

Analysis of Religious Court Decisions Regarding Heir Rights for Non-Muslims

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Abstract

Section 171 concerning person who inherits and heir must be a Muslim who has blood relations or marital relations. In case 04/Pdt/2013/ the Bandung Religious Court determined the share of non-Muslim inheritance on the pretext of using a mandatory will. For this reason, research within literature method for case analysis of 04/Pdt/2013/PA Bandung. The results target of this study is determination of Muslim heirs by non-Muslims who are determined by Bandung Religious Court Judge through the determination path number 04/Pdt/2013, if measured through perspective of Islamic Sharia. The judge's determination contradicts the opinion based on the hadith that Muslims do not inherit from infidels and vice versa. Significantly shows the existence of an embargo to become heirs and heirs between people who are Muslims and Non-Muslim. Meanwhile, PA Bandung judges are guided by handful of opinions whose basis is based on general hadith of Prophet and does not discuss inheritance.

INTRODUCTION

The rules of inheritance in Islam receive great attention because the distribution of inheritance often has unfavorable impacts on the family of the deceased (Bahrami-Rad, 2021; Djawas et al., 2022). Inheritance is a lot of rights and obligations regarding a person's wealth which, when he dies, will be transferred to the surviving family. The main basis for everything is Islamic inheritance law which has been stipulated in the Al-Qur'an and As-Sunnah and is then applied in society such as the Compilation of Islamic Law (KHI) regulations (Rahman, 2023). Based on the positive law regarding inheritance regulated in the KHI, to inherit, the heirs and heirs must be Muslim, have a blood relationship or marriage relationship, and are not prevented by law from becoming heirs (Article 171 letters b and c KHI), whereas if there is a difference in trust between the heir and the heirs, it is not regulated.

In the Al-Qur'an, there is not a single verse that clearly and unequivocally prohibits inheritance from people of different beliefs or religions. The basis for the rule which clearly and unequivocally prohibits inheritance from people of different religions or beliefs is found in the hadith narrated by Bukhari, that the Prophet SAW said:

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وعن أسامة بن زيد رضي الله عنهما أن النبي صلى الله عليه وسلم قال: لا يرث المسلم الكافر، ولا يرث الكافر المسلم

Meaning: *Usāmah ibn Zayd (may Allah be pleased with him) reported: The Prophet (may Allah's peace and blessings be upon him) said: "A Muslim cannot inherit from a disbeliever nor can a disbeliever inherit from a Muslim."* (HR Bukhari dan Muslim)

The hadith was narrated by Muslims, Tirmizi, Abu Dawud, Ibn Majah, Ahmad, Malik, and Ad-Darimi. according to Riadi, from the point of view of the chain of transmission of the hadith, it is a sahih hadith, but from the point of view of the Matan of the hadith, its validity is doubtful, because Mu'adz bin Jabal once decided a case, where the inheritance from a Jewish heir was given to a Muslim heir. Against the hadith that prohibits heirs of different religions, some friends such as Mu'adz, Mu'awiyah, Hasan, Ibn Hanafiyah, Muhammad bin Ali bin Husain, and Masruq think that Muslims can inherit from non-Muslims, but not the other way around.

In the context of the realization of Islamic inheritance law, it is considered to be a sufficient consequence, and then it is realized for every adherent in terms of inheritance distribution (Asadurrohman, 2021). The emergence of a battle over the inheritance rights of non-Muslim children from Muslim husbands is similar to that described above because the KHI does not regulate biological children of non-Muslim religions, who according to Islamic law are not entitled to inheritance from their Muslim fathers, whether they can be given a compulsory will. Article 209 KHI only regulates the provision of mandatory wills to adoptive parents and adopted children as stipulated in Article 209 KHI as follows:

i) The inherited assets of adopted children are divided based on Article 176 up to using Article 193 as mentioned above, while adoptive parents who do not receive a will are given a mandatory will of up to one-third of their adopted child's inherited assets. ii) Adopted children who do not receive a will are given a mandatory will of up to 1/3 of the inheritance of their adoptive parents.

