



INHERITANCE LAW IN THE PERSPECTIVE OF LAMPUNG SEBATIN TRADITIONAL LAW AND ISLAMIC LAW

Idham¹, Lenny Nadriana²

Universitas Sang Bumi Ruwa Jurai, Bandar Lampung, Indonesia

Email: ldhamsaburai@gmail.com, lennylecture@gmail.com

Abstract: *Inheritance law is regulated in Islamic law, namely regarding the law that regulates the transfer of assets from someone who dies to their heirs. Inheritance law is part of civil law whose regulation is dualism and pluralism. The Lampung Sebatin traditional community, which is predominantly Muslim, divides inheritance. There are usually two kinds of inheritance laws that are commonly used, namely inheritance according to Islamic law and Lampung Sebatin traditional law, but customary law is more dominant. The position of sons in the family of the Lampung Sebatin traditional community is very important in terms of hereditary succession, because the Lampung Sebatin traditional community adheres to a male majority inheritance system. The research focus in this study is (1). How do the Lampung Sebatin indigenous people resolve inheritance disputes? (2). How is the inheritance system of the Lampung Sebatin traditional community viewed from Islamic law? The aim of this research is to describe the system of distribution of inheritance according to the customary law of the Lampung Sebatin traditional community, and to describe the traditional inheritance system of Lampung Sebatin as viewed from Islamic law. In this research, researchers used a qualitative approach method. Meanwhile, data collection uses interviews, observation and documentation. Meanwhile, the analysis uses analytical descriptive. The results of this research show that the Lampung Sebatin traditional community uses an inheritance system that prioritizes sons over daughters*

Keywords: *Inheritance, Lampung Sebatin, Islamic law*

I. INTRODUCTION

Inheritance is something that is very close and intimate to human life, because inheritance is something that cannot be avoided when a parent dies. In the principle of inheritance, one of the principles *isibandri* which explains the proper transfer of assets from heirs to heirs after death. In the Islamic view, inheritance is part of the jurisprudence or provisions that Muslims must adhere to and serve as a guideline in settling the inheritance of someone who has died. Allah establishes this provision regarding inheritance because it concerns property which, on the one hand, human tendencies towards it can give rise to disputes and on the other hand, Allah does not want humans to consume property that is not their right.¹

¹Amir Syarifuddin, *Garis-Garis Besar Fiqh*, (Jakarta: Prenada Media, 2005), 3rd Copy, p. 148.

The issue of dividing inheritance, especially for Muslims from parents to their children, is a normal issue because there are instructions and guidelines, but sometimes it often causes problems for many family members.² The origin of the problem can be in various forms.³ Usually this is due to the unclear position of the assets, sometimes there are heirs who deliberately manipulate the inheritance. In general, problems that arise from the practice of dividing inheritance are because some heirs feel they have been treated unfairly.

The inheritance process is closely related to various interpretations of justice in the distribution of inheritance. Therefore, the provisions regarding the distribution of inheritance assets have become varied. In Indonesia, the division of inheritance can be resolved in three ways. First, it refers to religious law (Islam). Second, referring to colonial civil law (Burgerlijk Wetboek Law or what is known as BW Law). Third, refers to the provisions that apply in the customs of each ethnicity or tribe.⁴

This is because until now Indonesia does not have a unified national inheritance law. However, if the familial nature of customary inheritance is compared with the familial nature of Chinese and European people who are subject to BW inheritance, then there is a difference, the most important of which lies in the existence of Article 1066 BW which is not found in customary law in Indonesia. among native Indonesians.⁵ Article 1066 BW determines that there is an absolute right of each heir to demand a distribution of inherited assets at any time, whereas according to customary law among native Indonesians, inherited assets cannot be changed and cannot be forced to be divided. among his heirs.

