



Sources and Legal Principles of Islamic Inheritance* Dynamics in Indonesia

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ABSTRACT - Islamic inheritance law is one of the important issues in Islam, and is a pillar between the pillars of law which is fundamentally reflected directly from sacred texts that have been agreed upon for its existence. The results show that The results of the research were brought to the formal discussion forum of the National Workshop in 1988. Subsequently, in 1991, the government of the Republic of Indonesia formalized the results of the study into an official regulation under the legal umbrella of Presidential Instruction R.I. No. 1 of 1991 concerning the Dissemination of the Compilation of Islamic Law (KHI) as a result of the Workshop held on February 2 to 5, 1988, can be used by Government Agencies and by the public who need it as a guide in resolving problems in the fields of marriage, inheritance, and endowments. As a written formulation of the provisions of Islamic law in Indonesia, the Compilation of Islamic Law (KHI) is organized into several chapters and articles according to the object of the regulation. Specifically regarding Islamic inheritance, the arrangements are arranged in book II which consists of 6 chapters with 44 articles.

Keywords: Legal Principles, Islamic, Inheritance, Dynamics In Indonesia

I. INTRODUCTION

Islamic inheritance law is one of the important issues in Islam, and is a pillar between the pillars of law which is fundamentally reflected directly from sacred texts that have been agreed upon for its existence. One thing that cannot be denied, the existence of Islamic inheritance law is presented in detailed, systematic, concrete, and realistic texts. The details of the text's explanation of inheritance have implications for the belief of traditionalist scholars that Islamic inheritance law cannot be changed and rejects all ideas of renewal. This can be seen from the texts of classical fiqh books which call Islamic inheritance law the science of "faraidl". The word faraidl is the plural of fa-ri-dla which means provisions, so faraidl science is defined as definite part science.

The definition of inheritance as a part of science that must be adapted from the understanding contained in the *“قضايا مفروضا”* QS. IV:7. As a result, the classical fiqh books and the meanings contained in them are considered as qoth'i laws both in terms of their wurud (application) and dilalahnya (the arguments).

Meanwhile, some contemporary scholars think that certain matters are considered non-principal; it can be interpreted and recommended according to the conditions and possibilities that can be considered, so that Islamic inheritance law must be able to be translated within the community that surrounds it. The requirements for the translation of Islamic inheritance law with consideration of various community variables are: the basic understanding of Islamic inheritance law must be universal in accordance with the nature of the Qur'an. Thus, the operation of Islamic inheritance law does not conflict with the breath of the Quran and the context of society.

Islamic inheritance law is one form of Islamic attention to the maintenance of a Muslim's inheritance. In addition, Islamic inheritance law is a realization of the Qur'anic commandment not to leave heirs (descendants) in a weak state. The series of meanings and provisions contained in inheritance law are applicable law, not theoretical. Its practice is obligatory 'ain and studying it is a collective obligation (fardlu kifayah).

Asaph A.A. Fyzee through his research concludes that Islamic inheritance law

consists of two different elements:

- a. Ancient Arab customs.
- b. The rules set by the Quran and brought by the Prophet.

Thanks to the spirit of renewal instilled by the Apostle and the wisdom of the jurists as well as the pressure of the situation, the two elements that were initially separated were merged into one solid and perfect system.

However, even though these two elements have passed through various periods of centuries, they do not mix and can still be separated from one another (A.A. Fyzee: 1977:232-233).

The customs and habits of the ancient Arabs always gave wealth to whoever they wanted, even though they had to get rid of their brothers and sisters, while women did not get the right as heirs. Inheritance property is only intended for adult men who are able to fight and agree to the agreement (Sabiq, 1993: 235). The Arab Jahiliyah customs were later canceled with the revelation of Surah An-Nisa verse 11.

