



THE APPLICATION OF THE *IJBARI PRINCIPLE* IN ISLAMIC INHERITANCE LAW

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ABSTRACT

The principle of ijbari in Islamic inheritance law reflects the obligatory nature of the distribution of inheritance, which is determined directly by the decree of Allah SWT as stated in the Qur'an and Hadith. This principle ensures that inheritance rights are granted automatically and cannot be changed by anyone, this is to maintain justice and avoid disputes between heirs. The ijbari principle also emphasizes that inheritance law is absolute and must be implemented in accordance with sharia guidelines. This study aims to analyze the application of the ijbari principle in Islamic inheritance law by reviewing its legal basis, distribution mechanism, and role in maintaining family harmony and social justice. This research also seeks to clarify how this principle functions in sharia, while highlighting its significance in achieving justice and equality in the distribution of inheritance. This study uses a normative juridical research method, with a legal approach, laws and regulations and other sources used as data sources related to research that provide an understanding of how the ijbari principle is applied in practice. This research shows that the ijbari principle plays an important role in ensuring the automatic and fair distribution of inheritance rights, which is the key to maintaining justice and preventing conflicts. The study also highlights that this principle not only protects the rights of heirs, but also reinforces Islam's core values of equality and justice.

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1. Introduction

Islamic inheritance law is one of the important parts of sharia which aims to regulate the distribution of a person's inheritance after death. This provision aims to maintain justice, avoid conflicts between heirs, and ensure the distribution of wealth proportionally in accordance with the provisions of Allah SWT. One of the main principles in Islamic inheritance law is the principle of *ijbari*, which is the transfer of a person's property that has passed away to a living person applies by itself (as determined by Allah SWT) without being dependent on the will of his heirs and/or heirs.¹ With the principle of *ijbari* to ensure that the rights of each heir are fulfilled in accordance with the provisions of sharia. This principle not only maintains family harmony but also becomes a reflection of social justice set by Allah SWT.

The provisions of the principle of *ijbari* are implied in one of the words of Allah SWT. (QS. (4) An-nisa: 7) Meaning: For a man there is a right to a share of the inheritance of his parents and relatives, and for a woman there is a right to a share of the inheritance of his parents and relatives, either a little or a lot according to the predetermined portion. (QS. (4) An-nisaa: 7). In this verse, the principle of *ijbari* emphasizes that the transfer of rights to property takes place automatically. The heirs do not have to prescribe a specific gift to the heirs upon death, and the heirs do not have to claim their rights to the heirs.

In the Islamic inheritance system, the property received by the heirs from the heirs is basically a continuation of the heirs' responsibilities towards their families. In Islamic inheritance law, the emphasis is on balanced justice, not equal justice as fellow heirs, because this principle is often a polemic and debate that sometimes causes disputes among heirs.² In this context, the principle of *ijbari* has an important role that stipulates that the transfer of inheritance occurs automatically based on sharia provisions without requiring the consent of the heirs, serves as a mechanism to prevent conflicts and ensure a fair distribution of property in accordance with the law of Allah SWT. With this principle, the distribution of inheritance does not depend on the will of the heirs or heirs, but follows the rules that have been set out in the Qur'an and Hadith.

However, although the principle of *ijbari* functions as a principle that can prevent conflict, there are many challenges in its application.³ Such as the lack of public understanding of Islamic inheritance law, the influence of local traditions or cultures that are contrary to sharia, as well as conflicts between Islamic law and positive law. This often causes disputes among heirs who do not understand the importance of the *ijbari* principle as an absolute rule.

2. Methods

This research is a normative juridical research, which is a study that examines an object by tracing a number of references related to the research topic. ways of approaching using legal values in the Quran, Hadith, Ijtihad Ulama'. In addition, this research is also carried out with a statue approach, which is to study laws and regulations related to legal issues, namely the application of the principle of *ijbari* in Islamic inheritance. Then all the data were analyzed and described descriptively.

¹ Abdullah, Mulyana. Understanding the principles of the distribution of heritage in the perspective of Islamic da'wah. *Ahsan: Journal of Da'wah and Communication*, 2022, 1.1: 67-81. Page 71.

