

Delay in the Distribution of Inheritance to Women in Temanggung

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ABSTRACT

This study examines the practice of delaying the distribution of inheritance to female heirs in Dusun Kauman, Kemiriombo Village, Temanggung District, from the perspective of Islamic inheritance law. In Islamic jurisprudence, inheritance is a mandatory right that must be fulfilled immediately after the death of the deceased, following the settlement of debts and wills, as stipulated in the Qur'an and the Sunnah. However, empirical evidence shows that inheritance distribution in rural communities is often postponed due to social, economic, and customary considerations. This research employs a qualitative field research approach. Primary data were collected through in-depth interviews, observation, and documentation involving female heirs, religious leaders, and village officials. Secondary data were obtained from the Qur'an, Hadith, classical Islamic legal texts, and relevant scholarly literature. Data analysis was conducted using the Miles and Huberman model, encompassing data reduction, data display, and conclusion drawing, with source triangulation applied to ensure the validity of the findings. The findings indicate that the delay in inheritance distribution is primarily influenced by social concerns for family harmony, economic dependence on inherited agricultural land, and patriarchal cultural norms that subordinate women's inheritance rights. From the perspective of Islamic law, such delays are only permissible if they are genuinely based on collective agreement, do not eliminate or diminish women's rights, and serve clear public benefit (maṣlahah). Otherwise, they constitute a violation of Islamic principles of justice and the objectives of Islamic law (maqāṣid al-shari'ah), particularly the protection of property and lineage. This study highlights the tension between Islamic normative law and customary practices within a plural legal system and emphasizes the need for legal awareness, religious guidance, and institutional support to ensure gender justice and legal certainty for female heirs.

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Introduction

Inheritance law constitutes one of the most important fields within Islamic law, as it regulates the transfer of property rights from a deceased person to his or her heirs in a just and

proportional manner. The rules of inheritance in Islam are clearly and explicitly stipulated in the Qur'an, particularly in Surah al-Nisā' verses 7, 11, and 12, which affirm that both men and women are equally entitled to inheritance rights, albeit with different shares based on the principles of Islamic justice. Accordingly, inheritance distribution in Islam is not merely an economic matter but also an integral part of fulfilling religious obligations and protecting human rights (Nasution, 2019).

In the Indonesian context, inheritance practices are influenced not only by Islamic law but also by customary law (adat) and Western civil law. These three legal systems coexist and frequently interact within society. In rural areas, customary law continues to exert a strong influence in regulating social relations, including inheritance distribution. Customary norms are often regarded as more reflective of family harmony; however, in practice, they not infrequently conflict with the principles of justice embedded in Islamic inheritance law (Hazairin, 1982; Soepomo, 2003). One phenomenon arising from the dominance of customary norms in inheritance practices is the delay in inheritance distribution, particularly with regard to female heirs. Such delays are commonly justified by various reasons, including the desire to preserve family property, to await collective agreement among family members, or to postpone distribution until the surviving parent has passed away. In reality, however, these delays often extend over long periods and result in the neglect of women's legitimate rights as heirs. This condition not only creates legal uncertainty but also has the potential to perpetuate gender injustice within Muslim families (Syarifuddin, 2014). The phenomenon of delayed inheritance distribution for women is also closely linked to entrenched patriarchal social constructions in rural communities. Women are frequently positioned as parties who are expected to "sacrifice for the sake of family harmony" or are deemed less entitled to inheritance because they have married and joined their husband's household. Such assumptions stand in clear contradiction to the fundamental principles of Islamic inheritance law, which recognize women as full legal subjects with independent rights to inherited property (An-Na'im, 2002).

In Dusun Kauman, Kemiriombo Village, Temanggung District, the practice of delaying inheritance distribution for female heirs remains prevalent and represents a compelling social reality worthy of scholarly examination. This practice not only reflects the tension between Islamic law and customary law but also reveals a significant gap between legal norms and

social practices. In this context, delayed inheritance distribution cannot be viewed merely as a family consensus; rather, it constitutes a legal issue with serious implications for the fulfillment of women's rights and the objectives of Islamic law (*maqāṣid al-sharī'ah*), particularly the protection of property (*hifz al-māl*) and lineage (*hifz al-nasl*). (Sumarjoko, 2017)

Based on these realities, this study is essential to examine in depth how the practice of delaying inheritance distribution for women operates within the community, the factors underlying its persistence, and how Islamic law perceives such practices. This research is expected to contribute academically to the development of Islamic inheritance law studies, while also serving as a practical reference for communities and policymakers in promoting justice and legal certainty for women as rightful heirs.

Method

This study employed a qualitative approach using field research. Primary data were collected through in-depth interviews, observations, and documentation involving female heirs, religious leaders, and village officials. Secondary data were obtained from the Qur'an, Hadith, classical Islamic legal literature, and relevant previous studies. Data analysis was conducted using Miles and Huberman's interactive model, which includes data reduction, data display, and conclusion drawing. Source triangulation was applied to ensure the validity and credibility of the research findings.

