
DIVISION OF INHERITED WEALTH IN CUSTOMARY MARRIAGES IN GAYO LUES REGENCY: AN ANALYSIS FROM THE PERSPECTIVE OF THE COMPILATION OF ISLAMIC LAW

Ramadhan Ariga¹

Universitas Islam Negeri Sumatera Utara, Medan, Indonesia

ramadhanariga88@gmail.com

Dhiauddin Tanjung²

Universitas Islam Negeri Sumatera Utara, Medan, Indonesia

dhiauddintanjung@uinsu.ac.id

Ramadhan Syahmedi Siregar³

Universitas Islam Negeri Sumatera Utara, Medan, Indonesia

ramadhansyahmedi@uinsu.ac.id

Abstract

This study investigates the division of inherited wealth in customary marriages within the Gayo Lues Regency, focusing on the interplay between local cultural practices and the principles outlined in the Compilation of Islamic Law. Inheritance is a critical aspect of social and economic stability, and understanding how it is managed in this unique context is essential for promoting equity and justice. The research delves into the specific customs that govern inheritance distribution among the Gayo Lues community, examining how these practices align or conflict with Islamic legal frameworks. Through qualitative analysis, including interviews and case studies, the study reveals the complexities families face in navigating customary and religious obligations. Key findings indicate that while customary practices are deeply rooted in the community's identity, there is a growing need for harmonization with Islamic law to ensure fair and just distribution of wealth. The study also highlights the role of community leaders and religious authorities in mediating disputes and educating the public about their rights under both customary and Islamic law. Ultimately, this research aims to provide valuable insights for policymakers, legal practitioners, and community leaders, emphasizing the importance of integrating cultural sensitivity with legal frameworks to enhance the understanding and implementation of inheritance rights. The study seeks to contribute to social justice and economic empowerment in the Gayo Lues Regency by fostering dialogue and collaboration between customary and Islamic legal systems.

Keywords: Distribution of Inheritance, Marriage in Marriage, Islamic Law

INTRODUCTION

The division of inheritance is something that always happens in society when the owner of the property dies. In Islamic law, this science is known as the science of *fara'id* or also called the science of *hisab*, or also called the fiqh of *mawaris*. The difference that occurs in its mention is usually due to the point at which one wants to look at it. If it is said *fara'id*, then it is seen from the specified part, if it is called *hisab*, then in the way of calculating it, if using the word *mawaris* it is on the inherited property, because *mawaris* is the plural form of *miwrats* which means *mauruts* (inherited property). In standard legal terms, the word inheritance is used, by taking the original word "waris" with the addition of the initial 'ke' and the suffix 'an'. (Amir Syarifuddin, *Hukum Kewarisan Islam* (Jakarta: Kencana, 2015) H. 6)

In KHI in Chapter 1 general provisions, article 171 in the letter, it is stated that inheritance law is a law that contains the transfer of ownership rights of inheritance (*tirkah*) of the testator, determining who is entitled to be an heir and how much each portion is. The scholars of Islamic jurisprudence agree that the method of dividing inheritance has been determined in the Qur'an and the explanation has been conveyed by the Prophet through the hadith (Zulham Wahyudani, "Perubahan Sosial Dan Kaitannya Dengan Pembagian Harta Warisan Dalam Perpektif Hukum Islam," *Jurnal Ilmiah Islam Futura* Vol. 14, no. 2 (2015): 166–89.). Islam regulates the portions that can be received by the heirs. Allah mentions this in the Qur'an, also conveyed by the Prophet and also explained by the scholars. So, dividing inheritance according to the provisions of Sharia is seen as an obligation in Islam. So in Islam what is regulated is not only the portion of inheritance, but also regulated who becomes an heir, what are the reasons for being able to become an heir, what can be an obstacle to becoming an heir, and heirs who are veiled by other heirs. Thus, inheritance law contains provisions that regulate the method of passing on and transferring assets (tangible or intangible) from the heir to his heirs (Soejono Soekanto, *Hukum Adat Di Indonesia* (Jakarta: Raja Grafindo Persada, 2012) H. 259.). In the Al-Qur'an it is stated in Surah An-Nisa verse 7:

لِلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ مِمَّا قَلَّ مِنْهُ أَوْ كَثُرَ ۗ نَصِيبًا مَّفْرُوضًا

“For men, there is a right to a share of the inheritance of both parents and their relatives, and for women, there is a right to a share (also) of the inheritance of both parents and their relatives, whether it is a little or a lot according to the portion that has been determined.”

According to Imam Syafi'i, this verse and all other verses concerning inheritance indicate that Allah SWT limits the granting of inheritance to groups and parties mentioned only, thus it is not appropriate for someone to increase the allocation of inheritance to groups or parties not mentioned by Allah and not to reduce it (Syaikh Ahmad Musthafa al-Farran, Tafsir Imam Syafi'i (Jakarta Timur: Almahira, 2008) H. 36). This opinion was taken by him from Zaid bin Tsabit and other scholars. Then the other inheritance verses in verses 11, 12, and 176 explain who has the right to be an heir and how much their portion is. In addition, it is also mentioned in the Hadith and books of fiqh. In the Qur'an, Hadith, and Ijma' of scholars, there are many heirs, including sons, daughters, grandsons, and granddaughters of sons, husbands, wives, fathers, mothers, grandfathers, grandmothers, siblings, both biological, half-father and half-mother, sons of siblings, sons of siblings, uncles of siblings with fathers, uncles of siblings with fathers, people who free slaves. These are all heirs, who of course have the right to receive inheritance. So, if all of them are there when the testator dies, not all of them will receive an inheritance, but those who are closer, stronger, and not veiled will receive an inheritance.

In KHI article 174 letter b it is stated: if all heirs are present, then those who are entitled to receive the inheritance are only: children, fathers, mothers, widows, or widowers. In the books of fiqh it is also regulated that in the distribution of inheritance if all heirs are present, then those who are entitled to receive the inheritance are only children, father, mother, husband, or wife. (Khairon Sirin, Ternyata Wanita Lebih Istimewa Dalam Warisan Perspektif Al-Qur'an Dan Berdasarkan) And the other heirs are veiled by the presence of the son and father. In the book takmilatul jubdatul hadith fi fiqh al mawaris it is stated that the hijab is what prevents people who are entitled to receive the inheritance in whole or in part. In this case, 6 heirs cannot be veiled at all, consisting of three men and three women, namely: Husband, wife, son, daughter, father, and mother. So, based on what is mentioned in the Qur'an and books of fiqh regarding the distribution of inheritance, all heirs who cannot be

veiled will be given a portion according to the provisions that have been regulated in the Qur'an, hadith, fiqh, and also KHI. So, if there are their rights that are not given, then it is included in a major sin because it has taken the rights of others. But in reality, many heirs who should get a share do not get their share, or heirs who should get a share that has been determined by Allah receive a different amount. Usually, the distribution of inheritance that does not follow the rules of sharia is due to the practice of customary law that occurs in society. The variety of customs and cultures will greatly influence the procedures for dividing inheritance applied in Indonesia. So, in the way the inheritance is divided, it can favor women, it can make it equal in its distribution and it can favor men so that women do not get an inheritance. This is certainly very different from what Allah has mentioned in the Qur'an.