In the practice of enforcing rules in religious courts. The birth religion is the principle or basis for determining the authority of religious courts to assess and adjudicate inheritance cases. This is because KHI only adheres to the principle of religious tendencies between heirs and heirs as stated in Article 171 letters b and c. However, in practice, it is found that religious courts handle inheritance cases between faiths. Where the inheritance case involves Muslims and non-Muslims on two issues. Firstly, the heir is non-Muslim while the heirs consist of Muslims, and secondly, the heir is Muslim while the heirs are non-Muslim.

Following the decision of the Bandung Religious Court in case No.4/Pdt.P/2013. In its determination, the Bandung Religious Court Judges determined the share of inheritance for non-Muslims under the pretext of a mandatory will. Then, what are the arguments of the panel of judges at the Bandung Religious Court in determining this issue and whether the decision is following Islamic rules or is contrary? Briefly, the case is that the Petitioner's mother during her lifetime converted to Islam, then converted to Hinduism and died first as a Hindu in 2004. And her father died as a Muslim in 2010. When the applicant died, her father and mother had 4 children, 2 children converted to Islam as well and applicants I and II and 2 other children embraced the Hindu faith.

The father and mother of the person who submitted the request while he was alive did not produce a will. Both parents left assets as an inheritance for their children in the form of two pieces of land, namely i) the mother left one piece of land with an area of 250m² and a land certificate in his mother's name. ii) The applicant's father also left a plot of land which was 350m long² whose certificate is in his father's name. The process and management must meet the requirements, namely the decision of the judge from the Bandung Religious Court. According to the

applicant, the basis of the information used to strengthen his submission is that the first brother and third brother believe in a religion other than Islam, namely Hinduism. Therefore, according to him, the first and third siblings no longer have the right to the inheritance left by their father and mother (Khosyi'ah & Rusyana, 2022).

Revealed that the distribution of inheritance to non-Muslim biological children through a mandatory will essentially determines that non-Muslim heirs can still receive assets from Muslim heirs according to the mandatory will whose share is the same as the daughter's share as heirs (Apriyudi, 2018). Rizki Isihlayungdianti and Abdul Halim also explained that the division of inheritance for non-Muslims in interfaith marriages can be done with a mandatory will (Nuryadin et al., 2022; Suwarti et al., 2022; Muneer Abduroaf, 2023). Its application follows the Compilation of Islamic Law Article 209 with the amount not exceeding one-third of the inherited assets (Isihlayungdianti & Halim, 2021). Kadi Sukarna and Jevri Kurniawan Hambali also explained that gifts of property through a mandatory will are the same as wills in general, in the mechanism they are not taken from the heirs. The obligatory will is taken from the inherited assets after deducting liabilities such as debts, nadzar, porto-porto that arise during the death of the testator, and so on. In other words, the inherited assets are reduced by the heir's obligations, and then at that time the mandatory will is issued and given (Sukarna & Hambali, 2017). According to the description above, the type or method of this research is to use a library method, namely using or analyzing the provisions of number 04/Pdt 2013 of the Bandung Religious Court. Regarding the case of heirs against non-Muslims. And using books and manuscripts resulting from research that has been published in various journals. Data is analyzed by reduction, display, and proof.

METHODS

This research discusses the legal analysis of the determination of a case Number: 4/Pdt.P/2013/PA. Bandung regarding the determination of non-Muslim heirs using normative legal research, this research uses the qualitative method with content analysis approach, all data taken from various sources which are derived from classical holy books, books, theories and expert opinion (Kasmar et al., 2019). Which descriptive, namely research on the objectives of the law, the values of justice, the validity of legal rules, legal concepts, and legal norms. The approach used in this research is a statutory approach and an Islamic legal approach. The way to collect legal materials in this research is through literature study by reviewing journals, legal research results, and literature related to research problems and document studies, namely by reviewing various official institutional documents in the form of statutory regulations, court decisions, and other related documents. With research problems. The process of analyzing legal materials as data in this research begins with systematic data (Alam, 2021; Attard et al., 2015). At the systematic data stage, all collected legal materials are selected, classified, and presented descriptively so that a clear, detailed, and systematic picture of the facts is obtained. The data that has been systematically arranged is then analyzed using a legislative and Islamic law approach. This legal material analysis aims to obtain answers to the main research problems.

