

Analysis of The Solution to The Division of Muslims' Small Estates by Consensus in Johor Bahru

Mirza Irfan Mizlan

Research Centre of Sharia, Faculty of Islamic Studies, Universiti Kebangsaan Malaysia (UKM),
Malaysia.

Email: p110529@siswa.ukm.edu.my (Corresponding Author)

Mohd Zamro Muda

Research Centre of Sharia, Faculty of Islamic Studies, Universiti Kebangsaan Malaysia
(UKM), Malaysia.

Email: zamro@ukm.edu.my

To Link this Article: <http://dx.doi.org/10.6007/IJARBSS/v13-i5/16980>

DOI:10.6007/IJARBSS/v13-i5/16980

Published Date: 12 May 2023

Abstract

Malaysians still underestimate the management of inheritance distribution. This can be seen every year in the newspapers about the issue of freeze inheritance which has now reached almost RM90 billion in unclaimed real estate value. Another critical problem is when there is a mandatory understanding or belief in the settlement of the *faraid* method among the heirs. There is nothing wrong if you want to stick to the *faraid* method, but if there are circumstances that limit the *faraid* solution, then the consensus mechanism needs to be organized as one of the alternative methods. The Muslim community needs to be cautious and aware in understanding Islamic inheritance law holistically to help shape and organize the best inheritance solution. Therefore, this article aims to discuss the extent to which the consensus method is applied in the Inheritance Division Unit of South Johor, Johor Bahru (UPPJS), and how the concept and factors of this consensus are formed. The research methodology is qualitative. The collection of research data resulted from the analysis of documents and interviews and then analyzed inductively and thematically. The results of the study found that the selection of this consensus resulted from the forms of property settlement agreed upon among the heirs and the majority of the forms by "hand over the share" became the highest primary choice compared to the choice of other forms. The implications of choosing a consensus method not only help resolve the division of property but also guarantee family harmony.

Keywords: Consensus, Faraid, Heirs, Family, Division of the Estate, South Johor Heritage Distribution Unit.

Introduction

In Malaysia, there are three agencies that play important role in managing estates, its called High Court, the Division of Inheritance from the Department of the Director General of Lands and Mines (JKPTG), and Amanah Raya Berhad (ARB). These three agencies play different roles and functions, the jurisdiction of which is based on the provisions of its own special statute. The laws specified are the Probate and Administration Act 1959 for the High Court agency with the Large Estate category involving movable and immovable property with a property value of more than RM2 million, the Small Estate (Division) Act 1955 for the Division of Inheritance Division agency, JKPTG with the Small Estate category involving movable and immovable property with a property value of less than RM2,000,000 and the Amanah Raya Berhad Corporation Act 1995 for Amanah Raya Berhad (ARB) agencies with the Short Estate category with property value of less than RM600,000 which consists of from movable property only (Husnaa et al., 2020).

Along with the speed and development of the latest mass media technology, the problem of inheritance is no longer strange to its involvement in the issues that arise regarding the process of settlement and management of inheritance. Every year scholars will raise the issue of unclaimed property and now it has been found that almost RM90 billion worth of real estate has not been claimed by the rightful and legitimate heirs (Roslan & Ahmad, 2022). In addition to other issues such as high administrative costs (Ab Rahman et al., 2019) and difficulties during the administration process of the inheritance (Wan Hassin et al., 2016) were also be the main issue that is often heated from the point of view in understanding of the heirs who lack in knowing the division of their inheritance (Abdullah et al., 2021) and the lack of responsibility among the heirs in committing to manage and resolve matters of their inheritance (Wajis et al., 2018).