In customary inheritance, the law of inheritance is based on the prevailing law. The law of inheritance is believed and implemented by certain tribes in Indonesia. Some of the customary laws of inheritance are not written, but are always obeyed by the majority of certain tribes in Indonesia, and those who violate them are given certain sanctions. (Syaikhu, *Akulturası Hukum Waris (Paradigma Konsep Eklektisisme Dalam Kewarisan Adat Dayak)* (Yogyakarta: K-Media, 2021) H. 24) Soepomo in his book entitled *The Law of Eternity* explains the laws of walris al-allah, which contain regulations that regulate the process of continuing and transferring tangible and intangible (immaterial) objects from an individual to his descendants. (Soepomo, *Bab-Bab Tentang Hukum Adat (Pradnya Para Mita, 1983)* H. 67.) According to Wirjono Prodjodikoro, walris al-allah is concerned with the laws of walris al-allah regarding the eternity of a person who has died and is transferred to the living. (Sigit Sapto Nugroho, *Pengantar Hukum Waris Adat (Klaten Jawa Tengah: Lakeisa, 2020)* H. 41.) This law is a consequence of the legal law in several regions in Indonesia, (N.M. Wahyu Kuncoro, *Waris Permasalahan Dan Solusinya (Jakarta Timur: Raih ASa Sukses, n.d.)* H. 12.) including the Indonesian cultural heritage. The different laws that are practiced in each law are known as the Walris law. This can be found in various studies conducted in the community regarding the distribution of inheritance using customary law and differing from the division in accordance with Islamic rules. Of the many data contained in various studies on this, one can see, for example, research conducted by Muslims entitled *Distribution of*

Inheritance in the Bunut Malay Customary Community and Its Position in the Compilation of Islamic Law. It turned out that the practice of dividing inheritance according to custom gives a larger share of the inheritance to daughters. Then the research of Ahsan, Sudirman, Sunuwati, in 2023. With the title Review of Urf on the Distribution of Inheritance of the Bugis Tribe in Panreng Village, Sidrap Regency, the results of the research are that in practice the community divides the inheritance by dividing the inheritance equally and the daughter will get the house inherited from her parents. Many more studies state the diversity of inheritance distribution in society because it is influenced by customary laws that apply in the community.

The law does not determine the time of inheritance restitution, but usually, inheritance restitution is restitution after the completion of the alms, namely seven days, forty days, one hundred and fifty days, or one thousand days after the inheritance restitution. (N.M. Wahyu Kuncoro H. 13.) In customary inheritance law, there are terms known as individual inheritance systems and collective inheritance systems. The individual inheritance system, or the inheritance system where the inheritance is remitted by the inheritance of the deceased individually after the inheritance restitution has occurred. In its rules, the owner of the land that owns the land is allowed to sell, transfer, or rent the land that he has obtained to other people. The land that is included in this system usually applies to the land that is in the position of the owner of the land, namely men in the form of women, in the form of women who are allowed to rent. This law, for example, applies to certain lands, such as jalwal, in land that is influenced by Islamic values such as Alceh, Lampung, and Kalimantan.

Furthermore, the collective guardianship system, namely where the heirloom is passed on and transferred to its owner from the guardian to the head of the guardians. (Ellyne Dwi Poespasari, Pemahaman Seputar Hukum Waris Adat Di Indonesia (Jakarta Timur: Prenadamedia Group, 2018), h. 40.) As for the rules, the basis of this collective guardianship system is, for example, in the Minangkabau mosque, in Minangkabau, the mosque is qualified by the collective guardian, while the guardian is also a member of the collective guardian, the guardian's fault is that one person in the guardian does not cause harm. (Ellyne Dwi Poespasari, h. 40)

Of the many tribes that implement inheritance distribution according to custom, the focus of the researcher is the Gayo community, located in Gayo Lues Regency, Aceh Province. Where the community is so thick with customs and culture, even in marriage there are many types of customs, and among them is the *Angkap* marriage which has consequences related to the rights of husband and wife and the rights obtained from inheritance after the death of one of the husband and wife. For the Gayo community, of course, the ownership of inheritance is included in a group called the individual system, namely men and women have the same rights. If they have received it, they will have power over their respective assets, meaning that when they want to sell the inheritance they receive, they will be allowed to. The Gayo community is a community that is thick with customs but also very obedient to the law. So, it is unique if this community is so thick with Islamic law, but has a division of inheritance that is not the same as that determined in Islam.

In the initial research conducted by the researcher in the community, it was found that there was a traditional marriage called *angkap* marriage, which turned out to greatly influence the distribution of inheritance which also had the potential to obscure the community's understanding of the distribution of inheritance and those who were entitled to receive the inheritance. (Viswandro, Kamus Istilah Hukum (Yogyakarta: Medprees Digital, 2014), h.22) *Angkap* marriage is one of the traditional marriages of the Gayo community. *Angkap* marriage is a form of marriage where a man is appointed as a son-in-law, without being obliged to provide a dowry. This *angkap* marriage is also divided into several types, one of which is *angkap mas* or *angkap nasap*. *Angkap nasap* is a form of marriage where the groom will then enter the wife's kinship group. (Viswandro, h 22) This *angkap* marriage is also known as a *duduk edet* marriage. *Duduk edet* is a man (*aman mayak*) entering the woman's family (*inen mayak*) and the husband living in the wife's house. (Isma Tantawi, Resam Perkawinan Masyarakat Gayo (Yogyakarta: Deepublish, 2021), h. 3) In this initial research, which was conducted precisely in June 2023, which was located in Marpunge Village, Putri Betung District, the researcher saw something interesting about *angkap* marriage in terms of benefits and also had the potential to obscure the procedures for distributing inheritance.

In this marriage, a husband will always be by his wife's side. A husband will work hard to earn a living, and also help his in-laws in various jobs. However, when the husband divorces his wife, he will lose all his livelihood and everything will belong to his wife. And he must leave everything to his wife and children.

It becomes a problem when the husband dies, the property he earned during the marriage will be controlled by his wife and children. Apart from his wife and children, the father and mother of the heir should also get a share, but in practice, this does not happen. Then a husband who is taken is not a slave which makes him lose his inheritance rights when his father dies. He will get a share as a son. A son who gets two parts compared to a daughter. This is also in accordance with Article 176 of the KHI: "A daughter if one gets half a share if two or more people together get two-thirds of the share, and if a daughter is together with a son, then the son's share is two to one with the daughter". However, this inheritance section is also not implemented following KHI or fiqh.

The purpose of arranged marriage is to benefit. Of course, the benefit that does not have a dalil that accepts and rejects it is better known as *maslahah mursalah*. This in its study is expected to lead to benefit that creates ease for young men to get married, and ease for an in-law to choose a righteous son-in-law and help him. In an interview with Tengku Aman Bakar.

