

## CONCEPTS AND DIFFERENCES OF DZAWIL FURUDH AND DZAWIL ARHAM IN ISLAMIC INHERITANCE

## KONSEP DAN PERBEDAAN DZAWIL FURUDH DAN DZAWIL ARHAM DALAM WARIS ISLAM

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**Abstract:** The inheritance system is one of the causes or reasons for the transfer of ownership, namely the transfer of property and material rights from the inheriting party, after the death of the person concerned to the recipient of the inheritance by way of replacement based on shara' law. In the rules of inheritance, heirs like blood are divided into three groups, namely: dzawil furudh, ashobah and dzawil arham. In this article we discuss the concept and differences between dzawil furudh and dzawil arham. By using library research as a source of data.

**Keywords:** *Dzawil Furudh, Dzawil Arham, Waris, Faraidh*

**Abstrak:** Sistem kewarisan merupakan salah satu sebab atau alasan terjadinya peralihan kepemilikan, yaitu berpindahnya hak milik dan hak kebendaan dari pihak yang mewariskan, setelah meninggalnya orang yang bersangkutan kepada penerima warisan dengan cara penggantian berdasarkan hukum syara'. Dalam kaidah

kewarisan, ahli waris sedarah dibagi menjadi tiga kelompok, yaitu: dzawil furudh, ashobah dan dzawil arham. Dalam artikel ini akan dibahas mengenai konsep dan perbedaan antara dzawil furudh dan dzawil arham dengan menggunakan library research sebagai sumber data

**Kata Kunci:** *Dzawil Furudh, Dzawil Arham, Waris, Faraidh*

## **A. Introduction**

The division of inheritance is a matter that is often debated by many parties because it involves many interests in it. There are three groups of heirs in the teaching of patrilineal Islamic inheritance. They are zawil furud or dzawil furud heirs, asabah, and dzawil arham. There is a difference of opinion about the right of inheritance to dzawil arham. Some of the Companions, the Taabi'een and the Imams stated that they do not inherit, because Allah did not give them the right of inheritance in His Book. Allah, may He be glorified and exalted, has prescribed the distribution of inheritance in His Book, and has limited it to ashabul furudh and ashabah. This section and discussion is under the scope of the study of Islamic inheritance.

There is no exact time as to when the distribution of inheritance should take place. However, it is better to distribute the inheritance immediately and not delay it for the sake of mutual benefit and to avoid disputes. Even so, the family can start deliberating in advance to determine the day the distribution of the inheritance will be carried out. Usually the time of distribution is when 7 days, 40 days, even up to 100 days after the time of death.

This discussion is always present in the study of Islamic inheritance both at the level of the scholars and the practice in their society. Heirs are people who at the time of death have blood relations or marital relations with the testator, are Muslims and are not hindered by law to become heirs.

## **B. Research Method**

This study discusses the concepts and differences between Dzawil Furudh and Dzawil Arham in Islamic inheritance. This research model is a library study. In this case, the primary data is the literature on inheritance in various fiqh books of the Syafiiyah school of thought. Under the research title, this research is qualitative;

namely exploratory research to gain knowledge. As qualitative research, data and materials needed for this research were obtained through library research.

## **C. Result and Discussion**

### **1. Distribution of inheritance according to the Quran**

The number of parts that have been determined by the Qur'an there are six kinds, namely half (1/2), a quarter (1/4), an eighth (1/8), two thirds (2/3), a third (1/3), and one-sixth (1/6).

Now let's get to know the distribution in detail, who are the heirs who are included as ashhabul furudh with the part he is entitled to receive.

### **2. Dzawil Furudh/Ashabul Furudh**

*Furudlu*, according to the term of the jurisprudence of Mawarits, is a fixed amount of shares for inheritance in inherited assets, either by text or by ijma'. The heirs include husband, wife, daughter, daughter from son, mother, biological sister, half-father sister, mother's sister or brother, grandfather, and grandmother.

#### **Furudh Muqoddaroh**

In the Qur'an, the word furudh muqoddara is the distribution of heirs whose number has been determined, referring to 6 types: half, one-quarter, one-eighth, two-thirds, one-third, one-sixth.

Ashab furud there are two kinds:

#### **a. Ashabul furudh sababiyah**

Namely heirs caused by marriage ties. Namely: husband and wife

#### **b. Ashabul furudh nasabiyah**

Namely heirs who have been determined on the basis of lineage. Namely: Father, mother, daughter, granddaughter from the male line, siblings, half-sisters, half-mother, half-mother, half-sister, authentic grandfather, authentic grandmother.

