



**ISLAMIC STRATEGY OFFERS IN THE IMPLEMENTATION OF THE
SCIENCE OF MAWARIST IN SOCIETY: STUDY CENTRE OF MAWARITS
STUDIES UNIDA GONTOR**

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Abstract: The purpose of this research is to find out new offerings and strategies according to Islam in implementing the science of mawarist in the society which were studied by CMS (Center for Mawarits Studies) UNIDA Gontor. Mawarits Science is one of the branches of science that must be studied by Muslims following with the advice of the Prophet Muhammad SAW because the mawarits science will be lost if no one learns and teaches it. Disputes between heirs often occur if the distribution of inheritance is considered unfair or not following with applicable law or norms. Inheritance matters are included in the civil realm so there are laws governing this issue. Sometimes in the distribution of inheritance using civil law, customary law and Islamic inheritance law (*mawarits*). The main task of the CMS (Center For Mawarits Studies) is to educate Muslim families related to the science of mawarits. This research is a qualitative Research that uses a sociological-normative approach with descriptive analysis, as for the data collection techniques with observation, interviews and documentation. The results of this study are several offers and education from CMS to the whole community especially Muslim families to implement the science of mawarits, including; forming KSM (Family Awareness of Mawarits) through studies in the mosque, seminars with the theme PSP method (Determination Before Distribution). Even though the distribution of assets uses the science of mawarist the family still has to register the distribution of inheritance in the form of land and property to the local officials so that they are legally binding. By understanding and implementing the science of *mawarist* the whole community especially muslim families have practiced sharia and aqeeda, *hablun minallah and hablun minannas*.

Abstrak: Tujuan dari penelitian ini adalah untuk mengetahui tawaran dan strategi baru menurut Islam dalam mengimplementasikan ilmu mawarist di masyarakat yang dikaji oleh CMS (*Centre For Mawarits Studies*) UNIDA Gontor. Ilmu Mawarits adalah salah satu cabang ilmu yang wajib dipelajari oleh umat Islam sesuai dengan anjuran Nabi Muhammad SAW karena ilmu mawarits ini akan hilang apabila tidak ada yang mempelajari dan mengajarkannya. Perselisihan ahli waris sering terjadi apabila dalam

pembagian harta warisan dirasa tidak adil atau tidak sesuai dengan hukum atau norma yang berlaku. Masalah waris adalah termasuk dalam ranah perdata sehingga ada undang-undang yang mengatur masalah ini. Adakalanya dalam pembagian warisan menggunakan hukum perdata, hukum adat dan hukum waris Islam (*mawarits*). Tugas utama CMS (*Centre For Mawarits Studies*) adalah mengedukasi keluarga muslim terkait ilmu mawarits. Penelitian ini adalah penelitian kualitatif yang menggunakan pendekatan sosiologis-normatif dengan analisis deskriptif, adapun teknik pengambilan data dengan observasi, wawancara dan dokumentasi. Hasil dari penelitian ini adalah ada beberapa tawaran dan edukasi dari CMS untuk keluarga muslim untuk mengimplementasikan ilmu mawarits, diantaranya adalah; membentuk KSM (Keluarga Sadar Mawarits) melalui kajian- kajian di Masjid, Seminar mawarist dengan tema PSP (Penentuan Sebelum Pembagian), dan *Tallaqi* Kitab Mawarits. Meskipun dalam pembagian harta menggunakan ilmu mawarist akan tetapi keluarga tersebut tetap harus mendaftarkan warisan berupa tanah atau properti ke pejabat setempat sehingga berkekuatan hukum tetap. Dengan memahami dan mengimplementasikan ilmu mawarist seluruh masyarakat khususnya keluarga muslim telah menjalankan ilmu syariah dan aqidah, *hablun minallah dan hablun minannas*.

Keywords: *Mawarits Science; Strategy; Determination Before Distribution.*

INTRODUCTION

Distribution of inheritance is a very normal thing to happen in the family after a family death occurs in the community. The distribution of inheritance uses several methods or laws including; Civil law, Common law and also Islamic law (Mawarits Science). Whatever law is used in the distribution of inheritance is aimed at distributing inheritance fairly according to the respective heirs, so that disputes do not occur that result in damage to family relations.

In its development in the modern Islamic world, the Inheritance law of Islam has become a very influential legal system in the law in Islamic countries. Many of the academic works that have been produced demonstrate the role of Islamic inheritance in Muslim society. This important role of Islamic inheritance is demonstrated by the consistency of the Muslim community in maintaining this mawarist science. The inheritance law of Islam became one aspect of the Islamic law that lasts longest from renewal compared with Islamic law in other areas such as trade (business), criminal and general civil.¹

In Islam itself, the science of Mawarits is an important branch of Islamic sciences other than Aqidah there is even a hadith of the prophet Muhammad who obliges to study the science of this mawarist and teach it because the science of Mawarits is the science to be taken and lost the first time if not studied and taught;

¹ Ahmad Bunyan Wahib, "Reformasi Hukum Waris Di Negara-Negara Muslim," *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 48, no. 1 (January 1, 2014): 31, <https://doi.org/10.14421/asy-syir'ah.2014.%x>.

