

Typology of Compulsory Will Arrangements in Some Muslim Countries

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Abstrak

Tulisan ini bertujuan melihat pengaturan tentang ketentuan dalam pembagian waris di beberapa negara muslim dan mengelompokkan *wasiat wajibah* menjadi beberapa kluster. Penelitian ini menggunakan studi kepustakaan (*Library Research*) yang menggali data-data berdasarkan data yang sudah ada sebelumnya dengan pendekatan yuridis komparatif (*comparative approach*) yang akan menjadi pembandingan hukum dari negara satu dengan lainnya. Temuan dalam penelitian ini mendeskripsikan dan mengidentifikasi persamaan dan perbedaan dalam ketentuan *wasiat wajibah* di berbagai negara muslim. Persamaan dilihat dari kluster yang dibentuk yaitu terdapat 4 kluster terkait pembagian negara berdasarkan regulasi *wasiat wajibah*. Kluster pertama yaitu Indonesia dan Kuwait. Kluster kedua yaitu Malaysia, Mesir dan Tunisia. Kluster ketiga yaitu Syria, Yordania, Maroko, dan Suriah. Kemudian terakhir kluster keempat yaitu Pakistan, Turki, Iraq dan Iran. Keempat kluster tersebut memiliki persamaan yang dapat dilihat melalui: 1) ketentuan penerima *wasiat wajibah*, dan 2) jumlah warisan yang didapatkan. Sedangkan perbedaan terletak kepada beberapa kriteria pengelompokan yaitu 1) berdasarkan hukum islam yang diterapkan negara muslim, 2) kategori penerima *wasiat wajibah*, 3) persentase pembagian *wasiat wajibah*, dan 4) persyaratan validitas penetapan ahli waris dan pembagian harta waris.

Kata Kunci: *Wasiat Wajibah, Negara Muslim, Kluster*

Abstract

This paper intends to look at the arrangements related to the provisions in the distribution of inheritance in several Muslim countries and group mandatory wills into clusters. This research uses a literature study (*Library Research*) that explores data based on pre-existing data with a comparative juridical approach that will be a comparison of laws from one country to another. The findings in this study that there are similarities and differences in the provisions of mandatory wills in various Muslim countries. The similarity can be seen from the clusters formed, namely there are 4 clusters related to the division of the State based on mandatory will regulations. The first cluster is Indonesia and Kuwait, the second cluster is Malaysia, Egypt and Tunisia. While the third cluster is Syria, Jordan, Morocco, and Syria. Then finally the fourth cluster is Pakistan, Turkey, Iraq and Iran. The four clusters have similarities that can be seen through: 1) the Provisions for Mandatory

Wills and 2) the amount of inheritance obtained. While the difference lies in several grouping criteria, namely: 1) based on Islamic Law applied by Muslim countries, 2) the category of Mandatory Wills, 3) the Presentase of Mandatory Will Distribution, and 4) the requirements for the validity of determining heirs and the division of inheritance.

Keywords: *Compulsory Wills, Muslim States, Clusters.*

Introduction

Regarding inheritance law, there is known to be inheritance by *intestate* and inheritance by *testament*. Inheritance by *intestate* can occur due to kinship, blood type, and marital relations. While *testament* inheritance is the division of inheritance due to a will. (Nasrun & Fathoni, 2020) In this article, the author refers more to the inheritance of *testaments* that discuss mandatory wills both in Southeast Asia and other muslim countries. Of course, the policies or regulations of each country are different from one another, but whether there are similarities from various aspects. Before going any further, we may be able to understand the meaning of the mandatory will itself.

