

The Principles of Justice and Balance ('*Adalah*') and Closeness (*Qarābah*) in the Inheritance of Siblings and Maternal-Siblings in Islamic Inheritance Law

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ABSTRACT: This study is motivated by the existence of inequality that disregards Islamic inheritance principles in Islam such as the principle of '*adalah*' and the principle of *qarabah* in the distribution of inheritance involving full-siblings when inheriting together with maternal-siblings, where the amount to be received by full-siblings is far less than that to be received by maternal-siblings. Although it is known that full-siblings are the closest relatives by blood to the deceased compared to other relatives, whether they are maternal-siblings or paternal-siblings. Therefore, this study aims to discuss Islamic inheritance law based on the concept of justice ('*Adalah*') and family closeness (*Qarabah*) in Islamic inheritance. This study uses a qualitative approach with a library research method. The data were gathered from Islamic inheritance law books, journals, proceedings, and Islamic law compilations in Indonesia. The results of this study indicate that Islamic inheritance law is definitive in terms of the shares of heirs because it is based on clear textual wording, but in terms of operational distribution, it is uncertain. The concept of *sudus al-baqi* and *thuluth al-baqi* can be applied in inheritance cases involving full-siblings and maternal-siblings. The concepts also align more closely to the principles of '*adalah*' and *qarabah* compared to the traditional methods practiced thus far. We conclude that the application of inheritance law in Islam will continue to refer to the definitive arguments mentioned in the Quran and hadith while still considering the principles of inheritance that have been agreed upon by scholars as an implementation of Islamic law, but in its operational level, it can be developed based on existing facts.

KEYWORDS: Islamic inheritance law, fairness, balance, family closeness, family wealth distribution

I. INTRODUCTION

Inheritance law in the Koran, according to the majority of scholars, is something that is qat'i in the sense that the distribution of shares belonging to the heirs must follow the provisions of the Koran and Sunnah (Masut & Saron, 2022). That is one of the reasons why inheritance jurisprudence is often termed faraid (فرائض). Faraid itself is linguistically a derivation of the word farada (فرض), which means to prescribe, determine, or oblige. It is called faraid because what Allah has decreed in the Koran is a decree that He has made so it is mandatory to follow it as stated in Q.S. al-Nisa/4 : 11 when explaining the provisions and definite portions of heirs, Allah closes the verse with the sentence:

...فَرِيقَهُ مِّنَ اللَّهِ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

Translation: '...As a decree from Allah, verily Allah is All-Knowing, All-Wise.'

A closer look at inheritance studies reveals that not all Islamic inheritance distribution rules have standard provisions based on the Quran or Hadith (Riyanta, Najib, Bahrul, & Falah, 2025). This is where the many schools of thought emerge regarding inheritance issues in Islam. Consider, for example, the distribution of inheritance involving siblings and half-siblings, both male and female. Inheritance cases involving siblings and half-siblings, which is better known as the term *مُشْتَرَاكَه* (*mushtarakah*) or *mushtarikah* with *kasrah* on the letter ra'), namely the case where Ali bin Abi Talib decided that siblings are partners in receiving inheritance with half-siblings (both male and female) in receiving one third of the wealth (Wenk & Chiafari, 2000). This opinion is different from other opinions contained in the book al-Faraid which states that the partnership of siblings with half-siblings in receiving 1/3 is the opinion of a group of friends outside Ali bin Abi Talib such as Umar bin Khattab and Ustman bin Affan r.a. and Imam Malik and Imam Syafi'i also chose this opinion. In contrast, Ali bin Abi Talib, Ibn Mas'ud, and several other friends r.a. think that they are not partners in receiving 1/3. Apart from the conflicting opinions mentioned above, this decree certainly has the effect of changing the status of half-brothers as dhawil furud as mentioned in Surah al-Nisa verse 12 and the allocation of siblings as asabah as contained in Surah al-Nisa verses 11, 12, and 176, as well as heirs who have a more important position than half-brothers.