² Muhadinata, Imam. Differences of view in the development of heirs according to Sunni, Shi'ah and Hazairin. *El Expert: Journal of Islamic Family Law*, 2020, 1.1. Page 5

³ Muhammad Panji Mahardika, Rifqi Nur Fakhrurozi. 2025. "The Role of the Principle of Freedom of Contract in the Implementation of International Trade Law." *JOURNAL OF LAW OF THE RECHTSSTAAT*.

3. Results and Discussion

The word principle comes from the Arabic language, namely *asasun* which means foundation, foundation, base. If analogized in a mindset, what is meant by principle is the most basic foundation of thinking. According to the Great Dictionary of the Indonesian Language, principles have the meaning of (1) basic (something that is used as a basis for thinking or opinions), (2) the basis of ideals (organizations or associations), (3) basic laws (KBB). From the meaning of the language, when connected to the law, a principle is a truth that is used as a basis for thinking and reason for opinion, especially in law enforcement and enforcement.⁴

In language, *ijbari* has the meaning of coercion, which is to do something outside of one's will.⁵ The meaning of *ijbari* is the Islamic inheritance law that moves automatically. That, according to the law, it takes effect immediately and does not require any new legal action after the heirs die or the transfer of the property of the deceased heirs to the heirs according to the decree of Allah SWT. without being dependent on the will of a person, either heirs or heirs. The principle of *ijbari* which has an element of necessity can be seen in terms of where the heirs (must not or not) accept the transfer of inheritance from heirs to heirs according to the amount of their share that has been determined by Allah SWT.

The application of the principle of *ijbari* in Islamic inheritance law means that the transfer of property of the deceased person to his heirs occurs automatically in accordance with the will of Allah SWT without depending on the will of the heirs or heirs of the person. The principle of *ijbari* in the Islamic inheritance system does not burden the party who will receive the inheritance, because according to the provisions of Islamic law, the heirs only receive the inheritance and do not have the obligation to repay the same debt as their own assets.⁶

The existence of the *ijbari* principle in the Islamic legal inheritance system can be seen from various aspects, namely in terms of the transfer of property, the amount of property transferred, and the property transferred to who the recipient is. First, the element of *ijbari* in the transfer of property means that the heirs' property moves by itself and cannot be transferred by anyone except Allah SWT. Therefore, inheritance in Islam is interpreted as "transfer of property" and not "transfer of property", because in transition it means automatic transfer, while in transition it looks like there is an effort. The principle of *ijbari* during this transition period can be seen through the words of Allah SWT in the Qur'an surah an-Nisa (4): 7. Second, the element of *ijbari* in terms of quantity means that the share or inheritance of the heirs has been clearly determined by Allah SWT. so that the heirs or their successors do not have the right to increase or subtract what has been determined. Third, the *ijbari* factor in the transfer of inheritance means that the heirs have been determined with certainty, so that no party can change the provisions, including removing or adding other heirs.⁷ The principle of *ijbari* in Islamic inheritance law reflects the justice and strictness of sharia in regulating the rights

⁴ Prayogi, Prayogi, et al. Juridical Analysis of the Application of the Ijbari Principle in the Implementation of the Distribution of Inheritance from the Perspective of Islamic Law Compilation (Case Study in Silau Laut District, Asahan Regency). *Journal of Human Intelligence Scholars*, 2024, 1.9.

⁵ Jamhir. "Islamic inheritance law accommodates legal principles that are gender fair". *Journal of Gender and Islamic Studies and Child Protection*. 2019 Vol. 8. No. 1.

⁶ Dian Dewi Khasanah, et al. *Islamic Inheritance Law*. Pt Sada Kurnia Pustaka. Banten: 2023. Page 19

⁷ *Ibid.* 20.

of heirs. This is important because with clear provisions regarding the share and who the recipients are, conflicts between heirs can be minimized.⁸

Inheritance law in Indonesia does not have uniformity due to the diversity of ethnicities, kinship systems, and existing customs. This plurality causes inheritance law to vary depending on the system that applies to the deceased or heirs, be it customary law, Islam, or civil law. When a person dies, their legal relationship and obligations to property do not necessarily end, but are transferred to the surviving heirs. Therefore, a clear and transparent process is needed to manage the transfer of rights and obligations from heirs to heirs. This diversity in inheritance law reflects the cultural and religious diversity in Indonesian society, so it is important to determine the appropriate legal framework in each case.⁹

The diversity of inheritance laws in Indonesia reflects the variety of rules that can be used in regulating inheritance. In this case, it is very important to determine the law that will be used according to the needs.¹⁰ On the other hand, the application of the principle of *ijbari* in Islamic inheritance law can be the right solution to create justice, order, and legal certainty. By understanding Islamic sharia deeply and considering the needs of different communities, inheritance law can be a way to maintain harmonious social relations and protect everyone's rights in accordance with the rules of Allah SWT.

