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## HEIRS OF DIFFERENT RELIGIONS FROM THE PERSPECTIVE OF YŪSUF AL-QARḌĀWĪ AND WAHBAH AL-ZUḤAILĪ

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### Abstract

This research discusses the views of contemporary scholars, namely Yūsuf al-Qarḍāwī and Wahbah Al-Zuḥailī have their own provisions in the inheritance law of different religions. The provisions of the law of inheritance of different religions according to Yūsuf al-Qarḍāwī are, *first*, allowing Muslims to inherit property from disbelievers dhimmī. *Second*, a person who converts to Islam before the distribution of inheritance is still entitled to receive inheritance. *Third*, because of trust, a person who frees his pagan slave is entitled to receive an inheritance. Meanwhile, the provisions of the law of inheritance of different religions according to Wahbah Al-Zuḥailī are prohibited for muslims to inherit property from non-Muslims (kafirs) absolutely for any reason, because it is to protect walayah from being cut off between muslims and non-Muslims. The focus of this study is how yūsuf al-qarḍāwī and Wahbah al-zuḥailī view the inheritance of different religions. Meanwhile, the method in this study is to use a literature approach. As a result of this study, Yūsuf al-Qarḍāwī forbade inheritance of different religions if the inheritance is given to the infidels of the ḥarbi. Wahbah al-Zuḥailī agrees with the hadith of the Prophet (saw), about the permissibility of non-Muslims to inherit Muslims, and vice versa, and as a form of reciting muṭlaq. Because the word "infidel" in the hadith of the Prophet (saw) is affirmed for all disbelievers without exception.

**Keywords:** views, yūsuf al-qarḍāwī, wahbah al-zuḥailī, interfaith inheritance

### INTRODUCTION

For a Muslim, there are laws that govern human relations that Allah has ordained, including laws that govern inheritance. When a person dies, an agreement must be made on who is entitled to receive his property, how much it is worth, and how to get it. The rules of inheritance have been established by Allah through His words contained in the Qur'an, surah An-Nisa' verses 7, 8, 11, 12 and 176, basically Allah's provisions regarding inheritance have clear their purpose, direction and purpose (Amalia, 2020). Islamic law regulates every aspect of human life, as well as the hereafter. The law of Allah in Islamic law is divided into two categories. First, the law of worship, which explains the conditions of the rules between humans and the creator (*ḥabl*

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*min Allāh*). Second, the law of mu'amalāt, the law that regulates the interaction between man and his environment (*ḥabl min al-Nās*).

The law of inheritance is one of the laws that regulates the interaction between human beings that has been determined by Allah as al-Shāri'. In the existence of inheritance law, it is very important to regulate inheritance about who is entitled to receive it, how much is each share and how to divide it (Assyafira, 2020). Therefore, the application of Islamic inheritance law always gives rise to new discussions among Islamic law experts. Muhammad Ali al-Shabuni defines inheritance as the transfer of ownership from a person who has passed away (died) to his or her living heirs. Both the ownership is in the form of movable property, immovable property, and rights in accordance with Shari'at.

Inheritance, according to Wahbah al-Zuhailī, is a science that explains the process of calculating inheritance to ensure that the heirs receive the appropriate amount. The scope of the study of heritage science includes provisions and rules regarding the matter of heirs, whether they are the recipients of certain shares, the recipients of the remainder, or even include the heirs of *dhawi al-arham* (Mandasari, Djuwardi and Supriyatni, 2022). Likewise, the explanation of who is blocked, who gets a return (*radd*), and what can prevent a person from receiving a share. Therefore, the science of inheritance includes three important elements, namely knowing who is entitled and who is not entitled to inheritance, provisions regarding the parts obtained by each heir, and knowing the method and method of calculating it (Abdillah and Anzaikhan, 2022). The law of inheritance in people's lives has a purpose, namely to maintain and control the ownership of property by a servant or a certain group.

## DISCUSSION

### Yūsuf al-Qarḍāwī's Opinion on the Inheritance of Different Religions

Muhammad Yūsuf Abdullah Al-Qaradāwī is the full name of a famous contemporary scholar in Egypt, Yūsuf al-Qarḍāwī, who was born on September 9, 1926 in Shafth Turab, Egypt. He is a modern scholar with knowledge of Islamic law and he also serves as the dean of the Faculty at the Sharia University of Qatar. His family background follows Islamic principles (Gräf, 2017). Yūsuf al-Qarḍāwī was an orphan, whose father died when he was 2 years old. He was raised, taught by his uncle and also received a lot of attention from his uncle who was already considered their own parent. Given that the Yūsuf al-Qarḍāwī family was also a devout Muslim family, it is not surprising that he developed into a religious individual. His various works have been released by several parties, including the media and printed, proving that in addition to being famous as a creative.

