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Legal certainty regarding pluralism of inheritance law in Indonesia in the transfer of inheritance rights in Indonesia

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ABSTRACT

In Indonesia, the inheritance law system is divided into civil, Islamic, and customary law. In the context of inheritance rights transfer, the diversity of legal systems that include civil inheritance law, Islamic law, and inheritance law creates its own challenges that can trigger conflicts among heirs. This article discusses the legal certainty of pluralism in inheritance law in Indonesia from these three aspects, as well as the procedures for transferring rights to inheritance in accordance with the applicable legal system. The article aims to provide a comprehensive understanding of the complexities involved in the legal processes surrounding inheritance. The research emphasizes the need for legal certainty and clearer guidelines to protect heir's rights while advocating for strategies such as clear wills and mediation to mitigate conflicts. Furthermore, it offers practical policy recommendations aimed at harmonizing inheritance laws and fosters a more equitable legal environment that respects Indonesia's cultural diversity.

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INTRODUCTION

Humans are naturally destined to live in a society where God has determined that humans are always in social interaction with each other. In this social life, the relationship between one individual and another always involves various interests that must be considered. Therefore, it is necessary to have legal rules that regulate social life in order to create order and peace in social relations. As a member of society, every human being has a certain position accompanied by rights and obligations that must be fulfilled towards other individuals (Alfredsson & Eide, 2023; Alston, 2020; Díaz-Rodríguez et al., 2023; Hartoyo & Sulistyowati, 2023; Reyes, 2020). Humans form various legal relationships with each other during their lives. However, when someone dies, it does not mean that all legal relationships that they have automatically end. Legal relationships related to the deceased's assets remain and will legally be transferred to the heirs left behind (Garcia-Teruel, 2021; Hammond & Batariwah, 2023; Novoselova, 2020; Shevelev & Shevelev, 2023; Starosta, 2022). Therefore, a clear settlement mechanism is needed regarding the transfer of rights and obligations related to assets from the deceased to the surviving heirs (Prodjodikoro, 1983).

When someone dies, questions automatically arise regarding the fate of the legal relationships that the deceased had during his/her lifetime, including how to manage his/her assets and other related rights. The settlement of the rights and obligations that arise as a result of the legal event of death is regulated by Inheritance Law. In general, debates often revolve around the inheritance left by the testator. In many cases, the division of inheritance can be resolved through deliberation between the heirs. However, if there is a dispute or disagreement between the heirs, the settlement of the division of the inheritance can be submitted through the courts. In Indonesia, there is a law known as the Inheritance Law. It is part of Family Law and plays an important role in society. After death, one of the main issues that arises is how to manage and continue the rights and obligations of the deceased. The settlement of these rights and obligations is regulated through inheritance law, which aims to regulate the continuation and transfer of assets, both tangible and intangible, from the testator to his/her heirs (Ramulyo, 1992).

The issue of inheritance is one of the main issues that is often discussed and is an integral part of the law. The implementation of inheritance law must reflect the family system that applies in society. As stated by Hazairin, "Among the various branches of law, marriage and inheritance law reflects and determines the family system in a society." This statement is based on the fact that inheritance law is closely related to human life

because every individual will definitely face important legal events such as birth, marriage, and death. Humans are naturally destined to live in society, and this is a divine provision that humans always live in social interaction with each other. Human life, therefore, always involves relationships between individuals with various interests that accompany it. To maintain order and order in social life, it is necessary to have legal regulations that regulate the creation of peace and order in these social relations. Inheritance law is a part of civil law that is specifically part of family law. Inheritance law is closely related to human life because every individual will eventually face a legal event known as death (Edwards, 2020). The legal event of death gives rise to various legal consequences, one of which is how to manage and continue the rights and obligations owned by the deceased. The settlement of the rights and obligations that arise due to a person's death is regulated by inheritance law (Wiryono, 1983).

Among the various types of laws that exist and apply today, we know a branch of law called Inheritance Law. After someone dies, one of the issues that arises is regarding the management and continuation of the rights and obligations owned by the deceased. The settlement of these rights and obligations is regulated through inheritance law. Inheritance, in this case, can be defined as the rules that govern the process of continuing and transferring assets, both tangible and intangible, from the testator to his heirs. The inheritance law system that applies in Indonesia has not been unified until now. The plurality of inheritance law systems in Indonesia is not only due to the existence of various customary family systems but also because of the existence of three other legal systems, namely; the Islamic inheritance law system, which is based on the holy book of the Qur'an; the Western Civil inheritance law system, which is based on the *Burgerlijk Wetboek* (Civil Code); and the customary inheritance law system, which is based on the customs or traditions that live in society. Basically, inheritance law aims to regulate the distribution of inheritance to heirs so that there are no disputes when the assets are divided. Therefore, inheritance law is related to the question of whether and how the rights and obligations over the assets of a deceased person will be transferred to other people who are still alive (Wiryono, 1983).

