



Provisions Regarding Low Heritage in the Compilation of Islamic Law (Study in Nagari Koto Gadang, Koto Besar District Dharmasraya District)

Delfia Eka Putri¹, Cizmeci Jaewon², Smallridge Simone³

¹ Universitas Islam Negeri Mahmud Yunus Batusangkar, Indonesia

² Bielefeld University, Germany

³ Trinity College Dublin, Ireland

Corresponding Author: Name, Delfia Eka Putri E-mail; delfiaekaputri@gmail.com

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ABSTRACT

The purpose of this research is to explain the distribution of low inheritance that occurs in Nagari Koto Gadang. The research method used in this study is a qualitative method, in which data collection uses interview techniques from the Nagari Koto Gadang community. In Minangkabau custom, there are two types of inheritance that are inherited, namely high inheritance and low inheritance. Low inheritance assets are assets originating from one family's livelihood assets, in the form of rice fields, fields purchased from other parties. In this study it can be concluded that This low inheritance can be inherited through customary law and Islamic law. Because there is a similarity, that is, low inheritance is an inheritance in Minangkabau custom, and low inheritance can be donated according to Islamic law.

Keywords: Grants, Inheritance, Low Heritage

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INTRODUCTION

Basically, Minangkabau society is a society that adheres to Islam. Minangkabau society has two strong values, namely religion and custom (Hartati dkk., 2021; Yazan & Arwemi, 2018). As it has a set of values called law which demands that the Minangkabau people have high loyalty, namely obedience to religion as a Muslim and obedience to custom as Minangkabau people (Bahardur dkk., 2022; Knorr, 2022; Oktavianus & Anwar, 2022). This is the meaning of the philosophy of life of the Minangkabau people, namely "Adat Basandi Syarak, Syarak Basandi Kitabullah"

(Games dkk., 2021; Iska dkk., 2023; Nurdin & Tegnan, 2019). That the existing customary law must be in accordance with the Shari'a, namely Islamic law which originates from the Qur'an and Sunnah.

Every rule that exists in Minangkabau society must be in accordance with Islamic Shari'a, then these rules are enacted through customary law (Magriasti dkk., 2022; Nurwani dkk., 2020). Every customary rule must not deviate from Islamic law, including inheritance law. Apart from inheritance, it must follow customary provisions and be in line with inheritance law in Islamic Shari'a, namely Islamic Inheritance Law (faraidh)..

Inheritance is the property and rights left by the person who died to be distributed to his family who are entitled to receive that portion of the inheritance (Aryanti dkk., 2022; Schefold & Nas, 2008). In the science of inheritance, the division of inheritance means the transfer of ownership rights from the person who died to his heirs who are still alive, whether what is left behind is in the form of assets (money), land, and anything that can be in the form of legal property rights according to Shari'a..

Minangkabau custom has its own form of inheritance, Minangkabau customary provisions classify two types of assets to be inherited, namely high pusako assets and low pusako assets (Vellinga, 2004; Widiastuti & Vedamuthu, 2009). Pusako high treasures will be passed on to a people from generation to generation. Meanwhile, lower inheritance assets are livelihood assets that are inherited according to Islamic law (Maretin, 1966; F. von Benda-Beckmann & von Benda-Beckmann, 2012).

Inheritance is given to people who are entitled to receive and have these inheritance rights. As for the people who are entitled to receive the inheritance are the people who have the reasons to be able to inherit the inheritance. In Islamic inheritance law, causes of inheritance can occur due to marriage, kinship, and wala' (Aziz dkk., 2020). Considering that this inheritance problem is a very important issue and often occurs in the family and tends to cause quarrels between siblings when one party feels disadvantaged because of an unfair distribution, each family has a different policy in determining the distribution of inheritance.