Yūsuf al-Qarḍāwī married Um Muhammad in December 1985, she married the Hashemite Husaniyyah family. In her marriage to Um

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Muhammad she had 7 children, namely 3 boys named Muhammad, Abdurrahman and Usamah and 4 daughters named Ilham, Siham, 'Ala, and Asma. Only one of his seven children received religious education at Darul Ulum University in Egypt (M. Kasim, Sari and Aisyah S., 2021).

Yūsuf al-Qarḍāwī is a scholar who rejects the dichotomous division of knowledge, therefore Yūsuf al-Qarḍāwī asserts that the dichotomous division of knowledge has hindered human progress. Yūsuf al-Qarḍāwī learned to write and memorize the Qur'an when he had 7 children, namely 3 boys named Muhammad, Abdurrahman and Usamah and 4 daughters named Ilham, Siham, 'Ala, and Asma. Only one of his seven children received religious education at Darul Ulum University in Egypt. Yūsuf al-Qarḍāwī is a scholar who rejects the dichotomous division of knowledge, therefore Yūsuf al-Qarḍāwī asserts that the dichotomous division of knowledge has hindered human progress (Fitrah and Hamka, 2022).

Yūsuf al-Qarḍāwī learned to write and memorize the Qur'an at the age of 5 which was taught by his uncle. At the age of 10, he was able to memorize every letter of the Quran at the same time, and his tajweed was very fluent and fluent. Yūsuf al-Qarḍāwī continued his education at the Ma'had of Thantha for four years after completing primary school, and then went to secondary school for five years. Then his studies at Al-Azhar University in Cairo took the field of religious studies at the faculty of Ushuluddin until he obtained the Shahādah Āliyah (1952-1953). In 1957 Yūsuf al-Qarḍāwī entered the ma'had *Al-Buhūs wa Al-Dirāsāt Al-Arabiyyah AlĀliyah*, until he obtained a Higher Diploma in language and literature (Dahlan, 2000).

For two years, he continued his Arabic education. He graduated in this department first among 500 students. After graduating from Arabic language education, he continued his studies at the Higher Institute for Research and Research on Islamic Issues and Development for three years. Yūsuf al-Qarḍāwī attended graduate studies at Cairo's Al-Azhar University in 1960. He continued his doctoral program and wrote a dissertation with the title *Fiqh Zakat wa tsaruha fi Hallil Masyakil Al-Ijtimaiyyah* (Fiqh Zakat and Its Influence in the Solution of Social Problems of Society) which was completed within 2 years (Mayada, 2024). From 1986 to 1970 he was detained by the Egypt government on suspicion of aiding the Muslim Brotherhood revolution. Therefore, it passed later than originally estimated. However, his dissertation was tested by the Al-Azhar professor with the title Cumlaude. Ikhwal Muslimin is an Islamic movement created or founded by Sheikh Hasan Al-Banna in 1928 which started as a da'wah organization after which it transitioned into politics (Prabowo and Jamilah, 2022).

In the political and religious field of thought, Yūsuf al-Qarḍāwī is colored by the thought of Sheikh Hasan Al-Banna. He admired Shaykh Hasan Al-Banna very much and many of Shaykh Hasan Al-Banna's ideas that he applied. Sheikh Hasan Al-Banna is a scholar who is able to maintain the

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authenticity of Islamic religious values without the influence of nationalism and secularism originating from the West (Dewi and Junaidi, 2024). In Yūsuf al-Qarḍāwī's thought, he was greatly influenced by the scholars of Al-Azhar. Yūsuf al-Qarḍāwī made an undoubted reform, because it had come out of the thinking of the Muslim Brotherhood. So it is not surprising that the Muslim Ikhwal group blasphemed Yūsuf al-Qarḍāwī. He is very modernist and flexible (Rini Angreni Hasibuan *et al.*, 2023).

Yūsuf al-Qarḍāwī's thought is now his own or that of the individual, not as belonging to the institution. In terms of Yūsuf al-Qarḍāwī's understanding of the Islamic movement is very radical, but in terms of fiqh. As a scholar and mujtahid Yūsuf al-Qarḍāwī is open-minded and impartial, because in this case, the ulama must accept a lot of criticism from opponents of Islam who do not have enough control of the Islamic books of the past. Yūsuf al-Qarḍāwī in responding to those who oppose change, including the imposition of Islamic law, are people who do not understand the essence and ideals of Islam, and do not place skills in a larger context. Extreme modernists believe that everything that smells old or old should be eliminated (Hakim Tafuzi Mu'iz and Bahruddin, 2023).