Meaning: "Allah prescribes for you about (the division of inheritance for) your children. Namely: the share of a son is equal to the share of two daughters; and if the children are more than two girls, then for them two-thirds of the property left; if the daughter is alone, then she gets half the property. And for two parents, for each one-sixth of the property left behind, if the deceased has a child; if the person who dies has no children and he is inherited by his parents (only), then his mother gets a third; if the deceased has several brothers, then his mother gets one-sixth. (The distributions mentioned above) after the will has been fulfilled or (and) after the debt has been paid. (About) your parents and your children, you do not know which of them is closer to (many) benefits to you. This is a decree from Allah. Verily Allah is Knowing Most Wise" (QS. An-Nisa: 11).

With the revelation of the verse, the inheritance of the Jahiliyah model has been erased and by itself can no longer be used as a guide in the distribution of inheritance.

The arrival of Islam, especially in the issue of inheritance, has proven the concept of rahmatan li al'aamin. Women in the period of ignorance almost did not have any rights, their existence only complemented the existence of men. This discrimination continues to the female lineage. This discriminatory view was then overthrown by Islam with the revelation of the Qur'anic verse in Surah An-Nisa verse 7.

Meaning: "For men there is a right to share from the inheritance of their parents and relatives, and for women there is a right to share (also) from the inheritance from their parents and relatives, either a little or a lot according to the predetermined portion" (QS. An-Nisa: 7).

This verse has broken through the gender-discriminatory Jahiliyah system. Women and men are both seated in one heir chair, they both have the right as heirs. Thus the position of men and women become equal before the law, as well as the obligations imposed are the same.

A. SOURCES OF ISLAMIC INSTRUCTION LAW

Islamic Inheritance Law as part of Islamic Shari'ah and more specifically as part of the mu'amalah aspect is not separated from other aspects of Islamic teachings. Therefore, the compilation of Islamic inheritance law principles is based on the same source as other aspects of Islamic teachings.

The sources of Islamic law are the Qur'an, the Sunnah of the Prophet, and Ijtihad. These three sources are also the basis of Islamic inheritance law. The use of these three sources is based on the verses of the Qur'an itself and the Hadith of the Prophet. One of the verses that alludes to this is Surah An-Nisa verse 59:

Meaning: " You who believe, obey Allah and obey His (Rasul) and Uli al-Amri among

you. Then if you disagree about something, then return it to Allah (Al-Quran) and the Messenger (Sunnah)) (Surat an-Nisa: 59).

This verse gives an understanding that believers are required to obey Allah, the Messenger, and Uli al-Amri. This can be given the understanding that a believer in solving various problems must base himself on these three sources. Therefore, the notion of obeying Allah is interpreted by obeying what is in the Qur'an, while obeying the Apostle is defined as obeying the Sunnah of the Prophet, and being obedient to Uli al-Amri is interpreted by obeying the results of the Ijtihad of Mujtahid scholars (Munawar Chalil, 1984: 20).

From Ibn Umar it is narrated that one time there was a dialogue between the Apostle and Mu'adz:

"The Prophet asked: What do you do if there is a matter in front of you that must be resolved?". Mu'adz replied: "I will decide on the basis of Allah's Book (Al-Quran)". The Prophet asked again: "If you do not find in the Book of Allah?". I will decide on the basis of the Sunnah of the Prophet." The Prophet asked again: "If you don't find it in the Sunnah of the Prophet?" Mu'adz replied: "I will ijtihad using my mind, and I will not leave the case without a decision". (HR. .Abu Dawud).

From these verses and Hadith, it can be concluded that there are only three sources of Islamic teachings, while their operations can look at developing situations and conditions. The three sources of Islamic teachings form a circular relationship and dialogue with each other to then find the meaning and understanding contained in the verses of the Qur'an, the Sunnah of the Prophet, and Ijtihad.

1. Al-Quran

Al-Quran is the main source of Islamic law. Therefore, although there are three sources of inheritance law, the two laws after the Qur'an (Sunnah Rasul and Ijtihad) must still refer to the Qur'an.