RESEARCH METHODOLOGY

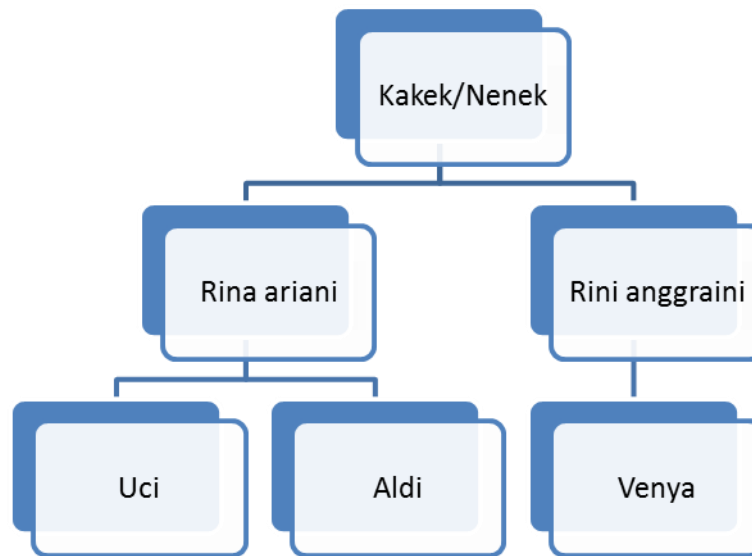
The method or approach used to obtain data and information is a qualitative method or approach commonly used in cultural research (Cheng & Metcalfe, 2018; Skarbek, 2020). The use of qualitative methods aims to obtain more and more in-depth data (Toumi & Su, 2023; Widyastuti dkk., 2020). By its nature, this research is a descriptive analysis research to describe the inheritance of low inheritance in the Minangkabau community. Then, data collection uses several techniques commonly used in qualitative research, namely library research, interviews and field observations. Furthermore, the data and information obtained from the field and other sources are processed and described in the form of a research report on the provisions on inheritance of low inheritance assets in the compilation of Islamic law. Then it is

analyzed to get an overview of various aspects of the current distribution or inheritance system.

RESULT AND DISCUSSION

Low Pusako Treasure

Low inheritance assets are assets resulting from the livelihood or business results of a family which can be in the form of rice fields, fields, houses, shops, factories and vehicles . Low inheritance is also interpreted as the income of our parents as long as there is a marriage bond and will be passed on to daughters, plus the provision of income from mamak to her nephew himself . Low inheritance inherited from generation to generation in a family. Here's the schematic:



Wealth inheritance is inherited from our parents who are called Grandfathers/Grandmothers to their children, namely our parents. Then from our parents we will pass on to their children and continue onward to their grandchildren, where the property is called the Susuk Treasure.¹Low heritage treasures that are passed down from generation to generation to their children and grandchildren, in the future they will play a very big role in adding to the high heritage in Minangkabau, and which will guarantee family welfare both in Ranang Minang and overseas. Inheritance of inheritance is low according to Islamic law, where men get twice as much as each daughter.

Inheritance

Definition of Inheritance

Inheritance according to language is the transfer of something from one person to another . Something that is general, in the form of a wealth of knowledge, nobility, or glory. Meanwhile, according to the term inheritance is the transfer of property rights

from a person who has died to his heirs who are still alive. The assets left behind are in the form of assets (money), gardens, or sharia rights.

Inheritance is also known as Mawaris in Arabic, mirats means a person who has the right to receive inheritance from someone who has died. Meanwhile, according to Islamic law, inheritance is called Fara'id, which means a certain part which is divided according to the Islamic religion to those who are entitled to receive and whose parts have been determined.

In the hadith of the Prophet narrated by Ahmad Abu Daud, Rasulullah SAW said: "I inherit people who have no heirs". In the general literature, the term inheritance does not have a uniform understanding, some use the term inheritance law, there is inheritance law and inheritance law. The term inheritance refers to the assets of deceased heirs, whether assets have been divided or are still not divided. This term is used to distinguish it from assets that a person does not inherit from an heir but is obtained as a result of his own livelihood efforts within or outside the marriage bond. So inheritance or inheritance is the property of someone who has died.

