

SUBSTITUTE HEIRS : AN OVERVIEW FROM PERCEPTION AND ROLE OF USTAD IN BENGKULU, INDONESIA

Yusmita

Fatmawati Sukarno Islamic State University, Bengkulu

yusmita@mail.uinfasbengkulu.ac.id

Adnan Ahmed Usmani

adnan@szic.edu.pk

University of Karachi

| Received: 23-02-2023 || Revised: 11-03-2023 || Accepted: 11-04-2023 | Published On: 30-04-2023

Abstract: Legal rules regarding substitute heirs are regulated in Article 183 of the Compilation of Islamic Law, which stipulates that heirs who die earlier than heirs can be replaced by their children. Ideally, this rule of law has been disseminated to the community. Ustadz is an officer who directly delivers Islamic laws to the community. The type of this research is descriptive-qualitative research. The research subjects were Ustad who gave religious lectures to taklim assembly in Bengkulu City and the congregation of the taklim assembly. Data collection techniques using interviews. From the results of the study, it can be seen that the majority of Ustad in Bengkulu City do not master Islamic inheritance material, especially the rules regarding substitute heirs. Because of that they rarely convey inheritance material to the public. Regarding the role of Ustad in Bengkulu City in socializing the rules for substitute heirs, they have not played much of this due to several factors. The first factor is that they don't know much about the Islamic inheritance system, especially about the rules of surrogate heirs. Because of that, they did not convey this material to the public. The second factor, the community did not ask them about inheritance problems because they were not interested in studying it more deeply. The third factor, most people use adat in resolving the distribution of inheritance, and if there is a dispute, it is resolved by custom, then the Islamic inheritance rules regarding inheritance distribution, especially substitute heirs, are not a requirement for Bengkulu City Muslims. The institution responsible for disseminating legal regulations that regulate Indonesian Muslims is the Ministry of Religion.

Keywords: *Substitute Heirs; Perception; Role; Compilation of Islamic Law*

Abstrak: Aturan hukum tentang ahli waris pengganti diatur pada pasal 183 Kompilasi Hukum Islam, yang menetapkan ahli waris yang meninggal lebih dahulu dari pada sipewaris maka kedudukannya dapat digantikan oleh anaknya. Idealnya aturan hukum ini sudah disosialisasikan kepada masyarakat. Ustadz merupakan petugas yang secara langsung menyampaikan hukum-hukum Islam ke pada masyarakat. Adapun jenis penelitian ini adalah penelitian deskriptif-kualitatif. Subjek Penelitian yaitu Ustadz yang memberikan ceramah agama kepada Majelis Taklim di Kota Bengkulu, dan Jama'ah Majelis Taklim. Teknik pengumpulan data menggunakan Wawancara. Dari hasil penelitian dapat diketahui bahwa Ustadz di Kota Bengkulu mayoritas tidak menguasai materi waris Islam, terutama aturan tentang ahli waris pengganti. Karena itu mereka jarang menyampaikan materi waris kepada masyarakat. Mengenai peran para Ustadz di Kota Bengkulu dalam mensosialisasikan aturan ahli waris pengganti, mereka belum banyak berperan hal ini disebabkan beberapa faktor. Faktor pertama, karena mereka tidak banyak mengetahui tentang sistem kewarisan Islam terutama tentang aturan ahli waris pengganti. Karena itu materi ini, tidak mereka sampaikan kepada masyarakat. Faktor kedua, masyarakat tidak menanyakan permasalahan waris kepada mereka karena itu mereka tidak tertarik untuk mempelajarinya lebih dalam. Faktor ketiga, masyarakat kebanyakan mempergunakan adat dalam menyelesaikan pembagian waris, dan apabila ada sengketa, maka diselesaikan dengan cara adat, maka aturan waris Islam tentang pembagian waris khususnya ahli waris pengganti tidak menjadi kebutuhan umat Islam Kota Bengkulu. Lembaga yang bertanggung jawab dalam mensosialisasikan peraturan hukum yang mengatur umat Islam Indonesia adalah Kementerian Agama

Kata Kunci: *Ahli Waris Pengganti; Persepsi; Peran; Kompilasi Hukum Islam*



Copyright (c) 2023 Yusmita, Adnan Ahmed Usmani

Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi, dan Keagamaan

Published by Faculty of Sharia, State Islamic University of Fatmawati Sukarno Bengkulu

This work is licensed under a [Creative Commons Attribution-ShareAlike 4.0 International License](https://creativecommons.org/licenses/by-sa/4.0/)

Introduction

The inheritance law in force in Indonesia is still pluralistic. That is, various inheritance law systems in Indonesia apply together. In the same time and area anyway. Side by side regulates inheritance for legal subjects subject to each of these legal systems. Besides that, in the field of customary law, there are still differences in inheritance law arrangements¹.

Inheritance law has a very important position. This is understandable because everyone will experience inheritance problems, apart from that inheritance problems are a problem that is very easy to cause disputes between heirs. The settlement of the problem of Islamic inheritance is the authority of the religious court. This is confirmed in the general elucidation of Law Number 7 of 1989 concerning Religious Courts as amended by Law Number 3 of 2006 concerning Religious Courts and the Second Amendment to Law Number 50 of 2009 concerning Religious Courts². In Article 1 Paragraph (1) of Law Number 7 of 1989 concerning the Religious Courts, it is explained that the authority of the Religious Courts is limited specifically to people who are Muslim so inheritance matters fall under the authority of the Religious Courts³.

The process of determining KHI is driven by the wishes of Indonesian Muslims,⁴ especially religious court judges, who often differ in deciding the law on the same case. So on March 21, 1985, the Chief Justice of the Supreme Court and the Minister of Religion made a Joint Decree No. 07/KMA/1985 and No. 25 of 1985 concerning the designation of the Implementation of Islamic Law⁵ Development Projects through jurisprudence or better known as the Compilation of Islamic Law. Furthermore, KHI was confirmed as an official guideline in the field of material law for judges in Religious Courts based on Presidential Instruction No. 1 of 1991⁶.