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Referring to the principles of Islamic inheritance as established by Islamic scholars, including justice and close kinship, the concept of *mushtarakah* proposed by Umar ibn Khattab and several other companions appears to deviate from these basic principles of inheritance. This assumption is not excessive if we truly examine the position of siblings in relation to the deceased and the position of half-siblings in relation to the deceased. The closeness of kinship in Islamic inheritance, as mentioned by Abdul Karim, is the consensus of the majority of Sunni scholars (Mohadi, 2023). This opinion is based on an understanding of the Quranic text as stated in Q.S. al-Ahzab/33:6:

...وَأُولُوا الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ اللَّهِ مِنَ الْمُؤْمِنِينَ وَالْمُهَاجِرِينَ إِلَّا أَنْ تَفْعَلُوا إِلَىٰ أَوْلِيَائِكُمْ مَعْرُوفًا...

Translation: '...Those who are related by blood to one another have a greater right (to inherit) in the Book of Allah than the believers and the Muhajirun, unless you intend to do good to your brothers (in religion)....'

The opinion is also strengthened by the hadith of Ibn Abbas r.a. that the Messenger of Allah said: 'Give the inheritance to those who are entitled to receive it, while the rest goes to the closest male relatives, in another narration it is stated: distribute the inheritance to the *dhawil furud* as Allah stipulates in the Koran, and what is left of it to the closest male relatives. However, Sunni ulama in resolving this case only have two opinions. The first opinion is that if there is no inheritance left after being distributed to the heirs of the *dhawil furud*, then the 'asabah in this case is that the siblings do not get anything. This opinion is the opinion of the Malikiyah and Hanabilah schools. It is currently the opinion of the ulama of the Kingdom of Saudi Arabia, as stated by Abdullah Bin Baz in Fatawa Nur 'Ala al-Darbi, with the translation as follows:

'Brothers and sisters are *sahibul furud*, and siblings are 'asabah, so if they come together in inheritance and there is no remaining wealth after distributing it to *sahibul furud*, then 'asabah does not get anything, and this is the opinion of the *ahlul ilmi*, and this is the stronger one. Some groups say that the solution is *musharrikah* (association), where siblings unite with siblings in inheriting, because siblings are a union with siblings from the mother's line, but this is a weak opinion because siblings are 'asabah not *sahibul furud*, and the Prophet SAW said: "Give the inheritance to the rightful, while the rest is given to the closest male relative", and this is the rule, that's why we give 1/2 share to the husband, to the mother or grandmother. 1/6 and half-brothers 1/3 and Allah gave them 1/3 as mentioned in the Koran, so there is nothing left for siblings, likewise if it is brothers and sisters, this is the correct opinion according to the hadith.'

The second opinion is the opinion chosen by the majority of ulama, namely *mushtarriakah*, namely making siblings and half-siblings allied in inheriting, where the sibling who originally was an *asabah* becomes *ashabul furud* and occupies the position of the same-mother, in this way, the siblings will get a 1/3 share shared equally with the same-mother. According to Sunni scholars, biological brothers have a closer kinship than half-brothers, because they are connected by kinship from the father's and mother's lines, while half-brothers are only from the mother's line. So it seems that the resolution of the case in the inheritance case involving two heirs from the *hawashi* line needs to be reviewed on the basis of justice, which is the principle of inheritance in Islam.

Likewise, suppose we review it from the aspect of the principle of justice as one of the main principles of Islamic inheritance law. In that case, the practice of inheritance distribution among siblings and half-siblings, as seen in the Muslim tradition of inheriting together with the deceased's husband and mother, which results in siblings having a zero share, appears to require special attention from a justice perspective (Kartini & Inah, 2018). How is it possible that siblings, who are the closest relatives of the deceased (because they come from two strong lines, namely the paternal and maternal lines), do not receive anything, even though this principle of justice is the pillar of the creation of problems in Islamic law, including this inheritance? This is the background for researchers to study further the concept of inheritance distribution for siblings if they are together with half-siblings in inheritance based on the understanding that they are siblings who have a stronger kinship relationship "*aula al-rajul*" among other siblings, with the hope that there will be a new solution that is considered fairer.

II. LITERATURE REVIEW

A. Understanding Islamic Inheritance (Faraid)

Islamic inheritance is linguistically a combination of 2 two syllables, namely Kewarisan and Islam; the combination of these two words is actually only to distinguish Islamic inheritance from other inheritance systems in Indonesia. As is known, there are three inheritance laws in force in Indonesia, namely the general inheritance law, the customary inheritance law, and the Islamic inheritance law (Reskiani, Tenrilawa, Aminuddin, & Subha, 2022). Islamic inheritance itself in fiqh terms is called al-irthu (إرث) or mirath (الميراث), whose plural is mawarith (مواريث). The letter alif that falls after the letter waw in the word actually comes from the letter waw.

