



CHAPTER V

CONCLUSIONS AND SUGGESTIONS

A. Conclusions

1. The reason to make the agreement on inheritance distribution by converting inheritance right into saving and loan form consists of the advantages and disadvantages are as follows:
 - a. The Advantages
 - 1) To Help The Heir Who Needs Fund
 - 2) To Prevent The Disunity Among Heirs

3) To Create More Harmonious Family Relationship

b. Disadvantages

- 1) The eldest son must patch the money when it is zero
 - 2) All heirs have no right to possess the money
2. In the case, the agreement is the inheritance right substituted by the right to save and to loan the property (money). The heirs have no possession right to obtain the property, but the right is converted into saving and loan form. If the heirs need the money, they will borrow the money and they must return it when they have much money. The agreement revealed was not without a reason. They considered the advantages and disadvantages mentioned above. The agreement was approved by all heirs because they want to get collective *maslahah*.

Based on the *maslahah* concept of Najamuddin at-Tufi, the main purpose of Islamic Law is to provide a protection for *maslahah*. He affirms that human has the human's right, especially in *muamalah* issues. Therefore, if the *nash* contradicts to human's *maslahah*, human can refuse the *nash* (only *muamalah* issues). Thus, human's right should more prioritize than the God's right (*nash*). The God's right is only in the worship and beliefs issues.

The inheritance distribution issue is the scope of *muamalah* term. Najamuddin At-Thufi confirms that the *maslahah* only comes from the reason. He places the reason higher than Quran and hadith. So, if the reason looks something as a *maslahah*, then it must be maintained. Thus,

the *maslahah* view of Najamuddin at-Tufi on the agreement of the inheritance distribution is as a way to realize the goal of sharia, as well as the agreement on converting the inheritance right into saving and loan form is the result of *maslahah* view to help poor heir, to eliminate the disunity, and to create the harmonious family.

Furthermore, the Compilation of Islamic Law article 183 supports the inheritance distribution by agreement. The article mentions that heirs may agree to peace in an inheritance distribution, after each of them aware to their share. Thus, the agreement of inheritance distribution has a legal power in Islamic law system in Indonesia that aims to solve the inheritance problem.

B. Suggestions

The researcher would like to provide advices in the development of Islamic law, especially in Islamic law of inheritance. Hopefully, the advices will be constructive and acceptable for all parties, namely:

1. For the policy makers in the implementation of inheritance law, this study can be used as reference for judges of religion court in the same case.
2. The equality and solidarity of inheritance distribution knowledge is better publicized by Islamic law of inheritance experts in Friday sermons, lectures, or other events. Thus, the socialization of law in the media will create the society that can perform well the Islamic law.
3. This study can be used as a good reference for other researchers to create better research and more innovative ones.