This process was carried out using various channels, including the book route, namely by studying the laws of classical fiqh, which involved 7 IAINs throughout Indonesia. The Ulama Path, namely by asking for the ijtihad of scholars from various regions. The jurisprudential path, namely involving the judges of the Religious Courts, especially those who are senior and experts⁷. And the path of comparative studies, to countries that apply Islamic law. Furthermore, the results of this KHI were held in a workshop involving Indonesian scholars. In addition, it also refers to fatwas from MUI, Majelis Tarjih Muhammadiyah, Nahdatul Ulama, and so on. After everything was almost final, a

¹ Arskal Salim, 'Dynamic Legal Pluralism in Indonesia: Contested Legal Orders in Contemporary Aceh', *Journal of Legal Pluralism and Unofficial Law*, 42.61 (2010), 1–29 <<https://doi.org/10.1080/07329113.2010.10756640>>.

² Alma'amun Suhaili and others, 'Legislative Provisions for Jibah in Malaysia Was Iyyah w a _ Indonesia : To What Extent and Do They Differ in Practice?', *Emerald*, 14.2 (2022), 157–74 <<https://doi.org/10.1108/IJIF-01-2021-0013>>.

³ S Humaira, Mustamam, and Zulkifli AR, 'Kedudukan Ahli Waris Pengganti Dalam Hukum Waris Islam', *Jurnal Hukum Al-Hikmah: Media Komunikasi Dan ...*, 2.3 (2021), 557–68 <<https://doi.org/https://doi.org/10.30743/jhah.v2i3.4361>>.

⁴ Muhammad Fitri Adi, 'Hadhonah Rights of Children (Not Mumayyis) Based on Compilation of Islamic Law and Child Protection Act', *NUSANTARA: Journal Of Law Studies*, 2.1 SE-

Articles (2023), 9–22 <<https://juna.nusantarajournal.com/index.php/juna/article/view/30>>.

⁵ Ideham Wahidah, 'Substitute Heirs in the Compilation of Islamic Law: An Overview from Gender Equality Perspective Case Study of the Religious Courts in Banjarmasin', *Samarah: Journal of Family Law and Islamic Law*, 6.2 (2022), 1046–64 <<https://doi.org/10.22373/sjkh.v6i2.12466>>.

⁶ Bahtiar Suwardi, 'Penerapan Ahli Waris Pengganti Menurut KHI Dan KUHPdata Di Kabupaten Bone (Studi Kasus Di Pengadilan Agama Watampone', *Jurisprudentie*, 5.1 (2018), 266–77.

⁷ Basri Halimah and others, 'Inherutance Rights of Women in Makasar Society : A Study of Living Qur'an and Its Implications for Islamic Law', *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 6.2 (2022), 24–42 <<https://doi.org/10.22373/sjkh.v6i2.13882>>.

workshop was held that involved the Chairperson of the provincial MUI, the Chairperson of the All-Indonesian Religious Courts, the Chancellors of the IAIN, and the Dean of the Faculties. Shari'ah, several Muslim scholars and scholars. Then KHI was determined based on Presidential Instruction No. 1/1991. This includes determining the successor⁸.

Thus in summary that the determination of substitute heirs⁹, for example, grandchildren, a legal determination is carried out with *Ijtihad insya'i*, namely by establishing new laws on old issues that have been determined by the *salaf* scholars of law. *Ijtihad insya'i* is carried out in a *jama'i* (collective) way, namely by involving many people who are experts in their fields, and is carried out on a national scale and facilitated by the Indonesian government. So since then, KHI rules have been used as a legal reference in settling cases in the Religious Courts.

On the other hand, Ustad is an officer who directly conveys Islamic laws to the community. It is through them that the development of Islamic laws in Indonesia should be made known to Muslims¹⁰, especially the people of Bengkulu. So that the community divides the inheritance by the wishes of the law, and there are no disputes among the heirs. From the initial data of the researcher, some members of the *taklim*

assembly asked about cases related to this substitute heir, even though they did not call it the term "substitute heir". This is an interesting phenomenon because this question arose. After all, the Ustad did not convey the law regarding this replacement heir, or indeed they did not know the rules regarding it either.

This article has a novelty from the aspect of the object of study. This is because there needs to be research that examines the relationship between the role of *ustadz* and the law of substitute heirs in the compilation of Islamic law. Previous studies examined these substitute heirs in other aspects, for example in the aspect of the position of the substitute heir,¹¹ the replacement heir according to Hazairin,¹² the inheritance portion of the substitute heir in Islamic law,¹³ and a comparative study of the substitute heir between the compilation of Islamic law and civil inheritance law in Indonesia.¹⁴

Literature Review

The position of inheriting according to the Islamic inheritance law applied in Indonesia (KHI) is a new thing and is the result of the *ijtihad* of scholars regarding the provisions of inheritance in the Koran and Hadith¹⁵. The rules governing the procedure for dividing inheritance in Indonesia, especially for Muslims, are the Compilation of Islamic Law.¹⁶ Specific articles regarding

⁸ Arskal Salim, 'Contemporary Islamic Law in Indonesia: Sharia and Legal Pluralism', *Contemporary Islamic Law in Indonesia: Sharia and Legal Pluralism*, 6 (2015), 1-214 <<https://doi.org/10.1080/14442213.2015.1125772>>.

⁹ Humaira, Mustamam, and AR.