Inheritance Principles

In certain cases, Islamic inheritance law has its own style, different from other inheritance laws (Belal, 2018; A. Bhatti & Azmat, 2018; Butt, 2018). These various legal principles show the characteristic form of Islamic inheritance law. Following are the various principles of inheritance:

The principle of ijbari

The word ijbari which comes from the word jabbar etymologically means coercion, namely doing something out of one's own will . Ijbari in Islamic law, namely the transfer of assets from people who have died to people who are still alive, applies by itself without any effort from those who will die or the will of those who will accept (Banakar & Ziaee, 2018; A. I. Mawardi & Riza, 2019; Sholeh dkk., 2021). Islamic inheritance law implements the principle of ijbari, meaning that the transfer of property from someone who has died to his heirs applies automatically according to Allah's will without depending on the will of the heir or heirs. The element of coercion in accordance with the terminological meaning can be seen from the point of view that the heir is forced to accept the fact that the heir's property is transferred to him in accordance with a predetermined amount.

Bilateral Principles

Bilateral principles in Islamic inheritance law namely a person who receives inheritance rights from both sides of a line of kin , namely the male lineage (patrilineal) and the female lineage (matrilineal).

Individual Principle

The individual principle means that inherited assets can be divided up to be owned individually. The entire inheritance is stated in a certain value which may be divided up, then this amount is distributed to each heir who is entitled according to the level of each share. Each heir is entitled to the portion he gets without being bound to other heirs. This is based on the provision that every human being as an individual has

the ability to receive rights and carry out obligations, or in terms of ushul fiqh it is called *expertyah al-wujub*.

Balanced Principle

The principle of balanced justice in inheritance explains that both men and women have the right to become heirs, inherited the inheritance left by the heir. According to Amir Syariffudin, the principle of balanced justice in inheritance can be interpreted as a balance between rights and obligations and a balance between what is obtained with needs and uses.

The Principle of Sole Consequences of Death

The principle of mere death means the transfer of one's inheritance or property to another person with an inheritance status that applies after the death of the heir. This principle means that one person's property cannot be transferred to another person with an inheritance system as long as the owner of the property is still alive. It also means that all forms of transfer of the assets of a person who is still alive either directly or after he dies are not included in the term inheritance in the Islamic legal system.

Property Inheritance System in Minangkabau

Individual Inheritance System

The individual inheritance system is an inheritance system that distributes inheritance to individuals as heirs and is divided equally between heirs. This kinship system is found, among others, in the Javanese community who adhere to bilateral kinship and the Batak who adhere to patrilineal kinship.

Mayoral Inheritance System

The mayoral inheritance system is a single inheritance system, in which the oldest child in a family for inheritance or a number of principal assets from the family will receive inheritance from both parents. This inheritance is like what happened to the people of South Sumatra and Bali.

Collective Inheritance System

The collective inheritance system is an institutional inheritance system. Institutional here means the family as a genealogical kinship unit. This inheritance is usually in the form of objects or land as agricultural land. What is divided is the turn to work on and enjoy the results. Beneficiaries are usually women, men can only collect the proceeds. Therefore it is called an heirloom as found in Minangkabau.

Principles of Inheritance of Property in Minangkabau

These principles rely heavily on the system of kinship and property, because the law of inheritance in Minangkabau is determined by the social structure (K. von Benda-Beckmann, 1985). According to Amir Syarifuddin, there are 3 main principles in Minangkabau custom, namely:

Unilateral Principle

The principle of unilateral, namely inheritance rights that only apply in one line of kinship, namely kinship through the mother's line (matrilineal). Inheritance from above was received from the ancestors through the mother's line and passed down to posterity through daughters.

Collective Principle

The collective principle is those who are entitled to inheritance are not individuals, but a group together. Based on this, the inheritance is not divided, but inherited collectively.

Principle of Priority

The principle of primacy is that in receiving inheritance or receiving in the role of managing inheritance, there are levels of rights that cause one party to be more entitled than the other party, and as long as those who are entitled are still there, the other cannot receive.

Grants in Minangkabau Custom

Minangkabau custom also recognizes grants or gifts. After Islam entered, grant institutions developed in Minangkabau (Nurainas dkk., 2022). In Minangkabau custom, grants are divided into three types, including Laleh Grants, Bakeh Grants, and Pampeh Grants.²

Laleh Grant

A laleh grant is a gift from one person to another forever. Its nature is permanent and is owned forever by the person receiving the grant and cannot be contested by any party. This grant can be from father to son, from mamak to nephew, from bako to banana child and so on. The condition for a laleh grant is if there is an agreement between the heirs, both heirs with blood ties and heirs with customary ties.