"The purpose of this marriage is good so that someone who does not have a son according to tradition can have a son, making it easier for people who do not have property to get married, but after being married he will live forever with his wife's family and if there is a divorce or death then the property will belong to the wife and all children." (Wawancara Pribadi Dengan Informan Bapak Tengku Aman Bakar selaku Tokoh Masyarakat di Kecamatan Putri Betung, 15 Juni 2023 Pukul.11.00 Wib)

"There are certainly many problems, with this adopted marriage a child will be far from his biological father, plus he loses his right to inherit from his father, then if we die the results of our business will be taken by our wife, but because our knowledge of religion is lacking and customs are so strong this has continued for so long, so it should be according to Islamic law so that the relationship between children and parents remains good, so that the relationship between grandfather and grandson remains good, and the relationship

between father's siblings and nephews can also be closer because the division of inheritance in this adopted marriage will make everything less good." (Wawancara Pribadi dengan Informan Pak Abu Seorang Warga Desa Jeret Onom Yang melakukan Perkawinan Angkap 16 Juni 2023 Pukul 18.00 Wib)

Based on the interview in the initial research above, it was found that the initial purpose of the marriage of the heirs was good, but in the matter of inheritance, an heir who cannot be obstructed such as a mother, father does not receive an inheritance from the property sought by his child. so that serious consequences then arise if death occurs, which will be controlled by the wife and child completely without giving a share to the father, and mother, let alone other heirs. So, it is clear that in the Gayo community at the research location conducted in the first stage, there was a problem regarding the division of inheritance carried out by the community which was different from what has been explained by scholars in the book of Fiqh and what is stated in the KHI. Because in this marriage of the heirs, it was found that there were heirs who should have received an inheritance but were not given it on the grounds of being a member. In the initial research, several cases were also found, such as fathers, mothers, and grandfathers not receiving an inheritance. Then the child who was taken was considered to have moved so that he did not receive an inheritance from his father or only received the same share as the daughter. Then if there are no children and fathers, siblings who should also be able to do so are not given their inheritance rights. So, it is interesting to conduct a more in-depth study on how the division of inheritance is implemented by the community in the research location, and then how if analyzed through Islamic law. Because of the many studies on the division of inheritance implemented by indigenous communities, it is different from what was found in the Gayo community, regarding who is entitled to receive the inheritance and the practice of division that has been carried out so far when a husband dies or a father dies.

REVIEW OF LITERATURE

The distribution of inheritance in Angkap marriage in Gayo Lues Regency is a topic that intersects with local customs, Islamic inheritance law, and socio-cultural dynamics. Several studies have explored the influence of customary law on inheritance practices,

particularly in societies where adat (customary law) plays a significant role alongside Islamic teachings.

Islamic inheritance law, as derived from the Quran and Hadith, provides a clear framework for asset distribution among heirs. It ensures a fair and just allocation based on fixed shares prescribed for male and female heirs. However, in many regions, including Gayo Lues, local traditions often modify these Islamic principles, leading to variations in inheritance distribution.

Angkap marriage is a unique marital practice in the Gayo Lues community, where a son-in-law is integrated into the wife's family and takes on responsibilities within that household. This arrangement influences inheritance distribution, as it may grant the son-in-law access to family assets that would traditionally be passed down to biological heirs. Several scholars have discussed how such customs align or conflict with Islamic inheritance principles, particularly regarding the rights of male and female heirs, the concept of faraid (Islamic inheritance shares), and the potential for disputes arising from customary modifications.

Previous studies have highlighted the tension between customary and Islamic laws, noting that local practices often prioritize familial harmony over strict legal adherence. Some researchers argue that adat-based inheritance distribution reflects a form of *maslahah* (public interest), ensuring economic stability for families, even if it deviates from Islamic law. Others emphasize the importance of aligning customary practices with Islamic legal principles to prevent unjust outcomes, particularly for women who may receive less than their Quranic entitlement.

In the case of Angkap marriage, the primary concern is whether the incorporation of a son-in-law into the wife's family grants him an inheritance share at the expense of other heirs. Studies suggest that such practices may stem from historical socio-economic structures, where land and property were preserved within a specific lineage. The legal perspective on this issue involves examining whether these adaptations are acceptable within the scope of Islamic jurisprudence or if they constitute an unjust deviation requiring reform.

Research on this topic has generally recommended a balanced approach that respects local customs while ensuring compliance with Islamic inheritance law. Legal scholars and

religious leaders in Gayo Lues have advocated for community-based solutions that harmonize adat practices with Islamic principles to minimize conflicts and uphold justice.

This literature review indicates that the distribution of inheritance in Angkap marriage remains a complex issue requiring further empirical and doctrinal studies. A thorough understanding of both customary and Islamic legal perspectives is essential to developing equitable solutions that respect both tradition and religious obligations.

RESEARCH METHOD

This type of research is Empirical Normative Juridical with qualitative data nature. According to Abdul Kadir Muhammad, "Empirical Normative Juridical research is research conducted by examining secondary data first and then continued by researching primary data in the field". Empirical Normative Juridical research is a legal research method that applies by examining the actual conditions that occur in society by seeing how the law is applied in society.

RESULTS AND DISCUSSION

The results of this research and discussion will explain how the Gayo community actually implements the division of inheritance in Angkap marriages. The main description of the division of inheritance will be very important for researchers to be able to examine further the Islamic legal analysis of the practice. To begin this explanation will first be presented about the division of inheritance in Angkap marriages.

Distribution of Inheritance According to KHI and Fiqh

In the KHI, the distribution of inheritance is regulated in Book II. It begins with general provisions, which explain the meaning of inheritance, the meaning of heirs, the meaning of testators and the meaning of inheritance, as well as gifts and wills. Then it is explained about the heirs, who must be Muslim when the testator dies, which is proven by identity or recognition. The heirs are explained in article 174 concerning groups of heirs, which are divided into two groups, namely because of relationships and marital relationships. The KHI also explains the requirements for someone to be entitled as an heir, or not to lose their position as an heir, namely when they are Muslim, are not convicted of killing the testator or trying to kill him with permanent legal force, or are blamed for

slandering the testator by making a complaint that carries a penalty of five years in prison or even heavier. This is explained in articles 172 and 173 of the KHI. Article 172, heirs are considered Muslim if it is known from the Identity Card or recognition or practice or testimony, while for newborn babies or children who are not yet adults, religion according to their father or environment. (Direktorat Pembinaan Peradilan Agama Islam Ditjen Pembinaan Kelembagaan Islam Departeman Agama, Disalin Dari “Kompilasi Hukum Islam Di Indonesia”)

