

Inheritance Portion of The Heir of Women is More Than Men in Islamic Legal Perspective

Muhammad Lutfi Hakim, Mutmainah

Institut Agama Islam Negeri Pontianak, Indonesia

muhammadlutfihakim@iainptk.ac.id

Received: 23-02-2021

Revised: 04-03-2021

Accepted: 22-06-2021

Abstract

Islamic law of inheritance recognizes the principle of *ijbari* and the rule of *li al-dhakar mithl al-hadz al-unthayain* (the male part is like the two female parts). Unfortunately, this provision was not applied in the distribution of inheritance in Sungai Enau Village, which gave women a more significant share of the estate than boys. Using the type of field research and a case study approach in this paper, the author aims to describe the practice of inheritance distribution in Sungai Enau Village, arguments, and alternatives to the distribution of inheritance. This article found that most Muslim communities in Sungai Enau Village, predominantly Muslim (65%), share their legacy using internal family deliberations with all heirs' consent. This deliberation resulted in the daughter's heirs received a portion of the inheritance twice as much as the boys. The argument against inheritance practice is based on girls who care more, help, and services for their parents (especially those who die) more than the boy. Even though the distribution is not following the *fiqh al-mawāriṭh*, the inheritance distribution has fulfilled a sense of justice for the heirs. This kind of distribution of inheritance has received support from local religious leaders.

Keywords: *Heir, Sungai Enau Village, Islamic Law, Inheritance.*

© 2021 Mohammad Lutfi Hakim, Mutmainah



This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License.

INTRODUCTION

Sungai Enau is one of the village names in Kuala Mandor B District, Kubu Raya Regency, West Kalimantan Province. The majority of the inhabitants of Sungai Enau Village (65%) are Muslim (*The Document Was Obtained from the Head of Sungai Enau Village on October 19, 2019*, n.d.). Even though the majority is Muslim, Sungai Enau Village people tend to distribute inheritance, not following inheritance jurisprudence (*fiqh al-mawāriṭh*). They give twice the share of the heir's estate (the deceased) to the daughter heirs compared to the male heirs. They reasoned that the female heirs were more likely to help out with their parents' work while their parents were still alive (*The Results of an Interview with a Religious Leader in Sungai Enau Village Named Ahmad Syarif on February 16, 2019*, personal communication, n.d.).

The practice of sharing inheritance is unique because the Islamic law of inheritance recognizes the principle of *ijbari*. This principle explains that the transfer of rights and obligations regarding the assets of a person who has died to those still alive has been determined in Islamic law. That is, the share of each heir has been stipulated in the Qur'an and the hadith. This provision follows the principle of *ijbari* in the Islamic inheritance system, namely the transfer of the deceased's inheritance to his heir, which runs automatically according to God's provisions (Rifenta & Prayogo, 2019, p. 114). This decree from God includes four aspects: *al-muwarrith*

(people who died), transfer of assets, total assets, and heirs. Apart from that, there is the view that most jurists give double the portion of the inheritance to male heirs than female heirs. The view of this last scholar is known as the rule of *li al-dhakar mithl al-hadz al-unthayain*. That is, for a male heir's inheritance like two parts of the woman (Wahidah, 2018, p. 67).

More details regarding the levels or parts obtained by each heir are recorded in Surah Al-Nisā 'verses 11, 12, and 176. Surah Al-Nisā 'verse 12 describes the wife's part, while verse 11 describes the boy's and girl's part. The share of inheritance for boys is twice that of girls. If the heir does not have a son and only has a daughter, then the portion is 1/2 (one-half). If there is more than one daughter, then the inheritance share is 2/3 (two-thirds). Based on the verse's explanation, there is no difference between the first, second, third, and so on. In it only explains the different parts between boys and girls. Similar provisions are also contained in Article 176 of the Compilation of Islamic Law (the *Kompilasi Hukum Islam*, KHI) (Abdurrahman, 2001, p. 157).

The distribution of inheritance that is not following Islamic law occurs in Sungai Enau Village and appears in Indonesia's areas. M. Idris Marzuki and Aslikha (2018) examined the distribution of inheritance property equally between men and women in Purwo Hamlet, Sekarmojo, Purwosari, Pasuruan. They argue that equalizing the distribution of inheritance can be done based on the argument against adversity because women today also work like men. Similar research results were also conducted by Syauqon Hilali Nur Ritonga (2018). According to him, the equal distribution of male and female heirs in the Javanese ethnic community of Bilah Barat District, Labuhan Batu Regency, is not following Islamic law.