#### **1) Ashhabul furudh Eligible for Half**

There are five ashhabul furudh who are entitled to half of the heir's inheritance, one from the male group and the other four from the female group. The five ashhabul

furudh are husbands, daughters, granddaughters of sons, siblings, and half-father sisters. The details are as follows:

a) A husband has the right to get half of the inheritance, with the condition that if the heir has no children, both sons, and daughters, whether the offspring are from the husband or not. The evidence is the word of Allah: "... *and for you (husbands) get half of the property left by your wives, if they (wives) do not have children ...*" (an-Nisa: 12)

b) Daughter (biological) gets half of the heir's inheritance, with two conditions:

If the daughter is an only child, the heir does not have a son (meaning the daughter does not have a brother). The proof is the word of God: "and if she (daughter) is only one, then she gets half of the inheritance." The heir's daughter only gets a half share if the two requirements are there.

Granddaughters descended from sons will get half of the share, with three conditions:

Suppose he does not have a brother (that is, a male grandson from the line of sons) if there is only one person (the granddaughter of the son's descendants as the only grandchild). Suppose the heir has no daughter or son. The proof is the same as the daughter's part (same as number 2). Because granddaughters from male descendants have the same position as biological daughters if there is no biological daughter, his word "yushikumullahu fi auladikum" includes children and male children from children's descendants, which has become the scholars' consensus.

c) Female siblings will get half of the inheritance, with three conditions:

He has no siblings. He is alone (he has no sister). The heir does not have a father or grandfather or descendants, either male or female. The proof is the following word of God: "They asked you for a fatwa (about the time). Say: '*Allah gave you a fatwa about kalalah (i.e. if a person dies, and he has no children and has a sister, then for his sister half of the wealth he left behind..*' (an-Nisa: 176 )

d) Sisters of the father will get half of the inheritance left by the heir, with four conditions:

If she has no brothers. If she is alone. The heir has no female siblings. The heir has no father or brother, and no children, either sons or daughters. The

evidence is the same as in Point 4 (an-Nisa': 176), and this is the consensus of the scholars.

## **2) Ashhabul furudh Eligible for fourth share**

There are only two relatives of the heir who are entitled to a quarter (1/4) of the estate, namely the husband and wife. The details are as follows:

a) A husband is entitled to a quarter (1/4) of his wife's estate on one condition, namely if the wife has children or grandchildren from the descendants of her sons, whether these children or grandchildren are from her flesh and blood or from another (previous) husband. This is based on the following words of Allah: "*... If your wives have children, then you get a quarter of what she leaves É*" (an- Nisa': 12).

b) A wife will get a quarter (1/4) of her husband's estate with one condition, namely if the husband does not have children / grandchildren, whether the child is born from his womb or from the womb of another wife. This provision is based on the following words of Allah: "*... The wives get a quarter of the property you leave if you have no children ...*" (an-Nisa': 12)

There is one thing that we - especially knowledge seekers - should know about the wife's share. What is meant by "wives get a quarter" is for all the wives whom the deceased husband married. In other words, even if a husband leaves behind more than one wife, they still get a quarter of their husband's estate. This is based on Allah's words above, where the word lahunna (in the plural) is used to mean 'they women'. So, whether the husband left one wife or four wives, their share is still a quarter of the estate.

## **3) Ashhabul furudh who are entitled to one-eighth**

From a series of ashhabul furudh who are entitled to an eighth part (1/8) is the wife. Wife, either one or more will get one-eighth of her husband's estate, if the husband has children or grandchildren, whether the child was born from his womb or from the womb of another wife. The evidence is the words of Allah SWT: "*... If you have children, then the wives get an eighth of the property you leave after fulfilling, the will you make or (and) after paying your debts ...*" (an-Nisa': 12)

#### 4) Ashhabul furudh who are entitled to a share of two-thirds

Heirs who are entitled to two-thirds (2/3) of the testator's estate are four, and all of them consist of women: two daughters (biological) or more; two granddaughters descended from sons or more; two or more siblings; two or more fathers' sisters.

This provision is bound by the following conditions:

a) Two or more daughters do not have a brother, i.e. a son of the testator. The evidence is the following word of Allah: "... *and if the daughters are more than two, then for them two-thirds of the property left behind ...*" (an-Nisa': 11). There is one important thing that we must know so that we do not get lost in understanding the rulings in the Book of Allah. The meaning of "fauqa itsnataini" is not 'more than two daughters', but 'two or more daughters', which is the consensus of the scholars. They rely on the hadith of the Prophet Muhammad (peace be upon him). narrated by Imam Bukhari and Imam Muslim, which relates the Prophet's verdict on the complaint of the wife of Sa'd ibn ar-Rabi' r.a. - as stated in the previous chapter.