In many ways, property is the most important element in inheritance law. Inheritance of property includes all property owned by the testator, including related rights, such as debts, rights to compensation, and so on. According to the Civil Code (KUHPerdata), heirs are divided into two types, namely *heirs ab intestato* (based on statutory provisions) and heirs *testamentair* (based on a will). In Indonesian society, the majority of the population is Muslim, and Islamic inheritance law is seen as a fair law in resolving disputes related to the distribution of inheritance. Islamic inheritance law is often a solution that prevents conflict in the process of dividing inheritance. Islam, as a religion that prioritizes justice, has determined the share of heirs proportionally and fairly adjusted to the level of closeness of the heirs to the testator and the needs of each heir. However, there are certain conditions that can cause an heir's inheritance rights to be cut off, depending on several factors. The application of Islamic inheritance law has many benefits, including regulating the process of dividing inherited property so that it is carried out fairly and is beneficial for the heirs, preventing the emergence of conflict or bloodshed in the distribution process, and providing a sense of justice for the recipients of inheritance rights (Hajar, 2016).

However, the division of inheritance in Indonesia can be a significant source of family conflict due to differences of opinion among family members, especially when there is no clear agreement regarding the division. The plurality of existing legal systems including customary law, Islamic law, and civil law make inheritance arrangements increasingly complex because each system has different principles and rules. In this case, it is important to analyze the form and structure of inheritance law legislation in Indonesia from these three aspects, as well as the procedures for transferring inheritance rights in accordance with the applicable legal system. In addition, challenges and obstacles that often arise in the process of transferring inheritance rights, such as inconsistencies between various legal systems, legal uncertainty, and conflicts between heirs, also need to be identified in order to find the right solution to reduce disputes and ensure justice in the distribution of inheritance. Based on the brief explanation, it is necessary to analyze who has the right to inherit, how the legal certainty of the division of assets is carried out, and the implementation mechanism based on customary law, Islamic law, and inheritance law in the Civil Code as well as Challenges and Efforts to Transfer Inheritance Rights in accordance with the Applicable Legal System.

This article discusses the legal certainty of pluralism in inheritance law in Indonesia in the context of inheritance rights transfer. This article contributes to the understanding of legal pluralism in Indonesia's inheritance law, particularly regarding the transfer of inheritance rights. It identifies challenges arising from the coexistence of civil law, Islamic law, and customary law, highlighting the disputes that can emerge from differing interpretations and mechanisms. The research emphasizes the need for legal certainty and clearer guidelines to protect heirs' rights while advocating for strategies such as clear wills and mediation to mitigate conflicts. Additionally, it offers practical policy recommendations aimed at harmonizing inheritance laws and fosters a more equitable legal environment that respects Indonesia's cultural diversity. Overall, the article lays

the groundwork for future research on related topics, including the socio-economic impacts of inheritance disputes and the effectiveness of alternative dispute resolution methods.

METHOD

In this study, the research method of the statute approach or statute approach can also be called normative legal research is a process to find a rule of law, legal principles, or legal doctrines to answer legal issues to analyze the legal certainty of the division of assets is carried out, and the mechanism of its implementation based on customary law, Islamic law and inheritance law in the Civil Code as well as the challenges and efforts to transfer rights to inheritance under the Applicable Legal System [6]. The case approach is an approach that is carried out to analyze, examine, and use as a guideline for the procedure for transferring rights to inheritance by the applicable legal system. Then, the conceptual approach is carried out based on the views and patterns of doctrine or thoughts of experts that have developed in legal science. The various approaches and legal research presented will answer the analysis of the form and structure of the legal certainty of the division of assets is carried out, and the mechanism of its implementation based on customary law, Islamic law, inheritance law, and the Civil Code, as well as the challenges and efforts to transfer rights to inheritance in accordance with the applicable legal system.

In this study, the data sources utilized include legal statutes, customary law, Islamic law, and the Civil Code, which provide the foundational legal frameworks for analyzing inheritance rights and asset division. Additional data may be drawn from scholarly articles and expert opinions to support the conceptual approach.

The data generated consists of legal principles, doctrines, and case studies relevant to the transfer of inheritance rights and the mechanisms of asset division. This includes insights into the challenges encountered and the efforts made to navigate the applicable legal system.

The author analyzed the data using a combination of qualitative methods. This involved a detailed examination of legal texts and doctrines, case law analysis, and comparative analysis of the various legal frameworks. The author also employed thematic analysis to identify patterns and relationships within the data, focusing on the legal certainty and implementation mechanisms in the context of inheritance rights and asset division. By synthesizing findings from multiple approaches, the author aimed to provide a comprehensive understanding of the complexities involved in the legal processes surrounding inheritance.

