Chapter I

INTRODUCTION

1.1 Background of the study

Mirath means inheritance to be shared from the property of the deceased among his successors. The study of Mirath in shariah gives rules as to who inherits and who is to be inherited and what shares go to the heirs. The death of a person brings about transfer of most of his rights and obligations to persons who survive him and are called Wuratha that is heirs and representatives. (Abdul Hamid Siddiqui 2005).

Moreover, the compulsory transferring of the deceased’s property to his heirs is called inheritance. Islamic Inheritance (Faraidh) is one of the complex branches of Islamic law (Shari’a). A source of significant controversy both inside and outside the Muslim community is the Islamic law of inheritance. Who can inherit at all is not the controversy. Rather, the dispute centers around the "share" that is to be inherited.

Furthermore, there are thirty-five verses of the Quran which refer to Mirath or its derivatives in one form or the other e.g Quran says, “And Allah will be the One to inherit everything in the heavens and the earths and to him belong the knowledge of the hidden”.

The Holy Qur’an states "Allâh has purchased from the believers their persons and their wealth in lieu of Jannah." Man is a trustee of the wealth that he owns for the

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1 Abdul Hamid Siddiqui, Inheritance in Islam, (IslamOnline.net-Shariah and Humanity 2005)
3 Kakhakel, Syed Shabbir Ahmed “Islamic Inheritance Law – Calculations Simplified” 15 Jamad ud Thani, 1427 H, p. 02
duration of his life. When his term of life expires, his trusteeship over his wealth and property expires. It has then to be redistributed in accordance with the directive of The Absolute Owner - Allah Ta'âla. Directives regarding the distribution of wealth after the demise of the provisional owner are explicitly detailed in the Holy Qur'ân.

In recent years, the study on Islamic Inheritance in the Philippines focuses only on its basic principles. There has been less interest lately in the concept of Special Cases in Muslims’ Inheritance law not only in the Philippines but also in other Muslim countries. In connection to these, the researcher chooses this topic rather than any other because it has been neglected and / or because it has been discussed but not properly or fully.

Death is inevitable and all souls shall test death. For the fact that death is a channel through which every living soul must pass through, when it comes, the deceased usually leaves behind an estate which is to be shared among his relations as ordained by Allah (S.W.T.). Therefore, without the knowledge on how to solve the basic and special cases in Islamic Inheritance, an important commandment of Allah (s.w.t.) will not be carried out or will be done wrongly.\

The Islamic Inheritance Law (Faraidh) has been pre-ordained by Allah s.w.t. in a wise and gradual manner in order to allow for its compatibility with the judiciary and human nature which might find it difficult to change their normal practices. At the early stage, Islam perpetuated the inheritance laws of the Jahiliyah, a temporary system based on kinship and Hijrah. The system was then overruled and

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replaced by the inheritance distribution by will system (wasiat) to parents and kinsfolk based on verse 180 from Surah al – Baqarah. At the final stage, all previous systems were abolished and replaced with the current Islamic Inheritance Law.\textsuperscript{6}

The law was derived from the commandments of Allah s.w.t. based on the Mawarith verses which are verses 11, 12 and 176 of Surah al-Nisa. The Islamic Inheritance Law today is a complete and comprehensive system for the rightful beneficiaries, the portions for each beneficiary and all non-rightful beneficiaries to the inheritance using al-Hajb doctrine or method. Allah (s.w.t.) has determined the rulings and methods to distribute inheritance among all beneficiaries with the purpose to act fairly to all levels of beneficiaries and to avoid discrepancies among them.\textsuperscript{7}

Today students lack an urge to learn and their spirit to serve the religion has also waned. Things have to be made easy for a quick grasp. Number of practitioners from the religious seminaries is reducing rapidly and those from the conventional schools and colleges are not interested to learn them. Students consider it to be the domain of the intelligent only.\textsuperscript{8}

Teachers complain about lack of interest and calibre of students to learn it. Both in their own stride are right. Not only the students lack capacity and calibre but the methods teachers are constrained to use make it difficult and it can be understood by the wise only. Keeping these constraints in mind there is a need to be simplistic in approach.

\textsuperscript{6} Awang, Mohd Ridzuan “The Islamic Inheritance Law (Faraid): The Manifestation of Comprehensive Inheritance Management in Islam”, Islamic Law Departmen, Universiti Kebangsaan Malaysia, Kuala Lumpur, Malaysia, p. 01
\textsuperscript{7} Ibid.
\textsuperscript{8} Ibid.
Rather than untying the complicated mathematical equations, it is best to explain them simply; using the terminology in vogue today.\(^9\)

The researcher has gone extra-mile to explain the basics before discussing certain aspects for more clarity. This is to enable and encourage Muslim brothers and sisters especially those that acquired strictly western education to better appreciate this knowledge despite its complexity. Most existing study on Islamic Inheritance has been based on general principles on Islamic law of inheritance and surprisingly, this aspect of special cases of Muslims’ Inheritance law has not been given much attention. In addition, most of the research on Islamic inheritance which can be found in literature pertains to the application of the basic calculation of Islamic inheritance. Studies of Special Cases in Muslims’ Inheritance law are very rare in nature.

