

## Distribution of Inheritance in the Javanese Ethnic Community of Bilah Barat District Labuhan Batu Regency From the Perspective of Islamic Law

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Info Articles	Abstract
<p><b>Article History</b>            Received : 2018-09-06            Revised: 2018-09-15            Published: 2018-09-29</p> <p><b>Keywords:</b>  <i>Distribution of Inheritance, Javanese Ethnicity, Islamic Law</i></p>	<p>The dividing of inheritance on Javanese civil of sub-regency Blade Barat the Regency of Labuhan Batu on Islamic law study that the dividing of inheritance is dividing inheritance based on system sagendhong sapikul and sighar semangka and divided the inheritance based on five pillars of system, those are; a) Angayani, b) Angomahi, c) Angayomi, d) Angayemi and e) Angamatjani. And the Islamic law sees it that the dividing inheritance no fitting to Islam's verse on the Koran and hadith both based on maharis study or faraidh study. It means the certain of dividing inheritance on Javanese ethnic of sub-regency Bilah Barat based on justice system, meanwhile on the Koran shows the boy has gotten two more then woman's right. And the effect approaches to three fights are the murder, fomenter, and stamping on close.</p>

### I. INTRODUCTION

Talking about inheritance law means talking about the distribution of inheritance left by someone to family members. Then talking about inheritance in Indonesia, there are three inheritance laws, namely according to customary law, according to the compilation of Islamic law, and according to the Civil Code (BW). All three have different characteristics and regulations.<sup>1</sup> Customary inheritance law is customary law that contains provisions regarding the system and principles of inheritance law, regarding the transfer of control and ownership of inheritance from the testator to the heirs. Customary inheritance law is actually the law of the transfer of wealth from one generation to their descendants.<sup>2</sup>

The 2:1 ratio does not only apply between boys and girls, but also between husband and wife, between father and mother and between brothers and sisters, all of which This holds wisdom when studied and examined in depth. In Muslim society, men are responsible for the family's livelihood, unlike women. If a woman is single or unmarried, she becomes the responsibility of her parents, guardians, or

brothers. However, once a woman marries, she becomes the responsibility of her husband.

In reality, Islamic inheritance law in Bilah Barat District, Labuhan Batu Raya Regency has not fully implemented the legalization process of Islamic inheritance law as explained above. Many inequalities that are not based on the principle of justice in the distribution of inheritance assets occur, therefore the author examines cases that arise in the Javanese ethnic community in Bilah Barat District, Labuhan Batu Raya Regency from the perspective of the implications and dedication shown in its development. The author sees an increasing number of Javanese ethnic communities who do not understand the concept of Islamic inheritance law education without first seeing and processing the study of inheritance law from an Islamic perspective in a kaafah (comprehensive) manner. Based on empirical facts (experience) in the initial study conducted by the researcher, that the percentage of Javanese ethnic communities tends to use the customary system in the distribution of inheritance assets compared to inheritance law (ilmuwahis) and family law. This was obtained from the results of interviews, documentation and initial

observations, so this made the researcher desire to make it an interesting study.

## II. RESEARCH METHODS

This study uses an empirical legal research method with a qualitative approach, aiming to analyze inheritance distribution practices among the Muslim Javanese community in Bilah Barat District, Labuhan Batu Regency. The research applies sociological and normative approaches by comparing inheritance practices based on Javanese customary law with Islamic inheritance law and the Compilation of Islamic Law (KHI). Data were collected through observations, interviews, documentation, and literature studies, then analyzed descriptively to understand inheritance distribution patterns and their legal implications in society.

