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Analysis of Inheritance Restrictions in Islamic Law: Slander in the Perspective of Qiyas Musawi and Legal Istimbath

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ABSTRACT

This study discusses slander in the context of inheritance according to Islamic law, especially in the context of inheritance restrictions from the perspective of Qiyas Musawi and Istimbath. The focus is on the issue of interfaith inheritance that is increasingly important in contemporary Islamic legal thought. The debate over the division of inheritance between non-Muslim heirs and the principles of traditional Islamic law is in the spotlight. This research uses an in-depth literature analysis method of relevant Islamic Legal sources to understand the views and solutions proposed by him. The results highlight the complexity and tension between traditional views of scholars and challenging contemporary perspectives, particularly in the context of Indonesia's religiously diverse society. This study provides a deep understanding of the issue of interfaith inheritance in Islamic law, investigating the perspectives of Qiyas Musawi and Istimbath, as well as their implications in the context of inheritance law in Indonesia.

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1. INTRODUCTION

The concept of slander in inheritance is one of contemporary studies and is not explained in detail in the Qur'an and Hadith (Nabilah et al., 2021). There are still many inheritance problems to be found in some studies. In a study (SA'ADAH, 2004) discusses the barrier of inheritance in Islamic law, especially slander as one of the causes of preventing someone from obtaining inheritance rights. His views are also contained in a number of studies, namely the absence of a valid *nasab* (blood relationship), doubtful Islamic status, and several other conditions that can affect a person's eligibility to receive inheritance in accordance with the provisions of Islamic sharia (Jufri & Riko, 2020; Ramdani & Karim, 2020; Yalman, 2018). In addition, slander in the context of inheritance can also refer to disputes, forgeries, or manipulation of information that lead to injustice in the distribution of inheritance (Widodo, 2023). This includes situations where the parties involved use dishonest means or manipulate information to alter or influence the division of inheritance in accordance with the provisions of Islamic law (Yalman, 2018).

Analysis of the position of slander in the context of inheritance according to Islamic law involves two important methods, namely the Qiyas Musawi method (analogy) and Istinbath (legal deduction from Islamic legal sources). Libel can be a serious barrier in determining one's inheritance rights, as false accusations or fraud can undermine the fair inheritance distribution process (Karpoff, 2021). Using the Qiyas Musawi method, Islamic jurists look for similarities in slander cases with cases that have been regulated in Islamic sharia (Remiswal, 2021), while through Legal Istinbath, they draw law from Islamic legal sources to establish the validity of these claims (Aravik et al., 2023). This was not found in any other study. Qiyas Musawi allows the application of analogies from existing laws related to similar situations to determine justice in cases of inheritance affected by slander (Noorwahidah, 2014). Meanwhile, Istinbath involves a deductive process to extract new laws from existing Islamic legal sources, which can provide guidance in handling libel cases in the context of inheritance (Haries & Rahmi, 2021).

This article aims to investigate in depth the position of slander as a barrier in the context of inheritance according to the perspective of Islamic law. Through the analysis of the Qiyas Musawi and Istinbath methods, this article seeks to provide a deeper understanding of how Islamic law handles cases of slander that affect the division of inheritance, as well as implications and solutions that can be applied in resolving inheritance conflicts that occur due to slander.

2. METHODS

The research will begin with a comprehensive literature review (Creswell, 2014). This will involve gathering primary sources such as the Qur'an and Hadith, as well as searching secondary literature such as books, journals, and scholarly views on inheritance and slander in the context of Islamic law. Analysis of these legal sources will form the basis of a solid understanding of Islamic legal principles regarding inheritance and how slander is treated in religious views. The next step will involve an in-depth analytical approach (Dernbach et al., 2021). The research will use a qualitative approach to explore Islamic legal concepts relevant to cases of inheritance affected by slander. The use of Qiyas Musawi and Istinbath methods will be the main focus in analysing such cases. In this case, real or hypothetical case study analysis will be integrated to show how the two methods can be applied in the resolution of inheritance conflicts related to libel. From the overall analysis and findings, the study compiles strong conclusions and recommendations that can be applied in handling inheritance cases affected by slander according to the perspective of Islamic law. This is expected to contribute to a better understanding of how Islamic law handles inheritance conflicts affected by slander as well as provide practical guidance for those involved in these kinds of issues.

