

Islamic Law of Inheritance and Its Implication amongst Muslim Society: An Empirical Analysis

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ABSTRACT

Islamic inheritance law (Al-Fara'id) is a refined and commanded law by Almighty Allah. Almighty had reserved and held the right of legislative power on his control as he has commanded the people to implement the law of Inheritance bestowed by him. However, it is seen as a divine mandate that is being continually ignored by the Muslim community. Because the statute was not executed in accordance with the commands of the Almighty, it has caused plenty of socio-economic problems. In this background, this study aims to find out the reasons as to why the Islamic inheritance law has not been implemented properly among the Muslim community in Sri Lanka especially in Palamunai area densely populated with Muslims and to identify the obstacles and the reasons of present backward on implementing such law. The primary and secondary data have been utilized in this mixed-method study. It uses primary data collection techniques such as questionnaire (self-administrative), interviews and observations. The data collected were subjected to descriptive analysis with the help of SPSS software (Version-26). The results have been illustrated by graphs and charts. Moreover, secondary data sources such as research articles, books, journals, web publications, etc. were used for the purpose of developing a theoretical framework on Islamic inheritance law. The findings of the study are: Dividing the property which is carried out after the death of the owner of the property with the own decision of inheritors and ignoring the divine commands where women are given first place in the quota with more shares and men are marginalized. The study reveals that the reasons of such conditions are the lack of awareness among the people of the area on Islamic Inheritance law and the nature of careless of the people who have awareness on implementing such law. The situations described above would have led to impress the inappropriate concept and practices such as individual economy and the economy stipulated in the religion are different process in the practical life. The attraction and the social status given by the community for the dowry which is an economical deal of the marriage become stronger than the past. The researchers expect that this study would be helpful for future scholars and policy-makers to take suitable measures for implementing the Islamic inheritance law in the society.

Key Words: Islam, law of inheritance, al-fara'id, ilamul meerath, Palamunai

INTRODUCTION

Islam has defined and elaborated a system with many guidelines as how to earn wealth by the way of *halal*. The section related to Islamic law is called the term as

“*fiqh al-muamalat*” Islam has several noble goals; one of them is “the economic rights of individual and the social justice” which are to be established properly by acquiring the property of another human being in the society. Thus, in order to obtain the property of another

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person, Islam has introduced ways and means with the term as *halal* such as charity, gift, compensation (*kaffarah*), outstanding alms-giving (*zakat*), *sadaqah*, debt, business, rent and inheritance (Mazahir & Nisfa, 2019).

Inheritance is basically the transfer of status to the living – a person from the deceased with respect to the specific estate or property objects (Zubair et.al., 2014). There is no explicit meaning of the word inheritance in the Holy Quran, although it has been defined in many ways by Muslim jurists such as Abdur Rahim, inheritance is the transfer of rights and obligations of a deceased person to his legal heirs. According to Coulson, it is the distribution of the deceased's assets that remain after paying his burial expenses, obligations, and lawful bequest (Zubair et.al., 2014). Morgan defines it as the dispersal of the deceased's assets among the cognate kindred. It is also seen to be the transfer of an item from one person to another, which includes the transfer of money, knowledge, honour or dignity (BusariJamiu, 2020).

Al Quran and Sunnah have used the Arabic terms to refer to the distribution of the property among the legal heirs as "*Faraa'idh*" and "*Meerath*" Inheritance introduced by Islam means the distribution of the property belonged to the deceased person among his legal heirs according to the Islamic law of inheritance. This is one of the duties of Muslim that Islam emphasises to enforce in society. A man used to spend his time for the purpose of earning money not only for the betterment of life but also for his descendants and cognate kindred those who will live after his death. Therefore, Islam has intended to confirm that the property earned by mankind through their hard work should not be confiscated by some particular persons from the family of the late one and should not be sequestered by some others who have no legal rights. That is why men have shares from the property left by parents or close-kin, as well as women, also have shares in the property left by their parents or close relatives. It is a part prescribed by Allah, whether the capacity of the property is small or large. "*There is a share for men and a share for women from what is left by parents and those nearest related, whether, the property be small or large – a legal share. The shares are determined by Allah*" (Al-Quran 4:7). After explaining the inheritance rules, Allah has stated in the chapter *Al-Nisa*, verse no-11, that "*this is a command from Allah*" and "*This is the ordinance prescribed by Allah*" in the verse 12 and in

the same chapter in the next verse 13 "*These are the boundaries of Allah.*" It can be understood with verses of the Holy Quran that the distribution of inheritance property is one of the religious obligations which is to be enforced in the society regardless of ethnicity, language, economy and socio-culture.

Since the countries in the world have realized that the doctrine of Islamic inheritance law provides the individuals and society a comprehensive economic right and included into the constitution of some countries in the world such as The Islamic Family Law of 1999 in Brunei, The Administration of Muslim Law Act (Cap. 3) administered by the shari'ah court of the country, Islamic Inheritance Act of 1946 (Section 230) enforced in Thailand (Luqman, 2012). It is remarkable that the Indian Inherent Act of 1925 applied by India and the Unwritten Inheritance Act related to the last will had been enacted by the Indian Muslim Private Law at the end of 1937.

Sri Lanka is a multi-ethnic democratic republic country which is governed by a variety of legal systems (Mixed- Legal system). The common law of Sri Lanka is applicable to all civilians as well as the personal laws for separate ethnic groups those who are residing within the national boundaries. All of these laws are enforced on the distribution of inheritance property on the basis of ethnic, cultural and religious faiths. The common law of Sri Lanka namely, The Land Development Ordinance No 20 of 1996 allows the woman to retain the title of the property of her husband who passed away as long as she remains without having remarriage. The Marriage and Inheritance Ordinance of 1876 (amended in 1922) guarantees that the husband inherits half of the property of his late wife and the wife also inherits half of the property of her late husband. The civil cases held in the courts of Sri Lanka are delivered the judgment on the basis of these Acts.