The three types of inheritance law above, including Islamic law, civil law and customary law, have different provisions. However, in this research the author limits it to only two types of inheritance law, namely according to the provisions of Islamic law and customary law. The legal principles of Islamic inheritance do not consider differences between men and women. All heirs, both male and female, have the same rights as heirs. But only the comparison is different. Indeed, in Islamic inheritance law, the emphasis on balanced justice is used, not equal justice among fellow heirs.⁵

According to provisions in Islamic law, male heirs sometimes receive twice as much inheritance as women. Meanwhile, in customary law, the size of men's and women's inheritance greatly depends on the customs that apply in each region. There are times when male heirs receive more inheritance than women, and conversely, there are times

²M. Nasikhul Umam Al-Mabruri, "Keadilan Pembagian Harta Warisan Perspektif Hukum Islam dan Burgerlijk Wetboek", *Al-Mazahib-Jurnal Pemikiran Hukum*, Volume 5, No. 1, (June,2017), p. 112

³Satria Efendi M. Zein, *Problematika Hukum Keluarga Islam Kontemporer Analisis Yurisprudensi dengan Pendekatan Ushuliyah*, (Jakarta: Kencana Predana Media Group, 2010), 3rd Copy, p. 245.

⁴Oemarsalim, *Dasar-Dasar Hukum Waris di Indonesia*, (Jakarta: PT. Rineka Cipta, 2006), p. 9.

⁵R. Wirjono Prodjodikoro, *Hukum Warisan di Indonesia*, (Jakarta: Sumur Bandung, 1980), p. 12.

when women receive more inheritance than men. The Lampung *Sebatin* traditional community uses a form of marriage *jujukh*, uses a male majoritarian inheritance system, namely an inheritance system where the eldest male child has the right to all inheritance and is the successor to their descendants. The position of sons in the family is so strong that if you don't have sons it is said to be the same as having no children or losing your lineage.⁶

The three types of inheritance law above, including Islamic law, civil law and customary law, have different provisions. However, in this research the author limits it to only two types of inheritance law, namely according to the provisions of Islamic law and customary law. The legal principles of Islamic inheritance do not consider differences between male and female children. All heirs, both male and female, have the same rights as heirs. But only the comparison is different. Indeed, in Islamic inheritance law, the emphasis on balanced justice is used, not equal justice among fellow heirs.⁵ In accordance with the legal objectives above, both Islamic inheritance law and traditional inheritance law actually guarantee a sense of order and justice for each party that adheres to it.

When the researcher carried out pre-survey activities, the researcher discovered the fact that in the Lampung *Sebatin* traditional community, inheritance distribution was used using a patrilineal major and matrilineal major system. Based on these problems, the author will discuss the distribution system for the inheritance of the Lampung *Sebatin* indigenous community? and what is the Islamic law review of the division of inheritance of the Lampung *Sebatin* traditional community?. In this research, researchers used a qualitative approach method. Meanwhile, data collection uses interviews, observation and documentation. In the analysis, descriptive analytical analysis is used. In this approach, interviews are conducted with parties who are considered related to the main problem to be discussed.⁷ The type of data used in this research is sourced from library research (*library research*) and field research (*field research*).

II. DISCUSSION

1. Understanding and Basics of Islamic Inheritance Law

Islamic Law of Inheritance or what is commonly referred to in fiqh books *fārā'id* is the law of inheritance followed by Muslims in their efforts to resolve the distribution of the inheritance of deceased family members. In several countries with predominantly Muslim populations, *fārā'id* has become positive law, although in Indonesia it only applies to Muslim citizens, it does not apply nationally.

Etymologically, heir (*at-mirats*), in Arabic is a form of mashdar (*infinitive*) of the word *waritsa-yaritsu irtsan-miratsan*. The meaning according to language is the transfer of

⁶Hilman Hadikusuma, *Hukum Kekerabatan Adat*, (Jakarta: Fajar Agung, 1978), p. 34

⁷Ghony, M. Djunaidi dan Almanshur, Fauzan. *Metode Penelitian Kualitatif*. Ar-Ruzz. Media, Yogyakarta. 2013, p, 19

something from one person to another or from one people to another.⁸ Say “warits” comes from Arabic looked at. The plural form is mawaris, which means the property of the deceased that will be distributed to his heirs. In terms of terminology, it is the transfer of ownership rights from a deceased person to his or her surviving heirs, whether what is left behind is in the form of assets (money), land or anything in the form of legal property rights.⁹

According to Wahbah al-Zuhaeli as quoted by Athoilah, heir or inheritance (*looks*) same as meaning *marriage* namely everything left behind by a person after death, whether in the form of property or material rights *non-material*.¹⁰ From these limitations it can be obtained that according to Islamic law, inheritance only occurs after the testator dies. Thus, the transfer of assets to the heirs while the heirs are still alive is not seen as inheritance.