Yūsuf al-Qarḍāwī liked renewal as long as it continued to be regulated within the scope of Islam, he claimed that the modernization of Islamic law does not imply ijtiḥād because ijtiḥād emphasizes more on the intellectual and scientific aspects of a subject, while in renewal it can include thoughts, attitudes of action in the form of science, faith and charity. He gained recognition as a forward-thinking Islamic scholar and scholar. His widely circulated works in the media show how diverse his views on religion are. He is very worthy of the title of a Muslim mufti today (Qardhawi, 1994). Yūsuf al-Qarḍāwī straightforwardly admits to admiring Hasan al-Banna, Rashid Ridha, and Sayyid Shabiq and Ibn Taymiyyah, because they have a unique way of thinking and degrading.

Yūsuf al-Qarḍāwī was a preacher and scholar who published a number of religious writings in the print media. He was also active in researching Islamic Science, writing many books on various topics related to Islamic knowledge in his capacity as a modern scholar. Here are some of Yūsuf al-Qarḍāwī's works that are already well-known in universities and Islamic boarding schools, namely *hadyul islām fatāwi mu'aṣhirah* (contemporary fatwas), *al-ḥalāl wa al-harām fī al-islām* (Halal and haram issues in Islam), *fiqh al-zakāt* (zakat law), *fī fiqh al-aulawiyā* (fiqh priority of the order of charity of the most important), *daur al-qiyām wal akhlāq fīl iqtishādīl islami* (Norms and Ethics of Islamic Economics), *Fawāid al-Bunūk Hiya al-Ribā Al-Harām* (Haram Bank Interest), *al-'ibādah fī al-Islām*, The Role of Values and Morals in the Islamic Economy, Guidelines for Governance in an Islamic Perspective, *Mushykilāt al-faqqar wa kaifa ālajah al-Islām* (Differences in the understanding of various groups in Islam and the way Islam takes to solve them). *Al-naṣ wa*



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*al-haqq* (Man and the Truth), *al-imān wa al hayāh* (Faith and Life), *al-hill al-islām* (Islamic Freedom), *Wings al-fikr al-hukm al-islam* (Foundations of Islamic Law), kitab syaikh al-qaradhawi (Short sermons of Yusuf Qaradhawi), *al-ijtihad fi syari'ah al-islāmiyah* (Ijtihad in Islamic Sharia), and *al-tsaqafat al-arabiyyah al-islāmiyyah al-mu'aşirah* (History and Development of Contemporary Arab Civilization) (Mushodiq, 2020). Yūsuf al-Qarḍāwī has produced several other works in the fields of fiqh and ushul fiqh, Islamic economics, ulumul Qur'an and sunnah, religion, da'wah, and tarbiyah, as well as the movement and revival of Islamic.

### **Yūsuf al-Qarḍāwī's Views on the Inheritance of Different Religions**

Yūsuf al-Qarḍāwī's view of interfaith inheritance is explained in a book entitled *Fatwa Contemporary Fatwa, Volume 3*, translated from the book *Hadyu al-Islām Fatāwī Mu'ā'sirah juz 3*. There is a question: I converted to Islam more than ten years ago, my family is Christian. I tried to convert my family to Islam, but Allah did not change their minds and still embraced Christianity. Last year my mother passed away and left me an inheritance, but I did not receive it, because I knew that a Muslim could not inherit from an infidant, and vice versa. Not long after my father passed away and left behind a large inheritance, while I was the sole heir (Al-Qarḍāwī, 2003).

According to the Law of the State, I am the owner of all his estate. The question is, should I reject the heritage and let non-Muslims take advantage of it? While this is my legal right, I also need it to support myself financially and to provide for my wife and children who have converted to Islam. I hope that the Shaykh can help find a solution to this problem, many thousands of people who have experienced problems like me who have been guided by Allah to embrace Islam (Al-Qarḍāwī, 2003).

Muslims or Muslims cannot inherit from non-Muslims and vice versa non-Muslims cannot inherit Muslims, according to some of the jumhur jurists (scholars of Islamic jurisprudence). According to Ibn Qudamah, the views held by Khulafaur-Rashidin, the scholars of the four schools, namely Sha'i'i, Hambali, Maliki, and Hanafi, as well as the majority of the opinions of the scholars with these religious differences that can hinder the inheritance. However, it is mentioned in the narration of Umar, Mu'adz, and Muawiyah found in the book *al-Mughni* that it is permissible for Muslims to inherit from non-Muslims, while non-Muslims should not inherit from Muslims. This narration comes from Muhammad ibn al-Ḥanafiyah, 'Ali ibn Ḥusain, Sai'd ibn al-Musayab, Mashrūq, Abdullah bin Mu'aqil, ash-Shabi, Yahya bin Ya'mar and Ishaq (Al-Qardhawī, 2008).