Qais Abdul Wahhab says as follows:

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الميراث في اصطلاح الفقهاء: هُوَ إِسْمٌ لِمَا يَسْتَحِقُّ الْوَارِثُ مِنْ مَوْرَثِهِ بِسَبَبٍ مِنْ أَسْبَابِ الْإِرْثِ، أَوْ هُوَ انْتِقَالُ مَالِ الْغَيْرِ إِلَى الْغَيْرِ عَلَى سَبِيلِ الْخِلَافَةِ. وَعُرِفَ بِأَنَّهُ: عِلْمٌ بِأَصُولٍ يُعْرَفُ بِهَا قِسْمَةُ التَّرَكَّاتِ وَ مُسْتَحَقَّاتِهَا وَأَنْصِبَاؤُهُمْ مِنْهَا. وَتَطْلُقُ كَلِمَةُ الْمِيرَاثِ أَيْضًا عَلَى الْمَالِ الْمَوْرُوثِ نَفْسِهِ، فَيَقَالُ هَذِهِ الدَّارُ أَوْ السَّيَّارَةُ مِيرَاثٌ، أَيْ مَوْرُوثَةٌ، أَيْ أَنَّ سَبَبَ مِلْكِيَّةِ صَاحِبِهَا الْإِرْثِ، كَمَا تَطْلُقُ كَلِمَةُ الْمِيرَاثِ عَلَى عِلْمِ الْمِيرَاثِ نَفْسِهِ، فَيَقَالُ فَلَانٌ يُجِيزُ الْمِيرَاثَ، أَيْ يَحْسُنُ هَذَا الْعِلْمُ وَهُوَ حُجَّةٌ فِيهِ. وَعُرِفَ بِأَنَّهُ: عِلْمٌ يُعْرَفُ بِهِ مَنْ يَرِثُ وَمَنْ لَا يَرِثُ وَمِقْدَارُ مَا لِكُلِّ وَارِثٍ. وَعُرِفَ الْمِيرَاثُ بِأَنَّهُ: فَهْمُ الْمَوَارِيثِ وَعِلْمُ الْحِسَابِ الْمُوصَّلِ لِمَعْرِفَةِ مَايُخَصُّ كُلُّ ذِي حَقٍّ مِنَ التَّرَكَّةِ. فَعِلْمُ الْمِيرَاثِ يَنْحَثُ فِي الْحُقُوقِ الْمُتَعَلِّقَةِ بِالتَّرَكَّةِ إجمالاً وَأَسْبَابِ الْمِيرَاثِ وَشُرُوطِهِ وَمَوَاقِعِهِ وَأَنْوَاعِ الْوَرَثَةِ وَبَيَانِ نَصِيبِ كُلِّ وَاحِدٍ مِنْهُمْ، وَحُجَبِ بَعْضِ الْوَرَثَةِ حَجَبًا كُلِّيًّا أَوْ جُزْئِيًّا وَالْعَوْلُ وَالرَّدُّ وَالْمَخَارِجَةُ وَالتَّصْجِيحُ، وَغَيْرُهَا مِمَّا يَتَوَقَّفُ عَلَيْهِ تَقْسِيمُ التَّرَكَّاتِ بَيْنَ أَصْحَابِهَا

The translation:

Inheritance (mirath) in the terminology of the jurists refers to the rights of an heir from his heir due to one of the reasons for inheritance, or the transfer of property belonging to one person to another through succession. What is meant by inheritance is the knowledge of the principles by which the division of inheritance, the recipient of the inheritance, and their share are known. The word mirath is also used for inheritance itself, so it is said that a house or car is an inheritance, meaning that the reason for its ownership is the inheritance. The word mirath is also used to indicate the science of inheritance itself, so it is said that so and so is skilled in inheritance, meaning that he has mastered the science and is an expert in it. What is meant by mirath is the knowledge with which a person can know who inherits and who does not, as well as the share of each heir. Thus, it is also known that *mirāth* is *fiqhul mawarith* or the science of *hisab* (arithmetic), which is specifically for calculating the rights of each heir to inheritance (*tirkah*). Thus, *mirath* is a science that discusses the rights related to *tirkah*, both related to its causes, prohibitions, conditions, types of inheritance, and explanations of the share of each heir, also discussing *hijab* (both *hirman* and *nuqsan hijab*), '*aul*, *radd*, *tashih*, and so on.'