In contrast to Ritonga, Marzuki, and Aslikha, Habib Ismail et al. (2019) examined the oldest son's inheritance rights in the customary law of Lampung Pepadun in Tegineneng, Pesawaran District. According to them, giving the inheritance to the oldest male heir based on the patrilineal kinship system is not following the principle of gender equality as stipulated in Islamic Law and CEDAW. Sri Hartati and Annisa Nurilahi (2019) also conducted a similar study with Habib Ismail et al., In three Toraja ethnic families in Sepinggán Raya Village, South Balikpapan. Hartati and Nurilahi argue that the custom of giving more inheritance to the eldest son and not giving it to other heirs because a grant has been given before the heir dies is *al-'urf fāsīd* and is not following Islamic law.

Some of the research results above indicate that equality in the distribution of inheritance between male and female heirs is against Islamic law. However, several studies attempt to legalize equality in the distribution of estate between male and female heirs based on social, cultural, and historical changes. This matter can be seen in the results of Sugiri Permana's research (2018, p. 129) that several Religious Court Decisions provide equal rights between male and female heirs,

even the decision of the Supreme Court ruled that girls can deter grandson and granddaughter. Equality in question is following Islamic law, which is a return to the opinion of the majority of jurists who give male heir's inheritance like two parts of the woman (Mahsus, 2020, p. 25).

This paper differs from some of the studies mentioned above in three ways. First, the research object related to the distribution of inheritance for women heirs more than men. Second, his research locus in Sungai Enau Village, Kuala Mandor B District, Kubu Raya Regency. Third, most jurists' perspectives on the distribution of the price of women's inheritance are more than men. This article is intended to explain three things. First, to describe the practice of distributing estate among Muslim communities in Sungai Enau Village, Kuala Mandor B District, Kubu Raya Regency. Second, to explain the argument for the share of female heirs' inheritance is greater than that of male heirs. Third, to analyze a review of Islamic law on distributing estate among Muslim communities in Sungai Enau Village, Kuala Mandor B District, Kubu Raya Regency.

RESEARCH METHODS

The research method that the author used in this paper is field research with a case study approach. The author uses inheritance distribution in Sungai Enau Village, which gives a portion of the inheritance to female heirs more than male heirs, as the research locus and the primary source in this study. Sungai Enau Village is located in Kuala Mandor B District, Kubu Raya Regency, West Kalimantan Province. Based on data obtained from the Village Head of Sungai Enau on October 19, 2019, most Sungai Enau Village inhabitants are Muslim (65%) (*The Document Was Obtained from the Head of Sungai Enau Village on October 19, 2019*, n.d.).

The data collection techniques that the writer uses are interviews, observation, and documentation. The author conducted interviews with four heirs and two local religious leaders to obtain data regarding the practice of inheritance distribution in Sungai Enau Village and the arguments they gave a portion of the inheritance to female heirs more than male heirs. The observation and documentation techniques that the writer uses aim to enrich the data and strengthen the author's argument in this paper. Existing data then the authors analyzed using qualitative data analysis.

PRACTICES FOR DISTRIBUTION OF INHERITANCE IN THE ENAU RIVER VILLAGE

The practice of distributing inheritance in Sungai Enau Village is almost the same as the distribution of inheritance assets in general. Article 171 KHI explains three elements in the distribution of inheritance: transferring the *al-muwarrith*'s inheritance to the heirs, determining who the heirs are, and how much each heir shares. The practice of settling inheritance in Sungai

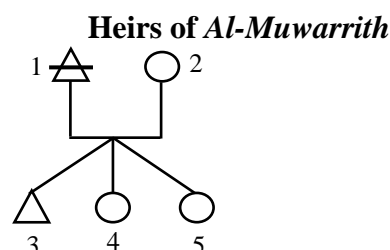
Enau Village cannot be separated from the three elements in the KHI definition of inheritance above. In general, distributing inheritance in Sungai Enau Village, which includes these three elements, occurs after one dies (*al-muwarrith*).

