

Juridical Review of the Distribution of Inheritance Rights for Children Who Change Religions according to Civil Law and Islamic Law

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Abstract

Article 28E paragraph (1) of the 1945 Constitution guarantees the freedom for Indonesian citizens to freely embrace religion according to their beliefs. However, this freedom is obtained, so that it affects the rights that should be obtained, such as inheritance rights. Inheritance rights are part of the rights of abandoned families that have been regulated in article 1051 and are also regulated in various other positive legal instruments. The problem arises if the heir converts. This study aims to explain the distribution of inheritance rights to heirs who change religions according to civil law and Islamic law. Then, this study aims to find out the differences and similarities in the rights of those children who change religion and those children who do not. The research method used is normative juridical based on applicable legislation and existing literature. Based on the place where the data on laws and regulations were obtained, books, pdfs and journals. Researchers have collected data through literature and document studies. This study uses qualitative data analysis is descriptive analytical, socio-legal approach and folk traditions. The research fokus this study heirs who change religion will get inheritance rights or not. Based on the results of the study, the legal status and inheritance rights for children who change religions when referring to the provisions of Article 171 Letter C of the Compilation of Islamic Law, the child no longer has the right to inherit rights, but in judicial practice it turns out that there are differences of opinion, if a child has changed religion, then he is still entitled to inherit, but the term inheritance used is "Mandatory Will" as is regular in western civil law the testator has the freedom to make a will over himself. In addition, there is no prohibition on the granting of heirs through wills to persons of different religions so that heirs who have converted are still entitled to bequeath in view of the provisions of the Legitime Portie and the restrictions stipulated in the Civil Code. Then, the granting of a mandatory will is only allowed as much as a third of the inheritance, concluding that the inheritance rights for children who change religions are different from the inheritance rights for children who do not change religions.

Keywords: Inheritance Rights, Children, Change of Religion, Mandatory Will

I. INTRODUCTION

Article 28E paragraph (1) of the 1945 Constitution guarantees freedom for Indonesian citizens to freely embrace religion according to their beliefs, it states that Everyone has the right to embrace religion and worship according to his religion, choose education and teaching, choose a job, choose citizenship, choose a place stay in the territory of the country and leave it, and have the right to return. So, it is found that the freedom to embrace religion according to one's beliefs raises the problem of the transition of religion from one religion to another one that is believed, so that

sometimes in a family there are differences in the religion adhered to and also affect the rights that should be obtained.

One of the rights that has a very great urgency is the right of inheritance, which is a right that must be accepted by someone who has died by the heir, whether he wants to accept it or not, it is already a provision that is attached to his heirs. Along with the journey of life, there are more and more social and environmental interactions, it is undeniable that religious pluralism in one area cannot be avoided, so that it influences one another. As we know that the majority of Indonesian people adhere to Islam, not a few of us also find those who adhere to Islam and then change religions or are known as *murtads*, so according to state and religious regulations the rights of that person while in Islam will change.

Based on the legal guidelines in the country of Indonesia which refers to the Civil Code brought in since the Dutch colonialism, Article 832 of the Civil Code states that those who have the right to become heirs are blood relatives, both legal and out of wedlock and the husband and wife who have lived the longest. those who have been convicted of having killed, or, attempted to kill the deceased, those who by force or action have prevented the deceased from making or withdrawing a will, those who have embezzled, damaged or falsified the will of the deceased. There is a correlation in Article 28E paragraph (1) of the 1945 Constitution with Article 832 of the Civil Code, that religion is not a barrier for someone to obtain their inheritance rights, because freedom of religion is based on their beliefs.

Basically, the process of transferring a person's assets to their heirs, which is called inheritance, occurs only because of death. Therefore, new inheritance will occur if several elements of the requirements that must be met are met: (a) There is someone who dies or an heir (*erflater*). (b) There is someone who is still alive as an heir who will receive an inheritance at the time of death or an heir (*erfgenaam*). (c) There are a number of assets left behind or inherited assets (*nalatenschap*) (Putra Jaya, 2020).

According to the provisions stated in the 1945 Constitution and the Civil Code, that freedom of religion is in accordance with one's beliefs and inheritance only occurs because of death and with its elements, religion is not a barrier for someone to obtain their inheritance rights. Religion as a foundation is very important to teach the existence of a belief as a form (faith), religion as a determinant of the path of life in which direction we should go in order to lead to a predetermined path of truth. Religion in it has certain rules as guidelines for the lives of its adherents. Religion should be an element that really needs to be put forward, especially in determining the rights that belong to someone who has been left behind by an heir.