In addition to the above, some personal laws have legal provisions for dividing the property of the deceased. The Kandyan Law - 1938 (amended in 1944) contains the provisions that allow in favour of the women to inherit the property with the system of 'BINNA' marriage as well as to grant a portion of the property to the woman's brother. The Muslim Intestate Succession Ordinance No. 10 of 1931 which is applied towards Muslims living in Sri Lanka contains the fundamental features of Islamic Inheritance Law. Especially, the law is applicable to the Muslims in Sri Lanka who follow *Shafi'i* and *Hanafi* Schools of thought

(*Madhab*). According to this law, the son of the deceased is entitled to receive a share which is equal to the share of two daughters from the inheritance properties (Nisfa & Rifas, 2021). The Jaffna Marriage Inheritance Ordinance 1911 (amended in 1947) stipulates that the husband and the wife are mutually entitled to the property that left behind.

Thus, despite Islamic *Shari'ah* accepting a partial law of Sri Lanka in the distribution of property but to the regional studies have found that the same law is being ignored in the Ampara district of Sri Lanka, the researchers have observed such kind of situation and the research is also has been conducted based on the pieces of evidence mentioned above.

RESEARCH PROBLEM

Islam is a religion completed comprehensively by the Almighty Allah which includes the guidance for the entire human beings and different communities of the world where it focuses on the economic rights of an individual, wealth management and the interests of those who involved in the cash flow in the business. The main root of the conflicts and disputes in the modern world has been identified as the economy and the related activities such as limitless selfishness and eagerness on hunting economy at any cost.

The real cause that encourages and creates disputes between individuals, families, communities as well as among countries is also the economy which has been described as an examination for Muslims. This is what the Prophet (PBUH) has predicted, "Every community has its own test and the wealth is the greatest test for my community" (Tirmidhi, 2337). The almighty Allah who knows the three tenses of life such as past, present and the future had made it obligatory upon every Muslim to distribute the movable and immovable properties among those who are entitled as legal heirs. The expectation of Allah is the decentralization of economy among those who entitled according to his order and the teaching of

the Prophet Mohamed (PBUH). Further, Allah does not like to accumulate property under the control of a particular group of people without sharing it with others.

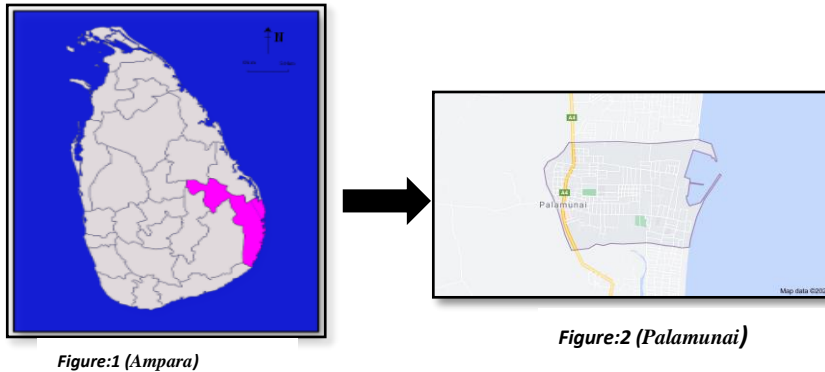
Even though, the law is enforced effectively in Muslim countries around the world, such as the Kingdom of Saudi Arabia, Indonesia and Iran. However, the same has not been implemented in developing countries like Sri Lanka as expected. Palamunai which is located within the limit Ampara district of Sri Lanka, populated by the Muslim community and selected as a study sample is an example of the issue mentioned above. The Analysts have observed and found in the recent past that there are disputes, quarrels and conflicts between families as well as among the cognate kindred in the area concerned on properties and the method of distribution. Such disputes sometimes lead to committing murders among brothers, sisters and close-kin. It has been identified that the main reason for such disputes in the area is disobeying the Islamic inheritance system prescribed by Allah. The traditional custom of prioritizing women and marginalizing men applied by the people of this area on dividing the property has created some consequences such as increasing the numbers of ageing maidens since the men have no facilities to hold their marriages and the escalation of the dowry in this society. This study would pave and produce suitable solutions and models for the local scholars and intellectuals who are looking for ways and means to eradicate this pathetic situation and ensure the implementation of Islamic inheritance law in compliance with Muslim Intestate Succession Ordinance No. 10 of 1931.

OBJECTIVES OF THE STUDY

1. To find out the level of awareness among the Muslims in the area of Palamunai on Islamic Inheritance law.
2. To identify the reasons for not being willing to enforce the said law by the people of the area.

RESEARCH AREA

Figure 1: Sri Lankan Map & Research Area



Palamunai is a coastal - village located within the limit Ampara District of Sri Lanka (Saujan, 2019). It is one of 3 areas administered under the purview of the Adalaichenai Divisional Secretariat and the rest of the 2 areas are Oluvil and Addalaichenai. It consists of six Grama Niladari Divisions. There are 2958 families representing a total population of 9747 (Addalaichenai,

2019). The details have been described in Table 1. The people of the area engage for find their livelihood mainly in fishing, farming and small-scale trading. It has been categorized as an economically undeveloped area by comparing with the other areas situated in the Ampara district of Sri Lanka.

Table 1: Source obtain from Divisional secretariat Addalaichenai, (2020).

No	GN Division of Palamunai	Number of Families	Population
01	Palamunai- 01	782	2336
02	Palamunai- 02	493	1611
03	Palamunai- 03	440	1434
04	Palamunai- 04	570	2086
05	Palamunai- 05	550	1870
06	Palamunai- 06	123	410
07	Total	2>958	9>747

The history of the area recognises the community living in the surrounding environment of the sea as a “fishing community” and the people who depend on the paddy fields for their livelihood as an “agricultural community” (Interview). It is remarkable as far as concerned on Islamic religious activities that the village has been identified as a model village which serves other villages (Observation)

RESEARCH SAMPLES

The study samples had been selected for the research on two bases. In the first phase, a person has been selected from the family members of the deceased during the period of the last five years (2015, 2016, 2017, 2018, 2019 and 2020). this practice is followed as a method of selection from the six Grama Niladhari divisions in the area. The details of the selected study samples are described in the Table:

Table: 2- Divisional Secretariat Addalanichani, (2020)

No	GN Division	Number of Death	Data collected by Model form
01	Palamunai-01	23	17
02	Palamunai-02	22	17
03	Palamunai-03	21	17
04	Palamunai-04	19	16
05	Palamunai-05	13	10
06	Palamunai-06	05	4
	Total	103	81

The total number of deaths in the study area is 103 during the period between 2015.08.19 up to 2020.02.26. The data were collected from 81 individuals of the family members concerned through sample forms. The second phase was conducted among 150 participants who had been selected randomly and

collected data with a closed-ended questionnaire intending to identify the awareness of the people of the area on the implementation of the Islamic Law of Inheritance. The details of the samples have been described below in Table 3.