Similar to what is in fiqh, in KHI it is also explained about the group of heirs and the reasons for receiving inheritance. However, in KHI it is only because of blood relations and marriage, it is not included because of freeing slaves. This is stated in article 174 of KHI, namely (1) The groups of heirs consist of: a. According to blood relations: the male group consists of: a father, son, brother, uncle, and grandfather. The female group consists of: a mother, daughter, sister, and grandmother. b. According to marriage relations, it consists of: a widower or widower. (2) If all heirs are present, then those who are entitled to receive inheritance are: children, fathers, mothers, widows, or widowers. In Article 174, it is clear in the second point that it has been regulated who is obliged to receive inheritance if all heirs are present. If all heirs are present, then those who are entitled to inheritance are children, fathers, mothers, widows, or widowers. This means that they have the right to the inherited property, and no one may take it or remove their rights. Because they are included in the heirs who cannot be veiled by anyone. They can only lose their position as heirs and are prevented from obtaining property if they have different religions or do several things legally. This is regulated in article 173 of the Compilation of Islamic Law which reads: A person is prevented from becoming an heir if, with a judge's decision that has permanent legal force, he is sentenced for: a. Being accused of killing or attempting to kill or seriously abusing the heirs. b. Being accused of slanderously filing a complaint that the heir has committed a crime that is punishable by 5 years in prison or a heavier sentence. So if he is not of a different religion from the heir when the heir dies, and does not commit the acts regulated in article 173 of the KHI, then the father and mother have the right to the inheritance from their children, the husband has the right to the inheritance left by his wife and vice versa, and the child will receive inheritance from both parents. Regarding their

respective shares, Allah regulates this in Articles 176-182. Article 176 regulates the children's share, namely if there is only one daughter, she gets half the share, if two or more people together they get two-thirds of the share, and if the daughter is together with the son, then the son's share is two to one with the daughter. Then in article 177 the father's share is regulated, namely the father gets one-third of the share if the testator does not leave children, if there are children, the father gets one-sixth of the share. Then in article 178 the mother's share is regulated, namely, (1) The mother gets one-sixth of the share if there are children or two or more siblings. If there are no children or two or more siblings, then she gets one-third of the share. (2) The mother gets one-third of the remainder after being taken by the widow or widower if together with the father. Then in article 179 the share of the husband whose wife has died is regulated, namely he gets half the share, if the testator does not leave children, and if the testator leaves children, then the widower gets one-fourth of the share. Furthermore, Article 180 regulates the share of a wife who is left behind by her husband, namely getting a quarter of the share if the testator does not leave children, and if the testator leaves children, the widow gets one-eighth of the share. That is the share of the main heir that cannot be obstructed by other heirs. And they must be given their rights according to the share that has been regulated. If the main heir does not have children and a father, then the inheritance of his brother is entitled to the property left behind. This is regulated in Articles 181-182 of the KHI. Namely, if someone dies without leaving children and a father, then the brother and sister of the same mother each get one-sixth of the share. If there are two or more people, then they together get one-third of the share. Then if someone dies without leaving children and a father, while he has one biological sister or half-father, then he gets half of the share. If the sister is together with two or more biological sisters or half-fathers, then they together get two-thirds of the share. If the sister is together with her biological or paternal brother, then the brother's share is two to one with the sister's.

In Fiqh, the discussion about the division of inheritance is discussed at great length. The sources come from the Qur'an, the Hadith of the Prophet, the practices of the companions and the ijtiḥad of scholars. As for Fiqh, the heirs who must receive inheritance and cannot be obstructed or veiled are the main heirs, namely the father and mother, husband

or wife, son and daughter. Regarding the division, Allah SWT has regulated it in the Qur'an Surah Annisa verse 11 and part verse 12:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ ۚ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۚ وَإِن كَانَتْ
وَاحِدَةً فَلَهَا النِّصْفُ ۚ وَلَا يُوْثِقُ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ ۚ وَلَدٌ ۚ فَإِن لَّمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَهُ
آبَاؤُهُ فَلِآبَائِهِ الثُّلُثُ ۚ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِإِخْوَتِهِ السُّدُسُ مِمَّنْ بَعْدَ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ ۚ وَأَبَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ
أَيُّهُمْ أَقْرَبُ لَكُمْ نَفَعًا ۚ فَرِيضَةٌ مِّنَ اللَّهِ ۚ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

“Allah has ordained for you concerning (the division of inheritance for) your children, (namely) the share of a male child is equal to the share of two female children. And if the children are all females, more than two, then their share is two-thirds of the estate left behind. If she (the daughter) is only one, then she gets half (the estate left behind). And for the two parents, each of them a sixth of the estate left behind, if he (the deceased) has children. If he (the deceased) has no children and he is inherited by his two parents (only), then his mother gets a third. If he (the deceased) has several siblings, then his mother gets a sixth. (The above divisions) after (fulfillment of) the will he made or (and after payment of) his debts. (As for) your parents and your children, you do not know which of them is of greater benefit to you. This is the decree of Allah. Indeed, Allah is All-Knowing, All-Wise.”

In this verse 11 Allah mentions the main heirs in kinship or blood relationship factors that must be given from the inheritance. Namely, sons and daughters with the son's share getting two parts compared to the daughter. Allah mentions the daughter's share if she becomes an heir who is not with the son. If the daughter is alone, then she gets half of the property left behind, but if the daughters are two or more than two, then they get two-thirds of the property left behind. A father and mother will get one-sixth of the inheritance if the heir has children, but if they do not have children and two siblings then the mother gets one-third. Then regarding the husband or wife's share, Allah SWT says:

وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُمْ إِن لَّمْ يَكُنْ لَهُنَّ وَلَدٌ ۚ فَإِن كَانَ لَهُنَّ وَلَدٌ فَلِكُلِّمُ الرُّبْعِ مِمَّا تَرَكَنَّ مِن بَعْدِ وَصِيَّةٍ يُوصِيَنَّ
بِهَا أَوْ دَيْنٍ ۚ وَهُنَّ الرُّبْعُ مِمَّا تَرَكَنَّ إِن لَّمْ يَكُنْ لَكُمْ وَلَدٌ ۚ فَإِن كَانَ لَكُمْ وَلَدٌ فَلَهُنَّ الثُّمُنُ مِمَّا تَرَكَنَّ مِن بَعْدِ وَصِيَّةٍ
تُوصُونَ بِهَا أَوْ دَيْنٍ

“And your share (husbands) is half of what your wives leave behind, if they have no child. If they have children, then you get a fourth of what they leave behind, after (fulfilling) any bequests they may have made or (and after paying) any debts. Wives get a fourth of what you leave behind if you have no child. If you have children, then they get an eighth of what you leave behind (after fulfilling) any bequests you may have made or (and after paying) any debts.”

Distribution of Inheritance for the Gayo Community in Angkap Marriages.

This Angkap marriage is a marriage whose initial purpose is for the good of parents who do not have sons and want to keep their wealth by their side. Parents like this usually have a lot of wealth and a large garden, so they look for a son-in-law who is willing to be taken as a husband so that he can be like his son. This was conveyed by the customary leader of the Gayo community in the Gayo Lues district in an interview conducted at the Acehese customary office for the Gayo Lues Regency area.

"Take this husband, oyale Angkap sibiese e jema si dele senne, bayak jema, geara anak rawane, anak e benen we, jadi we gere mera hartae mosop, atau beluh ari umahe, jadi iterahe sebujang si mera ia Angkap kati nti beluh sawah mate e."