And there will be a great contention because of the dissatisfaction of one of the heirs in the distribution of inheritance. Many of the Muslim families themselves do not use the science of Mawarist in the distribution of inheritance, some consider mawarits science is difficult to apply.

Some scientific articles are discussed about the distribution of inheritance according to Islamic law and the Common Law of Bugis, the result is the implementation of inheritance distribution in some areas of Bugis regency is to use the inheritance system of Islam; the constraints or disputes of inherited assets are not to be used by the distribution of inheritance.² The family system in the Indonesian community focuses on the lineage withdrawal system. Generally known there are three family systems, namely (1) *Patrilineal* system (Community in the land of Gayo, Alas, Batak, Ambon, Irian Jaya, Timor and Bali). (2) *Matrilineal* system (there are areas Minangkabau), and (3) *Bilateral* or *parental* systems (located in the area among others: Java, Madura, East Sumatra, Riau, Aceh, South Sumatra, all of Kalimantan, all of Sulawesi, Ternate, and Lombok). The next article, discussing how not allowed to divide the inheritance by agreement, because in the science of Mawarist every heir to the part of each following with the words written in the Qur'an and Hadith.³ Other articles are the problems of heritage property following with Islam and Java, when in Islam should be appropriate to the text of the Qur'an and as-Sunnah while the Javanese customs of the Islamic heritage of the beneficiary is adapted to the state of heir concerned.⁴

From some articles and research on the issues surrounding the inheritance that has been mentioned there is no explanation or strategy of how the Muslim community should apply the science of Mawarist in his family and this time the author seeks to offer a new strategy of the Center for the mawarist or mawarits Centre for the UNIDA Gontor Science in the implementation of Mawarits. In this research the subject matter displayed by the authors is the strategy of the CMS (Centre for Mawarits Studies) at UNIDA Gontor in fostering and educating communities related to mawarits science so that the public understand and can implement this mawarits science in their families when there is death.

UNDERSTANDING TO MAWARITS SCIENCE

In some Islamic law literature was found several terms to nominate the laws of Islamic heritage, such as *Fiqh Mawarist*, the law of the inheritance, and the

² Fikri and Wahidin, "Konsepsi Hukum Waris Islam Dan Hukum Waris Adat (Analisis Kontekstualisasi Dalam Masyarakat Bugis)," *Al-Ahkam : Jurnal Ilmu Syari'ah Dan Hukum* 1, no. 2 (2016), <https://doi.org/10.22515/al-ahkam.v2i2.500>.

³ Fatahuddin Aziz Siregar, "Pembagian Harta Warisan Berdasarkan Kesepakatan Menurut Al-Quran Dan As-Sunah," *Fitrah: Jurnal Kajian Ilmu-Ilmu Keislaman* 8, no. 1 (2014): 117-134.

⁴ Agus Sudaryanto, "Aspek Ontologi Pembagian Waris Dalam Hukum Islam Dan Hukum Adat Jawa," *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada* 22, no. 3 (2010): 534-552.

knowledge of *Faraidh*. The viewability of this nomination occurs because of the direction of a major point in the transmission. A compilation of Islamic law makes it easy to be between inheritance property and the property. The definition of inheritance is in article 1 letter (e), namely:

“The estate is an innate treasure plus part of the joint property after being used for the heir during an illness until death, the cost of deprovisioning the body (tajhiz), payment of debt and provision for relatives”. While the notion of relics found in article 1 the letter (d) is: *“The property is a property left by a good successor which has its possessions and rights”*.

In the Western inheritance law there are two important elements that are, (a) An individual element (a person’s personal self). In principle, the owner of an object has freedom that widest as an individual to do anything about his or her possessions including wealth according to his will. (b) Social element (with regard to common interest). The deed done by the property owner as described in the basis of an individual element can result in losses to the heir so that the law provides restrictions on heirs of freedom in the interest of heirs.

