



The Effectiveness of Compilation of Islamic Law in Resolving Inheritance Disputes at the Religious Courts of Panyabungan and Padang Sidempuan City

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Abstract

Debate and rejection of some of the Compilation of Islamic Law (KHI) materials regarding inheritance always occur among Indonesian Muslims. Not all provisions in KHI can be accepted by society, especially by Muslims in Panyabungan and Padangsidempuan City. Several "pasal" must be criticized because they contradict the qat'i texts and have abolished the common fiqh laws in society. In this study, two problem formulations will be answered: How is the implementation of inheritance dispute resolution in the Religious Courts? Second, how effective is the Compilation of Islamic Law in inheritance disputes in the Religious Courts? The type of research used in this study is empirical juridical research using a field research approach. The two locations were chosen because there were differences in settlement of inheritance disputes in their respective Religious Courts. The theory used is Lawrence M. Friedman's legal system. They state that the effectiveness of law enforcement depends on three elements: legal structure, legal substance, and legal culture. Inheritance disputes that enter the average are the determination of heirs. From a structural perspective, judges are influential because they use the KHI Legal Justice approach.

Keywords: effectiveness; islamic law compilation; inheritance

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Introduction

One of the successes of Muslims in Indonesia in the context of "grounding" Islamic law into positive law in Indonesia is evidenced by the formulation of the Compilation of Islamic Law, abbreviated as KHI, which was formulated from 1985 to 1988. The success in developing this KHI was overshadowed by the conflict of thought that accepted or rejected the reform of Islamic law offered when it was formulated. When formulating KHI, scholars from several Islamic organizations have different tendencies in assessing the law's renewal. This can be seen from the many times when there are clashes between classical fiqh references with customary law and pre-existing regulations.¹

Debate and rejection of some KHI material related to an inheritance seen as different from the Shari'a texts, which are considered qat'i, has inevitably occurred among Indonesian Muslims to this day. Several articles need to be criticized because several articles in the KHI are deemed to be contrary to nash qat'i and have abolished previous laws, such as *ashabah*, different religions, *hajib-mahjub*, substitute heirs, and obligatory wills. Many disparities in judicial decisions in The Religious Courts, especially the settlement of inheritance disputes in Religious Courts, have occurred to date.²

In this study, two formulations of the problem will be answered: how to resolve inheritance disputes in the Religious Courts and how effective the KHI is in resolving inheritance disputes in the Religious Courts. In this study, the theory used is Lawrence M. Friedman's legal system theory, that three elements of the legal system determine the effectiveness and success of law enforcement. The first three elements of the legal system are the structure of the law, the second is the substance of the law, and the third is legal culture. Researchers try to see whether there is an influence on the effectiveness of the law if the law is influenced by the sociology of people with different domiciles, such as urban communities and rural communities who still adhere to local traditions.³

The background to choosing these two locations is also to see whether there is an influence on the effectiveness of the law if the law is influenced by the sociology of people who have different domiciles, such as urban and rural communities. In this study, researchers considered that Panyabungan was still traditional. The area consisted of small villages that were still strong in maintaining customs and kinship. Meanwhile, Padangsidempuan used to be the capital of South Tapanuli Regency before the expansion as it is now. It has been proven until now that the community is a heterogeneous urban society.⁴ So in matters of kinship, it is looser and more individual. Likewise, from the aspect of the value of assets in inherited objects, the value is higher than in the village. So the potential for inheritance disputes to arise in Padangsidempuan City is more pronounced than in Panyabungan.

Several scientific works relevant to this research include the dissertation research conducted by Suparman Usman in 2012, which discusses the problem of substitute heirs, namely article 185, and how to settle it in the Religious Courts. Is the KHI consistent with this article, or do judges prefer legal provisions outside of KHI?⁵ Dissertation research by Minhajul Falah from the Syarif Hidayatullah UIN Postgraduate Program in Jakarta examines the inheritance rules offered by KHI. It compares them with the inheritance rules in the fiqh schools familiar to Indonesian society. In this research, he found inconsistencies in KHI and the irrelevance of one rule with

¹ Muhammad Fadhlan Is, "Dinamika Perbedaan Pendapat Dalam Formulasi KHI," *El-Ahli: Jurnal Hukum Keluarga Islam* 2, no. 2 (2021).