RESULT AND DISCUSSION

Inheritance in Arabic is the transfer of something from one person to another or from one person to another, as claimed by Al-miirats. Meanwhile, the meaning of al-miirats, a word known to the ulama, means the transfer of property rights from a dead person to his living heirs, whether what is left behind is in the form of property, land, or whatever is in it. Legal form of property rights from Syar'i. Islamic inheritance law, like Islamic law in general, was not fully revealed in the Qur'an, but

developed little by little over almost two centuries, finally emerging at the turn of the 10th century. Inheritance law is a composite structure that integrates elements derived from two basic principles of succession between states that had been practiced in pre-Islamic Arabia, and explicit rules on the origin of the right to inherit revealed in the Koran (Cammack, 2014).

Inherited assets are a form of wealth that is left behind and transferred to the heirs. This results in the problem of how and to what extent the transferred wealth is determined by the nature of the family environment, where the legacy and heirs are together (Indri Lestari, 2020). According to Abdullah Syah, in Islamic inheritance law (*faraidh* law), the meaning of inheritance rules from the linguistic word is destiny/qadar/provisions, while from the *syara'* inheritance law means the parts that are qadarkan/determined for heirs. Using this, *faraidh* is specifically about the portion of heirs whose size has been determined by the *syara'* (M. Fauzi, 2016) from Wirdjono Prodjodikoro. Inheritance rules are the rules or regulations that regulate whether and how various kinds of rights and Liabilities regarding a person's wealth when he dies will pass to other people who are still alive (Projodikoro, 1983).

Meanwhile, A. Pitlo said that inheritance law is a series of provisions, where in conjunction with the death of a person, the consequences in material terms are regulated, namely the consequences of the transfer of the deceased person's original inheritance to the heirs, both in their relationship between themselves, also with third parties (Pitlo, 1986). Amir Syarifuddin said that Islamic inheritance rules regulate the transfer of assets from someone who has died to someone who is still alive. In the literature on Islamic rules, several terms are found to name Islamic inheritance law, such as *Faraid*, *Fikih Mawaris*, and *al-Waris* law (Syarifuddin, 2004). Meanwhile, the rules of inheritance according to the KHI as stated in article 171 (a) are the law that regulates the transfer of ownership rights to inheritance (*tirkah*) of the heir, determining who has the right to be an heir and how much their respective shares are (Islam, n.d.). From several explanations of the meaning of inheritance law, it can be concluded that the rules of inheritance mean the transfer of the assets of a person who has died to his heirs according to the levels determined by Sharia law or Islamic law.

Legal Basis and Sources

Arguments Sourced from the Qur'an

QS An-Nisa verse 11

"Allah has prescribed (required) you regarding (distribution of inheritance to) your children, (namely) the share of one son is equal to the share of two daughters. And if there are more than two children, their share is two-thirds of the assets left behind. If she (the daughter) is the only one, she gets half (the property left behind). For both parents, each shares one-sixth of the assets left behind, if he (the deceased) has children. If he (the deceased) has no children and he is inherited by his parents (only), his mother gets a third. If he (the deceased) has several siblings, his mother gets one-sixth. (The inheritance is divided) after (fulfilling) the will he made or (and paying off) his debts. (Regarding) your parents and your children, you do not know which of them is of greater benefit to you. This is God's decree. Indeed, Allah is All-Knowing, All-Wise. (QS An-Nisa: 11)

Arguments Sourced from the Sunnah

The hadith of the Prophet Muhammad SAW states:

"A Muslim is prohibited from inheriting from a non-Muslim and vice versa a non-Muslim cannot inherit from a Muslim." (HR. Bukhari and Muslim)

Factors that cause inheritance

Islamic Sharia has determined that three reasons result in a person obtaining inheritance/inheritance property, namely: relationship, marriage with a valid contract, and *Al-Wala'*. The reasons for obtaining an inheritance can also be grouped into 2 reasons, namely *sabab* and *nasab*. *Nasab* means kinship relations, while *sabab*

includes marriage and guardianship (*Al-Wala'*) (Salman et al., 2023). Several factors cause inheritance to occur, namely as follows:

Relationships (Lineage)

True relatives (those with blood ties), one of the reasons for transferring the assets of a dead person to a living one is the existence of a relationship of friendship or kinship between the two. The existence of a correlation relationship is determined by blood relations such as parents, children, siblings, uncles, and so on (Roji & Samsukadi, 2019).