According to Hasby As-Shiddiqi in his inheritance law, *Fiqh mawarist* is a science that with him can be known by those who inherit, those who cannot inherit, the rates received by their respective heirs and the way of taking it.⁵ Other terms used in the terms of *faraidh science* that are meant to be in the language are specific obligations. A scholar of Fiqh is named Ibnu Rusyd defining the knowledge of faraidh is knowledge to know how to find a person who has died to be entitled to receive.⁶

In standard legal terms the term heir is used. The word inheritance itself means people, heirs as subjects and can also mean processes. In the first sense, it contains the meaning of the people who accept inheritance and in the second sense to contain the meaning of the transition of wealth from the dead to the living and declared entitled according to the law that is believed and acknowledged to be valid and binding for all persons who are Muslims.⁷

Zainuddin Ali gives an understanding of Islamic inheritance law is a rule governing the transfer of property from one who passed away to his heirs. In this case it means to determine who is the heir, the portion of the inheritance, determining the inheritance and property of the deceased person.⁸

The law of inheritance according to KHI (the compilation of Islamic law) in Article 171 letter (a) is *“The law which regulates the transfer of ownership rights to*

⁵ T.M. Hasbi Ash-Shiddieqy, *Fiqh Mawaris* (Semarang: Pustaka Rizki Putra, 2001), 5.

⁶ Ibnu Rusyd, *Bidayatul Mujtahid* (Beirut: Darul Fikr, 1995), 276.

⁷ Moh. Muhibbin and Abdul Wahid, *Hukum Kewarisan Islam Sebagai Pembaruan Hukum Positif Di Indonesia* (Jakarta: Sinar Grafika, 2017), 9.

⁸ Zainuddin Ali, *Pelaksanaan Hukum Waris Di Indonesia* (Jakarta: Sinar Grafika, 2008), 33.

the inheritance (tirkah) of the heir, determines who has the right to become an heir and some of their respective parts". So the Islamic inheritance law is a set of rules about the distribution process of the inheritance of people who have passed away and determines which heirs are entitled to get the inheritance and also this science studies each part of the inheritance following with the provisions of Islamic teachings.⁹

There are several basic principles of Islamic heirs including; The first basis of Islamic inheritance is (1) *Deity or divine principle*. This principle is based on the view that implementing the division of inheritance with the Islamic inheritance system, must first be based on the strong faith to Allah SWT and Rasulullah SAW; which means believing in the teachings found in the Qur'an and the Sunnah. Thus implementing the heirs of Islam is a form of absolute obedience to Allah and His Messenger.¹⁰ As God's Word in Q.S. An-Nisa: 59.

"you who believe, obey Allah and obey His Messenger, and beware of you. If you disagree on something, return it to Allah (the Quran) and the Messenger (Sunnah), if you truly believe in Allah and in Hereafter. That is more (for you) and better as a result".

There are still many Qur'anic verses that explain the obligation to obey the commands of Allah and His Messenger. Islamic inheritance law is the law of God established instead of a misleading and misleading heir law, it is the perfect law of God in regulating the distribution of inheritance following with applicable conditions. The verses in the Qur'an that deal with inheritance are the verses of the court.¹¹

One of the functions of Islamic inheritance is to lift the dignity and dignity of women in ignorance whose existence has always been marginalized, especially concerning to the issue of heirs. Women are not entitled to the heir to the estate left by her husband, but rather to an inherited object. Also, in pre-Islamic history the right to inherit the legacy is only a family member of the nearest male lineage (*'ashabah*), While women are in the neighbourhood *'ushbah* self and family members from the maternal line, are not entitled to inherit. This is not only happening in Arab countries but also other countries.¹²

The second principle is; (2) The principle of *Ijbari* contained in Islamic inheritance contains the meaning of the transfer of treasures from the deceased To the heirs of his own, according to the provisions of Allah without being hung with the will of the heir or his heirs.¹³ In terms of the transfer of property, men

⁹ Aulia Muthiah, *Hukum Islam: Dinamika Seputar Hukum Keluarga* (Yogyakarta: Pustaka Baru Press, 2017), 146.

¹⁰ Beni Ahmad Saebani, *Fiqh Mawaris* (Bandung: Pustaka Setia, 2009), 19.

¹¹ Syarif Husein and Akhmad Khisni, "Hukum Waris Islam Di Indoensia," *Jurnal Akta* 5, no. 1 (March 2018).

¹² Anwar Harjono, *Hukum Islam Keluasan Dan Keadilannya* (Jakarta: Bulan Bintang, 1987), 243.

¹³ Ali, *Pelaksanaan Hukum Waris Di Indonesia*, 53.

and women have a part of the inheritance of mothers, fathers and families nearby. That part can be known in the amount of property left by the heir, there is a part of heir. Therefore the heir does not need to promise something to be given to his heirs before he dies.¹⁴ And it following to the Word of God in Q.S. An-Nisa: 7 as follows:

“For men there is a right part of the Father and mother treasure and his relatives, and for the woman there is a right part (also) of the relics of the Father and mother and his relatives, either little or many according to the appointed part”.