In the narration of Yahyā bin Ya'mar came two Jews and a Muslim who were arguing about who would inherit their disbelieving brother. Furthermore, Yahya bin Ya'mar inherited it to the Muslims, with the postulates that Muslims obtained inheritances from non-Muslims (infidels). Yahyā bin Ya'mar said that Abu Aswad said that someone told him. The

Prophet said, "Islam always increases and never decreases" (HR Ahmad Abu Dawud, dan al-Hakim) (Daulay, Khoiri and Syahputera, 2022). Muslims because they are increasing in goodness and do not bring poverty and shortcomings to their followers.

In a hadith it is stated that "Islam is superior and inferior". (HR al-Baihaqi dan Daarquuthni) (Ad-Daraquthni, 2008). Therefore, the height and glory of Islam do not need to be exalted. Muslims are allowed to marry non-Muslim women, while non-Muslims are not allowed to marry Muslim women. Therefore, according to Yūsuf al-Qarḍāwī Muslims can inherit from non-Muslims, while non-Muslims cannot inherit from Muslims. Yūsuf al-Qarḍāwī allows him to obtain inheritance from non-Muslims, Muslims should not obstruct and allow the disbelievers to take advantage of it, because in many ways it can be haram.

As for the hadith, "Muslims do not inherit from disbelievers and disbelievers do not inherit from Muslims". As when madhhab Hanafi said the hadith, "A Muslim does not kill an infidel" (al-Hadis) (Jayusman, Fahimah and Hidayat, 2020). In the above hadith, the meaning of the word "infidel" is not *infidel ḥarbi*. The Hanafi school interprets the hadith about inheritance that the meaning of kafir there is "kafir ḥarbi" or "kafir who fights against Muslims". Muslims do not inherit *kafir ḥarbi at all*. Because of the breakup of the relationship between the two.

In the book *Aḥkām Ahl al-Dhimmah*, Imam Ibn al-Qayyim explains the problem of Muslims who receive inheritance from non-Muslims. He expressed several opinions and he confirmed that a Muslim can inherit from a non-Muslim. He took the opinion of Ibn Taymiyyah, his teacher, who stated the following in his book: "Regarding the inheritance for Muslims from the infidels, the salaf scholars (classical) disagree. However, most of them argue that Muslims do not inherit from the infidels, just as the infidels do not inherit from the Muslims. This opinion was also taken by the imams of the four schools and their followers. However, there is one group of them who argue that a Muslim can inherit from an infidant, and not the other way around. The last opinion is that of Mu'adh bin Jabal, Mu'awiyah bin Abū Ṣufyān, Muhammad ibn al-Ḥanifiyah, Muhammad 'Ali ibn Ḥusain (Abū Ja'far al-Baqir), Sa'id ibn Musayab, Mashrūq bin Ajda', 'Abdullah bin Mughafal, Yaḥya bin Ya'mar, and Ishāq bin Rawāḥah (Aseri and Mubarak, 2022).

Ibn Taymiyah also agreed with this opinion. They declare 'we inherited from them (the disbelievers) and they do not, as we (permissible) marry their women and they cannot marry our women' (Aseri and Mubarak, 2022). Those who prohibit Muslims from inheriting from non-Muslims, rely on the hadith muttafaq 'alaih, which reads "Muslims do not inherit from disbelievers and disbelievers do not inherit from Muslims". This postulate prohibits a Muslim from inheriting from hypocrites, atheists and apostates.

Yūsuf al-Qarḍāwī said that if he should take the opinion that there is no inheritance for Muslims from disbelievers, it seems that we must say to this Muslim whose father died, "Take the property from your father's inheritance, which the law has declared to be yours. Do not take the property for yourself unless it is in accordance with the needs of your life and for your family only. Let me distribute the rest to Muslims who need it. Or, to the institutions that seek to meet the needs of the Muslims as mentioned in your letter. Also, don't give your wealth to the government (in your non-Islamic country), because in fact the property is often used for the benefit of missionary institutions, and so on" (Husna, Jumatul and Muda Hasim Harahap, Oloan and Elfalahi, 2019).

Yūsuf al-Qarḍāwī in answering this problem he argued that it is permissible for Muslims to inherit property from infidels, while infidels cannot inherit from Muslims. This provision is in accordance with the fatwa of Yūsuf al-Qarḍāwī regarding property obtained from haram such as bank interest. We and the fiqh institutions have issued a fatwa, prohibiting leaving interest (which is their right) in banks with the riba system, especially in Western countries. "Take the property to be utilized, or to be channeled for the good and benefit of Islam and its people".