2. Purpose of Inheritance

The goals of inheritance in Islam are:

- a. The obligations and rights of the deceased's family are regulated and respected.
The obligation to take care of the rights of the deceased: taking care of the corpse, carrying out the will and settling debts and receivables. And the right of the deceased's family is to receive inheritance.
- b. Avoid disputes between heirs or the family of the deceased left behind. Maintaining family relationships from the threat of division caused by inheritance and providing a sense of security and justice.
- c. Protecting inheritance until it reaches the individual who is entitled to receive the inheritance. Providing legality for ownership of inherited assets.
- d. Creating a peaceful life and a harmonious family atmosphere.
- e. Prevent bloodshed due to the process of dividing inheritance.
- f. Provide a sense of justice for recipients of inheritance rights.
- g. Distribute inherited assets fairly and evenly to the family members who are heirs.
- h. Avoid disputes and divisions, even fights resulting from fighting over inheritance.
- i. Can understand God's laws relating to the distribution of inheritance.
- j. There is no shortage of people who understand the distribution of inheritance in one place.¹¹

⁸Muhammad Ali Ash-Shabuni, *Pembagian Waris Menurut Islam*, Translation of Basalamah, (Jakarta: Gema Insani Press, 1995), p. 33

⁹Dian Khairul Umam, *Fiqih Mawaris*, (Bandung: Pustaka Setia, 2006), p. 11

¹⁰Athoilah, *Fikih Waris (Metode Pembagian Waris Praktis)*, (Bandung: Yrama Widya, 2013), p. 2

¹¹Jaenal Aripin, *Filsafat Hukum Islam: Tasyri dan Syar'i*, (Jakarta: UIN Jakarta Press, 2006), p. 128

3. Pillars of Inheritance

For inheritance of property to occur, the pillars of inheritance must be fulfilled. If one of these pillars is not fulfilled, then inheritance will not occur. According to Islamic law, there are three pillars of inheritance, namely:

1. *Muwarrits* (Heir) is a person who has died leaving inheritance to be distributed to the heirs. The assets divided by inheritance must belong to a person, not to an agency or state. Because agencies or countries are not among the heirs.
2. *Warits* (Heirs) are people who have the right to receive the inheritance of the deceased, either because of their kinship relationship through family lineage or marriage, or because of the relationship of guardianship rights with *muwarrits*.¹²
3. *Mauruts* (Heir property) is property left by the deceased that will be inherited by the heirs after being taken for maintenance costs, paying off debts and executing the will. This legacy property by *parafaradhiyun* also called marriage or turats.

4. The Essence of the Division of Islamic Inheritance

The essence of the division of Islamic inheritance is the values and principles contained in its implementation, which are included in the value of monotheism, moral principles, significance *frangrance* and *maqasidu al-shariahas* well as *adviceas* the aim of Islamic inheritance law.¹³

1. Value of Monotheism

The value of Islamic inheritance law is divine or monotheism. This value contains abstract and universal meaning, namely all human actions and all forms of objects or assets in this world, all of which are under the control or power of Allah SWT. Thus, the value of monotheism must also be implemented in the Islamic inheritance system into principles or principles.¹⁴

Implementation of the distribution of Islamic heritage is worth worshipping Allah SWT. This distribution of inheritance is one of the actions of humans in order to draw themselves closer to Allah SWT. Apart from that, the Islamic inheritance system is inheritance law which originates from the Qur'an and *Sunnah*, *ijmak* and *ijtihad* as regulated in the Compilation of Islamic Law (KHI), then the basis for its application to the Muslim community is the Instruction of the President of the Republic of Indonesia Number 1 of 1991 concerning the dissemination of and implementation of KHI. The principle of Monotheism is the awareness of faith in humans towards the laws created by Allah SWT.