The Compilation of Islamic Law (KHI), does not explicitly state that religious differences are an obstacle to mutual inheritance. Obstacles to receiving inheritance in KHI are mentioned in article 173 which reads; a person is prevented from becoming an heir if by a judge's decision that has permanent legal force, he is punished for; (a) being blamed for killing or attempting to kill or severely maltreating the testator; (b) being falsely accused of having filed a complaint that the

testator has committed a crime punishable by 5 (five) years in prison or a more severe sentence. Based on the provisions of the article, a person is prevented from receiving an inheritance due to two things, namely being blamed for killing, trying to kill (Imron, 2022). However, implicitly the barriers to inheriting are caused by religious differences, we can conclude in the general explanation of Book II of the Law of Inheritance.

According to Article 171 Letter C of the Compilation of Islamic Law, it is stated what is meant by an heir, namely a person who at the time of death or who is declared dead based on an Islamic court decision, leaves heirs and inheritance and heirs are people who at the time of death have blood relationship or marital relationship with the heir, is Muslim and is not hindered by law to become an heir. Thus, there are similarities in the same criteria required by KHI, namely between heirs and heirs who are both Muslim.

This provision applies to married couples and children from their families, those who are heirs who cannot be prevented and never lost in obtaining their inheritance rights by other groups of heirs unless they become heir killers and are not Muslim. Children who are the heirs of the heir, are the people closest to heredity if one family adheres to and has strong beliefs, so that there is no conversion from Islam to another religion, for example, then this does not become problem. However, if one of them changes religion, it is certain that there will be a change in the provisions and provisions of the rights that will apply to them. The portion for daughters who should get half ($\frac{1}{2}$) of the inheritance if the heir does not have sons and she is the only daughter and she will get two-thirds ($\frac{2}{3}$) of the inheritance if the heir does not have sons and he has many daughters and the portion that should be obtained by sons is the asabah itself from the property if the heir has daughters and gets asabah with daughters if the heir has daughters. The distribution of their rights is carried out if it is not hindered by the transfer of one of them.

Heirs because of their own position are the heirs as referred to in Article 852 paragraph (1) of the Civil Code, namely children born from the same marriage or from different marriages who inherit both parents to grandparents and the next family according to a straight line upwards, without distinguishing between men and women, or between those who were born earlier and those who were born later. Children as successors to the legacy of their parents who have left them, as heirs who are entitled to the inheritance left by the heir (Hajar, 2007), those who are entitled to a share of the inheritance. Inheritance rights that they get based on blood or kinship, blood relationship or kinship between children and heirs like this are called nasab haqiqy (Ali, 2006), Among the reasons for the transfer of the property of someone who has died to someone who is still alive, there is a kinship relationship between the two. In the first stage a child is found to have a kinship with the mother who gave birth, a child born to a mother has a kinship with a mother who gave birth to him. This is natural and no one can dispute this, because it is very clear because the child came out of a mother's womb.

Since the birth of the child has been Muslim, every child is born in a state of fitrah (Bukhari, 118), because a child or newborn baby does not bear any sins, is still pure, because when he was

born in the world he had not done and knew anything. The fitrah in question is in religion, Muhammad Quraish Shihab said fitrah is a state of creation that exists in humans that makes humans have the potential to know God and know God's creations and His Shari'a. Islam is a religion of human nature, a religion that guides and demands human life. One religious auspices is one of the conditions for a person to be in one sphere of life both mentally and physically. The body is connected because there is kinship and blood relationship, the mind is connected because there is a religion that connects one another. However,

Assets that are the legacy of a deceased person are one of the sensitive matters. Inheritance is the form of wealth left behind and transferred to the heirs; raises the question of how and to what extent the form of transferred wealth is influenced by the nature of the family environment, where the heirs and heirs are together.. Only rights and obligations in the field of property law can be inherited, meaning that only rights and obligations can be valued in money, and if a person dies, immediately all his rights and obligations are transferred to all his heirs (Ramulyo, 1994). These are the two principles contained in a French proverb which reads *le mort saisit le vif*, while the transfer of all rights and obligations from the heirs by the heirs is called *Saisine*, a principle in which all heirs by themselves automatically because of the law obtain rights property of all goods and all rights and obligations of someone who has died.