Marital Relations

After a legal marriage, a relationship between a person and a woman occurs, marked by consent and qabul carried out by the marriage guardian using the prospective groom, therefore the man and woman as a couple become husband and wife, which results in them becoming relatives, and both receive each other's rights. inheritance if one of them dies (Basri, 2020). The marriage referred to means including a legal marriage and a mixture of doubts, whereas marriage cannot occur unless there is a valid contract, namely the fulfillment of the terms and conditions, between a man and a woman, even though there has not been sexual intercourse between the two husband and wife, or there is still in the status of divorced *raj'i*, then both of them have mutual inheritance rights. Something that becomes an heir's right to inherit from each other is permitted provided that there is a marriage correlation which means that a husband is the heir if his wife dies and vice versa, so the wife is also the heir if her husband dies (Fortes, 2015).

Freeing the Servant (*Al-Wala'*)

Al-Wala' is the correlation of inheritance because a person frees a slave through a mutual agreement even though there is no blood relation between the two. So a person who freed his slave has the right to free him then as a result he has the right to be the heir to the property of the freed slave when he dies. However, in the compilation, *Al-Wala'* is not included anymore, because, at this time in Indonesia, slavery is no longer recognized as an existence.

According to Abdillah Mustari, *Al-Wala'* is the correlation between freeing slaves, also called *wala al-'itqi*, and *Al-Wala'* *an-ni'mah*. The essence of this right to inherit is the enjoyment that the *mu'tiq* should feel for freeing the slave that he did. The enjoyment that is meant means the correlation of the relationship between two people that results in both of them as if they are of the same blood as a lineage relationship called *Al-Wala'* *al'itqi*. A person who frees a slave means that he has restored his freedom and identity as a free person who has the same rights and obligations as other people. That's why he was awarded the right to inherit the freed slave. If the freed slave dies without having an heir, either because of correlation or marriage, then the person who inherits it means the person who freed him (Pasamai & Baharuddin, 2020; Satrianis et al., 2021).

Factors Causing Loss of Inheritance Rights

Murder

A person who kills another person who is his heir cannot inherit the property of the murdered person. This provision contains benefits so that people do not take shortcuts to obtain inheritance by killing the person who inherited it. Regarding the use of killing, the Prophet emphasized that if a murderer kills someone from his family, the murderer must not receive an inheritance at all.

Religious Differences

Islamic legal experts have unanimously decided that different religions or differences in beliefs between the person who inherits and the person who inherits it is one of the causes of several barriers to inheritance, this is based on the existence of differences in sharia and implementation between one religion and another belief. If the religion of the heir does not match then this is a barrier to inheriting according to

Islamic rules, thus infidels (non-Muslims) cannot inherit inheritance from people who are Muslim, and vice versa, Muslims cannot inherit the inheritance of someone who is not Muslim. Religious differences mean that there is a religious disparity between the heirs and the people who will inherit their wealth.

Slavery (Slave)

The condition of enslaved or enslaved people cannot be an expert recipient of Warisan, because they are seen as unable to preserve their heritage and become disconnected from their family. The status of the slave is seen as the wealth of his master. So thus the slave does not qualify as an heir expert, because the slave himself and his property are the wealth of his employer. Slaves in the past, slaves were everywhere, and as a result very difficult to overcome. Islam values people very much and wants to eliminate slavery. Therefore, slavery is also the main focus in Islamic law such as the expiation of doing dhihar by freeing slaves. in this case, a person who becomes a slave is forever cut off from family ties using his relatives so that if he dies, he cannot pass on his property to his children even (Daud & Fuady, 2021).