In order to understand better the Plight of Muslims in the Philippines a brief explanation of the following are attached in the introductory part of this Study. Namely, Islam in the Philippines: A History, Muslims’ Homeland in the Philippines, Muslims’ Identity in the Philippines and Muslim Minorities in the Philippines: An Overview.

1.1.1 Islam in the Philippines : A History

Islam is the religion of the Muslims. It is the youngest of the world's major religions. Its roots are traceable to the same Abrahamic tradition of Judaism and Christianity. However, Islam is not merely a religion, as in the Western sense. Islam is a

\(^9\) Ibid.
unified way of life, crossing both religion and secular life, from the precepts and principles of right and wrong to the system of law, government and economic life.\textsuperscript{10}

Islam teaches that Allah is the Lawgiver and that His precepts and the laws or Shari'a provides the path to Allah. The Shari'a also provides to Allah's people the directions for the interpretation and expansion of the Law.\textsuperscript{11}

Islam was officially established in Malay Archipelago namely Southeast Asia in present days in 14\textsuperscript{th} centuries as stated in the history of the related countries such as Brunei, Indonesia, Malaysia, Singapore and Thailand. Islamic law has been developed in line with the Islamisation process in the region. In certain area, it had been implemented in the legislation.\textsuperscript{12}

From the formation of the Muslim community in Mindanao and Sulu up to the middle of the twentieth century, the ties of the Muslims in the Philippines with the Muslim world were through the Muslims in Southeast Asia. This was because of the important role played by some members of the ruling families in the region in the expansion of Islam in the Philippines.\textsuperscript{13}

\textsuperscript{12} Luqman Haji Abdullah, “Islamic Inheritance Law among Muslim Minority Countries in South East Asia”, The Department of Fiqh and Usul al Fiqh, Academy of Islamic Studies, University of Malaya, (50603 Kuala Lumpur, Malaysia: 2012)
\textsuperscript{13} Abhoud Syed M. Lingga,“Muslim Minority in the Philippines”, a presentation to the SEACSN Conference 2004: “Issues and Challenges for Peace and Conflict Resolution in Southeast Asia”,at Shangri-La Hotel, Penang, Malaysia on 12-15 January 2004, p. 3
In Philippine history, the Sulu Sultanate promulgated the Diwan Taosugas the principal personal law codex of Sulu. In the eighteenth century, the Sultan of Maguindanao promulgated a more comprehensive codex, the Luwaran sa Magindanao.\textsuperscript{14}

After the country became independent from the U.S. in 1946, several laws were passed that recognized certain aspects of Muslim personal laws. Republic Act 386 or the New Civil Code recognized marriages among Muslims and mixed marriages between Muslims and Christians. RA 394 recognized divorce among Muslims. RA 6268 extended the applications on Muslim marriages for another ten years after the expiration of the 20-year period stipulated in RA 386.\textsuperscript{15}

In 1977, the Code of Muslim Personal Laws of the Philippines (CMPL) was enacted by President Ferdinand Marcos through Presidential Decree 1083. The promulgation of CMPL followed closely the signing of the Tripoli Agreement of 1976, the first peace agreement between the Philippine government and the Moro National Liberation Front.\textsuperscript{16}

The Tripoli Agreement provided for the establishment of autonomy in southern Philippines “within the realm of Philippine sovereignty and territorial integrity of the Republic of the Philippines.” It also stipulated that Muslims in the specified areas of

\textsuperscript{15} Ibid.
\textsuperscript{16} TUAZON, RAMON R., “A Primer on the Code of Muslim Personal Laws of the Philippines”, Produced under the “Project: Development of a Comprehensive IEC Plan for the Shari’a Justice System” funded by The Asia Foundation, Grant No. 30394-26-330-26-29804.
autonomy were to be given the right to set up their own courts that would implement Shari’a laws. The CMPL addresses this provision on Muslim courts.\textsuperscript{17}

\textbf{1.1.2 Muslim Minorities in the Philippines: An Overview}

How the Muslims as a minority situate themselves within the Philippine national community is needed to be mentioned in this study. A look into their views on their relations with the national community is helpful in understanding the situations of Muslims in Mindanao for this is the impetus in their assertion for their right to self-determination.

In the Philippines, the Muslims were governed by Islamic Law for centuries. In the early nineteenth century the Islamic Law was introduced by two Muslim sultanates, in the south. They are the Law of Sultanate of Sulu Diwan Tausug of 1878 and Law of Sultanate of Maguindanao – Maguindanao Luwaran of 1886. These laws were exercised by the indigenous religious court known as Agama Court. Since that time up to 1973 no effort was made to codify Muslim Law by the government of the Philippines. In 1973, the codification of Muslim Personal Law was initiated by the Presidential Task Force for the Reconstruction and Development of Muslims in the Philippines. In 1977, P.D. 1083, Code of Muslim Personal Laws of the Philippines was introduced. Unfortunately up to the end of 1984, the code was never implemented.\textsuperscript{18} Finally in 1985, the first Shari’acourts were opened and the CMPL became operational – eight years after its promulgation.