² Dominikus Rato, *Hukum Perkawinan Dan Waris Adat Di Indonesia* (Yogyakarta: Laksbang Pressindo, 2015).

³ Adji Yoga Pamungkas, "Pandangan Tokoh Adat Batak Mandailing Terhadap Pembagian Harta Warisan Dalam Tradisi Penabalan Marga," *Sakina: Journal of Family Studies* 5, no. 4 (2021).

⁴ Pamungkas.

⁵ Suparman Usman, *Disertasi UIN Syarif Hidayatullah*, 2021.

other inheritance rules and confusion in its application, such as in the settlement of cases of wills, joint assets, substitute heirs, etc.⁶

In the decision of Pengadilan Agama Panyabungan No. 0173/Pdt.G/2016/PA.Pyb, Pengadilan Agama City of Padang Sidempuan No.075/Pdt.G/2015/PA.Pspk and the case of Pengadilan Agama Decision of Padang Sidempuan City Number 73/Pdt.G/2020/PA.Pspk is quoting Article 97 of KHI's Book I concerning joint assets. It can be seen that the reason the judge determined the application of joint assets was a direct reference to article 1 letter (f) of the KHI, which states that marital assets or *syirkah* are assets acquired either individually or jointly during in the ongoing marriage bond and from now on referred to as joint property without questioning whether it is registered in the name of anyone "The divorced widow or widower each has the right to half of the joint property as long as it is not specified otherwise in the marriage agreement."

The research method uses a type of empirical juridical research⁷ using a field research approach⁸. In this study, the legal objects studied were the results of decisions that have permanent legal force in inheritance disputes⁹ at the Panyabungan Religious Court and the Padangsidimpuan Religious Court for the last five years, from 2015 to 2021.

Result and Discussion

The Religious Court is one of the executors of judicial power for Muslim people regarding certain cases regulated in Law Number 3 of 2006 concerning Religious Courts and Law Number 50 of 2009 concerning the Second Amendment to Law Number 7 of 1989 on Religious Courts. The Panyabungan Religious Court is located on the edge of the Sumatran causeway, Jalan Willem Iskandar, No. 5, located in the Construction area of the city of Panyabungan, Mandailing Natal Regency, North Sumatra Province, Postal code 22952. The legal basis for establishing the Payabung Religious Court was based on the Staatblad of 1882, Number 152.¹⁰ The Panyabung Religious Court is a Class II B Religious Court institution.

Based on the results of interviews with the chairman of the Panyabungan Religious Court, Drs. Hasanuddin regarding inheritance cases at the Religious Court: "Based on existing data, an average of 900 cases entered in one year at the Panyabungan Religious Court, and of the 900 cases, 0.05% each year are inheritance cases. In tracing cases of inheritance disputes at the Supreme Court's Datory, cases of inheritance, grants, and wills in Panyabungan Religious Court from 2015-2020, there were at least 12 cases. Inheritance, grants, and wills disputes in Panyabungan Religious Court were not as many as inheritance disputes, grants, and wills entered Padangsidimpuan Religious Court. The reason for the small number of cases of inheritance, grants, and wills in the Panyabungan Religious Court is that the people of Panyabungan and its surroundings generally live in rural areas and are still traditional and still have strong kinship so that inheritance disputes are resolved based on kinship or asking for help from local religious leaders instead of resolving them in court. Religion of Panyabungan.¹¹

The Padangsidimpuan City Religious Court is located in Padangsidimpuan City at the crossroads of the Padangsidimpuan City bypass. According to the vice chairman of the Padangsidimpuan Religious Court, Fadlah Mardiah Pulungan: "The problems of life in a city like Padangsidimpuan city are more complex than villages around, and the culture of urban society is more modern and individual so that in matters of inheritance disputes, grants and wills that enter the Religious Court of Padangsidimpuan City are more numerous than in Panyabung Religious Court. Another

⁶ Minhajul Falah, *Disertasi UIN Syarif Hidayatullah*, 2013.

⁷ Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (2020): 20–33.