Besides meaning the transfer of property also contains the meaning of coercion; So this principle emphasizes that something that God has set about the law of the inheritance, whether the heir or the amount of inheritance to be accepted is to be followed by the verses of God concerning the inheritance of heirs. As an Islamic religion must enforce the provisions of Islamic inheritance. The basis of this coercion is the word of God in Q.S. An-Nisa: 13 as follows:

“(Those laws are the provisions of God. Whoever is obedient to God and His messenger, Allah shall put it into heaven flowing in the rivers, while they remain therein; and that’s a great victory)”.

The third principle of Islamic inheritance; (3) The *Bilateral principle* in Islamic inheritance means that inheritance has turned to its heirs by two directions (two sides). This means that everyone receives the birthright from both sides of the line of relatives. the party of male lineages and relatives of female lineage.¹⁵ In principle, this principle confirms that gender is not a barrier to the Mewaris or inherited.

Three family systems are commonly used by people concerning genetic factors, namely; *patrilineal system, matrilineal system, parental system (bilateral)*. In the patrilineal system, the duty system benefits the male party while the female party has no birthright. After the advent of Islam, the ignorance patrilineal system in Arabia turned into a bilateral system that departed against the principles of justice and equality (*al-’adalah wa al-musawah*).

The fourth principle of Islamic inheritance is; (4) The *Individual principle* in Islamic inheritance means that inheritance can be divided into heirs for individual possession. Therefore in its execution, all inheritance is stated in a certain value which then doled out to each heir entitled to receive it according to the level of every person.

The right to inheritance does not mean that inheritance must be doled out, inheritance may be shared by all relevant beneficiaries. As in the example,

¹⁴ Aulia Muthiah, *Hukum Islam: Dinamika Seputar Hukum Keluarga*, 147.

¹⁵ Syarifuddin Amir, *Pelaksanaan Hukum Kewarisan Islam Dalam Lingkungan Adat Minangkabau* (Jakarta: Gunung Agung, 1984), 20.

a husband dies and he leaves a wife and a child who is still small, so that with this reason the inheritance cannot be shared to preserve the treasure Inherited by the husband as heir. But most importantly on this matter is not he dealt this inheritance does not waive the rights of inheriting on all its heirs. This division of inheritance was only suspended because the young children were unable to manage the inheritance. In other languages when children have not been able to manage their inheritance then the one who takes care of the property is guardian.¹⁶

The fifth principle of Islamic inheritance is; (5) *Justice* in Islamic inheritance can be interpreted with the balance between right and obligation and the balance between the necessity and usefulness.¹⁷ This principle implies that there is always a balance between rights and obligations, among which one has the obligation to be fulfilled. Examples are both male and female, each of the husband or wife bears each other's responsibilities, therefore each part corresponds to the task he has, Why men are more because a man is obliged to provide a living for his family. So the meaning of the fair does not mean equally but the balance or *al-Mizan* adjusted to the right of its obligation professionally.¹⁸

The sixth principle of Islamic inheritance is; (6) *Islamic law has established that the switching of a person's property to another person using the term inheritance only occurs after the possession of the deceased*. This principle means that the inheritance as a result of death and knowledge-based wills made when the heir was still alive. This principle relates to the principle of the *Ijbari*, when a person has qualified as the subject of the law, in fact he can act at will for all his wealth. But freedom only when the person are still alive, when he dies he is no longer entitled to his wealth. The abandoned treasure automatically becomes an inheritance for all its heirs.

It is not permissible to divide the inheritance before the heir is resolved; (a) *The Heir* which includes the price a shroud, the wages of burial, and so on or everything that is required by one who dies from his death to his burial.¹⁹ The obligation to take care of the bodies are include; bathe it, and bury it. For families who hold bodies should not be excessive even though all treasures are taken from the *mayyit* (the dead person) property, feared the inheritance of abandoned treasures is indispensable to the heir such as financing the school of his son and others. The second obligation is; (b) *Pay the heir debt*. Debt is a liability that must be paid in return for an achievement that has been received by a person. Inheritance must not be shared before the property is used to pay the heir debt (if there is a debt). According to KHI in section 175 on the payment of heir debt is:

¹⁶ Aulia Muthiah, *Hukum Islam: Dinamika Seputar Hukum Keluarga*, 148.

¹⁷ Beni Ahmad Saebani, *Fiqh Mawaris*. Hal.33

¹⁸ Abdul Aziz, "Pembagian Waris Berdasarkan Tingkat Kesejahteraan Ekonomi Ahli Waris Dalam Tinjauan Maqashid Shariah," *De Jure: Jurnal Hukum Dan Syar'iah* 8, no. 1 (2016): 48-63.

¹⁹ Sulaiman Rasjid, *Fiqh Islam* (Bandung: Sinar Baru Algensindo, 1998), 347.