Table: 3- Data collected via Questionnaire from study samples

No	GN Division	Distributed Questionnaires	Collected Questionnaires
01	Palamunai-01	42	40
02	Palamunai-02	24	22
03	Palamunai-03	25	25
04	Palamunai-04	19	17
05	Palamunai-05	25	22
06	Palamunai-06	25	24
	Total	160	150

LITERATURE REVIEW

A literature review of the study has been carried out based on two sections. The first section has explained the principle of Islamic Law of inheritance where the secondary data reviewed have been explained. The second section has been proposed with research conducted based on the Sri Lankan context and identifies the knowledge- gap (research- gap). These have been described under the following sub-headings.

1. Doctrine of Islamic Inheritance

Inheritance is the art of legal rules which defines the share of the property for a legal heir (ArafatKarim 2012). There are three ways to obtain inheritance property as follows; -

- i. By succession: This includes the descendants and relatives of the deceased.
- ii. Through marriage: The marriage creates new relations by which the shares are divided legally such as the relationship between husband and wife.
- iii. The relationship that appears on a contractual basis: It is a result of an agreement executed between two individuals. The best example of this relationship is the relationship between slave and master which is not available these days.

2. Prevention of right to inheritance

The Main Features that can prevent the rights of inheritance are as follows:

- i Slavery: A slave cannot possess the property and earnings but they belong to his master.

- ii Murder: killing someone who is entitled to acquire the property which means the murderer has to lose and will not be provided with the shares.

“The murderer has no inheritance property” (Ahamed & Muatta)

“The murderer does not have the inheritance property” (Nasayee & Daraquthni)

In the event that the murder was committed by a lawful heir such as the execution of the death sentence which does not prevent inheritance, for example, the prisoner sentenced to death is a father and the son is the officer who executes the sentence.

- iii The different beliefs:

“A Muslim will not inherit from the property of a non-Muslim and a non-Muslim will not inherit from the property of a Muslim” (Bukhari, Muslim).

3. Conditions for Inheritance

The nature of the death of the property owner is occurred as a true death or by a legal judgment of death sentence or natural death. This can be explained as follows: -

True Demise: Natural death of the owner of the property. The death should be accepted unanimously by the legal heirs and close relatives.

The Death Occurs with A Sentence Followed by A Judgment: This includes the death by law and a person who was missing during a terrorist attack and did not appear for a long period. If the judge declares that he has demised, the property of such a person can be divided among the legal heirs. In the view of Umar (Radiyallahu Anhu) that the period of disappearance can be counted as four years if it has happened in a period of peace and one year if it was in a period of war. (Nasaye: Hadith Number 2011).

Assuming the Death: It denotes the death of the baby in the womb. It is irrelevant at present due to the modern development of the medical field.

The Living Heirs: The legal heirs of the property must be alive at the time of the demise of the owner as far as concerned a baby in the womb is also considered as alive as a person who lives. If the members of the same family demise in an accident and the deaths occurred at different times, if the time belongs for a short period, then their deaths will be considered as occurred at same time. The inheritance will not be applied among the deceased but the legal heirs of each of the deceased will inherit from the dead persons.

There should not be any barriers to conducting the inheritance process such as murder, slavery, conversion of religion.

4. Those Who Obtain Shares of the Property

Table 4: The legal heir who can obtain the shares of inheritance

No	Males who receive shares of inheritance	females who receive shares of inheritance
1	Son	Daughter
2	Son's son	Son's Daughter
3	Father	Mother
4.	Father's father (Grandfather)	Mother's Mother grandmother)
5.	Maternal Brother	Grand Mother through father
6	Paternal Brother	Sister through father and mother
7.	Paternal & Maternal Brother	Sister through father
8	Son of the brother whose father and mother are the same	Sister through mother
9	Father's younger brother whose father and mother are the same	wife
10	Father's younger brother- only father is same	A woman who was a slave and freed

11	Son of the younger brother of Father- only mother is same
12	Son of the younger brother of father- father is same
13	Husband
14	Man who was a slave and released

Even though the above-said persons have been included in the system of sharing of inheritance property, but there are only four men and eight women are clearly

stated their share of the inheritance in the Quran. They are known as the heirs of the *ashab al-furud*.

Table 5: Female and Male Hairs of Ashab al-Furud

No	Female heirs	Male heirs
01	Wife	Husband
02	Mother	Father
03	Granddaughter	Grandfather
04	Daughter	Maternal Brother
05	Maternal Sister	
06	Paternal Sister	

All heirs mentioned above can be obtained the property on two levels.

