

Views of Aceh Tamiang Ulama Against Postponement of Inheritance Distribution

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ABSTRACT

Background. Inheritance should be a pleasant thing for the heirs, but sometimes this becomes a catastrophe that causes a rift or break in the family relationship, this is due to the greed of the heirs, including problems in inheritance is the delay in distribution to the heirs.

Purpose. The inheritance is the absolute right of the heirs who should be immediately divided after paying off the debts and assets of the heirs, but because the distribution is not hastened, it has an unfavorable impact on the heirs.

Method. The research method used in this research is qualitative research, this type of research is field research whose main source is the results of interviews in the field.

Results. The results of this study are: 1) The impact of delaying the division of inheritance, namely: The occurrence of family problems / disconnection between heirs, can result in the loss of the value of the inherited property, and the persecution of some heirs because their rights are not fulfilled. 2) The view of the Aceh Tamiang Ulama regarding the delay in the division of inheritance is divided into three laws, namely: Obligatory delay, permissible delay and haram delay. These three laws are adjusted to the circumstances that occur if the delay in the distribution of inheritance is due to doubts about nasab and / or doubts about the life of the heirs, it must be postponed until there is a determination of nasab and / or heirs from the court.

Conclusion. Likewise, delaying the distribution of inheritance due to doubts caused by real pregnancy or doubts about the sex (khunsa) is obligatory until the status of both is clarified. Delaying the distribution of the inheritance, if there is agreement from all the heirs who are entitled to it, and if it is permissible and managed in accordance with shar'i law, is permissible. If delaying the distribution of the inheritance results in injustice to the heirs or results in damage and loss of value to the inheritance, then it is haraam.

KEYWORDS

Aceh Tamiang Ulama, Delay, Inheritance

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INTRODUCTION

Islam recognizes how urgent it is to protect property, even worship must have wealth, just as people who pray must have wealth to buy clothes to cover their genitals, buy water for ablution, so do zakat and hajj (Tüfekci et al., 2021), they need assets to be able to fulfill them (Badji et al., 2022). Even though wealth is not the main goal, it is part of the means that must exist for the realization of the main goal, namely worship (Ferreira et al., 2022). The existence of wealth in human life is actually expected to be a means to get closer to God as well as a test for humans. As the word of God in the letter Al-Taghabun 64:5

Basically, the wealth that exists in humans belongs to Allah, while humans are only limited to the right to manage and use it according to Allah's commands (Bhat et al., 2020), not to be used for immorality, and not to be managed for things that are harmful (Mikhaylov et al., 2020). In addition to Allah regulating how to manage Allah also regulates how to obtain it, namely in a lawful way as in the Zahir verse (Kouvelis et al., 2021), there are at least 4 places in the Koran where Allah condemns the act of consuming or obtaining wealth in vanity, namely Q.S. Al-Baqarah/2:188, Q.S.Al-Nisa/4:29, Q.S. Al-Nisa/4:161 and Q.S.Al-Taubah/9:34. The four of them are criticisms in different contexts, the point is that under any circumstances Allah forbids tyranny in obtaining them. As Allah says: (Q.S. Al-Baqarah/2:188)(Khasanah et al., 2022)

There are many ways to get wealth, both by trading, working, farming, mining and many other types of businesses that can obtain wealth, including by inheritance (Miao et al., 2019). Shari'a regulates the mechanism of inheritance known as the science of "Mawaris" or "Faraid" this science is a branch of fiqh science in which the mechanisms for conditions (Wilkinson et al., 2020), pillars of barriers and procedures for dividing inheritance are in accordance with the Al-Quran and Assunnah, as well as the Ijtihad of Friends / Cleric. As the word of God in the sura: (Q.S. Al-Nisa/4:11)

Meaning: "Allah prescribes (obliges) you regarding (the distribution of inheritance for) your children, (namely) the share of a son is equal to the share of two daughters. And if the children are all girls whose number is more than two, then their share is two-thirds of the assets left behind. If she (daughter) is only one, then she gets half (of the assets left behind). And for both parents, the share of each is one-sixth of the assets left behind, if he (the deceased) has children. If he (the deceased) does not have children and he is inherited by both his mother and father (only), then his mother gets one third. If he (the deceased) had several brothers, then his mother got one sixth. (The distributions mentioned above) after (fulfilled) the will he made or (and after paying) his debts. (About) your parents and your children, you do not know which of them is of more benefit to you. This is Allah's decree. Indeed, Allah is All-Knowing, All-Wise."(Fitriyani, 2020)

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Syamsul Rizal, as the Head of the Islamic Sharia Service, confirmed this, there are often cases where delays occur. "If the distribution of inheritance has been delayed, there will definitely be problems in the future," he explained (Xie et al., 2019). He added, almost all the problems that arose regarding inheritance were the result of delays (Amendolagine et al., 2019). Cases like this have also occurred in one of the villages in Rantau District, precisely in Kampung Landuh, as explained by Helmi as Datok Penghulu of Kampung Landuh, he explained what had happened to residents who were chaotic within the family due to delays in the distribution of inheritance (Karlsson et al., 2020). There are many phenomena of conflict in the distribution of inheritance due to delays in the distribution and misunderstanding of the people about Islamic teachings, based on this the author is interested in conducting research with the title "Views of the Aceh Tamiang Ulama on Postponement of the Distribution of Inheritance".