RESULTS AND DISCUSSION

Legal Certainty and Mechanism for Implementing the Transfer of Inheritance Rights Based on Inheritance Law Pluralism in Indonesia

Several experts have put forward the concept of inheritance law. According to Soepomo, from the perspective of customary law, inheritance law can be interpreted as a set of regulations that regulate the process of forwarding and transferring intangible goods, known as *"immateriele goederen*," from one generation to its descendants. In the compilation of Islamic law, there is a definition. According to H. Abdullah Syah, in the context of Islamic inheritance law (faraidh law), the concept of inheritance law in terms of language refers to destiny (qadar) or provisions, while in the perspective of sharia, inheritance law is a portion determined for heirs. Thus, faraidh specifically regulates the amount and distribution of the heir rights that have been determined by Sharia. Based on these two definitions, it is proven that each group of people is subject to their respective legal systems, which results in differences in the understanding and meaning of inheritance law. However, in the discussion of inheritance law, there are three main elements that are of primary concern, namely: first, the existence of inheritance (wealth) owned by the heir, which is referred to as inheritance; second, the existence of an heir, namely an individual who controls or owns the inheritance and carries out its transfer or continuation; and third, the existence of heirs, namely the party who receives the transfer or distribution of the inheritance. Based on the inheritance law adopted by Indonesia, there are three provisions, namely Islamic inheritance law, customary inheritance law, and inheritance law. In Islamic inheritance law, there is the principle of balanced justice in Islamic inheritance law referring to the balance between the rights obtained by the heirs and the obligations or responsibilities that must be fulfilled by them. Thus, the sense of justice in Islamic inheritance law is not measured based on equality among heirs, but rather from the level of burden or responsibility they bear in public life. In the Islamic inheritance system, the inheritance received by the heirs is actually a continuation of their responsibilities towards the family, so differences in responsibility affect the distribution of inheritance. For example, based on Islamic law on marriage, men are responsible for the needs of the family and the livelihood of their wives. Hence, in the principle of balanced justice, male heirs receive a larger share of the inheritance than women. This principle of balanced justice also gives rise to the principle of truth is emphasized in the verse of the Qur'an, "*Alhaq min rabbika fala takunna min almuntarin*" (the truth comes from your Lord, do not doubt). Broadly speaking, Islam recognizes two types of justice:

1. Absolute justice, which is not always universal, where humans use their reason to understand justice in the context of "good or right." This justice is not completely binding and remains relevant from one religious teaching to another throughout history.
2. Justice is determined by the Qur'an and Hadith, which is based on revelation in the holy book. This type of justice can change or be removed along with the arrival of new religious teachings according to the will of Allah SWT (Marzuki, 2006).

In relation to property rights, especially those related to inheritance, the term al-adlu can be understood as a balance between rights and obligations, as well as between what is obtained and needs and its use. From this understanding, it can be concluded that the principle of justice in the distribution of inheritance according to Islamic law shows that differences in gender do not affect inheritance rights. In other words, both men and women have equal inheritance rights. This is clearly stated in the Qur'an, especially in Surah an-Nisaa verse 7, which emphasizes the equal position between men and women in terms of inheritance. Furthermore, verses 11, 12, and 176 of Surah an-Nisaa explain in detail the equality of inheritance rights between men and women, father and mother (verse 11), husband and wife (verse 12), and between brothers and sisters (verses 12 and 176). Regarding the amount of the portion received by men and women, there are two forms as follows:

1. Men and women receive the same amount, just as the father and mother each receive 1/6, provided that the testator leaves behind a biological child, as stated in verse 11 of Surah an-Nisaa. Likewise, siblings receive 1/6 (if the testator does not have a direct heir), in accordance with verse 12 of Surah an-Nisaa. Ali Parman quoted al-Tabatabai who stated that this equal division of inheritance occurs in some cases for men and women because, in Islam, both love their children, especially mothers who are pregnant, nursing, and caring for children.
2. Men receive a larger share, which is twice that of women in certain situations, such as boys and girls in verse 11 and siblings in verse 176. In addition, in a separate context, widowers receive twice the share received by widows, which is half to a quarter or one-eighth if the testator leaves behind a child, as stipulated in verse 12 of Surah an-Nisaa (Zamzami, 2021).

In the 2:1 ratio, this provision does not only apply between sons and daughters, but also between husband and wife, between father and mother, and between siblings. This has deep wisdom if examined further. Although there is a difference in the amount of the portion obtained when receiving inheritance rights, the difference is not due to injustice. According to the Islamic perspective, the assessment is not only based on the amount received but also considers the purpose of use and the needs of the person concerned. Thus, there is always a balance between rights and obligations and between what a person receives and the responsibilities that must be fulfilled. For example, both men and women enjoy equal rights, along with their obligations, in the context of family and society. In the Islamic inheritance system, the inheritance received by the heirs from the testator basically continues their responsibilities towards the family. In general, men have dual obligations, namely for themselves and their loved ones in the family. Men are responsible for maintaining the family, unlike women who, if they are still single, are responsible to their parents, guardians, or brothers. After marriage, women are responsible to their husbands. Islamic law does not require women to use their property for their own benefit or to meet the needs of their children, even if they have the financial ability. The obligation to provide for the necessities of life such as shelter, food, and clothing for the family becomes the responsibility of the husband after marriage. A young man who is not yet married is required to provide a dowry and fulfill all the marriage requirements set by the prospective wife's family. After marriage, the burden of supporting his wife and children becomes his responsibility. On the other hand, a girl with the property she owns will receive a dowry after marriage, and after marriage, she has no obligation to support her family. In return, she will receive income from her husband. Although this general status applies, the opposite situation can also occur, although the amount is not significant.