#### **Wahbah al-Zuḥailī's Views on the Inheritance of Different Religions**

Wahbah al-Zuḥailī was a professor in Syria in the field of Islam, and he was also a very famous Contemporary Fiqh scholar in the city. Wahbah ibn Muṣṭafā al-Zuḥailī is his real name. Wahbah was born in the village of Dir 'Atiyah, Qalm̄ un area, Damshiq, Syria on March 6, 1932/1351 H. Muṣṭafā al-Zuḥailī is the name of Wahbah al-Zuḥailī's father in addition to being a farmer, he is also known for his piety and is also a hafiz al-Qur'an. Fāṭimah ibn Muṣṭafā Sa'adah is the name of Wahbah al-Zuḥailī's mother, she has the principle of adhering to the teachings of Islam. At the age of 83, Wahbah al-Zuḥailī died on August 8, 2015 in Syria. Elementary school education (ibtidiah) and learning to recite the Qur'an Wahbah al-Zuḥailī in his village at the same time when he was young (Khoiruddin, 2003).

Wahbah al-Zuḥailī completed his primary school in 1946 and he continued his studies at the Sharī'ah high school in Damascus, which was completed in 1952. Because of Wahbah al-Zuḥailī's enthusiasm for learning and love for science, when he moved to Cairo he attended several lectures at the same time, namely at the Faculty of Arabic Languages of al-Azhar University and the Faculty of Sharī'ah at 'Ain Shām University. The diploma obtained by Wahbah al-Zuḥailī, namely the Arabic diploma from the Sharī'ah Faculty of 'Ain Shām University in 1957, the Takhāsuṣ diploma in Arabic language education of al-Azhar University in 1957, and the Arabic diploma from the Sharī'ah faculty of al-Azhar University in 1956 (Ayāzi, 1993).

Wahbah al-Zuḥailī obtained three diplomas in five years, then went on to graduate school at Cairo University and successfully completed two years,

and he obtained his M.A. degree in 1957 with his thesis entitled "*Al-Zirā'i fi al-Siyāsah al-Sharī'ah wa al-Fiqh al-Islāmī*". Because he was not satisfied with his education, he continued his studies to a doctoral program which was completed in 1963 with the title "*Athār al-Ḥarb fi al-Fiqh al-Islāmī Dirāsātān Muqārānatān*" under the guidance of Dr. Muhammad Salmān Madhkūr. Wahbah al-Zuḥailī began working at the Sharī'ah faculty of Damascus University as a lecturer in 1963 AD and he was promoted to vice dean, then dean and served as the head of the Fiqh department al-Islāmī wa Madzāhabih. After more than seven years of service, he was appointed as a professor in 1975, who is considered a specialist in the field of Tafsir, Fiqh and Dirasah Islamiyah (Al-Lahham, 2010).

Wahbah al-Zuḥailī's thinking is still strongly tied to his salaf beliefs, because the people around Wahbah al-Zuḥailī are mostly Muslims. So that his thoughts on the determination of Islamic law are still firmly held. Wahbah al-Zuḥailī emphasized that maintaining the purity of Islam around him was very important to him. Deductive reasoning is one of them, as it follows more in the number of scholars, which Wahbah al-Zuḥailī is currently doing in order to preserve local traditions (Al-Lahham, 2010).

Wahbah al-Zuḥailī has written books and articles in various Islamic sciences as a scholar and Islamic thought. His books contain more than 133 and are combined with treatises of approximately 500 papers. He wrote mostly about fiqh and ul al fiqh, and he also wrote a book on tafsir, which is why he deserves the title of "Expert of Tafsir". He also wrote books on history, hadith and other fields. He is a well-known Islamic philosopher and thought as well as a fiqh scholar. The works of Yūsuf al-Qarḍāwī, namely: *al-fiqh al-islāmī wa adillatuhu*, 11 jilid, *al-wasīt fi uṣūl al-fiqh*, *naẓariyyāt al-darūrah al-sharī'iyah*, *athār al-ḥarb fi al-fiqh alislāmī-dirāsah muqārānah*, *al-fiqh al-islāmī fi uslūb al-jadīd*, *uṣūl al-fiqh al-islāmī*, 2 jilid, *fiqh al-mawārīth fi al-sharī'ah al-islāmīyah*, *al-ijtihād alfiqh al-hadīth*, *uṣūl al-fiqh al-hanafī*, *al-tafsīr al-munīr fi al-aqīdah wa alsharī'ah wa al-manhaj*, 17 jilid, *al-insān fi al-qur'an*, *al-qīṣṣah alqur'ānīyah hidāyah wa bayān*, *al-qayyim al-insānīyah fi al-qur'an alkarim*, *al-sunnah al-nabawīyah*, *manhaj al-da'wah fi al-sīrah alnabawīyah*, *al-islām wa uṣūl al-hadārah al-insānīyah*, *al-islam al-dīn aljihād al-'udwan*, *al-'urf wa al-'ādah*, *tajdīd al-fiqh al-islāmī*, dan *idārah al-waqf al-khaīr* (Al-Lahham, 2010).