There are also among the heirs who adhere to the mandatory and obligatory understanding of the distribution of inheritance according to the *faraid* method that has been determined by Allah SWT and believe that if they turn away from this method of distribution then the law is sinful. Due to such thinking, several issues have arisen such as in Kampung Baru, Kuala Lumpur which resulted in the collective title of a land grant measuring 371.6 square meters and it involved 100 people who had the right to the land (Khy, 2007). If the division of the land is divided equally, then the eligible heirs will only have a share of 3.7 square meters per person. Based on the observation of the area, it is definitely not economical to develop and it also complicates the matter of paying land tax. Other cases can also be highlighted such as the issue of multiple death or known as *munasakhah* among the heirs. This will make it difficult to divide the inheritance because the number of legitimate heirs will increase and it is not surprising if you look at the statistics of unclaimed property increasing every year with the latest value reaching RM90 billion.

These issues and problems that arise will harm every heir and certainly, it will not meet the needs of *maqasid* in terms of property care (*hifz mal*) as required by *syarak* (Abdullah et al., 2020). Therefore, in addition to solving the division of inheritance by using the *faraid* method, there is another mechanism that is recommended by applying it as a settlement in solving problems in the division of inheritance. This mechanism is called consensus, which is a *sulh* (reconciliation) between heirs based on the principle of satisfaction, tolerance and mutual agreement (Muda & Zamro, 2006). This consensus method plays a big role by giving space and opportunity to the heirs to organize and solve the problem of dividing their inheritance in the best, fair and equitable way.

The question is the consensus method applied in the South Johor Inheritance Division Unit (UPPJS) in Johor Bahru? What is the form of the resulting consensus based on the cases that have been recorded at UPPJS? Are there any factors that influence the heirs in using the consensus mechanism through the distribution of their inheritance? Therefore, a qualitative study on the concept of consensus application in the South Johor Inheritance Unit, Johor Bahru needs to be done as a continuation of previous studies in empowering the solution of inheritance settlement methods in Malaysia. Based on private and confidential information, this study is limited by referring to 54 selected Muslim property cases from 2019 to 2021 only and it has been recorded as a completed case at UPPJS. Apart from the observation and analysis of recorded data, this study was also carried out through an interview session with Mr. Qaiyum bin Rozali as Assistant Director at UPPJS, Johor Bahru. The data obtained were analyzed inductively and thematically. The findings of this study are expected to be used by the Muslim community in Malaysia in resolving disputes over the division of their inheritance. In addition, it can also help the officers in the Small Inheritance Unit in implementing more effective management and administrative procedures to strengthen and improve the quality of their services to the community in Malaysia in line with the goals that have been outlined in the Quality Policy of the Federal JKPTG Division of Inheritance Department.

Inheritance Settlement Method at UPPJS

Among the main role of this Small Inheritance Division Unit are managing inheritance applications, hearing inheritance claim cases, appeals and issuing administrative power of attorney. In addition, it also coordinates the duties of estate administration and accelerates the process of transfer of title. From another point of view, this unit also helps the state government in terms of the process of pre-registration of the deceased's land title rights to prevent the occurrence of uncontrolled land fragmentation (Roslan & Ahmad, 2022). Therefore, some methods are used in settling the claims of Muslim inheritance in Malaysia.

According to Mr. Qaiyum bin Rozali as Assistant Director at UPPJS, Johor Bahru, the division of the inheritance has been completed by relying on the issuance of the Division Order through Form E issued by the inheritance officer. This Partition Order contains information on the partition settlement that has been agreed upon by each heir during the trial. The settlement of this division also depends on the heirs whether they choose the *faraid* settlement method, consensus or a combination of both. However, if there is a case that requires an Administrative Order, then the estate officer will give a Power of Administration under Section 13 of the Small Estate (Division) Act 1955 to the heirs through Form F. Therefore, such a case will definitely result in an order through the solution is either *faraid* method, consensus, administrator or a combination of them.

In addition, based on the findings of the study of 54 case files that have been recorded at the South Johor Inheritance Division Unit, it is clearly found that there are four types of orders issued by the inheritance officers at UPPJS in the division of small Muslim inheritances. It may be set out as follows:

a. Faraid

The analysis found that two cases implemented the *faraid* method with a percentage of 4% in total from 2019 to 2021. Among the factors of the Distribution Order according to the *faraid* method was issued based on the following situations

- i. There are minor heirs.
- ii. The heirs only prioritize *faraid* law over other methods.

b. Consensus

Using this method, the analysis showed that there were 42 cases with 78% in total over the three years studied. It dominates indirectly with the greatest amount of data with over half of the files studied compared to the dividing method found in other cases.