The concept of equal justice between men and women in the distribution of inheritance is also reflected in the provisions of Article 176 of the Compilation of Islamic Law (KHI), which is the material law in the Religious Courts. The provision of a 2:1 ratio in Article 176 of the KHI is maintained, and this is based on the belief of the compilers or Islamic legal experts involved in its preparation that the provision is Sarih (clear) and gath'i (firm). This is in accordance with the conventional standard theory which states that the difference in the share between sons and daughters in inheritance law is related to the principle of reward and responsibility. In Islamic inheritance law, the share of inheritance for mothers and fathers is also regulated, who have the right to inherit simultaneously with their children and descendants. Both mothers and fathers inherit equally, namely each gets 1/6 of the inheritance if the heir leaves a son. If there are no children, the mother is entitled to 1/3, while the father receives the remaining 2/3, considering that the father has the obligation and responsibility to meet the mother's needs. Although Islamic inheritance law states a 1:1 ratio between the father's and mother's shares, that is, both receive 1/6, in practice, emphasis is often placed on justice based on rights and obligations, where the responsibility of men is considered greater than that of women. Therefore, it would be considered fairer if the father's share were greater than the mother's share. For example, in a situation where the heir leaves

a husband, mother, and father, the husband gets ½ (3 shares), the mother gets 1/3 of the remainder (1 share), and the father receives the remainder (2 shares). Thus, the principle of balanced justice is a logical consequence of the determination of the Qur'an as a source of Islamic law and part of the provisions of the Qur'an itself. At the operational level, this principle of balanced justice arises from the recognition of the KHI as the material law of Islamic inheritance, where this principle is applied in special regulations that serve as a reference for religious courts in resolving inheritance disputes among Muslims in Indonesia.

Furthermore, regarding inheritance in customary inheritance law in Indonesia, there are several principles, namely the general principle in inheritance states that if inheritance cannot be carried out hereditarily, then the inheritance process can be carried out upwards or sideways. This means that those who are entitled to be heirs first are sons or daughters and their descendants. If there are no children or descendants hereditarily, then the inheritance will go to the father, grandmother, and so on upwards. If there are no family members from the upper line of descent, then the inheritance will be passed on to the siblings of the testator and their descendants, namely blood relatives according to the sideline. In addition, there is a principle of replacement of place (*Plaats Vervulling*) which states that if a child as an heir of his father dies, then the position of the child will be replaced by his children (grandchildren of the testator). The inheritance obtained by the grandchildren is equivalent to the portion of the inheritance that should have been received by his father. In addition, there is also an institution for adoption, where the rights and positions of adopted children can be equated with biological children in the context of inheritance.

The distribution of inheritance according to customary law, generally does not specify a specific time for the distribution of inheritance or who will be the agent for the distribution. According to custom, the distribution of inheritance is usually carried out after an alms or thanksgiving ceremony, which can be carried out at certain times such as seven days, forty days, one hundred days, or one thousand days after the testator dies. At these times, family members will gather. In addition, the family system also has a major influence on the regulation of customary inheritance law, especially in determining heirs and the portion of the inheritance that is inherited. Customary inheritance law recognizes three inheritance systems, namely, the Individual Inheritance system, which stipulates that each heir inherits property individually, as is the case in Java, Batak, and Sulawesi. The collective inheritance system, where the heirs inherit the inheritance together (collectively) because the ownership of the property cannot be divided among each heir. Examples include ancestral property and customary land that cannot be separated. The mayoral inheritance system stipulates that the testator's inheritance is only inherited by one child. This major system consists of two types:

1) Male mayorate, where the eldest or firstborn son becomes the sole heir of the testator, for example in Lampung.
2) Female mayorate, where the eldest daughter becomes the sole heir of the testator, as occurs in the Tanah Semendo community in South Sumatra.

Inheritance law in Indonesia based on the Civil Code has two important elements, namely the individual element (related to a person's personal self) which basically, an owner of an object has broad freedom as an individual to act according to his will towards the object he owns, including his wealth. The social element (related to common interests) where actions taken by the owner of the wealth, as explained in the individual element, can potentially cause losses to the heirs (Sjarif et al., 2005). Therefore, the law provides restrictions on the freedom of the heir in order to protect the interests of the heirs. Restrictions in civil inheritance are known as Legitieme Portie, which means a certain or absolute part of a certain heir. This absolute part is closely related to the gift or grant made by the heir, so that this restriction affects the freedom of the heir to make a will. Therefore, *Legitieme Portie* is regulated in the provisions regarding wills or testaments. It is important to note that inheritance, whether in the form of assets or joint property in marriage, will be transferred in full from the heir to his heirs. This is emphasized in Article 833 of the Civil Code, which states that the law does not pay attention to the nature or origin of goods in an inheritance in regulating inheritance.