## III. RESULTS AND DISCUSSION

The first finding discusses how inheritance is distributed among the Javanese ethnic community in Bilah Barat District, Labuhan Batu Regency. Therefore, in this case, the researcher discusses it along with expert theories regarding the distribution of inheritance based on the theory of customs, culture, customs or traditions, namely that customs respect ancestors. The distribution of inheritance among the Javanese ethnic community, especially Muslims in Bilah Barat District, Labuhan Batu Regency, according to their customs (Javanese Muslims), all sons and daughters, born earlier or later, have equal rights to their parents' inheritance. However, there are also those among the Javanese ethnic community in Bilah Barat District who practice the *sepikul segendong lek kira sak seneng* system, where sons receive twice as much as daughters. The heirs in a bilateral society are the biological (sons and daughters). According to Endraswara, in Javanese ethnic traditions, religion and customs are mixed, which is called syncretism. According to Javanese ethnic customs, this relationship is known as

'Javanese Islam', because the syncretism between Islam and tradition (custom) gives rise to a tradition called

Javanese customs and religion are not very different, and are sometimes difficult to distinguish because they seem to have merged. Even in matters of customary inheritance law, it is difficult to deny the emergence of compromises with Islamic law. According to Javanese customary law, all assets, whether original assets (*gawan*) or joint assets (*gana gini*), controlled during marriage are called marital assets (R. Otje, 2007). Meanwhile, inherited assets are assets that have not been divided or cannot be divided because one of the heirs is still alive. Inherited assets is the wealth of a deceased testator, whether the property has been divided or is still undivided (Hilman, 2014). Although according to customary law, inheritance is not a unit as according to Islamic law (*mahawaiis*), inheritance is still an asset that has been cleared of debts. According to Hadikusuma, only joint assets are considered worthy of consideration in settling debts, while original assets or assets brought in by kinship are not worthy of consideration (Hilman, 2014). Ownership of inheritance is still influenced by the characteristics of harmony and togetherness so that a sense of unity and brotherhood still greatly influence the social life of a family. However, in its development, it is also difficult to avoid the emergence of the phenomenon of families who are no longer so concerned with such issues. However, the way of thinking and individual attitudes that prioritize material interests are not the original personality of the Javanese tribe or ethnic group. So, inheritance, both according to Islamic law (*mahawaiis*) and Javanese customary law, globally consists of two types of assets, namely original assets and joint assets. In general, to be called inheritance, the assets in question must have been cleared of various interests of the testator. The difference is that under Islamic law,

all inherited assets, whether derived from original assets or joint assets, can be held liable to satisfy the testator's interests. However, under Javanese customary law, only joint assets or *gana gini* can be held liable to satisfy the testator's interests.

In liberal societies (Javanese ethnicity), sons and daughters have equal rights to their parents' inheritance. This does not mean that each child has the same rights numerically, but rather that the distribution is based on the needs, suitability, and capabilities (conditions) of each heir. Based on inheritance law theory or the science of *faráidh*, the conditions for receiving an inheritance are:

- 1) Blood relations (*al-qarabah*), this is related to blood ties or lineage (true lineage) and legal marriage, where all heirs who have blood ties (as a result of a legal marriage), whether male, female and children, even babies in Even the content has the right to receive it if it is not hindered by kinship. The kinship in question is kinship from the male or female side, which is then called bilateral or parental inheritance.
- 2) Marital relations (*al-musaharah*), namely a legal marriage between a man and a woman resulting in a relationship of mutual inheritance, if one of them dies.
- 3) Freeing a slave (*al-wala'*), namely an inheritance relationship because someone frees a slave (Ali Sabuni, 1998).

Meanwhile, the compilation of Islamic law only lists two conditions for inheriting inheritance: blood relationship and marital relationship. Meanwhile, freeing slaves is not discussed in the compilation of Islamic law because slavery is considered no longer to exist today, especially in Indonesia. Based on the above theory, the law for inheriting is based on kinship (blood relationship) and marriage (based on the compilation of Islamic law). Blood relationship is the cause of inheritance (Abdul Mudjib, 1994).

This lineage relationship includes the descendants of the deceased (*furu al mayt*) and ancestors and their descendants (*furu ushuli*). They will receive inheritance with a *fardh* portion only like the mother, or *fardh* with *ashabah* like the father's share, or *ashabah* only like a brother, or by reason of mercy (*dzawil arham*).

Thus, this lineage relationship includes father and mother, children, siblings, uncles (father's brothers) and anyone who has a lineage relationship with them (Athoilah, 1999). Then in the marriage relationship. The relationship here is an inheritance relationship caused by the marriage contract valid. Due to this contract, the husband inherits the wife's property and the wife inherits the husband's property.