¹² Fatchur Rahman, *Op. Cit.*, p. 36

¹³ Syamsulbahri Salihima, *Perkembangan Pemikiran Pembagian Warisan dalam Hukum Islam dan Implementasinya pada Pengadilan Agama*, p. 140

¹⁴ Satria Efendi M Zein, *Ushul Fiqih*, (Jakarta: Prenadamedia, 2005), p. 237

2. Moral Principles

Carrying out inheritance distribution according to Islamic law is a moral act in accordance with the commands of Allah SWT. In essence, it is applying the teachings of Islam. Because a person's diversity is measured by his morals. The objectives of sharing the Islamic heritage that creates high moral values are:

- a. Implement or fulfill the orders of the Qur'an.
- b. Providing benefits for family life.
- c. Maintaining harmony for the integrity of family life.
- d. Carry out the process of transferring and acquiring rights correctly and responsibly.
It is. Avoid conflicts within the family.
- e. Strengthen brotherhood specifically in family and generally in society.
- f. Raising the honor and dignity of the family in society.

3. Significance Fragrance in Islamic Law of Inheritance

Fragrance holds an important role in understanding the nature of the existence of a provision of syariah law. All provisions of Allah SWT. both commands and prohibitions, in addition to being aimed at the benefit of mankind, also have their own reasons or backgrounds seen in terms of their relationship with fragrance. In Islamic inheritance law, for example, in the Al-Qur'an surah An-Nisa verse 11 determines that men receive twice the share of women. Thus it becomes fragrance here is the use of property, as the cause of the reduction in the man's share. So it can allow men and women to have equal shares of inheritance.

4. Maqashidu al-Syari'ah and Advice as the Goal of Islamic Inheritance Law

As stated by Satria Efendi who quoted from Abdul Wahab al-Khallaq, knowledge about *Maqashidu al-Syari'ah* acts as a tool to understand the editorial board of the Qur'an and Sunnah, as well as resolve conflicting arguments. No less important is to establish laws for cases that are not accommodated in the Al-Qur'an and Sunnah in terms of linguistic studies.¹⁵

Makoshidu al-Sharia intended advice namely human happiness. The aim of Islamic law, which includes Islamic inheritance law, is exactly the same as progressive law in that the law is made for humans, not for the law itself. The difference is that Islamic inheritance law was created because of its inductive sources, namely the Qur'an and Sunnah. Meanwhile, progressive law starts from a radical thought process regarding the reality of society and determines that the law can make people happy.¹⁶

¹⁵ Satria Efendi M Zein, *Ushul Fiqih*, (Jakarta: Prenadamedia, 2005), p. 237

¹⁶ Syamsulbahri Salihima, *Perkembangan Pemikiran Pembagian Warisan dalam Hukum Islam dan Implementasinya pada Pengadilan Agama*, p 179.

6. Lampung *Sebatin* Traditional Inheritance System

The inheritance distribution system that occurs in the Lampung *Sebatin* indigenous community, based on the results of interviews and explanations from Mr. Mustika Bahrum Adok as *Suntan Pengayom Makhga* from the Waylima clan, Pesawaran Regency, stated that the Lampung *Sebatin* Indigenous community consists of several districts in Lampung, namely Regency of West Lampung, Regency of West Coast, Regency of Tanggamus, Regency of Pringsewu, Regency of Pesawaran, Regency of South Lampung and Bandar Lampung City. The Lampung *Sebatin* indigenous people, especially in rural areas, still preserve the traditional arts and culture handed down by their ancestors to this day. Especially in terms of dividing inheritance, they use the major system, namely patrilineal major and matrilineal major.¹⁷

The inheritance distribution system is a matrilineal major system or prioritizes the female lineage, but in this case the woman does not own the entire inheritance but only to occupy the house which is the property. If there is damage to the house you live in, you don't have to repair it yourself, but you can ask the boys for help to repair the house. The reasons why women are chosen as recipients of inheritance in the Krui Market community include:

1. To protect the position and lives of women (*Lamban Tuha*).
2. To improve the economic life of women's families (*Sabah Tuha and Kebun Tuha*)¹⁸

To determine who has the right to receive the above inheritance assets, the Lampung *Sebatin* indigenous community in Krui City uses a deliberation system, deliberations between family members are held to determine who has the right to live in the house and cultivate the rice fields or gardens. In the deliberation, it is usually led by a son who has the task of determining what system will be used in dividing inheritance, namely matrilineal mayorat (*Nuhako Anak Bebai* or elder daughter), by means of which the daughter is given the trust to live in and utilize the results obtained from inherited assets, with the condition that they must not be owned absolutely (sold).