\textsuperscript{17} Ibid.
\textsuperscript{18} Azizan Abdul Razak, “Islamic Law and Jurisprudence”, College of Law, Mindanao State University, (Marawi City:1985), p. 186
1.1.3 Muslims’ Identity in the Philippines

The Muslims in the Philippines consist of thirteen ethno-linguistics groups, namely: Iranun, Magindanaon, Maranao, Tao-Sug, Sama, Yakan, Jama Mapun, Ka’lagan, Kalibugan, Sangil, Molbog, Palawani and Badjao. There are also Muslims among the other indigenous peoples of Mindanao like the Teduray, Manobo, Bla-an, Higaonon, Subanen, T'boli, and others. In recent years, significant number of people from Luzon and Visayas and migrant communities in Mindanao converted to Islam. 19

The Muslims who traditionally inhabited Mindanao – the islands of Basilan, Palawan, Sulu and Tawi-Tawi archipelago in the south of the Philippines identify themselves as Bangsamoro. The name Moro was given by the Spanish colonizers to the Muslims in Mindanao whom they found to have the same religion and way of life with the Muslims of North Africa who ruled the Iberian Peninsula for centuries. The Malay word bangsa, which means nation, was prefixed to suggest distinct nationhood. The term has find place in official documents of the Organization of Islamic Conference (2001) and agreements between the Government of the Republic of the Philippines (GRP) and the Moro Islamic Liberation Front (MILF). 20

1.1.4 Muslims’ Homeland in the Philippines

The homeland of the Bangsamoro people consisted of the territories under the jurisdiction of their governments before the emergence of the Philippine state. At the height of its power, the Sulu Sultanate exercised sovereignty over the present day

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19 Lingga, op. cit., p. 2
provinces of Sulu, Tawi-Tawi, Palawan, Basilan and the Malaysian state of Sabah (North Borneo).

The territory of the Magindanaw Sultanate included Maguindanao province, the coastal areas of the provinces of Sultan Kudarat, South Cotabato, Sarangani, parts of Lanao provinces, Davao del Sur and Davao Oriental, and the eastern part of Zamboanga del Sur. The Datu Dakula of Sibugay, who ruled the Sibugay autonomous region under the Magindanaw Sultanate, exercised jurisdiction over Zamboanga Del Norte, Zamboanga Sibugay, Zamboanga City and the western part of Zamboanga del Sur. The Rajah of Buayan ruled North Cotabato, the upper valley of Maguindanao and the interior areas of Sultan Kudarat and South Cotabato and some parts of Bukidnon. The Pat a Pangampong ko Ranao (confederation of the four lake-based emirates) ruled the interior parts of Lanao del Sur, Lanao del Norte, and parts of Bukidnon, Agusan, and eastern and western Misamis provinces. The small sultanate of Kabuntalan separates the domains of Magindanaw and Buayan.\footnote{21

As the result of the colonial policy of the Philippine government to reduce the Bangsamoro into minority by encouraging Filipino settlers from the north to settle in their traditional homeland, the Bangsamoro are now confined in the provinces of Tawi-Tawi, Sulu, Basilan, Lanao del Sur and Maguindanao, and some municipalities of Zamboanga del Sur, Zamboanga Sibugay, Zamboanga del Norte, Lanao del Norte, North

\footnote{Ibid., p. 2 et seq.}
Cotabato, Sultan Kudarat, South Cotabato, Sarangani, Davao Oriental, Davao del Sur, Davao del Norte, Compostela Valley and Palawan.22

On August 1, 1989, Republic Act No. 6734, otherwise known as the Organic Act of the Autonomous Region in Muslim Mindanao, was signed into law by then President Corazon C. Aquino. On November 17, 1989, a plebiscite was conducted in the proposed areas of ARMM wherein only four provinces opted to join the area of autonomy. These are the provinces of Maguindanao, Lanao Del Sur, Tawi-Tawi and Sulu.23

The first set of ARMM officials was elected on February 17, 1990. The ARMM was formally operated on July 6, 1990 following the oath taking of Atty. Zacada A. Candao as its first Regional Governor. The second batch of officials took office on April 02, 1993 wherein Lininding P. Pangandaman was elected Regional Governor.24

When Pres. Gloria Macapagal Arroyo assumed the Presidency on January 2001, she supported the September 2001 plebiscite for the ratification of Republic Act 9054, expanding the area of autonomy. The ARMM is now comprised of the provinces of Maguindanao, Lanao Del Sur, Sulu, Tawi-Tawi, Basilan and the Islamic City of Marawi.25

The November 2001 ARMM election installed Dr. Parouk Hussin on January 2002 as Regional Governor of the expanded ARMM. Since 2005 up to 2011, Datu Zaldy

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22 Ibid., p. 3
24 Ibid.
25 Ibid.
Uy Ampatuan has been ARMM Regional Governor. Since 2011 to date, Mujiv Hattaman is the incumbent ARMM Regional Governor.\(^{26}\)

Although their territory was significantly reduced but the Bangsamoro people continuously assert their right over their homeland, which gain implied recognition by the government.\(^{27}\)

### 1.2 Statement of the Problem

Although Philippines is Christian dominated country, The code of Muslim Personal laws of the Philippines has been introduce in 1977. Before that, there was not even a single set of comprehensive codification of rules available on Islamic law specifically on Islamic law of inheritance for the Muslims in the Philippines in general. The usual practice is that they simply refer to the local adat pertaining to inheritance or they refer to the malay and Arabic texts which are available in their collection. As a result, their decisions varied from one case to the other.