Meaning: this angkap mas is the usual angkap, a person who has a lot of money, like him, but he doesn't have a son, so he looks for a young man who will be taken as angkap mas, who will marry his daughter and will not leave his house until he dies. (Wawancara Pribadi dengan Informan Bapak Ramli Syarif Selaku Ketua Majelis Adat Gayo di Kec. Blang Kejeren 27 Agustus 2024 Pukul 12.00 Wib)

In this type of Angkap marriage, it can be ascertained according to custom that a mother-in-law will position her son-in-law as her own biological child, so that in her marriage her son-in-law will not spend any money but will be provided for by her mother-in-law. Even after marriage, she will live with her mother-in-law or be provided with a house near her mother-in-law's house, then be given a field by her mother-in-law and will forever be with the family of her mother-in-law. According to custom, she has moved, she moved from her father's side to her mother-in-law's side. She is no longer strong in her father's side and she becomes strong on her mother-in-law's side. Because she will become *wrip ken penurip, mate ken pengubur*. This means that she will be like a son who is responsible for her father-in-law. If her mother-in-law is sick, she will take her to the doctor, if her parents can no longer work, she will support them and if her parents die, she will complete the funeral process. This is in accordance with the explanation of the Gayo traditional figure in an interview at the Balai Adat. he explained:

"Pudahna jema ike gere ara anak rawanne, nye anak e benen we ara, pasti gere tenang ike sempat i kerjenne anake kujema, mari kerje anak benenne mai jema, retae geara njege e, wepeh ke ngetue giara ponge, sehingge iterahe cara kati reta siara tetap ara njege e, i waktu tue e ara ponge, a kati ara angkap jenis ini, terahe pemaen ne si mera taring urum we selamae, mera nurus we i masa tue e, gere penah beloh gaib ari we, tapi umah osahe,

mpus peh osahe, tapi syarate we turah mera pinah belah jadi anak rawane. Biese e sitarehe anak si mulie akhlake, si mumalimen jema.”

Meaning: in the past, if a person did not have a son, and only had a daughter, he would definitely not be at peace if he married his daughter to someone else, after marriage his daughter would be taken from his house by someone, his wealth would not be guarded, and when he found out, he would not have anyone to accompany him, so he looked for a way so that his wealth would still be guarded, and when he was old, he would have someone to accompany him, that is why there is this type of Angkap. He looks for a son-in-law who wants to live with him forever, wants to take care of him in his old age, and will never go far from him, but he gives him a house, a field, on the condition that he must move to his son, usually what he looks for is a son-in-law who has noble and pious morals.

In this type of Angkap marriage, a person will choose a good son-in-law, who is responsible, who is honest, and can perfect the family. This type of Angkap marriage initially had a very good purpose. Which provides benefits for both parties. A rich person will have a perfect life by having a son who starts from being a son-in-law who is taken and finally becomes the protector of the family. Then the wealth owned will remain in his environment and will not be divided anywhere. For men who are ready to be taken, if he has lived simply and have no wealth, then they do not need to worry about thinking about money for the wedding party. This was also conveyed by a man in the village of Marpunge who was also taken not because he had no wealth, but because he was a diligent mosque attender, active in religious affairs, so it was not him who initially proposed and asked to be taken, but his future father-in-law who said that he wanted to have a pious son-in-law who wanted to live with him forever. He conveyed this in an interview on Putri Betung.

"I used to be a diligent and active person in religious matters, often leading prayers, and then I was asked to marry a woman with *angkap mas*, I was provided with a house and a field by my in-laws, but I moved in with my in-laws, I would do all my in-laws' work and after that, every property from the garden that I worked on was held by my wife, which if at any time we divorce, then I will lose all my property, except for the clothes on my body, and if I die then all my property will belong to my wife and children, and if my wife dies first, then my in-laws will look for a woman who will replace my wife for me to marry, so the point is that I will forever belong to my wife, children, and in-laws".

He will be given facilities after marriage, such as a house as a place to live and a field as a place to earn a living for his family. This was conveyed by one of the Gayo community leaders, Tengku Jalaluddin or commonly known in the village as Tengku Aman Bakar.

"In the past, a person who had an only daughter, her appearance was also not bad, she did not have a son, but she had a lot of wealth, so the person she was looking for as a son-in-law was not a rich person, usually a pious person, kind and simple, so that by adopting this simple person, she would be promoted to the position of the son of a rich person, she would be given a house and a field, so her economy would improve and her offspring would improve in terms of economics, education, and her parents-in-law would have sons who would look after her. when old."

The explanation given by Tengku Aman Bakar in an interview seemed to want to convey that the Gayo community's practice of Angkap Mas has a good influence on education and the economy as well as mutual benefits between people who marry Angkap Mas and in-laws who marry their daughters to Angkap Mas. So, the principle used is the principle of helping each other in goodness. This gold-cat marriage has existed since ancient times and has been carried out for generations by some Gayo people.

Then the next thing is to pick up the nas. Angkap Nas is a form of marriage where the groom will enter the wife's kinship group. Angkap nas is a type of traditional marriage for the Gayo community with the initial situation occurring in a migrant who does not have a family, or his family is in a very far place and he does not have the wealth to marry, then he comes to his prospective in-laws and the traditional leaders who are his witnesses, if he wants to marry by angkap. In this marriage, the husband enters the wife's family because he is unable to provide a dowry or ask for financial support from the wife's family. In this case, the in-laws will prepare a house and fields for him and he will live with his wife forever in the wife's family. In this type of angkap marriage, an in-law does not have to be rich and the one who actively conveys to be diangkap is the prospective groom. He is willing to be diangkap nas, which will make him have to obey his in-laws, and not be allowed to move from his in-laws' place forever. He must do what his in-laws order. This was also explained by the traditional leader Gayo Lues, in an interview with him:

"Ike angkap Nas we, memang mu beda urum angkap mas ne, ike angkap Mas oya si aktif ayah si benen, tapi ike angkap Nas oya si aktif si rawan si male kerje. Si anak rawanni we jema gaib, geh meranto ku gayo ini, kenah ate e ken urang kampunge, nye gehye apake, biese e mahe keluargae nye cerakne aku male i angkap dihne pak, aku gi musen,

keluargakupeh giara i hen, aku kenak ku ihen taring urum kam, jadi angkap mi aku ken anak me.”

