

ANALYSIS OF ISLAMIC INHERITANCE LAW ON THE DISTRIBUTION OF WOMEN'S INHERITANCE



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Abstract

This study aims to determine the implementation of the division of women's inheritance in the Pangkatan sub-district, Labuhan Batu Regency and to find out the perspective of Islamic inheritance law on the distribution of women's inheritance in the Pangkat Sub-District, Labuhanbatu Regency. Qualitative research methods using observation, interviews, and document studies. The technique of checking the validity of the data used is the degree of trust, transferability, dependability, and certainty. The findings in the study are the implementation of inheritance distribution in the Pangkatan sub-district, which is in accordance with hereditary provisions where sons get 70% inheritance and girls get 30% inheritance, this is because male children are considered to continue their descent. The perspective of Islamic inheritance law in the distribution of inheritance in rank sub-districts is in accordance with *faraidh* law in addition to the principle of legal clarity and expediency, inheritance law in general and as a whole has positive values, norms, and wisdom which are very basic and contain justice. So, the reform in this research is Islamic Inheritance Law Concerning the Distribution of Women's Inheritance in Rank District Islamic inheritance law, especially the term *faraidh* and inheritance law in general and as a whole, has very basic positive values, norms, and wisdom and contains very clear positive wisdom reasonableness, in addition to the principle of legal certainty and benefit. The Pangkatan Regency inheritance system which prioritizes the portion of male power holders and the obligation to continue heirs in the family, is analogous to Islamic inheritance law which states that men have greater rights than women.

Keywords: Inheritance Division, Islamic Inheritance Law, Women

INTRODUCTION

Discourse on law, especially Indonesian inheritance law, is still pluralistic, meaning that each community group has its own legal instruments. Indonesia is characterized by dualism and pluralism because it has an enforceable inheritance law system, namely the Western Inheritance Law (BW) system, Customary Inheritance Law, and Compilation of Islamic Law (KHI) (Sumbulah, U., & Nurjanah, 2013). The three systems have different characteristics and rules. Every individual Muslim is obliged to carry out Islamic law, as long as there is no other law that stipulates that the previous provisions are not obligatory, then the rules of Islamic religious law must be followed. Assets acquired under *tirkah* are not necessarily inherited and passed on to the heirs (Anshori, 2018).

Indonesian people, who are mostly Muslim and come from various ethnic groups, have diverse cultural traditions and their own characteristics, including pluralistic inheritance laws (Savitri, M., & Hidayat, 2017). Previous research has also discussed the inheritance of heirs who have died, whether it has been divided or not. This includes heirlooms, marital assets, original assets, and innate assets, and a person or subject is an heir if they have an inheritance while they are still alive or after they pass away (Grafika, 2022).

The inheritance will be maintained by its control or ownership in an undivided or undivided state (Sugiarti, 2019). Likewise, the results of research found that recipients of inheritance or people entitled to receive inheritance only use customary inheritance law, the descendants of the heirs must be related by blood to them (Fauzi, 2017). However, the previous research still did not examine Islamic law. Customary inheritance laws are laws and regulations that apply from generation to generation and regulate the transfer of tangible and intangible assets (Nababan, 2017). The legal foundation of traditional inheritance is a pure society with an emphasis on family and self-interest dynamic and able to change according to certain circumstances (Herlambang, 2021).

Principal differences were found in customary inheritance both in the various assets and in the ways of distribution (Nuzul, 2010). The assets left behind and given to heirs are known(Placeholder1)by inheritance or inheritance (Kasim, 2009). Preliminary observations in this study found that among them the community in the District of Pangkatan, which is hereditary, divides the inheritance based on the customary system that has been in effect

until now. In fact, the division of inheritance in the Rank District above, the procedures and customary laws that are applied are contrary to Islamic religious law, where daughters, widows, mothers, and sisters whose position is recognized as heirs do not receive their rights from the inheritance.

Research conducted by Zuhra and Roslaili explains about the most striking thing in the discussion about justice is the Islamic Heritage law regarding equal rights and mutual inheritance between men and women as well as the ratio of 2: 1 (read 2 to 1) between male and female portions. In this article, the focus explained on the contents of Surah An-Nisa verse 11 is clear evidence of a revolution in women's rights in terms of inheritance. This study only focuses on the comparative approach (Taufiq Zuhra, 2021).

The research conducted by Muzainah explained that the legal principles of the position of women in the customary law of the Banjar community can be seen in the legal norms used in the implementation of inheritance distribution in “peaceful institutions” by means of *islah* and *faraidh-islah*. In this research, the focus is on how the Banjar community’s customs. While in this study in general it is not related to certain customs (Muzainah, 2019).

