

ABSTRACT

Irfan Amiruddin, 11210036, 2015, *Converting Inheritance Right Into Saving And Loan Form In Maslahah Perspective (Case Study In Geluran, Taman, Sidoarjo)*, Thesis. Al-Ahwal Al Syakhshiyah Department, Sharia Faculty, State Islamic University of Maulana Malik Ibrahim Malang, Supervisor: Dr. Zaenul Mahmudi, M.A.

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Based on the Quran, the inheritance distribution is performed after deceased passed away. Then, the property is given to the heirs automatically. So, every heir has the right to possess the property. But, one of the families in the Village of Geluran, Taman, Sidoarjo made an agreement that heirs do not obtain the right to possess the property (the money). Their right was converted into saving and loan form. All their's share was given to the deceased's eldest son, and the money was saved by him. Any time, the heirs can borrow the money and return it when he/she is capable. The inheritance distribution does not limit the return time and it does not also set the interest. The inheritance distribution becomes a case that is researched because it has different way based on the Islamic law of inheritance. This research formulates the problems, namely: 1) Why do people convert inheritance right into saving and loan form? And 2) How does *maslahah* view on converting inheritance right into saving and loan form?

The research uses empirical research (field research) and qualitative approach that based on descriptive analysis. Locus of the study is in the Village of Geluran, Taman, Sidoarjo. The research uses primary and secondary data. The primary data is the interview to the informant (the heirs). The secondary data are written documents, books, previous researches, regulations that related to the thesis title. Especially, the researcher needs the books that talk about the concept of Islamic Law of Inheritance and *maslahah*. Furthermore, the *maslahah* of Najamuddin at-Thufi's view is the tool analysis of the research. His concept is used as basic theory to discuss the finding facts. The discussion aims to obtain the result of the research correctly and theoretically.

The research provides the conclusion that the reason to convert the inheritance right into saving and loan form has three advantages and two disadvantages. The advantages are: 1) to help the heir who needs fund, 2) to prevent the disunity among heirs, and 3) to create more harmonious family relationship. Then, the disadvantages are: 1) the eldest son must patch the money when it is zero and 2) all heirs have no right to possess the money. Furthermore, based on the *maslahah* of Najamuddin at-Thufi's view, the inheritance distribution can maintain the purpose of Islamic law namely *maslahah*. Najamuddin at-Thufi affirms that human can refuse the *nash* if it contradicts to the *maslahah*. The inheritance distribution is *muamalah* issues that included to the human's right. At-Thufi confirms that the *maslahah* only comes from the reason. He places the reason higher than Quran and hadith. So, if the heirs' reasons look the converting of inheritance right into saving and loan form as a *maslahah*, then it must be maintained.