A will is a property or inheritance that a person gives to another person or several people after he dies or frees his slave. Either explain frankly in the will or not explain. *Al-wajib* in general is a permanent imperative. (Shesa, 2018) In general, a compulsory will is a will given to a certain person under certain circumstances by the state through judicial channels. (Syafi'i, 2017) While in the Qur'an it is also mentioned about mandatory wills in Surah Al-Baqarah Verse 180:

كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِنْ تَرَكَ خَيْرًا الْوَصِيَّةَ لِلْوَالِدَيْنِ وَالْأَقْرَبِينَ بِالْمَعْرُوفِ ۗ حَقًّا عَلَى
الْمُتَّقِينَ

Meaning: It is obligatory upon you, when one of you comes (signs) of death, if he leaves a lot of property, testifies to his fathers and close relatives *ma'ruf*, (this is) an obligation upon those who are devout.

The discussion of mandatory wills, especially in various countries, has indeed been widely discussed both in journals, books, articles and others. An example is the work entitled "*Wâjibah* Wills Provisions in Various Contemporary Muslim Countries" by Sri Hidayati which discusses compulsory wills in several Muslim countries that look at their provisions. While in this article look more at grouping by country as well as its provisions.

The arrangement of compulsory wills in some Muslim countries arises because of differences in the arrangement and interpretation of Islamic law regarding compulsory wills in different countries. A mandatory will refers to a will that a Muslim must fulfill in accordance with the provisions of sharia or Islamic law.(Setiawan, 2017) Muslim countries have different legal systems, both based on different schools of fiqh and the influence of their cultural and historical factors. This has resulted in different approaches to mandatory testamentary arrangements between one country and another.(Nanang Abdillah, 2018.)

For example, some countries implement a comprehensive Sharia legal system and refer to the Quran and Hadith as the main sources of Islamic law. In countries such as Saudi Arabia, the United Arab Emirates, and Iran, compulsory will arrangements tend to follow provisions clearly laid out in Islamic law. This includes the selection of heirs, the division of the estate, and certain requirements that must be met in order for the will to be valid.(Lamin et al., 2016) However, in other Muslim countries, such as Indonesia, Malaysia, and Turkey, mandatory will arrangements are more influenced by the positive legal system prevailing in the country. Although still based on the principles of Islamic law, mandatory testamentary arrangements can be more flexible and open to different interpretations.(Erniwati, 2018)

This difference in approach in mandatory testamentary arrangements can lead to several problems. First, there are differences in the definition of obligatory wills and the procedures for their execution between Muslim countries. This can cause confusion for Muslims who live or have assets in other countries. Second, differences in the division of inheritance and the selection of heirs can lead to injustice and conflict among the families left behind. If one country has stricter provisions in determining the division of inheritance, while another country provides more freedom for individuals in making mandatory wills, then this can create a significant difference in the treatment of inheritance. Third, different mandatory will arrangements can also affect the financial planning process and succession planning for Muslim individuals. Uncertainty in the rules and execution of mandatory wills can hinder a person's efforts to properly plan his inheritance and ensure that his wishes are fulfilled after death.

Mandatory wills certainly have their own regulations in each country, especially in the Southeast Asian region and also other Muslim countries. Each country has different regulations and also different provisions or procedures, but if examined further there are also some similarities between the provisions between countries. Therefore, in this article,

the author wants to see the typology or grouping of mandatory will provisions when viewed from several countries and also the regulations that govern them.

Research Methode

This research uses a literature study (Library Research) that explores data based on pre-existing data with a comparative juridical approach that will be a comparison of laws from one country to another. The data collected with discussion, and literacy studies of mandatory wills, especially in various countries, has indeed been widely discussed both in journals, books, articles and others. An example is the work entitled "*Wâjibah* Wills Provisions in Various Contemporary Muslim Countries" by Sri Hidayati which discusses compulsory wills in several Muslim countries that look at their provisions. While in this article look more at grouping by country as well as its provisions.