3. RESULTS AND DISCUSSION

Understanding Slander in Inheritance According to Islamic Law

The editorials include an in-depth understanding of slander in the context of Islamic law, especially in relation to inheritance (Farooq, 2011). Libel is defined as interference, manipulation, or lies that can interfere with legal proceedings, including the division of inheritance. The implications of slander in the context of inheritance are very important because they can interfere with the distribution of inheritance in a dishonest or unfair way (Goldberg & Sitkoff, 2013). The theory of slander in Islamic law emphasizes the importance of honesty, fairness, and truth in the legal process and suggests sanctions against the perpetrators of slander.

Slander in the context of Islamic law refers to any form of interference, manipulation, or lies that can cause uncertainty, doubt, or conflict in legal proceedings (F. Hidayat, 2021), including in the context of inheritance. Slander can occur in various forms such as falsification of documents, false statements, manipulative actions, or false accusations that aim to change the actual situation or circumstances in a legal matter (Latif, 2015). The scope of libel encompasses situations where false or manipulated information is disseminated or used to influence the decision or resolution of a legal issue, including inheritance. This can include acts committed to manipulate the division of inheritance, spread false information regarding inheritance rights, or other acts that interfere with the inheritance process in a dishonest or unfair way (Kusnadi et al., 2021).

The theory of slander in Islamic law emphasizes the importance of honesty, fairness, and truth in the legal process and suggests sanctions or penalties against those who engage in slanderous practices (Latif, 2015). In Islamic law, slander is considered a serious act and can have a significant impact especially in the context of inheritance, because it can interfere with fair distribution and in accordance with religious teachings (Smith, 2015). This includes control which involves efforts to examine, confirm, and validate information and prevent manipulative practices that can influence legal decisions or processes (Tilley, 2019). The principles of Islamic law affirm the importance of fairness, transparency, and honesty in dealing with legal matters, including inheritance, as well as establishing sanctions for slanderers to prevent their negative impact in the distribution of inheritance (Rosen, 2018).

The position of Slander in Islamic Heritage

The position of slander in the context of inheritance in Islamic law is very important and has a significant impact on the process of distribution of inheritance (Widodo, 2023). Slander, which refers to any form of interference, lies, or manipulation of information, is often a source of conflict that hinders a fair determination in the distribution of inheritance in accordance with Islamic religious teachings (Latif, 2015). In practice, slander can appear in various forms such as falsification of documents, false statements, or other manipulative acts aimed at altering or affecting the distribution of inheritance from what should be under the provisions of Islamic law (Smith, 2015). For example, in Pakistan, an heir dies and leaves an inheritance that must be distributed in accordance with the provisions of Islamic law. However, one of the heirs abused the trust by forging documents governing the distribution of inheritance and stating that their share was greater than it really was. They can also make false statements about the relationship or status of the heir to influence the division of inheritance (Cheema et al., 2018). This kind of manipulative act aims to change or affect the distribution of inheritance from what should be based on the provisions of Islamic law, and this is a clear example of how slander can affect the inheritance process (Munir, 2020).

The presence of slander in the inheritance process has serious implications, not only legally and legally, but also socially and morally (Kharlie, 2020). This creates injustice that harms those who should be entitled to receive their share of inheritance in accordance with religious provisions (Aziz, 2023). In addition, slander can damage relationships between families and affect social

stability. The principle of inheritance has been clearly stipulated in the Qur'an and Hadith. However, when libel is present in the inheritance process, the determination of rights and division of inheritance can be complicated (Ramdani & Karim, 2020). Libel can include a variety of situations, from document manipulation to false accusations related to family status or relationships with heirs that can affect the distribution of inheritance.