Meaning: if you take Nas, it's a bit different from taking Mas, if you take Mas, the active person is an old woman, but if you take Nas, the active person is a man who wants to get married. This boy is from far away, he came to this Gayo area, he fell in love with someone in this village, then he came to the parents of the woman he loved, who usually brought his family, then he said that he wanted to be taken in, sir, I don't have any money, none of my family lives here, I want to live here with you, so take me in as your son-in-law. (Wawancara Pribadi dengan Informan Bapak Abd. Rahman Anggota Majelis Adat di Kec. Belang Kejeran 27 Agustus, Pukul 11.50 Wib)

So, in this type of Angkap, a man surrenders himself to be taken in by his in-laws, for several reasons, including having no money, being a migrant, and not having any family members in that place. Of course, this has its benefits for him because he does not need to spend a lot of capital in getting married and has in-laws who will be like his biological parents. The division of inheritance in Angkap marriages is distinguished by the type of marriage they do, as a result of each type of Angkap. Below will be explained one by one the division of inheritance according to the type of Angkap marriage:

Division of inheritance in the marriage of Angkap Mas and Nas

As explained above, the marriage of the father and son occurs because rich people who do not have daughters will look for a son-in-law who has good morals and is given a house and garden with the consequence that he will be willing to live forever with his in-laws, whether living in the same house or living close to his in-laws in a different house. And will not leave his in-laws and will take care of his in-laws if they are sick and will bury his in-laws if they die. Of course, for the son-in-law, he will get a lot of goodness, because economically he can easily have a house and field without having to look for it. But the wealth obtained from his livelihood will be held by his wife, who if at any time he leaves his wife he cannot take anything. He can only enjoy all the wealth that is given or obtained during the marriage, but if a divorce occurs, all the wealth will belong to his wife and children. but if the divorce is due to death, then if the wife dies, the in-laws will look for a new wife for him, but if the husband dies, then the property obtained from his search will

belong to his children and wife, and the property in the form of a house and fields that he got from his in-laws will go to his children. So, in the distribution of his inheritance, his property, whether he got during the marriage or received it from his in-laws, will all belong to his children and wife, other heirs will not get it. His property is not inherited by his father, mother, and siblings. While Angkap Nas is a type of angkap that has the same consequences as Angkap Mas the method is different, namely here the in-laws are not looking for a son-in-law to be taken in, but the prospective son-in-law who asks to be taken in forever because he has no family in the village or also because he does not have the money to get married. However, he will live forever with his in-laws and the property he gets will belong to his wife if he divorces and will belong to his wife and children if he dies. This was also conveyed by the Deputy Chairperson of the Ulama Consultative Assembly (MPU) of Gayo Lues Regency. In an interview with him at the Office of the Ulama Consultative Assembly of Gayo Lues Regency.

"Indeed, if in a Mas or Nas marriage, the heirs are only the wife and children, while the biological father and mother, siblings, will not receive a share of the inheritance, because he as a husband who has traditionally moved to his in-laws, and if he dies, then his property will automatically become the property of his children and wife." (Wawancara Pribadi dengan Informan Tengku Adam Wakil Ketua Majelis Permusyawaratan Ulama Kab. Gayo Lues, di Kec. Belang Kejeran 27 Agustus 2024, Pukul 10.WIB)

So according to the traditional figure, the distribution of inheritance in the Gayo custom follows customary rules, that those who are entitled to the property left by a person who has been given the Nas or Mas are his wife and children, while his biological father and mother or siblings do not receive a share of the inheritance. This was also conveyed by a man born in Marpunge who also served as the head of the KUA Putri Betung, that in the Gayo custom, a person who is given the Mas and Nas in his marriage does not move anywhere, but will only belong to his immediate family, namely his children and wife, this is still practiced by the traditional community. In an interview, this statement was conveyed by Jainuddin S.H.I, M.H.I:

"Among the communities that still hold tightly to customary issues are the Gayo community, one of their customs is Angkap, indeed from several types of Angkap, if there is property produced during the marriage, it will belong to the wife and children if there is a divorce between the husband and wife or the husband dies".

And if one day even though he is rich, he gets divorced, then all his possessions must be left behind and he cannot take them with him. This was conveyed by one of those who had an Angkap marriage in Marpunge Village in an interview. He is a South Aceh resident who migrated to Gayo Lues and married a woman there. Because he did not have any possessions, he asked for his marriage to Angkap Nas. So, until today, in his old age, he still has not left his in-laws' village even though his in-laws have passed away. And he said that he is bound by custom, that if a divorce occurs, all his vast fields, cars, and houses will belong to his children and wife. Even when he dies, his heirs will only be his wife and children. His parents and siblings will not receive an inheritance from him, because he has moved away. Angkap Mas and Nas do have similarities in the distribution of their inheritance because the property will not go to heirs other than his children and wife. This was also expressed by one of the Mapunge villagers whose younger sister was also married using the Angkap method. In an interview with him on behalf of Sudirman.

"If the Angkap Mas is someone who is considered to be prepared to become a son-in-law and live forever with the in-laws, so that according to tradition he will have the property right, both property given by the in-laws and property sought by himself, as long as the marriage exists, in other words there is no divorce, but if divorced or the husband dies then his property will be immediately taken by his heirs, namely his children and wife. That is what has happened from the past until now regarding the distribution of inheritance for someone who is Angkap Mas. If the Angkap Nas, the in-laws do not have to be rich, and do not even have to give a lot of property to their son-in-law, but the son-in-law is not required to have a high dowry and also party money, and the son-in-law says that he is Angkap Nas, either directly or indirectly, then he will be with his in-laws forever and regarding his property if he dies, it will still belong to his heirs, namely his children and wife, while the husband's family does not get anything."

Distribution of Inheritance in Angkap Ihe Senang Marriage

The division of inheritance in marriage Angkap Ihe senang has differences with the previous Angkap. From the name of this type of Angkap, it can be understood that Angkap is where Senang. In Gayo customs, Angkap Ihe Senang is a person who is bound by a promise, which if he has fulfilled then he can go anywhere and like a person who is married normally without Angkap. He will be like a husband who is free to take his wife anywhere on condition that he has paid the gold according to the agreement. In his marriage he does not spend a lot of money, only a dowry, and other costs are borne by the bride, then he will live with his in-laws, helping with all his in-laws' affairs until he can pay the gold with the

promised amount. So, after he pays the *ema* that binds him to *Angkap*, he will remain strong in his father's division and only as an ordinary son-in-law in his in-laws. If someone dies but does not free himself from *Angkap* with the agreed gold, then his inheritance will belong to his children and wife, but if he has paid the promised gold during his lifetime then his property will belong to all heirs according to the provisions of Islamic law. He will not follow the inheritance distribution according to the customs of *Angkap* marriages such as *Angkap Mas* and *Nas*. This was conveyed by a *Gayo* traditional figure in an interview:

“The marriage of *angkap ihe senang* is the same as a regular marriage because if he has money, he can redeem himself with gold and he will be like a regular married couple, who are not bound by customary law. He is free to go wherever he wants, he has the right to take his wife away from his in-laws, and he also has the right to use his money as he wishes, and if a divorce occurs, he will still get his property and if he dies, his property will belong to all his heirs who are entitled to it.”

So, in this case, a person who is a member of this type has the opportunity to redeem himself and is free to determine where he builds his house and does business.