It is said that money is the root of all evil. People have unlimited wants but limited means. To satisfy their needs they try to earn money by any means. To do this, sometimes they involve themselves in some conflict, which results unrest in the society. In our society it is seen that there is a conflict among siblings, with parents and among other relatives in the family due to properties.

In the villages, the major unrests are being occurred only for distribution of and occupying the Land and other assets. Because of the scarcity of resources and lack of moral teaching and learning, people have a tendency to capture illegally the properties of

\(^{26}\) Ibid.
\(^{27}\) Lingga, op. cit., p.3
other. Beside these, because of lacking of proper religious/ethical education people are becoming selfish day by day.\textsuperscript{28}

On the other hand, however, The First Special Bar Examinations in Shari’a was given by the Supreme Court of the Philippines on December 4 and December 11, 1983. The Four scopes covered by the examinations included Islamic Inheritance. On the account of lack of textbooks and / or review materials, the examinees suffered heavy “Casualties.” Theirs were the lowest percentage of passing ever rated in government – given examination in the country – Philippines.\textsuperscript{29}

In addition, The King Faisal Centre for Islamic and Arabic Studies and the College of Law of Mindanao State University, Marawi City, are both offering courses in Muslim Inheritance Law. However, there are only limited text books written in English on the subject matter that could satisfy the requirements of the students in these two colleges.\textsuperscript{30}

In recent years, the study on Islamic Inheritance in the Philippines focused only on its basic principles. There has been less interest lately in the concept on Special Cases of Muslims’ Inheritance law not only in the Philippines but also in other Muslim countries. In connection to these, the researcher chooses this topic rather than any other because it has been neglected and / or because it has been discussed but not properly or fully.

\footnotesize{\textsuperscript{28} Bulbul, Afroza “Implication of Islamic law of Inheritance: Ultimate solution to family conflict”, Asian Business Consortium, Chitanggong, Bangladesh 2012, p.118
\textsuperscript{29} Alauya, Saadudin A. “Musim Inheritance Law”, Rex Printing Company, Inc. Quezon City, Philippines.
\textsuperscript{30} Ibid.}
1.3 Research Questions

In this study, the researcher seeks to discover and explore the Muslims’ Inheritance law in Mindanao - Philippines as a guide for beginners. Specifically, this study seeks to answer the following questions, namely:

1) What are the Muslims’ Inheritance law in Mindanao - Philippines?

2) What are the Islamic Rulings on Muslims’ Inheritance law in Mindanao - Philippines?

3) What are the requisites of succession for Muslims’ Inheritance law in Mindanao - Philippines?

4) What are the procedures of succession on Muslims’ Inheritance law in Mindanao - Philippines?

Indeed, Philippines is dominated by Christians. The first research question would explain the different kinds of Muslims’ Inheritance law in the Philippines. In Addition, the second research questions would discuss the Islamic Rulings on Muslims’ Inheritance law in the Philippines. Moreover, the third research question would determine the requisites of succession for Muslims’ Inheritance law in the Philippines. Finally, the fourth research question would illustrate what are the procedures of succession on Muslims’ Inheritance law in the Philippines.

1.4 Scope and limitations of the Study

This study shall explore and describe the Muslims’ Inheritance law in Autonomous Region in Muslim Mindanao (ARMM) – Philippines as a guide for beginners. Due to time constraint and lack of resources, this study is limited only on Muslims’ Inheritance law in Mindanao – Philippines. Although it is interesting and
informative to cover other aspects of Islamic Inheritance, such research is so much bigger and wider and thus requires more time and resources which the researcher does not have. Additionally, this study is limited by the perception of the researcher. Financial aid due to this study is also limited to the researcher’s scope.

1.5 Objective of the Study

The main objective of this study is to discover and explore the Muslims’ Inheritance law in Mindanao – Philippines as a guide for beginners. For accomplishing the main objective some specific objective are chosen, such as:

1. To give reader a clear and better understanding of and / or perspective on the subject matter as it is simplified with good examples and authorities from the Holy Qur-an and Hadith.