“The responsibility of heirs to the debt or heir liability is limited to the amount or value of its legacy”. The third obligation is; (c) *Carrying out a testament of heirs.* Wills is someone’s message to give something to others after he dies. As the word of God in Q.S. Al-Baqarah: 180 : *It is obligatory upon you, when one of you comes to death (signs), if it leaves a lot of wealth, wills to Father and mother and sidekick his relatives in Ma’ruf, (this is) the obligation of the righteous.*

After being paid all of these rights above are therefore the major estate divided into all heirs, according to the division that has been ordained by God in the Qur’an. *Rukun* (pillar in Islam) is a part that should be present when we do something, and a thing will not be perfect if one of the pillars is not fulfilled. As for prayer if the pillars are not perfect as well as the mawarits when one of the pillars is not fulfilled, the inheritance of this article is not valid. The pillars are: inheritance (*mauruts* or *tirkah*), heirs (*muwarits*), heirs (*waarits*).²⁰

Inheritance cannot be shared before the management of the body, the settlement of forests, and the will of the heirs. The death of the heir must be evidenced either according to the law or reality and the property that he left must belong perfectly. Heirs are persons who are entitled to inherit due to the kinship relationship (*nasab*), marriage, and slavery.²¹

PRINCIPLES AND CONCEPTS OF ISLAMIC INHERITANCE

The prevailing inheritance law in Indonesia based on its distribution of wealth is three, namely; *Islamic inheritance law, customary law, and Burgerlijk Wetboek (BW) or civil law.*²² The problem of inheritance in Islam is the most perfectly addressed in the Qur’an and even arguably complete. The principles of the law or the evidence can be understood directly without the interpretation.²³ Before Islam came, the position of women are always as a second class among of Arab peoples. Men treatment to women is no different like to the animals. Women are not granted heirs even from the relics of their fathers, husbands and relatives. After Islam came to the provisions of the sharia that gave heirs to women either from their fathers, husbands or relatives with glory and no oppression.

Komari in his writings explained about the implementation of the inheritance law in Indonesia which is heavily influenced by three legal systems, namely Islamic law, customary law, and Western law. In the early days of the arrival of Islam in Indonesia, Islamic law dominated the implementation of inheritance law that has been influenced by the customs and culture of the Muslim community.

²⁰ Aulia Muthiah, *Hukum Islam: Dinamika Seputar Hukum Keluarga*, 153.

²¹ Sayyid Sabiq, *Fiqh Sunnah* (Beirut: Dar al-Fikr, 1983), 350.

²² Beni Ahmad Saebani, *Fiqh Mawaris*, 86.

²³ Fikri dan Wahidin, “Konsepsi Hukum Waris Islam Dan Hukum Ada; Analisis Kontekstualisasi Dalam Masyarakat Bugis,” *Al-Ahkam, Jurnal Ilmu Syari’ah Dan Hukum* 1, no. 2 (2016).

Entering the occupation period, the Dutch East Indies colonial government began to implement Western law policies for the European and foreign Eastern peoples. As for the natives applied combination of Islamic law and customary law. Entering the phase of independence, political law changed with the policy of codification and unification of law by entering Islamic law into the positive legal system in Indonesia, including in the case of inheritance law enforcement. But what is currently seen is the implementation of the law of inheritance in Indonesia more characterized by the combination of common law and Syari'at.²⁴

The provisions of the Sharia are thus deemed to contradict the Arab nation with their incomplete traditions. Provisions of the sharia brought by the Prophet Muhammad is deemed to have harassed its traditions and culture. The gentiles did not agree with the establishment of Islamic inheritance because they considered giving the women the inheritance of both the wife and the daughter there was no benefit, because women could not fight and make a living. And such thoughts are followed by the modern women like emancipation thinking and gender equality, for this reason they use the grounds of democratization and legal reform. Women question the implied justice of Islamic teachings.

Previously explained, there are some principles of Islamic inheritance law, including the principle of justice. The fair here is not interpreted equally, but the hallmark of justice in the Law of God is to not neglect and ignore the right of every heir. Even with very clear and perfect rules. Wisdom among these assignments is; *The realization of justice in the sphere of life, eliminating male faith in women, and raising the spirit of equality for all people living on the Earth.*

The difference between men and women treasures of many people is opposed to this. They insist on the similarities in the part between men and women. They said that when Islam would like to create a justice, it should be a male and female part is liked to flatten, let alone there are some customs or habits that women become backbone. The secret of Islam is why men get bigger parts than women are; *First*, men have advantages over women. *Secondly*, men have a treasure given to his wife or a living.²⁵

According to Ash-Shabuni in definition about *hikmah* (wisdom), there is a law that God has ordained for men and women of whom is; *First*, the living of women has endured. *Secondly*, women are not obliged to give a living to anyone in this world. *Thirdly*, the cost of males is much greater than that of females. *Fourth*, men are obliged to give *mahar* and a living. *Fifth*, child education costs,

²⁴ Komari, "Eksistensi Hukum Waris Di Indonesia: Antara Adat Dan Syariat," *Asy-Syari'ah* 18, no. 1 (August 31, 2015): 171, <https://doi.org/10.15575/as.v18i1.656>.

