

ABSTRACT

Khosip Ikhsan, Register Number. 07610081. 2011, SEVERE OPPRESSION AS THE BARRIER OF INHERITANCE (Critical Study of Article 173 Letter A Compilation of Islamic Law). Thesis. Al-Ahwal Al-Syakhshiyah Department. Faculty of Syari'ah. State Islamic University of Maulana Malik Ibrahim Malang. Supervisor: Zaenul Mahmudi, MA.

Keywords: Severe Oppression, The Barrier of Inheritance, compilation of Islamic law

Reviewing in the section of the barrier of inheritance in the compilation of Islamic law, the Author finds a very significant difference between compilation of Islamic law (KHI) and fiqh mawaris books. The difference is obvious in the section of the barrier of inheritance. KHI is used as the manual by the judges in the Religion Court, and the released through President Instruction. The formulation involves some opinions given by ulama in Indonesia. KHI is compiled from fiqh books. However, there is unclear reason why there is a significant different in the matter of the barrier of inheritance between KHI and fiqh books.

The Author attempts to explore the rationalization of severe oppression as the barrier of inheritance in the compilation of Islamic law and to find the meeting point between severe oppression in the Islamic Law and Positive Law in Indonesia.

Research method is library research. It is conducted by collecting some related law materials, which is then followed by processing these materials and finally, by the analysis to the materials.

In fact, after conducting this research, the Author finds the answer of the research question. Rationalization of severe oppression as the barrier of inheritance in KHI can be explained as follows. In related to article 838 in Civil Code, this formulation involves the substances of *maslahah* and *mudharat* of thid oppression based on the Indonesian context. Although the victim is actually alive and not mentally damaged, the victim is losing the cabability of the activity. The meeting point law admit that severe oppression is an incidentally criminal action which is committed to give severe oppression is an incidentally criminal action which is committed to give severe injure against the victim, causing the victim with severe injure and with incapability to conduct regular normal activity.