The principle of *ijbari* in Islamic inheritance law is an important principle that affirms that the transfer of inheritance from heirs to heirs takes place automatically in accordance with the provisions of Allah SWT. This transfer does not require the approval of the heirs or heirs, but has been determined through the sharia contained in the Qur'an and Hadith. This principle has a very important role in maintaining justice, order, and harmony in the distribution of inheritance.

In terms of justice, the *ijbari* principle guarantees that the rights of each heir are given proportionally based on kinship and respective responsibilities in a concept to fulfill children's rights, which is one of the steps that needs to be prioritized accompanied by protection.¹¹ This provision avoids anything that affects the distribution of inheritance, such as the reduction or addition of parts that are not in accordance with sharia rules. Thus, the principle of *ijbari* reflects balanced justice as stipulated by Allah SWT. In addition, the principle of *ijbari* also helps prevent disputes and conflicts that often arise in the process of distributing inheritance. Since the division of property has been clearly regulated by the sharia, there is no room for heirs to dispute with each other about the number of shares or who is entitled to receive the inheritance. This creates a more harmonious atmosphere in the family and society.

In another way, the application of the *ijbari* principle provides legal certainty for heirs. The share of each heir has been clearly determined, so it cannot be changed by any party. This certainty protects the rights of all heirs, including those who are often in vulnerable positions, such as women and children. More than just a legal mechanism, the principle of *ijbari* also reflects the deep spiritual value of Islamic law. The distribution of inheritance is considered a form of obedience to Allah SWT

⁸ Alfiani, Melinda, and Suriani Siagian. 2024. "Competence Of Courts Who Have The Authority To Judge Divorce Cases Between Different Religions". *De'rechtsstaat* 10 (1):96-103. <https://doi.org/10.30997/jhd.v10i1.7207>.

⁹ Sesniati, Avivah; Yumarni, Ani; Hakim, Aal Lukmanul. Legal Review Of Grants From Inheritance To Adopted Children. *International Journal Of Latin Notary*, 2024, 4.2: 1-8.

¹⁰ Syuhada, Otong. 2024. "Community Participation And The Development Process In Regions In State Administrative Legal Perspective". *De'rechtsstaat* 10 (1):1-18. <https://doi.org/10.30997/jhd.v10i1.9883>.

¹¹ Apriliandy, Silva Farida; Monaya, Nova; Rumatiga, Hidayat. Fulfillment of Children's Rights in Marriage Dispensation Cases Based on Marriage Law Number 16 of 2019. *Karimah Tauhid*, 2024, 3.4: 4822-4837.

and an effort to maintain social balance in society. By applying this principle, Islamic inheritance law not only functions as a regulator of property, but also as a tool to maintain justice and harmony in community life in accordance with sharia.

4. Conclusion

The principle of *ijbari* in Islamic inheritance law plays a very important role in ensuring that the distribution of inheritance takes place fairly, transparently, and in accordance with the provisions of Allah SWT. The application of this principle regulates the automatic transfer of assets without the need for approval from heirs or heirs, which ensures that each heir receives his rights in accordance with what has been determined. This principle not only prevents disputes between heirs, but also creates order and legal certainty in society. Clarity regarding the portion of inheritance that has been determined by the sharia avoids changes or manipulations that can be detrimental to certain parties, and protects more vulnerable rights, such as the rights of women and children. Therefore, the principle of *ijbari* not only serves as a legal basis in the distribution of inheritance, but also as a reflection of the values of justice and social balance regulated in Islamic law. The principle of *ijbari* in Islamic inheritance law offers a clearer and firmer approach in regulating the distribution of inheritance in accordance with the principle of balanced justice, not equal justice. By upholding the principle of *ijbari*, Islamic inheritance law also provides guarantees for heirs, especially women and children, to obtain their rights without any intervention or injustice.

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