Table 1
Interview List

No	Name	Address	Occupation
1	Bakar (Aman Rizki)	Desa Jeret Onom	Warga Kawin Angkap
2	Pun	Desa Jeret Onom	Tokoh Agama
3	Krisno	Desa Marpunge	Warga Kawin Angkap
4	Srimah Muji	Desa Marpunge	Warga Kawin Angkap
5	Jalaluddin	Desa Mapunge	Tokoh Agama
6	Sudirman	Desa Mapunge	Keluarga Kawin Angkap
7	Abu Hanifah	Desa Gumpang	Tokoh Masyarakat
8	Muhammad Ridho	Kuta Panjang	Tokoh Agama
9	Afwan Zamri	Belang Kejeren	Tokoh Agama
10	Jainuddin	Putri Betung	Tokoh Agama
11	Syam	Tampeng	Warga Angkap
12	Tengku Adam	Belang kejeren	Wakil Ketua MPU
13	Aman Edah	Marpunge	Tokoh Masyarakat
14	Ramli Syarif	Belang kejeren	Ketua Majelis Adat Gayo
15	Ibrahim	Belang Kejeren	Ketua Bidang Adat Gayo
16	Abdurrahman	Belang Kejeren	Anggota Mejils Adat gayo

Analysis of the Division of Inheritance in a Single Marriage

From the perspective of Islamic law, the Sharia revealed by Allah has a purpose for humans, so the Sharia of inheritance distribution in Islam also has benefits for the protection

of human rights regarding property. In the Maqasid theory of Imam Ash-Syatibi, the purpose of the revelation of the Sharia is explained at length. There is one that he calls Qashdu Shari' (The purpose is returned to the maker of the Sharia), then the next is about Qashdul Mukallaf (The purpose is returned to the Mukallaf/Human who carries it out). As-Syatibi emphasizes the theory of maqashid sharia is one, namely *maslahah* or goodness, and the well-being of mankind both in this world and the hereafter. Therefore, As-Syatibi places the position of *maslahah* as the 'illat of law or the reason for the Sharia of Islamic law.

Analysis, If the purpose of the Sharia is to be returned to Allah who revealed it, of course, there is no room for humans to change it, except to carry it out in accordance with the commandments in the text of the Qur'an. For example, regarding the distribution of inheritance mentioned in the Qur'an, about who the heirs are and how much they share. In this case, people do not need to ask why the father, mother, child, spouse, and brother are mentioned by Allah as heirs in the Qur'an, then that is the authority of Allah that cannot be questioned. Because it means returning to God. This is related to the transfer of property from the heir to the heir who will automatically transfer even if the heir did not have time to plan for it. Because in this case, it follows the authority of Allah SWT. So, in this Qashdu Shari', what is happening is the principle of *ijbari*, the nature of which is coercive and beyond human intervention.

In Qashdu Shari', the Shariah has four purposes, namely the primary purpose of the Shariah is to benefit in this world and the hereafter, the second is the Shariah as something that must be understood, the third is the Shariah as something that must be followed, and the fourth purpose of the Shariah is to bring people under the auspices of the law. But Imam Abu Ishak As-Syatibi said that the sharia revealed by God is impossible not to have benefits for humans. Until he determined that the sharia revealed by Allah SWT also has a purpose for the mukhallaf itself, so that the commandments and prohibitions of Allah SWT are also returned to the benefit of mankind, or what is called Qashdul Mukallaf. The explanation of these four things is as follows.

Qashdu Al-Syari' Fi Wadh'i Al-Syariah (God's Purpose in Establishing Sharia)

The purpose of Allah in determining sharia is none other than for the benefit of the maslahah of His servants in this world and the hereafter. Syatibi divides the maslahah into three levels in sequence from human needs dharuriyyah, hajjiyyah and tahsiniyyah.

Analysis, then if viewed from daruriyyah, the division of inheritance falls into hifzu al-mal. So, in the Qur'an Allah revealed the law of cutting off the hands of thieves. Allah also revealed a verse about the division of inheritance which ends with a threat, this is because property is included in the level of addaruriyyah. So, when viewed from the first qasydu Syari, the division of inheritance in a single marriage violates the main maslahah, because it eliminates the rights of the entitled heirs. In the division of a single inheritance, a father and mother who are referred to as nash do not receive an inheritance from their child because the inheritance only belongs to the wife and child. The brother who should have received it if there was no father and child, was also not given his rights because the property would fall to the wife as a whole. So, from this qashdu al-syari', this kind of inheritance distribution is contrary to Allah's purpose which is a necessity for property, which has an impact on a person's world and the hereafter. If we look at the good attitude in easing someone's way to get married by not preparing party costs and providing capital in the form of awah or other things, this only falls into the category of hajj, which if not done will only make it difficult for someone to get property in a short time. However, eliminating the right to property that he should be able to and has been determined by sharia is included in the maslahat dharuriyat, namely hifzul mal. So, if you have to choose whether to prioritize hajj or dharuriyat, of course, the scholars will agree that prioritizing the dharuriyat is the most important.

Qashdu Al-Syari' Fi Wadh'i Al-Syari'ah Li Al-Ifham (God Intends to Lay Down Sharia So That It is Understood)

So according to Imam as-Syatibi, the Qur'an which was revealed in Arabic must also be understood well, namely a person who will interpret it must understand and comprehend Arabic. Analysis means that the language of the verses that were revealed must be understood. Regarding understanding the inheritance verses in the Qur'an, of course, one must master Arabic language knowledge, master the sciences of the Qur'an, and understand the hadiths of the Prophet, especially in matters of inheritance law. So, the mujtahid scholars

in the past have discussed this and they included it in the discussion of the fiqh mawaris. They explore the Qur'an, Hadith, Understanding of the Companions, qiyas, and ijma' ulama. Of course, in the end, there were differences of opinion among scholars about certain problems, but they agreed on other matters. The scholars agree that regarding the heirs and their shares, Allah mentions it in the Qur'an. However, later in its interpretation, some things are debated by scholars. The four schools of thought scholars differ on the rights of two daughters and agree on the rights of three or more daughters. Then in practice when the Prophet Muhammad SAW ordered to give the inheritance to the fard people first, then the rest is given to the closest ashobah. So in this case they differ on whether the grandfather's ashobah can veil a sibling or not. They also differ on aul and radd, on dzawil arham and baitul mal. But they agree on the main heirs who must receive their rights according to the text that Allah has determined in the Qur'an. namely father, mother, wife or husband and children. 3. Qashdu al-syari' fi wadh'i al-syari'ah li al- Taklif bi muqtadhaha (God's intention in placing the Shari'a is to give burdens/responsibilities to His servants)

In Qashdu al-syari' fi wadh'i al-syari'ah li al-Taklif muqtadhah Syatibi wrote twelve problems about it, these problems can be shortened into two problems, the first is al-taklif bima la yuthaqa, burdens beyond the servant's ability and the second is al-taklif bima fihi al-masyaqqah, burdens in which there are difficulties.

Analyst, in the first case it can be understood that Allah applies the Shari'a to His capable servants, but if they are not capable, Allah does not burden them. Then secondly, Allah gives relief to his servant if in carrying it out the servant experiences difficulties. For example, relief from not fasting for travelers who are on a journey.