RESEARCH METHODOLOGY

In this study, the authors used qualitative legal research and normative legal research, namely what we know as library law research, namely legal articles conducted by researching based on materials sourced from the literature (Thorell et al., 2022). The data sources used by the author of the article in this writing include primary legal materials (binding legal materials) (Amis et al., 2020), namely the applicable laws and regulations relating to the issues in this article. secondary law, namely legal material that provides a description of primary legal material (Holzinger et al., 2020), among others; commentaries, general books, journals, documents and other references related to this article Tertiary legal materials (Stahl et al., 2020), namely legal materials that provide instructions and explanations of primary and secondary legal materials, such as dictionaries and other reference materials that support the writing of this article (Suganthi, 2019). As for the data collection technique in writing this article, the authors used library research or literature study, while the data analysis technique used was a qualitative comparative technique, namely providing a comparative review of fiqh and positive law on existing problems.

RESULT AND DISCUSSION

Reasons for Postponement of Inheritance Distribution

Based on the author's information and analysis, the things behind the delay in the distribution of inheritance are: A form of respect for one of the living parents. Take care of the feelings of parents and senior heirs who are still alive (Elgar et al., 2020). Parents' orders to postpone the distribution of inheritance as long as he is still alive (Ng et al., 2019). Confusion about inheritance rights because of the complicated chronology regarding the origins of business capital originating from inherited assets that have not been distributed (Mudelsee, 2019). There is concern that there will be a sale of inherited assets if they are distributed where according to the customary assumption that inherited assets are "hot treasures (Nyashanu et al., 2020). The heirs are not old enough/not competent to obtain inheritance, but when the age and skill limits are reached, the inheritance rights are also not distributed; and Detention based on the agreement of all heirs so that it becomes a memento and a place to stop/gather on special days.(Wahyuni, 2018)

The Impact or Consequences of Postponing the Distribution of Inheritance

The impact arising from the postponement of the distribution of inherited assets which includes aspects of family relations and assets (Teske, 2019). When viewed from the aspect of family relations, the impact of this delay is the loss of family relations/loss of family harmony. There was a prolonged dispute, even to the point where there was mutual slander and even physical fighting. Sentenced "child of disobedience" by the mother or father who delays the distribution of

inheritance, is aimed at children who ask for distribution of inheritance. Considered greedy for asking for the distribution of inheritance (Shaw et al., 2020). Claims of greedy children, are not good, because they ask for a share of the inheritance. If from the aspect of assets the impact arising from the delay in the distribution of inherited assets is that the inherited assets are not recorded because one of the parties is selling, utilizing etc (Kluytmans-van Den Bergh et al., 2020). The inheritance runs out because one of the heirs uses it and doesn't want to be responsible (Lee et al., 2019). Mastery with a claim that there is a contract of sale and purchase of inherited assets. Unilateral control of property (Jacob et al., 2020). The house where he lived was damaged and his property was taken by one of the heirs as a barrier to the distribution of ownership rights to the house (Seland et al., 2020). The value of the property decreases with time. It is difficult to complete because some of the heirs have died while the inheritance has shifted to the descendants of the heirs.

Views of Aceh Tamiang Ulama on Postponement of Distribution of Inheritance

What is meant by Aceh Tamiang Ulama here are religious leaders including the Aceh Tamiang Ulama Consultative Council, District/Border Preachers, Board of Islamic Boarding School Leaders and Academic Ulama, from several elements of the Ulama the Author received the following explanation:

Ust. Syahrizal Darwis, MA (Chairman of MPU Aceh Tamiang) explained:

In principle, inheritance is an absolute right for heirs, so delaying the distribution of inheritance means delaying the rights of other people, blocking the rights of other people, so the law is unlawful. As the fatwa of the Aceh Ulama Consultative Assembly Number 3 of 2023 concerning Postponement of the Distribution of Inheritance in the Perspective of Islamic Law, Positive Law and Acehese Customs. In the fatwa it can be classified that the law on delaying the distribution of inheritance is divided into three, sometimes it is obligatory, mubah and unlawful. If delaying the division of inheritance due to doubts caused by obvious pregnancy or doubts on the sex (khunsa) is obligatory so that the status of both is clear. If delaying the distribution of inheritance is based on the agreement of all heirs and it is managed according to syar'i law, then the law of such a delay is permissible/mubah. If delaying the distribution of inheritance that oppresses some of the heirs or causes damage and reduces the value of assets, then the law of such a delay is unlawful. The background of these three laws is the frequent occurrence of family problems in the community due to delays in the distribution of inherited assets and can result in loss of property value, the property itself and the injustice of some heirs. The purpose of the Shari'a is to protect five important things, one of which is protecting wealth, besides that, leaving evil is more important than maslahah, as is the rule of ushul.(Fitriyani, 2020)