Among the factors of the Partition Order issued according to this consensus method are based on the following situations

- i. There are mothers or fathers of the deceased who willingly leave their entire share to the wife and children of the deceased.
- ii. Male heirs agree to divide their inheritance equally even if they have female heirs.
- iii. The inheritance of the deceased's property through movable property such as cars and motorcycles which makes the heirs set only a few names of the heirs to be registered as the new owner.
- iv. The legacy of a lot of property makes the heirs take a mutual subtraction approach to distribution with the deceased's existing property.
- v. There are heirs who are older and give their share to other heirs who are younger than them, such as the children of the deceased.
- vi. There are heirs who want to sell their shares to other heirs at a rate of payment that has been mutually agreed upon.

c. Faraid and Consensus

In the meantime, there is also a combination of settlement methods in some cases of inheritance claims and it can clearly be proven through three cases with a percentage of 5% in total from 2019 to 2021. This represents the second lowest number of cases in the division method data. Among the factors of the order of partition according to the *faraid* method and this consensus was given according to the following situations:

- i. Some heirs want to use the *faraid* method for the deceased's movable property and use the agreement method for his immovable property.
- ii. The deceased left so much property that the heirs took the approach of dividing the property partly according to *faraid* and the rest according to consensus.

d. Administrator and Consensus

In general, the implementation of the division of the small inheritance in UPPJS also requires the appointment of heirs as administrators for certain cases. The appointment of this administrator is not a permanent solution and temporary in nature. This is because this administrator was appointed to represent the other heirs to facilitate the implementation of the division of the inheritance. Once completed within a certain period of time, the appointment of this administrator will be revoked and a new trial will be held to form a new way of dividing the estate.

Based on the analysis of the findings of the study, it was found that there were seven cases with a percentage of 13% in total through a combination of consensual solutions and the appointment of an administrator. It is the second highest number of cases although the number leaves a large gap behind the consensus method which obtains the number of cases in more than half of the case files studied. Among the factors of the Division Order according to the administrative method and this consensus was issued based on the following situations

- i. Require an administrator for persons with disabilities for the division of immovable property, but for movable property can be pursued by consensus.

- ii. Require an administrator for minor heirs to divide immovable property, but for movable property can be solved by consensus.
- iii. There are heirs who implement an agreement on his inheritance and in addition there are immovable properties of the deceased such as the house still under the name of the developer. So the solution is to appoint an administrator as a representative to manage it until the house really becomes the full title of the deceased.
- iv. There are heirs who implement an agreement on their inheritance and in addition there are immovable properties of the deceased such as land under the management of FELDA, so it is necessary to appoint an administrator as a representative to manage the proceeds of the land and then distribute the proceeds by agreement to the other heirs who worthy.

Form of Agreement in Small Estate Settlement

According to (Abdullah & Ali, 2023), to ensure the welfare and harmony of the heirs of the deceased, it requires the implementation of a systematic and intelligent governance of the estate in arranging the settlement method. Based on the Trial Notes found at the South Johor Inheritance Division Unit, the study found that there are additional clauses through the form of settlement for cases that use the consensus method. Some cases through the settlement of the *faraid* method were also identified to combine with these forms of agreement as the final result of settling the inheritance claims of the heirs concerned. The intended forms of consensus are as follows:

a. Handover the Share

The form of solution “handover the share” is a way of dividing the heirs giving or handing over their share to other heirs for free. This voluntary form dominates the chart of other forms of consensus settlement in UPPJS with a percentage of 53.7%. The study found that the frequency of the heirs choosing this form of settlement is based on the agreement of the heirs who have planned in advance how to divide their inheritance. In addition, the older heirs also play an important role by allowing their share to be handed over completely to the younger heirs. The initial advice on the method of division ordered by the deceased also serves as a basis for the form of settlement of this division.