The legal basis for an heir to inherit the testator's property according to the BW inheritance law system can be done in two ways, namely, according to the provisions of the Law (*ab intestato*) and in this principle the legal basis gives a person the freedom to determine his will regarding his assets after death. However, if the testator does not determine his will while still alive, the law will regulate the distribution of the assets left behind. Heirs based on the provisions of the law are divided into four groups, namely, Group I is a family in a straight line down, including children and their descendants, as well as the longest-living spouse. Group II is a family in a straight lineup, including parents and siblings, both male and female and their descendants. Group III is the grandfather, grandmother, and ancestors up from the testator. Finally, group IV which is a family member in a sideways line and other relatives up to the sixth degree. The law does not distinguish between male and female heirs and does not prioritize birth order. The existing provisions state that if there are still heirs from the first group, they will close the rights of other family members both in a straight line upwards and sideways. Likewise, the group with a higher degree will close the rights of the lower group.

A will is a document stating the wishes of the person who made it regarding the management and distribution of assets after his/her death. The main characteristic of a will is that its power is valid after the person who made it dies and cannot be revoked. The number of heirs designated in this will is not fixed, because it depends on the will of the person who made the will. If the inheritance has been opened but no heir claims to be an heir, then the assets are considered unmanaged assets. In this situation, without waiting for an order from the judge, the Estate Office is obliged to manage the assets. This management process must be reported to the local district attorney. If a dispute arises regarding the status of the assets, whether they are managed or not, the decision will be made by the judge. If within three years of the opening of the inheritance no heirs appear, the Estate Office will hand over the responsibility for management to the state. Furthermore, the assets will be inherited and become the property of the state.

In the process of dividing or transferring inheritance in Indonesia, it is known that there are various applicable legal provisions. There is inheritance laws based on the Civil Code (*KUHPerdata*), Islamic law, and customary law. In the context of Islamic law, inheritance is a consequence of a person's death, and one of the principles of the Islamic inheritance system is that the transfer of property only occurs due to death. Based on this provision, the inheritance will be transferred to another person after the owner of the property dies, which means that the property cannot be transferred to another person while the owner is still alive. On the other hand, in customary law, there is a different view; inheritance can be distributed hereditarily before the testator dies, depending on the agreement between the parties concerned (OE, 2019). In civil law, it is possible for someone to arrange the distribution of inheritance between children or between children and wives before dying, either through a testament or a Notarial Deed. Thus, individuals can avoid various difficulties that may arise if the distribution of inheritance is simply left to the heirs. In Islamic law, the distribution of inheritance is known as faraidh, which regulates who is entitled to receive an inheritance and how much portion is obtained. In general, inheritance means the transfer of property from a deceased person to the heirs. Allah SWT has determined the portions for each heir because this is an important issue to prevent negative impacts that may arise if not regulated. The purpose of regulating inheritance is to avoid disputes or disagreements regarding the property left by the deceased. With the regulation of inheritance, no party will feel the most entitled or most dominant over the property left behind. Good distribution of inheritance can maintain family harmony and avoid conflict because often inheritance problems can cause divisions in the family and disputes due to the struggle for inheritance.

In the context of Inheritance Distribution according to civil law in Indonesia, inheritance does not only include assets, but also liabilities. This means that inheritance includes not only objects and property rights or receivables that are bills for heirs but also includes all debts that are obligations for the heirs to be paid off. This is regulated in Article 1100 of the Civil Code (KUHPerdata) which states, "Heirs who have received an inheritance are required, in terms of payment of debts, grants, and other burdens, to bear a burden that is equal to what each received from the inheritance." The inheritance system adopted by the Civil Code is individual-bilateral, which means that each heir has the right to demand a distribution of inheritance and has the right to the portion that is his right, both from the father's inheritance and the mother's inheritance. The rights of heirs to demand their share of the inheritance reflect that the nature of inheritance regulated in the Civil Code is absolutely individual. However, an agreement can be made to postpone the distribution of inheritance for five years, and each time the period is exceeded it can be renewed, as regulated in Article 1066 paragraphs 3 and 4 of the Civil Code. Regarding the rejection of inheritance, Article 1057 of the Civil Code stipulates that heirs can reject inheritance. Rejection of inheritance must be stated explicitly and made at the local District Court Clerk's Office. With this rejection, the heirs no longer have any relationship with the testator's inheritance, and no party can return the rights to the rejected inheritance unless the rejection is due to fraud or coercion.