⁸ Andrew H Van de Ven and Marshall Scott Poole, "Field Research Methods," *The Blackwell Companion to Organizations*, 2017, 867–88.

⁹ S H Rahman Syamsuddin, *Pengantar Hukum Indonesia* (Prenada Media, 2019).

¹⁰ Pristiwiyanto Pristiwiyanto, "Staatsblad 1882 Nomor 152 Tonggak Sejarah Berdirinya Pengadilan Agama," *Fikroh: Jurnal Pemikiran Dan Pendidikan Islam* 8, no. 1 (2014): 1–19.

¹¹ Hassanuddin, "Wawancara September 4 2021" 2021.

reason for the increasing number of cases of inheritance disputes in the city of Padangsidempuan is also because the value of assets is more expensive than in villages around. The competition for life in finding assets is much more challenging. Padangsidempuan city is also a moderate urban city. The average of all cases in one year at the Padangsidempuan City Religious Court is 900-1000, and 0.5% are inheritance cases. From 2015-2020, at least 50 inheritance, grants, and wills disputes were resolved at the Religious Court Padangsidempuan City. For cases that come to Religious Court Padangsidempuan City, there are at least 4-5 cases per year. Inheritance matters that enter more are the determination of heirs. (Interview, Fadlah Mardiah Pulungan, September 17, 2021 at 11.00 WIB). Life problems in the city of Padangsidempuan are more complex and individual, so there are more cases of inheritance disputes, grants, and wills that enter Padangsidempuan City Religious Court compared to Panyabungan Religious Court. Based on the research results that the authors traced, the increasing number of inheritance disputes in the city of Padangsidempuan is because the value of assets is expensive and competition in life in search of assets is difficult. Padangsidempuan city is also a moderate urban city. For cases that go to Religious Court Padangsidempuan City, there are at least 3 cases per year. Inheritance matters that enter more are the determination of heirs. Several inheritance cases were received and resolved by Panyabung Religious Court and Padangsidempuan City Religious Court from 2015-2020.

The results of the interviews showed that the inheritance cases included in the Panyabungan Religious Court and the Padangsidempuan City Religious Court were dominated by cases of requests for the determination of heirs. Inheritance cases in Pengadilan Agama Padangsidempuan City are 5 cases per year while Pengadilan Agama Panyabung is 2 cases per year.¹² Resolving inheritance disputes at the Religious Court begins by submitting the case to the Registrar. Furthermore, the clerk receives and examines administrative completeness. The clerk determines the schedule for the first trial if it has been considered complete. In resolving disputes, continue carrying out the applicable procedural law per the standard court provisions. Procedural law is a set of rules that regulate and bind procedures carried out in civil, criminal, and state administrative sessions. Procedural law was created to ensure the legal process is carried out so the law can be enforced. Sometimes the judge's discretion is used by the judge by using a syllogism by formulating a case with a central and minor premise. Legal conclusions can be wrong if the premise used is wrong. The rule of law that applies and covers all cases of legal cases being tried is the central premise of the major premise that is made. New facts and support for the case during the trial process become a minor premise. Meanwhile, the judge's decision related to the legal case being tried is the legal conclusion or conclusion.¹³

Legal efforts can be forwarded to a higher level by appeal to the high court, provided that the applicant or two parties in the case are not satisfied with the judge's decision regarding disputes over grants, wills, inheritance, and others. This is supported and follows Articles 6 to 10 js. Article 4 of Law no. 2 of 1986, in conjunction with Law No.49 of 2009, states that the structure of the appellate court in the judiciary that has been formed according to the law consists of leaders, member judges, clerks, secretaries and all of these elements domiciled in the provincial capital area with legal authority covering one province.¹⁴

To realize the appeal to the court at a higher level, the appellant submits an appeal to the court clerk, who has officially rendered a decision within an acceptable timeframe of 14 days from the announcement of the decision on the case decided. Both parties submit an application letter supported by other new evidence submitted to the court clerk concerned no later than one month after the appeal.¹⁵ Among the inheritance dispute cases found are case No. 2772/Pdt.G/2014/PA.PSP. Interestingly, this inheritance dispute was resolved at the

¹² Direktori Putusan, "No Title," 2021.