¹⁰ Khairuddin Hasballah, Ridwan Nurdin, and Muslim Zainuddin, 'Patah Titi and Substitute Heirs: A Study of Legal Pluralism on the Inheritance System in Aceh Community', *AHKAM : Jurnal Ilmu Syariah*, 21.2 (2021), 299-324 <<https://doi.org/https://doi.org/10.15408/ajis.v21i2.22792>>.

¹¹ Humaira, Mustamam, and AR.

¹² Haslinda Sabdah and Supardin Supardin, 'Analisis Hukum Islam Terhadap Teori Hazairin Tentang Penetapan Ahli Waris Pengganti Dalam Sistem Hukum Kewarisan Islam', *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab Dan*

Hukum, 2021 <<https://doi.org/10.24252/shautuna.v2i1.17434>>.

¹³ Humaira, Mustamam, and AR.

¹⁴ Nina Ismaya and Andi Safriani, 'Tinjauan Yuridis Terhadap Ahli Waris Pengganti Dalam Hukum Kewarisan Islam Dan Hukum Kewarisan Perdata Di Indonesia', *Alauddin Law Development Journal*, 4.3 (2022) <<https://doi.org/10.24252/aldev.v4i3.20141>>.

¹⁵ Zulfan Efendi Hasibuan, 'Menelaah Hukum Ahli Waris Pengganti Dalam Ilmu Faraidh', *Jurnal Al-Maqasid*, 4.2 (2018), 46-58 <<https://doi.org/https://doi.org/10.24952/almaqasid.v4i2.1425>>.

¹⁶ Muhamad Imam Muddin, 'Inheritance System Mayorat on the Komering Tribe in Urf Perspective', *NUSANTARA: Journal Of Law Studies*, 1.1, 21-32 <<https://juna.nusantarajournal.com/index.php/ju>

inheritance are found in articles 176 to 193 KHI. The rules in these articles are not much different from those in the legal basis of the Al-Qur'an and Hadith, only a few articles tend to be adapted to the conditions of Indonesian society, especially on issues whose explanation is not clear in the Al-Qur'an and hadith¹⁷. With the existing theoretical framework, this research will be directed toward achieving results regarding the perceptions of Ustad regarding substitute heirs and their role in socializing them with the community. The rules for substitute heirs are regulated in Article 183¹⁸: (1) Heirs who die earlier than the heirs can be replaced by their children, except for those mentioned in Article 173 ; (2) The share of heirs for the replacement may not exceed the share for the heirs who are equal to those being replaced.

In Islamic inheritance law, acceptance of inheritance is based on the principle of *ijbari*, that is, inheritance transfers automatically according to the provisions of Allah SWT without depending on the will of the heir or heirs¹⁹. Substitute heirs aim to maintain the rights of the heirs who should receive the part of the heir which is passed on to their successor, namely their child so that the continuity of the family continues and strengthens the kinship between the heir and the substitute heir²⁰. Inheritance law has institutionalized substitute heirs and has implemented it, although not yet in the form of a law, but in the form of an Islamic Law Compilation.

Meanwhile, the successor to the heir is a person who from the beginning was not an heir but due to certain circumstances and certain considerations may receive an inheritance but remains in the status of not being an heir. For example, the heir leaves children with grandchildren both male and female whose parents died earlier than the heir. The existence of grandchildren here as a substitute for heirs²¹.

What is called a plaque overfilling in the Civil Criminal Code, obligatory wills in Egyptian law, and article 185 KHI are named substitute heirs, not substitute heirs²². However, whatever the name is, what is certain in the KHI is that the term substitute heir is used.

The formulation of Article 185 paragraph (1) which uses the phrase "can be replaced" raises uncertainty about the appearance of a replacement heir. The word "can" contains a facultative or tentative meaning so that it can be interpreted that there are heirs who may be replaced and some who may not be replaced. Substitute heirs are heirs due to replacement²³, namely people who become heirs because their parents who are entitled to inheritance die earlier than the heir so that the position of their parents is replaced by them.

Not provide clear boundaries regarding substitute heirs²⁴ at all, so the understanding of substitute heirs as referred to in Article 185 paragraph (1) can be interpreted broadly. So that the meaning of the heir being replaced includes a straight line down and also from

na/article/view/14>.

¹⁷ Musa Asy'ari, 'Ahli Waris Pengganti Dalam Tinjauan Kompilasi Hukum Islam Dan Hukum Perdata', *ISTI'DAL; Jurnal Studi Hukum Islam*, 7.1 (2020), 53–77.

¹⁸ Wahidah.

¹⁹ Putri Larasati and others, 'Dispute Resolution Of Inheritance Distribution For The Substitute Heir In Terms Of Islamic Law', *Bengkoelen Justice*, 11.1 (2021), 97–110 <https://doi.org/https://doi.org/10.33369/j_bengkoolenjust.v11i1.15794>.

²⁰ Muhammad Mustofa, 'Ahli Waris Pengganti Dalam Kompilasi Hukum Islam', *INKLUSIF Vol 2. No. 2 Des 2017, 2.2 (2017)*, 41–66.

²¹ Lisa Carterina Kunadi and Cahyaningsih

Diana Tantri, 'Perlindungan Hukum Terhadap Hak Waris Anak Angkat Di Indonesia', *Jurnal Privat Law*, VIII.2 (2020), 32–35 <<https://doi.org/https://doi.org/10.20961/privat.v8i2.48421>>.

²² Wahidah.

²³ Ramadhan Suci and Muslimin JM., 'Indonesian Religious Court Decisions on Child Custody Cases: Between Positivism and Progressive Legal Thought', *Jurnal Ilmiah Syari'Ah*, 21.1 (2022), 89–100 <<https://doi.org/http://dx.doi.org/10.31958/juris.v21i1.5723>>.