Applicable when the son is already deceased only and has offspring

5. Level I- Primary (Immediate) Heirs

- i. The spouse (husband or a maximum of four wives)
- ii. The children (sons and daughters)
- iii. The parents (father & mother)

6. Level II- Secondary Heirs

- i. The grandparents (paternal and maternal)
- ii. The brothers or sisters (in the absence of father and son only)
- iii. The uncles or nieces (in the absence of brothers and sisters only)

The primary or immediate heirs classified as level I are:

Table 6: the number of shares obtained

No	Share Receivers	Received Shares in Level I	Received Shares in Level II
01	Husband	If no entitled descendants exist (Children/ Grandchildren) $\frac{1}{2}$	If entitled descendants exist (Children/ Grandchildren) $\frac{1}{4}$
02	Wives	If no entitled descendants exist (Children/ Grandchildren) $\frac{1}{4}$	If entitled descendants exist (Children/ Grandchildren) $\frac{1}{8}$
03	Daughter' (s)	If only one daughter (and no sons) $\frac{1}{2}$	if two or more daughters only (and no sons) $\frac{2}{3}$ (to be shared equally between all of them)

04	Father	If sons, daughters, son's sons, son's daughters exist 1/6	If no male descendants exist (sons, son's sons) 1/6 plus Residue (Residue= remainder after all legal shares are distributed)
			If no entitled descendants exist Residue

PREVIOUS STUDIES

As researchers have conducted the process of searching the past studies related to the same topic it was found that many studies been had conducted around the world as well as in Sri Lanka too. However, it has come to know that the studies focusing on the particular area were not enough. Studies conducted in the Sri Lankan context were also included. They are as follows. Shathifa M.C.S, Minnathul Suheera, M.Y, & Farwin, A.R.F.S (2016) "The law of inheritance among Muslims Society in Ampara District". Does the above research article analyse the distributions of properties in the Nintavur area similar to the distribution of property in Islam? Aiming to identify the reasons concerned. Although the title appears as the survey was centred on the Muslims of the Ampara district, the collection of samples was centred on the area of Nintavur. For this purpose, the data have been collected from 100 individuals and analysed through the method of the questionnaire. -It was found at the end of the study that the distribution of property among the people of the said area is out of the Islamic definition. Furthermore, the role played by the family and religious institutions on clarifying the Islamic inheritance law which is being neglected is not enough. The study also found that the dowry was an influential factor to obstruct or neglect the implementation of the Inheritance Act in Nintavur area.

Nisfa. M.S.F. & Rifas A.H. (2021) "The Impact of Pre-Death Property Distribution and the effect on the economy of males: A study based on Muttur Muslim Community." The study was conducted aiming to find out why males are marginalised and discriminated than females in allocating shares of the properties and finding the real reasons for such discrimination. It was found that the prime reason is the non-implementation of Islamic inheritance law and lack of awareness among the people in this regard. Therefore the appropriate recommendations have been placed to eradicate such practices.

Rinoshia M.I. (2019) "The Study cantered Kalmunai Territory on the division of property" This study describes the method of dividing the property of

Muslims in Kalmunai and aimed to compare them with Islamic practices. From this study, the researcher has found that the property distribution among the Muslims in Kalmunai is generally divided before the death and is rarely distributed to males and she points out the reasons "why the property is not being given to males." There is access to understand the effect which may occur due to negligence of the correct method of distribution of the inheritance property.

Nisfa, M.S.F. & Mazahir, S.M.M. (2017) "Practice of Islamic Inheritance Law: A study based on the Muslim Community live in Kaluthatra" This study aimed to identify the causes behind the distribution of property as to why the property has not been divided according to the Islamic Inheritance Law. In this study, the researchers have identified the status of the Muslims on dividing the property and the reasons why the division of property has not been executed by the Muslim community of Kalutara District in accordance with the Islamic inheritance law. Since this study illustrates the impact which may occur in the community when the community fails to adhere to the Islamic inheritance law would be considered supporting point research.

Feroza Bulbul (2013) "Implication of Islamic Inheritance Law: Ultimate solution for family conflict". In this study, the researcher explains the influence on the distribution of property where 68%-of the families in Bangladesh follow the Islamic inheritance practices while the other 32% of them do not follow. This trend leads to family conflicts and disputes among the people thos neglected the Islamic Inheritance Law. The researcher has found out for the negligence of such law is a "lack of the proper knowledge of Islamic Inheritance law"

RESEARCH METHODOLOGY & DATA COLLECTION

The method of study is based on Quantitative and Qualitative Analysing (Mixed- Method). This study has used primary and secondary data sources. Closed-ended questionnaires, unstructured interviews and informal

observation have been used as the primary data collection tools.

1. Questionnaires

Data were collected from 150 individuals selected by the questionnaire consisting of six pages prepared by the researchers. A set of form has been issued along with this a sample application to the family members of the deceased during the last period of five years intending to collect the details of the deceased, the property, the assets divided and the basis on which the property distributed *Wasiyyah*, *Waqf* had been collected accordingly.

The information obtained through the questionnaires was analysed via descriptive analysis with the help of

software SPSS (Version-26) and the results also were obtained. The results obtained have been illustrated graphically with MS-Excel 2016.

2. Interview

The Unstructured interviews were conducted with the participation number of 8 individuals such as 2 lawyers, 2 intellectuals, 2 Islamic religious intellectuals and 2 community leaders. The data obtained were analysed by using coding system.

3. Observation

Information was also obtained through informal observation. Since the researchers of this study have been living in the same area for long period, they were able to use what they have seen and known in this study.

RESULTS AND DISCUSSIONS

1. Socio-Demographic Details of the Study Samples.

Table 2: Details of Socio-Demographic

Characteristics	Male, n (100%) (N-81)	Female, n (100%) (N-69)	Total, n (100%) (N-150)
Age in Year			
13-19	15%	20%	17%
20-39	24%	24%	24%
40-59	48%	39%	43%
60 Up	13%	17%	16%
GN-Divisions			
GND-1	16%	8%	12%
GND-2	15%	23%	19%
GND-3	17%	17%	17%
GND-4	17%	28%	22%
GND-5	20%	16%	18%
GND-6	15%	8%	12%
Occupation			
Entrepreneurs	6%	3%	4%
Clarke	3%	0%	2%
Qualified employee	12%	0%	6%
Self-Employee	42%	17%	30%
Pensioner	7%	0%	4%
House Wife/ Husband	18%	69%	42%
Student	12%	11%	12%
Education Qualification			
Graduate	5%	0%	3%
National Vocation Qualification	5%	4%	4%

Diploma	23%	11%	17%
GCE. A/L	10%	19%	14%
GCE. O/L	50%	66%	58%
Uneducated			

The details of 150 study samples from whom the data were collected for this study have been examined on the basis of age, gender, Grama Niladari Division, occupation and educational background of informants for which the priority was given and the results obtained are illustrated in the following table as follows:

According to the above table, 48% of male surveyed are between the age group of 40 - 59 years. It is notable that most of them are breadwinners of families or the eldest persons in the family. This information indicates the solidity of the available data. When examined on the number of deaths that occurred during the last five years it was found that the deaths occurred in Grama Niladari Division 4 were more than 22% since the certain area consists with more elders rather than the other areas.