It is this blood relationship and religious innate nature that will bring children as heirs, entitled to all ownership rights and obligations after the death of the heir. The nature that the child has can change one day for various reasons. Religion brings a set of laws by harmonizing the Civil Code to determine and decide on the rights and obligations that they will get and have. Religious law and civil law work to balance each other with their articles and verses. Therefore, every provision that has been written and listed therein will apply to the rights of every child who may one day change religions. The issue of the rights of children who change religions needs to be focused and given serious attention. Based on the description above, the writer is interested in conducting research with the title: "Juridical Review of the Distribution of Inheritance Rights for Children who Change Religion According to Civil Law and Islamic Law".

II. METHODOLOGY

This research methodology has three meanings, namely the logic of scientific research, the study of research procedures and techniques and systems of research procedures and techniques, as well as the methods used, namely normative legal research and socio-legal legal research.

a. Research Types and Approaches

This type of research is normative law, because this research examines legal rules, legal principles or principles as well as legal doctrines. The type of approach used is the socio-legal approach and folk traditions.

b. Data Types and Sources

Sources of data in this study used library data, namely data obtained from various sources or library materials such as law books, journals, articles or research results and other literature that are appropriate to the problems in the research. The type of data used to solve the problem as formulated in this legal research is sourced from primary, secondary and tertiary legal materials.

c. Data collection technique

The techniques used by the author to collect data related to this research include: theoretical literature studies obtained by reading, reviewing library materials, and studying data from several literatures. Meanwhile, document study examines written information regarding law that is not published in general.

d. Data Analysis Techniques

The technique for analyzing the data used in this study is a qualitative method which is then explained descriptively.

III. RESULT AND DISCUSSION

1. Definition of Inheritance

In the Big Indonesian Dictionary (KBBI) the word inheritance means a person who has the right to receive inheritance from a deceased person (Big Indonesian Dictionary, 2001). Meanwhile, according to Islamic law, inheritance is defined as the law governing the transfer of assets left by someone who dies and the consequences for their heirs and also various rules regarding the transfer of property rights, the property rights in question are in the form of assets, a person who dies to his heirs (Effendi, 2008). Inheritance has another term called *fara'id* which means a certain part which is divided according to the Islamic religion to those who are entitled to receive it and whose parts have been determined (Saebani, 2012).

Inheritance is a collection of rules governing the law regarding assets due to the death of a person, namely regarding the transfer of assets left by the heir to his heirs. Inheritance law are laws or rules governing whether and how various rights and obligations regarding a person's wealth at the time of death will be transferred to other people who are still alive. There is no specific article that provides an understanding of the law of inheritance itself, there is only an article which states that "inheritance only takes place because of death", namely article 830, therefore, assets that transfer ownership can be carried out or given if the heir has been or is declared dead (Civil Code, 2007).

After looking at the things that have been described, it can be concluded that the determination of the transfer of ownership of the assets owned will be carried out with the conditions that have been in effect, one of which is the heir who owns and whose property will be transferred has been or is declared dead. So it can also be concluded that if the transfer of assets is

carried out before the heir has been or is declared dead, then it does not include inherited assets but only gifts or gifts.

2. Elements - Elements of Inheritance

In inheritance there are important elements that must be fulfilled, if they are not fulfilled then there is no implementation of the distribution of inheritance rights, these important elements are:

a. Eflater

Article 830 of the Civil Code states that every person who dies. However, if only based on this understanding there is a weakness, namely what if the person who died did not leave any inheritance. Thus, the heir is not just a person who dies, but a person who dies with proof of a death certificate, leaving an inheritance^(Ria, 2018). In the implementation of inheritance, the main problem lies not in the inheritance obligations, but in inheritance rights, it can be said that the most important element in inheritance is the inheritance left by the heir to the heirs. If the element of inheritance does not exist, then it is irrelevant. Conversely, if there is no heir, inheritance is still relevant, because the property falls on the state.

Heir is every person who dies and leaves inheritance (wealth) (Suparman, 2006). The heirs in question include men or women, parents or children. From this it can be concluded that not everyone who dies is called an heir, because the condition to be called an heir is that the person who dies must leave various rights and obligations that must be fulfilled to third parties which can be valued in money, which is called an inheritance.

b. Erfgenaam

In the conception of the Civil Code, in general there are two groups that are worthy and entitled to be called heirs. The first group is the blood family, legally with the marriage process that has lived the longest with the heir as confirmed in article 832 of the Civil Code. The second group is people who are appointed by the heir in a will when the heir is still alive, who may have a family relationship with the heir as stated in Article 954 of the Indonesian Civil Code.

