Islamic Inheritance Law among Muslim Minority Countries in Southeast Asia

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Abstract: Solution for the disbursement of estate among Muslim minorities countries in Southeast Asia region is based on the systems and laws that being practiced by family, religion and custom in their countries in which any disputed estate will be referred to civil law. This article examines the similarities and differences between civil law and Islamic law in inheritance issues between Singapore and Thailand. The results show that in certain cases, custom and religion considerations are taken into account in the countries that provide alternative law instead of civil law. This law has been preserved and revised for the betterment and benefits of Muslim citizens especially in the condition of civil law being a mainstream law. It is important for Muslim communities to learn and understand the wisdom behind this law that aims to protect the interest of beneficiaries rather than leaving the families unsecured or misusing the rights for personal interest and cause harm to other family members. Inheritance law is certainly an essential mechanism in maintaining an individual’s rights and protecting the needy family members under their care.

Key words: Inheritance • Southeast Asia • Comparative law • figh al-faraidh • Faraids

INTRODUCTION

Inheritance law namely faraidh is one of the important branch in Shariah law. Some countries in Southeast Asia have classified the inheritance law as individual law. This article will try to brief historical outlook of the inheritance law in line with the emergence of Islam in Southeast Asia. Then, it view the distribution mechanism of Muslim estates in Islamic law as a part of the countries’ legislation.

Historical Overview: Islam was officially established in Malay archipelago namely Southeast Asia in present days in 14th centuries as stated in the history of the related countries such as Brunei, Indonesia, Malaysia, Singapore and Thailand [1-5]. Islamic law has been developed in line with the Islamisation process in the region. In certain area, it had been implemented in the legislation.

In Brunei, the implementation of Islamic law can be divided into three stages: pre-colonial, during colonial and post-colonial [6]. Before colonial period, Islamic law was fully implemented as well as the Brunei customs which still consistent with Shariah principles [7].

During the British presence in Brunei in 1847, the Islamic law was limited to the marriage and divorce matters and being known as Islamic Law enactment (Muhammad Laws, No. 1 of 1912), Chapter 31 of Revised Laws 1951 which has been enforced on 1 July 1912 during the ruling of Sultan Muhammad Jamalul Alam II, 26th Sultan of Brunei [8]. After the independence in 1984, the Islamic law has been improved by Sultan Hassanal Bolkiah in 1988. The Sultan has passed orders such as Emergency (Shariah Courts) Order, Emergency Order, Islamic Family Law 1999 and Chapter 206, Islamic Adoption of Children which provide clearer position of Muslims rights than the previous Chapter 77.

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