

# Penerapan kompilasi hukum islam (KHI) dalam putusan hakim pada kasus kewarisan islam di Pengadilan Agama Jakarta Selatan, Pengadilan Agama Jakarta Pusat, Pengadilan Agama Jakarta Timur = The application of islamic law compilation in judge decision at islamic heritage case at South Jakarta Religion Court, Central Jakarta Religion Court, and East Jakarta Religion Court

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## Abstrak

[<b>ABSTRAK</b><br>

Kewarisan merupakan salah satu hal terjadi dalam kehidupan sehari-hari. Di Indonesia, Kompilasi Hukum Islam merupakan Peraturan yang mengatur mengenai Kewarisan Islam sebagaimana diatur dalam Instruksi Presiden Nomor 1 Tahun 1991 yang peraturan pelaksanaannya terdapat dalam Keputusan Menteri Agama Nomor 254/1991. Keberadaan Kompilasi Hukum Islam ini merupakan ijtihad para ulama dan pemerintah Indonesia dalam membentuk suatu perundangundangan yang mengatur mengenai perkawinan, pewarisan, dan perwakafan.

Dengan adanya Kompilasi Hukum Islam, hakim memiliki dasar hukum dalam memutus suatu perkara kewarisan Islam. Dalam penelitian ini penulis meneliti bagaimana penggunaan pasal-pasal dalam Kompilasi Hukum Islam pada putusan hakim dalam perkara kewarisan Islam, faktor-faktor yang mempengaruhi penggunaan pasal-pasal tersebut dan kendala-kendala apa saja yang dihadapi oleh hakim dalam penerapan pasal-pasal tersebut. Jika dilihat dari bentuknya penelitian ini merupakan penelitian juridis normatif dan jika dilihat dari sifatnya, penelitian ini merupakan penelitian deskriptif analitis. Faktor yang mempengaruhi hakim dalam menggunakan Kompilasi Hukum Islam ini adalah faktor keimanan, faktor keadilan yang substansial bagi para pihak, faktor psikologis, faktor sosiologis.

Sampai saat ini masih terdapat kendala bagi hakim dalam menerapkan Kompilasi Hukum Islam yaitu kedudukan Kompilasi Hukum Islam yang merupakan Instruksi Presiden dan masih terdapatnya hal-hal yang belum diatur secara khusus dalam Kompilasi Hukum Islam tersebut. Sehingga masih belum terjadi unifikasi dalam Hukum Kewarisan Islam di Indonesia.;Inheritance is one of the things happen in our life. In Indonesia, Islamic Law

Compilation is the legislation that regulates about the Islamic Inheritance as set forth in Presidential Instruction No.1/1991 that its implementation regulations contained in Decree of The Minister of Religious Affairs No.254/1991. The existence of Islamic Law Compilation is an ijtihad of the scholars and the government of Indonesia in the form of a legislation regulating marriage, inheritance, and perwakafan. Nowadays, Islamic Law Compilation becomes the basis for the judge in deciding a case about the inheritance of Islam. In this

research, writer examined how the implementation of Islamic Compilation Law in judge decision at Islamic inheritance case, factors that influence judges to use Islamic Compilation Law and the constraints that faced by judges to applied this Islamic Law Compilation. This is juridical normative research if we viewed it from form side and analytical descriptive research if we see it from its characteristics side. There are some factors that influence the judge in the use of Islamic Law Compilation like faith factor, a substantial factor of fairness to the parties, psychological factors, and sociological factors. In practice there are still obstacles for judge to apply Islamic Law Compilation because Islamic Law Compilation is a Presidential Instruction and still is the presence of things that are not specifically regulated in the Islamic Law Compilation. So, until now there is not unification in Islamic inheritance law in Indonesia.;Inheritance is one of the things happen in our life. In Indonesia, Islamic Law

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