b. Mutual Subtraction

The “mutual subtraction” form of solution is a way of dividing the heirs by handover their share and exchanging or replacing their share with another heir's share on the condition of obtaining the consent of the existing heirs. This form of agreement is among the lowest in the chart of forms of consensus settlement in UPPJS with a percentage of 3.7%. The study found that the situation of this case occurs when the heirs are easy to tolerate and more or less when the deceased has left a lot of property to the heirs and there are also situations where other heirs have received the property while the deceased was alive even though they have not change the title.

c. Equally

This form of solution obtained the highest percentage with a percentage of 11.11%. “Equally” resolved by dividing all the assets of the deceased with the same value or amount even if the remaining heirs have male and female heirs. The study found that most cases of this form of settlement come from to the nearest heirs, such as between the wife of the deceased and

the children of the deceased or the son and daughter of the deceased, so with the existing relationship of warmth and love that is the main reason for choosing the form this solution is implemented.

d. Handover with Payment

The study found that this form of solution obtained a total of 1.85% percent and the lowest. This form is resolved by the heir withdrawing from receiving his share and handing over his share by receiving an agreed amount of payment among other heirs who are entitled to receive it. The rate of the total payment depends on the discussion and agreement of the heirs and usually the value is not far from the real value of the property. The Trial Notes record that there is not any statement to make the payment during the trial and the estate officer records that the heirs involved need to complete the payment within certain periods of time before a complete Distribution Order is issued. There are also cases where the value of the total payment of the property is not stated in the note of discussion, so it is only known between the heirs involved.

e. Handover the Share and Equally

The study found that this combination of solutions obtained a percentage of 11.11% and was among the highest in the chart. This settlement was resolved with the heirs agreeing to divide part of their inheritance in the form of "handover the share" and the other part in an "equal" form. The situation that happens is like there are elderly heirs such as the father or mother of the deceased who agree to handover part of their property such as land to the children of the deceased or their grandchildren because they are not fit to manage it and the remaining part of their property such as money compensation agreed to be divided equally with other eligible heirs.

f. Mutual Subtraction and Equally

The total percentage for this form of settlement is 5.55%. This form of settlement is resolved by the heirs agreeing to divide part of the inheritance by "mutual subtraction" and the other part "equally". This can happen when there is a situation where the deceased left a large amount of property such as land, houses, shop buildings and vehicles and the heirs agree to subtract some part of the property among the heirs and some part of the property such as savings in the deceased's bank account is divided equally with other eligible heirs.

g. Handover the Share and *Faraid*

The total percentage for this form of settlement is as much as 3.7% with this form of settlement occurring when the heirs agree to "handover the share" of the inheritance to other eligible heirs and there is a portion of the heirs' inheritance that needs to be implemented in a "*faraid*" method. This can happen in the situation of heirs such as the children of the deceased handing over part of their property such as movable property to the wife of the deceased who is their mother and there is another part of the property such as immovable property that must be done according to the *faraid* method because among the children of the deceased, there are minor heirs, then for the category of minor heirs the method of calculation is according to the *faraid* method and it is necessary to appoint an administrator to temporarily represent the property until the relevant heir has reached the age of maturity.

h. Mutual Subtraction and *Faraid*

A total of 3.7% percent of cases that have been resolved with this form of resolution. There are heirs who are willing to hand over their property to other heirs and receive property from other heirs as well and at the same time *faraid* method can be resolve in the other distribution property. The study found that this case occurs when there is too much movable and immovable property left by the deceased and the heirs agree to divide it by mutual subtraction other eligible heirs. In the meantime, there are also heirs who are found to be mentally ill or disabled, so this solution approach is through the *faraid* method and the appointment of an administrator needs to be implemented to delegate the matter of accepting the property on behalf of the heir.

i. Equally and *Faraid*

There is only 1.85% through this form of solution. The study found that some of the deceased's property is divided equally among the heirs and there is a "*faraid*" way of dividing only one heir by his own will. This can happen if among the heirs there are those who do not agree to do the consensus method and are more inclined towards the *faraid* method, then the settlement of the division of the property can still be carried out with the distribution of the heirs calculated with the *faraid* rate and the balance of other properties can be divided equally among other eligible heirs.