When analysing the study samples based on the occupation, it was found that 42% of them have been identified as housewives or husbands who are house-sticking individuals. The majority of them (58%) have not obtained the formal education. They are considered as illiterate.

2. Number- Family Members

It has come to know when the number of the family members of the samples was subjected to the research and was found that most of the families (26.3%) have 4-5 members and 14% of the families have 6 members.

3. Relation Between the Sample and The Person Who Demised

When the relation between the samples and the deceased was analysed it was found that most of them (27.6%) are fathers and in the next step, there were Mothers (21.1%) and husbands on the other step (19.7%).

4. Awareness on the Distribution of the Inheritance Property

The details obtained from the people those who are living within the limit of the study intending to analyse the awareness on the distribution of the inheritance

property have been explained with the subheadings as follows: -

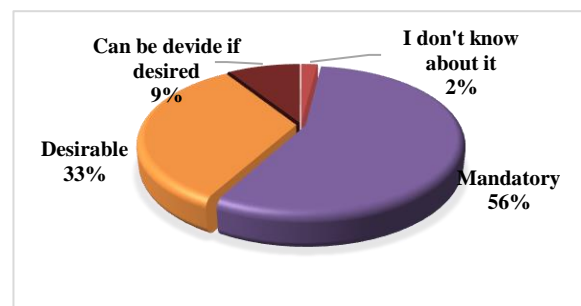
1. Knowledge of Islamic Inheritance Law

The system of dividing the properties among the legal heirs is also one of the laws defined by almighty Allah who has insisted to apply the same. It has been realized through the words used by Allah which indicate the necessity to apply such law “This is the portion imposed by Allah” (Al Quran 4.7), “This is an order from Allah” (Al Quran 4.11).

So there is no room for the desire of an individual on this law. when examining the research samples on the level of knowledge in this regard it was found that, most of them (56%) have suggested such law should be implemented imperatively, the others (33%) as it is appropriate, the next step, it depends on their desire (9%) and the rest of 2% have no knowledge about the law.

The Islamic teachings are conducted generally and seen as a coincided aspect in the life of the people of the study area. The Islamic knowledge is the one which has motivated them to accept as a mandatory. The people of the area are able to acquire knowledge related to the Islamic religion.

Chart: 1: Division of Property according to Islamic Inheritance Law



When the influence on the knowledge of the people was analysed, it was identified as the influence of formal education and gender background. As far as concern of the knowledge of males on such law was higher and brighter than the females. When the study samples were analysed on the basis of area in this connection with such law it was found that residents of

Grama Niladari Division 4 had sound knowledge. The researchers have decided from the residents of Grama Niladari Division 2 where there should be arranged the awareness programme. An interview was organized to collect the feedback from the presidents and trustees of the mosques and religious intellectuals of the particular area for which they have replied as follows:

“Our area has been facilitated with an Arabic College, A Juma Mosque and 2 other small mosques. The Kuthbas (sermons) and weekly preaching are conducted regularly. The people those who have replied in such a way they are the residents those who have no connection with masjids or maybe belonged to uneducated group.” (Interview)

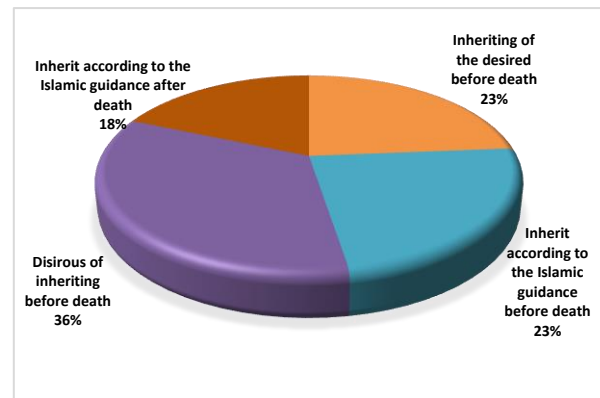
2. When The Property Will Be Divided According to Islamic System

The sharing of property according to the Islamic system takes place after the death of a Muslim soon after fulfilling the obligations for the *Janaza* (Deceased person) such as settling the outstanding debt of the *janaza*, executing the bequest (*wasiyyah*) and the expenses of burial of *Janaza*. There is a command of Allah. “*But if you leave siblings, then your mother will receive one-sixth after the fulfilment of bequests and debts.*” (An-Nisa: Verse-11) And “*...after the fulfilment of bequests and debts without harm to the heirs. This is a commandment from Allah. And Allah is All-Knowing, Most Forbearing.*” (An-Nisa: Verse-12), It is clear that the heirs will get their shares from the property left by his or her parents and close relatives. There are no any provisions to divide his or her property while they alive but it can be divided by themselves. If the certain action is executed, it would be considered as a violation towards the individual right related to the property.

The area was under the influence of unwritten traditional customs such as dividing the property while the owner is alive by allocating most of the allotments in favour of women and marginalising men those who are entitled to get the share which equals to the share of two daughters after the death of a father. Such practice is considered by the researchers as a technic to escape from the Islamic Inheritance system. When the position of the samples on dividing the property according to their own plan and desire or the Islamic Inheritance law was examined and found that most of them (36%) have agreed that the property can be divided after the death according to their own plan. The people 18% have suggested on dividing the property after the death according to the Islamic Inheritance Law. It is to be

noted that the percentage of the females who suggested the division can be executed after the death of the owner of the property according to their own plan is 17.25%. The percentage of males is 13.8%.

Chart: 2: Take place of divisions of asserts according to Islamic Inheritance Law



When they were analysed on the basis of the Grama Niladari Division, it was found that the people of the divisions 1 and 2 were with the capacity of reading. When they were examined on educational level which would have influenced their answers it was found that those who did not continue their formal education.