When slander-related conflicts arise, Islamic law encourages solving problems through ways that prioritize justice and truth (Jufri & Riko, 2020). Settlement methods such as mediation, using reliable witnesses, and submitting valid evidence are essential to uphold truth and justice in the inheritance distribution process (Terok et al., 2021). In the context of Islamic law, maintaining justice, respecting the human rights of every heir, and preventing manipulation or misappropriation of information are essential keys in dealing with slander in inheritance (Trisnanda & Adjie, 2023). Thus, a deep understanding of the principles of Islamic law and the application of appropriate methods in resolving conflicts are essential to ensure the distribution of inheritance in accordance with religious teachings and prevent negative consequences arising from slander in the context of inheritance (Muzainah, 2012).

However, in Islamic law, slander is not directly mentioned as a barrier to inheritance in the Qur'an or Hadith. The compilation of Islamic Law (KHI) in Indonesia includes slander as one of the obstacles to inheritance (Djawas et al., 2022), but this is a development of Islamic law and does not directly originate from the main source of Islam. According to Sa'adah (2004) Some scholars analogize the position of slander as a barrier to inheritance based on the severity of their actions, but this is still a matter of interpretation and has not been universally agreed.

The scholars of the madhab agree that there are three things that can prevent a person from receiving an inheritance, namely religious differences, murder, and slavery (Patterson, 2018), regarding the arguments put forward by some scholars who consider slander as a barrier to inheritance based on the light weight of the act (Welas, 2021). They argue that slander resulting in the death of an heir can therefore be considered an obstacle to inheritance, but must be intentional and similar to murder, categorized as indirect murder because there is no difference in physical deeds and similarity of deeds (Eltsany & Misbahuzzulam, 2023).

Implications of Slander in Inheritance

Slander has significant implications. Although the Quran and Hadith mention only three main barriers to inheritance (murder, slavery, and religious differences), the study identifies that slander resulting in the death of heirs can also be an obstacle. Libel resulting in the death of the heir must be intentional and bear a resemblance to murder in its indirect aspect, although there is no apparent physical difference in the act (Latif, 2015).

The implications of slander in inheritance open up new views on the limits set by the Quran and Hadith in the context of Islamic law (Tarmizi et al., 2022). The analysis classifies libel resulting in the death of heirs as indirect murder because of the similarity in impact, although there is no physical difference in the act itself. This places emphasis on the complexity and substance of Islamic law in dealing with complex and indirect situations that may hinder the inheritance process (Kharlie, 2020; Mulyadi, 2019).

Slander that causes the death of heirs can be considered as an obstacle in inheritance, indicating the possibility of a dynamic and adaptive interpretation of Islamic law to the contemporary context (Hakim & Nasution, 2022). This implication reflects that Islamic law is not static, but rather able to provide space for adjustment to new situations that arise with the times (Robinson et al., 2017). The new interpretation of Islamic inheritance law that considers slander as a factor influencing the division of inheritance demonstrates the ability of Islamic law to respond to changes in society. This shows that the principles of Islamic law can be applied in a variety of evolving contexts, taking

into account the values of justice, benefit, and the purpose of the law (*Maqasid al-Sharia*) (Eltsany & Misbahuzzulam, 2023; Sa'adah, 2004).

The ability of Islamic law to adapt to this contemporary context encourages the importance of a comprehensive interpretation of religious texts and the use of appropriate methodologies in dealing with complex and new legal issues. Thus, these findings provide insight into the dynamic nature of Islamic law that is able to adapt to social change, thus remaining relevant and providing relevant guidelines for Muslims in various situations of the times.

Application of Qiyas Musawi Method and Legal Istimbath

Qiyas Musawi is a form of analogy method used in Islamic law to address problems that are not directly described in religious texts such as the Qur'an or Hadith (Azhari, 2014). The principle allows drawing conclusions or making new rules using analogies from cases that have been clearly set out in *nash* (religious texts). In this context, Qiyas Musawi provides a basis for scholars of Islamic law (*fuqaha*) to find legal solutions to new situations or problems by referring to the principles that have been elaborated in religious texts (Kholiq, 2014).

