

Chapter 15

Islamic inheritance law in Indonesia: The influence of Hazairin's theory of bilateral inheritance

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Inheritance law has long been a flashpoint for controversy in Indonesia. The issue has been especially incendiary for the country's majority Muslim population, for whom the question of what law shall govern the distribution of property on death has often assumed a symbolic significance out of proportion to its practical importance.

The principal focus of the inheritance controversy has centred on the question of which set of rules shall be used in the apportionment of estates. The issue has generally been framed in highly simplistic terms as involving a clear-cut choice between two supposedly distinct bodies of doctrine – the Islamic law of inheritance on the one hand and the customary law or *adat* of the country's many different ethnic communities on the other.

The reason the choice of inheritance rules has been loaded with such weighty symbolism – and the reason the alternatives have been defined in such stark contrast – is because inheritance law in Indonesia has become bound up with notions about Indonesian identity. In its most extreme form, the choice concerning the law that shall govern distribution of property on death is conceived as entailing a declaration of social identity and an avowal of a particular vision of Indonesian society. A determination that inheritance should be carried out according to the rules of Islamic law is understood as an affirmation of commitment to Islam, while the choice of *adat* is construed as an assertion of adherence to a supposed indigenous identity.

Inheritance serves as a proxy for larger questions about social identity and the nature of Indonesian society because the law of inheritance occupies an especially important place in constituting both Islam and ethnic identity. Law in general, and inheritance law in particular, are matters of great importance in Islam. As Joseph Schacht has written, Islamic law is 'the epitome of Islamic thought, the most typical manifestation of the Islamic way of life, the core and kernel of Islam itself' (1955: 28; see also Hooker, 1984: v). Moreover, within the corpus of Islamic legal doctrine, inheritance rules occupy an especially important place. The rules governing the distribution of property on death are spelled out in more detail in the original sources than other areas of law, and are perceived as especially firmly rooted in divine revelation. According to an often-repeated Prophetic dictum, the rules of inheritance comprise fully one-half of all useful knowledge (Fyzee, 1974: 387).

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