Specifically in relation to Islamic inheritance law, the Qur'an has provided quite detailed guidelines. Surah An-Nisa contains almost all inheritance verses. All of the inheritance verses can be grouped into two major groups. First, the group of core inheritance verses, namely verses that directly explain the division of inheritance with parts that have been determined in number. These verses are:

a. Surat An-Nisa ayat 7:

Meaning: "For men there is a right to share from the inheritance of their parents and relatives, and for women there is a right to share (also) from the inheritance from their parents and relatives, either a little or a lot according to a predetermined share" (QS. An-Nisa: 7).

b. Surat An-Nisa ayat 11:

Meaning: "Allah prescribes for you about (the division of inheritance for) your children. Namely: the share of a son is equal to the share of two daughters; and if the children are more than two girls, then for them two-thirds of the property left; if the daughter is alone, then she gets half of the property. And for two parents, for each one-sixth of the property left behind, if the one who dies has a child, if the person who dies has no children and he is inherited by his parents (only), then his mother gets a third; if the deceased has several brothers, then his mother gets one-sixth. (The divisions mentioned above) after the will has been fulfilled or (and) after the debt has been paid. (About) your parents and your children, you do not know which of them is closer to (many) benefits to you. This is a decree from Allah. Verily Allah is Knowing Most Wise" (QS. An-Nisa: 11)

c. Surat An-Nisa ayat 12:

Meaning: "Allah prescribes for you about (the division of inheritance for) your children.

Namely: the share of a son is equal to the share of two daughters; and if the children are more than two girls, then for them two-thirds of the property left; if the daughter is alone, then she gets half of the property. And for two parents, for each one-sixth of the property left behind, if the one who dies has a child, if the person who dies has no children and he is inherited by his parents (only), then his mother gets a third; if the deceased has several brothers, then his mother gets one-sixth. (The divisions mentioned above) after the will has been fulfilled or (and) after the debt has been paid. (About) your parents and your children, you do not know which of them is closer to (many) benefits to you. This is a decree from Allah. Verily Allah is Knowing Most Wise" (QS. An-Nisa: 11).

d. Surat An-Nisa ayat 33:

Meaning: "For every inheritance from the property left by the mother and father from his close relatives, We made his heirs, And (if there are) people you have sworn allegiance to, then give them their share. Verily Allah is witness everything" (Surah An-Nisa: 33).

e. Surat An-Nisa ayat 176:

Meaning: "They ask you for a fatwa (about kalalah), say: "Allah gives you a fatwa regarding kalalah (ie): if a person dies and he has no children and has a sister, then for his sister it is half of the property he left behind, and his brother has (all of his sister's property) if he has no children. But if there are two sisters, then for them two thirds of the property left by the deceased. And if they (the heirs consist of) brothers and sisters, then the share of a brother is as much as the share of two sisters. Allah explains (this law) to you so that you do not go astray. And Allah is Knower of all things" (Surah An-Nisa: 176).

Surah An-Nisa verse 7 as mentioned above discusses inheritance globally as a form of first step in breaking the Arab Jahiliyah tradition which does not give inheritance rights to women (both young and adults) and young men. This is adjusted to the life traditions of those who like to wander and war, while fighting is the duty of men who have grown up.

Verses 11 and 12 especially from the beginning of the sentence to the sentence "... if you have children, then the wives get one-eighth of the property you leave ...", is the core inheritance verse which deals with the details of the share of each heir in this case. the "normal". It is said to be normal because in the two verses there is sufficient share of heirs which is common in society. That is, a person who dies in a normal case must leave a husband or wife and their children, it is also customary to add parents and siblings who become heirs. Thus, An-Nisa 11 and 12 are complete in dealing with normal cases (Sajuti Talib, 1982:24).

Meanwhile, in verses 33 and 176 as well as the end of verse 12, starting from the sentence: "... if someone dies, either a man or a woman who does not leave the father...." and so on until the end of the verse is the core inheritance verse that relating to the details of the preventive section to deal with unusual cases (abnormal).