2. To identify what are the Muslims’ Inheritance law in Mindanao - Philippines.

3. To find out the Islamic Rulings on Muslims’ Inheritance law in Mindanao - Philippines.

4. To determine the requisites of succession for Muslims’ Inheritance law in Mindanao - Philippines.

5. To know what are the procedure of succession on Muslims’ Inheritance law in Mindanao - Philippines.

1.6 Significance of the study

This part of the study discusses the importance of knowing and understanding The Islamic law of Inheritance especially on its special cases practically and theoretically. Study in this subject and specifically in this area is still essential.
1.6.1 Practical

This section provides brief description on the various significances of the study practically to the following:

1. **The study towards School Administrator:** The study enriches the knowledge of everybody pertaining to Islamic law on Inheritance, including the school administrator. Some universities in ARMM – Philippines include Islamic Inheritance in the curriculum of Islamic Studies Department. This study may inform the school administrator that the effective implementation of the curriculum is depending on school management and by knowing this, they can develop themselves.

2. **The study towards Teacher:** The study helps teachers to have a deeper understanding on Islamic law of Inheritance specifically on the said special cases of it. By this study they would come up with easier and better examples in discussing it. The success of school as an organization is depending on its manpower, the teacher. The primary knowledgeable on Islamic law of Inheritance is no other than the teacher for the reason that they are the one who teaches the content of it. Effective school management calls for qualified and committed and responsible manpower just like teachers.

3. **The study towards the Student:** the students are the primary receiver of the benefits of effective presentation of Islamic Law of Inheritance. If the study becomes one factor for a good understanding of the said subject matter, thus, benefits would be on the students. The study would also serve the students as their reference or review materials in studying Islamic law of Inheritance and importantly, this research would educate students regarding the special cases of Muslims’ Inheritance law. It would also help students who
have less knowledge of this study in taking the Special Bar Examinations in Sharia given annually by the Supreme Court of the Philippines.

4. *The study towards Practicing Shari’a Lawyers:* The study is highly significant to the Practicing Shari’a Lawyers in the Philippines especially those who have just passed the Special Bar Examinations in Shari’a in the Philippines. With the knowledge of the present study, they can easily defend their client in settling their cases on inheritance especially on its special cases in the Shari’a Courts of the Philippines.

5. *The study towards Practicing Shari’a Judges:* The study is indeed important to the Practicing Shari’a Judges. Being aware of the present study, they can give order justly since they are tasked on settling inheritance cases in the Shari’a Courts of the Philippines.

6. *The study towards Law Maker:* The study, as we mentioned above, the law maker can have the opportunity to be informed about it. Findings of this study can serve as a basis for decision making and in the formulation of policies on matters related to Islamic Inheritance specifically on its special cases.

7. *The study towards Researcher:* The study would benefit and help the future researchers as their guide and reference in studying the field of Islamic Inheritance. This study can also be used in future study of the future researcher. They can likewise gain new perspective by being aware of the said study.

8. *The study towards Society:* The research per se contributes to knowledge production in general. Islam as a religion can never be a purely individual affair; this is because individual development cannot take place without regard for the social environment in which it occurs, but more profoundly because religion is a means for making society what it is. By this research and/or study, community at large would be
informed about the Islamic law of Inheritance specifically on its special cases and it would bring big changes to the community and the society as a whole, In Shaa Allah.

1.6.2 Theoretical

This section provides brief description on the significance of the study theoretically to the following:

1. **The study as a Reference:** The study can be used as a reference and / or review materials towards Islamic law of Inheritance in the Philippines for the reason that the study explore and describe the Muslims’ Inheritance law in the Philippines, its Islamic Rulings, its Requisites for Succession, and its Procedures for Succession.

2. **The study as a Basis for Binding law:** Findings of this study can serve as a basis for decision making and in the formulation of policies on matters related to Islamic Inheritance specifically on its special cases.

3. **The study as a Guide:** The study can be used as a guide for the beginners who seek to understand and learn systematically on how to solve an Inheritance Problem Islamically.

1.7 Previous Studies

1.7.1 Introduction

This section presents different studies conducted both local and international, reviews of readings gathered from books, unpublished thesis, journals, on-line sources, government documents, and other vital sources which has some bearings on the present study. They provided ideas and insights relating to the said study. They are presented and reviewed in this chapter with the hope that the reader may have sense of the concepts that surrounded this study.
This section is divided into two parts. Studies conducted abroad are classified as foreign studies. Those that were conducted within the country are classified under local studies. Foreign studies consist of studies on Islamic Inheritance. Likewise, local studies are also consists of studies which give the reader some ideas on the plight of Islamic Inheritance in the Philippines.

1.7.2 Foreign Studies

Studies on Islamic Inheritance

Bulbul (2012) who made a study of Implication of Islamic Inheritance: an ultimate solution to family conflict, reported that In this study it is found that if we want to resolve such conflict and want to establish peaceful environment, we must have to learn the religious commands regarding every sector related to our life and to implement the Islamic Laws in the society and the law of Inheritance as well.