For example, if there is a new situation that is not regulated in religious texts but has similarities or analogies with the situation described in the *nash*, Qiyas Musawi makes it possible to apply similar or analogous laws in that situation (D. Hidayat, 2019; Kholiq, 2014). This allows the development of Islamic law contextually by following the spirit and principles embodied in religious texts, although such cases are not explicitly set out in primary legal sources such as the Qur'an or Hadith (Ariyadi, 2017).

The Qiyas Musawi method in Islamic law allows the application of the principles set forth in the *nash* (religious text) into similar or analogous situations. This involves drawing legal conclusions based on the similarity of the nature or certain aspects of the case that are clearly regulated in religious texts (Humaidi, 2021; Kholiq, 2014). For example, if there is a situation that is not specifically described in the Qur'an or Hadith, but has similarities in certain characteristics with the case already set out in religious texts, Qiyas Musawi allows Islamic legal scholars (*fuqaha*) to apply the principles outlined in the *nash* to the situation (Naya, 2017). The process involves examining the nature or aspect of the similarities between the case that has been clearly set out in the religious text and the case under consideration, so that legal conclusions can be drawn based on the similarities. Through Qiyas Musawi, the principles contained in religious texts can be applied contextually in situations that have not been specifically regulated, allowing the development of Islamic law to accommodate changing times and new conditions while maintaining the foundation of the principles contained in the *nash* (Ariyadi, 2017).

Istimbath is a method in Islamic law that refers to the deductive process of drawing new laws from the main sources of Islamic law, such as the Qur'an, Hadith, Ijma (agreement of the scholars), and Qiyas (analogy). This method allows the discovery or deduction of new laws by relating the principles contained in religious texts to new situations or problems that are not yet organized in the *nash* (Octavia et al., 2020).

Legal Istimbath is a process in Islamic law that involves deductive thinking to find or make legal decisions based on principles contained in the sources of Islamic law. This process occurs when an issue is not specifically addressed in a religious text, so Islamic jurists draw conclusions or deductions about what should be the law or decision in that context. Legal Istimbath involves the use of general principles contained in Islamic legal sources such as the Qur'an, Hadith (tradition of the Prophet Muhammad), Ijma (consensus of scholars), Qiyas (analogy), as well as *maslahah mursalah* (common benefit) and several other methods of reasoning. Islamic jurists consider the values and principles contained in these sources to establish laws or decisions in situations that have not been specifically regulated (Shidiq, 2017).

The legal system allowed the development of relevant Islamic law and could address the problems that arise in modern life, although it is not explicitly set out in the classical texts of the religion (Romli, 2019). This process requires expertise in the interpretation and application of Islamic legal principles and requires a deep understanding of the sources of Islamic law itself (Ariyadi, 2017). The relationship between Qiyas Musawi and Istimbath is that Qiyas can be one of several methods or principles used in the Istimbath process (Remiswal, 2021). When a matter is not directly addressed in a religious text, Islamic jurists use the principles of Qiyas Musawi, in which they apply analogies from laws contained in the Qur'an to conclude or establish laws or decisions in contexts that are not specifically regulated.

The Qiyas Musawi and Istimbath methods can be used to analyse the position of slander as a barrier to inheritance in Islamic law. The position of slander as a barrier to inheritance is still a matter of interpretation and has not been thoroughly agreed upon by scholars, so the application of the Qiyas Musawi and Istimbath methods in this case is still a debate among scholars (Ariyadi, 2017). The Qiyas Musawi method and the Istimbath are two important methods in *ushul fiqh* (the science of Islamic legal principles). Qiyas is a method of analogy used to establish Islamic law in cases where there is no *nash* (text) directly governing it. The Qiyas Musawi method allows the use of analogies or comparisons with similar situations that have been provided for in Islamic law to determine justice in cases of inheritance affected by slander. In the context of slander, Qiyas Musawi allows the application of relevant principles from similar cases to uphold justice in the settlement of inheritance disputes affected by slander (Yalman, 2018).