¹³ Fadhlah Pulungan, Wakil ketua Pengadilan Agama Kota Padang Sidempuan, Wawancara, 17 September 2021.

¹⁴ Muhammad Syaibuddin, *Hukum Perceraian* (Jakarta: Sinar Grafika, 2014).

¹⁵ A.H Pulungan, "Wawancara, Jakarta 16 Agustus 2021," 2021.

Padangsidempuan City Religious Court and continued to the stage of appeal to the Medan High Court with Number: 0133/Pdt.G/2015/PTA.Mdn. The PTA judge corrected the decision of the Padangsidempuan City Pengadilan Agama judge, which stated that the plaintiff's claim was unacceptable (*Niet Ontvankelijke Verklaard*) because it only took into account the exceptions of the defendants regarding the non-inclusion of the house tenant as a party to the case, and this was deemed inappropriate and incorrect by the judge PTA Medan.

Inheritance Dispute Settlement Cases in the Religious Courts

Inheritance Case at the Religious Court class II B Panyabung

Based on the results of interviews with the Head of the Panyabungan Religious Court, an average of 900 cases were entered in one year at the Panyabungan Religious Court. Of the 900 cases annually, 0.3% are inheritance cases. In tracing inheritance dispute cases in the Supreme Court decision directory, there were 12 cases of inheritance in Panyabungan Religious Court from 2015-2020.¹⁶

Inheritance disputes in Panyabungan Religious Court are not as many as those in Religious Court Padangsidempuan City cases. This is because the people of Panyabungan and its surroundings generally live in rural areas and traditionally and intensely maintain kinship relations so that inheritance disputes are resolved based on kinship or ask for help from local religious leaders rather than resolving them at the Panyabungan Religious Court.¹⁷

Inheritance Case at Class II B Religious Court in Padangsidempuan City

According to the vice chairman of the Padangsidempuan Religious Court, Fadlah Mardiah Pulungan, life's problems in a city like Padangsidempuan are more complex. The culture of urban society is more modern and individual, so in inheritance disputes, grants and wills that enter the Padangsidempuan Religious Court are more numerous than in the Padangsidempuan Municipal Religious Court. Panyabung Religious Court. Another reason for the increasing number of cases of inheritance disputes in the city of Padangsidempuan is also because the value of assets is more expensive, and the competition for life in finding assets is tighter. Padangsidempuan city is also a moderate urban city. The average of all cases in one year at the Padangsidempuan City Religious Court is 900-1000, and 0.5% are inheritance cases. From 2015-2020, at least 25 inheritance disputes, grants, and wills were resolved at the Padangsidempuan City Religious Court. For cases that go to the Padangsidempuan City Religious Court, there are at least 5 cases per year. Inheritance matters that enter more are the determination of heirs.¹⁸

The city of Padangsidempuan, during the old New Order era, became the administrative center of the South Tapanuli district, which is now divided into five regencies and cities. So it is not surprising that the Padangsidempuan City Community is a homogeneous urban community. Life problems in the city of Padangsidempuan are more complex and individual, so there are more cases of inheritance disputes, grants, and wills that enter the Padangsidempuan Religious Court than the Panyabungan Religious Court. Based on the research results that the authors traced, the increasing number of inheritance disputes in the city of Padangsidempuan is because the value of assets is more expensive and competition in life in search of assets is tighter. Padangsidempuan city is also a moderate urban city. For cases that go to the Padangsidempuan City Religious Court, there are at least 5 cases per year. Inheritance matters that enter more are the determination of heirs.

¹⁶ Hassanuddin, "Wawancara, 4 September 2021," 2021.

¹⁷ FA Siregar, "Hukum Islam Dalam Pergeseran Kewarisan Adat Batak Di Tapanuli Selatan," *Journal of Islamic Family Law* 5, no. 2 (2019).

¹⁸ Fadlah Mardiah Pulungan, Hakim Pengadilan Agama Kota Padang Sidempuan, Wawancara, 17 September 2021."