The articles governing inheritance are contained in Book Two Chapter XII Article 830 of the Civil Code, which states, "Inheritance only occurs due to death." From here, all rights and obligations are transferred to the heirs. Provisions regarding inheritance in civil law can be found in Articles 833, 834, 957, 1100, 1101 to 1537 of the Civil Code. Civil inheritance law, often referred to as Western inheritance law, applies to non-Muslim communities, including Indonesian citizens of Chinese and European descent, as regulated in the Civil Code. Inheriting means taking over the position of the deceased in relation to his/her assets. Thus, inheritance law is the entire regulation governing the legal consequences of a person's death on his/her assets, as well as the transfer of those assets to the heirs and their relations with third parties. Inheritance is the assets left by the deceased (heir), while the heirs are the parties who replace the legal position of the deceased and the position related to those assets.

The distribution of inheritance based on customs in Indonesia is greatly influenced by social structure and kinship. Inheritance law in Indonesia recognizes several customary inheritance systems based on lineage, which can be divided into three types: 1) Patrilineal, which refers to the father's lineage; 2) Matrilineal, which refers to the mother's lineage; and 3) Bilateral, which is based on the lineage of both parents.

In an individual system, each heir receives or owns the inheritance according to their respective portions. In contrast, in a collective system, the heirs receive the inheritance as a single, indivisible unit, where each heir only has the right to use or obtain the proceeds from the property. The mayorat system focuses on the transfer of inheritance as a single unit, with the right of control being transferred to a particular child, usually the eldest child. Islamic inheritance law applies to Indonesian Muslims, regulated in Articles 171-214 of the Compilation of Indonesian Islamic Law, which consists of 229 articles. Islamic inheritance law adheres to the principle of individual bilateral inheritance, not collective or mayorat. Therefore, the heir can come from the father or mother's side. The application of Islamic inheritance law in Indonesia is often influenced by customary law in force in the community, as well as the principle of descent adopted by the community. This principle of lineage greatly influences the determination of heirs and the portion of the inheritance that is inherited, both in immaterial and material forms. For example, the people of Jago Village in Praya District, Central Lombok Regency, have their way of resolving legal relations related to the property of a deceased person with his/her family members. The Indigenous people in this village mostly adhere to the male mayorat system, where the eldest son becomes the sole heir when the testator dies. This is different from the Bugis community, where the practice of distributing inheritance varies greatly. Some members of the community distribute inheritance before the testator dies based on customary law, while others continue to adhere to the distribution of inheritance according to Islamic law.

In the context of the plurality of inheritance law systems, the application of inheritance law in Indonesia does not only depend on one legal system, but often involves a mixture of customary law, Islamic law, and civil law, depending on the social, cultural, and religious background of the local community. The integration of these three legal systems often creates overlapping rules that affect inheritance practices in various regions. For example, although Islamic law adheres to a bilateral individual inheritance system, in some Indigenous communities, customary law that focuses on the mayorat or collective system remains strong. When there are differences in interpretation between customary law and Islamic law, people often combine these principles or choose one of them according to local traditions. This results in there being no uniform standard for inheritance arrangements, because inheritance practices in Indonesia are heavily influenced by local wisdom and religious rules, which ultimately complicates the process of transferring inheritance rights and resolving inheritance disputes.

The plurality of inheritance law systems in Indonesia, which include customary law, Islamic law, and civil law, makes inheritance arrangements increasingly complex due to differences in principles and rules in each legal system. Each system has a different approach to who has the right to inherit, how the distribution of assets is carried out, and the implementation mechanisms. Customary law, for example, relies heavily on traditional norms that differ from region to region, which often conflict with Islamic law or civil law. Islamic law, on the other hand, follows the principles of inheritance distribution based on the Qur'an and Hadith which often have significant differences from the system regulated in the Civil Code (KUHPerdata). This lack of synchronicity confuses the community in determining the rules that must be followed, especially in cases involving heirs from various legal backgrounds or when there is a dispute between heirs of different beliefs or customs. As a result, the inheritance distribution process becomes long, often ending in conflict and protracted legal processes in court. In addition, this plurality also creates difficulties in consistent and fair law enforcement throughout Indonesia.

Challenges and Efforts to Minimize Conflicts When Transferring Rights to Inherited Property is Implemented

The transfer of inheritance rights in the context of the laws applicable in Indonesia faces various challenges. The diversity of inheritance laws in Indonesia is a reflection of the diversity of cultures and value systems that exist in society. In this context, three main inheritance law systems are recognized, namely civil inheritance law, Islamic law, and customary law. Each of these systems has different principles, rules, and mechanisms for regulating inheritance. Civil inheritance law, which is regulated in the Civil Code (KUHPerdata), adheres to the individual-bilateral principle where each heir is entitled to a portion of his inheritance by applicable provisions. Meanwhile, Islamic law emphasizes the principle of faraidh, which regulates the distribution of inheritance based on provisions that have been determined by Allah SWT. Customary law, on the other hand, is heavily influenced by the norms and practices that apply in a community, so it often varies even within one region. This diversity often causes confusion among heirs, especially when the inheritance situation involves more than one legal system. For example, in a family, if one member is an adherent of Islamic law and the other follows customary law, then the application of which law should be followed in the transfer of inheritance can be a source of conflict. This becomes even more complicated if there are provisions in each system that conflict with each other. A family that has lost a deceased member is faced with the dilemma of deciding how the inheritance should be distributed, whether based on a will, Islamic law, or applicable customary norms. Differences in provisions in each system can also cause disputes among heirs.