In paragraph 33, the discussion continues with issues relating to successor or mawali inheritance. Mawali occurs when one of the people who should be the heir dies first, so that his rights fall to the heirs who are descendants with the heirs in line with the deceased in a position to replace his position. For example, a person dies and his heirs are two sons, one is still alive, while the other has died, but he has two children. So the two children became mawali (substitute) of their parents to inherit their grandfather's property.

As for verse 176 and the last part of verse 12 as mentioned above specifically talk about kalalah (without offspring). In the two verses there seems to be a difference in the same case. In discussing this issue, Hazairin stated that the difference lies in the condition of the heir's parents. Therefore, Hazairin considers verse 176 specifically to be applied to the situation when the heir has no descendants with no relatives, but neither father nor mother is still alive, but the father has died. Whereas verse 12 is applied to the situation when the heir has no offspring, but there are brothers and fathers who are still alive, while

the mother may still be alive and may have died (Hazairin, 1982: 55-56). The entire provisions of the parts contained in the Qur'an are only distributed after fulfilling the will obligations that have been made by the testator and/or paying the debt.

2. Sunnah Rasul

Sunnah in the free sense can be interpreted "tradition of the Prophet". In the context of this discussion, sunnah is defined as a normative practice or a model of behavior exemplified by the Prophet (Fazlurrahman, 1983:1-2).

As the second source of legislation after the Qur'an, the Sunnah has a function as an interpreter or giver of a concrete form to the Qur'an, in the end the Hadith can also form laws that are not mentioned in the Al-Quran (Abdul Wahab Khallaf, 1984: 52).

The real form of the function of Hadith as a concretization of the Qur'an in the field of inheritance, for example the Hadith narrated by Bukhari Muslim from Ibn Abbas states it would be better if humans reduce their wills from one third to a quarter, because the Prophet said; "(may be) one third but one third is quite a lot".

The above hadith is also an explanation of the QS. Al-Baqarah verse 180 and 240 which talk about the obligation of a person who will die to their heirs, in that verse there is no provision for the limit of assets to be issued for the benefit of the will, then it is still within the scope of the will, another hadith from Ibn Abbas said:

Rasulullah SAW said: "A will is not allowed for people who receive an inheritance (inheritance) unless the heirs want it (HR. Daruquthny).

Another Hadis that corroborates the Qur'an is the Hadith which tells about the share of a daughter as much as half in a state alone without a brother (HR. al-Khamsah other than Muslim from Ibn Mas'ud). The hadith is a reinforcement of the QS. An-Nisa' verse 11 which reads: "... if the woman is alone then she gets half of the property".

Another function of the Sunnah is as a law maker which is not mentioned in the Qur'an, one example of this function is Wala' (the inheritance of a former slave who does not leave an heir), in such a case the heir is the person who freed him (HR. Bukhari Muslim), while the property of the person who dies without an heir belongs to the Bait al-Mal (HR. Ahmad and Abu Dawud). Another hadith tells of a murderer who has no right to inherit the property of the person he killed (HR. Ahmad and Ibn Majah). Likewise, infidels have no right to inherit the property of Muslims and vice versa (al-Jama'ah except Muslims and Nasa'i). Meanwhile, children who are still in the womb are given the right to inherit after they are born and are alive (HR. Ahmad).

3. Ijtihad

Ijtihad is an alternative legal basis as a result of the dynamics of human life in general and Muslims in particular. Various new problems emerged to the surface, the problem itself had never happened at the time of the Prophet, so that the efforts of jurists were needed to determine the law of the matter. To establish the law, other tools are needed besides the Koran and Hadith, that device is Ijtihad. Ijtihad literally means serious. In the context of the discussion of legal exploration, Ijtihad can be interpreted as a serious effort by taking into account the general arguments in the Qur'an and Hadith to establish new legal issues.