The effectiveness of the KHI in resolving inheritance disputes at the Panyabungan and Padangsidempuan Religious Courts

According to Friedman, the legal system theory includes three aspects¹⁹, all of which significantly influence the effectiveness of the law, in this case, the substance of the law itself, the existing legal structure, and the existing legal culture. In practice in the field, in this case, the religious courts in Panyabungan and Padang Sidempuan, these three aspects have been realized in the compilation of Islamic law, judges, and society where the law applies and is enforced. Whether the compilation of Islamic law is practical or not as a reference in making judges' decisions in inheritance cases and so on in the panyabungan and Padang Sidempuan courts can be seen from three factors as follows.

Substance Effectiveness of Islamic Law Compilation

It can be seen from the results of interviews with judges and several inheritance cases in the Panyabungan Religious Court and the Padangsidempuan City Religious Court to see whether KHI has been effective as a regulation.

KHI is often used as a reference in religious courts, especially in inheritance matters. This is inseparable from the fact that, to this day, inheritance law has not been regulated by law. Usually, so far, it has only been completed in an alternative mediation process which results in a decision in the form of a mutual agreement between the heirs. That is, inheritance cases rarely reach the religious court for trial. In addition, these agreements usually arise due to the role of mediators who mediate by strengthening Islamic law, which maps out the rights of recipients of heirs and agreements based on the pleasure of the heirs. However, if the two disputing heirs do not reach an agreement and it is submitted to the religious court, the judge here can use the compilation of Islamic law in determining the case.

KHI, to this day, has become a source of formal legal references in the Religious Courts. KHI also refers to fiqh books and other reference sources. KHI is also not a written legal instrument because its legality is only based on Presidential Decree No. 1 of 1991, which is not included in one of the favourable laws in Indonesia. Following are some examples of cases of inheritance cases at the Panyabungan Religious Court and the Padangsidempuan City Religious Court, which use the KHI as a reference in deciding inheritance cases:

Joint Property Dispute Case

In the decision of PA Panyabungan Number 0173/Pdt.G/2016/PA.Pyb, PA City of Padang Sidempuan No.075/Pdt.G/2015/PA.Pspk and the case of the Decision of the Padang Sidempuan City Religious Court Number 73/Pdt.G/2020/PA.Pspk is to quote Article 97 Book I of the KHI and Considering that based on Article 1, letter (f) of the KHI states that marital assets or syirkah are assets that are acquired either individually or jointly while the marriage bond is in progress and from now on referred to as joint assets without questioning the registration of the name of any person "The divorced widow or widower each has the right to half of the joint property as long as it is not specified otherwise in the marriage agreement". Article 35 of Law No. 1 of 1974 concerning Marriage: (a.) Property acquired during the marriage becomes joint property. (b.) The inherited assets of each husband and wife and the assets each receive as a gift or inheritance are under the control of each as long as the parties do not specify otherwise. (c.) In the event of a divorce and death, half of the joint property belongs to the spouse who has lived longer. (d.) The sharing of joint assets for a husband or wife whose wife or husband owes a debt must be suspended until there is the certainty of essential death or legal death based on a decision of the Religious Court.

Apart from that, regarding the share of the wife of the heir/widow, the judge also quoted article 180 KHI: "The widow gets a quarter of the share of the heir leaves no children, and if the heir leaves the children, then the widow gets the eighth share."

¹⁹ Lawrence Meir Friedman and Grant M Hayden, *American Law: An Introduction* (Oxford University Press, 2017).

Provisions for Inheritance of Boys Two Parts of Girls

In the case decided at the Padangsidempuan City Religious Court Number: 113/Pdt.G/2018/PA.Pspk, using article 176 KHI, That from the inheritance mentioned above, the child's share is divided by two shares for boys. One the share for daughters, namely the inheritance of points, also quotes the verses of the Koran, namely Q.S. An-Nisā` verse 11. In addition, the judge also referred to Article 176 KHI material regarding the size of the heir's share, especially the child's share, the editorial of which is: "Daughter if there is only one she gets half the share, if two people or more they are together equal two-thirds share, and if the daughter is with the boy, then the son's share is two to one to the daughter."