²⁵ M. Lutfi Hakim, "Keadilan Kewarisan Islam Terhadap Bagian Waris 2:1 Antara Laki-Laki Dengan Perempuan Perspektif Filsafat Hukum Islam," *Al-Maslahah: Jurnal Ilmu Syariah* 12, no. 1 (2016), <https://doi.org/10.24260/almaslahah.v12i1.339>.

treatment and so forth.²⁶ Women receive more wealth than men, as the details of them are; the inheritance of parents, the *mahar* of her husband, a living from her husband, the cost of marriage from her husband and parents, the shared treasure of marriage, the birthright of husband, the allowance of wives and children. *Second*, heir law, applicable in Indonesia are *customary laws* (common law), Customary law generally rely on the normative social rules in a concrete way of thinking, which has become a particular tradition of society. As an example of the Minangkabau society that divides the estate with customary law, which substantially the main source of the customary law itself is Islamic sharia.²⁷ The third heir law, which is applicable in Indonesia *Burgerlijk Wetboek (BW)*. In BW four heirs take turns entitled to the estate of inheritance. the group as the strongest group, which will close the second to fourth class rights. If the group does not exist, the birthright is transferred to the second class, and so on.²⁸

CMS (CENTRE FOR MAWARITS STUDIES) STRATEGY IN IMPLEMENTING MAWARIST SCIENCE IN MUSLIM FAMILY

CMS (*Centre for Mawarits Studies*) is a centre for research, established by the Sharia faculty of University Darussalam Gontor in 2014. The center of this study is engaged in the mawarits or Islamic inheritance law. According to the vision that is owned by the CMS is to be the center of Science Education and the pioneer or inspirator of Mawarits science teachers in ASEAN in 2025.²⁹ The establishment of the center of this study is very appropriate in education especially in the University of Darussalam Gontor and following with the vision and mission of Sharia Faculty as the center of Islamic Law study. Many muslims who hear the science of *mawarits* but not much to learn let alone practice it, when learning it and doing it is obligatory according to the hadith of the Prophet Muhammad SAW. The main task of the UNIDA Gontor CMS is to change the understanding of the society about the complicated of mawarits science by making it easy, and also educating the public how to implement the mawarist sciences in their families. Among the several programs owned by CMS UNIDA Gontor is; *First, forming the KSM (Family Conscious Mawarist)*, second, **MCC (Mawarits Call Centre)**, dan *Study (Talaqqi) Book of Mawarist*.³⁰ Related KSM (family conscious Mawarits) Having a team of educators divided into three; *First*, Trainers Team (Trainer Mawarits) PSP and Syariah Al-Mirats method. *Second*, *Mu'allim* Team

²⁶ Muhammad Ali Ash-Shabuni, *Hukum Waris Dalam Syari'at Islam Disertai Contoh-Contoh Pembagian Harta Pusaka* (Bandung: Diponegoro, 1985), 23.

²⁷ Wirjono Prodjodikoro, *Hukum Warisan Di Indonesia* (Bandung: Sumur Bandung, 1976), 58.

²⁸ Beni Ahmad Saebani, *Fiqh Mawaris*, 86.

²⁹ "Dekan Fakultas Syariah, No.209 /UNIDA/ FS-e/V/1438,".

³⁰ Mhd Jabal Alamsyah, *Ihya Ilmi Al-Mawaris* (Ponorogo: CMS UNIDA Gontor, 2017), 6.

(Team of Fiqh Al-Mawarits supervisor). *Third, Asatidzah* Team (expert team and science specialist related to Mawarits). Each region has its own characteristic in the implementation and education of the science of Mawarits, as explained by Muh. Idris that it can be implemented by the counseling system, either through socialization, *ta'lim* assembly, and the Friday circumcision conducted by the government and local religious figures.³¹

CMS has an offer and strategy in the implementation of Mawarits science in Muslim families including; by conducting trainings followed by several muslim families. Among its training is the PSP (determination before distribution) which means simulating how to determine the parts of heirs left by the heir (*mayyit*) and implementing after death in a muslim family. This training was followed by a simulation, participants were made as *mayyit* to know how to determine the members of the heirs.

Inheritance in Islam globally is mentioned in the word of Allah SWT in Q. S An-Nisa, 7:

“For men there is a right part of the treasure of father and mother and his relatives, and for the woman there is a right part (also) of the inheritance of father and mother and his relatives, either little or many according to the appointed part”.