Bakeh Grant

Bakeh grants are gifts from a father to a child, but with the approval of a nephew. This gifted property is only for the life of the child, when the child dies, the property returns to the nephew without any conditions.

Pampeh grants

A pampeh grant is a gift from a mamak to her child or a person with the condition that the recipient of the grant gives pampeh (ransom) to the mamak and one day the nephew may take back the property by returning the ransom.

So it can be concluded that in Minangkabau adat the prevailing concept of inheritance is institutional or collective inheritance, in which an asset is passed down to offspring in a matrilineal line collectively that can be utilized by all members of the clan. After the development of Islam, the Minangkabau custom underwent a change in its inheritance system, namely the application of fara'id to lower inheritance.

The Concept of Inheritance in Minangkabau Custom and Islamic Law

The concept of inheritance in Minangkabau custom and the Compilation of Islamic Law has several similarities and differences, where these similarities and differences will provide clarity about the position of inheritance in Minangkabau custom according to the provisions contained in the Compilation of Islamic Law

(Bunaiya dkk., 2021; Kooria, 2019; Mourad, 2019). The similarities and differences are explained as follows :

In terms of sources of inheritance, there are fundamental differences regarding the sources of assets contained in Minangkabau customs and the Compilation of Islamic Law (Maksymiuk, 2019). In Minangkabau custom, there are two sources of inheritance, namely those obtained from generation to generation from ancestors, and those obtained from one's own livelihood. Whereas in the Compilation of Islamic Law, the source of inheritance comes from the heir's inherited assets and gono gini assets (joint property) that were acquired when living as a household after marriage.

In terms of types of inheritance, in Minangkabau custom inheritance is divided into two types, namely: 1) High heritage inheritance whose source is obtained from generation to generation and is not fully owned by a person, but owned by everyone in one clan. 2) Low inheritance assets whose source is the result of livelihood or own business and is wholly owned by the person who cultivates it. Whereas in the Compilation of Islamic Law, the type of inheritance is property that is fully owned by the heir, both originating from congenital assets and originating from gono gini assets (common assets). This is explained in the Compilation of Islamic Law article 171 letter e.

Lower inheritance is property that is the result of a person's livelihood that he owns completely and perfectly, and he has full power over the property, so the concept of inheritance must follow faraidh and the Compilation of Islamic Law. This has also become an agreement with traditional and religious leaders in Minangkabau after the declaration of Bukik Marapalam in the early 19th century.

Implementation of the Distribution of Immovable Lower Inheritance in the District of Koto Gadang

The transfer of property from the heir to his heirs in ijbari occurs after the death of an heir. As for the implementation of the division of assets is carried out in accordance with the circumstances of the family. It is not uncommon for assets to be distributed after the heir dies, but it can be postponed for some time with several considerations. The implementation of the distribution of inheritance, especially the lower inheritance in Kanagarian Koto Gadang, was carried out after the death of both parents.

For example, the case that occurred in the family of Mr. Amril Deni. Mr. Amril Deni has 5 siblings consisting of one girl and 4 boys. The parents of Mr. Amril Deni are Mr. Syafrudin and Mrs. Anidar. During the marriage bond period, Mr. Amril Deni's parents owned income assets in the form of plantation land and yard land.

When the father of Mr. Amril Deni died in 2003, all the assets owned by his father were controlled by Ms. Anidar as his mother. Even though at that time his children were of age and had the right to use or obtain property, his father's inheritance could not be distributed among the children. One of the considerations is discordant if it seems when one of the parents is still alive, the distribution of inheritance is carried out.

In 2011 his mother passed away, and before Anidar's mother died he gave a will that the existing low inheritance assets should not be divided into individual or private

property rights of his children. The property is jointly owned, jointly managed, and the results of the property are shared. If one of the children of Mr. Syafrudin and Mrs. Anidar dies, the grandchildren of the children of Mr. Syafrudin and Mrs. Anidar are entitled to receive the proceeds from these low inheritances.