Determination of Inheritance Share

In the decision on the PA Kota Padang Sidempuan case No.98/Pdt.G/2017/PA.Pspk concerning the size of the inheritance divisions, Considering that the panel of judges has determined who the heirs of the late Zulhelmi Nasution are. The panel of judges will then consider their respective parts. Each of these will be received by the heirs with the following considerations:

First, Raisa Heliani Nasution Binti Zulhelmi Nasution (Plaintiff VII) with the status of one biological daughter, her share is $\frac{1}{2} = 168/336$ of the total inheritance. This is in line with Qs Annisa ayat 176 And the provisions of Article 176 regarding the reference to the 1991 Compilation of Islamic Law. *Second*, Samian Matondang bint Sahrudin Matondang (Co-Defendant I) as the biological mother, the share she received was $\frac{1}{6} = 56/336$ of the total inherited property. This is already based on Qs Annisa Ayat 11, Also based on the provisions of Article 178 paragraph (1) of the 1991 Compilation of Islamic Law.

Third, Leli Purnama Nasution Binti Damroh Nasution (Defendant) as wife/widow gets $\frac{1}{8} = 42/336 = 12.5\%$ of the inheritance based on Qs Annisa ayat 12. Also, based on Article 180 of the 1991 Compilation of Islamic Law.

Fourth, Siblings receive Ashabah as much as $\frac{5}{24} = 70/336$ of the inheritance with the following conditions: the ratio of the distribution received by the biological brother and what is obtained by the biological sister is with a ratio of 2:1. This division is in line with the provisions of Qs. Annisa verse 11 means: that the son's share is equal to the share of two women; and this decision is also in line with Article 182 KHI, which reads; "... If a sister is with a biological brother or father, then the brother's share is two to one with the sister.

May Make Peace in the distribution of inheritance

The decision of the Padang Sidempuan City Religious Court Number 180/Pdt.G/2020/PA.Pspk is by the provisions in KHI article 183, which states that "heirs can agree to make Peace in the distribution of inheritance after each is aware of his share. The general public has widely used this inheritance system by way of Peace in Indonesia

Substitute heir case

Case number 2772/Pdt.G/2014/, using Article 185 KHI, regarding substitute heirs whose editorials are as follows: "Heirs who die earlier than the heir can be replaced by their children, except for those mentioned in Article 173".

Effectiveness of Legal Structure (Law Enforcement)

In looking at the effectiveness of the legal structure in this study, from the perspective of the law enforcers themselves, namely the judges, have been influential, this is based on the educational level of a bachelor's degree in Shari'ah, and some have master's degrees in Islamic law. However, in the control of inheritance dispute resolution, researchers consider that it has not been effective because of the lack of skill of judges in mastering and not being trained in problem-solving dispute resolution. With more training and knowledge of inheritance, it is hoped that courage will emerge in ijtihad.

In looking at the effectiveness of aspects of the legal structure, namely Panyabungan and Padangsidempuan law enforcers regarding the use of the KHI as a reference for decisions, the

results of the researcher's interview with the judge at the Religious Court will be presented below. The judges interviewed were Hasanuddin, S.Ag (Chairman of the Panyabungan Religious Court), and Abdul Azis al-Hamid (Judge of the Panyabungan Religious Court). Meanwhile, at the Padangsidempuan Religious Court, Mr Arif Hidayat, S.Ag (Chairman), Hasybi Hassadiqi, S.H.I (Judge), Fadlah Mardia Pulungan, MA (Judge), the three of them had served as *judex facti* judges in case number 180/Pdt.G/2020/PA Pspk, namely the judge who examines the case directly, where the case enters the sample of cases that will be explained in the next point.