Murtadha also stated that *mirath* is the property left by the deceased, which becomes the right of the heirs due to specific reasons such as kinship, and so on. Murtadha explained that the essence of *mirath* is the death of the owner of the property, so inheritance is not permitted without death (Rizvi, 2011). Meanwhile, the term *faraid* (الفرائض) is the plural of the word *فريضة*, which means provisions or decrees. The term *faraid* refers to the science of inheritance distribution, both legally and calculatively. Furthermore, it is also stated that *faraid* is the science that determines how to divide inheritance among those who *mustahiq* (the beneficiary). The science of *faraid* is also known as the science of *hisab* (calculation) because it uses calculations extensively in determining the distribution of inheritance. Islamic inheritance law (juris *fiqh*) is often referred to as *faraid* because the law of inheritance in Islam is something that has been determined by Allah in a *qat'i* manner, both in the form of definite portions, people who are entitled to receive, who is prevented from receiving inheritance, and who prevents it, and so on. Likewise, for example, when Allah uses the word *mafrud* (مفروض), which is a form of *isim maf'ul* from the root word (mashdar) *fardun* (فرض), which is the same root as the word *faridah* (فريضة), which is the singular form of the word *faraid*, when mentioning inheritance issues in the Qur'an, such as in Q.S. al-Nisa / 4: 7 and 11:

لِّلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ مِمَّا قَلَّ مِنْهُ أَوْ كَثُرَ ۚ نَصِيبًا مَّفْرُوضًا

Terjemahnya:

'For men there is the right to share in the inheritance of their parents and relatives, and for women there is the right to share (also) in the inheritance of their parents and relatives, whether a little or a lot according to the division that has been determined.'

In this verse, Allah uses the word *mafrudan* as something that has been determined (a stipulation that must be obeyed). Likewise, in verse 11, when Allah has finished mentioning the distribution of the heirs' quotas, Allah closes the discussion with the word *فَرِيضَةً مِّنَ اللَّهِ*, which means "as a stipulation/stipulation from Allah" which is worthy of being obeyed.

B. Definition of Inheritance

The word inheritance (ورث) is a masculine noun that means the transfer of someone's property after their death (Basten & van der Aalst, 2001). Inheritance is also often referred to as *faraidh*, the plural form of *faridlah*, which literally means share. 6 However, if examined terminologically, the meaning of inheritance is also inseparable from the diversity of Islamic intellectual views in defining it, such as Hasbi Ash-Shiddieqy himself, who defines inheritance as the science of determining who is entitled to receive an inheritance, who is not, the amount received by each heir, and how it is distributed.

Meanwhile, in the Compilation of Islamic Law (KHI), inheritance law, or often called inheritance law, is defined as the law that regulates the transfer of ownership rights of inherited property (*tirkah*) from the heir, determining who is entitled to be an heir and how much each portion will be (Goody, 2016). If we look at the definition of inheritance from the epistemological aspect put forward by the figures and KHI, although expressed in different language, the substance of the meaning of the whole has been

¹Qais Abdul Wahhab, *Mi>ra>thul mar'ati fii Al-Shari>'ah al-Isla>miyah wal Qawa>ni>n al-Muqa>ranah*, (Oman: Da>r Wa Maktabatul hamid, 2008), 29-30

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woven into one, namely, that inheritance is a sharia that regulates all forms of transfer of property in detail, both who is the expert heirs who are entitled to receive an inheritance, heirs who are not entitled to receive it, and how much of the inheritance they can receive, and so on.

C. Balanced Justice in Islamic Inheritance Law

Justice in inheritance law is closely related to rights and obligations, and the balance between what is acquired, what is needed, and what is useful (Brassington, 2019). Based on this understanding, the principle of justice in the distribution of inheritance in Islamic law is evident. Fundamentally, it can be said that gender differences do not determine inheritance rights in Islam. This means that, just like men, women also have the same rights to inherit. This is clearly stated in Surah An-Nisa', verse 7, which equates men and women with inheritance rights. Verses 11, 12, and 176 of Surah An-Nisa' detail the equality of inheritance rights between men and women, father and mother (verse 11), husband and wife (verse 12), and brothers and sisters (verses 12 and 176). Regarding the share received by men and women, there are three forms:

First, men receive the same amount as women: for example, mothers and fathers (both receive 1/6) if the testator leaves behind biological children. Likewise, brothers and sisters each receive 1/6 (in the case of a testator who has no direct heirs). Second, men receive a larger share, or twice as much as women in the case of a son and a daughter. In a separate case, widowers receive twice the share of widows: 1/2 to 1/4 if the testator leaves no children; and 1/4 to 1/8 if the testator leaves children.