Research Finding

Compulsory Will In Islamic Family Law of Southeast Asia & Other Muslim Countries

1. Indonesian

The issue of this mandatory will is also stated in the Compilation of Islamic Law in Indonesia (KHI), namely in article 185 (to the children (descendants) of *wa'idain* clan *aqrabin* in general), and article 209 (to children/ adoptive parents). (Yusuf Somawinata n.d.) In these provisions, there are several things related to the application of compulsory wills in Indonesia, including first, there are 2 parties who are entitled to compulsory wills, namely adopted children and adoptive parents. Secondly, the Granting of a will is not by the testator but by the state as a compulsory will, and Third is the receipt of a compulsory will of as much as 1/3 (one-third) of the heir's estate. (Seri Pustaka Yustisia 2004)

Then the provisions related to compulsory wills in Indonesia have been expanded by the renewal of the Mandatory Will Provisions based on the results of the 2012 R.I. Supreme Court National work meeting, namely in terms of recipients not only adoptive parents and also adopted children but also legal children who based on the results of the Rakernasini are entitled to earn a living and a mandatory will from their father.

In addition, the stepsons who were kept since childhood who were previously not entitled to the inheritance of their step-parents because they were not related by blood, but the results of this National Assembly provided an opportunity for the stepdaughter to obtain part of the property through the institution of the Compulsory Will, noting that the stepson

had indeed been de facto maintained by Pewasiat since childhood. (Destri Budi Nugraheni 2014)

2. Malaysia

The compulsory will in Malaysia only applies to a few states including Selangor, Melaka, and Sembilan, especially most of its Muslim community that adheres to the Shafi'i sect. (Nor Azlina Abd Wahaba, Norafifah Ab Hamidb 1957)

a. The Will of the Islamic People of Selangor State No. 4 of 1999 was promulgated on September 30, 1999, and came into force on July 1, 2004 (Hajar, M., 2014). Selangor was the first country to realize the arrangement of wills for Muslims

b. The Land of Melaka is regulated in the Islamic Will Committee Number 4 of 2004

c. Negeri Sembilan is regulated in the Testament of Muslims Number 5 of 2005.

d. The Act for non-Muslim communities is provided for in the Distribution Act 1958 jo. Amendment Act 1997 (Ariphia et al. 2019) The regulations in Malaysia over the division of inheritance for non-Muslims are not regulated in writing, because Malaysia uses the Quran, Hadith, and Ijma in the division of inheritance. However, in the case raised, MAIM (Melaka Islamic Religious Council) made donations to non-Muslim families as a form of empathy for the heir's family.(Ariphia et al. 2019)

The regulation regarding compulsory wills in Malaysia is only for grandsons of men and women of the lineage of first-generation sons whose father died first or allegedly died at the same time as his grandfather, so the grandson is entitled to a compulsory will,(Yasin Yusuf Abdillah, S.H.I. 2016) with a content of not more than 1/3. (Manaf 2020)

3. Turkish

Turkey was the first country to adopt the Hanafi school and carried out an effort to reform Family law in the Muslim World as evidenced by the birth of *Qānūn Qarār al-Ḥuqūq al-'Ā'illah al-'Uthmāniyyah (Ottoman Law Family Rights)* or commonly called the Law on family rights in 1917.(Rosyid 2020) Then continued to renew the law for 5 years but did not produce results and in the end adopted *the Swiss Civil Code (the Swiss Civil Code)* in 1912 taking into account the condition of Turkey and then became a Turkish Islamic Law (*Majallat al-Ahkām al-Adhiya, the Turkish civil code of 1926*). The law contains rules related to marriage, divorce, family relationships, and also inheritance.(Ahsan Dawi, SH., SHI. 2012)

Inheritance in the Turkish Islamic Law is regulated in Book III of the Turkish Civil Code which contains the rules of inheritance without a will, adopted from the Swiss Civil Law. This Law also replaces the Hanafi Law that was in force before until 1926 which

regulated inheritance without a will.(Fitria 1951) The principle of inheritance views equality between men and women where men and women get the same share (inheritance) including and it is different as explained in the Koran that men get a share twice as much as what women receive.(Jaenudin 2019)