*Al-Fiqh al-Islāmī wa Adillatuhu* is a book written by Wahbah al-Zuḥailī to become famous and influential on contemporary fiqh thought. This book explains comparative fiqh. Different religions are differences between muwarits or heirs because they have different religions that prevent them from obtaining inheritance as agreed by the four madzhab scholars. Experts of the four madhabs, are of the opinion that there is a religious difference between the muwarrīt and the person who inherits it. Islam and other factors that prevent inheritance. Because of the words of the Prophet Muhammad



PBUH, Muslims should not inherit infidels, and infidels should not inherit Muslims (Al-Lahham, 2010).

**Wahbah al-Zuhaili's Views on the Inheritance of Different Religions**

Wahbah al-Zuhaili expressed the same opinion regarding the hadith, which is explained, that the difference in religion inherited by Muslims and non-Muslims is a barrier to mutual inheritance, even though in this case the person is bound by a legal marital or fraternal relationship (Kusmayanti and Krisnayanti, 2019). Wahbah al-Zuhaili has explained that the difference between Islam and infidelity is one of the barriers to inheritance, according to the majority of scholars. Therefore, non-Muslims do not inherit Muslims, and conversely, Muslims do not inherit non-Muslims, which has been mentioned by the hadith of the Prophet in contrast to some of the companions, such as Mu'adz and Mu'awiyah (Hermanto, Fikri and Hidayat, 2022). They argue that it is permissible for Muslims to inherit from non-Muslims, while non-Muslims should not inherit from Muslims.

As it is known that an apostate cannot inherit, nor can he be inherited according to the opinion of the majority, his property is converted into *fai'* and given to Baitul mal. Abu Hanifah stated that he could bequeath any property he obtained during his conversion to Islam. Thus, it is a gift of inheritance from Muslims to Muslims. As for after he apostatized, the property became *fai'* Baitul mal. Because if it is taken by the heirs, it is considered an inheritance given to Muslims from non-Muslims, which is not allowed (Al-Zuhaili, 2011). Wahbah al-Zuhaili has explained that even though they have different beliefs of *aqidah*, they still adhere to the same religion such as, non-Muslims and non-Muslims. Therefore, according to the majority, apart from Malikiyah, each can inherit from another, including Jews and Christians can inherit.

**Analysis of Inheritance of Different Religions According to Yūsuf Al-Qarḍāwī and Wahbah Al-Zuhaili**

Menurut Mu'adz bin Jabal, Mu'awiyah bin Abū Ṣufyān, Muhammad ibn al-Hanifiyah, Muhammad 'Alī ibn Ḥusain (Abū Ja'far al-Baqir), Sa'id ibn Musayab, Mashrūq bin Ajda', 'Abdullah ibn Mughafal, Yaḥya bin Ya'mar, and Ishāq bin Rawāḥah, and Ibn Taymiyyah allowed "Muslims to inherit the property of non-Muslims, and neither non-Muslims can inherit the property of Muslims", as it relates to disbelievers. Yūsuf al-Qarḍāwī supported his opinion on the permissibility of Muslims to inherit the property of non-Muslims, arguing that the hadith of the Prophet (peace be upon him) "Islam is superior and inferior" (HR al-Baihaqi dan Daaruquthni) (Yazid, 2012). The meaning of the hadith is that Islam is high. In the height of Islam there is a high dignity of Muslims, as evidenced from the height of Islam is that it is permissible to inherit a non-Muslim family, but it does not apply to the contrary, that is, non-Muslims cannot inherit from Muslims. Yūsuf al-Qarḍāwī's opinion uses a more *maṣlahat approach*, because he examines the

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economic and social aspects of contemporary Islamic society life that have an impact on whether it is practiced in oneself, family, or society.

On the other hand, Wahbah Al-Zuhaili had the same opinion as the Companions, and the imams of their four schools adhered to both hadiths which did not allow the inheritance of different religions. Even in situations where legally positive heirs are children, family or have a marital relationship or have a blood relationship, whether they are legally considered heirs, they still cannot inherit each other. Because according to the majority of fiqh scholars, there is a barrier to inheritance (Al-Zuhaili, 2011).

Wahbah Al-Zuhaili agrees with the hadith of the Prophet (saw), about the permissibility of non-Muslims to inherit Muslims, and vice versa, and as a form of *muṭlaq*. Because the word "kafir" in the hadith of the Prophet (saw) is emphasized for all disbelievers without exception. The recitation of *muṭlaq* is a recitation that shows its own substance or essence without limitations, in other words, the recitation of *muṭlaq* cannot be mixed by any nature outside of itself. The recitation of *muṭlaq* is something that has no boundaries because it encompasses the whole essence (Al-Zuhaili, 2011).