Heirs have several categories which are grouped into, namely:

1) Ashab al-furudh heirs

The heirs of ashab al-furudh are heirs whose portion has been determined definitely in the Qur'an and the hadith of the Prophet. They receive the inheritance in the first order. Heirs who legally syara' are entitled to receive inheritance because there is no one to cover it. Ashab al-furudh's heirs consist of twelve people, eight of whom are women and four are sons. What is meant by heirs of ashab al-furudh are heirs who receive certain parts as determined by syara', both large and small.

There are six kinds of certain parts (al furudh muqaddharah), namely:

a. Half (1/2)

- b. Quarter ($1/4$)
- c. One-eighth ($1/8$)
- d. Two-thirds ($2/3$)
- e. One third ($1/3$)
- f. One sixth ($1/6$)

The heirs are:

1. Girls, get:

- $1/2$ if alone and not with boys,
- $2/3$ if two or more people and no boys.

2. Granddaughter, got:

- $1/2$ if alone and not with grandchildren and not hijab,
- $2/3$ if two or more people and no grandson,
- $1/6$ if with a girl.

3. Mother, got:

- $1/6$ if there are children or grandchildren or two or more siblings,
- $1/3$ if not leaving children or grandchildren or two siblings or more.

4. Father, got:

- $1/6$ if there is a son or grandson, $1/6$ if +
- rest if there are no sons and grandsons.

5. Husband (widower), gets:

- $1/2$ if leaving no children or grandchildren,
- $1/4$ if there are children or grandchildren.

6. Widow (widow), gets:

- $1/4$ if there are no children or grandchildren,
- $1/8$ if there are children or grandchildren.

7. My father's sister gets:

- $1/2$ if alone and no brothers or sisters
- fatherly woman,
- $2/3$ if more than one and not with a brother or

father's sister,
1/6 if shared with biological sister.

8. Mother's sister, gets:
1/6 if only alone,
1/3 if from a man or a woman or them
gather men

9. Biological sister, gets:
1/2 if alone and no brothers,
2/3 if more than one person and not with a brother.

10. A mother's brother gets:
1/6 if he is a,
1/3 for two or more people.

11. Grandpa , gets:
1/6 if there are children or grandchildren with him, gets the remaining assets if
no son or grandson,
1/6 then the remaining assets if there are children or grandchildren with him
woman.

12. Grandmother, got:
1/6 as long as not covered by other heirs

2) **Ashabah heirs**

Ashabah heirs are heirs who are entitled but whose share is not explained in the Qur'an and the Hadith of the Prophet. He received the rights in the second order. He takes the entire property if he is not with him, the heir of Dzawu al- Furudh and takes the rest of the property after it has been given first to the heir of Dzawu al- Furudh who is with him (Syarifuddin, 2003). If the inheritance remains, it should be given to the male heir who has the closest family relationship with the heir.

Ashabah heirs of two parts, namely:

- Asabah Nasabiyah, which is based on kinship.
- Ashabah Sababiyah, which is based on the existence of causes for freeing slaves.

Furthermore, the nasabiyah ashabah is divided into three groups, namely:

- a) Ashabah bi Nafsi, namely the group of men who are related to people whodied without being accompanied by women. This Asabah has four jihats:

- Jihat Bunuwwah (descendant), that is, the son of a deceased person from his descendant continues down.
 - Jihat Ubuwwah (Fathers and Ancestors), which includes the father and grandfather of the person who died and so on up.
 - Jihat Ukhuwwah (siblings and their offspring), including brothers and sisters of the same father, sons of the brothers of the same father, sons of the brothers of the same father and so on down.
 - Jihat ummah (uncles and their descendants), including uncles and their offspring, uncles from the same father, sons from the uncles from the same father, and sons from the uncles from the same father.
- b) Asabah bil Ghairi, limited to four women which include:
- Girls, included in the asabah class with their brothers.
 - Granddaughter.
 - A sibling is included in the ashabah group if she inherits with a brother.
 - Same-father sister, if she is with her father's brother, then each of them becomes an ashabah with her brother with the condition that the male share is twice as much as the female share.
- c) Ashabah ma'al ghairi specifically for siblings or women of the same father, who inherit property together with their daughters or granddaughters with the terms that they are not with their brothers, this ashabah is also said to be female heirs who need an expert other female heirs to become asabah heirs (Sabiq, 1993).