Apart from the deliberation system, the Lampung *Sebatin* traditional community also knows other systems in the process of dividing inheritance, the community may use the customary system of matrilineal majorat or patrilineal majorat or use the Islamic Law system (*Faraidh*). The diversity of systems used by the Lampung *Sebatin* indigenous community shows and emphasizes that the community is given the choice of which and what system to use in the process of distributing their

¹⁷ Interview to Mustika Bahrum Adok as *Suntan Pengayom Makhga* of Marga Waylima Kabupaten Pesawaran, 30 Juni 2022.

¹⁸ Interview to Bapak Agus Jaya Perwira (title *Adok: Suntan Kemala Ratu*), mores figure, on June 10, 2022, 09.30.

inheritance. This is also reinforced by the absence of sanctions or punishment for people who do not use the legal system. custom in the process of dividing inheritance that occurs in the Krui market.

Meanwhile, the inheritance distribution system used by the Lampung *Sebatin* indigenous community generally adheres to a patrilineal major distribution system or prioritizing the male lineage, in this case the eldest male child is entitled to receive it. In the process of dividing inheritance, it is based on the parents' decision, in this case the father is the absolute decision holder and owner in deciding who has the right to inherit the inheritance. But in this case, the eldest son may not ask for inheritance before his parents die. In the inheritance process, usually the father, as the full holder of power and decision, gives a will, either in written or oral form, to his wife, then after the father dies, based on the will, that is the new property. can be passed on to their children and the children can manage the assets for the benefit of the family. Apart from children asking for inheritance before their parents die, things that can eliminate the eldest son not getting inheritance because of *mandagh* (the son leaves the traditional area or the eldest son lives in a different place with his wife's traditional area).¹⁹

The reasons why indigenous peoples still maintain a system of dividing inheritance based on patrilineal majorities include:

1. Regeneration in order to continue the lineage and customary order as well as the socio-cultural life of the community.
2. To further maintain harmony within indigenous communities.
3. To guarantee, maintain and preserve customary inheritance laws so that they do not become extinct or lost.

It further explains the assets that can be classified as inherited or inherited assets in the Lampung *Sebatin* traditional community, namely:

1. Slow God (Old house)
2. Tuha Garden (Old Garden)
3. Good morning (Old Rice Fields).²⁰

Based on the inheritance assets mentioned above, those who have the right to determine the distribution system for customary inheritance are the traditional stakeholders (at least the traditional tribal chief), while the distribution process goes through several steps as follows:

¹⁹ Interview to M. Tabrani (title Adok: Khaja Pengulihan) mores figure of Marga Way Lima Pesawarann, June 1st 2022, at 10.30.

²⁰ Interview to M. Risodar, AH (title Adok: Suntan Pusaka Agung) mores figure of Pangikhan Marga Way Khatai Pesawaran, June 1st 2022, at 10.30.

1. Distribution of inherited assets based on wills and testaments from the testator to the heirs, stating their respective shares in accordance with the heir's policy and the order of heirs.
2. Family deliberations involving traditional stakeholders as witnesses or mediators if problems arise in the distribution process.

If an agreement (decision) has not been reached, the distribution is carried out based on the customary law that applies in the customary area. In this case, *Sebatin* or the traditional holder becomes the sole executive in the distribution of inheritance, the results of which are then stated in a decision letter issued by the traditional holder.

7. Data analysis

1. Lampung *Sebatin* Traditional Inheritance Distribution System

The inheritance system or process of inheritance is the method by which the heir carries out or transfers the assets that will be left to the heirs while the heir is still alive and how the inheritance is passed on in control and use or how to distribute the inheritance to the heirs after the heir dies. The Lampung *Sebatin* indigenous community usually uses several methods of inheritance processes, including by way of succession or transfer and by way of appointment.

a. Forwarding or redirection

In the Lampung area, succession or transfer of rights to position and assets usually takes effect after the heir is old, where the eldest male child is already settled in the household, as are his younger siblings. With the succession and transfer of rights and obligations as head of the household in place of his father, as long as the father is still alive, the father remains in his position as an advisor and provides reports and family responsibilities.