For example, in civil law, there are clear provisions regarding the proportion of inheritance distribution, while in customary law, the distribution may be more collective and not divided. This uncertainty often results in dissatisfaction among heirs, which can ultimately trigger conflict and legal disputes. If not handled properly, these differences can lead to divisions in families and communities.

Identification of heirs is an important aspect of the process of distributing inheritance. However, in practice, especially in communities that implement customary inheritance systems, this is often a challenge. Complex and varied kinship structures make identifying who is entitled to be an heir very complex. In many Indigenous communities, kinship is not limited to direct lineages but also includes a wider range of kinship relationships, such as cousins, uncles, aunts, and even other indirect relationships. In patrilineal societies, for example, inheritance is usually passed on to male descendants, while in matrilineal societies, women have inheritance rights. However, many communities combine elements of both systems, which can create confusion in determining who is entitled to inherit. In such situations, claimants can come from different generations and kinship lines, making it difficult to reach a consensus on who is entitled to receive a share of the inheritance. The process of identifying heirs can also be complicated by a lack of documentation or official records of kinship relationships. In some communities, oral traditions predominate, and knowledge of kinship structures is often passed down orally from generation to generation. This makes it more difficult to verify family relationships and in some cases, can lead to disputes between family members. If several people are claiming the same inheritance rights, conflicts can arise, triggering prolonged disputes and harming all parties involved.

Disputes among heirs are a common issue that often occurs in the process of dividing inheritance. These disputes can arise due to various factors, especially when there is no agreement on the method and proportion of the distribution of the inheritance left by the testator. Ambiguity or ambiguity in the will, if any, can lead to different interpretations from each heir. For example, unclear phrases or terms in the will can be interpreted differently by each heir, creating room for prolonged disputes. Disputes can also arise due to dissatisfaction with the portion of the inheritance received by each heir. When the testator does not explicitly state the proportion or share in the will, the heirs may feel that they are not getting a fair share or by their contributions during their lifetime. For example, a child who cares for a parent until the end of his life may feel entitled to a larger share compared to other siblings who are not involved in the care. This dissatisfaction is often rooted in feelings of injustice and can lead to wider conflict among family members. Furthermore, disputes can be exacerbated by differing interpretations of cultural norms or laws that apply in a society. In some societies, traditions and customs play an important role in determining inheritance rights, and differing views on this can cause tensions between heirs. For example, in customary inheritance systems, gender roles and lineage can influence who is considered entitled to receive an inheritance. If heirs disagree on the prevailing values, disputes can quickly become complex and difficult to resolve. Resolving disputes between heirs often requires the intervention of a third party, such as a mediator or legal advisor, to help negotiate a fair settlement. Mediation can be an effective way to reach an agreement, by providing a space for all parties to express their views and concerns. In some cases, dispute resolution can be achieved through mediation, which focuses on open communication and mutual understanding, thereby minimizing tensions and preserving family relationships.

To minimize conflict when the transfer of inheritance rights is carried out, several efforts can be made, namely the preparation of a clear and firm will is an important step to avoid potential conflict in the distribution of inheritance. By preparing a written will, the heir can regulate the distribution of inheritance according to his wishes, including determining who is entitled to receive a certain portion. To ensure legal validity and avoid disputes in the future, a will should be made with the help of a notary, who will ensure that the document is valid and by applicable legal regulations. A will that is notarized by a notary will also have stronger legal force and be difficult to challenge. Hence, the heirs will find it easier to accept and carry out the distribution of inheritance according to the will left by the testator.

Mediation or arbitration is an alternative method in resolving inheritance disputes that is effective in avoiding prolonged conflict between heirs. In mediation, a neutral third party (mediator) helps the disputing heirs to reach a peaceful agreement through dialogue and negotiation. While in arbitration, a third party (arbitrator) will provide a binding decision based on the facts presented. Both of these processes are more flexible, faster, and more informal than court proceedings, allowing heirs to resolve issues more efficiently without having to deal with complicated legal bureaucracy. In addition, mediation and arbitration encourage the creation of mutually beneficial agreements, reduce the emotional stress that usually accompanies family disputes, and maintain good relations between the disputing parties. Proper legal consultation is essential for heirs to ensure that they understand their rights under the applicable legal system, whether it is Islamic, customary, or civil law.

By consulting a legal expert or legal advisor, each heir can obtain an in-depth explanation of the portion that is their right and the procedures that must be followed in the distribution of inheritance. This consultation helps avoid misunderstandings or differences in interpretation that often trigger conflict. In addition, legal

advisors can provide practical guidance in dealing with complex situations, such as disputes between heirs, thus ensuring that the inheritance distribution process runs fairly and follows applicable law. Thus, legal consultation also plays a role in preventing any party from feeling disadvantaged or treated unfairly in the process of transferring inheritance rights.