Article 493 of *the Turkish Civil Code* also states that the children left by the testator, get equal shares between one another and there is no distinction of parts based on the gender or position of the child. However, in this law it does not explain the status of adopted children. The inheritance law in the Turkish Civil Code continued to be used until finally Turkey made amendments approved by the Turkish National Assembly on November 27, 2001 and socialized through the Turkish Daily Newspaper on December 8, 2001 containing 1030 articles. The amendment can be divided into three groups if it is studied which contains *First*, in the case of heirs, who become heirs are the nuclear family, namely the husband or wife who is left behind and the child (nuclear family) while relatives outside the nuclear family can become heirs if they are instrumental in maintaining the heirs or inherited property. *Secondly*, regarding the status of men and women, it is still established that the status of men and women in the family is the same, so as not to distinguish them in the acquisition of inherited property. *Thirdly*, the above Law has made provisions regarding inheritance and in the form of deposits..(Umar Faruq Thohir 2019)

The Turkish state does not clearly regulate the will whose legislation refers to the Turkish Islamic Law, 1926. The country only regulates inheritance that states the division for men and women equal or equal including for children and does not regulate related to adopted children because it prioritizes gender equality.

4. Egypt

Egypt was the first Islamic state to form a statute of *compulsory* wills officially and was composed and later followed by other Islamic countries such as Kuwait, Tunisia, Pakistan, Jordan, Iraq, and several other countries. (Muhamad Asni and Sulong 2016) The regulation of the provisions of *the will of the wâjibah* in Egypt is contained in *Qânûn* No. 71 of 1946 which comes from one of the religious laws of a *taklîfî* nature, that is, it is mandatory. (Hidayati 2012)

Some of the provisions of *the will wâjibah* in the Wills Act No. 71 of 1946 articles 76-78 , include: First, If the testator does not give to the descendants of his son who has passed away first, or died simultaneously, then the grandson of the son shall have a mandatory will from the heir's estate as large as the son's share of the heir's son, but must not exceed one-

third of the estate on the condition that the grandson is not the heir and there is no share for him through other means (grant). If the grant is less than the share of the mandatory will, it must be added to the deficiency. ^{Habiburrahman, Rekontruksi Hukum Kewarisan Islam Di Indonesia (Jakarta: KENCANA, 2011), hlm. 167.} It is further mentioned also that the Will was given to the first class of the sons of the daughters, and to the children of the sons of the male line and so on down, on condition that the parents greened the children. ^{Habiburrahman, 167.}

Secondly, if the testator gives a will in excess of the amount that should have been given through the *will of the wâjibah*, then the excess is a will of *endeavor*, but if the amount is smaller than it should be, it must be fulfilled. *Thirdly*, if there is a will for some and not to the other of those entitled to receive a *wâjibah* will, then to the non-willed it must be given according to its share. Seventh, the will of *the wâjibah* takes precedence over the other wills. (Tri Nugroho, Akbar, and Hanafi 2020) Egypt provides for a mandatory Will for orphans (grandchildren) in lieu of the position of their father, as well as a large share of his inheritance to get as if his father lived. (Fadhilah 2021)

5. Syria and Jordan

Syria the provisions regarding inheritance are codified in the Syrian Law *{Shia Law of Personal States 1952 Book IV and V}*. The law states "Wills shall be enforced for direct descendants through the lineage of a male who died earlier than the heir (his father), and does not apply to direct descendants through females." (M. Anshar 2013) Likewise, in Jordan it adheres to the same provisions with regard to compulsory wills i.e. compulsory wills are given to the grandchildren of sons only, while grandchildren of daughters are not given under *The Syrian Law of Personal States, 1953*. (Erniwati 2018)