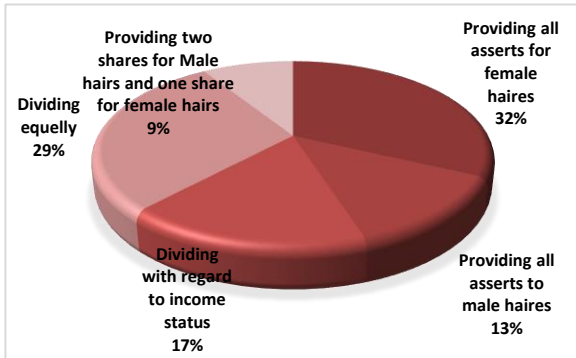
3. Method of Dividing the Property

The study samples have been examined from the angle of Knowledge of the shares between male and female and found that most of them (32%) have placed their suggestions that the whole property should be given to the female. and another 29% have produced their suggestions that the whole property should be divided to the male and female heirs. The both suggestions mentioned above are out of the circle of Islam and reflecting the negative point. In these circumstances the researchers have found background reflecting such kind of answers due to lack of proper knowledge of Islamic inheritance law. “According to the Islamic system a man will get a share which equals the shares of two females” further it was found that 9% of the participants have had the knowledge as the property should be divided in accordance with the Islamic Inheritance Law.

Following the interview conducted intending to find out some customary system prevailed in the area it was found that 17% of participants have suggested that the property is being divided based on the educational qualifications and occupations. In addition to this there

was another custom that the son would be a paternal inheritor for the property left by father and the daughter would be a maternal inheritor for the property left by her mother.

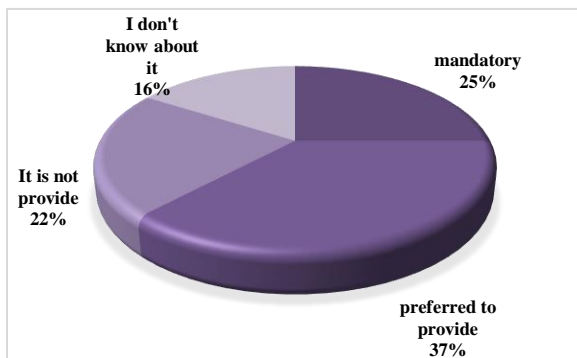
Chart: 3:Method of dividing the property



4. Parents Obtain the Shares from The Property of the Deceased Person

The parents of the deceased who inherits from their sons and daughters always be included in the list of legal heirs and their entitlement also has been assured by the Islamic inheritance system.

Chart 4: Parents obtain the shares from the property of the death person.



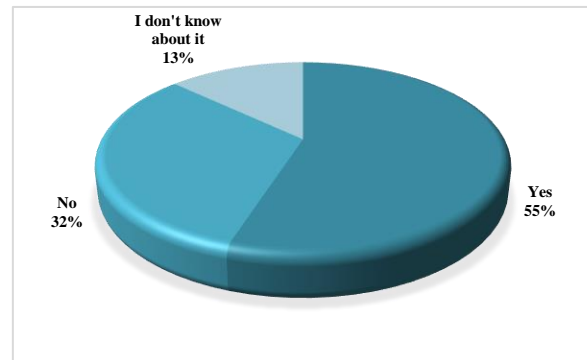
When the study was conducted on the opinion of the sample on this regard it was found that most of the participants around 37% have preferred to provide the shares for parents and 25% have suggested that the shares should be provide for parents. The different opinions among the Muslim community has indicated that the awareness should be arranged in the area on Islamic inheritance law which has the comprehensive

system on distribution of the property. The family members of the study sample were interviewed on the customs and the experiences among the people of the area for which they have responded is *“The men are the people who should give us”* (interview)

5. Providing Share to The Foster Daughter

The study samples were analysed as to providing the share from the inheritance property to the foster daughters, most of the participants (55%) have expressed their opinion allowing to provide the shares while the 32% of the participants have refused the same and the other 13% of the respondents were in a position that they don't have such much of knowledge and kept silent.

Chart 5: Providing share to the foster daughter



6. The Other Relatives Who Are Entitle to Secure the Shares from The Inheritance Property

The traditional custom followed in the study area such as no any relatives inherit the deceased including the parents of the deceased other than his or her children. An interview was conducted among the participants selected randomly for which they have pronounced their answers as follows

The response of a wife indicates

“As long as my husband was alive he has been looking after his parents properly and if he had intended to provide the shares to his parents he would have executed in favour their names while he was alive. Since he did not provide any portion only the children inherit his or her father and the priority also will be towards females. (Interview)

Allah has revealed with very clear guidance on the foster children. Islamic Law has prohibited to call the

foster children as own children. “Call them (adopted sons) by (the names of) their fathers, that is more fair with Allah. But if you don’t know their father’s (names, call them) your brothers in faith and *Mawalikum* (your freed slaves). And there is no sin on you if you make a mistake therein, except in regard to what your hearts deliberately intend. And Allah is Forgiving ever, Most Merciful” (Al Quran 33.5). It is considered that providing the property to the foster children would be a discrimination committed against their own children. The awareness programs should be conducted duly in the area of study.

There was an ideological structure practice representing the tradition in the study area that the son inherits the property of the father and the daughter inherits of the mother. (Interview)

It has been found from the statements of the people that the parents, as well as the close relative, are being neglected on sharing system of the property.

7. The Practices Prevailed Instead of Islamic Inheritance Law On Dividing the Property

The practices followed in the study area which are out of Islamic Inheritance Law as follows:

THE INHERITANCE PROPERTY IS DIVIDED BASED ON GENDER: Providing more shares or whole the property for females is applied in the study area justifying “females are weaker than males and can’t accumulate the property by their earnings” and marginalizing males or providing lesser than females justifying “Males are stronger than women and have access of earning property by themselves”

THE INHERITANCE PROPERTY IS DIVIDED BASED ON OCCUPATION AND INCOME OF INHERITORS: This kind of system is also applied in the study area evaluating the status of occupation and income generated for an Example: An inheritor who holds a government job he may get lesser than others at the same time an inheritor who works as a labour may able to obtain more shares than others. The logic behind this system is “the person who generates more income entitles for the share lesser than the person who generate less income and the income is also evaluated based on the status of the job”.