CONCLUSION

The discussion of inheritance law in Indonesia reveals a complex and diverse system that encompasses civil inheritance law, Islamic law, and customary law, each with distinct mechanisms for regulating the rights and obligations of testators and heirs. Civil law, based on the Civil Code, allows individuals to determine their wills while protecting heirs' rights through specific provisions. In contrast, Islamic law emphasizes balanced justice, considering both the quantity and responsibilities of heirs, while customary law varies by region, incorporating unique practices and norms. The interplay of these systems often leads to disputes among heirs, particularly in families navigating multiple legal frameworks, as challenges in identifying heirs and ambiguities in wills can exacerbate conflicts. To mitigate these issues, preventive measures such as clear wills, mediation, and legal consultation are essential for fostering understanding and respect among heirs. The article also outlines several suggestions for future research, including comparative studies of inheritance disputes, the impact of cultural diversity, the role of mediation, legal literacy, social and economic effects, potential legal reforms, technological solutions, successful conflict resolution case studies, gender dynamics, and longitudinal studies on inheritance trends.

REFERENCES

Alfredsson, G., & Eide, A. (2023). *The Universal Declaration of Human Rights: A Common Standard of Achievement*. Brill. https://books.google.co.id/books?id=ysb7EAAAQBAJ

Alston, P. (2020). The Committee on Economic, Social and Cultural Rights. *SSRN Electronic Journal*. https://doi.org/10.2139/ssrn.3630580

Díaz-Rodríguez, N., Del Ser, J., Coeckelbergh, M., López de Prado, M., Herrera-Viedma, E., & Herrera, F. (2023). Connecting the dots in trustworthy Artificial Intelligence: From AI principles, ethics, and key requirements to responsible AI systems and regulation. *Information Fusion*, *99*. https://doi.org/10.1016/j.inffus.2023.101896

Edwards, E. L. (2020). *Future Law: Emerging Technology, Regulation and Ethics*. Edinburgh University Press. https://books.google.co.id/books?id=DnYxEAAAQBAJ

Garcia-Teruel, R. M. (2021). Excluding Forced Heirs due to a Lack of Personal Relationship with the Deceased in Spain in a Comparative Perspective. *Review of European and Comparative Law*, *47*(4). https://doi.org/10.31743/recl.12717

Hajar, M. (2016). Asal Usul dan Implementasi Ahli Waris Pengganti Perspektif Hukum Islam. *Asy-Syir'ah Jurnal Ilmu Syari'ah Dan Hukum*, *Vol.50*(No.1).

Hammond, A. F., & Batariwah, P. (2023). A New Legal Framework for the "Ownership" of a Deceased Person in a Legally Plural Ghana. *Journal of Comparative Law in Africa*, *10*(2). https://doi.org/10.47348/jcla/v10/i2a2

Hartoyo, R., & Sulistyowati, S. (2023). The Role Of The Legal Aid Post Is In Providing Legal Assistance To Disadvantaged People In Order To Obtain Justice In The Courts Of The Holy Land. *JIM: Jurnal Ilmiah Mahasiswa Pendidikan Sejarah*, *8*(3), 1599–1611.

Marzuki, P. M. (2006). *Penelitian Hukum*. Kencana Prenada Media Grup.

Novoselova, L. (2020). Control over the human body before and after death: The civil law aspect. *BRICS Law Journal*, *7*(3). https://doi.org/10.21684/2412-2343-2020-7-3-104-135

OE, M. D. (2019). Kedudukan Dan Kekuatan Hukum Warisan Tunggu Tubang Menurut Adat Semende. *Keadilan Progresif, 11 no.1*(1).

Prodjodikoro, W. (1983). *Hukum Warisan di Indonesia*. Sumur Bandung.

Ramulyo, M. I. (1992). *Suatu Perbandingan antara Ajaran syafi'i dan Wasiat Wajib di Mesir tentang Pembagian Harta Warisan untuk Cucu Menurut Islam*. Majalah Hukum dan Pembangunan.

Reyes, M. V. (2020). The disproportional impact of COVID-19 on African Americans. *Health and Human Rights*, *22*(2).

Shevelev, A., & Shevelev, G. (2023). Who Owns Our Dead Bodies: A Critical Socio-Legal Study. *SSRN Electronic Journal*. https://doi.org/10.2139/ssrn.4592806

Sjarif, A., Surini, S., & Elmiyah, N. (2005). *Pewarisan Menurut Undang-Undang*. Badan Penerbit Fakultas Hukum Universitas Indonesia.

Starosta, A. (2022). Evaluating whether the laws governing deceased estates infringe on the right to have access to adequate housing. *Stellenbosch Law Review*, *33*(2). https://doi.org/10.47348/slr/2022/i2a6

Wiryono, R. P. (1983). *Hukum Waris Indonesia*. Sumur Bandung.

Zamzami, M. (2021). *Perempuan dan Keadilan dalam Hukum Kewarisan Indonesia*. Kencana Prenada Media Grup.