Mandatory Will

A will means a person's message to another person to manage their assets according to their message after they die. So, a will is a gift for inheritance that will be carried out after the death of the person who has the will, and takes effect after the person who has the will dies (Amina, 2021). From Mustofa Hasan, a will is a person's hope or desire expressed expressively or in writing by a person regarding his or her property before his or her death (Apriyudi, 2018). The obligatory will has two sets of words, namely: *the* wills as well as obligatory based on etymology the wills are interpreted as a specific mandate. Whereas waasiyatun is obligating something. From these two things, it can be concluded that an obligatory bequest is a mandate or message that must be carried out by the recipient of the will (Ritonga, 2021). In other words, a *Wajibah* Will is also defined as using a portion of the inheritance given to children and grandchildren which does not exceed one-third of the inheritance. This assumes social justice principles for orphans. This is different from the mandatory will contained in Article 209 of the Compilation of Islamic Law, where the mandatory will referred to in that article is for an adopted child (Fauzi, 2019).

In essence, the law of wills from the *jumhur fuqaha* is *Sunnah*. This is because there are several *qarinah*, namely: First, the verses regarding inheritance already give exclusive rights (shares) to parents and other relatives, namely inheritance rights. Secondly, there is a *hadith* which states that it is not permissible to leave a will to the heirs. Third, the historical fact is that Rasulullah SAW and most friends do not make wills for their family members (Marzuki & Munawaroh, 2019).

However, some jurists such as Ibn Hazm and Al-Thabari believe that a will is obligatory for relatives who do not receive an inheritance due to obstacles or in the words of *mahjub fiqh* because there are people who are closer who inherit it, it could also be due to religious disparities so that they do not receive it. Inheritance. According to some jurists, this kind of person is obliged to be given a will, which is called a *williat hajidab*. If the deceased does not leave a will for the people according to the conditions above, then the heirs must take some of the deceased's assets to give to close relatives but are not heirs.

Meanwhile, a mandatory will is an action carried out by a ruler or judge as a state official who has the task of forcing or giving a mandatory will decision for a person who has died, which is given to certain people under certain circumstances. Meanwhile, based on the Compilation of Islamic Law, a mandatory will means giving an object from an heir to another person or a forum that takes effect after the heir dies (Setiawan, 2017). It is said that a mandatory will is caused by two things, namely: i) The loss of the will giver's endeavor element and the release of the obligation element through statutory regulations or court decisions, without depending on the willingness of the person making the will and the consent of the recipient of the will

ii) There are similarities with the provisions distribution of inheritance if women receive twice the share (Rofiq, 2017).

Item Determination No/Pdt.P/2013/PA.Bandung

Main Problem (Sit Matters)

A case decision in determining the expert's right to receive an inheritance was submitted to the Bandung Religious Court by the heirs who were applicants I and II using their attorney. The father and mother were married according to Islamic law, the contract was carried out at the KUA, Denpasar city, Bali province. The applicant's father was born in Cilacap, Java, on 20 April 1937, while his mother was born in Singaraja on 10 February 1947. From the results of their second marriage, they gave birth to four children, namely: i) the first child is a woman, born on March 20, 1963, Hindu, addressed at Banyuning, Singaraja. Who already has three children with her husband who is also Hindu. ii) Second child (as applicant I), born 20 August 1968, who is Muslim, lives in Bandung City. iii) Third child, born April 20, 1970, who is Hindu, lives in Kota, Bandung; iv) Fourth child (Petitioner II), born on June 20, 1972, whose belief is Islam, whose address is in the city of Sidoharjo, Central Java.

The father and mother of the applicant are both deceased, the mother died earlier than the father, who died on 20 May 2004 due to illness, death certificate number: 221/LT/SKK/IX/12 on 17 September 2012, while the biological father of the applicant died on 20 February 2010, death certificate number: 221/LT/SKK/IX/12 on 17 September 2012 from Kuta Village, North Kuta. The Petitioners' mother was previously Muslim but later converted to Hinduism and died as a Hindu, while the Petitioners' father died as a Muslim. Both of them died while still in a legal marriage.