In the end, the form of consensus settlement through "handover the share" dominates with the highest percentage of 29 cases with a percentage of 53.7%. In addition, there are also other forms of consensus which is a combination of forms of consensus settlement with *faraid* which results in a percentage of 25.8% of the total number of these forms. Therefore, looking at the results of this study, it is clear that the term clause of these forms of consensus settlement is used in UPPJS.

Factors That Influence the Heirs to Implement the Agreement

Some people consider the property acquired as a measuring stick of a person's success and wealth. Therefore, the management of the tittlement of this inheritance needs to be administered accurately and sparingly in order to avoid unexpected disputes in the future (Sahira et al., 2022). an agreement between the heirs, it will certainly give the best solution for dividing the inheritance. This can be witnessed through the selection of the consensus method which is resolved by obtaining mutual agreement among the heirs as the main condition for the process of this method. Behind the selection of this method, there must be factors that encourage the acceptance of the heirs in the desire to implement it. Here are some factors that have been identified through the sharing of Mr. Qaiyum Bin Rozali:

a. The Affection between Heirs

Based on the experience of the inheritance officers at UPPJS, they stated that the affection relationship between the heirs played an important role in the implementation of this consensus method. It can be proven by the existence of cases such as heirs who agree to hand over their share to other eligible heirs on the basis that the heir has made many sacrifices and served to take care of the deceased during his lifetime. In addition, there are also cases such as male heirs wanting to divide the deceased's estate equally with female heirs even though in reality the male heirs get a 2:1 ratio. Next, there are situations where the heirs mutually subtract the inheritance to help a less able other heir so that he acquires property that is more valuable than it should be.

b. An Enormous Quantity of Property

The large number of properties also encourages the consensus method to be implemented. Usually, the inheritance officer will suggest using the form of “mutual subtraction” to divide the property among the heirs. This makes each entitlement of each property more exclusive because only one nominee will be registered for each title of the property.

c. Low Property Value

Property valuation rates need to be measured and calculated. A low property value rate on immovable property such as inheritance land will cause the management or production of the land to be uneconomical if there are many title holders. Usually, the officer at UPPJS will suggest that the eligible heirs appoint an administrator among the heirs to manage the procedures. Once the yield from the land is obtained, it will be distributed to other eligible heirs either equally or there is a separate calculation formula.

d. Older Heirs

There are some cases where the way of distribution of consensus is carried out through advice and suggestions from heirs who are older. This makes the other heirs respect the older heir by agreeing to divide by consensus. In addition, there are usually cases where there are heirs who have advanced in age to the point that they feel they do not need the property of the deceased and willingly hand over all their shares to other heirs, especially to the children of the deceased. Therefore the consensus method plays an important role in solving those situations.

e. Operation of Law

In addition to existing factors, there is also one factor that being an important topic that causes a consensus solution to be made. This can be seen through the title of movable property such as cars or motorbikes where Section 11 of the Road Transport Act 1987 [Act 333] stipulates that only one heir must be registered as the new owner of the vehicle. In addition, based on the Land Act (Group Settlement Areas) 1960 also stipulates that only two nominees can be registered for FELDA inheritance land. Therefore, the inheritance officer will advise the heirs to choose and appoint a worthy and responsible heir to manage it and collect the revenue from the land and distribute it to the other heirs according to their own way of distribution. Usually the revenue is divided equally, sometimes it is divided according to its own calculation formula and sometimes according to the *faraid* calculation.