The research conducted by Mualifah and Faisal explained the application of Islamic inheritance law in the settlement of inheritance disputes at the Mataram Religious Court so that it can be seen whether there is gender discrimination in the distribution of inheritance according to Islamic inheritance law rules. In this article, the focus is explained on inheritance cases, which are decided by the Mataram Religious Court while this study is only in comparative analysis (Mualifah, 2021).

Thus, this research will focus on examining cases that arise in the sub-district community. Without first seeing and processing the study of inheritance law from an Islamic perspective as a whole, more and more people fail to understand the actual Islamic inheritance law. Some of the cases that are the focus of this research are as follows:

Table 1
Heir and Heir Data

No	Heir	Heir	Information
1	Family of IS Siregar	6 people	2 (two) men, 4 (four) women, and a wife
2	Family of UR	5 people	a man, 4 (four) women, and a wife

3	Family of AW Rambe	7 people	3 (three) men, 4 (four) women, (Information 2 sons)
4	Family of SR	4 people	3 (three) men, one woman
5	Family of NR	6 people	4 (four) men, 2 (two) women and a wife
6	Family of NH	4 people	2 (two) men, 2 (two) women and a wife
7	Family of MR	5 people	2 (two) men, 3 (three) women

From Table 1, empirical data from the initial search of this article, it is important to find out more about community perceptions about the proper division of inheritance in the Pangkatan District. The purpose of this research is to examine the inheritance law that they have carried out so far based on customs without looking at the study of Islamic law.

REVIEW OF LITERATURE

In the Code of Civil Law, what is meant by heirs are legal or extramarital family bodies and husbands and wives who live outside of marriage, and husbands and wives who live the longest (Article 832 of the Code of Civil Law) (Kitab Undang-Undang Hukum Perdata, 2007). Next in (Article 833 of the Code of Civil Law), it is stated that at the same time the heirs by themselves because of the law get ownership rights to all objects, all rights, and all receivables that died on earth. According to the law book, there are 2 methods for obtaining inheritance, namely: heirs determined by law and heirs determined by a mandate message (Krisnawati, 2006).

Heirs are people who have the power to welcome inheritance, as well as those stipulated in legal laws and regulations. These heirs are regulated in (Article 832 of the Code of Civil Law) for the law in power to become heirs, namely families of the same flesh, both legal and outside of an arranged marriage, the husband or wife who has lived the longest (Kitab Undang-Undang Hukum Perdata, 2007).

The amount (*Legitieme portie*) is as follows: for Article 914 of the Code of Civil Law: (1) If only a child's absolute share is $\frac{1}{2}$ (half) of the portion that must be received (2) If 2 children have an absolute share of $\frac{2}{3}$ (2 thirds) of what should be inherited by each (3) 3 or more children who are left to the absolute share of each child is $\frac{3}{4}$ (3 quarters) of the portion that each of them is legally entitled to.

A will (testament) is a statement regarding what is desired after he dies on earth (Subekti, 1985). The important character of the message of trust is that it has legal power after the creator of the message is dead and cannot be withdrawn. The number of heirs for

the mandate message is uncertain because it depends on the will of the trustee. The heir according to a will is the heir who welcomes the inheritance because there is a mandate (testament) from the heir to the heir which is stated in a will. In (Article 875 of the Code of Civil Law), it is explained that a will (testament) is a deed that contains a person's statement regarding what he wants to happen after he dies and is revoked by him.

An heir can deny an inheritance that is open according to him. The formation of antipathy is calculated from the day the heir dies, so the legal retreat (Article 1047) and the Legitieme Portie will also disappear. Heirs who deny inheritance mean releasing their responsibility as heirs and do not accept the rationing of assets.

RESEARCH METHOD

This type of research when viewed from the point of view of its type, this research can be classified as normative research. Normative research is research that discusses legal principles, legal systematics, level of legal synchronization, legal history, and comparative law (Kurniawan, 2020).

An empirical legal approach is applied in this research investigation. An approach to finding a solution that pays attention to many aspects of society and an analysis of Islamic inheritance law with the inheritance system in the district of the rank. To collect qualitative data for this study using primary data from interviews, observations, and document studies and secondary data from primary legal materials, secondary legal materials, and tertiary legal materials (Ramdhan, 2021).

RESULTS AND DISCUSSION

The legal principle in Islamic inheritance does not look at the differences between men and women, all heirs, both male, and female, have the same rights as heirs. But only the comparison is different. Indeed, in Islamic inheritance law, the emphasis is on balanced justice, not equal justice as fellow heirs because this principle often becomes polemic and debate which sometimes causes disputes between heirs (Roslaili, 2021).