Differing from the scholars Mu'adz bin Jabal, Mu'awiyah bin Abū Ṣufyān, Muhammad ibn al-Ḥanifiyah, Muhammad 'Ali ibn Ḥusain (AbūJa'far al-Baqir), Sa'id ibn Musayab, Mashrūq bin Ajda' that Muslims can inherit from non-Muslims, and not vice versa Muslims cannot inherit infidels. According to aṣ-Ṣābuni, he agrees and justifies the opinion of the majority scholars who state that Muslims should not inherit non-Muslims and vice versa, non-Muslims cannot inherit Muslim property, because to obey the clear text of the Prophet (Yazid, 2012).

Therefore, Wahbah Al-Zuhaili uses the hadith and *ijma* of the majority of scholars as the basis for his opinion on the inheritance of this different religion. He acknowledged that religious differences are one of the barriers to inheritance, so he argued that Muslims should never inherit from non-Muslims and vice versa, that is, non-Muslims should not inherit from Muslims, either due to kinship or marriage. After the explanation of the difference of opinion of Yūsuf al-Qarḍāwī and Wahbah Al-Zuhaili about the inheritance of different religions. There is a similarity, the common opinion of Yūsuf al-Qarḍāwī and Wahbah al-Zuhaili about the inheritance of different religions is that it is absolutely not permissible for an infidel or non-Muslim to inherit the property of a Muslim. The infidels or non-Muslims do not inherit from Muslims because they are hindered because *walayah* (protecting others) becomes disconnected between Muslims and non-Muslims.

### **Analysis of the Istinbāth Method**

Based on the explanation of the opinions of Yūsuf al-Qarḍāwī and Wahbah Al-Zuhaili about inheritance, different religions have different *istinbāth* methods in interpreting hadith. Yūsuf al-Qarḍāwī in this case uses the *qiyas* and *maṣlahah mursalah* methods. *Qiyas* is to find the law of the Qur'an and hadith based on '*illat*, in the pillars of *qiyas* there is '*illat* and also

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adhere to the *maslahah mursalah* for a purpose of benefit that exists in *nash*, which is not clearly stated. In terms of *qiyas*, it is equating something that does not have a provision of *nash* according to *sharia* with something that already has a provision of *nash* based on *the presence of 'illat* in both (Effendi, 2014). In studying *ushul fiqh*, there are things that must be fulfilled to perform the first *qiyas*, *al-ashl*, which is the holy *nash* that gives the law and is used as a measure. Second, *al-Far'u*, which is something that has no law in *nash*. Third, the *law of al-ashl*, which is the legal stipulation given by *ashl*. Fourth, *Illah* is a certain circumstance that is used as the basis for determining *the law of ashl* (Khallaf, 2006).

Yūsuf al-Qarḍāwī *qiyaskan* on the issue of marriage, namely that Muslims are allowed to marry *kitābiyyah* women, as explained in *surah al-Ma'idah* verse 5: "Allah makes it lawful for you to eat food that is considered delicious, and to eat animals slaughtered by the scholars of the book from among Jews and Christians. He also makes it lawful for them that the beast that you slaughter Allah makes it lawful for you to marry free and honorable women of faith, and to marry free and honorable women from among those who were given the Bible before you, which are Jews and Christians. When you give their dowry, and you intend to protect yourself from heinous acts, you do not mean to make them dark lovers for whom you invite adultery. Whoever disobeys the provisions of the law that Allah has given, then his deeds are null and void because he loses his valid condition, which is faith. And on the Day of Resurrection he will be among the losers, for he will go to Hell for all eternity.

Meanwhile, non-Muslims (*kafirs*) or *kitābiyyah* people are not allowed to marry Muslim women. Therefore, Muslims inherit from the infidels, while the infidels cannot inherit from the Muslims. Thus, the law of interfaith marriage and interfaith inheritance, according to Yūsuf al-Qarḍāwī, is equally permissible, because the two *illat*s are the same, that is, they both invite or motivate disbelievers to convert to Islam. *Ashl* on this issue is that Muslims are allowed to marry women who are experts in the book, while *far'u*, that is, Muslims can inherit the property of non-Muslims (Rintis Uthita Hernanda *et al.*, 2022).