As for revelation this verse is a history of Hadith by Jabir R.A whose two daughters Sa'ad ibn Rabi' left martyrdom on the battlefield of Uhud, as for all the treasures of Ibn ' Sa'ad ' taken all by their uncle and left no one for both. While both still require his father's treasures to prepare their marriage. Based on this incident came verse of Al-Qur'an about mawarits that explain both children got part 2/3 while his wife got 1/8 as for the rest is Sa'ad brother. Description of this hadith stated the implementation of birthright determination before the division of inheritance of the first estate by Rasulullah SAW. Not long after that revelation Q.S. An-Nisa' verse 7, then Allah also lowered verses 11, 12 and 176 in answer to Sa'ad ibn Rabi's wife.

From this, it can be concluded that in the main science of Mawarits is *the birthright process on each death* and must be implemented to fulfill the order of Allah SAW and Rasulullah SAW, Which means the CMS has run Principles of Tauhid. And the heirs are the most entitled to settle the distribution of inheritance following with the guidance of Islam. Of course after the issuance of the cost of the body management, debt, and the implementation of the estate from the property, when it has been satisfied and mawarits, then all the remainder belong to the heirs they will share following with their provisions and agreements later.³²

³¹ Muh. Idris, "Implementasi Hukum Waris Dan Pengajarannya Pada Masyarakat Kec. Poelang Tengah Kab. Bombana : Perbandingan Hukum Adat, Hukum Islam Dan Hukum Perdata," *Jurnal Al-Adl* 8, no. 1 (2015): 33.

³² Alamsyah, *Ihya Ilmi Al-Mawaris*, 6-7.

The Islamic inheritance system consists of three phases, namely; *First*, The early phase of Islam *Al-Muakhat* (Fraternity). *Second*, Phase of Fathu Makkah with a kinship. *Third*, Phase after the downs of verses ayah mawarits. After the decline of Q.S. An-Nisa, the inheritance in Islam occurs through three things, namely; Marriage, *wala'* (Relationship with his servant), and lineage.

Meaning of determination before division (PSP), Contains two meanings *First*, In the form of birthright determination on each death and the law is *wajib kifayah* or *fardhu kifayah*, *wajib* to obey the commandments of God and his apostles and indicate that there has been a transfer of ownership to the heirs of the most. *Second*, Division of inheritance is a phase that can only be done by the heirs most rightful following with the first phase and they have the power to divide the heirs of inheritance following with the provisions of Syara and or their agreement in consensus. Although in the family implements the science of Mawarist in the division of inheritance but still must register the beneficiary deed to the office of local Kelurahan or authorities so that has a fixed legal force.³³

Example, Father dies and leaves the right heir; 1 boy, 1 sibling, and 1 wife. So in determination before division (PSP) Over the deceased are as follows; Wife (1/8), 1 boy ('Isbah/' Ashabah bi an-Nafs) and 1 sibling (total obstructed by boys). In this case because the treasure has been moved through the orders of Allah SAW and his apostle to the heirs of the most entitled (The wife and children) according to the provisions, then only the wife and children who are left who will settle the distribution of the inheritance that has belonged to them both legally, halal and free. From this example the CMS has also implemented the *principle of ijbari*, *bilateral principle*, *balanced principles of justice* and the mere principle due to death in the inheritance of Islam.

The next division after the determination of the part of each heir, either child or wife (mother) agrees to divide the flat or mutually award the inheritance left by the heir (Dead person), or gift to any other person, including the previously obstructed sibling of the dead, or otherwise represent to a particular party is allowed. But this instrument of gift or waqf is contained in a written document following with the guidelines in Q.S. Al-Baqarah: 282.

It is an obligation to immediately implement "PSP" on every death of a Muslim family, as the implementation of the body bathing until buried it that also must be in motion. Looking at the urgency of "PSP" should also be a series of Fardhu Kifayah body management, So, the steps and strategy of the CMS UNIDA Gontor in conducting training or proficient school mawarits very precise.

³³ Wahyu Setiadi and Slamet Sumarto, "Pembagian Harta Warisan Pada Masyarakat Muslim Desa Sugihan Kecamatan Tangerang Kabupaten Semarang," *Unnes Civic Education Journal* 3, no. 2 (2017): 23.

In every determination before the division (PSP) contains three important categories namely; *aqidah, syari'ah and muamalah*. It is clear that the first content is the determination of the birthright of Aqidah namely obey the commandments of God and his apostles according to the evidence set. The content of the second Shari'ah or guidance or the rules of the form of parts to each heir (1/2, 1/3, 2/3, 1/6, 1/8 etc.) following with the guidance in the Qur'an and Hadist. The third content is the Mu'amalah or the moral of giving after the Division (agreement) whether the property is divided flat, Dior endowed to create family harmony.