DR. Mustafa Abdussalam (Head of Islamic Boarding School. Manarul Islam) he explained:

In principle, there is no explicit order for the division of inherited assets to be distributed immediately, the main thing is that all heirs know their rights. hastening the distribution of inheritance can be interpreted as a joint step to determine the share of each heir to the existing inheritance. If each heir already knows their share, the next step is the technical problem of dividing the inheritance object. One case allows inheritance to be divided immediately at that time. However, there are not a few cases in the distribution of inheritance where the inheritance is difficult to immediately divide for various reasons. More specifically, the postponement of the distribution of legal inheritance may be provided that each heir knows each other's rights, no one is wronged and there is an agreement to postpone the distribution.

Ust. Baharudin, M.H.I (Head of the Syari'ah Department of STAI Aceh Tamiang Explains:

Even though there is no argument that explicitly forbids delaying the distribution of inheritance, if you use the Maqasid Syari'ah approach, it can be assumed that delaying the

distribution of inheritance has a negative impact, so I conclude that delaying the distribution of inheritance is haraam.(Wahyuni, 2018)

Ust. Ahmad Nabawi (One of the Da'I) he explained:

In Islamic Inheritance Law, several principles are recognized, one of which is the Ijbari principle. The principle of Ijbari means that when someone dies, the rights of each heir immediately apply without having to depend on the will of the heir. Thus, when someone dies, that is after completing all matters related to the costs of managing the body (tajhizmayyit), debts and wills. Then the inheritance becomes the absolute right of the heirs.

The Ijbari principle contains absolute values, this can be interpreted that the heirs already know how many inherited shares they will acquire, so that under no circumstances will their rights change. This indicates that all actions on inherited assets will not affect the amount of a person's inheritance rights even though there are several possibilities that must be postponed. Delaying the distribution of inheritance is legal by looking at the extent to which the heirs agree to the delay. It is limited to regulating, not "dewingend" or absolute. The heir fully has the power over his rights so that it is possible for him to do anything about the property he inherited. In addition, the Shari'a allows for a postponement of the distribution of the inheritance in some cases such as a missing person, in this case the scholars agree to justify the postponement until the status is actually known whether he is still alive or dead. Apart from cases where the delay is justified by the Shari'a, that is, after the rights of each heir are clear, then there is no longer any reason for delaying the distribution. Thus, the inheritance must be paid immediately.

It is another case if you take another alternative by transferring the function of the inheritance based on the will or agreement of all the heirs. As an analogy in this case, where the heirs agree to make the inheritance into syirkah property where they invest with the inherited property so that the heirs act as guarantors for shares in it. However, if no agreement is found in the delay, then there is no reason for some of the heirs to postpone the distribution. Islamic Inheritance Law also focuses on hastening the division of inheritance which aims to bring about the benefit of family and kinship relations. In other words, any action outside the essence of the verses of inheritance, such as delaying the distribution of inheritance, is an act that is not justified because it can interfere with the rights of other people. There are several principles of fiqhiyah that are compatible with responding to this problem. The reason for caring for the feelings of one parent who is still alive and the rift in family relations as a result of the delay which will later on, at least appear to intersect with the rules. (Purkon, 2018)

CONCLUSION

The impact of delaying the distribution of inherited assets, namely: Family problems/disconnected friendship between heirs, can result in loss of property value, and injustice to some heirs because their rights are not fulfilled. The views of Aceh Tamiang Ulama on delaying the distribution of inheritance are divided into three laws, Postponing the distribution of inheritance due to doubts about lineage and/or doubts about whether or not the heirs are alive or not is mandatory until there is a determination of lineage and/or heirs from the court. Likewise, delaying the distribution of inheritance due to doubts caused by real pregnancy or doubts about gender (khunsa) is obligatory so that the status of both is clear. While postponing the distribution of inheritance, if it gets the approval of all the heirs who are entitled and mu'tabar in giving permission and it is managed according to syar'i law, it is mubah/permissible. As for delaying the distribution of inherited assets which results in the injustice of the heirs or results in damage and a decrease in the value of the assets, then the law is unlawful.

AUTHORS' CONTRIBUTION

Author 1: Conceptualization; Project administration.

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