Results

Inheritance Distribution Practices in Dusun Kauman

This study reveals that inheritance distribution practices in Dusun Kauman are frequently characterized by significant delays, particularly affecting female heirs. Such delays are commonly justified by arguments related to maintaining family harmony, economic considerations, and the strong influence of local customary norms. The findings indicate that the postponement of inheritance distribution has become a prominent and recurring phenomenon within the community. When a family member passes away, the deceased's estate is not immediately distributed to the rightful heirs. Instead, the property is

left “on hold” and its distribution is discussed only at a later time, sometimes years after the death of the testator.

This condition disproportionately affects female heirs. Women often do not receive their inheritance shares promptly, while male heirs tend to dominate family deliberations regarding the estate. As a result, women are positioned as passive recipients; although they possess clear inheritance rights under Islamic law, these rights are not promptly realized in tangible economic terms. This situation illustrates a gap between normative legal provisions and actual social practices.

Many residents of Dusun Kauman argue that delaying inheritance distribution is necessary to preserve familial harmony. Discussing inheritance matters shortly after a death is often perceived as socially inappropriate and potentially disruptive, as it may provoke disputes among siblings. This social rationale is reinforced by economic considerations, as most inherited assets consist of agricultural land, such as rice fields and farmland, which serve as the primary source of livelihood for the family. Immediate division of such land is believed to reduce its economic viability, making it less productive for collective use. Moreover, prevailing customary views suggest that women do not urgently require inheritance shares because, after marriage, their economic needs are assumed to be the responsibility of their husbands.

These justifications demonstrate the complex interaction between Islamic law, local custom, and socio-economic realities. Giannakas et al. (2019) argue that in rural communities, social norms often exert a stronger influence than formal legal rules. This perspective is highly relevant to the situation in Dusun Kauman, where the norms of maintaining family cohesion and respecting customary traditions frequently take precedence over Islamic legal principles that emphasize the prompt and just distribution of inheritance.

To better understand the persistence of inheritance delays in Dusun Kauman, several influencing factors can be identified:

a. Social Factors

The postponement of inheritance distribution is widely perceived as a mechanism to maintain family unity. Fear of conflict among relatives encourages families to delay the division of assets. In tightly knit rural communities, social cohesion is highly valued, and open conflict is considered more harmful than the temporary suspension of individual inheritance rights.

b. Economic Factors

The majority of inherited property consists of agricultural land, which often represents the family's sole source of income. Immediate division of the land may result in fragmented plots that are no longer economically productive. Consequently, families prefer to delay inheritance distribution to allow continued collective use of the land.

c. Cultural Factors

Customary beliefs continue to place women in a subordinate position. There is a prevailing assumption that women do not require immediate inheritance shares because their financial needs will be met by their husbands after marriage. This assumption reflects deeply rooted gender bias that marginalizes women's economic rights.

Hazairin (1982) has emphasized that customary law frequently marginalizes women's inheritance rights, particularly within patrilineal societies. The situation in Dusun Kauman demonstrates that such gender-biased practices persist to this day, highlighting the ongoing tension between Islamic legal norms and entrenched cultural traditions. (Hazairin, 1982)

Discussion

Analysis and Discussion from the Perspective of Islamic Law

From the perspective of Islamic law, inheritance is a right that must be fulfilled immediately after the death of the deceased, as explicitly prescribed in Q.S. al-Nisā' verses 11–12. Any delay without a valid sharī‘a-based justification may be classified as an act of injustice (zulm). The Prophet Muhammad ﷺ emphasized this principle in his hadith: “Give everyone who has a right his due right” (al-Bukhārī, n.d.). This prophetic injunction establishes a clear normative foundation that women’s inheritance rights must neither be postponed nor denied. In Islamic jurisprudence, inheritance distribution should take place after the fulfillment of the deceased’s obligations, such as debts and valid bequests. Delaying the distribution without legitimate justification therefore constitutes a violation of Qur’anic injunctions. Abdul Wahhab Khallāf (1978) further explains that inheritance rights are part of both *ḥuqūq al-‘ibād* (human rights) and *ḥuqūq Allāh* (rights determined by God). Consequently, violating inheritance rights is not merely a social injustice against individuals but also a form of disobedience to divine law. This perspective reinforces the seriousness of delaying inheritance distribution, particularly when it disproportionately harms female heirs. (Khallāf, 1978)