Third, women are older than men, and the situation is that women inherit while men do not. This discussion will be discussed further in the sub-chapter "The Concept of Islamic Inheritance Distribution for Women" on page 14. In terms of the amount of the portion received when receiving rights, there is indeed inequality. However, this does not mean it is unfair, because justice in the Islamic perspective is not only measured by the amount received when receiving inheritance rights, but is also linked to utility and need. In general, it can be said that men need more material things than women. This is because men in Islamic teachings bear a dual obligation, namely for themselves and for their families, including women¹⁴, as Allah explains in Surah An-Nisa' verse 34: "Men are guides for women because Allah has made some of them excel others and because they provide for them from their wealth.

When the amount received is related to the obligations and responsibilities mentioned above, it is clear that the level of benefits experienced by men is the same as that experienced by women. Although men initially receive twice as much as women, a portion of their allocation is given to women in their capacity as responsible mentors. For a man, his primary responsibility is to his wife and children. This is an obligation from Allah that must be carried out (QS Al Baqarah verse 233). "...the father's duty is to provide food and clothing for the mothers and children in a manner that is just and proper." Toward other relatives, a person's responsibility is only additional, not primary. This responsibility is borne if he is able to do so on the one hand, and on the other hand, the relative needs help. Allah mentions this responsibility towards relatives in QS Al Baqarah.

III.METHODOLOGY

This study used a library research method (Alavi & Leidner, 2001; Callaway, 2010). The library research method is a method of collecting data by reading, reviewing, and analyzing various literature such as books, journals, documents, and other written sources to obtain information that supports the research (Nurdin Nurdin & Sagaf Sulaiman Pettalongi, 2022; Nurdin Nurdin & Sagaf S Pettalongi, 2022). This research involves information retrieval, organizing reading materials, recording data, and reviewing and synthesizing information from secondary sources to build a theoretical foundation and provide an in-depth understanding of the topic being studied. The primary sources include books, journals, scientific articles, theses, dissertations, research reports, and official documents related to Islamic law and Islamic inheritance law (Mayo-Wilson, Li, Fusco, Dickersin, & investigators, 2018; Samuelsen, Chen, & Wasson, 2019). The official document for this research is a compilation of Islamic law published by the Ministry of Religious Affairs of the Republic of Indonesia. Data were analyzed through data reduction, selecting relevant information according to the research focus. Data classification was then carried out by grouping literature based on themes, concepts, or theories. Content analysis was then carried out by interpreting the meaning of the text and comparing arguments between sources. The final stage was synthesis by connecting various literature findings to produce new understandings or concepts.

IV.RESULTS AND DISCUSSION

A. Elements of Inheritance

In Islamic jurisprudence literature, particularly those discussing inheritance law, the term "elements of inheritance" is often used interchangeably with "*rukun*," although it is generally understood that elements encompass not only the *rukun* but also all aspects related to inheritance itself. This means all the elements that, due to their presence, ensure the proper and smooth distribution of inheritance assets. Each element must also meet the requirements stipulated in Islamic law. These elements are:

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1. The Heir (*al-muwarriṭh*)

The person who bequeaths their property is called an heir. This can be a parent, child, sibling, relative, or one of the spouses. A testator can also be someone who has died and left something that can be passed on to their surviving family. An explanation of the intended heirs can be learned from Surah al-Nisa' (Qur'an) 4:11, which details at least several groups of heirs in this verse: the heirs of both male and female children. Therefore, the heirs are their fathers and mothers. Another group is the heirs of mothers and fathers, meaning that the heirs consist of both sons and daughters. Each of these groups then expands to the heirs of their descendants, descending from the children and the previous generation upwards from the father's group if the latter is absent.