²⁴ Barhamudin, 'Kedudukan Ahli Waris Pengganti Dalam Kompilasi Hukum Islam', *Jurnal Unpal*, 15.3 (2017), 219–315.

the sidelines. So this article, apart from being able to accommodate the grandchildren of the heirs, both sons and daughters, can also accommodate the children (descendants) of relatives who died earlier, of course, still paying attention to the rules of the hijab, between higher and lower degrees.

Regarding the tentative nature of article 185, according to Raihan A. Rasyid, it is precisely the right arrangement²⁵, because the purpose of including replacement heirs in the KHI is because in several cases, there is compassion for the heir's grandson²⁶. This means that the application of the provisions for replacing heirs is casuistry in nature so the function of the judge is very decisive in determining whether the heirs can be replaced or not. This explains the right of a person to inherit the property of his parents and other relatives, both male and female²⁷. Also explained the parts that have been determined for the heirs to avoid conflicts about the assets left by people who have died.

Referring to the provisions of the Compilation of Islamic Law are to realize the benefit of the inheritance rights of grandchildren as a substitute for their parents. In this case, the emergence of the concept of substitute heirs is based on the school of thought that property in the family was originally provided as a material basis

for family and offspring. Therefore, if the concept of substitute heirs is not realized,

confusion and difficulties will arise in determining the inheritance rights of grandchildren²⁸.

Another thing to keep in mind is that the part of the substitute heir cannot be more than the share of the heir who is equal to the one being replaced, that the replacement heir is not an heir, but gets an heir due to certain circumstances or considerations²⁹. If they have been considered from the beginning as heirs who are now substitutes for heirs, of course, no special discussion is needed as mentioned in paragraph (2). The existence of paragraph (2) is very appropriate so that the real heirs will not be too disadvantaged³⁰.

Strictly in the Handbook for the Implementation of Duties and Administration of the Religious Courts, regarding the principle of direct heirs and the principle of Substitute heirs³¹.

- 1) Direct heirs are heirs referred to in Article 174 KHI.
- 2) Substitute heirs is a regulated heir based on article 185 KHI, namely substitute heirs/descendants of the heirs mentioned in article 174 KHI. Among the substitute heirs mentioned in Book II are:
 - a) The offspring of the child inherit the portion he replaces;
 - b) Descendants of brothers/sisters (siblings, father, and mother) inherit the portion they

²⁵ Bilalu Naskur and others, 'Compilation of Islamic Law as Judge's Consideration at a Religious Court in North Sulawesi, Indonesia', *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 6.2 (2022), 514-36 <<https://doi.org/10.22373/sjhk.v6i2.12441>>.

²⁶ Qiao Chen, Yan Mao, and Alastair M Morrison, 'Study on the Influence of Cultural Communication on the Development of the Visitor Economy', 2023, 1-16.

²⁷ Diana Zuhroh, 'Konsep Ahli Waris Dan Ahli Waris Pengganti: Studi Putusan Hakim Pengadilan Agama', *Al-Ahkam*, 27.April (2017), 43-58 <<https://doi.org/https://doi.org/10.21580/ahkam.2017.27.1.1051>>.

²⁸ Hotnidah Nasution, 'Penetapan Cucu Sebagai Anak Angkat Dan Implikasinya Terhadap Masalah Waris', *AHKAM : Jurnal Ilmu Syariah*, 14.1

(2014), 73-84 <<https://doi.org/http://dx.doi.org/10.15408/ajis.v14i1.1244>>.

²⁹ Moechthar Oemar, Sekarmadji Agus, and Katherina Ave Maria Frisa, 'A Juridical Study of Granting Wills to Heirs in the Perspective of Islamic Inheritance Law', *Yuridika*, 37.3 (2022), 739-58 <<https://doi.org/10.20473/ydk.v37i3.41161>>.

³⁰ Tarmizi and Asni Zubair, 'Status of Inheritance for Heirs Who Take Their Own Share : A Case Study in Mattoanging Village', *EKSPOSE: Jurnal Penelitian Hukum Dan Pendidikan*, 21.1 (2022), 1307-16 <<https://doi.org/http://dx.doi.org/10.30863/ekspose.v21i1.2623>>.

³¹ Salim, 'Contemporary Islamic Law in Indonesia: Sharia and Legal Pluralism'.

replace³²; c) paternal grandparents inherit the share from the father, each share equally; d) Grandparents from the mother's side inherit the share from the mother, each share equally³³; e) Uncles and aunts from the father's side and their descendants inherit the share from the father if there are no paternal grandparents; f) Uncles and aunts from the mother's side and their descendants inherit the share from the mother if there are no maternal grandparents. Apart from those mentioned above, it does not include substitute heirs³⁴.

Method

Research is field research.³⁵ The type of this research is descriptive-qualitative

research.³⁶ This research is descriptive analysis,³⁷ namely making systematic,³⁸ factual,³⁹ and accurate insights about facts.⁴⁰ In addition, it is also intended to provide as accurate data as possible about humans⁴¹ and other phenomena⁴². Research Subjects Ustad who gave religious lectures to taklim assembly in Bengkulu City, and the congregation of the taklim assembly, With data collection techniques using interviews,⁴³ observation,⁴⁴ and documentation.⁴⁵

Results and Discussion

Perceptions of Ustad About Substitute Heirs

Rules governing the distribution of inheritance, especially the rules regarding substitute heirs⁴⁶. Ustad in Bengkulu City should also know this rule. Because they are

³² Barhamudin.

³³ Ansori, 'Qawā' Id Fiqhiyyah as Islamic Epistemology and Its Application at Marriage Law in Indonesia Ansori', *Jurnal Ilmiah Syari'Ah*, 21.1 (2022), 67–76
<<https://doi.org/http://dx.doi.org/10.31958/juris.v21i1.5529>>.

³⁴ Nur Komala, 'Ahli Waris Pengganti Pasal 185 Kompilasi Hukum Islam', *Al'Adalah*, 23.1 (2020), 35–44
<<https://doi.org/https://doi.org/10.35719/aladalah.v23i1.57>>.