This includes the meaning of passing on or transferring certain assets, as a material basis for continuing life to children who are about to marry and establish a new household, for example giving or giving certain houses and yards, plots of land, gardens or rice fields, to sons or women who are about to marry.

b. Appointment

The method of appointment by parents to their children or heirs as heirs of certain assets, then the transfer of control and ownership only applies fully to the heirs after the testator dies. If the parent is still alive, then he or she has the right and authority to control the assets indicated, but in the management or use of the assets, the designated person or child can already enjoy them. In the

Lampung Sebatin traditional community, usually if parents give some of their property by appointment, then all the children are collected.

Mustika Bahrum Adok/title of Suntan Pengayom Makhga from the Waylima Clan, Pesawaran Regency added an explanation with the following example, that after everyone had gathered, the father gave a statement, for example, the rice field which is one hectare in size and is located here is the right for his son Mail, then the car that he usually uses it for his daughter, Minah. If this is the case then if their father dies in the future, then Mail and Minah will be entitled to the assets given.²¹

For the Lampung Sebatin traditional community, apart from the assets that have been given through succession or transfer and assignment, the remaining assets that are not divided will be controlled by the eldest male child, for example the house inherited from their parents. So even if the parents do not leave a will or message regarding undivided assets, the position of the assets will automatically be controlled by the eldest male child.

The Lampung *Sebatin* indigenous community, when a dispute arises, in resolving the problem, the indigenous community always looks for a solution by means of kinship and consensus deliberation which results in decisions that are respected by their citizens. In this case, based on information obtained from Mr. Putrawan Jayadiningrat, S.Pd. Suntan Pangiran Dalom Simbangan Ratu, as the head of the Way Napal Clan, there are two types of deliberation which are usually carried out by the Lampung Sebatin indigenous community, namely:²²

- 1) In family deliberations, usually attended by all family members or heirs, then gathered in one extended family house, then with mutual agreement an elder person in the family is appointed to be the spokesperson in leading the deliberation. The family deliberation must also be attended by the traditional leader as one of the people who can provide neutral advice without taking sides from one party's opinion over another. After the problem is raised by the disputing parties, the best solution is then sought for all parties.
- 2) Deliberation of *Adat* (Customary Court). If there is still a dispute regarding inheritance between one party and another, then the matter can be brought to a customary deliberation held at the customary hall. In the presence of the traditional leader (*punyimbang adat*), members of other traditional leaders and members of the relatives in dispute. After the problem is raised by the disputing parties, the best solution is sought for all parties. In this case, the role of *punyimbang* aims to provide opinions in the form of tips or advice and

²¹ Interview to Bapak Mustika Bahrum, title Adok: Suntan Pengayom Makhga figure of Marga Waylima Kabupaten Pesawaran, June 30th 2022, at 10.00

²² Interview to Bapak Putrawan Jayadiningrat, S.Pd title Adok Suntan Pangiran Dalom Simbangan Ratu, as leader of Marga Way Napal June 5th 2022, 09.00

regarding procedures for distributing inheritance that are considered fair according to the applicable customary provisions. In the Lampung *Sebatin* indigenous community, disputes regarding inheritance have never gone to court, because the sense of kinship is still high and the role of *punybalas* still has a big influence on the local indigenous community.

2. Views of Islamic Law on the Division of Inheritance of the Lampung *Sebatin* Traditional Inheritance

Islamic law has regulated in detail how to determine heirs based on justice, between the interests of family members and the interests of religion and society.²³ The presence of Islamic inheritance law very firmly places children, women and men, each of whom has the right to receive a share in accordance with standardized provisions. In certain cases men get two shares, and women get one share. Then, why is the share of men bigger than women?

One of the lessons learned, as revealed by Muhammad Amin Suma²⁴ who quoted the opinion of a number of tafsir scholars including Muhammad Abduh and al-Sayyid Rasyid Ridha from various sources, is that one of the lessons learned is that determining a man's share of inheritance is the same as that of two people. women because apart from needing a living for themselves, men also need a living for their wives and families. As for women, she will only support herself, and if she marries her husband will guarantee her livelihood.²⁵ According to Muhammad Amin Suma, Islamic inheritance law, as its name suggests, namely *faraid* and inheritance law in general and as a whole, has very philosophical values, very basic and standard norms and contains very clear positive wisdom. Especially related to justice in addition to the principles of legal certainty and the principle of benefit.