It is narrated that Yahya bin Ya'mar came to two Jews and Muslims who were quarreling about the inheritance of their two infidel brothers. Then Yahya gave an inheritance to the Muslims. With the premise that Abu Aswad told him that someone told him that Mu'adz told him, the Messenger of Allah said, "Islam always increases and never decreases." (HR Ahmad Abu Dawud, dan al-Hakim) (Gräf, 2017). Muslims because they are increasing in goodness and do not bring poverty and shortcomings to their adherents. Therefore, the height and glory of Islam do not need to be exalted.

*Maṣlahah mursalah* etymologically is the same as benefits, both in terms of pronunciation and meaning. Meanwhile, in terminology, there are

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several definitions of *maṣlahah* according to *ushul fiqh* scholars, but these definitions still have the same essential meaning. *Maṣlahah mursalah* pays more attention to the interests of the community or rather maintains the purpose of Islamic law, takes good and rejects damage to people's lives. In other words, *Maṣlahah mursalah* is a way to find the law of something that has no provisions, either in the Qur'an or hadith, based on the consideration of the purpose of the public interest.

Yūsuf al-Qarḍāwī carried out the *maṣlahah* method as a consideration in concluding that it is permissible for Muslims to inherit from non-Muslims. Thus, Yūsuf al-Qarḍāwī did not necessarily understand the *nash* that explicitly prohibits interfaith inheritance, but Yūsuf al-Qarḍāwī also considered the advantages that according to him must be taken into account so that the law can be applied more to the current state of society. In this case, according to Yūsuf al-Qarḍāwī, *the illat* on the issue of inheritance is a form of help, not a different religion. So that there are religious differences, it is not possible for *illat* to occur in the inheritance of different religions.

According to Yūsuf al-Qarḍāwī, that is, there will be a great number of blessings for Muslims to inherit heritage from their non-Muslim families, Islam does not hinder or reject what is good for the good of Muslims, with the existence of heritage can support and help in obeying Allah. So in this case property is a way to obey Allah, not to oppose Him, including the potential to attract disbelievers to convert to Islam. Meanwhile, Wahbah al-Zuhailī explained that different religions are a barrier to inheritance, whether it is the heir or heir of Islam or vice versa. This opinion is a strong opinion, because *walayah* (guardianship) makes a disconnect between Islam and non-Islam, and is still valid for a long time until now (Gräf, 2017).

Wahbah Al-Zuhailī follows the opinion of the majority of scholars that Muslims cannot inherit from non-Muslims (*kafir*), and vice versa, non-Muslims cannot inherit from Muslims, even if they have marital or kinship relationships. So that guardianship in the issue of inheritance between Muslims and non-Muslims has been severed, even if there is a legal marriage or descendant relationship.

## CONCLUSION

The results of the analysis of interfaith inheritance according to Yūsuf al-Qarḍāwī and Wahbah Al-Zuhailī, the following conclusions can be drawn from the author's analysis: Yūsuf al-Qarḍāwī and Wahbah Al-Zuhailī have their own provisions in the law of interreligious inheritance. The provisions of the law of inheritance of different religions according to Yūsuf al-Qarḍāwī are, *first*, allowing Muslims to inherit property from disbelievers *dhimmi*. *Second*, a person who converts to Islam before the distribution of inheritance is still entitled to receive inheritance. *Third*, because of trusteeship, a person who frees his pagan slave is entitled to receive an inheritance. Meanwhile, the



provisions of the law of inheritance of different religions according to Wahbah Al-Zuhailī are prohibited for Muslims to inherit property from non-Muslims (kafirs) absolutely for any reason, because it is to protect *walayah* from being cut off between Muslims and non-Muslims.

Yūsuf al-Qarḍāwī and Wahbah al-Zuhailī have quite different views on interreligious inheritance, because of the way they interpreted the hadith of the Prophet Muhammad (saw) about the prohibition of mutual inheritance between Muslims and non-Muslims, and vice versa. Yūsuf al-Qarḍāwī has a different interpretation, he argues that the hadith of the Prophet (saw) cannot be interpreted only with ideas in its entirety and textual, because according to him the hadith has a broader meaning. Yūsuf al-Qarḍāwī in seeing the hadith of the Prophet (saw) is the word *muqayyad*. Because in the hadith the meaning of the word "kafir" is only shown to the *khafir dhimmī*, not for all types of disbelievers. So that the word "kafir" in the hadith can be interpreted as *madhhab Hanafi* interprets the meaning of the word *kafir* as "*kafir ḥarbi*". Therefore, Yūsuf al-Qarḍāwī forbade inheritance of different religions if the inheritance is given to *the infidels of the ḥarbi*. On the other hand, Wahbah al-Zuhailī agrees with the hadith of the Prophet (saw), about the permissibility of non-Muslims to inherit Muslims, and vice versa, and as a form of *muṭlaq* recitation. Because the word "infidel" in the hadith of the Prophet (saw) is affirmed for all disbelievers without exception.

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