The reason is that the granddaughter of the daughter is classified as dzawil arham. Their position is in line with the legal rules of inheritance adopted by the sunni jurisprudence of madzhab al-Shafi'i that dzawil arham is not entitled to inherit as long as there are heirs of fard and 'ashabah. (Hisyam Qublan 1971)

6. Suriah and Morocco

Marokko with regard to inheritance matters are codified in the Marokko Act (*Maroccoan Code of Personal Status 1958 Books IV and V*), namely the regulations referring to the Maliki madzhab. According to the Marokko Law, "*Compulsory wills may be imposed on children no matter what the declining, but only from the side of the boy who died earlier than the dead.*" (Abdullah Siddiq 1984) Articles 257-288 of the Syrian Personal Status Act of 1953 also stipulate that compulsory wills are enforced for direct descendants

through the line of men who died earlier than their father (Heir) and do not apply to direct descendants through daughters whose magnitude is one-third. (Destri Budi Nugraheni 2014)

Both of these countries used the concept of a Compulsory Will against grandchildren as done by Egypt but went through some changes. They make provisions that give a mandatory will to the children or grandchildren of the sons but do not apply to the children or grandchildren of the daughters.

7. Tunisia

Tunisia is one of the republican countries located in North Africa and also regulates the mandatory will of article 191 of the Personal Status Law of 1956. This article states, *the ability of the children of the deceased son or girl first to receive his parents' share if he is still alive with a maximum of one-third of the inheritance. Provisions regarding compulsory wills are reserved only for grandchildren (orphans) of the first generation.* (Abdullah Siddiq 1984) The provisions in this country provide that a compulsory will be granted to direct descendants of both male and female lineages.

8. Pakistan

Pakistan, there was a radical change in the inheritance of isam law that had been in effect so far, both for sunni and shi'a factions, namely introducing the doctrine of refesentation, or commonly known as the compulsory will. Regarding inheritance stipulated in the *Muslim Laws Ordinance 1961*, a provision regarding the right of inheritance of grandchildren that if the son of the heir is dead or a society before the inheritance, the grandsons of the heir get the amount of inheritance of their respective father or mother's share as if they were still alive. (Tohir Muhammad 1972)

It is not made clear whether in Pakistan there is a Compulsory Will or not only that Pakistan is taking a different path from the initiative taken by Middle Eastern countries in dealing with the issue of grandchildren (orphans) i.e. giving to grandchildren and women to receive equal shares that their parents would have received had they been alive at the time of the division of inheritance.

9. Iran from Iraq

Iraq provides for inheritance provisions according to the madzhab it adheres to in the *Iraqi Law of Personal Status 1959*, which was later amended by the 1963 Act. This provision in its pre-order is strictly enforced by the Iraqi Court using the most madzhab in accordance with the case in question. When it comes to the case of Muslims of the Shi'a faction who are half of the Iraqi people, the court uses Shi'a law. And when it comes to the

case of sunni Muslims, the court uses sunni law (Hanafi madzhab). Thus, a Muslim who follows the Hanafi madzhab may be devoted to his heirs.

Meanwhile, the law regarding inheritance and wills in iran to this day beum there is a change which is still regulated by the madzhab *itsna 'asyariyah* then codified in the Civil Code 1936 (articles 1034 to 1054). Against minority Sunni groups residing in Iran, the Iran Act stipulates that they apply to their madzhab regulations and their customs in personal status, inheritance, and wills.(Abdullah Siddiq 1984) The arrangement of inheritance as well as wills in iraq and iran is determined based on the use of the madzhab adopted. However, for compulsory wills not specified in writing only the will is mentioned in general.

10. Kuwait

The arrangement of kuwait's compulsory will is set out in *Qanun al-Washiyah al-Wajibah 1971* which contains only 4 articles which benefit the children of the deceased boys all the way down. As for the line of first-generation daughters alone, the mandatory will must not exceed one-third of the property left by the mayit. (Erniwati, 2018) In this country the arrangement of compulsory wills is prescribed but there are exceptions for female offspring only the first generation is different from male offspring who continue to go down.