People who carry out Ijtihad are called Mujtahids, in carrying out their Ijtihad activities, the problems that arise can be classified into three groups: First, new problems which in the Qur'an and Hadith the arguments regarding the above are still dhanni so that other interpretations are possible. Second: a new problem for which there is no evidence at all in the Qur'an and Hadith. In this case, the Mujtahid has relatively more absolute freedom compared to the first issue. Third, new problems that already have Qath'i arguments. This ijthad was only ever done by Umar Ibn Khattab with certain reasons and considerations.

The implementation of Ijtihad can be done in various ways, for example through

analogical deduction (qiyas), Istihsan, Istishlah and Syadd adz-Dzardi. With these various paths the Mujtahids seek mutual agreement. The collective agreement is called Ijma';

An example of Ijma' in inheritance issues is the distribution of inheritance to Waria, which previously had no evidence in the Koran and Hadith that discussed this issue. Likewise, the Ijtihad carried out by Zaid Ibn Thabit in the matter of inheritance distribution in the case of heirs consisting of mother, father and one of the husband and wife is dead, in this case Zaid divides one third for the mother after the husband or wife takes their share.

B. LEGAL PRINCIPLES OF ISLAMIC INSTRUCTION

Every law in its operation has a principle as the first step in implementing the law. The principles of Islamic inheritance law are:

1. Asas Ijbari

The transfer of property from a deceased person to the heirs applies automatically, no individual or institution can suspend the transfer. Between the heir and heirs in this case must receive and distribute the inheritance in accordance with the provisions of the existing section. If in practice there is an heir who feels more adequate than the heir, feels that he does not need the inheritance, then he is still obliged to receive the property, as for the property will be donated or for other purposes it is up to the recipient of the property. The main thing is after all have known their respective parts and accepted the heirs with a clear pledge.

The transfer of the property is solely due to the death of the person who owns the property. This means that the principle applies automatically only when the person has died, and does not apply if the owner of the property is still alive.

2. Bilateral-Individual Principle

The term bilateral if it is associated with the hereditary system means the unity of the family by linking itself in terms of descent to the mother and father (Hazairin 1982: 11). The concept of bilateral when associated with inheritance law means that the heirs can receive their inheritance rights from both parties, both male and female relatives.

The definition of individual is that the inheritance of the heirs can be owned individually by the heirs, not collectively, as is customary for the Minangkabau people in West Sumatra.

Thus what is meant by individual bilateral is the principle that every man and woman can receive inheritance rights from the relatives of the father and mother. The assets of each share are owned individually according to their respective portions.

This principle is known from the understanding mentioned in the texts in the group of core inheritance verses (Surah An-Nisa' verses 7, 11, 12, 33, 176). The essence of the meaning of these verses is the affirmation that men and women have equal rights in inheriting from the father or mother with a certain share.

3. The Principle of Dissemination with Priority in the Family Scope

The distribution of inheritance has the possibility to spread widely, not only at the level of children who are entitled to inherit property, but husbands, wives, parents, brothers and sisters and even grandchildren down, parents continue up and the descendants of brothers and sisters are equally included. However, the dissemination is still limited to family groups, either because of marriage or because of legal lineage (nasab). Of the many extensions inherited and inherited, between them there is a measure of proximity that will determine their respective parts. The measure is based on the closeness of kinship relations, the closeness of family relationships affects the line of virtue which results in differences in the number of shares of each heir.

4. The Principle of Equal Rights and Part Differences

The principle of equality in Islamic inheritance law is equality in the right to inherit the

property of the parents and their relatives, the equality is seen from the gender and age of each heir. Between men and women are equally entitled to inherit the inheritance of their parents and relatives, as well as between adults and children.

The difference between the heirs lies in the portion that has been determined by the Qur'an and Hadith. This difference is adjusted to the difference in the burden of obligations that must be fulfilled in the family. Men get a bigger share than women, because in general men need more material to buy women. Besides that, men have double obligations, namely obligations for themselves and obligations for their families (Surah IV: 34). Meanwhile, children get more shares than parents, because children bear the obligation as parents to continue the will, needs, ideals and existence of the family. d

5. The Principle of Balanced Justice

The division of inheritance is carried out in a ratio of the male share to the female share of 2: 1, except in certain circumstances. Islamic inheritance law maintains a balance between rights and obligations, between the rights that a person acquires and the obligations that must be fulfilled. Men and women have rights commensurate with the obligations they carry in family and community life. The nature of the inheritance received by the heirs is a continuation of the responsibility of the heir to his family, therefore the share received by each heir is balanced with the differences in the responsibilities of each to the family, such as men being responsible for providing for the needs of their families.