The hadith clearly and unequivocally shows that the meaning of the verse itsnataini is 'two or more daughters'. So, the one who thinks that the verse means "more than two daughters" is clearly incorrect and violates the consensus of the scholars.

b) Two granddaughters from the descendants of a son will receive two-thirds (2/3), subject to the following conditions: The testator had no biological children, male or female; the testator did not have two biological daughters; the two granddaughters have no brothers.

c) Two (or more) female siblings will share two-thirds (2/3), subject to the following conditions: When the testator has no children (either male or female), nor does he have a father or grandfather; the two (or more) female siblings have no brother as 'ashabah; the testator has no daughters, or granddaughters of sons.

The evidence for this is the words of Allah: "... *but if the sisters are two, then for both of them two-thirds of the property left by the deceased ...*" (an-Nisa': 176).

d) Two sisters in law (or more) will get two-thirds share with the following conditions:

If the testator has no children, father, or grandfather; the two paternal sisters do not have a paternal brother; The testator has no daughters or granddaughters from the descendants of sons, or siblings (both male and female).

The requirements that must be met for two paternal sisters to get a share of two-thirds are almost the same as the requirements of two female siblings, only here (paternal sisters) are added to the necessity of the existence of siblings (both male and female). And the evidence is the same, namely the scholarly consensus that the verse "*... but if the sisters are two, then for both of them two-thirds of the property left by the deceased ...*" (an-Nisa': 176) includes biological sisters and sisters who are fathers. Whereas a mother's sister is not included in the meaning of the verse.

#### **5) Ashhabul furudh who are entitled to a third share**

As for the ashhabul furudh who are entitled to inherit a third share, there are only two, namely the mother and two brothers (either male or female) who are one thousand.

A mother is entitled to a one-third share on condition: the heir has no children or grandchildren from the descendants of sons; the heir does not have two or more brothers (male or female), whether they are brothers, fathers or mothers. The evidence for this is the words of Allah:

*"... and if the deceased has no children and he is inherited by his parents (only), then his mother gets a third ..."* (an-Nisa': 11) Also His words: *"... if the deceased has several brothers, then his mother gets one-sixth..."* (an-Nisa': 11).

#### **6) Asbhabul Furudh who get a share of one-sixth**

There are seven asbhabul furudh who are entitled to one-sixth (1/6). They are father, paternal grandfather (father of the father), mother, granddaughter of a son, sister in law, paternal grandmother, brothers and sisters in law.

- a) A father will get a sixth part (1/6) if the testator has children, either sons or daughters. The evidence is the word of Allah (meaning): *"... And for two mothers and fathers, for each of them a sixth of the property left behind, if the deceased has children ..."* (an-Nisa': 11)

b) A grandfather (father of the father) will get a sixth part (1/6) if the testator has a son or daughter or grandson of the child's offspring - provided that the testator's father is absent. So, in such a situation one of the grandfathers will take the place of the father, except in three circumstances which I will detail in a separate chapter.

c) The mother will get one-sixth (1/6) of the property left by the testator, with two conditions: If the testator has a son or daughter or grandson of a male child; if the testator has two or more siblings, either brothers or sisters, either siblings, fathers, or mothers. The evidence is the word of Allah (meaning): "*... if the deceased has several brothers, then his mother gets one-sixth ...*" (an-Nisa': 11).

d) Granddaughters of the descendants of one or more sons will get a sixth part (1/6), if the deceased (heir) has one daughter. In such a case, the daughter gets half (1/2), and the granddaughter of the descendants of the son of the testator gets one-sixth (1/6), as a complement to two-thirds (2/3).

The evidence is the hadith narrated by Imam Bukhari in his sahih that Abu Musa al-Ash'ari r.a. was asked about the issue of inheritance of a person who left a daughter, granddaughter from the descendants of his son, and sister. Abu Musa then answered: "The daughter gets half, and the other half goes to the sister." Dissatisfied with Abu Musa's answer, the questioner went to Ibn Mas'ud. So Ibn Mas'ud said: "I will decide as the Prophet had decided, for the daughter half (1/2) of the inheritance of the heir, and for the granddaughter descended from a son gets a sixth part (1/6) as a supplement to 2/3, and the rest becomes the share of the sister of the heir." Hearing Ibn Mas'ud's answer, the questioner went back to Abu Musa al-Ash'ari and told him the problem. Then Abu Musa said: "Do not question me while the scholar is among you."