In addition, the inheritance officer at UPPJS also stated that there are situations that require them to refer to the Malay Land Reserve Enactment. This is because this law applies to the lands it enforces by preventing non-Malay heirs and non-Malay citizens from acquiring or owning the land. Therefore, the inheritance officer will advise the other heirs to discuss and agree to replace the heir's share with other inheritance properties.

f. Combined Inheritance Cases for the Same Heir

The study found that there are also situations where applicants apply to try two or more inheritance cases in one trial. It can be done on the condition that the legitimate heirs consist of the same heirs as the sons and daughters of the deceased. Usually, these heirs have already planned their way of division in advance by combining all the deceased's property and then distributing it by consensus through “equally”, “mutual subtraction” or “handover the share”.

g. Early Planning of the Property Inheritance

This factor shows that the heirs have agreed to handover their share to only one heir of the property. This situation can be illustrated when among the property of the deceased is immovable property which is inheritance land and has a house on the land. In order to give a more economic value to the land, the heirs agreed to appoint one of the heirs and hand over their respective shares to him. They agreed that the heirs should cultivate the land and rent the house, then the proceeds would be divided according to the value rate agreed upon among the heirs.

h. The Order made by the Deceased during his Lifetime

As a matter of fact, there is no doubt that there are also cases through this consensus method based on factors the order made by the deceased during his lifetime. On the basis of family relationships or love between heirs, they still follow and respect the order with willingness.

Issues When Conducting Consensus Settlements

Previous studies revealed that many Muslims still do not understand the method of dividing inheritance, which is the reason for the increase in freeze inheritance in Malaysia (Zulkafli & Ahmad, 2016; Wajis et al., 2018; Sulong, 2012). The *faraid* method is not the only method that can resolve the division of the inheritance, in fact the settlement can also be done through a consensus mechanism as an alternative method as provided under Section 15(5) and the First Schedule of the Small Estate (Division) Act 1955 (Rushdan et al., 2021).

However, in reality, it cannot be denied that there are issues and problems that occur when this consensus method is implemented. This can be expressed through the sharing of Mr. Qaiyum Bin Rozali as an officer who resolves inheritance cases at UPPJS. These issues and problems are not just caused by the heirs, but are also seen to slow down the processes and procedures of the UPPJS itself. Problems encountered include the following

a. No clear guidance on the method of division by consensus

In general, the heirs do not have a reference for complete information about the settlement of the estate through the consensus method because there are no fixed guidelines on the consensus division. This makes it difficult for the heirs to make preparations on how to divide their inheritance. Therefore, the researcher suggested that UPPJS develop a systematic guideline on the consensus method at the initial stage of the inheritance claim application.

b. Heirs Hide Legitimate Heirs

During the hearing, the estate officer will question each heir present about the existence of eligible and legitimate heirs. Therefore, there are some cases where the heir who gave the clarification did not specify other legitimate heirs. This happens when the heir involved wants to settle the property claim as quickly as soon as possible and ignores other heirs. When investigated, the heirs who should be eligible include those who are out of the region or abroad, heirs who cannot be traced for a long time without contacting and failing to track them, the existence of layered heirs such as the deceased, for example the heir's father has a second wife and having heirs from the second marriage and a situation where the deceased has long died and the heirs fail to expedite the claim of the deceased's property until the death of other entitled heirs. If the act of hiding heirs is done, directly other eligible heirs do not get the rights they deserve.

c. The Understanding of the *Faraid* Method by the Inheritors

Even in this modern era of obtaining information in the mass media at the fingertips, there is no denying that there are also heirs who still hold tight to their understanding of *faraid* law only in the division of inheritance. This can be stated when during the trial they want all the property to be distributed according to the *faraid* rate and when researched, after being distributed according to the *faraid*, they will distribute it equally. This action is considered unintelligent because the final method of distribution is by consensus. Therefore, each heir is advised to be aware of this consensus mechanism as early as possible in order to facilitate the planning of how to divide the inheritance when the time comes later.