His parents never made or formed a will while he was still alive. When their parents died, their parents left an inheritance, namely two plots of land with different certificate names, namely: (1) One plot of land from their mother which had an area of around 250 m² has a certificate in his mother's name. Another plot of land from his father which has an area of 350m² whose land certificate is in his father's name. (2) For both applicants one and two, the two plots of land are only inherited by the two of them. With the condition that management for the two of them to be able to divide the two plots of land must fulfil several conditions, one of which is that there is a determination or decision from a judge in the religious court. By including reasons and evidence that the two siblings, namely the first and third children, have trust or Hindus, then based on the provisions of Islamic law, the two brothers who have beliefs other than Islam have no right to the inheritance of their parents. The aim of the two applicants in submitting a petition to the religious court is for the judge to issue a decision that the experts on the inheritance of their parents are applicants one and two because they share the same belief as their parents, namely they are both Muslim.

Judgment of the Chamber of Judges

The benchmarks for determining a case regarding the determination of heirs to heirs other than Muslims by a council of judges are (1) a decision issued by the council of judges that a case like this falls under the full authority of the local Religious Court, which has been explained in the Law. Law number 03 of 2006 concerning Religious Courts, contained in article 49 letter (b); (2) The Panel of Judges is guided by the KHI or the 1991 Compilation of Islamic Law contained in article 171 (b), a person who will be the person who bequeaths his assets is obliged and required when he dies to have Islamic beliefs or religion. Meanwhile, the Petitioner's mother died while she was a Hindu. So, based on problems or cases like that, the Council of Judges issued legal thoughts, namely: (1) based on the decision issued by the Council of Judges, Islamic inheritance has a system that follows a correlation system, both in terms of nasab and law. So, in inheritance, what is

preferred as a barrier to inheritance is the correlation system when compared to differences in beliefs or different religions. Apart from inheritance containing elements of worship, inheritance also contains elements of social affairs. (3) In this case the Panel of Judges considers the problem to be incidental or only limited to exclusive time. So based on the words of Rasulullah SAW namely: "Islam is high and there is no one higher than it" which was used as a guideline by the Council of Judges. The Panel of Judges also adhered to the opinion of Imam Abu Hanifah who stated that all the inheritance of women who left Islam (*murtad*) was inherited by their Islamic heirs, as explained by Sheikh Wahbah Az-Zuhaili, in his book. (3) The Panel of Judges considers that, however, because Indonesian Islamic inheritance law contains egalitarian principles, relatives of religions other than Islam who are related by blood to the testator, in this case, meaning the First and Third Brothers of Petitioners I and II, are still entitled to a share. Inheritance using a mandatory will, without exceeding the share of the heirs who are equal to him

In this inheritance matter, which is considered by the judge's council, where the father who is the heir has a Muslim faith or religion and his son who is an expert as the recipient of the inheritance also has a Muslim religious faith. So becoming an heir inherits following the rules of Islam, so the Judge is guided by the rules above regarding the complete authority of the Religious Court. As for the heirs of the Applicant's mother who is no longer Muslim, her son as an heir expert is Muslim. So according to the judge, this problem is a problem that has the nature of certain events only. So the Court of Justice in determining the matter is not based on articles 171 (b) and (c) found in the KHI.

So in the determination of the heirs who have left the Islamic religion or named after the apostate, that is the mother of the two applicants who before her death left the Islamic religion. More specifically, the Panel of Judges took into account the opinion of Imam Abu Hanifah who stated that all the inheritance of women who left Islam (*murtad*) was inherited by their Islamic heirs. Thus, those who have the right to inherit the inheritance from the mothers of Petitioners I and II are Petitioners I and II because the Petitioners' first and third siblings are of a religion other than Islam (Hindu). As for the first brother and third brother, the petitioners, according to the permanent panel of judges, are entitled to receive a share of the inheritance using a mandatory will, not exceeding the share of the heirs who are equal to them.