Istimbath is a method of establishing Islamic law through research and deduction (Bahar, 2018). Legal Istimbath involves the deduction or withdrawal of law from existing sources of Islamic law such as the Qur'an, Hadith, Ijma, and Qiyas. In cases of inheritance affected by slander, this method allows deductive thinking to extract new laws or draw conclusions that conform to the relevant principles of Islamic law (Ritonga et al., 2022).

Slander that can be a barrier to inheritance according to Islamic law is slander that is carried out intentionally (directly) and resembles intentionally by heirs against heirs. This slander is categorized as indirect murder because there is no outward difference in deeds and similarities in the '*illat*'. Slander is false or unfounded truth that is spread with the intention of demonizing people (Aniroh, 2018). In Islamic law, defamation is categorized as a form of crime whose effect is not only harmful to one's life, but also to the life of society in general.

In the analogy of Qiyas Musawi and also Istimbath, slander in inheritance can be analogous to murder. The idea of slander as a barrier to inheritance is still debated among Islamic jurists, because slander is not included in the barrier of inheritance according to the scholars of *fiqh* the four schools of slander are included in one of the barriers to inheritance because the danger posed by slander is greater than murder. In Q.S. Al-Baqarah: 191 it is explained that slander is crueller than murder. Slander in this verse means acts that cause chaos, such as expelling people from their hometowns, seizing property, hurting others, blocking people from the path of Allah Almighty, or committing polytheism. Slander is equated with murder if using the qiyas method. By using its framework namely *ashl*, *furu'*, *illat* and law (Jufri & Riko, 2020).

For example, the issue of this slander that *Ashl* makes is murder, while *illat* murder in the case of inheritance is an attempt to speed up the acquisition of inheritance by killing the person who has determined the will for him (the murderer). While the *far'u* of the matter is slander, and slander in the explanation presented in the preceding points indicates the same *illat* as murder, which is an attempt to hasten a person to obtain inheritance by slandering the person who has determined a will for him to go to jail and automatically he takes possession of the property left by the slandered because the slandered cannot take care of the bequest property.

For example, if a person who slanders is a child to his parents, then that child is included in the ranks of ungodly sons, this is in accordance with the word of Allah Almighty. in Q.S. Al-Isra: 23 says,

وَقَضَىٰ رَبُّكَ أَلَّا تَعْبُدُوا إِلَّا إِيَّاهُ وَبِالْوَالِدَيْنِ إِحْسَانًا ۖ إِنَّمَا يُبَلِّغُنَّ عَنْكَ الْكِبَرُ أَحَدُهُمَا أَوْ كِلَهُمَا فَلَا تَقُلْ لَهُمَا أُفٍ
وَلَا تَنْهَرَهُمَا وَقُلْ لَهُمَا قَوْلًا كَرِيمًا

"Your Lord has commanded that you should worship none other than Him and do good to your father. If either of them or both come to an advanced age in your care, you shall not say to either of them the word "ab" and yell not at both, and speak to both good words."

The verse explains that simply saying the word ah (or other harsh words) to parents is not permissible by religion, let alone treating them more harshly like slander, indeed it is a great sin and torment in fact later in the hereafter. Then what if the above case turns around, parents slander their children with the same purpose, which is as explained above. Is it the same as what a child did? The answer is certain. Even with the degree that God knows.

In Islamic teachings, ill-treatment of parents is affirmed as a grave sin that is expressly forbidden. The Qur'an explains the importance of filial piety to parents and forbids any form of harsh or degrading treatment. However, in the event of a case where parents slander their children with the same goal, namely depriving them of inheritance rights, religious principles still prohibit slander. Islam insists that slander, whether committed by a parent against his child or otherwise, is forbidden. In this context, each individual is reminded of his or her responsibility before God for his or her own actions, even though it is God who knows the true extent and guilt of each action (Ramdani & Karim, 2020; Sa'adah, 2004).