The low inheritance owned by Mr. Syafrudin and Mrs. Anidar is not only in the form of plantation business land, but he has a yard where his house is located. Then the house in its distribution was inherited by his daughter and under the supervision of his son.

The purpose of distributing the lower inheritances was carried out by Mr. Syafrudin and Mrs. Anidar before his death, namely to avoid disputes that might occur among the heirs in the distribution of the inheritance.

Lower inheritance can also be divided according to Islamic law. The existence of an agreement to divide the lower inheritance in accordance with Islamic law has indeed had a major effect on inheritance in Minangkabau. This influence can be seen from the people who become heirs. The implementation of Islamic law is also not fully in accordance with the rules that have been stated in the Koran and hadith. This is very visible in the distribution of lower inheritance in the form of immovable objects.

Islamic Law on the Time of Distribution of Lower Inheritance in the Koto Gadang District

Al-Quran has explained the laws of inheritance regarding the condition of each heir and those who are not quite perfect (I. Mawardi, 2018; Rohe, 2018; Yakar, 2021). Only a few of the inheritance laws are stipulated by sunnah, ijma' or companion ijtihad (Ansori, 2022; M. Bhatti, 2018; Nur dkk., 2020). There are no other problems that are explained clearly and in detail except inheritance. This is because inheritance has a very large influence and is related to the transfer of assets from one person to another.

The discussion on inheritance in the Koran and hadith does not clearly stipulate the time for the distribution of inheritance. Implementation of inheritance distribution can be done with a span of time that is near or far from the death of the testator. In the Al-Quran, it is not explained that there is a need to immediately carry out the division of inheritance and there is also no indication of when it should be divided. On the contrary, there are indications not to immediately carry out inheritance distribution. These instructions can be seen from the point of view of the obligation to settle debts and wills from the testator before dividing the inheritance.

The distribution of inheritance in the Koto Gadang Kanagarian is carried out after the death of both parents as described in point E. Distribution in this way means delaying the distribution of inheritance. Postponing the distribution of inheritance in Islam is justified if there are reasons that demand it. For example, if the heir is not yet mature, then the property will be transferred temporarily to the guardian, and if the heir is mature, the property will be handed over by the guardian to the heir.

CONCLUSION

So it can be concluded that the concept of inheritance in Minangkabau custom and the Compilation of Islamic Law have similarities and differences. The equation is that low inheritance is inheritance as explained in Article 171 letter e of the Compilation of Islamic Law which is fully owned by the heir, so the inheritance both uses the concept of faraidh.

Meanwhile, the difference is in high inheritance, which is not inherited property as Article 171 letter e of the Compilation of Islamic Law, because it is not wholly owned by individuals within a community. So the inheritance does not use the concept of faraidh, but uses the concept that exists and applies in the Minangkabau customary community so far, which is inherited collectively to nephews according to the maternal line (matrilineal).

In Minangkabau custom, the concept of inheritance that applies is institutional or collective inheritance, in which an asset is passed down to offspring in a matrilineal line collectively that can be utilized by all members of the clan. After the development of Islam, the Minangkabau custom underwent a change in its inheritance system, namely the application of fara'id to lower inheritance. Fara'id means a certain part which is divided according to the Islamic religion to those who are entitled to receive it and whose parts have been determined

In the Koto Gadang nagari, the provision for the transfer of lower inheritance from the heir to the heir is carried out ijbari, which occurs after the death of an heir. As for the implementation of the division of assets is carried out in accordance with the circumstances of the family. The distribution of assets is often done after the heir dies, but can be postponed for some time with several considerations.

The implementation of the distribution of inheritance, especially the lower inheritance in Kanagarian Koto Gadang, was carried out after the death of both parents. The division of low inheritance that occurred in Kenagarian Koto Gadang which was found in the case of Mr. Amril Deni, namely that both parents made a will to their heirs to jointly manage the low inheritance. The purpose of this will is to prevent disputes or struggles over property rights between heirs.

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