Meanwhile, the inheritance of a husband or wife can be understood from the same surah, verse 12, which details the share of the husband or wife if one of them dies, whether leaving other heirs or not. Likewise, inheritance from among relatives is detailed in verse 12 of the letter al-Nisa', namely the inheritance of brothers, either alone or together, siblings, siblings from the same father and mother, which is emphasized in the same letter in verse 176. The development of heirs also applies to their respective descendants if the person concerned is not there.

It should be emphasized that, although the general family relationship of the testator can be determined in detail, it is also important to outline the requirements for a person to be considered a legitimate heir according to Islamic law. These requirements include the testator having died either in a real or legal manner, or through a strong presumption (*taqdiri*). In Islamic law, there is no such thing as inheritance unless there is a death, as inheritance essentially arises as a consequence of the death of someone who leaves behind assets. A real death is defined as a physical and tangible death, or a medical examination indicates that the body and soul have separated.

A legal death, on the other hand, is a death determined by a judge's decision. For example, if a person has been missing for a long time and is brought to court, and based on the available data and facts, the judge is convinced and decides that the person is dead, then their assets can be divided. Scholars differ on the length of time a person is considered dead. A *taqdiri* death, on the other hand, is a death determined by estimation. For example, the death of someone who visited a war-torn area could threaten the safety of many people. If the person doesn't return home and there's no news of them, it's possible they may have died, according to strong suspicion.

2. Heir to the property (*al-Warīṭh*)

This means a person who has a kinship relationship with the testator (deceased) that results in inheritance, as explained in detail above, namely kinship (*al-qarabah*), marital relations, and relations resulting from the freeing of slaves. The existence of a kinship relationship does not automatically mean that a person becomes an heir entitled to a share. He or she must also fulfill the requirements stipulated by Islamic law, which are:

1. The heirs were alive when the testator died. Whether alive in the real world or still in the womb, the fetus is legally alive, but it is certainly alive.
2. There are no legal obstacles to receiving the inheritance. As is known, several obstacles can cause someone to be excluded from the list of heirs, namely murder and religious differences (*ikhtilafu al-din*).
3. Not included in the list of heirs who are prevented (*mahjub hirman*) by heirs who have a closer (more powerful) position.

The issue of heirs who are entitled to receive inheritance can be explained briefly in two categories, namely the category of *nasabiyah* heirs (there is a lineage relationship with the testator) and the second is the *sababiyah* heirs (there is a relationship with the heir for a certain reason). The first category of heirs are those who are entitled to receive inheritance due to blood relations and kinship with the testator, from the downward line (*far'un*) are children and all their descendants, both male and female, and at every female descendant, this line stops, the upward line (*as'lun*) is the father and mother and all their parents upward from the paternal line, while the maternal line is only the mother and mother, and continues upward, as well as the lateral line (*h'awashi*), namely siblings, both siblings (mother and father), siblings from the father and siblings from the mother, both male and female, then uncles from the paternal line and their male descendants only. Meanwhile, in the second category, namely *sababiyah*, the heirs have a relationship with the heir due to marriage or due to a relationship of freeing male or female slaves (*mu'tiq* and *mu'tiqah*), so they have the right to become heirs.

3. Inheritance (*al-Mirath*)

The element of property is a very important element, even more important than the previous two elements, because even if the two aspects of the heir and the heir are present and fulfill the established requirements, but the element of property is not present, then there will be no inheritance. In Islamic law, inheritance is defined as everything left by the testator that can legally be transferred to his heirs. Al-Zuhaili in *al-Fiqhu al-Islam* states that inheritance, or what is often called *al-Mirath* or *al-Irṭhu*, can be in the form of movable or fixed assets, and also all the rights of the heir that his heirs can inherit. The requirements for inheritance that can be distributed to his heirs include, explained by scholars as assets that are clean (*al-irṭh*) from the testator's debts, the costs of managing the testator's corpse, the costs of his illness, and the repayment of his debts, both debts to others and to the Creator, and

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what cannot be forgotten is that it is reduced by a will if the testator makes a will before death. All of these are known as rights that must be fulfilled in an orderly manner for a person's *tirkah*.