6. The Principle of the Mandatory Will

This principle stipulates that the adopted child and adoptive father can reciprocally make a will regarding their respective assets, if there is no will from the adopted child to the adoptive father or vice versa, then the adoptive father and/or adopted child can be given a mandatory will by the Religious Court or The Syar'iyah Court ex officio is a maximum of 1/3 of the inheritance.

7. Egalitarian Principle

Relatives due to blood relations who embrace a religion other than Islam will receive a mandatory will of a maximum of 1/3 part, and may not exceed the share of heirs who are equal to him.

8. Limited Retroactive Principle

This principle regulates the position of the Compilation of Islamic Law (KHI) as a guideline for the distribution of inheritance which does not apply to letters in the sense that if the inheritance has been divided in real terms (not just distribution on paper) before KHI is enacted, then the family is related by blood because of the substitute heir. cannot file an inheritance claim. If the inheritance has not been divided in real terms, then in the case of an inheritance whose heir dies before KHI is born, KHI can automatically apply retroactively.

C. DYNAMICS OF ISLAMIC INSTRUCTION LAW IN INDONESIA

Islamic Inheritance Law in Indonesia has developed, both in substance and in legal principles. One of these developments is the provision of a mandatory will which is determined through a judge's decision. Mandatory wills which were initially limited to adopted children and adoptive parents, through the decision of the Supreme Court were also given to relatives of different religions and gave rise to a new principle in Islamic inheritance law, namely the egalitarian principle. For the first time, the egalitarian principle was included in the decision of the supreme court no: KMA/032/SK/IV/2006 dated April 4, 2006 regarding the implementation of Book II of Guidelines for the Implementation of Duties and Administration of Religious Courts (Book II MA) with the formulation that relatives because of blood relations embrace religion In addition to Islam, the will of the obligatory will be a maximum of 1/3 part and it must not exceed the share of the heirs who are equal to him.

If briefly stated, there are 3 periodizations in the development of Islamic inheritance

law in Indonesia (Destri, B.N. 2019-63), namely:

1. Period 1958 - 1991

At first, the determination of the applied law of Islamic inheritance was carried out as an implication of the determination of the duties and authorities of the Religious Courts/Syar'iyah Courts based on Government Regulation No. 45 of 1957. , mut'ah, inheritance cases, endowments, grants, sadaqah, baitulmal and others related to it, the Government Regulation has not explained the applied law that must be used as a reference in examining and deciding cases. To overcome the vacuum of applied law used by the Religious Courts/Syar'iyah Courts, on February 18, 1958, the Bureau of the Religious Courts issued Circular No. B/1/735 concerning the Implementation of PP No. 45/1957 which contains:

- a) Limits of the powers of the Religious Courts/Syar'iyah Courts
- b) Legal materials used in deciding cases
- c) Administration of administration and clerks
- d) Touring congregations and business trips
- e) Comparison

Regarding legal material, judges are recommended to use the 13 books of fiqh that adopt the Shafi'i school as the madhhab referred to by the majority of the Muslim community in Indonesia.

2. Period 1991 - 2006

Discussions on the applied law of Islamic inheritance began to surface in 1985 with the formation of the Drafting Team for the KHI (Islamic Law Compilation) through a Joint Decree of the Chairman of the Supreme Court of the Republic of Indonesia and the Minister of Religion Number 07/K.MA/1985 and Number 25 of 1985 dated March 25, 1985. This team is tasked with conducting a comprehensive study of the fiqh books used in particular by judges, researching various jurisprudence, conducting a series of interviews with Islamic jurists, and conducting comparative studies in various countries to then the results of all these activities become the basis. establishment of Islamic law that can be applied in Indonesia.