³⁵ Fera Zasrianita, Syukri Hamza, and Hadi Winata, 'Students' Perception Of Application In Writing Of Peer-Assessment: Before And After Revision', *Nusantara Education*, 1.1 SE-Articles (2022), 94–108
<<https://juna.nusantarajournal.com/index.php/nu/article/view/28>>.

³⁶ Kurtubi, 'View of Child Playing Online Game in the Sadd Al-Zari'ah's Perspective', 2022
<<https://juna.nusantarajournal.com/index.php/juna/article/view/16/7>> [accessed 16 December 2022].

³⁷ Muhammad Kurtubi, "Child Playing Online Game in the Sadd Al-Zari'ah's Perspective," *NUSANTARA: Journal Of Law Studies* 1, no. 1 (December 14, 2022): 9–20.

³⁸ Faiz Zainuddin and Imam Syafi'i, "Environmental Jurisprudence; Environmental Preservation Efforts In Islam," *NUSANTARA: Journal Of Law Studies* 2, no. 1 (March 18, 2023): 23–30.

³⁹ Muhammad Fitri Adi, "Hadhonah Rights of Children (Not Mumayyis) Based on Compilation of Islamic Law and Child Protection Act," *NUSANTARA: Journal Of Law Studies* 2, no. 1

(March 15, 2023): 9–22.

⁴⁰ suryaningsih, "Impact of Gadget Addicts on Family Harmony Perspective of Islamic Law," *NUSANTARA: Journal Of Law Studies* 1, no. 1 (December 16, 2022): 50–64.

⁴¹ Meta Riskia, "Implementation Of Mudharabah Financing On Baitul Maal According Majelis Ulama Indonesia," *Journal of Nusantara Economy* 1, no. 1 (December 9, 2022): 1–13.

⁴² Ishaq, *Metode Penelitian Hukum Dan Penulisan Skripsi, Tesis, Serta Disertasi*, ALFABETA, Cv, 2017.

⁴³ Khairudin, 'The Practice of Buying and Selling Black Market Goods on The Perspective of Islamic Economic Law', *NUSANTARA: Journal Of Law Studies*, 1.1 SE-Articles (2023), 77–85
<<https://juna.nusantarajournal.com/index.php/juna/article/view/40>>.

⁴⁴ Kusdiyana, Samsudin, and Muhammad Wildan Nur Akmal, 'Accuracy of Qibla Direction Mosque at Rest Area Toll Road on the Qibla Jurisprudence Perspective', *NUSANTARA: Journal Of Law Studies*, 2.1 SE-Articles (2023), 31–39
<<https://juna.nusantarajournal.com/index.php/juna/article/view/42>>.

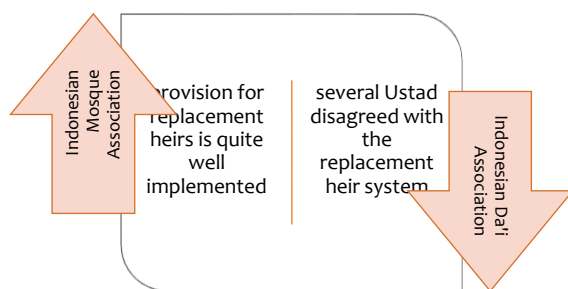
⁴⁵ Yusi Tasika and Giyarsi, 'The Effectiveness of the Discussion Method to Increase Students' Understanding and Activeness in Islamic Religious Education Subjects', *Nusantara Education*, 1.1 SE-Articles (2022), 81–93
<<https://juna.nusantarajournal.com/index.php/nu/article/view/27>>.

⁴⁶ Ishlachuddin Almubarrok, 'Ahli Waris Pengganti (Studi Pasal 185 Kompilasi Hukum Islam)', *Jurnal Staianawawi*, 2005, 34–44.

the spearhead of conveying Islamic teachings to society, including the rules of Islamic law⁴⁷. Therefore, in this study, the authors will first discuss the perceptions of Ustad regarding substitute heirs. It is hoped that their perceptions will be the same so that the information that reaches the public is also the same. And people will be confident in settling the law between them with the right rules. Thus the order of life of Muslims in Indonesia can run safely.

From the results of the interviews that the researchers conducted about how the perceptions of the ustad towards the inheritance system of substitute heirs, they mostly differed in opinion. Some of them agree and think that the provision for replacement heirs is quite well implemented⁴⁸. Some others think that the distribution of inheritance to substitute heirs is not by the Qur'an and hadith⁴⁹, so it does not need to be applied. Each of them put forward the reasons for their opinion. The tendency of the majority of Ustad who come from the Indonesian Mosque Association (IKMI) to think favorably of the replacement heir system. Meanwhile, from the Indonesian Da'i Association (IKADI), several Ustad disagreed with the replacement heir system.

Picture 1. Ustadzs Perception of Substitute Heirs



Substitute heirs aim to maintain the rights of the heirs who should receive the part of the heir which is passed on to their successor, namely their child so that the continuity of the family continues and strengthens the kinship between the heir and the substitute heir⁵⁰. Inheritance law has institutionalized substitute heirs and has implemented it, although not yet in the form of a law, but in the form of an Islamic Law Compilation⁵¹.

The majority of Ustad in Bengkulu City think that this system of dividing replacement heirs is good to apply if there is a dispute. This is because children whose parents have already passed away from their heirs need attention. What's more, if these children are not yet adults, and are not able to earn a living, then they will need a large amount of money to meet their living needs, education, and other needs. Besides that, it is also to entertain them by getting an inheritance from the heir.

Even though the majority of them think that the distribution of inheritance with the system of substitute heirs is very good and brings benefits to the members of the substitute heirs, some students state that the distribution system based on KHI is only enforced if there is a dispute between the heirs. So if the distribution of inheritance can be resolved by deliberation⁵², it is better if the distribution of inheritance is resolved by deliberation for consensus.