As a judge who has handled inheritance cases, to clarify, the following is a description of the results of the interviews, where the language has been processed in such a way as the researcher's language without changing the meaning. In an interview with the Chairperson of the Panyabung Religious Court, Hasanuddin, S.Ag explained that: "KHI is the reference for judges at the Religious Courts, especially in inheritance cases. This was proven in the decision on inheritance at the Panyabungan Religious Court No.448/Pdt.G/2018/PA.Pyb, but some judges used the fiqh approach. According to him, there are at least two types of judges, some with a fiqh-centric style and one with a style that fiqh must be used as a reference in determining laws. However, some judges are moderate and dare to differ from fiqh opinions as long as this is considered more beneficial and one is felt to bring about a sense of justice."²⁰

In an interview with the chairman of the Padangsidempuan City Religious Court, Arif Hidayat, S.Ag, explained: "KHI is widely used as a legal reference for judges' considerations in inheritance cases if mediation is declared the parties reach a failure and no agreement. This is because the mediation process can open up opportunities to resolve cases with more alternatives, which do not always refer to the provisions on the size of the heir's share at the KHI. In mediation, anything can happen, the parties can use customary law, divided equally, or other alternatives, provided that each of them knows their rights. However, some parties ask the mediator to divide the inheritance according to KHI. He further added that if dividing the inheritance is following the agreement of the parties, it is said that this is not under the provisions in the KHI, then this is not entirely true because, in the KHI itself, there is an article that allows the parties to agree in terms of the size of the share of the assets. Legacy. Book II of KHI Article 183 states: "Heirs can agree to make peace in the distribution of inheritance after each is aware of his share".²¹

Effectiveness in Legal Culture Aspects

Friedman said in his theory of effectiveness that society is a collection of individuals, at least two people together for a long time. As a result of living together, some communications and rules govern relationships between individuals and give rise to culture because they feel they are bound to each other.²²

Legal culture is the habits and customs that have long been adhered to by the Mandailing people in Panyabungan and the Angkola Batak in Padangsidempuan. Researchers saw a tug-of-war between KHI and the culture of the community and the different social communities. According to the vice chairman of the Padangsidempuan Religious Court, Fadlah Mardiah Pulungan, life's problems in a city like Padangsidempuan are more complex. The culture of urban society is more modern and individual, so in inheritance disputes, grants and wills that enter the Padangsidempuan Religious Court are more numerous than those in the Panyabungan Religious Court. Another reason for the increasing number of cases of inheritance disputes in the city of Padangsidempuan is that the value of assets is more expensive, and the competition for life in finding assets is tighter.

Most people in Mandailing Natal and Padangsidempuan City adhere to Islam, so Islamic law also lives in society. With Islamic law that has existed in society, laws that are in line with and based on Islamic law fulfill society's philosophical and sociological values and tend to be accepted by

²⁰ Hasanuddin, S.Ag, Ketua Pengadilan Agama Kota Panyabungan, Wawancara, Selasa 27 September 2021

²¹ Arif Hidayat, Ketua Pengadilan Agama Kota Padang Sidempuan, Wawancara, Selasa 20 September 2021

²² Soerjono Soekanto, Faktor-Faktor Yang Mempengaruhi Penegakan Hukum, 1st ed. (Jakarta: Raja Grafindo, 2004).

society. The existence of KHI is considered to have adapted to the philosophical and sociological values that live in society. Suppose the regulation is by society's sociological and philosophical values, namely a sense of justice. In that case, it will be easier for the community to implement it in their decisions.

Several factors in the Muslim community of Panyabungan and the City of Padangsidimpuan accept the provisions of the KHI: a) KHI has been used as applied law within the religious courts at various levels, starting from the Religious Courts at the City/Regency level to the Supreme Court, especially in inheritance cases. b) KHI is a unification of Islamic law in fiqh books and a renewal of Islamic law in the inheritance fiqh field, which follows society's social development. c) KHI contains material on Islamic law as a living law, fulfilling philosophical and sociological values in society. Indonesian society, where the majority of the population adheres to Islam, is an Islamic society. Likewise, most people in Mandailing Natal and Padangsidimpuan City adhere to Islam, so Islamic law also lives in society. With Islamic law that has lived in society, laws that are in line with and based on Islamic law fulfill society's philosophical and sociological values and tend to be accepted by society, like the KHI in the Religious Courts, especially the Panyabungan and Padangsidimpuan Religious Courts. Suppose you look at the inheritance cases handled by the Panyabungan and Padangsidimpuan Religious Courts in this research. In that case, it can be said that KHI is accepted by the community, even though there have also been cases of appeal to the Medan High Religious Court. One case that was appealed from the sample cases above was case No. 2772/Pdt.G/2014/PA.PSP, in which the defendants became the appellant by submitting an appeal to PTA Medan with Number: 0133/Pdt.G/2015/PTA.Mdn. The PTA judge corrected the decision of the judge at the Padangsidimpuan City Religious Court, which stated that the plaintiff's claim was unacceptable (*Niet Ontvankelijke Verklaard*) because it only took into account the exceptions of the Defendants regarding the non-participation of the house tenant as a party to the case, and this was considered inappropriate and incorrect by the PTA judge.