Qashdu Al-Syari' Fi Dukhuli Al-Mukallafkursi Ahkami Al-Syari'ah (Meaning God's Intention to Assign His Servants to Carry Out the Sharia)

Analysis, in this Qashdu a person must obey the obligatory commands of Allah and must continue to carry out the commands of Allah which are sunnah. Regarding the division of inheritance, the scholars of interpretation and scholars of fiqh agree that dividing inheritance according to Allah's rules is Fardhu 'ain. So, it can't be abandoned. This is always stated in the books of the Syafi'i School of thought and others when discussing the basic principles of fara'id science. Apart from the verses that Allah revealed in detail in the Qur'an, Allah also revealed threatening verses for those who abandon them and the reward of heaven for those who follow them. This is found in Surah Annisa verses 13-14 which read:

تِلْكَ حُدُودُ اللَّهِ وَمَنْ يُطِيعِ اللَّهَ وَرَسُولَهُ يُدْخِلْهُ جَنَّاتٍ تَجْرِي مِنْ تَحْتِهَا الْأَنْهَارُ خَالِدِينَ فِيهَا ۗ وَذَلِكَ الْفَوْزُ الْعَظِيمُ
۱۳ وَمَنْ يَعْصِ اللَّهَ وَرَسُولَهُ وَيَتَعَدَّ حُدُودَهُ يُدْخِلْهُ نَارًا خَالِدًا فِيهَا وَلَهُ عَذَابٌ مُهِينٌ ۚ ۱۴

“Those are the limits (laws) of Allah. Whoever obeys Allah and His Messenger, He will admit him to gardens beneath which rivers flow, to abide therein forever. And that is the great triumph. (14) And whoever disobeys Allah and His Messenger and transgresses His limits, Allah will admit him to the Fire of Hell, to abide therein, and he will have a humiliating punishment.”

Then if we look further, in a double marriage, a husband who dies, his property will belong to his wife and children without any rights being set between the children and wife. Then if he does not have children, the property will still be transferred to the wife in its entirety. This is certainly very contrary to the sharia that Allah has determined in the Qur'an. because the wife's share if the deceased heir does not have children is only ¼. But in a double marriage, she takes the share of other heirs, such as father, mother, siblings, and others. So, from the theory of Imam As-Syatibi's maqasyid, no reason can be justified that can eliminate a person's right to property, and eliminate the rights of heirs that Allah has mentioned in the Qur'an.

The division of inheritance that follows custom and leaves Islamic law also contradicts the Compilation of Islamic Law that has been in effect in Indonesia. In the KHI it is stated that if all heirs are there, then those who are entitled to the inheritance are the father, mother, widower or widow, and children. So that the division of customary inheritance is no longer following the division of Islamic inheritance in Indonesia. When the Theory of Receptie developed in Indonesia, then customary law was applicable. Even in courts that usually handle Islamic marriage and inheritance issues, one by one they must be tested with the applicable customs. This means that if it conflicts with customs, Islamic law cannot be contradicted. But when Indonesia became independent, the colonizers were given space again and the Indonesian State was formed based on the One Almighty God, then the Receptie theory that was developed had to be declared out and could not be applied in Indonesia. The Receptie Exit Theory put forward by Hazairin is a theory that has had a very big impact on the development of Islamic law in Indonesia. Because previously the applicable theory was the receptie theory put forward by Snouk Hugronje, that the law that applies to Indigenous people is customary law, and Islamic law will apply if it does not

conflict with customary law. So Hazairin that the theory of *receptie* both as a theory and as a provision in Article 134 Paragraph 2 of the *Indische Staatsregeling* (IS) as the Dutch constitution has long been extinct, namely removed from the enactment of the 1945 Constitution, as the Constitution of the Republic of Indonesia. So according to Hazairin, the theory of *receptie* which states that Islamic law if it has been accepted and becomes part of its customary law as stated by Snouck, is the Devil's theory and has been extinct, meaning it has been removed and must exit with the enactment of the 1945 Constitution, this understanding is what is meant by the theory of *receptie* exit. Analysis, then when this Theory of *Receptie* exit began to show extraordinary influence on matters regulated by religion, which had previously been neglected, it was now being paid attention to again, even becoming a gap for the entry of Islamic law as positive law in Indonesia. The theory put forward by Hazairin and developed by Sayuti Thalib became the theory of *receptie a contrario*. This not only cancels the previous theory, which prioritizes Islamic law and customary law but also prioritizes customary law and Islamic law. With the emergence of this theory, Islamic law applies in Indonesia, and customary law will be accepted if it does not conflict with Islamic law. Therefore, in terms of the distribution of inheritance that violates the rules of Islamic law in Indonesia by eliminating the rights of other heirs, this is contrary to the practice of Islamic law in Indonesia. Which can be brought to the Religious Court for trial in seeking justice. An heir should receive inheritance rights according to Islam and positive Islamic law in Indonesia which is not in accordance with this developing theory, because this theory requires the application of Islamic law regulated by the State in Positive Law in Indonesia, which has been regulated in Law on Marriage No. 1 of 1974 and the Compilation of Islamic Law.

CONCLUSION

The findings of this thesis research indicate that the distribution of inheritance, according to both *Fiqh* and the Compilation of Islamic Law (KHI), is granted to all eligible heirs who are not excluded by the presence of closer or stronger heirs. The right to inheritance is denied in cases where the heir has a different religion from the deceased, has committed the act of murdering the testator, or has falsely accused and legally prosecuted

the testator with a sentence of five years or more. If all heirs are present, those entitled to inherit according to Islamic law include the father, mother, surviving spouse (widower or widow), and children.

In the context of the Gayo community in single marriages within Gayo Lues Regency, the inheritance distribution follows a distinct customary practice. When a husband passes away, his estate is inherited by his wife and children. In the absence of children, the entire inheritance is transferred solely to the wife, preventing other heirs from claiming a share of the estate.

From the perspective of Islamic law, this customary practice of inheritance division within the Gayo community in single marriages contradicts the principles established in the Qur'an and the Hadith of the Prophet. Furthermore, it is inconsistent with the interpretations of Islamic jurisprudence scholars and the legal framework outlined in the Compilation of Islamic Law

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Wawancara Pribadi Dengan Informan Bapak Tengku Aman Bakar selaku Tokoh Masyarakat di Kecamatan Putri Betung, 15 Juni 2023 Pukul.11.00 Wib

Wawancara Pribadi dengan Informan Pak Abu Seorang Warga Desa Jeret Onom Yang melakukan Perkawinan Aangkap 16 Juni 2023 Pukul 18.00 Wib

Direktorat Pembinaan Peradilan Agama Islam Ditjen Pembinaan Kelembagaan Islam Departemen Agama, *Disalin Dari "Kompilasi Hukum Islam Di Indonesia"*.

Wawancara Pribadi dengan Informan Bapak Ramli Syarif Selaku Ketua Majelis Adat Gayo di Kec. Blang Kejeren 27 Agustus 2024 Pukul 12.00 Wib

Wawancara Pribadi dengan Informan Bapak Abd. Rahman Anggota Majelis Adat di Kec. Belang Kejeren 27 Agustus, Pukul 11.50 Wib

Wawancara Pribadi dengan Informan Tengku Adam Wakil Ketua Majelis Permusyawaratan Ulama Kab. Gayo Lues, di Kec. Belang Kejeren 27 Agustus 2024, Pukul 10.Wib