In this paper, the author describes the inheritance distribution practices that occur in Sungai Enau Village. As for what is meant by *al-muwarrith*, here is Madderes, a person who died leaving an inheritance (Hasan, 1973, p. 12). The heir who lives in Sungai Enau Village passed away in February 2018. The first element contained in the distribution of inheritance is the legacy that will be inherited. Heritage assets (*maurūth*) are assets left by the heir absolutely, whether connected to other people or not before the heir dies (Hakim, 2020, p. 15). Based on the heir's wife's interviews, the inheritance left by the heir is 300 million rupiahs (*Results of Interviews with an Heir Named Misnanten (Widow) on July 12, 2019*, personal communication, n.d.).

Before distributing inheritance, there are inheritance rights that have been fulfilled by the *al-muwarrith*, represented by his heirs. The first is the rough treatment (*tahjiz*), which includes washing, dressing, carrying, and burying it. The course prices are taken from the cash of the *fardhu kifāyah*, which is usually paid monthly to the mosque administrators in Sungai Enau Village. The second is the right to pay off all debts of the *al-muwarrith* while he is still alive. The case in this paper does not leave debt. The third is will. The *al-muwarrith*, in this case, does not leave a testament, so the inheritance of the *al-muwarrith* still amounts to 300 million rupiahs. Fourth, inheritance. As for what is meant by inheritance, here is the distribution of the deceased person's assets to their heirs, carried out after the previous rights have been exercised. The four rights to inheritance are contained in the Qur'an Surah Al-Nisā 'verses 11 and 14.

The second element is the heir. The heir (*wāriṭh*) is someone who has a family relationship either by blood (*nasab*), marital relations (*'aqd al-nikāh al-shahīh*), or a relationship with freeing my slave. The condition is the heir is alive at the time of the heir's death, including a baby who is still in the womb (*al-haml*), who is also entitled to his father's property, who died before he was born. Other conditions must be met, namely, between the *al-muwarrith* and the heir, there is no barrier to inheriting from each other (Ash-Shabuni, 1995, p. 39). There are four heirs left by the *al-muwarrith*: the wife, two biological daughters, and one son. For more details, see Figure 1.

Picture 1



Note:

- : *Al-Muwarriith*
 △ : Male Heir
 ○ : Female Heir

Figure 1 describes the heirs left by the *al-muwarriith*. Number 2 shows the heir in the form of a wife, and number 3 shows the heir in the form of a biological son. Numbers 4 and 5 indicate the heir in the form of a biological daughter. Whereas number 1 shows the *al-muwarriith* who has passed away and has an inheritance of 300 million rupiahs. The author needs to explain here between legacy and inheritance that the author has defined previously. A legacy (*al-tirkah*) is the inheritance's property that has not been deducted from the legacy's rights (gross). Meanwhile, the inheritance is the legacy's property removed from the inheritance's rights (net) (Hakim, 2020, p. 15).

The third element in the distribution of inheritance is the share received by each heir. In this paper, the *al-muwarriith* family agrees to distribute the estate through discussion methods between families. The aim is to avoid internal family conflicts (*Results of Interviews with an Heir Named Siti Khotijah (Biological Daughter) on August 19, 2019*, personal communication, n.d.). In table 1 below is the result of dividing the inheritance by the deliberation method. The heirs did not explain the distribution of immovable assets such as land, gardens, and houses. For more details regarding the part of each heir, see table 1.

Table 1
Distribution of Inheritance in Sungai Enau Village

No.	Heirs	Part of the Inheritance Property
1.	Wife	IDR 50.000.000
2.	Girl	IDR 100.000.000
3.	Girl	IDR 100.000.000
4.	Boy	IDR 50.000.000
	Total	IDR 300.000.000

Table 1 describes each heir's share of the inheritance of IDR 300,000,000. The wife gets a percentage of IDR 50,000,000, two girls get IDR 100,000,000 each, and a boy gets IDR 50,000,000. Interestingly, the distribution of inheritance assets is that girls' share is more than twice that of boys. Besides, the results of the distribution of inheritance assets are not following the distribution determined by the majority of the opinions of jurists who give men twice the share of women (2:1) following the rule of *li al-dhakar mithl al-hadz al-unthayain* (Jamil, 2017, p. 108).