THE TRADITION OF INHERITANCE BY GENERATIONS: The inheritors of males and females are entitled for the property left by their parents such as the male inherits the property left by his father and the female inherits for the property left by mother. This system is losing the influence in the community.

GENERAL OBSERVATION ON EXECUTING THE ISLAMIC INHERITANCE DIVIDING SYSTEM OF PROPERTY.

A group of individuals consisting with scholars and intellectuals of eight (8) persons selected on the basis of purposive sample. The content of question placed to them intending to find out their observation. What is your observation on the distribution of inheritance property according to the Islamic Inheritance Law in Palamunai? The responses are given below as follows: -

The existing traditional system is being followed in this area on distributing the property such as most of the properties are divided and included in the contract of wedding which is registered in the registry maintained by the Mosques also in the time of wedding of the son or daughter of the owner (father or mother) of the property such as lands, shops and any other where the shares are allocated to the younger brothers and sisters. Therefore there will be no property to inherit after the death. Anyhow it is very rare that the Islamic inheritance dividing system is applied in this area. At the same time there are some families those who provide whole properties to the males.’ (Interview)

The escalating practice of dowry followed in this area is the prime impact and the main barrier to implement the Islamic Inheritance dividing system of the property.

Further the attitude of the people reads as “No one is allowed to interfere in my own business including the religion as long as the property belonged to me”. The owner of the property has a monopoly to divide the property according to his or her desire. This has been registered as a result of an experience exercised by the trustees of the mosque who involved to find a solution for a dispute related with the property. Eventually it was identified that there is no enough awareness in the study area on practising the Islamic inheritance law.

PRACTICE OF ISLAMIC INHERITANCE LAW

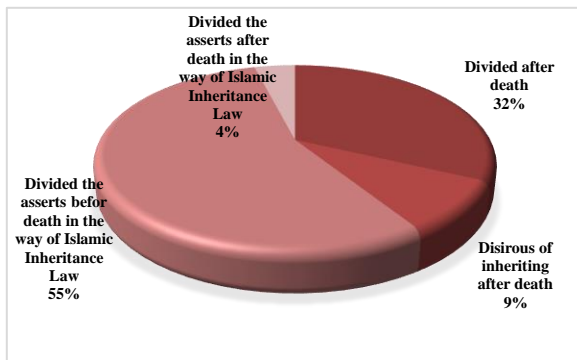
1. When The Property of the Deceased Is Divided?

Islam has constituted several rights relating to the economy and the right of inheritance is one of them. Everyone in family should secure the knowledge, awareness and act accordingly. The study samples were analysed as to how the division of the property occurred in accordance with the Islamic Inheritance Law? It was found the different results such as the dividing process carried out before the death in most of the families (55%) those who said “dividing system is followed according to the Islamic Inheritance Law. Further they

were interviewed intending to clarify the system they applied for which the study sample have responded as “The whole property was divide equally among the siblings of the deceased according to Islamic inheritance law before the death of the owner of the property” the concept that they have known is not a concept of Islam and the law concerned. They should be empowered with the knowledge of Islamic Inheritance Law. On the other hand the practice of dividing the property before the death of the owner has reflected the negative which may affect the owner of the property such as depending on others, Parental abandonment, isolation, leaving in elders’ homes and they may be

Isolated since they don’t have respect in the society.

Chart 6: When the property of the death person is divided?



The (4%) of participants have denoted that the property is divided according to the Islamic inheritance law. when they were analysed as to how and by whom the process of dividing was conducted? they explained that the process of dividing was conducted by the Islamic Intellectuals and the trustees of the mosque. It is remarkable that this type of practice is very rare that some people have come forward to practice the Islamic Inheritance law with the advice of Islamic Intellectual and head of the communities which is an appreciable attitude comparing with other practice of property dividing system.

2. Disputes Aroused Due to Lack Implementing Dividing System in Accordance with Islamic Inheritance Law

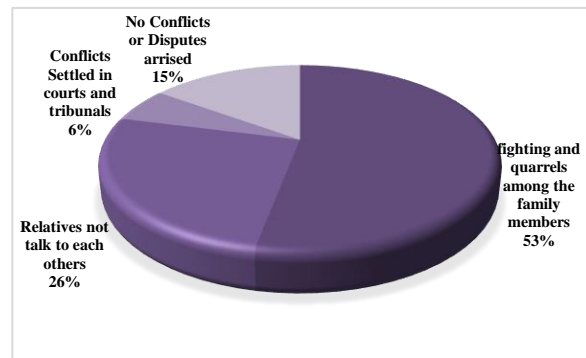
The inheritance system determined by almighty Allah when it is inserted with the personal opinions of human beings would create unnecessary and negative affect and disputes in the families as well as in the communities. The disputes were analysed and identified three kinds of

different disputes or problems due to the negligence of the Islamic Inheritance Law. (53%) of the disputes ended with fighting and quarrels among the family members. It has been noted that there was a murder followed by the fighting in the Grama Niladhari Division-01 (Observation). The other type (26%) of them has created disconnection among the relatives while Islam has condemned the breaking the relation among the family members as an offence.” Who lives by braking the relation his place where he will be the hell” according to the Hadeeth of Prophet Mohammad (Peace be upon him) breaking the relation is not a proper way of life of Muslims. It is remarkable that the families (15%) those who had education and professional qualifications had divided the property among them peacefully.

3. The Stage of Satisfaction On the Existing Practice of the Property Divisions

It has been commented by (39%) that the property is divided based on the number of the children and (61%) of them have revealed that female children able to secure the property more than the male children. 51% of them desire that they satisfy with this type existing practice on dividing the property among them (30 %) out of 51% are females. There is 49% those who have revealed that such kind of system does no satisfy them. This comment has been expressed by 40% of males out of 49%.

Chart 7: Disputes aroused due to lack implementation in accordance with Islamic Inheritance Law.