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 have wisdom if studied and researched in depth. In Muslim society, men are responsible for providing for their families, different from women. If the woman is not married, then she is the responsibility of her parents or guardian. Meanwhile, after a woman marries, her moving will be the responsibility of her husband (man). In practice in the field, there is a discrepancy between the system of distribution of inheritance as prescribed by the Islamic religion and what is implemented by the indigenous Lampung community. In the distribution of inheritance in Islam

²³Zuhraini, "Perempuan dan Hukum Dalam Masyarakat Hukum Adat Lampung *Sebatin*", *Jurnal Pengembangan Masyarakat Islam*, Volume X, No. 2, (November 2017), p. 7.

²⁴Muhammad Amin Suma, *Keadilan Hukum Waris Islam Dalam Pendekatan Teks dan Konteks*, p. 109-110. Original source by Rasyid Muhammad Ridha, *Tafsir Alquran al-Ahkam (Tafsir al-Manar)*, vol. 4 (t.t: t.p., t.t), p. 406

²⁵Muhammad Amin Suma, *Keadilan Hukum Waris Islam Dalam Pendekatan Teks dan Konteks*, p. 122

regarding the people who have the right to receive inheritance (heirs) and the parts that should be obtained by the heirs are very clear, in the distribution of inheritance in the Lampung Sebatin indigenous community which uses the patrilineal distribution of inheritance, inheritance is only for children. only the oldest male. In more detail, the author describes the similarities and differences between Islamic inheritance law and the inheritance law applied by the Lampung Sebatin traditional community, as follows:

- a. Similarities between Islamic inheritance law and Lampung Sebatin traditional inheritance law:
 1. The definition of inheritance law according to Islamic law and Lampung Sebatin customary law contains the same meaning. This is a law that regulates the inheritance of the assets of someone who has died and is given to those who are entitled, such as family and society who have more rights.
 2. The pillars of inheritance according to Islamic law and Lampung Sebatin customary law are also the same, namely: heirs, heirs and assets left behind³⁰
 3. Regarding heirs, both Islamic law and Lampung Sebatin customary law, both agree that the heirs come from the closest family.
 4. Regarding the meaning of inheritance (*tirkah*) according to Islamic law and Lampung Sebatin customary law, it is also the same. This is something left behind by the person who died, whether in the form of money or other material which is permitted to be passed on to his heirs.
 5. Regarding inheritance assets distributed to heirs, both Islamic Law and Lampung Sebatin customary law both have the same meaning, namely after deducting costs when the heir is sick, costs for arranging the body, and paying debts while the heir is still alive.
 6. Meanwhile, regarding barriers for heirs to obtain inheritance, both Islamic law and Lampung Sebatin customary law have slight differences. In Islamic law, things that can prevent inheritance are killing, different religions, and slavery. However, what is practiced by the Lampung Sebatin indigenous community is that heirs who are caught in a murder case still receive a share of the muwarits after receiving forgiveness from other family members.
- b. The differences between the Islamic inheritance system and the Lampung *Sebatin* custom are as follows:
 1. In Lampung *Sebatin's* traditional inheritance law, there is a system of collective inheritance and majority inheritance, while Islamic law does not recognize these two systems.
 2. In Islamic inheritance law, who becomes the heir is very clear and detailed in Surah an-Nisa 11-12 and verse 176, whereas in the Lampung Sebatin tradition only the eldest son is the heir.
 3. In Islamic inheritance law the size of the portion of the inheritance obtained by the heirs is very clear and detailed, whereas in the traditional inheritance law of Lampung Sebatin the size of the portion obtained by the heirs from the inheritance is not yet clear.

4. In the event that a dispute arises regarding inheritance, the Lampung Sebatin traditional community chooses to resolve it through traditional deliberation and deliberation. Meanwhile, in Islamic law, if there is a dispute and problem of inheritance distribution, then the reference is the Al-Qur'an and As-Sunnah. Apart from that, it can also be solved by *takharuj and ishlah*. In the practical implementation of the solution *takharuj*, inherited assets are divided according to mutual consent based on individual needs. This can only be done if there are problems.
5. An agreement was reached and neither party felt disadvantaged. Settlement of inheritance *ishlah* found in the Compilation of Islamic Law Article 183, which is implemented in the Religious Courts. The death of the testator means that the inheritance is known to each heir, even though it is not yet in their hands.