Misnanten explained the method of distribution of the inheritance as the wife of the *al-muwarrith*. According to him, the inheritance distribution using the internal family deliberation method was approved by the other heirs. However, this division's result gives 2:1 more girl than a boy (*Results of Interviews with an Heir Named Misnanten (Widow) on July 12, 2019*, personal communication, n.d.)

"I share the inheritance (husband) with my children according to our agreement with the family. All of my children receive a share of the estate, both sons and daughters. They both get a percentage of the inheritance. It's just that the distribution of inheritance assets is different and not as usual (Islamic law). Usually, male biological children receive more shares than female biological children. Still, I share the inheritance and instead give the female biological child more than male biological children because only female biological children always care, look after, and help me with farming, noreh, etc. so that I as a parent feel that my birth daughter is more worthy of getting a share of the inheritance more than my son."

The method of distributing inheritance in Sungai Enau Village is following the prevailing traditions of the ancestors. Although the majority of the population is Muslim (65%), part of the Muslim community in Sungai Enau Village does not recognize a particular share of the inheritance, such as a half, a quarter, a third, and so on for each heir (*The Document Was Obtained from the Head of Sungai Enau Village on October 19, 2019*, n.d.). According to Islamic law, a small proportion of the people there only know that they share in the distribution of inheritance is men, twice the share of women (2:1).

From the description above regarding the practice of inheritance distribution in Sungai Enau Village, it can be understood that there is a distribution of inheritance only to the main heirs, namely the wife and children of the heir. Although the distribution of assets is only distributed to the core heirs, not all assets can be distributed. Among the inheritances that are not distributed are the house contents in the form of furniture, and the legacy is the right of the *al-muwarrith*'s wife. Besides, the share of female heirs from male heirs is different from the rule of *li al-dhakar mithl al-hadz al-unthayain*.

ARGUMENTATION OF INHERITANCE PORTION OF THE HEIR OF WOMEN IS MORE THAN MEN

In Islamic inheritance, the principle of balanced justice is known. This principle means a balance between the heirs' rights following the obligations that have been carried out. According to Hakim, this principle's application can legalize the generality of inheritance distribution, which gives male heirs more shares than female heirs with a ratio of 2:1 (Hakim, 2020, p. 29). This comparison is based on the rights and obligations of male heirs more than female heirs. Examples

of these rights and obligations are giving a dowry and providing for the family borne by the husband. In contrast, women are not required to give dowry and support to anyone.

The inheritance basis that gives male heirs more shares than female heirs (*li al-dhakari mithl al-hadz al-unthayain*) is found in Surah Al-Nisā ‘verse 11. The jurists interpret male heirs as more than female heirs with a ratio of 2:1. In the philosophy of Islamic law, sons have more obligations than girls. Unlike women, women do not have as many needs as men, and women also do not have burdens such as giving dowries or providing for their families (Zahara, 2017, p. 27). From legal subjects’ perspective, male heirs’ share is more than that of female heirs with a 2:1, which is not relevant to the times (Hakim, 2016, p. 17).

Incompatibility with current conditions also occurs in the distribution of inheritance in Sungai Enau Village. The proceeds from the Sungai Enau Village’s legacy allocation gave a share of 2:1 more to girls than boys. Two girls each get a share of IDR 100 million, while boys get a share of IDR 50 million. The main reason for giving a 2:1 more share for girls than boys is that girls care more, help, and take care of their parents, especially the heirs. That is why do girls get more shares than boys. The result of the distribution was an agreement of all heirs and obtained local religious leaders’ approval.

The author describes the agreement and agreement of each heir in this paper. The male heir, who gets a share less than his female sibling, agrees and receives the mother’s claim. According to him, his two siblings (daughters) help and care more for the heir than himself (*Results of Interviews with the Heir Named M. Tohir (Biological Son) on July 26, 2019*, personal communication, n.d.).

“I agreed and approved the distribution of the inheritance distributed or determined by my mother because I realized that I rarely and could even say that I never helped Mother and Father when I was young. My job is just traveling, wandering everywhere, but it never works; even though I work outside the city and even abroad, Malaysia, but I still bother my parents. When I wanted to return to my home, Indonesia, my parents paid for me.”