The results of the research were brought to the formal discussion forum of the National Workshop in 1988. Subsequently, in 1991, the government of the Republic of Indonesia formalized the results of the study into an official regulation under the legal umbrella of Presidential Instruction R.I. No. 1 of 1991 concerning the Dissemination of the Compilation of Islamic Law (KHI) as a result of the Workshop held on February 2 to 5, 1988, can be used by Government Agencies and by the public who need it as a guide in resolving problems in the fields of marriage, inheritance, and endowments. As a written formulation of the provisions of Islamic law in Indonesia, the Compilation of Islamic Law (KHI) is organized into several chapters and articles according to the object of the regulation. Specifically regarding Islamic inheritance, the arrangements are arranged in book II which consists of 6 chapters with 44 articles.

3. Period 2006 - present

An important development regarding the applied law of Islamic inheritance in Indonesia occurred in 2006 through the publication of Book II of Guidelines for the Implementation of Duties and Administration of Religious Courts. This book is the main guideline for all apparatus of the Religious Courts, especially Judges, Registrars/Substitute Registrars and Bailiffs in carrying out their duties in the field of judicial administration and technical justice. The enforcement of the provisions in Book II of the Supreme Court is carried out through the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number: KMA/032/SK/IV/2006 dated April 4,

2006 concerning the Enforcement of Book II of Guidelines for Implementing Court Duties and Administration.

The preparation of various provisions in Book II was carried out internally by a team formed by the Supreme Court to formulate various jurisprudence that had been decided and to adapt to various changes in the judicial system in Indonesia. The enactment of various new laws and regulations in the field of justice, implementation of various internal provisions such as Circular Letters of the Supreme Court and Supreme Court Regulations, as well as dynamics in jurisprudence. Book II is a new form of development in the field of formal and applied law used by judges.

REFERENCES

- Anshori, Abdul Ghofur, 2017, *Hukum Kewarisan Islam di Indonesia. Eksistensi dan Adaptabilitas*. Gadjah Mada University Press Yogyakarta
- , 2010, *Filsafat Hukum Kewarisan Islam. Konsep Kewarisan Bilateral* Hazairin. UII Press Yogyakarta
- Basyir, Ahmad Azhar. 2001. *Hukum Waris Islam*. Yogyakarta: UII Press
- Budi Nugraheni, Destri. 2019. *Rekonseptualisasi dan Kontektualisasi Asas Egaliter dalam hukum Kewarisan Islam di Indonesia (Disertasi)* Fakultas Hukum UGM.
- Chalil, M., 1984, *Ulil Amri*, Ramadhani, Semarang.
- Fyzee, Asaf, A. A., 1961, *Outlines of Mohammdan Law, Pokok-pokok Hukum Islam*, disalin oleh Arifin Bey dan Zain Jambek, Tinta Mas, Jakarta. 326
- Hazairin, 1982, *Hukum Kewarisan Bilateral Menurut Al-Quran dan Hadits*, Tinta Mas, Jakarta.
- Ilhami, Haniah dan Desti Budi Nugraheni, 2014. *Pembaruan Hukum Kewarisan Islam di Indonesia*. Gadjah Mada University Press, Yogyakarta.
- Khallaf, Abdul Wahab. 1994. *Ilmu Ushul Fiqh*, terjemah, Dina Utama, Semarang. Rahman, Fazlur. 1984. *Islamic Methodology in History*. Central Institute of Islamic Research, Karachi, 1965. terj. Anas Mahyudin. *Membuka Pintu Ijtihad*. Bandung: Penerbit Pustaka.
- Sabiq, Sayyid. 1996. *Fikih Sunnah*, Bandung: Al-Ma'arif.
- Sajuti Thalib, 1982, *Hukum Kewarisan Islam di Indonesia*, PT. Bina Aksara, Jakarta.