Cluster Differences Based On Mandatory Will Regulations In Some Muslim Countries

Clustering or commonly known as *Clustering* is a division based on class or grouping based on class / which is considered palling close. In this article, the clustering of mandatory wills in several Muslim countries including Asia can be divided into 4 clusters, and the determination of these clusters is determined through the same provisions or the number of wills given, including:

Table 1. Differences in Provisions for Compulsory Wills in Various Muslim Countries

Clusters	Country	Differentiator			
		Islamic Law	Division	Recipient	Validity
Cluster 1		Civil Law with Islamic Influence	Maximum 1/3	Children, spouse, parents, or other close relatives	The existence of a reasonable testator, the minimum age of the testator, and the testimony of adequate
		Direct Islamic	1 Heirs: 1/2 Estate More than 1 heir: 1/3	Mandatory Heirs	

		Law	or 1/4		witnesses
Cluster 2		Double Law	Maximum 1/3 Inheritance	Children, spouse, parents, and other closest relatives	-
		Sharia Law	In accordance with Islamic Law		
		Civil law with French influence	Free with No Special Restrictions	-	
Cluster 3		Civil Law with Islamic Influence	Depending on the number of heirs and state rules		Reasonable testator, minimum age of testator, and testimony from adequate witnesses
					Eligible for Valid Purposes
					-
Cluster 4		Sharia Law	½ or 1/3	Children, spouses, parents, and other close relatives	-
		Civil law with the influence of Roman law			
		-	Depending on family relationships and the number of heirs obligatory		
		Islamic Law with Secular Influence	Depending on the laws of the country		

The *first* cluster is Indonesia and Kuwait. There is a difference where in Indonesia mandatory wills are given to 4 categories including adopted children; adoptive parents; Children born from unregistered marriages and also stepchildren who have been kept since

childhood. While in Kuwait it is intended for granddaughters both girls and boys but with a distinction for grandsons (allowed first generation and enemies if women are only first generation only). Other similarities and differences lie in Islamic Law, Number of divisions, Beneficiaries of Wills and also validity, including:

1. Islamic Law

Indonesia and Kuwait are Muslim majority countries, but have different legal systems. Indonesia has a legal system based on civil law with the influence of Islamic law, while Kuwait applies a legal system that is more based on Islamic law directly.

2. Percentage Share

In Indonesia, mandatory wills must not exceed one-third ($1/3$) of the total estate. The remainder will be divided in accordance with the provisions of Islamic law regarding inheritance to obligatory heirs. In Kuwait, the proportion that can be probated depends on the number of obligatory heirs. If there is one obligatory heir, the proportion is half ($1/2$) of the estate. If there is more than one obligatory heir, the testamentary proportion may be reduced to one-third ($1/3$) or one-quarter ($1/4$) of the estate.

3. Beneficiaries of Wills

In Indonesia, mandatory wills must be given to obligatory heirs who have been specified in Islamic law, such as children, spouses, parents, or other closest relatives. In Kuwait, compulsory wills are also addressed to compulsory heirs, but the proportion that can be willed depends on the number of obligatory heirs and the rules in force in Kuwait.

4. Drafting and Validity

In both countries, mandatory wills must be drafted in writing and must meet certain conditions in order to be considered valid. These conditions include the existence of a reasonable testator, the minimum age of the testator, and the testimony of adequate witnesses. The *second* cluster is Malaysia, Egypt and Tunisia. These countries are grouped in this cluster because they have similarities that state mandatory wills are intended for grandchildren (both male and female) from the line of sons of the first generation with a share of not more than $1/3$. So this country only provides mandatory wills for grandchildren of the first son in the family, the criteria for grandchildren can be for grandsons or granddaughters but the maximum limit is $1/3$ of the testator's estate. While the difference lies in Islamic Law, Obligatory Heirs and Division of Inheritance. Here's the division:

Islamic Law.