The agreement of each heir was also expressed by the heir’s second son, Supatik. According to him, the decision given by his mother was correct because the inheritance of his father was the result of the hard work of his mother and father (*al-muwarrith*). Initially, Supatik was amazed at the share she received with her siblings getting more shares than her younger brother, who was male. But Supatik agreed, provided that all heirs agreed (*Results of Interviews with an Heir Named Supatik (Biological Daughter) on August 8, 2019*, personal communication, n.d.).

“I agree with it. Suppose the mother wants to share the inheritance (father) like anything because, in my opinion, it is all the right of the mother. Moreover, these assets result from the mother and father’s hard work when you were still alive. So, we cannot ask or think

about taking it. Unless you give it yourself without any coercion from anyone, then I want to take it because the property belongs to my mother. The inheritance was not mine or my brothers and sisters. In 2018, my mother distributed the treasure to me, my brother (Siti Khotijah), and my sister (M. Tohir). My brother and I were given more inheritance than our brother named M. Tohir. Actually, I wonder why my brother and I are more of a part of our younger siblings. My brother and I received the inheritance, as long as all the families agreed and there were no problems, no one was suspicious of each other, disputes, and so on. Because in my opinion, family and friendship are everything for my family and me.”

Based on the author's data earlier, the distribution of inheritance in Sungai Enau Village used the internal family deliberation method. The result is that girls' share is more than twice that of boys, provided that each heir agrees to the distribution of the inheritance. The case of inheritance distribution occurred in the Madderes case, which was the research subject in this study and appeared in four other matters that the authors interviewed on 2-24 October 2019. These cases occurred in Sungai Enau Village, Kuala Mandor B District, Kubu Raya Regency, West Kalimantan Province.

The distribution of inheritance, which gives girls more than twice that of boys, is also justified and approved by local religious leaders. They agreed to share the legacy like that because girls cared more about and helped their parents than the boy. This argument is based on the results of interviews with several religious leaders in Sungai Enau Village. Ustad Moch. Nasir argues, “*I know that the daughters of Mr. Madderes and Mrs. Misnanten are very diligent, often helping their mother and father, in the garden, in the fields, and at home. So, naturally, if his daughter was given more inheritance than his son.”* (The Results of an Interview with a Religious Leader in Sungai Enau Village Named Moch. Nasir on August 27, 2019, personal communication, n.d.). Likewise, Ustad Kholili, the main reason girls' share is more than twice that of boys, is that girls care more and help their parents more. “*As far as I know, the main reason why the inheritance of female biological children is more than that of male children is that female biological children care for their parents and always help their parents' work even though they are in the garden, areas, and others.”* (The Results of an Interview with a Religious Leader in Sungai Enau Village Named Kholili on September 12, 2019, personal communication, n.d.)

The practice of distributing the inheritance of heirs, which gives more estate to daughters than boys because their daughters are more involved in the family, occurs in Sungai Enau Village. It means a girl who is closer to and cares for her parents and always helps her parents in every job, whether they are at home, in fields, garden, and so on. That is the reason or the main reason for parents or heirs to give more of their inheritance to daughters than to sons. It is also an obligation

in filial piety to the parents that their children should do. Therefore, girls who care more about and help their parents are more entitled to inheritance than sons.

The distribution of inheritance in Sungai Enau Village is not following Islamic law, which gives a more significant share of male heirs than the share of female heirs following the rule of *li al-dhakar mithl al-hadz al-unthayain*. Even though it is not appropriate, the inheritance distribution is the wish and approval of the heirs. According to the author, if the distribution of inheritance is carried out in an Islamic manner, which gives the male heir a larger share than the female heir's share of 2:1, it is felt that it does not fulfill a sense of justice. Therefore, the heirs agreed to share the inheritance by sharing it with girls who always care about and help their parents 2:1 more than the boy. This division is the basis that girls' share is more than that of men because girls' concern for the heir is more fantastic and much more than that of boys. The results of the distribution of inheritance are also following the principle of fairness between the heirs.

DISTRIBUTION OF INHERITANCE IN SUNGAI ENAU VILLAGE: A ISLAMIC LAW REVIEW

Islamic law of inheritance (*'ilm farā'idh*) means a particular part of the inheritance as stipulated in the *nash*. That is, the share of each heir has been specified in the Qur'an and hadith. This definition follows the principle of *ijbari* in the Islamic inheritance system, namely the transfer of the deceased's inheritance to his heir, which runs automatically according to God's provisions (Rifenta & Prayogo, 2019, p. 114). This decree from God includes *al-muwarrith*, transfer of assets, total assets, and heirs.