Based on the results of observational research, documentation and interviews regarding the distribution of inheritance among Javanese ethnic groups in West Bilah District, they still use customs in the form of *sagendhong sapikul* and *sigar benih* (giving equal rights to men and women because both are assumed to build a family together). This is contrary to the letter of *an-Nisa* verses 11-12 where the ratio of boys to girls is 2 to 1. The description of the distribution of inheritance according to customs in West Bilah District is also not in accordance with the compilation of Islamic law. where it should also be that:

The heirs of *ashaāb al-furuūd*, namely the heirs whose share has been determined, such as  $\frac{1}{2}$ ,  $\frac{1}{3}$ ,  $\frac{1}{4}$ ,  $\frac{1}{6}$ ,  $\frac{1}{8}$ , and  $\frac{2}{3}$ .

*Ashaāb al-furuūd* There are eleven people: three men, namely the father, the legitimate grandfather and so on, the half-brother and the husband. And eight women, namely the wife, daughter, half-sister, half-father's sister, half-mother's sister, the son's daughter, mother, and grandmother and so on. The father has three provisions: inheriting by way of *al-fardh*, inheriting by way of *ashābah* and inheriting by way of *al-fardh* and *ashābah* simultaneously. The

first provision, the father inherits by way of al-fardh if he is together with one male descendant (far'un) or with another (female). In such a situation, the father's share is one-sixth (1/6). The second provision, the father inherits by way of ashābah, if the deceased has no descendants (far'un) to inherit, either male or female. Thus, the father takes all the inheritance if he is alone, or the remainder of the ashāb al-furudh if he is together with one of them. The third provision, the father inherits both ways of al-fardh and ashābah. This happens when he is with a female descendant who inherits. In such circumstances, the father took 1/6 as al-fardh. Then he took the remainder of the ashāb al-furudh as āsabah.

The heirs of the ashāb al-usubah, namely the heirs whose share is determined by receiving the remainder after it is given to the ashāb al-furuūd, such as sons, fathers, uncles and so on.

There are also heirs who, apart from receiving a certain portion (ashaāb al-furuūd), can also receive the remaining portion, namely, the father and the heirs of Zawī al-arhaūām, namely people who are actually related by blood to the testator, but because they are not given a share in the provisions of the nas, they are not entitled to receive a share. Except for the heirs who are included in the ashāb al-furuūd and ashāb al-usūbah there isn't any. For example, a granddaughter from the female line (binti binti).

The second finding discusses how inheritance is distributed among the Javanese ethnic group in Bilah Barat District, Labuhan Batu Regency, from an Islamic legal perspective. Islamic inheritance law, commonly referred to as farāidh in Islamic legal literature, is a subset of Islamic law that regulates the transfer of property from the deceased to the living. As a religious law primarily derived from the revelation of Allah SWT delivered by the Prophet Muhammad (peace be upon him), Islamic inheritance law contains various principles that, in some cases, also apply to inheritance laws derived from human reason.

Furthermore, Islamic inheritance law, in certain cases, has its own characteristics, differing from other inheritance laws.

From the verses of inheritance law and the Sunnah of the Prophet Muhammad SAW, a principle of inheritance can be extracted which can later be used as a basis in settling the distribution of inheritance assets, including the principle of ijbari. The existence of this ijbari principle in Islamic inheritance law can be seen from several aspects, namely from the aspect of the transfer of assets, from the aspect of the amount of assets transferred, from the aspect of to whom the assets are transferred. Some aspects of the ijbari element include; (a) the ijbari element from the aspect of the transfer of assets, namely the assets of the deceased are transferred automatically, not transferred by anyone except Allah SWT. Inheritance transferred by the Javanese ethnic group, especially in five villages in the West Bilah District, including Janji Village, Afdeling I, Kampung Baru Village, Aek Buru Selatan Village, and Tanjung Medan Village, is truly a pure inheritance in the nature of a 'transfer of property', namely the inheritance of property that is transferred automatically, meaning that the inheritance here is carried out based on ancestral inheritance, and not based on the concept of Islamic law, because the youngest child gets a house while the son does not get a house, meaning that when compared to the price value, the selling price of the house is certainly more expensive than just giving it in the form of money to the son.