3) **Heir of Dzawu al-Arham**

Dzawu al-Arham's heirs are people who are related to the heir, but their part is not explained in the Qur'an and/or Hadith of the Prophet as dzawu al-furudh nor is he in the ashabah group. If the relative who becomes the ashabah is male, then Dzawu al-Arham is a woman or a man through the female lineage. Dzawu al-Arham can be grouped into four groups according to lineage (Syarifuddin, 2004), namely:

- Lineage straight down, namely: Sons or daughters of daughters and their offspring. Sons or daughters of granddaughters and their descendants.
- Lineage straight up, namely: Father from mother and so on and up. Father from mother and so on and up. Father from mother father and so on and up.
- Poertama's side lineage, namely: Daughter of a biological brother or father and his child. Brothers or sisters from the mother's siblings and so on down
- The second side lineage is: Sister (biological, father and mother) of the father and son. A mother's brother or sister from the father and so on down. Brother or sister (biological, father and mother) from the mother and so on down.

3. Definition of Changing Religion (Apostasy)

The term apostasy is the adoption of the Arabic word irtadda which means turning back. Meanwhile, according to Islam, an apostate is a person who is a Muslim (Muslim) who becomes closed in heart (a non-believer) after converting to Islam, without coercion, at a sufficient age, and with common sense. Then etymologically, apostasy is interpreted as turning away from Islam (ar-ruju'an al-Islam). Meanwhile, terminologically, an apostate is defined as a Muslim who chooses to be closed in heart (infidel) after previously saying the shahada and practicing Islamic law. Apostasy occurs if he expresses clearly "I associate partners with Allah" (Rosman, 2001).

In this definition of apostasy, we can also find many terms used such as conversion or conversion of religion. To be understood, it is often used with the term religious conversion. So, apostasy or conversion of religion is an event carried out by adherents of religions who do not really have a fixed belief, so they leave the old religion in search of the essential truth. However, converting one's religion to another is a human right. This is stated in the 1945 Constitution Article 28E paragraph 1 that everyone has the right to embrace religion and worship according to their religion, have education and teaching, have a job, choose citizenship, choose a place to live in the territory of the country and leave it,

4. Reasons for changing religions

There are two reasons or factors that cause a child to convert from Islam to another religion, these factors are Primer and Secondary. In the book *Psychology of Religion* written by Prof. Dr. H. Jalaluddin, researchers can conclude that the primary factors that are the cause of the occurrence of cases of religious conversion include: social influences, supernatural influences, and educational influences.

A. Primary Factors

1) Social Influence

The social influences that cause religious conversions include the existence of interpersonal relations factors in the form of marriage, parental influence, and environmental influences. The factor of religious conversion caused by interpersonal relationships often occurs in cases of interfaith marriages, with an outline of the reasons to unite the way of life in the future, both in terms of religious teachings to children, as well as how to get together in a household. However, researchers think that there are actually a lot of factors behind the conversion of religion by way of interfaith marriage, with the following reviews:

The social influences that can be found are the influence of parents, the factor of household rifts that occur in interfaith marriages and results in children, it is undeniable that interfaith marriages must have real commitments, both in the marriage bond and commitment in belief if one party decided to change religions following one.

The conversion that Desta and his older brother experienced because of their separated parents, the disappointment of a mother from Desta made him have to endure the weight of being patient when he was criticized or ridiculed by his friends who knew that he had changed religions and other events, plus when Desta grew up after feeling comfortable and steady with the Catholic religion, she must be faced with a new way of life by marrying a Muslim man.

2) **Supernatural Influence**

The motivating factor for subsequent religious conversions is divine guidance. In terms of the psychology of religion, religious conversion has a lot to do with psychology and the influence of the environment in which one lives. Religious experts state that the driving factor for religious conversion is divine guidance. Supernatural influences play a dominant role in the process of religious conversion in a person or group (Jalaluddin, 2005). Religious conversions with supernatural influences or instructions from the Divine occurred when a woman was passed through a dream that she experienced several times, after she experienced a problem, namely a discrepancy between her thoughts and the teachings of the religion she had previously adhered to, so that for her in that teaching she could not find God. which was exactly what he had hoped for. He did not only get these thoughts from the environment around him, where the majority had a different religion from him, but he got them from various information such as books, social media, the internet and so on. When he had several dreams, he felt that this was the answer to the problem. - the problems he experienced.