This provision is not applied in the distribution of inheritance in Sungai Enau Village. The distribution of an estate in Sungai Enau Village is not following the principle of *ijbari* and shares it using the internal family deliberation method. In the previous table, the wife received a share of IDR 50 million, two girls each received a share of IDR 100 million, and a boy received a share of IDR 50 million. What is interesting is that the percentage of girls is 2:1 more than boys. This provision is not following the majority of jurists who provide a 2:1 section according to the rule of *li al-dhakar mithl al-hadz al-unthayain* (Jamil, 2017, p. 108).

In the case of the distribution of inheritance in Sungai Enau Village, the heirs are the wife, two daughters, and a boy. In terms of the share of each heir, the opinion of the majority of jurists is to give the wife's portion of 1/8 of the inheritance because there are children or grandchildren, while a son together with two daughters gets the remaining part (*ashobah bi al-ghair*) with the rule of *li al-dhakar mithl al-hadz al-unthayain* (Hakim, 2020, pp. 65–68). The wife's legal basis to get a share of 1/8 of the inheritance is because there are children or grandchildren as regulated in Surah

Al-Nisā ‘verse 12. In contrast, the legal basis for a son and two daughters gets a share of *ashobah bi al-ghair* with the rule of *li al-dhakar mithl al-hadz al-unthayain* found in surah Al-Nisā ‘verse 11.

The provisions in the majority of jurists’ opinions are not much different from those stipulated in the KHI. Article 180 gives a wife (widow in the term of KHI) the eighth share if the heir leaves a child, while a daughter and a boy get a son’s share of two to one with a girl. The provision for the allocation of daughters together with sons is contained in Article 176. Uniquely, Article 183 KHI legalizes the distribution of inheritance by peaceful means, in this case through the family internal deliberation method. The note is that the heirs must know their respective parts in advance. Some Banjar Ulama has practiced this peaceful division (*ishlah*) in Hulu Sungai Utara Regency by considering that distribution with *ishlah* is justified in Islamic law of inheritance (Haries, 2014, p. 191). Therefore, the distribution of the estate, which the writer analyzes in this paper, is urgent for each heir to know (*Instruction of the Presidential Decree of the Republic of Indonesia on the Compilation of Islamic Law in 1991*, n.d., p. Article 183).

For more details regarding the distribution according to the opinion of the majority of jurists. See Table 2.

Table 2
Distribution of Inheritance according to Islamic Law

No.	Heirs	AM: 8 x 4 = 32				Part of the Inheritance IDR 300.000.000	
1.	-	Wife	1/8	1	4	4	$4/32 \times 300.000.000 = 37.500.000$
2.	2	Boy	ABG	7	28	14	$14/32 \times 300.000.000 = 131.250.000$
3.	1	Girl				7	$7/32 \times 300.000.000 = 65.625.000$
4.	1	Girl				7	$7/32 \times 300.000.000 = 65.625.000$
	4	Total		8	32	32	IDR 300.000.000

Table 2 above describes the distribution of inheritance in the case that occurred in Sungai Enau Village. The heir leaves four heirs: wife, son, and two daughters. The inheritance is IDR 300 million. The wife’s share is 1/8 (Al-Zuhaili, 1985, p. 313; Sayyid, n.d., p. 298), and a son together with two daughters gets a share of *ashobah bi al-ghair* (ABG) (Syarkun, 2008, p. 36). According to Wahbah al-Zuhaily (1985, p. 337), *ashobah bi al-ghair* is a female heir and male heirs in one level. Because there is only a denominator 8, the Origin of Problem (AM) in this division is 8. 1/8 of AM 8 is 1 portion for the wife, and the remainder is 7 parts to be given to a boy and 2 girls on

condition 2:1, i.e., boys are counted as 2, while girls are counted as 1 each ($1+1=2$). The sum of the children's shares is $2+1+1=4$. If 4 is divided by 7, the result is a fraction (*inkisār*). Therefore, it needs to be *tashīh al-mas'alah* (Al-Zuhaili, 1985, p. 369).