Malaysia has a dual legal system, where Islamic law is applied to family and religious matters for Muslims. Wills are compulsory under Islamic family law in Malaysia. Egypt applies Sharia law as a source of Islamic law. Mandatory wills are regulated in Egyptian Islamic family law. Tunisia implements a civil law system influenced by France. Tunisian law has no specific provisions governing mandatory wills in their family law.

Heirs Mustah

Malaysia recognizes the concept of compulsory heirs who must get a share of the inheritance property, such as children, spouse, parents, and other closest relatives. Egypt recognizes obligatory heirs who must get a share of the estate, such as children, spouses, parents, and other closest relatives.

Distribution of Inheritance

Malaysia has provisions on the division of inheritance in accordance with mandatory wills. The testamentary share should not exceed one-third of the total estate, and the rest should be distributed in accordance with the provisions of Islamic law. Egypt sees restrictions on the share that can be testified, and most property must be divided in accordance with the provisions of Islamic law on inheritance. Tunisia recognizes discretionary wills, which allow testators to freely give property without special restrictions on obligatory heirs. However, this is not the same as the concept of a compulsory will which regulates the specific rights of obligatory heirs. *The third cluster* is Syria, Jordan, Morocco, and Syria. The country has similarities in the provisions of compulsory wills that only grandchildren of sons are given compulsory wills, while grandchildren of daughters are not given. While in terms of how many wills are not determined. While the differences are as follows:

Legal System

Syria implements a legal system based on civil law with the influence of Islamic law. Jordan implements a legal system based on civil law with the influence of Islamic law. Morocco, meanwhile, implements a legal system based on civil law with the influence of Islamic law and customary law traditions. Syria also implemented a legal system based on civil law with the influence of Islamic law.

Heirs Mustah

Syria recognizes obligatory heirs who must get a share of the estate, such as children, spouses, parents, and other closest relatives. Jordan recognizes obligatory heirs who must get a share of the estate, such as children, spouses, parents, and other closest relatives.

Morocco recognizes compulsory heirs who must obtain a share of the estate, such as children, spouse, parents, and other closest relatives. Syria recognizes obligatory heirs who must get a share of the estate, such as children, spouses, parents, and other closest relatives.

Distribution of Inheritance

Syria, the proportion that can be willed depends on the number of obligatory heirs and the rules in force in Syria. Then Jordan, the proportion that can be testified depends on the number of obligatory heirs and the rules in force in Jordan. Morocco, the proportion that can be willed depends on the number of obligatory heirs and the rules in force in Morocco. As for Syria, the proportion that can be testified depends on the number of obligatory heirs and the rules in force in Syria.

Requirements and Validity

Syria, a mandatory will must meet certain conditions in order to be considered valid, such as the existence of a reasonable testator, the minimum age of the testator, and the testimony of adequate witnesses. In Jordan, a mandatory will must meet certain conditions to be considered valid, such as the existence of a reasonable testator, the minimum age of the testator, and the testimony of adequate witnesses. Morocco, a mandatory will must meet certain conditions in order to be considered valid. Fourth Cluster, Pakistan; Turkish; Iran; Iraq which states that it is not specifically regulated regarding mandatory wills. But for Pakistan and Turkey there is an equal division between men and women, while Iraq and Iran are divided according to the madhhab adhered to.

Legal System

Pakistan and Iran implement legal systems influenced by Islamic law (Sharia) in family and religious matters. In Turkey, although the majority of the population is Muslim, the legal system applied is civil law influenced by the Roman legal tradition. Iraq also had Islamic influence in its legal system, but with the influence of secular law after the collapse of Saddam Hussein's regime.