d. Laxity for Submit a *Faraid* Certificate

The study revealed a laxity in the presentation of the *faraid* certificate during the trial. This is because the trial process continued even though the officer did not refer to the *faraid* certificate in question and even replaced it by questioning the heirs related to the data of other eligible heirs. This matter will challenge the validity of the data of other eligible heirs because the officer is only guided by the information of the heirs present during the hearing. If the method of division of the case has been carried out through the consensus method and after that it is proven that there are other heirs who are eligible to appear to make a claim, then the consensus property claim that has been carried out before that is null and void. It will complicate the situation with a new application and a retrial will have to be held.

e. The Handover the Share Process Payment was not Disclosed during the Trial

Based on the researcher's observation, the rate of the total payment through a case of agreement in the form of handing over the share with this payment will be decided by agreement with the heirs involved without specifying the value of the amount during the trial. This can be proven when the researcher refers to the Trial Notes and it turns out that the value of the payment is not stated, in fact there is no record that stated whether the heir in question has made the payment or not. Therefore, the estate officer will set a specific date for the heir to pay the due amount and after that the order will be issued by the officer.

f. The heir Changes the decision without the approval of another Heir

Among the processes and procedures during the initial application of the deceased's property claim is to have the property assessed by the Property Valuation and Services Department (JPPH). The true value of the inheritance involved is not known to the applicant and his heirs until during the hearing the inheritance officer will inform them. In general, they only know the base rate of the count based on the *faraid* division and the base of the random count of the eligible inheritance. Therefore, there are number of cases where the heirs suddenly change the decision of the consensus distribution method that was planned at the initial stage after knowing the true value of their inheritance. This action made it difficult to complete the division because the officials had to give additional time to the heirs to discuss again on how to divide their inheritance.

Conclusion

Based on the review of the previous studies that were discussed and the findings of the study that has been carried out at UPPJS, it can be concluded that the consensus method is one of the alternative mechanisms that are often used by dominating a large percentage in resolving the division of small Muslim estates. In addition, the researcher found that there are also

various forms of additional clauses through the selection of consensus methods in which each of these forms has different terms and rules of distribution. As such, it shows that this pattern of consensual division is not only focused on equality, it even helps the heirs arrange the distribution of the inheritance according to their discussions with the condition that all the rules and discussions require mutual agreement among them. Everything that happens has a cause and effect. Therefore, the selection of this consensus method also has its own factors in how it affects the settlement of inheritance. Through this method, it turns out to benefit every heir and is able to facilitate the division of inheritance and can be worked on and progressed immediately.

However, there is no denying that there are also some issues and problems encountered during the implementation of the consensus method. The issue does not only come from the heirs but also results from the procedure of the Small Inheritance Unit itself. Therefore, the researcher hopes that future studies will be able to produce the best solution to overcome the cluster of issues and problems involved, for example creating a fixed agreement method guideline at the initial stage of the application so that the knowledge can be used early by the heirs who have not been informed about the method division other than *faraid*. In addition, it can instill understanding in the Muslim community to avoid doing unwanted things in the course of division.

Therefore, the results of this research study are very useful to be used and applied to heirs or administrative officers who manage small estates. This is clear that the heirs can understand the true concept of consensus that is parallel to the Islamic Law of Inheritance and not only focused on the *faraid* method alone. Family harmony is guaranteed by being able to avoid situations such as fights and disputes during ownership of the property. They can improve a fairer and more perfect standard of living in accordance with the latest times and can avoid mass ownership of inheritance which causes the value and extent of ownership of each individual's property to be uneconomical to develop. For agencies that manage the division of inheritance such as UPPJS in particular, can reduce the statistics of delayed cases when this consensus method is applied comprehensively to heirs who are at a standstill or fail to reach an agreement to complete the distribution of their inheritance. With that, cases can be resolved efficiently, effectively and quickly and can avoid the addition of cases of freezing assets of inheritance. In addition, the speedy resolution of cases can also help increase the country's revenue through tax collection. This consensus alternative is seen to be able to have a positive impact on the division of inheritance in Malaysia by planning the division in a good and systematic manner in accordance with Shariah law and the law.

