

Fiqh Mawaris Hukum Pembagian Warisan Menurut Syariat Islam Muhammad Hasbi Ash Shiddieqy

Fiqh Mawaris Hukum Pembagian Warisan Menurut Syariat Islam Muhammad Hasbi Ash Shiddieqy Fiqh Mawaris Understanding Islamic Inheritance Law According to Muhammad Hasbi Ash Shiddieqy Islamic inheritance law known as Fiqh Mawaris is a crucial aspect of Islamic jurisprudence Fiqh It meticulously outlines the distribution of an individuals estate after their death ensuring fairness and justice among heirs according to the divine guidance found in the Quran and Sunnah the Prophet Muhammads teachings and practices Scholar Muhammad Hasbi Ash Shiddieqy a prominent figure in contemporary Islamic scholarship has significantly contributed to the understanding and interpretation of Fiqh Mawaris This article explores the key principles of Islamic inheritance law as understood through his work offering a balanced approach between depth and accessibility

Core Principles of Fiqh Mawaris The Quran explicitly addresses inheritance detailing the shares allocated to various heirs Ash Shiddieqys interpretations emphasize the following core principles Divine Mandate The rules of inheritance are divinely ordained not subject to human modification They are based on the verses of the Quran and the authentic traditions of the Prophet Muhammad This underscores the sacred nature of the process and its importance in maintaining societal harmony Equity and Justice The system aims for a just and equitable distribution of wealth preventing undue concentration of wealth in the hands of a few It considers the varying degrees of kinship and societal roles to determine inheritance shares

Prioritization of Blood Relations Close blood relatives are prioritized in the inheritance process The closer the relationship the larger the share allocated This reflects the importance of family bonds within Islamic society

Protection of Vulnerable Heirs Specific provisions are made to protect the interests of women minors and the disabled ensuring their financial security This compassionate approach is a defining characteristic of Islamic inheritance law

Hierarchical Distribution Inheritance shares are distributed in a specific hierarchical order 2 with certain heirs taking precedence over others This system ensures a clear and systematic process minimizing disputes

Determining Heirs and their Shares A StepbyStep Approach Understanding the distribution of inheritance

requires a systematic approach. Ash Shiddieqy's work highlights the importance of identifying the heirs correctly and calculating their respective shares according to the established rules.

1. Identifying the Deceased Heirs: This involves determining all the individuals entitled to inherit based on their relationship to the deceased. This includes spouses, children, both sons and daughters, parents, siblings, grandparents, and other relatives, adhering to specific rules of kinship.
2. Classifying Heirs: Heirs are categorized into several classes, e.g., asabah, dhawi, alfurud, etc., based on their kinship and eligibility for inheritance. Asabah refers to male heirs who inherit the residual share after the fixed shares of dhawi and alfurud heirs with fixed shares are distributed. This classification is critical for accurate share calculation.
3. Calculating Fixed Shares: Furud: The Quran explicitly specifies the fixed shares for certain heirs like spouses, daughters, and parents. These shares are calculated based on fractions, e.g., 1/2, 1/4, 1/8.
4. Distributing the Residual Share: Asabah: After the fixed shares are distributed, any remaining portion of the inheritance is allocated to the asabah heirs based on their degree of kinship. The rules for distributing the residual share are complex and require careful consideration of the specific kinship relationships involved.
5. Dealing with Special Cases: Numerous special cases are addressed in Islamic jurisprudence, such as cases of disinheritance due to specific reasons detailed in the Quran and Sunnah, the impact of predeceased heirs, substitution, and complexities arising from multiple marriages and blended families. Ash Shiddieqy's interpretations shed light on these intricate situations.

Understanding the Role of Wasayah (Bequest): Islamic law allows for a testamentary disposition known as wasayah or bequest. This allows the deceased to bequeath up to one-third of their estate to anyone they choose. However, this bequeathment must not violate the rights of the compulsory heirs. Ash Shiddieqy emphasizes the limits on bequest to ensure that the compulsory heirs receive their rightful shares.