Heirs Mustah

Mandatory heirs in Pakistan, Turkey, Iran, and Iraq include children, spouse, parents, and other close relatives. They have the right to get a share of the inheritance property. However, there are differences in the terms and proportions that can be bequeathed to obligatory heirs in each country, depending on the interpretation of Islamic law and applicable family rules.

Distribution of Inheritance

The division of inheritance may vary between these countries. For example, in Pakistan and Turkey, there are limits on the proportion of testamentary property, such as one-third or one-half of an estate. In Iran, the division of inheritance depends on family relations and the number of obligatory heirs. In Iraq, the legal system may vary depending on the part of the country.

In the cluster division, there is a type of cluster that is divided into 4 clusters. Each cluster has a State whose rules or regulations are almost the same and are determined based on the number of wills given. In addition, there are also references to legal regulations governing the mandatory will of each State. The following can be seen a table of cluster divisions related to mandatory wills in various Muslim countries.

Table 2. Similarities and regulations of Mandatory Wills in Various Muslim Countries

Kind	Country	Conditions	Sum	Regulation
Cluster 1	Indonesian	Awarded to: 1. Adopted children 2. Adoptive parents 3.Children born from the marriage that unrecorded 4.Stepchildren raised since childhood	A maximum of 1/3 (one-third) of the Heir's estate	-Compilation of Islamic Law (Articles 185 and 209) update to Results of the 2012 National Working Meeting of the Supreme Court of the Republic of Indonesia
	Kuwait	Grandchildren (both male and female) of the line of sons from the first generation onwards but women are only the first lineage		- Qanun al-Washiyah al-Wajibah 1971
Clusters 2		Grandchildren (both male and female) of the male lineage of the first generation	A maximum of 1/3 (one-third) of the Heir's estate	-Enactment of the Will of Muslims of Selangor State No 4 of 1999 - Enactment of the Will of Muslims Number 4 of 2004 -Enactment of Islamic Wills Number 5 of 2005
				- Qânûn No. 71 of 1946
				- Personal Status Law 1956

Clusters 3		Grandchildren of sons only, while grandchildren of daughters are not given	-	- Syrian Law of Personal States 1952 Book IV dan V
				- The Syrian Law of Personal States, 1953
				- Maroccoan Code of Personal Status 1958 Books IV and V),
				- Syrian Personal Status Act of 1953
Clusters 4		Not regulated by Mandatory Wills	Equal parts between men and women	- Muslim Laws Ordinance 1961
				- Turkish Islamic Law (Majallat al-Ahkām al-Adhiya, the Turkish civil code of 1926)
			Determined based on the use of madzhab adhered to	- Iraqi Law of Personal Status 1959
				- Civil Code 1936

Conclusion

A compulsory will is a gift given to heirs or closest relatives who do not receive the estate of the person who died due to disability according to shara' and is one of the wishes so that the heirs left behind are not abandoned. This study saw that there are clustering similarities and differences in the provisions of compulsory wills in various Muslim countries. The similarity can be seen from the clusters formed, namely there are 4 clusters related to the division of the State based on mandatory will regulations. The first cluster is Indonesia and Kuwait, the second cluster is Malaysia, Egypt and Tunisia. While the third cluster is Syria, Jordan, Morocco, and Syria. Then finally the fourth cluster is Pakistan, Turkey, Iraq and Iran. The four clusters have similarities that can be seen through the Provisions for Mandatory Wills and also the amount of inheritance obtained.

While the difference lies in several grouping criteria, namely based on Islamic Law applied by Muslim countries, the category of Mandatory Wills, the Presentase of Mandatory Will Distribution, and the requirements for the validity of determining heirs and the division of inheritance. The results showed that there were significant differences in mandatory probate arrangements in the countries studied. This study provides a better understanding of

compulsory testament arrangements in the Muslim countries studied. These findings could make important contributions in the context of Islamic law and heritage policies in these countries. In addition, this study can be the basis for further research in comparing legal systems and compulsory testament arrangements in other Muslim countries.

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