

ABSTRACT

Aprianto, Mohamad 07210035. Epistemology of Imam Shafi'i and Hazairin in defining Grandfather with relative's inheritance (Comparative Study). Thesis. Major: Al-ahwal al-Syakhshiyah, Faculty. Sharia, Islamic State University of Maulana Malik Ibrahim Malang. Supervisor: Zaenul Mahmudi, MA.

Keywords: Grandfather Inheritance, Shafi'i and Hazairin

Hereditary law is part of the family law that holds a very important role. Hence concerning family law, then the mindset of commentators in interpreting inheritance verses cannot be removed from the kinship system and social culture of commentators live. Shafi'i who lived in Arab society with its patrilineal patterned, his interpretation toward inheritance verses is also in patrilineal nuance. Likewise with Hazairin who lived in Indonesian society which is in bilateral patterned majority, his interpretation toward inheritance verses is in patrilineal as well. Up till now, people tend to do *taqlid* and they do not quite understand about grandfather with relative's inheritance in division process. From all this problems, the purposes of this study is to study in depth the similarities and differences in grandfather with relative's inheritance in Shafi'i and Hazairin perspective and examine the background of their thought in digging a law in determining the grandfather with relative's inheritance.

This study aims to answer questions about: first: How is the Epistemology of Shafi'i determining grandfather with relative's inheritance? Second; how is the Epistemology of Hazairin determining grandfather with relative's inheritance? And third; How is comparative epistemological analysis of grandfather with relative's inheritance based on Shafi and Hazairin perspective?.

This thesis is the result of library research about grandfather with relative's inheritance compared with Imam Shafi'i and Hazairin perspectives. The research data are collected through study of texts and then it is analyzed with descriptive and comparative techniques. From some arguments and explanations of the obtained data, the authors draw conclusions, grandfather with relative's inheritance is a controversial issue if it is compared with Imam Shafi and Hazairin perspectives, because of these two figures have its own concept in formulating group of heirs and also in the excavation of the law.

From these results, it can be concluded that according to Shafi'i epistemology, the legal of grandfather with relative's inheritance is *qiyas*. In Shafi'i perspective, there is no explicit *nash* in the Koran and al-Hadith, the "grandfather is the father of one's father while relative is father cousin, meaning that each one associated with the human corpse through father." Meanwhile, according to Hazairin epistemology, the legal of grandfather with relative's inheritance is the Koran. According to Hazairin, grandfather's position is on the fourth superiority or the direct heirs of the most recent that is not mentioned in the sura al-Nisa ': 11, 12, 176, and only implicitly have a place in the sura al-Nisa': 33, That is the grandfather from father as *mawali* (substitute) for the father and the grandfather from the mother as *mawali* for the mother.