References

- Ab Rahman, S., Khalid, M. R., & Jaafar, A. B. (2019). Kajian keberkesanan undang-undang faraid di Malaysia. *Akademika (Isu Khas)*, 77–91.
- Abdullah, M. M., Fariddudin, M. S. N. F., Muhamad, N. N. H., & Awang, A. B. (2021). Islamic estate planning in the industrial revolution 4.0 era: Issues and challenges. *Journal of Emerging Economies and Islamic Research*, 9(2), 40.
<https://doi.org/10.24191/jeeir.v9i2.12413>
- Abdullah, M. M., & Ali, M. A. M. (2023). Implikasi Pindaan Harta Pusaka Kecil (Pembahagian) 1955. *Jurnal Undang-Undang Malaysia*, 35(1), 95–118.
- Abdullah, M. M., Mohamad, M. F., & Yaakob, M. (2020). Pelaksanaan Amanah Takaful Di Malaysia: Analisis Menurut Perspektif Maqasid Syariah. *Journal of Islamic, Social, Economics and Development (JISED)*, 5(30), 1–12.

- Husnaa, A., Saifullah, M., & Mahamood, M. S. (2020). Isu-Isu Berbangkit dalam Pengurusan Harta Pusaka Ringkas ISU-ISU BERBANGKIT DALAM PENGURUSAN HARTA PUSAKA RINGKAS SECARA BERWASIASIAT DAN TIDAK BERWASIASIAT DI AMANAH RAYA BERHAD (ARB) Arising Issues in the Management of Simple Testate and Intestate Estates at . *Journal of Shariah Law Research*, 5(2), 207–230. <http://www.bharian.com.my/node/264210>,
- Khy, S. N. (2007). Nilai harta pusaka tak dituntut rakyat Malaysia cecah RM40 Bilion. *Bernama*.
- Muda, Zamro, M. M. R. A. (2006). Undang-undang Pusaka Islam Pelaksanaan di Malaysia. : : *Jabatan Syariah FPI UKM*.
- Roslan, N. F., & Ahmad, A. A. (2022). Pentadbiran harta pusaka dan implikasi negatif harta tidak dituntut. *Malaysian Journal OF Social Sciences and Humanitiies (MJSSH)*, 7(4), 1–15.
- Rushdan, W. N. A. M. W., Muda, M. Z., & Kusrin, Z. M. (2021). Pembahagian Harta Pusaka dalam Kalangan Masyarakat Muslim di Negeri Sembilan : Satu Kajian Literatur. *Journal of Contemporary Islamic Law*, 6(2), 55–64.
- Sahira, N. S., Almaktsur, A., & Mardiana. (2022). Peranan Amanah Raya Berhad dalam proses pengelolaan harta pusaka ditinjau dari hukum Islam. *Journal of Sharia and Law*, 51–60.
- Sulong, J. (2012). Amalan Pembahagian harta pusaka dalam kalangan masyarakat Melayu di Malaysia. *Jurnal Pengajian Melayu*, 23, 99–131.
- Wajis, N. R. B. N., Sahid, M. M., & Ab. Rahman, A. (2018). Harta Tidak Dituntut : Punca Dan Kaedah Penyelesaiannya = Unclaimed Property : Factors and Solutions. *Malaysian Journal of Syariah and Law*, 7, 129–142. <https://doi.org/10.12816/0051395>
- Hassin, W. S., Shahr, S. W. S., & Zan, M. U. M. S. (2016). Faktor-faktor yang mempengaruhi harta pusaka beku di Malaysia. *International Conference on Management & Muamalah*, 311–315.
- Zulkafli, B. N. A., & Ahmad, M. Y. (2016). Kekangan dan Penyelesaian Kelewatan Pengurusan Aset Pusaka Tak Alih Orang Islam di Malaysia. *International Journal of Islamic Studies*, 53–63.