Awang (2008) reported in his study on Islamic Inheritance Law (Faraid): The manifestation of comprehensive inheritance management in Islam that Islamic Inheritance Law (faraid) has been pre-ordained by Allah s.w.t. in a wise and gradual manner in order to allow for its compatibility with the judiciary and human nature which might find it difficult to change their normal practices. At the early stage, Islam perpetuated the inheritance laws of the Jahiliyah, a temporary system based on kinship and Hijrah. The system was then overruled and replaced by the inheritance distribution by will system (wasiat) to parents and kinsfolk based on verse 180 from Surah al-Baqarah. At the final stage, all previous systems were abolished and replaced with the current Islamic Inheritance Law. The law was derived from the commandments of Allah s.w.t. based on the Mawarith verses which are verses 11, 12 and
176 of Surah al-Nisa. The Islamic Inheritance Law today is a complete and comprehensive system for the rightful beneficiaries, the portions for each beneficiary and all non-rightful beneficiaries to the inheritance using al-Hajb doctrine or method. Allah (s.w.t.) has determined the rulings and methods to distribute inheritance among all beneficiaries with the purpose to act fairly to all levels of beneficiaries and to avoid discrepancies among them.

Zahari (2005) claims in his study on Inheritance law in National Islamic Law (KHI) and its similarity and differences with Syafi’I and Hazairin Inheritance law that in studying Islamic law, especially inheritance law in Indonesia, there are three important issues to be considered such as legal certainty, fairness and equality before law.

A study on Inheritance law in Islam and women conducted by assistant professor from Darul Ihsan University reported that the injunction that a male relative (son) receives a share equal to that of two females (daughter) has given birth of a vigorous equality debate. Some argue that the differential treatment on the basis of gender regarding inheritance shares violates international human rights and in Islam women's share in inheritance is unfair and unjustified. Therefore, a number of NGOs and few personalities in Muslim countries have called for equal inheritance rights. On the other hand, Muslims argue that the shares of a male are double than that of a female not because a male is worth more, but because the male has the duty to support his family while the female is exempted from any sort of financial responsibility and can spend it all on herself without the need to share. However, a more dominant position is the general position, even from Muslim women, that what God has ordained for shares cannot be changed and the application of these formal inheritance rules pertaining to designated
shares must be understood in a broader sociocultural and economic context and within wider inheritance systems of practice. If seen as a whole, it would be very clear that in Islamic law women are much more favored financially than males.

Ismail who made a study of preparing an Islamic Inheritance strategy in light of the inheritance taxation laws of England and Wales reported that many can speculate as to why Islam has placed emphasis on both the laws of inheritance and making a will. One could argue, it prevents family conflicts on death, others may feel it represents a means via which needy relatives can benefit from wealthy family member. Whatever Allah (s.w.t.)’s wisdom is, it has been praised internationally from various quarters. Consider the following analysis of the inheritance laws by a leading British University Professor: “The Muslim law of Inheritance comprises beyond question the most refined and elaborate set of rules for the devolution of property that is known to the civilised world” – Professor Almaric Rumsey, King’s College, London.

1.7.3 Local Studies

Studies which give the reader some ideas on the plight of Islamic Inheritance in the Philippines

Alauya (2005) stated in his study on Muslim Inheritance law that Ex – President Ferdinand E. Marcos approved into law the “Code of Muslim Personal Laws of the Philippines,” otherwise known as Presidential Decree No. 1083 on February 4, 1977, and Wills and Succession is within its Coverage. It is likewise a fact that the provisions of the Code on Wills and Successions cannot adequately supply the knowledge necessary in adjudication of inheritance cases unless they are annotated or the judge concerned has a working knowledge of the fundamental sources of these provisions. It needs, a
commentary explaining further some provisions of this law, which by their code provisions alone are not easily understandable by its readers.

He then continued that there is no doubt the Code contains the elements of the law on wills and successions, but there are some aspects of the law that they will have to be armed with in the actual implementation of the provisions of the Code, without which, they cannot understand exhaustively the Muslim Inheritance Law. Without annotation or commentary, it will not be easy for a judge to resolve a case and it will be equally difficult for the students to answer or solve a given problem in an examination. If it is difficult for a judge and to the students one can only imagine the impact on the client – public.

1.8 Conceptual Framework

This study explore and describe the relationship between the Islamic Law on Inheritance and the binding law on Muslims’ Inheritance law in Mindanao – Philippines (Independent Variable). It also take into account the Basic Calculation of Islamic Inheritance in Mindanao – Philippines, Special Cases on Islamic Inheritance in Mindanao – Philippines, Islamic Rulings on Muslims’ Inheritance law in Mindanao – Philippines and Requisites of succession for Muslims’ Inheritance law in Mindanao – Philippines (dependent Variable). It can be presumed that with the present study, the research questions especially on the procedures of succession on Muslims’ Inheritance Law in Mindanao – Philippines pertains to the Comprehensive outcome on Islamic System of Inheritance in Mindanao – Philippines.