Determination of the Judges' Council on the application for the determination of the heirs of Applicants 1 and II

Following the considerations above, the Panel of Judges at the Bandung Religious Court issued a decision to i) Grant the Petitioners' petition in its entirety. ii) Deciding that the heirs of the mothers of Petitioners I and II and the fathers of Petitioners I and II are Petitioners I and II. iii) Charge the Petitioners Rp. 186,000.00 for this case. Based on this stipulation, Petitioners I and II obtained legal status as heirs of the inheritance of the mother of Petitioners I and II who are Hindus in the form of land measuring 250 m², as well as heirs of the inheritance of the fathers of Petitioners I and II who are Muslims in the form of land measuring 350 m².

Analysis of Abu Hanifah's Opinion on the Ability to Obtain the Original Inheritance of Apostate Heirs

The jurists unanimously decided that different beliefs prevent them from obtaining inheritance. In this case, what is meant is that the heirs and muwaris do not have harmonious beliefs. An apostate, who was previously a Muslim, even though he is no longer a Muslim, is not in line with someone who was an infidel from the beginning, because that is what is meant by an infidel in the above provisions, meaning an infidel who has been an infidel from the beginning, not someone who was originally a Muslim. Then became infidels. There is a disparity of opinion among ulama regarding inheriting the property of apostates, many ulama disagree, including

Imam Syafi'i, Imam Maliki, and Imam Hambali, they think that all apostate's assets become *fai'* assets and are placed in the treasury of the Islamic state (*Baitul mal*). However, only Abu Hanifah allowed the property of an apostate to be inherited by his Muslim heirs.

Legal analysis of the determination of case number 04/pdt/2013 Bandung Religious Court

From the determination of case number 04/pdt/2013 by the Bandung Court Judge, it is clear that the problems contained in the determination are not only between people who are Muslim but also involve people who are not Muslim or apostates, namely the mother of the applicant whose heir is Muslim. Then the panel of judges commented that this case was the absolute authority of a religious court body that could not be examined by another court.

The problem that falls under the authority of a religious court body is that the determination of heirs between the father and his heirs is very much in sync with the religious court because both of them share or have Islamic religious beliefs. Meanwhile, regarding problems with heirs who have different beliefs, such as the applicant's mother being Hindu while the heir is Muslim, it is necessary to analyze the conformity with the applicable legal regulations regarding cases that fall under the authority of religious courts.

Based on Law Number 3 of 2006 regarding amendments to Law Number 7 of 1989 concerning Religious Courts as stated in article 49 (b) where it is clearly stated that the authority of religious courts in determining inheritance issues is only limited to individuals. Only those who believe or are Muslim. As the Republic of Indonesia Court issued the results of the plenary meeting as stated in SEMA No. 7/2012, it explains that the heir's trust determines the competent court. Heirs who are Muslim have concurrency in their inheritance as the authority of the Religious Court.

So, according to the analysis clearly explained above, it can be concluded that as a legal institution the Bandung Religious Court does not have the authority to handle cases of applications for determining heirs from Petitioners I and II who are religions other than Islam. as well as heirs who have religions other than Islam, the issue of inheritance falls under the authority of the general court so that determining the heirs of the mothers of Petitioners I and II who have religions other than Islam should be delegated to the district court.

CONCLUSION

The conclusion of the plenary meeting of the Republic of Indonesia Court on 3-5 May 2012, as stipulated in SEMA NO 7/2012, emphasized that the Religious Courts Agency does not have the authority to resolve inheritance cases between individuals with different beliefs or religions. This means that inheritance cases between individuals who have Islamic beliefs or religion will be handled by the Religious Court, while for individuals with beliefs or religions other than Islam, inheritance will be under the jurisdiction of the District Court. The decision of the Bandung Religious Court in case Number: 4/Pdt.P/2013 raises questions about justice for non-Muslim individuals. The inheritance system in Islam which is based on the heir's religious beliefs conflicts with the principles of Islamic law which stipulate that a Muslim cannot inherit or be inherited by a non-Muslim individual, and vice versa. This determination shows a tendency towards the viewpoint of a minority of ulama which is not in line with the views of the majority of Islamic ulama. Thus, this case shows the complexity of the interpretation of Islamic law which requires a deep and contextual understanding.

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