3) **The Influence of Education**

Social science research displays data and arguments, that the atmosphere of education also influences religious conversions (Jalaluddin, 2005). The influence of education which is a factor causing religious conversion is the influence of the power of belief that is instilled in a person when a person gets proper religious education. A person who has lived a religion while embracing the previous religion after being told it can be said that the strength of that person's religion is not too strong, you could say it's normal because from a young age, learning religion is only at school so it doesn't rule out the possibility of learning religion that is lived only in general, so there is also the possibility it's so easy to shake the faith that was previously owned.

Then learning religion was only at the formal education level, because at that time there were no religious education parks for children to study religion more deeply, especially in their previous religion. In addition, informal education in the form of guidance from parents is very important for children, because closeness to parents can influence a child's thinking in taking their own path in life.

Meanwhile, they are people who have a level of closeness with their parents within reasonable limits, meaning they rarely exchange ideas, even exchange stories, rarely tell

personal problems, and their parents are parents who fully give authority to their children in making decisions, but are very it's a shame if the authority given is without good control so that it reaches the shaky faith of a child.

B. Secondary Factors

The problems that led to this religious conversion were motivated by internal and external factors, including:

1) Internal Factors

a) Personality

Psychologically, it turns out that certain personality types can be the cause of religious conversions, due to their psychological influence. In W. James's research, he found that the melancholic type has a deeper feeling vulnerability which can lead to religious conversion in him. 18 Melancholic personalities who tend to keep their problems to themselves for various reasons such as being able to solve their own problems, few people can understand, no wanting the problem to spread, and so on is a trait that tends to be possessed by people who carry out religious conversions. They believe more in themselves and don't want to be influenced by others. Most of them make decisions with little support from the people around them.

A melancholic personality who keeps his problems to himself for various reasons such as being able to solve his own problems, few people who understand, don't want his problems to spread, and so on are traits that tend to be possessed by people who do religious conversions. They believe more in themselves and don't want to be influenced by others. Most of them make decisions with little support from the people around them, that is what is called emotional vulnerability in melancholic people who experience religious conversions.

b) Inheritance Factor

According to research by Guy E. Swanson that there is such a tendency of birth order to affect religious conversions. The eldest and youngest children usually do not experience mental stress, while children who are born in the middle of the two often experience mental stress (Jalaluddin, 2005). This can indeed show that most of those who experience religious conversion are children born between the eldest and youngest children. It is true that children born between the first and last children experience more emotional stress because if the eldest child is the first child to affection from parents and the youngest child because they are smaller than their older siblings, the parents also pay more attention to their youngest child.

2) External Factors

a) Family Factors

Family factors that happened to Desta when his parents separated and followed his mother, but his mother returned to the Catholic religion so he had to follow his mother's religion because if he continued to stick to his previous religion, he was still a child and no one could guide him. The main factor actually lies in the commitment of the family and in belief. Cracks in the family that are found can cause inner pressure on a person, and religious conversions can occur in an effort to find inner peace within him.

b) Living environment

Not a few people feel left out, alienated, or removed from their lives which causes them to feel alone, and this situation can cause them to easily enter into a new religion that can make them feel less alone anymore. Someone who feels left out by people who are in his religious environment before feels not embraced when he has weaknesses in worship, is just ridiculed and so on, circumstances like that make him uncomfortable and further away from his religion, plus his environment is the majority of religions that now embrace and provide a reward and guidance.

c) Status Change

Changes in status that occur suddenly, for example, divorce, dropping out of school and so on, or marrying someone of a different religion. Religious conversion events that occur due to interfaith marriages are the most common. This is based on the reason to unite the path of marriage in the future, of course this must be based on a very strong commitment, especially if one of you decides to change religions, you must be properly guided to strengthen the faith of the new religion, so that things don't happen unwanted things.

d) Poverty

The case of poverty which is a driving factor for religious conversion in an area is based on the ignorance and lack of knowledge of an informant, so that he is in a resigned situation because someone wants to marry him, take care of him, and he cannot do anything about it.

If these factors affect a child to cause a kind of symptom of inner pressure, it will encourage them to find a way out, namely inner peace. In such a condition of the soul, psychologically a person's life becomes empty and helpless so he seeks protection from other forces that are able to give a calm and serene soul life.