Conclusion

The Panyabung Religious Court averages 900 people. Of the 900 cases annually, 0.3% are inheritance cases. From 2015-2020 there were 12 cases at the Panyabung Religious Court, with an average of 2.3 per year. Meanwhile, the Religious Court of Padangsidimpuan City has had 25 inheritance disputes resolved in the Religious Court of Padangsidimpuan City from 2015 to 2020. An average of 5 cases of inheritance disputes are entered annually, and generally, it is the determination of heirs. These cases of inheritance disputes, grants, and wills t Based on the research results that the authors traced, the increasing number of inheritance disputes in the city of Padangsidimpuan is because the value of assets is expensive. Competition in life in search of assets is tighter.

Judging from the effectiveness of the KHI in resolving inheritance disputes in the two Religious Courts above, it can be measured by three aspects: first, the legal structure aspect, namely the personal aspect of law enforcers in the Religious Courts. The researcher considers that the judges at the Panyabungan Religious Court and the Padangsidimpuan City Religious Court have been influential. This is based on the average educational level of judges with a bachelor's degree and some with a master's degree. Judges at the Religious Courts in deciding a case with a legal justice approach (Provisions in KHI) and pay little attention to the social justice approach they have. The two aspects of legal substance, namely the application of KHI related to the settlement of inheritance disputes, have been influential in the Panyabungan Religious Court and the Padangsidimpuan City Religious Court. This is seen from court decisions that directly refer to KHI, such as the determination of settlement of inheritance disputes of joint assets, children's inheritance rights, inheritance rights of siblings, and surrogate heirs referring to the provisions contained in KHI. The three aspects of legal culture, namely KHI, follow Islamic heritage. However, there is a visible difference in the enthusiasm for solving inheritance cases. It can be seen that KHI is more effective in already advanced societies, both economically and

educationally, compared to people living in rural areas who still hold solid Islamic traditions and teachings with a classical fiqh style.

Judging from the substance of the law, namely the regulations contained in the KHI, the application of the KHI, as a rule, has been effective. However, it has not been effective in terms of editorial and legality. This is due to the editorial aspect. Several articles have received criticism because they are considered to have multiple interpretations and have the potential for disparities in judges' decisions. Based on the legality aspect, KHI is based only on the 1991 Presidential Instruction. However, its implementation in society shows that KHI is felt to have fulfilled the philosophical and sociological values of the Mandailing Natal Community and Padangsidempuan City, which are predominantly Muslim.

Judging from the aspect of legal culture in general, in general, the level of awareness and compliance of the community in Mandailing and the city of Padangsidempuan, which is predominantly Muslim, has been adequate because the views of the KHI community are seen as fiqh who already live amid Muslim communities in Mandailing Natal and Padangsidempuan city. The obedience and public awareness of KHI are pretty effective in the Panyabungan community and the Padangsidempuan city community. This is due to social differences and the value of property objects between cities and villages. Connection

In increasing the effectiveness of aspects of legal structure, in this case, Judges, Registrars, and so on, in settlement of inheritance disputes, grants, and wills, it is necessary to increase education, especially inheritance law, grants, and wills which continue to develop and change due to the development of time, social and community conditions

In increasing the effectiveness of KHI in the aspect of legal substance and regulations related to inheritance, grants, and wills, it is felt necessary to increase the legality of KHI to become laws or become official regulations in the legal hierarchy in Indonesia. Improving the legal culture can be seen in the obedience and awareness of the community to the regulations contained in the KHI. It is necessary to continue socializing regulations, especially inheritance laws, grants, and wills to educational institutions, community leaders, and religious leaders in Mandailing Natal and Padangsidempuan City.

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