Role of Ustad in Disseminating Rules Concerning Substitute Heirs in Bengkulu City

The role of Ustad in Bengkulu City in disseminating the rules for substitute heirs is the source of the data that the authors obtained from Ustad who gave lecture

⁴⁷ Ansori.

⁴⁸ Larasati and others.

⁴⁹ Oemar, Agus, and Ave Maria Frisa.

⁵⁰ Salim, 'Dynamic Legal Pluralism in Indonesia: Contested Legal Orders in Contemporary Aceh'.

⁵¹ Mutiara Rahmadhani, Yaswirman, and Mardenis, 'Settlement of Will in Inheritance Dispute Case against the Decision of the Supreme Court of the Republic of Indonesia Number: 485 K/AG/2013', *International Journal of Multicultural*

and Multireligious Understanding, 6.2 (2019), 576–88

<<https://doi.org/http://dx.doi.org/10.18415/ijmmu.v6i2.752>>.

⁵² Barlinti Yeni salma, 'Inheritance Legal System In Indonesia: A Legal Justice For People', *INDONESIA Law Review*, 3.1 (2013), 23–41 <<https://doi.org/https://doi.org/10.15742/ilrev.v3n1.28>>.

material at the taklim assembly in Bengkulu City. Other data sources the authors took were from the board of the taklim assembly, members of the taklim assembly, and several people from the Bengkulu Ministry of Religion office. This is to see whether these Ustad has played a role in socializing the rules made by the government that regulates the lives of Muslims. As explained above, one of the ones who convey these rules should be Ustad or preachers⁵³, because they are the messengers of Islamic teachings to the community.

The lack of role of religious teachers in the city of Bengkulu in socializing the Islamic inheritance system, especially regarding substitute heirs, is also supported by statements from the management and members of the Bengkulu City Council of Taklim. In general, respondents saw that it was necessary to socialize the legal regulations that had been made by the government. This is because the rules of Islamic law are made based on the aspirations of the Indonesian Muslim community and for the benefit of Muslims. Because of that Muslims should also know clearly so that they can apply it to the family, or at least use it as a reference in deliberating the division of inheritance within the family. In addition, although many people of Bengkulu City use adat in the distribution of inheritance, in the future this Islamic inheritance distribution system can be used as an intermediary in the event of a dispute. This is because in the future the people of Bengkulu City will become more plural with different cultural backgrounds.

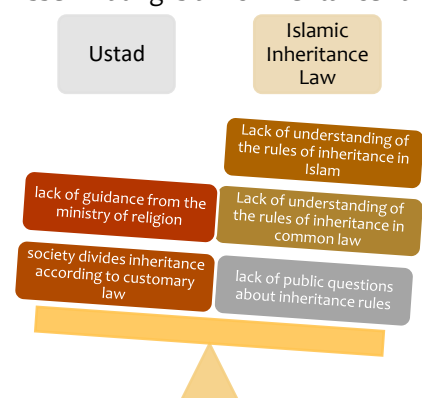
Ideally, the rules governing Muslims in Indonesia have been well-socialized to the public. Ustad should socialize these rules because they are the messengers of religious messages who are directly in contact with the community. However, the reality is that the ustad has not played a role in conveying the legal rules governing Indonesian Muslims. This is because most of them do not understand the rules of inheritance in Islam and the rules of inheritance in positive law. Communities also rarely ask questions about

inheritance, because the majority of them divide inheritance based on customary law and disputes rarely occur between them. Because of this, the ustad is less motivated to study the provisions of inheritance based on Islam and positive law, and because of that these rules are not well known to the public, especially regarding the rules for substitute heirs.

Furthermore, the results of research conducted on whether there is a need to guide ustad regarding understanding positive Islamic law such as waqf laws, zakat, and including rules regarding inheritance, will be explained in the following discussion. In addition, it will be examined which institution is responsible for guiding religious teachers in the city of Bengkulu. Almost all of the respondents stated that there was a need to guide religious teachers regarding positive legal rules governing Muslims. The majority of institutions responsible for this development stated that it was the Ministry of Religion, and only a small number stated that academics were also responsible for the phenomenon of the lack of role of religious teachers in Bengkulu City as described above.

Guidance is held for ustad to equip them with Islamic positive law materials. So that the religious messages made by the government can be known and practiced by Muslims in Indonesia. The institution responsible for fostering this ustad is the Ministry of Religion because this institution is a government agency that specifically deals with issues related to the religion of the people in Indonesia.

Picture 2. Problems with the Role of Ustadz in Disseminating Islamic Inheritance Law



⁵³ Naskur and others.

The reality that is found in society is that there is a lot of information on Islamic law that has not yet reached the public, such as rules regarding substitute heirs, which requires the Ministry of Religion to work hard in disseminating these legal rules. One of the most effective ways to do this is to work with ustad because they are the messengers closest to the community. The delivery of this message is usually through recitation at taklim assemblies.

Conclusion

The majority of ustad in Bengkulu City do not understand the material of Islamic inheritance, especially the rules regarding substitute heirs. Because of that they rarely convey inheritance material to the public. Their perceptions of the rule of substitute heirs regulated in Article 185 of the Compilation of Islamic Law, there are two perceptions. The first perception, which comes from ustad who are members of the Indonesian Mosque Association (IKMI) organization and some members of the Indonesian Da'i Association (IKADI) states that the rules regarding substitute heirs are appropriate to be applied to Muslim communities in Indonesia⁵⁴, especially in the case of substitute heirs. It is a grandson whose father died before his grandfather; The second perception states that it is necessary to re-analyze the rules for substitute heirs, because these rules come from the Shia group, so there is no obligation to follow them.