5. Inheritance Rights for Children who Change Religion

Heirs based on their own position (uit eigen hoofde) or inherit directly, for example if the father dies, then all of his children appear as heirs. According to the Civil Code, the classification of heirs is: The first group, namely children and their descendants in a straight line down. Starting in 1935 the right to inherit the husband or wife who lived the longest was equated with a legitimate

child (Article 852a of the Civil Code). Article 176 If there is only one daughter, she gets half, if two or more people together get two-thirds, and if the girl is with a boy, then the boy's share is two to one. girl.

Based on the provisions of Article 852 of the Civil Code: Children or descendants, even if born from various marriages, inherit the inheritance of their parents, grandparents, or their next blood relatives in a straight line, without distinguishing gender or earlier birth. They inherit equal parts head by head, if they are all related to the deceased in the first degree and each has the right because of himself; they inherit stake by stake, if they all partly inherit as a substitute.

Legal provisions including the provisions of inheritance law in Islam are God's provisions that must be obeyed, therefore humans have no right to change God's provisions (QS An Nisaa: 13-14). Based on the above explanation that sons and daughters are absolute heirs and it has been explicitly determined that the share of sons is double that of daughters. This happens because in general men are burdened with the responsibility or obligation to make a living in the household. This is in line with the provisions stipulated in Law no. 1/1974 in article 34 paragraph 1 states that "the husband is obliged to protect his wife and provide everything necessary for household life according to his ability."

In article 171 KHI, there are several provisions regarding this inheritance, namely inheritance law is the law that regulates the transfer of inheritance rights (tirkah) to heirs, determines who has the right to become heirs and how many shares each. Based on article 174 KHI and Islamic inheritance law, the cause of inheritance is limited to three, namely first, because of kinship (qarabah), or also called lineage (lineage), namely between the deceased (heir) and the heirs have an essential kinship relationship, both above and beyond. (called ushul), for example the deceased with his mother or father; or down (called furu) for example between the deceased child, grandson, and so on.

Second, because of marriage (mushaharabah), namely between the deceased (heir) and the heirs there is a marital relationship. The meaning is a legal marriage according to Islam, not an invalid marriage, and a marriage that is still intact or not divorced or considered intact, that is, it is still in the iddah period for divorce rajji (one or two divorces) not ba'in divorce (three divorces). Third, the reason for freeing slaves (wala'), that is, between the deceased and the heirs there is a relationship due to the freeing of slaves. If someone frees his slave, then that person and his former slave will inherit each other. If the person dies and there are no heirs from the relatives, then the ex-slave is entitled to his inheritance. Because of inheriting something like this is also called because of legal relatives (qarabah hukmiyah).

According to KHI Article 174 paragraph (1), Article 201 and Article 211, the method of obtaining inheritance is based on blood relations, wala, religious relations, marital relations, based on wills, and based on grants. A grant is a gift when the owner of the property is still alive, while a will is given when the owner of the property has died. The position of a child who changes religion in Islamic law causes him to lose the right to inherit by kinship or lineage. Thus it is clear

that children who change religions cannot be used as heirs. However, in its development, the Supreme Court has reformed Islamic inheritance law whereby heirs who change religions can still get their share of the heir's inheritance, by assuming the heir is an adopted child.

According to Article 209 paragraphs (1) and (2) KHI, adopted children or adoptive parents have the right to obtain a mandatory testament of up to 1/3 (one third) of the. If the adopted child or adoptive parents do not accept the will, then the obligatory will is a way out for the adopted child or adoptive parents to get a share of the inheritance.

This is in accordance with the sound of Article 195 paragraph (1) KHI, that A will is made orally before two witnesses, or in writing before two witnesses, or before a Notary, so that a will will allow someone who has more assets to set aside some of these assets and not include them in the amount of inheritance to be divided among their heirs. In Article 211 KHI explains that grants given by parents to their children can be counted as inheritance.

The definition of "can" in this article does not mean a must, but is an alternative that can be taken to resolve inheritance disputes. But if there are some heirs who question the grant given to some of the other heirs, then based on Article 201 KHI, the grant can be counted as an inheritance, by calculating the grant that has been received with the portion of the inheritance that should have been received, if the grant has been received it is still less than the portion of the inheritance, it remains only to add to the deficiency, and if it exceeds the portion of the inheritance, the excess grant can be withdrawn to be handed over to the heirs who are lacking from the portion.