The *tashīh al-mas'alah* compares the number of heirs receiving the fraction, which is 4 (the number the writer underlined), with the part they receive, 7 (the number the writer underlined). There is a ratio of 4:7, namely the ratio of *mubāyanah* (Hakim, 2020, pp. 99–100). The term used by Al-Zuhaili is *tabāyun* (Al-Zuhaili, 1985, p. 371). Due to the comparison of the *mubāyanah*, his AM (8) is multiplied by the number of heirs receiving the fraction (4). AM *sughra* is $8 \times 4 = 32$. So, $1/8$ of AM *sughra* 32 is 4 parts for the wife, and the remainder is 28 parts to be given to a boy and 2 girls with conditions 2:1. Boys get 14 shares, while two daughters each get 7 shares. Each share of the heirs is then multiplied by the inheritance (IDR 300 million), and the result is further divided by 32 (AM *sughra*). So, the wife gets an inheritance of IDR 37,500,000, the boy gets IDR 131,250,000, and each of the girls gets IDR 65,625,000. So, the total inheritance from the heir runs out, which is IDR 300,000,000.

Based on the previous author's discussion and analysis, the distribution of inheritance using the internal family deliberation method in the case that occurred in Sungai Enau Village was not following the opinion of the majority of jurists and KHI. Although Islamic teachings have heavily influenced the community inheritance system in Sungai Enau Village, the fact is that the conventional inheritance system still dominates. If traced further, the distribution of inheritance in a customary manner that is carried out deliberately by prioritizing each heir's sense of justice is known as *al-takharruj*. *Al-takharruj* is the heirs who agree to make peace by removing part of the other heirs (Al-Zuhaili, 1985, p. 440; Sayyid, n.d., p. 314). This provision is also contained in Article 183 KHI, which allows the heirs to agree to share the heir's inheritance amicably. The condition is that the heirs know their respective parts. Thus, the author's analysis above, which follows most jurists' opinions, is essential for the heirs to know.

According to the author, two factors influence it. First, the community is very militant about their ancestors' traditions because these practices are inherited from their ancestors, even though most of the people of Sungai Enau Village are Muslims. Second, the existence of the *'ilm farā'id* has received less attention. Lack of awareness of *'ilm farā'id* because most people do not understand, even know the *'ilm farā'id*. Apart from that, the *'ilm farā'id* is also a complex science to learn.

CONCLUSION

There are three conclusions contained in this paper. First, most Muslim communities in Sungai Enau Village (65%) share their inheritance through internal family deliberations with all heirs' consent. This deliberation resulted in a female heir receiving a share of the estate more than twice as much as the male heir. Second, the main reason for giving twice as much share to girls as boys are because girls care more, help, and assist their parents (especially those who die). Third, the practice of distributing inheritance carried out by the Muslim community in Sungai Enau Village fulfills a sense of justice for the heirs. The opinion of local religious leaders supports it. However, this provision is not following the idea of the majority of fiqh scholars who give men twice as much share as women (2:1) following the rule of *li al-dhakar mithl al-hadz al-unthayain*.

References

- Abdurrahman. (2001). *Kompilasi Hukum Islam* (3rd ed.). CV. Akademika Pressindo.
- Al-Zuhaili, W. (1985). *Al-Fiqhu al-Islamu wa Adillatuhu* (2nd ed., Vol. 8). Dar Al-Fikr.
- Ash-Shabuni, M. A. (1995). *Pembagian Waris Menurut Islam*. Gema Insani Press.
- Hakim, M. L. (2016). Keadilan Kewarisan Islam terhadap Bagian Waris 2:1 antara Laki-Laki dengan Perempuan Perspektif Filsafat Hukum Islam. *Al-Maslahah: Jurnal Ilmu Syari'ah*, 12(1), 18. <https://doi.org/10.24260/almaslahah.v12i1.339>
- Hakim, M. L. (2020). *Fiqh Mawaris I*. IAIN Pontianak Press.
- Haries, A. (2014). Pembagian Harta Warisan dalam Islam: Studi Kasus pada Keluarga Ulama Banjar di Kabupaten Hulu Sungai Utara Provinsi Kalimantan Selatan. *Jurnal Diskursus Islam*, 2(2), 191–208.
- Hasan, M. A. (1973). *Hukum Warisan dalam Islam*. Bulan Bintang.
- Instruction of the Presidential Decree of the Republic of Indonesia on the Compilation of Islamic Law in 1991*. (n.d.).
- Ismail, H., Asy'ari, H., & Setiawan, A. (2019). Hak Waris Anak Laki-Laki Tertua dalam Hukum Adat Lampung Pepadun Perspektif Gender (Studi di Tegineneng Kabupaten Pesawaran). *AL HURRIYAH: Jurnal Hukum Islam*, 4(1), 56–67. <https://doi.org/10.30983/alhurriyah.v4i1.938>
- Jamil, R. (2017). Hukum Waris dan Wasiat (Sebuah Perbandingan antara Pemikiran Hazairin dan Munawwir Sjadzali). *Al-Ahwal: Jurnal Hukum Keluarga Islam*, 10(1), 99. <https://doi.org/10.14421/ahwal.2017.10108>

