

ABSTRACT

Hamdi, Yusron. 07,210,070. Bagian Waris Sepertiga Bagi Ayah (Studi Analisis Pasal 177 Kompilasi Hukum Islam). Thesis. Major: Al-AI shakhsiyyah ahwal. Faculty: Shyaria, State Islamic University of Malang Maulana Malik Ibrahim. Supervisor: H. Isroqunnajah, M. Ag.

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Compilation of Islamic Law which is a new breakthrough and the ideals of Muslim scholars is a definite rule. Which serve as reference material in the determination of an issue in the religious court. However, once formed Compilation of Islamic Law there are some differences between the Fiqh which is a former scholar of *ijtihad*, one of which is about the inheritance of the father in the inheritance. Where in the KHI father gets 1 / 3 if no children, and get 1 / 6 if there are children. This is very different from what already exists in the Fiqh inherit, that the father gets *far'ul* residuary heir if there is no inheritance and get 1 / 6 if the joint *far'ul inheritance*.

Of the phenomenon, the authors are interested in researching the history of the preparation of book II of inheritance in Compilation of Islamic Law (KHI) and review of Islamic law for the father who gets one third of the estate in Compilation of Islamic Law (KHI).

This type of study is classified as library research or literature. This study also uses analytical normative juridical approach is in the form of a historical approach (historical approach). For the collection of legal materials this research study using a method of literary study.

Results from this study that the formation of book II Compilation of Islamic Law (KHI) is based on the needs of Muslims against the law for sure, and also to avoid ambiguous in the determination of an issue in the realm of religious court. While the emergence of the third for the father because the portion 'residuary heir to the father as great as the third part of the problem if you are not with children but with her husband and mother. And review of Islamic law against the Compilation of Islamic Law (KHI) article 177 of the father in the estate there is a difference, but most of the content of the article the same as in the texts of the Qur'an and *fiqh Mawaris*. However, differences in the content of Article 177 when the deceased leaves a father, husband and mother. In this issue, jurisprudence has followed *ijtihad Mawaris Umar bin Khattab* which fathers get the '*residuary heir*, the husband get half of the mothers get one-third while the rest (after her husband took part) and the problem is called with a problem *gharrawain*. However, Compilation of Islamic Law (KHI) has *ijtihad* others to provide that the father get a third part, with consideration of the letter the Koran verse an-Nisaa '(4) verse 11 and the benefit is based on the principle of responsibility of a fair and balanced, where the father has the responsibility greater responsibility than in the mother and provide legal certainty on the part of fathers.