The schematic shows the relations between the identified variables. There are 2 boxes at the left side, 1 box at the center and 2 boxes again at the right side. On the left
side, under the heading Independent variable, there would be one box labelled as The Islamic law on Inheritance and the binding laws on Muslims’ Inheritance law in Mindanao – Philippines. Below of it is another box contains of three research questions. There is an arrow pointing up towards the Independent Variables. At the center, under the heading Dependent Variables, there would be one box labelled as the Basic Calculation of Islamic Inheritance in Mindanao – Philippines, Special Cases on Islamic Inheritance in Mindanao – Philippines, Islamic Rulings on Muslims’ Inheritance law in Mindanao – Philippines and Requisites of succession for Muslims’ Inheritance law in Mindanao – Philippines. To the right of this box, at the upper part of it, is a box contains of a research question. Below it would be an arrow pointing to a box on the down – left side. Here, under the heading out come, would be one box containing this text – “The Islamic System of Inheritance in Mindanao – Philippines”. Meanwhile, figure 1 below shows a paradigm of the conceptual framework of the present study.
Figure 1. A Conceptual Framework of Muslims’ Inheritance Law in Mindanao – Philippines: A guide for Beginners

INDEPENDENT VARIABLE

ISLAMIC LAW ON INHERITANCE

Binding Law on Muslims’ Inheritance law in Mindanao - Philippines

DEPENDENT VARIABLE

(a) Basic Calculation of Islamic Inheritance in Mindanao - Philippines
(b) Special Cases on Islamic Inheritance in Mindanao - Philippines
(c) Islamic Rulings on Muslims’ Inheritance law in Mindanao - Philippines
(d) Requisites of succession for Muslims’ Inheritance law in Mindanao - Philippines

What are the procedures of succession on Muslims’ Inheritance law in Mindanao - Philippines?

OUTCOME

The ISLAMIC SYSTEM OF INHERITANCE IN MINDANAO - PHILIPPINES

1. What are the Muslims’ Inheritance law in Mindanao - Philippines?

2. What are the Islamic Rulings on Muslims’ Inheritance law in Mindanao - Philippines?

3. What are the requisites of succession for Muslims’ Inheritance law in Mindanao - Philippines?
1.9 Methodology and Research Design

1.9.1 Introduction

In the study of research, research methodology denotes the way of systematically solving the research problems (Kothari, 2004). Thus, this chapter introduces how this research was conducted to answer the research questions. It illustrates what data are required, where the sources of the data would be from, how the method of the data collection would be, what instruments would be used, and how the data would be analyzed. It also entails how the data quality control was done which verify for the data’s validity, and reliability. This specifically contains of research design, population, sampling (selection and strategies), data collection method and instruments, validity and reliability, data gathering procedures and data analysis.

1.9.2 Research Design

This research make used of Descriptive and / or Qualitative Research Method. Aquino gives this definition. Descriptive research is a fact – finding with adequate interpretation. The true meaning of data collected should be reported from the point of view of the objectives and the basic assumption of the project under way. Data must be subjected to the thinking process in terms of ordered reasoning. (Aquino, pp. 7 – 8) This study is also a kind of library research where the research data and information obtained from major books which are related to this research. Thus, as a descriptive and / or qualitative research, this research has detailed descriptions of the Muslims’ Inheritance law in Mindanao - Philippines.
Table 1. Muslims’ Inheritance Law in Mindanao - Philippines: A guide for Beginners – Research Design

<table>
<thead>
<tr>
<th>Research Question</th>
<th>Data</th>
<th>Source</th>
<th>Method</th>
<th>Instrument</th>
<th>Data Analysis</th>
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<tbody>
<tr>
<td>1. What are the Muslims’ Inheritance law in Mindanao - Philippines?</td>
<td>Primary Data: (a) Muslims’ Inheritance law in the Philippines (b) Islamic law of Inheritance (c) Miscellaneous in Succession (d) Special Cases on Islamic Inheritance</td>
<td>Primary Data: (a) Binding Law: - Qur-an - Hadith - Qiyas - Ijma - P.D. 1083 - Others</td>
<td>Qualitative Method: - In – depth Reading and fact- finding (Document Review) - Conceptual Approach - Statute Approach - Legislation Approach</td>
<td>(a) Logical Analysis (b) Legal Interpretation (c) Theological Interpretation (d) Juridical Analysis</td>
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<td>Secondary data (b) In – depth reading and fact - finding on: - Books - Thesis - Journals - Articles - Reports - Others</td>
<td>Tertiary Data (c) explanations from primary data such as: - Encyclopaedia - Dictionary</td>
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3. What are the requisites of succession for the Muslims' Inheritance law in Mindanao - Philippines?

**Primary Data:**
(a) binding law from P.D. 1083 on requisites of succession on Islamic law of Inheritance
(b) requisites of succession on Islamic law of Inheritance

**Secondary Data:**
(b) In-depth reading and fact-finding on:
- Books
- Thesis
- Journals
- Articles
- Reports
- Others

**Tertiary Data:**
(c) explanations from primary data such as:
- Encyclopaedia
- Dictionary

**Qualitative Method**
- In-depth Reading and fact-finding (Document Review)
- Conceptual Approach
- Statute Approach
- Legislation Approach

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4. What are the procedures of succession on the Muslims’ Inheritance law in Mindanao - Philippines?

