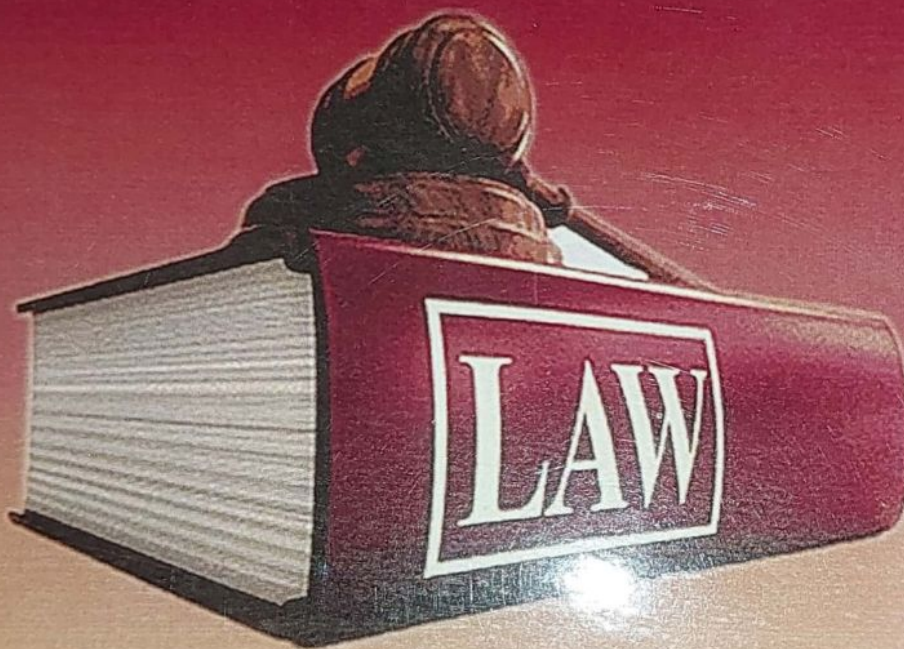


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Faculty of Law of Universitas Sriwijaya, Indonesia and
Fakulti Undang-Undang, Universiti Kebangsaan Malaysia



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The Political Law of Islamic Inheritance In Indonesia

Yusida Fitriyati, Amelda yunita, Idil Viktor¹

1 Introduction

Inheritance law is a subset of family law. As we know that the family is formed from a collection of individuals, because humans are God's creatures who are generally in groups. Humans always need others as social beings² (zoonpoliticon)³ and are always looking for partners to form families.⁴

At the same time, humans are naturally immortal living beings that will surely experience death⁵. Death event is a legal event that causes legal consequences in the form of management and continuity of material rights and obligations of an individual who has died to the family he has left. This arrangement becomes the study of inheritance law, namely the regulation of the transfer of rights and obligations to living heirs.

As is known, inheritance law in Indonesia is not monolism but pluralism in the legal system. Consisting of customary inheritance law,

¹ Students of Law Doctoral Program, Faculty of Law, Sriwijaya University

² Ahmad Asnawi, *Sejarah Para Filsuf Dunia* (Yogyakarta: Indoleiterasi, 2015).

³ Abu Ahmadi, *Psikologi Sosial*, Cetakan 1 (Jakarta: Rineka Cipta, 1991). Aristotle said: "a living thing that does not live in society is he as an angel or an animal". Then Aristotle stated that it was individuals who formed society by developing the potential of two soul structures namely intelligence and will, environmental factors only accelerated or slowed down the process, Ibid, pp.35 and 36. Aristotle (384-322 BC) was born in the city of Stagira, Macedonia.

⁴ Al Qur'an Surat an-Nisa 'verse 1, means: "O people! Fear your Lord who has created you from one self (adam), and (Allah) created his partner (Eve) from his (self), and from both of them God multiplied many men and women. Fear God with whom you ask one another and (maintain) family relationships. Surely Allah always takes care and watches over him". and Surat ar-Rum verse 21, "and among His signs (greatness) He creates partners for you of your own kind, so that you tend and feel at ease with him, and He makes you feel love and affection. Really, in that there really are signs (the greatness of God) for people who think".

⁵ See al Qur'an Surah al-Baqarah verse 185, meaning: "Every person who lives will feel dead. And only on the Day of Resurrection alone is given perfectly your reply. Whoever is kept from hell and put into heaven, truly, he gets victory. Life in the world is just a tricking pleasure".

and sound of articles is an implementation that has consistency and close correlation with changes in social reality.⁴⁵

3 Conclusion

The political of inheritance law in Islam in Indonesia from time to time experienced ups and downs following the development of the elements or dimensions that surrounded the politics of its time. Both influenced by the factors of authority (government / executive), legislative and judiciary, basically all lines in the country including the community has a role to advance the development of inheritance law in Indonesia. Political law is an attempt to investigate changes in the orderly development of inheritance law by making *ius constitutum* (current inheritance law) developed by old legal systems, becoming *ius constituendum* (inherited law which is aspired ie Indonesian inheritance law). Making the unification of Indonesian inheritance law by taking the Compilation of Islamic Law the second chapter on inheritance as a model of inheritance unification law in Indonesia is part of the *ius constituendum*.

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