3. Resolving Disputes in Inheritance: Disputes over inheritance are unfortunately common. Ash Shiddieqy's interpretations provide guidance on resolving such conflicts, emphasizing the importance of amicable settlements through mediation and arbitration. Islamic law encourages reconciliation and strives to prevent protracted legal battles. However, if amicable resolutions fail, recourse to Islamic courts (Sharia courts) may be necessary.

Key Takeaways from Ash Shiddieqy's Approach:

- Emphasis on the Quran and Sunnah as the primary sources of Islamic inheritance law.
- Detailed explanation of the intricate calculations and classifications of heirs.
- Comprehensive treatment of special cases and complexities in inheritance distribution.
- Importance of justice, equity, and the protection of vulnerable heirs.
- Guidance on resolving inheritance disputes through amicable settlements or Islamic courts.

Frequently Asked Questions (FAQs):

1. What happens if someone dies without a will? In Islamic law, the absence of a will does not

invalidate the inheritance process. The distribution will follow the prescribed rules of Fiqh Mawaris based on the kinship relationships of the deceased.² Can a Muslim disinherit a child? Under specific circumstances, the Quran allows for the disinheritance of a child but this is heavily restricted and only justified in cases of severe wrongdoing by the child towards the parent.³ How does Islamic inheritance law differ from other legal systems? Islamic inheritance law is unique in its divine origin and emphasis on specific shares for certain heirs based on their kinship. Other legal systems often allow for greater testamentary freedom.⁴ What is the role of a Wali guardian in inheritance matters? A Wali plays an important role especially in the case of minors or those lacking legal capacity. They are responsible for managing the inheritance on behalf of the beneficiaries until they reach maturity or regain capacity.⁵ Where can I find more resources on Fiqh Mawaris according to Ash Shiddieqy's interpretations? Exploring scholarly works referencing Ash Shiddieqy's writings on Islamic jurisprudence specifically those dealing with inheritance would be a good starting point. Consulting with knowledgeable Islamic scholars and legal experts is also highly recommended. Many online resources and libraries offer relevant texts in Arabic and translated versions. This article provides a general overview of Fiqh Mawaris according to the interpretations of Muhammad Hasbi Ash Shiddieqy. The complexities of Islamic inheritance law require in-depth study and consultation with knowledgeable scholars for accurate application in specific cases. This article serves as an introduction to facilitate a better understanding of this important area of Islamic jurisprudence.

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dalam praktik kehidupan sehari hari persoalan waris sering kali menjadi krusial yang terkadang memicu pertikaian dan menimbulkan keretakan hubungan keluarga penyebab utamanya ternyata keserakahan dan ketamakan manusia di samping karena kekurang tahuhan pihak pihak yang terkait mengenai hukum pembagian waris padahal allah swt di dalam al qur an mengatur pembagian waris secara lengkap sementara itu di sisi lain kita jumpai kenyataan bahwa beberapa kalangan termasuk para pelajar di sekolah sekolah islam menganggap faraid ilmu yang mengatur pembagian harta pusaka sebagai momok yang menakutkan

studi hukum waris suku minangkabau selalu menarik bagi peminat studi hukum islam karena di satu sisi masyarakat minangkabau menganut sistem kekerabatan matrilineal di sisi yang lain mereka adalah kelompok etnis penganut islam yang taat yang menekankan ayah sebagai kepala rumah tangga dan bertanggungjawab atas keluarganya hukum waris suku minangkabau juga

sangat dinamis keputusan untuk membuat rumusan harta pusaka rendah adalah jalan keluar terbaik untuk mengatasi konflik adat dengan hukum islam sekalipun harta pusaka tinggi tetap dipertahankan sebagai implikasi dari kekerabatan minangkabau yang menganut asas matrilineal itu

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