e) One or more sisters in law will get one-sixth (1/6), if the testator has a sister. This ruling is the same as the situation if the granddaughter of a son's descendant is at the same time as a daughter. So, if someone dies and leaves a biological sister and a paternal sister or more, then the paternal sister gets one-sixth (1/6) as the completion of two-thirds (2/3). This is because when the biological sister gets half (1/2) of the share, then there is no remainder except one-sixth (1/6) which is the right of the paternal sister.



f) A brother or sister of the same mother will get one-sixth (1/6) each when inheriting alone. The evidence is the word of Allah (meaning) "if a man or woman dies who leaves no father and no children, but has a brother (a thousand only) or a sister (a thousand only), then for each of the two types of brothers a sixth of the property". And the requirement is if the heir has no principal (ie grandfather) and no branches (ie children, either male or female).

g) The original grandmother gets one-sixth (1/6) when the testator no longer has a mother. Whether the grandmother is only one or more (from the father or mother), it is clear that one-sixth is distributed equally to them. This is based on what has been established in the sahih hadith and the consensus of all the Companions.

Ashhabus Sunan relates that a grandmother came to Abu Bakr as-Siddiq r.a. to claim her inheritance rights. Abu Bakr replied: *"I do not find your right in the Qur'an so go home first, and wait until I ask the companions of the Prophet."* Then al-Mughirah b. Shu'bah said to Abu Bakr: *"Once I saw the Messenger of Allah. Giving the right of a grandmother one-sixth (1/6)."* Hearing al-Mughirah's statement Abu Bakr then called the grandmother and gave her one-sixth.

### 3. Dzawil Arham

Arham is the plural of rahmun, which originally means 'the place where the fetus is formed/stored in the mother's womb'. Then it was developed into 'relatives', whether they come from the father's side or from the mother's side. This meaning is of course based on the womb that unites their origins. Thus, the lafazh rahim is commonly used with the meaning of 'relatives', both in Arabic and in Islamic law terms. Allah says:

*"... And fear Allah by whose name you ask one another, and (maintain) the relationship of kinship. Verily, Allah is always watching over you. "* (an-Nisa': 1)

*"Then would you, if you were in power, make mischief on the earth and break up family ties?"* (Muhammad: 22)

The Messenger of Allah, peace be upon him. Said:

*"Whoever wishes to have his sustenance expanded and his death postponed, let him establish friendship."* (HR Bukhari Muslim).

As for the lafazh dzawil arham referred to in fuqaha terms is a relative of the heir who does not have a certain share / right of inheritance, either in the Qur'an or

Sunnah, and is not included in the 'ashabah. That is, dzawil arham are those who are not included ashhabul furudh and not 'ashabah. So, dzawil arham are heirs who have a kinship with the heir, but they do not inherit it in ashhabul furudh and not in 'ashabah. For example, aunts (father's or mother's sister), uncles (mother's brother), nephews of sisters, grandsons of daughters, and so on.

In discussing the parties who can get inherited property - in addition to the parties who get a definite share as determined in the Qur'an and the parties who get the share of ashabah - there are two parties who are also often mentioned in discussing inheritance. The two parties are baitul mal and dzawil arham. Usually these two parties are mentioned by the scholars when they discuss radd, about to whom the remaining inheritance is given after being divided to all existing heirs according to their respective shares. Baitul Mal Before discussing further, please note that what is meant by baitul mal here is not a baitul mal institution as we see every day in Indonesia. Baitul mal here is an institution such as the state treasury that handles all Muslim assets both income and expenses. One of its functions is to take care of and fulfill the various needs of Muslims. For example, if we study fiqh, among other things, we will find a rule that if a person who dies does not have enough money to buy a shroud, then money can be taken from baitul mal. A person who is obliged to perform the Hajj but fails to do so, and in the future does not have the financial means to do so, can have his Hajj expenses paid from the baitul mal, and so on. At first Imam Shafi'i and his scholars included the baitul mal as one of the parties that could receive inheritance. This can happen if the person who dies has no heirs at all, or has heirs but the inheritance is not divided after all the heirs receive their respective shares while there are no heirs who get ashabah shares. In such a case, the remaining undivided inheritance is given to the baitul mal by the Shafi'iyah scholars. Later this inheritance property will be used for the benefit of Muslims. The making of baitul mal as an institution entitled to receive inheritance was originally based on the words of the Prophet who stated:

*"I am the heir for those who have no heirs,"* (HR Abu Dawud). We know that the Prophet received the inheritance not at all for himself but he used the inheritance for the benefit of the Muslims. From here, the faraidh scholars made the baitul mal give a fatwa about the ability of the baitul mal to receive inheritance and make it a recipient after the heirs receiving the definite share and the heirs receiving ashabah. But in its development, the Shafi'iyah scholars saw that the baitul mal was no longer

managed properly and no longer took care of the interests of Muslims. Therefore, they then did not give the remaining undivided inheritance to the baitul mal. They prefer to give the rest of the inheritance to dhawil arham. Dzawil Arham Another party that is also often mentioned in the discussion of inheritance in Islamic fiqh is dzawil arham. Imam Nawawi in the Book of Raudhatut Thâlibîn names dzawil arham as every relative who does not have a definite share and does not get an ashabah share.