- Mahsus, M. (2020). Tafsir Kontekstual dan Eksistensi Perempuan serta Implikasinya terhadap Penyetaraan Bagian Waris Laki-Laki dan Perempuan. *JIL: Journal of Islamic Law*, 1(1), 25–44. <https://doi.org/10.24260/jil.v1i1.19>
- Marzuki, M. I., & Aslikha. (2018). Pemerataan Pembagian Harta Waris antara Laki-Laki dan Perempuan Perspektif Masalah Mursalah. *Journal MULTICULTURAL of Islamic Education*, 2(2), 28–42.
- Nurilahi, A., & Hartati, S. (2019). Pembagian Waris Masyarakat Suku Toraja (Studi Kasus 3 Keluarga RT. 09 Sepinggan Raya Balikpapan Selatan). *Ulumul Syar'i*, 8(2), 41–53.
- Permana, S. (2018). Kesetaraan Gender dalam Ijtihad Hukum Waris di Indonesia. *Asy-Syari'ah*, 20(2), 117–132. <https://doi.org/10.15575/as.v20i2.3210>
- Results of interviews with an heir named Misnanten (widow) on July 12, 2019.* (n.d.). [Personal communication].
- Results of interviews with an heir named Siti Khotijah (biological daughter) on August 19, 2019.* (n.d.). [Personal communication].
- Results of interviews with an heir named Supatik (biological daughter) on August 8, 2019.* (n.d.). [Personal communication].
- Results of interviews with the heir named M. Tohir (biological son) on July 26, 2019.* (n.d.). [Personal communication].
- Rifenta, F., & Prayogo, T. I. (2019). Nilai Keadilan dalam Sistem Kewarisan Islam. *Al-Manahij: Jurnal Kajian Hukum Islam*, 13(1), 111–127. <https://doi.org/10.24090/mnh.v0i1.2117>
- Ritonga, S. H. N. (2018). Pembagian Harta Warisan pada Masyarakat Etnis Jawa Kecamatan Bilah Barat Kabupaten Labuhan Batu dalam Perspektif Hukum Islam. *AT-TAFAHUM: Journal of Islamic Law*, 2(2), 169–188.
- Sayyid, S. (n.d.). *Fiqhu al-Sunnah*. Dār al-Fath lil-I'lam al-'Arabi.
- Syarkun, M. S. (2008). *Ilmu Fara'idh; Ilmu Pembagian Waris Menurut Hukum Islam*. t.p.
- The document was obtained from the Head of Sungai Enau Village on October 19, 2019.* (n.d.).
- The results of an interview with a religious leader in Sungai Enau village named Ahmad Syarif on February 16, 2019.* (n.d.). [Personal communication].
- The results of an interview with a Religious Leader in Sungai Enau Village named Kholili on September 12, 2019.* (n.d.). [Personal communication].
- The results of an interview with a religious leader in Sungai Enau village named Moch. Nasir on August 27, 2019.* (n.d.). [Personal communication].

- Wahidah. (2018). Relasi Setara antara Laki-Laki dan Perempuan dalam Kasus Kewarisan Islam (Faraidh). *Syariah Jurnal Hukum dan Pemikiran*, 18(1), 65–86.
<https://doi.org/10.18592/sy.v18i1.2144>
- Zahara, R. A. (2017). *Konsep Dua Banding Satu dalam Pembagian Harta Warisan (Studi Perbandingan Jumhur Ulama dan Muhammad Syahrur)* [Dissertation]. UIN Ar-Raniry Banda Aceh.