Then answering the question regarding the arrangement of the distribution of inheritance rights to heirs who change religion according to civil law and Islamic law as based on Article 201 KHI they get grant rights or obligatory wills which also regulate the amount in Article 209 (1), namely 1/3 of the inheritance and also answered that there was a difference and equal implementation of the rights of children who changed religions and children who did not convert, that the share of children who changed religions and those who did not change religions had different parts, children who changed religions received 1/3 of a mandatory will if there was the mix of boys and girls does not affect the size, even those who do not change religions when there is a mix of boys and girls, the share of boys is the same as the share of girls

IV. CONCLUSION

Based on the discussion as stated in the introductory chapter, the following conclusions can be drawn:

- Based on the legal guidelines in the country of Indonesia which refers to the Civil Code brought in since the Dutch colonialism, Article 832 of the Civil Code states that those who have the right to become heirs are blood relatives, both legal and outside of marriage and husband and wife who are living the longest, those who have been convicted of having killed, or, trying to kill the deceased, those who by force or action have prevented the deceased from making or revoking a will, those who have embezzled, damaged or falsified the will of the deceased.

- Barriers to receiving inheritance in KHI are mentioned in article 173 which reads; a person is prevented from becoming an heir if by a judge's decision that has permanent legal force, he is punished for; (a) being blamed for killing or attempting to kill or severely maltreating the testator; (b) being falsely accused of having filed a complaint that the testator has committed a crime punishable by 5 (five) years in prison or a more severe sentence.
- According to Article 171 Letter C of the Compilation of Islamic Law, it is stated what is meant by an heir, namely a person who at the time of death or who is declared dead based on a Muslim court decision, leaves heirs and inheritance and heirs are people who at the time of death the world has a blood relationship or marital relationship with the heir, is Muslim and is not hindered by law to become an heir.
- Then the portion for daughters who should get half ($\frac{1}{2}$) of the inheritance if the heir does not have sons and she is the only daughter and she will get two-thirds ($\frac{2}{3}$) of the inheritance if the heir does not have sons and he has many daughters and the portion that should be obtained by sons is the asabah itself from the assets if the heir has daughters and gets asabah with daughters if the heir has daughters. Heirs because of their own position are the heirs as referred to in Article 852 paragraph (1) of the Civil Code,
- Assets that are the legacy of a deceased person are one of the sensitive matters, inheritance is in the form of assets left behind and transferred to heirs; raises the question of how and to what extent the transfer of wealth is influenced by the nature of the family environment, where the heirs and heirs are together.
- However, the researcher believes that there are actually a lot of factors behind the conversion of religion by way of interfaith marriage, with the following review: The social influences that can be found are the influence of parents, the factor of household rifts that occur in interfaith marriages and results in children, it is undeniable that interfaith marriages must have real commitments, both in the marriage bond and commitment in belief if one party decides to change religions to follow one of them. In W. James's research, he found that the melancholic type has a deeper feeling vulnerability which can lead to religious conversion in him.
- This can indeed show that most of those who experience religious conversion are children born between the eldest and youngest children. It is true that children born between the first and last children experience more emotional pressure because if the eldest child is the first child When they get love from their parents and youngest child because they are smaller than their older siblings, parents also pay more attention to their youngest child.
- But if there are some heirs who question the obligatory will given to some other heirs, then based on Article 201 KHI, the will can be counted as an inheritance, by calculating the will that has been received with the portion of the inheritance that should have been received, if the will what has been received is still less than the portion of the inheritance, it remains

only to add to the deficiency, and if it exceeds the portion of the inheritance, the excess grant can be withdrawn to be handed over to the heirs who are lacking from the portion.

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1. Increasing understanding through studies and outreach regarding the differences in rights found for children who are still of their religious origin, in this case Islam, and children who have changed religions. Where their rights are different but must still be delivered and given according to their respective portions. This study and socialization is important because the perspective on inheritance rights for children who change religions will determine the amount that will be obtained with a maximum limit of 1/3 for the child.
2. Efforts to socialize the portion of the rights of children who change religions are not enough to be conveyed only orally. However, it is necessary to have a written letter so that there is a mutual agreement with the family as stipulated in Indonesian positive law. Efforts to distribute the rights also need to be considered. The active role of religious leaders needs to be involved. These efforts can at least give understanding to the child.

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Legislation :

The 1945 Constitution Article Article 28E paragraph (1).

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Compilation of Islamic Law Article 171.

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