In detail Imam Nawawi mentioned there are 10 groups that are included in the category of dzawil arham, namely: 1. maternal grandfather 2. any grandfather or grandmother who is deprived of inheritance 3. granddaughter of a daughter 4. daughter of a brother 5. daughter of a sister 6. son of a brother in a thousand 7. uncle in a thousand 8. daughter of an uncle 9. aunt from the father (father's sister) 10. uncle and aunt from the mother (brother and sister of the mother).

Basically, in the science of Islamic inheritance, dzawil arham does not have any part in the distribution of inheritance, either the definite part, ashabah or the remaining undivided part. The definite part is definitely given to the heirs who have been determined by the nash. Even so with the share of ashabah. As for the rest of the inheritance that is not divided by the scholars, it should be given to the baitul mal for the benefit and benefit of the Muslims, as long as the baitul mal meets the requirements. In this case Imam Nawawi said:

وَقَوْلُنَا: إِنَّ الصَّحِيحَ أَنَّهُمْ لَا يَرِثُونَ وَلَا يُرَدُّ، هُوَ فِيْمَا إِذَا اسْتَقَامَ أَمْرُ بَيْتِ الْمَالِ، بِأَنَّ وَلِيَّ إِمَامٍ عَادِلٍ.

*"Our view is that the correct view is that the dzawil arham cannot inherit, nor can they inherit from the estate. That is if the bait al-Mal is managed properly, i.e. by a just ruler."*<sup>1</sup> In line with Imam Nawawi above Ibn Naqib also stated:

فَإِذَا لَمْ يَكُنْ لِلْمَيِّتِ أَقْرَابٌ، وَلَا وِلَاءٌ عَلَيْهِ، انْتَقَلَ مَالُهُ إِلَى بَيْتِ الْمَالِ إِرْثًا لِمُسْلِمِينَ إِنْ كَانَ السُّلْطَانُ عَادِلًا

*"If the deceased has no relatives or freed slaves, then his estate passes to the baitul mal as an inheritance for the Muslims, if the ruler is just."*<sup>2</sup>

However, as explained above, in its development, the Shafi'i scholars are now more likely to give undivided inheritance to dhawil arham than to baitul mal. This is because the baitul mal is considered no longer eligible for inheritance. Baitul mal is considered no longer representative as an institution that takes care of and meets the needs of Muslims as it was originally formed. Therefore, the Shafi'iyah scholars

<sup>1</sup> (An-Nawawi, Raudhatut Thâlibîn wa 'Umdatul Muftîn, [Beirut, Al-Maktab Al-Islami: 1991]).

<sup>2</sup> (Ibn Naqib, 'Umdatul Sâlik wa 'Uddatun Nâsik, [Qatar, Ministry of Religious Affairs: 1982]).

stipulated the existence of "radd" (returning the remaining inheritance) to dzawil furud other than husband and wife. If there are no heirs who receive a definite share, then the scholars give the inheritance to dhawil arham. Hence most faraidh scholars do not mention baitul mal as one of the causes that can receive inheritance. This is confirmed by Dr. Musthafa Al-Khin in his book *Al-Fiqhul Manhaji*. Imam Haramain in the book *Nihâyatul Mathlab fî Dirâyatil Madzhab* states that although the Shafi'iyah scholars did not initially provide inheritance shares for dhawil arham, but now they are more likely to distribute inheritance to dhawil arham because of the unhealthy condition of the baitul mal.

Similarly, Imam Nawawi, when the inheritance is not completely divided and the baitul mal is no longer worthy of being considered as an institution that is eligible to receive inheritance, he considers the most valid opinion is to return and give the inheritance to dhawil arham. His maternal uncle, Children of maternal aunts, and children of maternal uncles, and children of maternal uncles on the mother's father's side, and so on downwards.

The aunts of the deceased's father on his father's side, whether full or paternal or maternal, his maternal uncles on his mother's father's side, and his maternal aunts on his mother's father's side, as well as the khal of the mother and the khalah of the mother, whether full or paternal. The children of the aforementioned group (no. 3) and so on downwards, such as sons of paternal aunts and daughters of paternal aunts, and so on.