The implementation of the division of women's inheritance can vary depending on the legal system in force in a country or in the context of Islamic law. The following are some general matters that can be considered in implementing the division of women's inheritance: a) Laws and regulations: In several countries, there are regulations and laws

governing the distribution of women's inheritance. For example, in some Islamic legal systems, such as in Sharia, there are provisions regarding how a woman's inheritance should be distributed between heirs who are entitled to receive the share; b) Legal interpretation: Legal interpretation regarding the division of women's inheritance may vary among the Muslim community and scholars of Islamic law. Some scholars may advocate equality in the distribution of women's inheritance, while others may follow traditional interpretations that provide different allocations between men and women. c) Cultural and social factors: Cultural and social factors can also affect the distribution of women's inheritance. Some societies may have traditions or cultural norms that influence the distribution of inheritance, including a preference for men to receive a larger share; d) Legal protection: It is important to ensure that women receive adequate legal protection in the distribution of inherited property. Laws and policies that protect women's inheritance rights can ensure that they receive a fair and equal share of the family inheritance.

It is important to note that the implementation of the distribution of women's inheritance can vary significantly between countries and even within different Muslim communities. Therefore, it is important to refer to the laws and regulations that apply in certain regions or countries to understand more deeply the implementation of the division of women's inheritance in specific contexts. When a person dies and leaves his property to those who are still living in his generation, the law of inheritance regulates various rights and obligations (Vela, 2015). The Pangkatan sub-district community upholds traditions or habits that have been carried out by the elders for a long time, this has happened since the ancestors enforced them, where the collaboration between customs and the application of religious values is still used as a foothold in life, so that in the rank-and-file sub-district, harmony, fairness, and help each other.

In Islamic inheritance, there are specific rules governing the division of inheritance between men and women. Islamic inheritance law recognizes inheritance rights for women, although in some traditional interpretations, women may get a smaller share than men. However, Indonesia has become one of the countries that have implemented legal reforms to increase gender equality in inheritance, such as the enactment of Law Number 1 of 1974 concerning Marriage which provides protection and equal inheritance rights for women. Communities in the rank sub-district resolve problems within the family, for example,

carrying out marriages, economic affairs, building houses, inheritance, and so on, based on existing and recognized ancestors in the rank sub-district, the high education of offspring from time to time does not change the pattern that has been firmly held by their generations. So, important events that have become commonplace are still being carried out as they should. In the Pangkatan sub-district, they are still strong in carrying out the division of inheritance which has been done repeatedly in the same way, arguing that dividing inheritance is based on *faraid* because it still gives the share to daughters. But in reality, the portion given to female heirs is smaller than the male heirs (Or not 2;1) but like, 70% over 30% still strong in carrying out the division of inheritance which has been done repeatedly in the same way, arguing that dividing inheritance is based on *faraid*, because it still gives shares to daughters.

Based on research in the Pangkatan sub-district where inheritance is distributed, it is very clear that sons have rights to inheritance, and are responsible for harmony, justice, and peace in the family. Inheritance in the rank-and-file sub-district community is not recorded but becomes a form of action that is carried out repeatedly in the same way for local residents. Several aspects were taken into consideration for a shift in the distribution of assets in the Pangkatan District, namely: a) Overseas, where there was control over the inheritance, due to the pretext of not gathering the whole family (heirs) when the heir died so that the delay in the distribution of inheritance occurred for years; b) For generations, the event of inheritance distribution in the sub-district is basically a tradition that has been going on for a long time. As with the social conditions of the sub-district community, it is explained that the community upholds traditional values that have long been practiced by elders from families in the rank, such as the distribution of inheritance; c) Descendants/clans, one of the important cultural values of the Batak people is the clan. For the community the importance of placing oneself. The group that opened the settlements were treated as role models and became the elders. The importance of the meaning of the clan in the customs of the Batak people in the sub-district of the rank and file has given rise to the habit of asking each other and tracing lineage based on the clan; d) Economy, economic factors have a significant influence on everyday life, especially families who need to carry out the division of inheritance; e) Low Awareness, inequality, and injustice will arise from the distribution of inheritance to heirs regardless of their circumstances. The

division of inheritance by rank-and-file people has followed the law of inheritance in Islam because they have lived in a Muslim environment for a long time. The ratio of 2:1 in Islamic inheritance law is carried out using a patrilineal system.