As for the role of Ustad in Bengkulu City in disseminating the rules for substitute heirs, they have not played much of this due to several factors. The first factor is that they don't know much about the Islamic inheritance system, especially about the rules of surrogate heirs. Because of that, they did not convey this material to the public. The second factor, the community did not ask them about inheritance problems because they were not interested in studying it more deeply. The third factor, most people use adat in completing the distribution of inheritance, and if there is a dispute, it is

resolved customarily, then the Islamic inheritance rules regarding the distribution of inheritance, especially substitute heirs, are not a requirement for Muslims of Bengkulu City.

Reference

- Almubarrok, Ishlachuddin, 'Ahli Waris Pengganti (Studi Pasal 185 Kompilasi Hukum Islam)', *Jurnal Staianawawi*, 2005, 34-44
- Ansori, 'Qawā' Id Fiqhiyyah as Islamic Epistemology and Its Application at Marriage Law in Indonesia Ansori', *Jurnal Ilmiah Syari'ah*, 21.1 (2022), 67-76 <<https://doi.org/http://dx.doi.org/10.31958/juris.v21i1.5529>>
- Asy'ari, Musa, 'Ahli Waris Pengganti Dalam Tinjauan Kompilasi Hukum Islam Dan Hukum Perdata', *ISTI'DAL; Jurnal Studi Hukum Islam*, 7.1 (2020), 53-77
- Barhamudin, 'Kedudukan Ahli Waris Pengganti Dalam Kompilasi Hukum Islam', *Jurnal Unpal*, 15.3 (2017), 219-315
- Chen, Qiao, Yan Mao, and Alastair M Morrison, 'Study on the Influence of Cultural Communication on the Development of the Visitor Economy', 2023, 1-16
- Fera Zasrianita, Syukri Hamza, and Hadi Winata, 'Students' Perception Of Application In Writing Of Peer-Assessment: Before And After Revision', *Nusantara Education*, 1.1 SE-Articles (2022), 94-108 <<https://juna.nusantarajournal.com/index.php/nula/article/view/28>>
- Halimah, Basri, Miswar Andi, Hasan Hamka, Pabbajah Mutaqim, and Khalik Subehan, 'Inheritance Rights of Women in Makasar Society: A Study of Living Qur'an and Its Implications for Islamic Law', *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 6.2 (2022), 24-42 <<https://doi.org/10.22373/sjhk.v6i2.13882>>
- Hasballah, Khairuddin, Ridwan Nurdin, and Muslim Zainuddin, 'Patah Titi and Substitute Heirs: A Study of Legal Pluralism on the Inheritance System in

⁵⁴ Rahmadhani, Yaswirman, and Mardenis.

- Aceh Community', *AHKAM : Jurnal Ilmu Syariah*, 21.2 (2021), 299–324 <<https://doi.org/https://doi.org/10.15408/ajis.v21i2.22792>>
- Hasibuan, Zulfan Efendi, 'Menelaah Hukum Ahli Waris Pengganti Dalam Ilmu Faraidh', *Jurnal Al-Maqasid*, 4.2 (2018), 46–58 <<https://doi.org/https://doi.org/10.24952/almaqasid.v4i2.1425>>
- Humaira, S, Mustamam, and Zulkifli AR, 'Kedudukan Ahli Waris Pengganti Dalam Hukum Waris Islam', *Jurnal Hukum Al-Hikmah: Media Komunikasi Dan ...*, 2.3 (2021), 557–68 <<https://doi.org/https://doi.org/10.30743/jhah.v2i3.4361>>
- Ismaya, Nina, and Andi Safriani, 'Tinjauan Yuridis Terhadap Ahli Waris Pengganti Dalam Hukum Kewarisan Islam Dan Hukum Kewarisan Perdata Di Indonesia', *Alauddin Law Development Journal*, 4.3 (2022) <<https://doi.org/10.24252/aldev.v4i3.20141>>
- Khairudin, 'The Practice of Buying and Selling Black Market Goods on The Perspective of Islamic Economic Law', *NUSANTARA: Journal Of Law Studies*, 1.1 SE-Articles (2023), 77–85 <<https://juna.nusantarajournal.com/index.php/juna/article/view/40>>
- Komala, Nur, 'Ahli Waris Pengganti Pasal 185 Kompilasi Hukum Islam', *Al'Adalah*, 23.1 (2020), 35–44 <<https://doi.org/https://doi.org/10.35719/aladalah.v23i1.57>>
- Kunadi, Lisa Carterina, and Cahyaningsih Diana Tantri, 'Perlindungan Hukum Terhadap Hak Waris Anak Angkat Di Indonesia', *Jurnal Privat Law*, VIII.2 (2020), 32–35 <<https://doi.org/https://doi.org/10.20961/privat.v8i2.48421>>
- Kurtubi, 'View of Child Playing Online Game in the Sadd Al-Zari'ah's Perspective', 2022 <<https://juna.nusantarajournal.com/index.php/juna/article/view/16/7>> [accessed 16 December 2022]
- Kusdiyana, Samsudin, and Muhammad Wildan Nur Akmal, 'Accuracy of Qibla Direction Mosque at Rest Area Toll Road on the Qibla Jurisprudence Perspective', *NUSANTARA: Journal Of Law Studies*, 2.1 SE-Articles (2023), 31–39 <<https://juna.nusantarajournal.com/index.php/juna/article/view/42>>
- Larasati, Putri, M Darudin, Sirman Dahwal, and Bengkoelen Justice, 'Dispute Resolution Of Inheritance Distribution For The Substitute Heir In Terms Of Islamic Law', *Bengkoelen Justice*, 11.1 (2021), 97–110 <https://doi.org/https://doi.org/10.33369/j_bengkoelenjust.v11i1.15794>
- Muddin, Muhamad Imam, 'Inheritance System Mayorat on the Komerling Tribe in Urf Perspective', *NUSANTARA: Journal Of Law Studies*, 1.1, 21–32 <<https://juna.nusantarajournal.com/index.php/juna/article/view/14>>
- Muhammad Fitri Adi, 'Hadhonah Rights of Children (Not Mumayyis) Based on Compilation of Islamic Law and Child Protection Act', *NUSANTARA: Journal Of Law Studies*, 2.1 SE-Articles (2023), 9–22 <<https://juna.nusantarajournal.com/index.php/juna/article/view/30>>
- Mustofa, Muhammad, 'Ahli Waris Pengganti Dalam Kompilasi Hukum Islam', *INKLUSIF Vol 2. No. 2 Des 2017*, 2.2 (2017), 41–66
- Naskur, Bilalu, Jamal Ridwan, Harun Nurlaila, and Subeitan Syahrul Mubarak, 'Compilation of Islamic Law as Judge's Consideration at a Religious Court in North Sulawesi, Indonesia', *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 6.2 (2022), 514–36 <<https://doi.org/10.22373/sjhk.v6i2.12441>>
- Nasution, Hotnidah, 'Penetapan Cucu Sebagai Anak Angkat Dan Implikasinya Terhadap Masalah Waris', *AHKAM: Jurnal Ilmu Syariah*, 14.1 (2014), 73–84 <<https://doi.org/http://dx.doi.org/10.15408/ajis.v14i1.1244>>
- Oemar, Moechthar, Sekarmadji Agus, and Katherina Ave Maria Frisa, 'A Juridical Study of Granting Wills to Heirs in the Perspective of Islamic Inheritance Law', *Yuridika*, 37.3 (2022), 739–58