Meanwhile, the concept of inheritance according to the compilation of Islamic law. The compilation of Islamic law still maintains the Sunni inheritance system, namely the existence of ashāb al-furuūd, „asabah and zawi al-arham (see KHI articles 176-193) with several deviations, namely:

- 1) The father gets 1/3 of the fard if the heir does not leave any children (see article 177)

whereas according to the Sunni group in that situation the father will get 1/6 of the fard plus the remaining portion of the assets, he becomes a 'sabah who can spend the assets.

- 2) Heirs can agree to make peace in managing the inheritance after each of them is aware of their share (see article 183), in other words, the heirs can carry out a certain division method that they like, either according to customary law or another method that they agree on after they are aware of their share or fard as long as it is in accordance with the applicable law.

In the Compilation of Islamic Law, the definition of inheritance law is formulated in Book II Chapter I General Provisions, Article 171 letter a, which reads as follows: "Inheritance law is the law that regulates the transfer of ownership rights of inheritance (tirkah) of the testator, determines who has the right to be an heir and what their respective share is:

Contained in the formulation of this definition are:

- 1) Regarding the process of transferring rights
- 2) Determining who will be the heirs
- 3) How much will the heirs receive?

Article 171 letter c states that heirs are people who at the time of death have a blood relationship or marital relationship with the testator, are Muslim and are not hindered by law to become an heir. Article 174 states that the groups of heirs consist of:

- a. According to blood relations

The male group consists of fathers, sons, brothers, uncles and grandfathers.

The women group consists of mothers, daughters, sisters and grandmothers.

- b. According to marital relations, it consists of; widowers or widows

The material on inheritance law in the Compilation of Islamic Law is contained in book 2, consisting of 6 chapters and 43 articles, namely articles 171 to 214. The respective titles are:

Chapter I: General provisions, contains article 171 (one article) Chapter II: Heirs, contains 4 articles, articles 172-175

Chapter III: the size of the section, contains 16 articles, articles 176-191 Chapter IV: aul and radd, contains 2 articles, articles 192-193 Chapter V: will, contains 16 articles, articles 194-209

Chapter VI: grants, contains 5 articles, articles 210-214

Meanwhile, in the science of faraidh (in accordance with the letter an-Nisa verses 11 and 12) it is stated that men and women are 2 to 1. (b) the ijbari element in terms of the amount of assets, namely the share or rights of the heirs in the inheritance have been clearly determined by Allah SWT, so that neither the heir nor the heirs have the right to add to or reduce what has been determined.

The division of inheritance as stated by Allah SWT in the Quran is  $\frac{1}{2}$ ,  $\frac{1}{4}$ ,  $\frac{1}{8}$ ,  $\frac{2}{3}$ ,  $\frac{1}{3}$ , and  $\frac{1}{6}$ . The division that should be carried out by the Javanese ethnic group in West Bilah District is as follows:

- a. Ashab al-Furudh

This heir gets  $\frac{1}{2}$ . Those who are entitled to  $\frac{1}{2}$  are;

- 1) Widower, 2) daughter, 3) granddaughter of male descendant, great-granddaughter of male descendant and so on down, 4) blood sister and 5) paternal sister. The heir who gets  $\frac{1}{4}$ , who is entitled to get  $\frac{1}{4}$  is; 1) Widower, and 2) Widow. A widower is entitled to receive  $\frac{1}{4}$  of his wife's inheritance if his deceased wife left children or grandchildren, whether the children are her own or from her previous husband. A widow receives  $\frac{1}{4}$  of her husband's inheritance, if the deceased did not leave children or grandchildren, whether the children were born from her womb, or from the womb of her previous wife. A widow cannot block (hijab) other heirs, and also cannot be completely blocked, and can only become a hijab nuqshon if the heir leaves children or grandchildren.