Nevertheless, Islamic legal theory acknowledges certain exceptional circumstances in which a temporary delay may be considered. The concept of *maṣlahah mursalah* allows legal flexibility when it serves the collective welfare and does not contradict explicit textual evidence. Al-Shāṭibī (2003) asserts that Islamic law aims to preserve five fundamental objectives (*maqāṣid al-sharī‘ah*): religion, life, intellect, lineage, and property. If the postponement of inheritance is genuinely intended to safeguard family unity or ensure economic sustainability, it may be deemed permissible under strict conditions. Similarly, the concept of ‘urf (custom) may be considered a legal reference. According to al-Ghazālī (1993), customary practices may serve as a legal basis as long as they do not conflict with clear scriptural texts (*naṣṣ ṣārīḥ*). However, in the case of Dusun Kauman, the local custom of delaying women’s inheritance rights requires critical reassessment. When such customs result in discrimination or negate women’s rights, they cannot be justified within Islamic law. Therefore, postponement is only acceptable if it genuinely serves public interest, is agreed upon by all heirs through mutual consent, and does not eliminate or indefinitely suspend women’s rightful shares. Otherwise, it constitutes a violation of Islamic principles of justice.

From a gender perspective, inheritance postponement practices in Dusun Kauman reflect structural inequality. Women are positioned as passive recipients who must wait for decisions dominated by male family members rather than active legal subjects entitled to claim their rights. This situation demonstrates the persistence of patriarchal bias within family legal practices. Mulia (2005) criticizes patriarchal interpretations of Islamic family law that marginalize women and transform religious norms into instruments that legitimize gender inequality. Normatively, Islam recognizes women as full legal subjects with independent ownership rights, including inheritance rights. Gender-based analysis is therefore crucial, as inheritance delays may appear socially acceptable while in reality perpetuating systemic injustice against women.

The phenomenon of delayed inheritance distribution is not unique to Dusun Kauman. Subekti (2005) documents similar practices in other regions of Central Java, where inherited land is often retained as a symbol of family unity rather than immediately divided. Vink et al. (2019) highlight the challenges of legal pluralism in Indonesia, where Islamic law, customary law, and state law coexist but do not always align. Communities often navigate between these legal systems, leading to ambiguity in inheritance practices. The situation in Dusun Kauman illustrates this pluralistic tension, where Islamic legal norms are adapted or subordinated to customary practices in the interest of social stability.

From the standpoint of Islamic legal theory, this reality underscores a significant challenge in implementing *sharī'a*-based inheritance law. Normative Islamic law, which aims to ensure justice and legal certainty, may be overshadowed by discriminatory customs. This study therefore has important practical implications. First, there is a need for comprehensive public education on Islamic inheritance law, particularly regarding the obligation to distribute inheritance promptly and fairly. Such education should involve religious leaders, educational institutions, and religious courts. Second, community leaders and village authorities must play an active role in facilitating inheritance deliberations to ensure that women's rights are protected. Third, regulatory intervention by the state—such as legal counseling and inheritance mediation programs—is necessary to encourage timely inheritance distribution. Ultimately, strengthening the implementation of Islamic inheritance

law in daily practice is essential to realizing the values of justice, equality, and legal certainty, particularly for women as rightful heirs within Muslim families.

Conclusion

This study concludes that the practice of delaying the distribution of inheritance to female heirs in Dusun Kauman, Temanggung, reflects a complex interaction between Islamic inheritance law, customary norms, and local social structures. Normatively, Islamic law clearly mandates the immediate distribution of inheritance after the settlement of the deceased's obligations, as stipulated in the Qur'an (Q.S. an-Nisā': 11–12) and reinforced by the Prophetic tradition. Any unjustified delay in fulfilling inheritance rights, particularly toward women, constitutes a violation of Islamic legal principles and undermines the values of justice and equality upheld by Islam. The findings reveal that the postponement of inheritance distribution is largely influenced by customary practices and patriarchal cultural assumptions that prioritize family unity and male authority over the legal rights of female heirs. Although Islamic jurisprudence allows limited flexibility through concepts such as *maṣlahah mursalah* and *'urf*, such flexibility is only valid when it genuinely serves collective welfare, is based on mutual consent among all heirs, and does not eliminate or marginalize women's inheritance rights. In the context of Dusun Kauman, the delay frequently fails to meet these criteria, resulting in structural gender inequality. From a broader theoretical perspective, this study reinforces the concept of legal pluralism in Indonesian society, where Islamic law often interacts—and at times conflicts—with customary and state legal systems. This interaction demonstrates that the implementation of Islamic inheritance law is not merely a normative issue but is deeply embedded in social, cultural, and power relations. Consequently, without adequate legal awareness and gender-sensitive interpretation, Islamic law risks being subordinated to discriminatory customary practices. Therefore, this study emphasizes the urgent need for community-based legal education on Islamic inheritance law, particularly regarding the obligation to promptly distribute inheritance and uphold women's rights. It also highlights the strategic role of religious leaders, village authorities, and legal institutions in facilitating fair inheritance deliberations. Strengthening legal literacy and promoting gender-just interpretations of Islamic law are essential steps toward ensuring that the principles of justice, equity, and protection of rights envisioned by Islamic law are realized in everyday social practice.

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