4. Inheritance from Siblings and Half-Siblings

In Islamic inheritance (Islamic inheritance law), not all relatives and family members are heirs who are entitled to receive inheritance from the heir (*mayyit*). Even though its scope is wider than other inheritance laws, in Islamic inheritance, it is more regulated in a neat and orderly manner, so that inheritance is not concentrated (aimed at) just one heir. As previously mentioned, among the relatives who have the right to be heirs are the testator's siblings (*al-ikhwah al-ashqa*>) and also his mother's siblings (*ikhwah min al-umm*). Sibling inheritance in the Koran is regulated in Surah al-Nisa> (4): 11, 12, and 176. Verse 11 states: "... If the deceased has no children and his mother and father inherit him, then the mother gets one third, if the deceased has several brothers, then the mother gets one sixth...".

Furthermore, in verse 12 Allah states: "... If someone dies, whether male or female in a state of 'defeat', and he has a brother or a sister, then to each of them 1/6. If there is more than one of them, then they together get 1/3...". Meanwhile, verse 176 states: "They ask you for a fatwa (regarding *kalalah*). Say: "Allah gives you a fatwa regarding *kalalah* (namely): if a person dies, and he has no children and he has a sister, then his sister will receive half of the property he left behind, and his brother will inherit (the entirety of his sister's property), if he has no children. But if there are two sisters, then both of them have two-thirds of the property left behind. And if they consist of a brother and a sister, then for the male as much as the share of two sisters...".

There are differences of opinion in understanding the meaning of the words *akhun*, *ukhtun*, and *ikhwatun* (brother) in verses 12 and 176 of Surah al-Nisa> above. The majority is of the opinion that what is meant by brother in verse 12 is a half-brother, while what is meant by brother in verse 176 is a half-brother. The understanding of half-brother in verse 12 is based on the *qira'ah* guidance of some *salaf* scholars, including Sa'ad bin Abi Waqqas, and also the interpretation of Abu Bakr Shiddiq. According to the majority inheritance system, all males, including brothers, are considered *ashabah bi nafsih* (inheritors of the family). The legal basis for this institution is the hadith of Ibn Abbas: "Give the share to each heir, and the remainder to the closest male heirs." Based on this hadith, the majority of males are considered as *asabah bi al-nafsih* without limit. This means that, regardless of their relationship to the heir, they always appear as *ashabah* if the closest heir is a female. For example, if the heirs consist of the daughters and great-grandchildren of an uncle (*ibnul-ibnil-ibnil-'am*), the daughters receive half, and the remainder goes to the uncle's great-grandchildren. Even if the existing female heirs are descended from the female line (such as granddaughters from daughters), they do not get any share at all because they are seen as *dzawi al-arham*, so that the entire inheritance of the heir falls into the hands of the *asabah* heirs. The positions of siblings, half-fathers and mothers in *Jumhur*'s view are not the same. Siblings are considered more important than half-siblings, and half-siblings are more important than half-siblings. The relationship between brothers and sisters is considered to be the weakest, so that they cannot *hijab* all the heirs of *dzawi al-furu>d* and cannot occupy the position of *asabah*. This difference in degrees has the consequence of *hijab-mahjub* occurring between them.

B. Portion of Siblings

Siblings (*al-Ikhwah al-Ashqa*) is a compound form of two groups of siblings because it uses the plural form (*al-ikhwah*), which refers to all brothers and sisters collectively. This gender distinction and separation are important to explain because of the differences in the portions that the two groups will receive. The majority places siblings (*akhun shaqiq*) as *asabah* (*bi al-nafsi*) so that they do not have a specific portion. They receive the remainder after the *dzawi al-furud* heirs have taken their respective portions. As a consequence, they can receive a large share, a small share, or even nothing at all, depending on the remaining portion, or the inheritance could be completely given to the *dzawi al-furud* heirs (according to some scholars).

As for the female siblings (*ukhtun shaqiqah*), are they considered heirs or do they receive a definite portion as stipulated by the Quran, specifically 1/2 and 2/3? For example, suppose someone dies and leaves heirs consisting of a mother and two sisters. In that case, the distribution is as follows: the mother gets 1/6 because there are no *far'u al-warith* (descendants). Still, there are two or more siblings, then the two biological sisters get 2/3 and the remainder is given to them (mother and siblings) as *radd*. Meanwhile, if there is only one sister, she receives 1/2, and the mother receives 1/3. This is because there are no descendants from the deceased, and the deceased's siblings are limited to one person. The remainder of the distribution is then given to them as *radd*. In this case, the biological sisters receive the inheritance as *dzawi al-furud* or heirs who receive a definite portion.