The maternal uncle of the deceased's grandfather, the paternal uncle of the deceased's grandmother, the uncles and aunts of the maternal grandmother and the aunts of the maternal grandfather or grandmother. Their children (no. 5) and so on.

These ways of inheritance of dzawil arham, the details are analogous to the *jihad ashabah*, namely: Those who first get a share are descendants (*jihat bunuwah*). If this *jihat* is not available, it is replaced by the parents of the deceased and so on (*jihat ubuwah*). If it is not available, it is replaced by *jihat ukhuwah*. If it is also not available, then the descendants of paternal aunts and maternal uncles (*jihat umumah* and *jhat khalah*). And if it is not available, then their children and those whose status replaces them, such as the daughter of a full uncle / father.

Some conditions of inheritance dzawil arham : There must be no *ashabul furud*. Because if there is *ashabul furud*, then he takes his share as *ashabul furud* and the rest is taken by way of *rad*. There must be no one who gets the share of *ashabah*.

However, if the heir is only one husband or wife, then one of the two takes his share as *ashabul furud*. While the rest is left to *dzawil arham*, because *radd* to one of the husband / wife is implemented after the inheritance of *dzawil arham*.

#### 4. The Difference Between *Dzawil Furudh* And *Dzawil Arham*

In discussing the parties who can get inherited property - in addition to the parties who get a definite share as determined in the Qur'an and the parties who get the share of *ashabah* - there are two parties who are also often mentioned in discussing inheritance. The two parties are *baitul mal* and *dzawil arham*. Usually these two parties are mentioned by the scholars when they discuss *radd*, about to whom the remaining inheritance is given after being divided to all existing heirs according to their respective shares.

There is a difference of opinion regarding the granting of inheritance rights to *dzawil arham*. Some of the Companions and Taabi'in and the Imams stated that they do not inherit, because Allah SWT did not give them the right of inheritance in His Book. Allah, may He be glorified and exalted, stipulated the distribution of inheritance in His Book and limited it to *ashabul furudh* and *ashabah*. Among the Imams who were of the view that they are not entitled to inheritance are: Imam Malik and Imam Shafi'i (may Allah have mercy on them).

On the other hand, some scholars were of the opinion that they should be given the right of inheritance. Among them are Imam Abu Hanifah and Imam Ahmad (may Allah have mercy on them). They rely on the reports that show that the Prophet (SAW) gave inheritance rights to some of the *dhawil arham* when there were no heirs who had been mentioned by Allah in His Book. Among these proofs are the words of the Prophet, "*The maternal uncle is the heir of one who has no heir.*"

##### The Stronger Opinion

The stronger of the two opinions is the one that gives them the right of inheritance. Hence, many jurists of the Maliki and Shafi'i madhhabs have turned to this opinion. This is because the *dhawil arham* are relatives, and relatives are obliged to be related to each other, and because they are related to the deceased person in terms of kinship and Islam.

Unlike the Baitul Mal, the deceased person has no relationship with him, except for the relationship of Islam. In addition, they also stipulated that the Bait al-Mal should be well-organized, its officers just, its supervisors honest, and it should be disbursed for the benefit of the Muslims in general. There is a difference of opinion about these conditions. So it came to pass that the dhawil arham were given the right of inheritance, as a substitute for the position of the Baitul Mal.

Some scholarly opinions regarding the issue of inheritance of dzawil arham include:

The first group, people who are descendants of the dead through the line of descent down, they are:

- a. Grandchildren of daughters and continue down, whether male or female.
- b. Great-grandchildren of granddaughters of sons and continuing downwards, whether male or female.

The second group, people who are the descendants of the dead (line of descent up). They are:

- a. Grandfathers who are indirect from above, such as his mother's father and his mother's grandfather.
- b. Indirect grandmothers and above, such as the mother of the father's mother and the mother of the father's mother.

The third group, people who are retrieved from to both parents of the dead (relatives of the side line). They are:

- a. Children of siblings, whether male or female
- b. Sons and daughters of a brother or sister and their descendants downwards.
- c. Sons of brothers of the same mother, and all their descendants such as: grandsons of sons of brothers of the same mother, or granddaughters of sons of brothers of the same mother.