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1.9.3 Location of the Study

Since the researcher is one of the Muslim Citizens of the Philippines at the same time a Foreign Student at Muhammadiyah University of Surakarta, Indonesia, the venue of this study was conducted at MSU – Main Marawi City, Lanao del Sur, Mindanao - Philippines where the researcher resides on second semester of academic year 2014 – 2015.

In addition, it is presented and defended simultaneously after the completion of this study at Graduate School of Department of Islamic Studies with the degree of Masters in Islamic Studies major in Islamic Law at University of Muhammadiyah Surakarta, Indonesia on September 17, 2014.

Meanwhile, University of Muhammadiyah Surakarta (UMS) is one of 164 Universities of Muhammadiyah (PTM) and one in the 1890 Private Higher Education (PTS) in Indonesia. UMS is located in District Kartasura Sukoharjo (Kartasura , Sukoharjo ) . Charity’s efforts to realize its educational campus as “Scientific and Islamic Discourse”, which is able to foster a culture of Islamic scientific knowledge and skills based on Islamic values . Hard-working attitude , honest , sincere , patient , high integrity , positive thinking , rational , objective , fair and clean heart as the moral basis of science , technology and the Islamic sciences always imparted to the entire academic community to meet the UMS era of globalization . The era of globalization and interdependence pose information. Therefore, universities play a determining role in shaping the quality of human resources of a nation that controls science and information. UMS cannot escape
from the demands and the need to organize themselves to improve sustainability, fighting spirit, and competitiveness in the future (sustainable competitive advantage).  

Muhammadiyah University of Surakarta has 10 Post-Graduate Programs

Master of Islamic Thought (MPI); Master of Islamic Education (MPdI); Master of Islamic Law (MHI); Master of Management (MM); Master the Management Education (MPD); Master of Law (MH); Master of Civil Engineering (MT); Master of Psychology; Master of Professional Psychology and Master of Language and Literature Studies. The Map of Indonesia, the map of Surakarta and UMS shall be shown in the next pages.

1.9.4 Data Collection Method

A method is a tool for data generation and analysis. It is chosen based on a criteria or a list of criteria related to or even dictated by the major elements of the methodology in which they are embedded, such as perception of reality, definition of science, perception of human beings, purpose of research, and type of research units (Sarantakos, 2007). In this study, Conceptual approach is used which examines the legal principles relating to Islamic Inheritance and Inheritance according to Islamic Law Compilation. Moreover, Statute approach is also used in this study because the focus of this study is to understand and explain the position of Presidential Decree 1083 also known as the Code of Muslim Personal laws of the Philippines on Islamic Inheritance Law in Mindanao - Philippines. Therefore the legislation approach is used to seek information in order to answer the research questions.

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1.9.5 Data Collection Instruments

Research Instruments refers to the tools used in the data collection method. According to (Kumar R., 2005), it is the most important aspect of a research project since the findings or conclusions of a research is based upon the type of information collected, and the data collected is entirely dependent upon the questions asked from the respondents. In this research, an in-depth reading and fact finding was employed in the primary and Secondary data sources.

1.9.6 Validity and Reliability

According to (Dawson, 2002), the research tool or instrument which provides the input into a study defines the validity and reliability of a research. By deductive reasoning we could say that if the research instruments are valid and reliable, then so does the data of the study and the study itself. From (Kothari, 2004), validity is defined as the extent to which differences found with a measuring instrument reflect true differences among those being tested. To assess the validity of the instruments used in this research such as review of related literature and review of related studies content validity will be established where a recognised experts in the area of study (Thesis adviser, Thesis proposal professors, and other qualified persons) are asked to give their opinion on the validity of the tool. They can pick out the suitable questions and then the content validity index can be calculated using the formula:

\[
CVI = \frac{\text{Suitable items as agreed by the jurors}}{\text{Total Number of items being judged}}
\]
1.9.7 Data Gathering Procedure

To answer the problems mentioned above in this study scientifically, hence the researcher used in-depth reading and fact-finding on the following Primary data sources: First, The data sources which are adopted as a binding law such as P.D. 1083 otherwise known as the Code of Muslim Personal laws of the Philippines and from Holy Qur'an and Prophetic traditions (Hadith), Qiyas and Ijma on Islamic law of Inheritance; Second, The data sources which are adopted as a result of study through many literatures, magazines, journals, newspapers, and thesis. Third, the data sources which are explanations from primary and secondary materials such as encyclopedia and dictionary.

1.9.8 Data Analysis

The qualitative data taken from the primary data sources are analysed through a logical analysis. Finally, the information from the document review could also give clarity to the research questions.

In addition, the analytical tools used are as follows, first, Legal Interpretation. It is a grammatical interpretation that explains and elaborates on the meaning of the provisions of laws and regulations, uses everyday language or the language of the law; Second, Theological interpretation. It is to interpret legislation in accordance with its purpose. Further analysis used is Juridical analysis that examines, in depth and thoroughly explain and intertwined with each other, and evaluate legal material, as the elaboration of Islamic inheritance concept.