In Islam, justice and equality are fundamental principles. The act of slander by anyone, including parents against their children, is considered improper behaviour and has the potential to have serious consequences in this world and in the hereafter. It is important to respect and respect the rights of every individual, both children and parents, and uphold justice in all matters. Although it is God who knows all things perfectly, it is important for people to be accountable for their deeds in this world. Harmony with Islamic values demands fair treatment and avoidance of all forms of slander, in accordance with religious teachings that uphold justice and peace in society.

Another example, in Q.S. An-Nisa: 11,

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلَّذِ كَرِ مِثْلَ حَظِّ الْأُنثَيَيْنِ ۚ فَإِنْ كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۚ وَإِنْ كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ ۚ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِنْ كَانَ لَهُ وَلَدٌ ۚ فَإِنْ لَّمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَهُ أَبُوهُ فَلِأُمِّهِ الثُّلُثُ ۚ فَإِنْ كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ ۚ مِنْ بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ ۚ آبَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفْعًا ۖ فَرِيضَةٌ مِنَ اللَّهِ ۚ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

"Allah decrees (obliges) you about (the division of inheritance for) your children, (that is) the share of a son is equal to the share of two daughters.146) If the children are all girls who number more than two, their share is two-thirds of the property left behind. If she (the daughter) is alone, she gets half (the property left behind). For both parents, each share is one-sixth of the property left behind, if he (the deceased) has children. If he (the

deceased) has no children and he is inherited by both parents (only), his mother gets one-third. If he (the deceased) had several siblings, his mother got one-sixth. (The inheritance is divided) after (fulfilled) the will made by him or (and repaid) his debts. (About) your parents and your children, you don't know which of them will benefit you more. This is God's decree. Indeed, Allah is All-Knowing, All-Wise."

A child gets a share of the inheritance whose terms have been determined by Allah Almighty (Islam, 2015). So it is a sin if a man slanders his son so that he immediately gets the estate bequeathed to his son (Eltany & Misbahuzzulam, 2023). The following *illat* similarities between slander and murder will be mentioned the consequences of these two acts can be seen in the form of the following table.

Table 1. Persuasion of murder and slander

Murder	Slander
Taking someone's life	Deprive the slanderer of his freedom (in accordance with the articles of the Compilation of Islamic Law) because the slanderer is imprisoned
Relatives left behind lose the affection of the victim	Families left behind because of slander imprisonment also lose the affection of the slandered
The breakdown of social relations between the two murderous parties	The breakdown of social relations between the two because of the slander that occurred.

The concept of inheritance barrier in Islam can vary depending on different situations and contexts. In Islamic inheritance law, there are clear provisions regarding the distribution of inheritance to heirs in accordance with the rules laid down in the Qur'an and Hadith. Every individual has the right to his share of inheritance which has been determined by the Sharia.

Barriers to inheritance can occur in some specific situations that hinder a person from getting the part of the inheritance to which he should be entitled. One example is when someone commits an act that causes the loss of his inheritance rights, such as committing a major sin that is considered an obstacle to inheritance rights, such as murder (Ritonga et al., 2022)

However, regarding the statement that slander has the same level as murder and can hinder one's inheritance rights, it needs to be clarified in the context of more detailed Islamic law and fatwas from prominent scholars. Each situation must be assessed independently and by considering various factors before coming to the conclusion that libel can directly serve as a barrier to a person's inheritance rights.

4. CONCLUSION

Slander proved to be a hindrance to inheritance under Islamic law. Although the Qur'an and Hadith only mention three things that hinder inheritance, namely murder, slavery, and religious differences, the Compilation of Islamic Law in Indonesia adds slander as a barrier factor to inherit. Slander that hinders inheritance is slander that intentionally (directly) and resembles that deliberately committed by the heir against the heir. In *Istinbath*, slander can be categorized as indirect murder because there is no outward difference in deeds as well as similarities in *'illat*. Libel resulting in the death of the testator can be a barrier to inheritance. The basis of Islamic law in establishing slander as a barrier to becoming heirs is *Qiyas Musawi*, which compares slander with murder, because there is a similarity in *illat* which is to decide *mumalah*.

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