The fourth group is those who are related to both grandfathers or both grandmothers of the dead person, either from the father's side or the mother's side. They are:

- a. All of the dead person's paternal aunts (full/father/mother aunts), as well as the deceased's maternal uncles, as well as the deceased's maternal aunts and as well as his maternal uncles.
- b. Children of maternal aunts, and children of maternal uncles, and children of maternal uncles on the father's side of the mother, and so on downwards.
- c. The aunts of the father of the deceased on his father's side, whether full or paternal or maternal, his maternal uncles on his mother's side, and his maternal aunts on his mother's side, as well as the khal of the mother and the khalah of the mother, whether full or paternal.
- d. The children of the aforementioned group (no. 3) and so on downwards, such as sons of paternal aunts and daughters of paternal aunts, and so on.
- e. The maternal uncle of the deceased's grandfather, the paternal uncle of the deceased's grandmother, the uncles and aunts of the maternal grandmother and the aunts of the maternal grandfather or grandmother.
- f. Their children (no. 5) and so on downwards.

## **5. Division of Inheritance for Dzawil Arham**

They are given inheritance rights based on their position like the position of those who are related to him (the deceased) from among the ashbabul furudh and ashbabah. So that each of them is given a share that is the share of the person who is related to the deceased and is replaced by his status.

- a. Application of inheritance distribution in the community related to Dzawil Arham

They are given inheritance rights based on their position, like the position of those who are related to him (the deceased) from among the ashbabul furudh and ashbabah so that each of them is given a share that is the share of the person who is related to the deceased and is replaced by his status. For example, if a person dies and leaves behind his daughter's daughter (i.e., his granddaughter) and his sister's son, their share is half. Half, i.e., the daughter's (i.e., his granddaughter's) share is half because she inherits from her mother, and the brother's share is half because he

inherits from his mother. If a person dies and leaves behind a daughter and a sister, then his estate is divided between them because the daughter's share is half, and the sister's share is half.

Suppose we assume that the sister is a biological sister and there is a sister's daughter with her. In that case, the daughter of the sister does not get a share because the one who is related and takes the place of the sister is the sister whose status is closed (mahjub) by the presence of the sister, so the inheritance is still distributed to the daughter of the daughter, and the son of the sister, each half. (See the table 1).

Table 1	
[Smallest Common Multiple]	2
Daughters of daughters	1
Daughters of sisters	1
Daughter of a paternal brother	0

Another example:

A woman dies leaving behind; a daughter of a full sister, a daughter of a half sister, a son of a half sister, a daughter of a half uncle, the daughter of a full sister's share is half, which is her mother's share, the daughter of a half sister's share is one-sixth in addition to two-thirds, which is her mother's share, the son of a half sister's share is one-sixth in addition to her mother's share, and the remainder is the daughter of a full uncle's share as an heir, which is her uncle's share. (See table 2).

Table 2	
[Smallest Common Multiple]	6
Daughter of a sibling sister	3
Daughter of a paternal sister	1
Daughter of a maternal sister	1
Daughter of a full uncle	1

So the smallest common multiple is six because there is a share of one-sixth, so half, that is, three shares belong to the daughter of a full sister, one-sixth (that is, one share) to the daughter of a half sister, to complete two-thirds (that is, four shares), one-sixth



(that is, one share) to the son of a half sister, and the rest, that is, one-sixth (that is, one share) to the daughter of a full uncle.

Another example:

A man dies and leaves behind his daughter's daughter, his brother's son, his sister's son, his sister's son, and his sister's daughter. So the share of the daughter of his daughter is half, which is the share of his mother who replaced his position, the share of the son of the biological sister is half, which is the share of his mother who replaced his position, while the son of the sister of the mother does not get a share, because his mother (who replaced his position) in this case does not inherit, because it is covered by the existence of the daughter of the sibling.

Likewise, the daughter of a half-sister does not get a share, because the one who is replaced, namely the half-sister, is covered by the existence of the full sister. (See table 3).

Table 3	
[Smallest Common Multiple]	2
Daughters of daughters	1
Son of a sibling sister	1
The son of a maternal sister	0
Daughter of a paternal brother	0

The least common multiple is two, because there is a half share in it. One half belongs to the daughter of the daughter, because she is part of her mother, and the other half belongs to the daughter of the full sister who is part of her mother, i.e., the full sister of the deceased.

The son of a mother's sister does not get a share, because the mother who is replaced is covered by the existence of the daughter of a biological daughter. Similarly, the daughter of a half-sister does not get a share, because her father who is replaced by his position is covered (mahjub) by his sister.

Another example:

If a man dies leaving behind a maternal aunt and a paternal aunt, the maternal aunt's share is one-third, which is the mother's share, and the paternal aunt's share is the remaining two-thirds, which is the father's share, because the father is an ashib who inherits the remainder of the furudh. (See table 4).