In the law of inheritance in Islam, there is a unique perspective regarding the distribution of women's inheritance. This perspective is based on the main sources of Islamic law, namely the Koran and Sunnah (teachings and examples derived from the Prophet Muhammad SAW). The following are some of the main points that illustrate the perspective of Islamic inheritance law on the division of women's inheritance: a) Part of inheritance: In Islamic inheritance law, there are provisions governing how inheritance must be divided between the heirs who are entitled to receive it. The share of female heirs in the distribution of inheritance may vary depending on family relationships and the presence of other heirs, such as husband, children, parents, and siblings; b) Proportionate share: In most cases, The division of women's inheritance in Islamic law is considered proportional to the distribution of male inheritance. For example, if a woman is the only female heir in the family, she is entitled to receive a share equal to one-third of her father's estate; c) Differences in distribution: There are differences in the distribution of inheritance between women and men in some situations, such as when there are other male heirs such as husbands or sons. In some contexts, the division of women's inheritance may be smaller than that received by male heirs. For example, in some traditional interpretations, the husband gets double the share of the wife; d) Legal protection: Although there are differences in the distribution of women's inheritance, Islamic inheritance law also provides legal protection to women. For example, Islamic law recognizes the right of women to own and manage their own inheritance freely. In addition, they also have the right to a fair and equal share of the family inheritance.

It is important to note that there are variations in the interpretation and application of Islamic inheritance laws in different Muslim communities and countries. Perspectives and practices in the distribution of women's inheritance can also be influenced by cultural, social, and local legal context factors. Therefore, it is important to consider this diversity when studying and understanding the perspective of Islamic inheritance law on women's division of inheritance.

In addition to the principle of legal certainty and expediency, Islamic inheritance law, including the term *faraidh* and inheritance law in general and in its entirety, has very basic positive values, norms, and lessons whose justice is very clear (Nur, 2018). According to the concept of justice which includes the distribution of inheritance will be fair if there is a balance between rights and obligations, what is obtained with the needs and goals as well as burdens and responsibilities among the heirs (Aniq, 2013). It is subjective to divide inheritance by agreement, and it is forbidden to share inheritance without using *faraidh* science. According to the Qur'an, guidelines for the distribution of inheritance must be followed, and leaving such guidelines is prohibited. Similar to family agreements, the rule of elders, and the acquisition of an inheritance through the discretion of a blessed elder is the acquisition of criminal assets.

Faraid has a principle, namely the principle of *ijbary* that when a person dies, there is automatically a coercive transition. *Al faraid* is the file of *farada* which means obligation, which is then connoted in faridatan an-Nisa verse 11 that the heirs are daughters, fathers, and mothers. An-Nisa verse 12 the heirs are husband, wife, brothers from one mother, and sisters from one mother. The heirs who receive the share of the inheritance have been determined in the Qur'an for each part, namely 1/2, 1/3, 1/4, 1/6, 1/8, and 2/3.

Article 176 Chapter III of the Compilation of Islamic Law that "a girl is ½ share, if two or more people are together with a boy then the share is 2:1 with the girl. The distribution of inheritance in the Pangkatan District which privileges the share of the male power holder and the responsibility of the successor to the heir in the family is the same as Islamic inheritance law, which states that men have more rights than women. Facilitating all inheritance in the Pangkatan sub-district without having to eliminate religious values, may be done as long as it is discussed, it will not cause harm in the family.

CONCLUSION

After reviewing the information obtained from the field, it can be concluded that the implementation of the distribution of women's inheritance in the Pangkatan sub-district, namely the Pangkatan sub-district, is the implementation of the distribution of inheritance, it is very clear that sons' rights to inheritance, and those who are responsible for harmony,

justice and peace in the family. Inheritance in the rank-and-file sub-district community is not recorded but becomes a form of action that is carried out repeatedly in the same way for local residents, inheritance for boys in the Pangkatan sub-district is 70% and for girls is 30% because in the community The Pangkatan District considers that it is the son who can continue the lineage. The perspective of Islamic inheritance law regarding the division of women's inheritance in the District of the Rank of Islamic inheritance law, especially the term *faraidh* and inheritance law in general and as a whole, has very basic positive values, norms, and wisdom and contains positive wisdom that is very clear and reasonable, in addition to the principle legal certainty and benefits. The inheritance system of the Pangkatan Regency prioritizes the portion of the power holder to be a man because they are also obliged to act as heirs in the family, analogous to Islamic inheritance law which states that men have greater rights than women. In addition to the principle of legal certainty and benefit, the inheritance system of the Pangkatan Regency prioritizes the portion of the power holder to be a man because they are also obliged to act as heirs in the family, analogous to Islamic inheritance law which states that men have greater rights than women.

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