The heir who receives 1/8 if the deceased husband leaves behind children or grandchildren, whether the children are born from her womb or from the womb of another wife. (Abdillah, 2013).

There are four heirs who will receive 2/3, namely;

Two or more daughters. Two or more daughters hijab the grandson's granddaughter, unless the grandson of the son is together with the grandson of the heir's son, then they get the remainder two to one.

Two or more granddaughters from a son on the condition that: (a) the testator does not leave any sons or daughters, (b) the testator does not have two daughters, (c) the two or more granddaughters do not have any brothers from the testator's sons.

Two or more sisters by blood.

The heirs who are entitled to 1/3 are two people, namely the mother and two brothers or sisters of the same mother. A mother is entitled to 1/3 of the property on the condition that: (a) the heir does not leave any children or grandsons, (b) the heir does not leave any two or more siblings (male or female) either siblings or half-siblings, or half-siblings. The mother still has a share called *tsuluts* (1/3) *al-Báqi* or 1/3 of the remainder. The mother's share is actually part of the results of Umar bin Khattab's *ijtihad* which was later followed by a number of scholars, except Ibn Abbas who is of the opinion that the mother's share remains 1/3 of the entire inheritance. The heir is entitled to 1/6 or one sixth. There are seven people who are entitled to 1/6, namely (a) father, (b) grandfather, (c) mother, (d) granddaughter from the male line, (e) father's sister (f) mother's brother, and (g) authentic grandmother (Abdillah, 2013). What is meant by authentic grandmother here is a grandmother whose lineage is related to the heir and is not interspersed with an authentic *ghairu* grandfather, the grandmother is;

The maternal grandmother gets 1/6 if the heir does not leave the mother;

The paternal grandmother, one or more, gets 1/6 if the heir does not leave the father and does not leave the mother.

The third finding discusses the impact of inheritance distribution on the Javanese ethnic community in Bilah Barat District, Labuhan Batu Regency. The impact is based on negative aspects. Based on the findings (documentation, observation, and interviews), the impact of the negative case is the impact that occurred in the village of Aek Buru Selatan. Based on the murder case, it will be discussed that the murder committed by the heir of al-Muwarris, rendered him unable to inherit the inheritance of the person he inherited. This is the agreement of the majority (*jumhur*) of scholars. The Khawarij group, which separated from Ali ibn Abi Thalib and Mu'awiyah due to the incident of arbitration (*tahkim*) when Mu'awiyah's troops were nearly defeated, raised *mushat* (consensus) against this opinion. Their reasoning is that the verses of the Quran do not exclude the murderer. The verses of the Mawaris, such as in Surah an-Nisa verses 11-12, only provide general guidance. Therefore, the general guidance of these verses must be practiced as is (*al-Rahim, t.th*)

#### IV. CONCLUSION AND SUGGESTIONS

##### A. Conclusion

The study concludes that inheritance distribution among the Muslim Javanese community in Bilah Barat District is still strongly influenced by Javanese customs and traditions, particularly the *sagendhong sapikul* and equal distribution systems, which prioritize family harmony, economic conditions, and mutual agreement among heirs. In practice, inheritance distribution is often carried out through deliberation, resulting in equal shares between sons and daughters in certain cases. This reflects a shift from the Islamic *faraidh* system toward inheritance distribution based on social considerations and perceived fairness. Although

such practices do not fully align with Islamic inheritance law, agreements among heirs are considered an important factor in maintaining family relationships and preventing disputes. However, inheritance issues may also lead to family conflicts when distribution is perceived as unfair.

### B. Suggestions

It is recommended that communities improve their understanding of Islamic inheritance law and customary law to ensure fair and transparent inheritance distribution. Religious leaders and local authorities should provide education regarding faraidh principles and inheritance regulations to minimize conflicts among heirs. Future researchers are encouraged to conduct deeper studies on the influence of customary practices on Islamic inheritance law and how social changes affect inheritance systems in contemporary society. Furthermore, balancing customary values, social justice, and Islamic legal principles is necessary to maintain family harmony while respecting religious norms.

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