Table 4	
[Smallest Common Multiple]	3
Maternal aunt	1
Paternal aunt	1

The small common multiple is three, because of the existence of the two-thirds share in it. So one-third (i.e. one share) goes to the maternal aunt who takes the place of the mother, and two-thirds (two shares) goes to the paternal aunt who takes the place of the father as the inheritor of the remainder of the furudh inheritance.

a). Dzawil arham cannot inherit with the existence of ashhab al-furudh or ashabah, because the remaining part of the furudh is returned to ashhab ul-furudh, except if the ashhab ul-furudh consists only of a husband or a wife, then in this condition dzawil arham given inheritance rights.

For example, if a person dies and leaves behind a brother or sister and an aunt (on his father's side), then the brother or sister inherits the whole, while the aunt does not get a share because she is a dzawil arham and there is no remainder of the inheritance given to her.

Likewise, if a person dies leaving a mother and aunt (on the mother's side), then his estate belongs to his mother as shahib ul-furudh and the recipient of the remaining portion of ashhab al furudh, while his aunt does not get a share. However, if a person dies leaving behind his wife and a daughter of a brother, then the wife gets a quarter of the share as shahib al furudh, the rest becomes the share of the daughter of his brother, because she replaces her father's position as ashib who gets the rest of the share of ashhab ul-furudh.

b). Dzawil arham when gathered, then it needs to be analyzed (by sorting), as if they were the original heirs, namely ashhab al-furudh and ashabah, so that the higher status covers the lower, and the siblings cover the brothers.

When the status is the same, that is, the degree and relationship of kinship are the same in the distribution of inheritance, then no one takes precedence, so that the share of men is two shares of women.

For example: If a person dies leaving behind a daughter of his daughter (granddaughter), a daughter of his daughter's daughter (great-granddaughter), or a son of his daughter's daughter (great-grandson), then the inheritance all belongs to the daughter of his daughter (granddaughter) alone, while the daughter of his daughter's daughter (great-granddaughter) and the son of his daughter's daughter (great-grandson) do not get a share, because the daughter of his daughter is higher in rank, and this higher covers the lower.

Another example: If a person dies and leaves behind a daughter of a sibling and a daughter of a half-brother, the inheritance goes to the daughter of the sibling, but the daughter of the half-brother does not get a share, because the sibling covers the half-brother. So, the one who takes the place of the one who takes his place is like him in terms of inheriting and being prevented from inheriting. The one who takes the place of the one who receives the inheritance receives it, while the one who takes the place of the one who does not receive the inheritance does not receive it.

For example, if a person dies and leaves behind a daughter of a daughter of a son, and a son of a son of a daughter, then in this case the inheritance belongs to the daughter of the daughter of the son of the son, while the son of the son of the daughter does not get a share, because both of them are of the same rank, However, the daughter of the son of the daughter of the son replaces the heir, so she gets a share, while the son of the son of the daughter replaces the non-heir, so he does not get a share, because the son of the son is the heir, while the son of the daughter is not the heir.

The ways of inheritance of this dzawil arham, the details are analogous to jihad ashabah, namely: Those who first get a share are descendants (jihah bunuwah). If this jihah does not exist then replaced by the parents of the dead continue up (jihah ubuwah). If there is no then replaced by jihah ukhuwah. If there is also no then the descendants of paternal aunts and maternal uncles (jihah umumah and jihah khalah). And if there is no then only then their children and those whose status replaces them, such as the daughter of a full uncle / father.

Some conditions of inheritance dzawil arham :

- a) There must be no ashabul furud. Because if there is ashabul furud, then he takes his share as ashabul furud and the rest is taken by way of rad.
- b) There must be no one who gets the share of ashabah. However, if the heir is only one husband or wife, then one of the two takes his share as ashabul furud. While the rest is left to dzawil arham, because rad to one of the husband / wife is implemented after the inheritance of dzawil arham.

#### **D. Conclusion**

Heirs are people who are entitled to receive inheritance from a person who has died. There are 25 heirs regulated in the provisions of Islamic inheritance law, who can inherit the testator's property consisting of 15 men and 10 women.

Furudlu according to the term fiqh mawarits, is a share that has been determined in the amount for warits on the estate, either by nash or by ijma'

Dzawil Arham, are people who are legally related to the person who died, but they are not heirs. Dzawil Arham are people who are legally related to the deceased, but they are not heirs. In terms of terms they are not among the people who get a certain share of inheritance that has been determined by the Qur'an and Hadith (ash-habul furud), and also not included in the group of an ashabah. not included in the group of an ashabah.

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