However, these sisters can change their status from heirs of *dzawi al-furud* to *asabah* if they inherit property with their *mu'assib*, namely their male siblings (their brothers). In this condition, they will become heirs of *asabah bi al-gair* and become *asabah ma'a al-gair* if they inherit together with the heir's granddaughter. For example, suppose someone dies and leaves heirs consisting of a mother, a biological brother, and a biological sister. In that case, the distribution is as follows: the mother will get 1/6 due to the absence of *far'u al-warith*. At the same time, the remaining 5/6 is distributed to the siblings (male and female) as '*asabah* (male '*asabah bi nafsihi* and biological sisters become '*asabah* because of their *mu'assib* based on '*adadu al-ru'us*, where men receive two shares and women one share).

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C. Portion of Half-Siblings

As previously mentioned, male and female siblings or a group of both are heirs who receive a definite share, and there is no difference between men and women in receiving inheritance. Jumhur, in its inheritance principles, always applies the principle of 2:1 between men and women, but especially for half-brothers, this principle is eliminated because Allah has determined their share in Surah al-Nisa verse 12. Brothers and sisters are given the same position and share, namely 1/6 (one-sixth) if they are alone, and one-third if two or more people join together to receive the share in the same amount. Siblings can only appear as heirs if the heir dies in a state of *kalalah*, as referred to in paragraph 12 of Surah al-Nisa, because if they are not in a state of *kalalah*, siblings in the same mother will definitely be covered by the male or female *far'u al-warith* and the male *aslu al-warith*. However, although maternal siblings are considered the weakest relative compared to siblings and paternal siblings, maternal siblings are not veiled by either siblings or paternal siblings. This provision is based on verse 12 of Surah An-Nisa, which provides a fixed share for maternal siblings.

The problem then arises when female siblings who are initially the heirs of *Dzawi al-furud* inherit with their *mu'assib*, namely their brothers, who make them the heirs of *'asabah* or heirs who receive the remaining portion after first giving it to the heirs of *Dzawi al-furud*, where in some instances they will run out of quota (part of the inheritance) because they are just waiting for the remaining assets as if they received an inheritance with their half-brother (*ikhwah min al-umm*) which is heirs of *dzawi al-furud*, where brothers and sisters, both men and women or a group of men and women, will receive a definite share of 1/3 if they are more than one person or 1/6 if they are alone. As mentioned in the previous chapter, in general, problems that arise between siblings and half-siblings in inheriting will only occur if the heirs consist of a mother or a grandmother (one of them), husband, half-siblings (two or more people) and half-siblings (one or more people and there must be a male), and if there are more or fewer heirs than those mentioned, there will be no problems in this inheritance.

V. CONCLUSION

Inheritance law is a law that regulates the transfer of ownership rights of inheritance (*tirkah*) inheritance, determining who is entitled to be an heir and how much each portion. In pre-Islamic times, women were never heirs but were inherited goods. When Islam came, it raised the status of women by making women one of the heirs and receiving a share of inheritance, namely, women getting half of the share of men. Thus, it is necessary to strengthen or formulate the distribution of inheritance among the community and family through a fair written distribution using the concept of Islamic Inheritance Law, so that there is no conflict in the future, and if a dispute occurs, it will be proven by a written decision, in accordance with the results of deliberation and consensus between the family. However, it should be noted that if the distribution is carried out before the parents' death, a written agreement must be made first. Giving it to the children first would lead to disputes, especially if the parents are still alive.

Islamic inheritance law must be derived from the Qur'an and Hadith and is absolute in terms of who the heirs are and their share. However, at the operational level, there is no consensus among scholars regarding the *qat'i* or *zanni* in *dalalah*; instead, the distribution takes into account the principles that have been agreed upon as the basic rules of inheritance law itself. Thus, all forms of *ijtihad* carried out in the operation of inheritance distribution can be carried out while still referring to matters that are *qat'i* in inheritance law. In the context of certain communities, this concept may be less relevant or even irrelevant. Therefore, it is hoped that further research will be conducted to find solutions for resolving inheritance disputes between siblings and half-siblings, as well as addressing other unusual inheritance cases. The results of this study add to the treasury of knowledge, especially in the study of inheritance jurisprudence.

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