owns the assets passes away. So, inheritance allocation does not take place as long as the heir is still alive, whether it is immediate or indirect. In the inheritance law, when someone passes away, all ownership and responsibilities are immediately handed onto their heirs. The Al-Qur'an and Al-Sunnah are considered authoritative sources that offer legal guidance on the daily life of a Muslim, particularly in the area of legacy. However, the evolving nature of human life requires laws that can adjust to changes in social circumstances. Therefore, efforts are needed to allow for the treatment of different scenarios and enable Muslims to establish new rules that meet their requirements. Nevertheless, changes in time do not constantly call for changes in the law, especially when the consideration of benefit does not necessitate it, particularly in matters of inheritance.[2].

#### 4 Conclusion

1. By and large, Article 178 Passage 2 of the Gathering of Islamic Regulation (KHI) is an urgent starting point for guaranteeing equity in the distribution of land inheritance as per Islamic regulation. Its implementation requires a good understanding from all related parties as well as support from the government and religious institutions. With these steps, it is expected that the distribution of land inheritance can be carried out fairly and evenly, by the principles of sharia and the provisions set out in the KHI.
2. As society creates, to address legitimate issues, the law is additionally expected to stay aware of social changes. As per the standards of *fiqh*, different lessons, and existing circumstances lead to contrasts in direction. Subsequently, it is perceived that there should be guidelines that oblige contrasting sentiments inside a brought together legitimate system to give lawful sureness.
3. Fundamentally, legacy regulation is the law that directs the exchange of freedoms and responsibility for expired's domain, figuring out who is qualified to be the primary beneficiaries and the individual parts for each. From this definition, it very well may be figured out that the substance of legacy regulation, including Islamic inheritance regulation, is to control the exchange of proprietorship freedoms from the departed to the beneficiaries.

## 5 Suggestions

1. Substitute beneficiaries have proactively been planned in the Gathering of Islamic Regulation, yet to fortify their situation, they should be raised into a regulation, explicitly a Regulation on Public Legacy Regulation.
2. It is expected that further comprehensive research will be conducted on the traditional regulations that evolve and thrive within Indonesian society to comprehend the consolidation of Public Legacy Regulation.
3. Islamic inheritance regulation is a huge issue in Islam and is a support point among the mainstays of regulation that is essentially reflected straightforwardly from the hallowed messages that are settled upon in their reality. One irrefutable truth is that the Islamic inheritance regulation is introduced in itemized, deliberate, concrete, and sensible texts. Legacy is a typical subject of conversation, and nearly everybody encounters it.

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