4. Reasons for Which the Property Dividing Did Not Take Place According to The Islamic Inheritance Law.

The reasons for which the property division did not take place according to the Islamic Inheritance Law were subjected for analysing and found that (43.8%) of

the people have revealed their unwillingness to practice in accordance with Islamic System. It has been observed that Muslims those who follow the orders of Allah and the teaching of Prophet Mohammad (Peace be upon him) ignore the orders of Allah in terms of applying the Islamic Inheritance law and the teaching of Prophet Mohammad (Peace be upon him). The Messenger of Allah has said that the “Wahn” “Loving this world is the hating the death” this kind of disease has created the limitless love of the property among the communities. In this circumstance the people (25.15%) have placed their opinion as they don’t have the knowledge of Islamic Inheritance law. among those who have suggested such opinions are the people who did not gain the formal education which has been predicted by the messenger of Allah as “Learn the knowledge of Inheritance law before appearing the people those who will talk on their speculation” (Buhari)

On the next step, there is a group of people (10.36%) who say that the relative and the situation of Sri Lanka do not allow. There is no any prohibition or blockage on implementing the Islamic Inheritance law in Sri Lanka which has been accepted by the “The Muslim Intestate Succession Ordinance, 1931”. Further, an Attorney at law who was interweaved has denoted

“Even the comment that the Islamic Inheritance law is not in favour of females, but there are any provisions to obstacle on implementing it.” The major issues faced at present are divorce, maintenance of children, cost of maintenance which are handled by Quazi Courts while the disputes related to the property have been handled by the general Courts which is the challenge on implementing the Islamic Inheritance Law.

5. Efforts Made Towards Implementing the Islamic Inheritance Law

The interviews conducted on this regard have revealed that the effort has not been made in the large scale to implement the Islamic Inheritance Law in this area. Since the existing traditional practices have bind the most of the people who did not made considerable efforts to replace the existing system with the Islamic Inheritance Law. The 60% of Muslims of this area suggest that they are not in a position to carry out the dividing process according to *Shari’ah* Law since they fear of the consequences when they apply the Islamic Inheritance Law. It was revealed with 24% of the people that have made some efforts to change the certain practice, while the other 16% have expressed that they have made maximum efforts but they could not succeed and had met an unsuccessful situation. The reforms on this regard cannot be applied until the improper, unfavourable and contrary practices which are existing

and not accepted by Islam in society are wiped out from the mind of Muslims.

6. Support and The Guidance of the Islamic Organizations to Apply the Islamic Inheritance Law

It is the duty of the Islamic Organizations to provide the assistance and the necessary guidance in terms of reforming the unnecessary practices which are not been ordered by Allah or the Messenger of Allah. Even the several social reforms have been implemented with their assistance and guidance but in case of implementing the Islamic Inheritance law is seen very rear. How the property should be distributed? Who are the legal heirs entitled to secure the shares? The consequences which may occur in the last day (*Aakhirah*) if the Islamic Inheritance Law is ignored and not implemented properly? The community has made their opinion unanimously that such guidance related to the Islamic Inheritance Law has not been taught or conducted seminars methodically while the other services have been conducted properly.

7. Challenges On Implementing the Islamic Inheritance Law

- Lack of awareness among the public of the area.
- Lack of coordination among the Islamic intellectuals and the trustees of the mosques.
- Since the Islamic Inheritance law allows the minimum share of the son is twice as much as daughter. hence female Muslims take the cases related to the properties to the General courts and the mediation boards.
- The portions of the brides are determined by the parties of bride grooms at the time of marriage.
- The males used to offer their portions of the properties to their sisters to whom the brothers could not find the husbands as early as they needed.
- The satisfaction of the father as he has completed his obligation when he has held the wedding of the daughter by offering the properties.
- The concept that if a son works as a government servant he does not need property hoping the party of the bride would give him properties as dowry

• CONCLUSION

Most important right among the rights granted by Allah is the Islamic Inheritance Law. The supreme purpose of Islamic system is providing the material provisions for the surviving dependants and the relatives by creating balanced economy among the communities. The root cause of the disputes in the societies is the system applied on dividing the properties. It has been predicted by the Messenger of Allah that the knowledge of Islamic Inheritance Law would be forgotten by Muslims. Generally, Islamic countries throughout world have adapted the Islamic Inheritance Law constitutionally and legalized the implementing system. The people of India and Sri Lanka have no desire to implement such law. The study was conducted among the Muslims of Palamunai situated within the limit of Ampara District on the background explained above with the purpose of finding out the awareness and the implementation of the Islamic Inheritance law.

The researchers able to found that the study samples have no enough knowledge of the Islamic Inheritance law due to educational level, gender differences, the area which is under the influence of the traditional customs, family background and the occupational status those have led the community to apply what they prefer on dividing the inheritance property at their convenience reflecting their own desire, customs & the traditional practices in the area concerned. Further a certain group of people consisting with some particular members those who have knowledge on the Islamic Inheritance law also failed to apply such law in their practical life. The people of the area concerned have not enough awareness and the necessary knowledge which have led them to ignore the practices of the Islamic Inheritance law. If the existing situation is allowed to continue it would lead to increase socio-economic conflict, disputes among family members which is possible to end with the criminal activities such a murder.

RECOMMENDATIONS AND SUGGESTIONS

1. The Seminars on Islamic Inheritance Law should be organized.
2. An ordinance should be adopted with the existing law allowing the Quazi courts and mosques to involve on implementing the Islamic inheritance applicable for the Muslim community.

3. The cases relating to the Muslim marriage and divorce instituted in the courts are being referred to the Quazi Court and the same practice should be applied in the cases on dividing the inheritance property related to the Muslim community.
4. The model family should be established in the society and the property should be divided among them according to the Islamic Inheritance Law.
5. The Islamic orations to be organized and conducted on weekly or monthly basis.
6. A committee should be organized consisting of Islamic scholars of the South Eastern University of Sri Lanka and a concept paper should be drafted.
7. Community volunteer organizations should distribute the handbills as part of the awareness program.

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