- <<https://doi.org/10.20473/ydk.v37i3.41161>>
- Rahmadhani, Mutiara, Yaswirman, and Mardenis, 'Settlement of Will in Inheritance Dispute Case against the Decision of the Supreme Court of the Republic of Indonesia Number: 485 K/AG/2013', *International Journal of Multicultural and Multireligious Understanding*, 6.2 (2019), 576–88
<<https://doi.org/http://dx.doi.org/10.18415/ijmmu.v6i2.752>>
- Sabdah, Haslinda, and Supardin Supardin, 'Analisis Hukum Islam Terhadap Teori Hazairin Tentang Penetapan Ahli Waris Pengganti Dalam Sistem Hukum Kewarisan Islam', *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab Dan Hukum*, 2021
<<https://doi.org/10.24252/shautuna.v2i1.17434>>
- Salim, Arskal, 'Contemporary Islamic Law in Indonesia: Sharia and Legal Pluralism', *Contemporary Islamic Law in Indonesia: Sharia and Legal Pluralism*, 6 (2015), 1–214
<<https://doi.org/10.1080/14442213.2015.1125772>>
- , 'Dynamic Legal Pluralism in Indonesia: Contested Legal Orders in Contemporary Aceh', *Journal of Legal Pluralism and Unofficial Law*, 42.61 (2010), 1–29
<<https://doi.org/10.1080/07329113.2010.10756640>>
- Suci, Ramadhan, and Muslimin JM., 'Indonesian Religious Court Decisions on Child Custody Cases: Between Positivism and Progressive Legal Thought', *Jurnal Ilmiah Syari'Ah*, 21.1 (2022), 89–100
<<https://doi.org/http://dx.doi.org/10.31958/juris.v21i1.5723>>
- Suhaili, Alma'amun, Kamarudin Mohd Khair, Mohd Nasir Wan Nadiah Wan, Nor Muhamad Nasrul Hisyam, and Ahmad Riayati, 'Legislative Provisions for Jibah in Malaysia Was Iyyah w a _ Indonesia : To What Extent and Do They Differ in Practice?', *Emerald*, 14.2 (2022), 157–74
<<https://doi.org/10.1108/IJIF-01-2021-0013>>
- Suwardi, Bahtiar, 'Penerapan Ahli Waris Pengganti Menurut KHI Dan KUHPerdara Di Kabupaten Bone (Studi Kasus Di Pengadilan Agama Watampone', *Jurisprudentie*, 5.1 (2018), 266–77
- Tarmizi, and Asni Zubair, 'Status of Inheritance for Heirs Who Take Their Own Share: A Case Study in Mattoanging Village', *EKSPOSE: Jurnal Penelitian Hukum Dan Pendidikan*, 21.1 (2022), 1307–16
<<https://doi.org/http://dx.doi.org/10.30863/ekspose.v21i1.2623>>
- Wahidah, Ideham, 'Substitute Heirs in the Compilation of Islamic Law: An Overview from Gender Equality Perspective Case Study of the Religious Courts in Banjarmasin', *Samarah: Journal of Family Law and Islamic Law*, 6.2 (2022), 1046–64
<<https://doi.org/10.22373/sjkh.v6i2.12466>>
- Yeni salma, Barlinti, 'Inheritance Legal System In Indonesia: A Legal Justice For People', *INDONESIA Law Review*, 3.1 (2013), 23–41
<<https://doi.org/https://doi.org/10.15742/ilrev.v3n1.28>>
- Yusi Tasika, and Giyarsi, 'The Effectiveness of the Discussion Method to Increase Students' Understanding and Activeness in Islamic Religious Education Subjects', *Nusantara Education*, 1.1 SE-Articles (2022), 81–93
<<https://juna.nusantarajournal.com/index.php/nula/article/view/27>>
- Zuhroh, Diana, 'Konsep Ahli Waris Dan Ahli Waris Pengganti: Studi Putusan Hakim Pengadilan Agama', *Al-Ahkam*, 27.April (2017), 43–58
<<https://doi.org/https://doi.org/10.21580/ahkam.2017.27.1.1051>>