The paradigm of mawarits in Muslim families is still a lot to assume if one of the heirs (husband or wife) dies, then the family left or the heir is not worth talking about the mawarist because it considers it forbidden to talk about. Sometimes there are cultural cultures that think about inheritance is something we can say *pamali*. Whereas "PSP" is the command of God and his apostle in the first execution, the only part that is most entitled is the heir that will take care of it and whenever they want according to agreement. The effect from that mindset that the science of Mawarits only the division of wealth, bring the mindset that if the property of inheritance in the form of house, then "mother" will only get 1/8 part of the house, because think division means divided exactly, then finally thought from the 1/8 will only get room only, bathroom only, or kitchen only. Likewise, if the inheritance of the property in the form of cars, then from 1/8 the mother will get the wheels only and so on. With a mindset like this mothers silence mawarits over the death of father because he only get a fraction of the property father.

To transform a negative paradigm towards mawarits, one is with an educational program "*Ihya' Ilmi Mawarist*" In family (animating Mawarits in the family). The PSP (determination before division) is a matter of every Muslim family that science of mawarits is not merely a problem of property distribution. Thus many of the Muslim families are settling on the science of Mawarits, meaning that it does not pre-define the inheritance after death. With this mawarits education initiated by the CMS UNIDA Gontor can change the paradigm that was initially negative to be positive. In Islam is already very precise because it performs *Hablumminallah* and *Hablumminannas*. Logically, if the determination of birthright is not being canceled then it can cover the possibility of "economic decay" in the family of mayit, namely the emergence of disputes and disputes that affect the family economy, both micro and macro; or the occurrence of property that is not following with the rights set by Allah SWT.³⁴ The problematic in the application of the science of Mawarist is the viscosity of customary law and also weak understanding of the science of Mawarist itself.³⁵

³⁴ Alamsyah, *Ihya Ilmi Al-Mawaris*, 22.

³⁵ Andi Tenri Leleang and Asni Zubair, "Problematika Dalam Penerapan Hukum Waris Islam," *Al-*

The PSP could harmonize the family, for example the heir (father) died leaving one son, one siblings, and one wife only; Then each heir got a part as provision of mawarits science namely: one wife got 1/8 parts, one boy got the rest (*'ashabah bi nafsi*), 1 brother did not get a part because it was hindered by the boys. But in the fact that brother wants some inheritance from the dead because it feels that it has helped or raised the companies dead during his life, from here we see there is an instrument that can be given to the uncle so that family harmony can be maintained. The instrument is thus, the wife and the boy who got the inheritance part is allowed to give part of his property because it has become a property and is allowed to manage the wealth obtained by the contract of prizes or grants or charity to the brother of the dead. Thus, family harmony is very well preserved. It is certainly done after "PSP" in order to be known who actually the owner of the estate (dead person). Then with the new owner of the property can be transferred to others who are pleased with the amount he favors.

The PSP can also prosper the family, after each heir knows the determination of his part, and his heirs agree to make the family more economically prosperous. Company assets are not lost due to the sale or smaller companies because ownership is broken. Therefore, with the implementation of the PSP, the treasures of inheritance used as a capital in the family and certainly add business assets.

Another important thing is after the inheritance division of the heirs shall register the land or inheritance property to the local officials for the management of the deed so that the legal force remains. If not legal force such as the land deed and so forth will arise some problems for example, the inheritance of land or other property has not been changed from the heir to the heir, if one day there is a dispute, it will be difficult to prove.³⁶

CONCLUSION

One of the strategies undertaken by the CMS (Centre of Mawarits Studies) UNIDA Gontor in implementing and launching the science of Mawarits is to conduct *Educational School of Mawaris* with the concept of "PSP" (determination before division). The policies of the "PSP" mawarits education are; (1) obey God's command, (2) obey the command of the Prophet, (3) carry out the obligatory (in the determination and division of the Estate), (4) harmonize the family and prosper the family, indirectly by joining this PSP training then the family becomes conscious to the mawarits science.

Bayyinah 3, no. 2 (December 2, 2019): 220, <https://doi.org/10.35673/al-bayyinah.v3i2.477>.

³⁶ Musta'in and Sukarmi, "Implementasi Pendaftaran Serifikat Hak Milik Atas Tanah Dalam Pembagian Waris Dan Permasalahannya Di Kantor Pertanahan Kota Semarang," *Jurnal Akta* 4, no. 2 (2017): 137.

Of course, inheritance is distributed after sufficient conditions and pillars of the mawarits, precedence is prematuration of the division is followed by the family agreement. By carrying out the "PSP" in the family, the principles of Islamic inheritance can be carried out among them; *principles of Tauhid, principle of ijbari, bilateral principle, individual principles, balanced principles of justice, and principle alone as a result of the death.*

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