To see whether the traditions and culture that have taken root among the Lampung Sebatin indigenous community are in accordance with Islamic teachings or not, in the author's opinion, a specific and specific study needs to be carried out. However, what is clear is that the traditional values of Lampung culture are deeply rooted. After Islam entered and developed in Lampung, the local people devoutly and fanatically followed Islamic teachings. In a number of daily life practices you can find various activities of the Lampung community which are collaborated with Islamic values or events and the values of Islamic teachings are integrated with the traditional values of Lampung culture. So that Islamic values and customs are integrated into the social behavior of the daily life of Lampung people. In the next stage, this social behavior of the Lampung traditional community becomes local wisdom for the Lampung community²⁶

III. CONCLUSION

From the description presented above regarding the inheritance of the Lampung Sebatin traditional community from the perspective of Islamic Law, it can be concluded as follows:

1. The system used by the Lampung *Sebatin* indigenous community is divided into two forms, namely:
 - a. The indigenous peoples of the Lampung Sebatin Tribe use a matrilineal system of major distribution or prioritize maternal descent. But in this case the woman or woman who inherits only has the right to occupy the house and manage the garden, and does not have the right to sell the property. If the family does not have daughters, sons are also entitled to inherit the inheritance, this is because the decision of who has the right to inherit the inheritance is the parents,

²⁶ Syaripudin Basyar, *Determinasi Nilai-Nilai Tradisi Terhadap Religiusitas Masyarakat (Kajian Adat Ninjuk dalam Budaya Lampung)*, (Lampung: Lembaga Penelitian Dan Pengabdian Kepada Masyarakat (LP2M) Institut Agama Islam Negeri Raden Intan Lampung, 2014), p. 90-91.

- especially the father.
- b. The indigenous people in the Lampung *Sebatin Adat* use a patrilineal system of majoritarian division or prioritize the father's lineage. In this patrilineal system, absolute decisions are owned by the heir as the absolute owner and decision holder. To whom the assets will be distributed and how much the share will be determined by the testator's decision. The method used in this distribution is by using a will.
2. The Lampung Sebatin traditional community uses a traditional inheritance system and is Muslim, but the inheritance system used is the system of majorat for the oldest woman and the oldest man, because the Lampung Sebatin tradition is still strong with the customary rules that apply to this day. Apart from that, this is also due to their lack of awareness regarding Islamic inheritance law as part of Islamic religious rules, so they prefer customary law.

REFERENCES

A. Books

- Al-Shobuni, Muhammad Ali, *al-Mawarits fi al-Syari'at al-Islamiyyah*, diterjemahkan Hamdan Rasyid, *Hukum Kewarisan, Menurut Al-Qur'an dan Sunnah*, (Jakarta: Dar Al-Kutub Al-Islamiyah, 2005).
- Athoilah, *Fikih Waris (Metode Pembagian Waris Praktis)*, (Bandung: Yrama Widya, 2013).
- Anshori, Abdul Ghofur, *Hukum Kewarisan di Indonesia*, Yogyakarta: Gajah Mada University Press, 2012.
- Aripin, Jaenal, *Filsafat Hukum Islam: Tasyri dan Syar'i*, Jakarta: UIN Jakarta Press, 2006.
- Athoilah, *Fikih Waris (Metode Pembagian Waris Praktis)*, Bandung: Yrama Widya, 2013.
- Hadikusuma, Hilman, *Hukum Kekerabatan Adat*, (Jakarta: Fajar Agung, 1978).
- Oemarsalim, *Dasar-Dasar Hukum Waris di Indonesia*, (Jakarta: PT. Rineka Cipta, 2006).
- Prodjodikoro, R. Wirjono, *Hukum Warisan di Indonesia*, (Jakarta Prodjodikoro umur Bandung, 1980).
- Shabuni, al-, Muhammad Ali, *Pembagian Waris Menurut Islam*, Translation of Basalamah, Jakarta: Gema Insani Press, 1995
- Shobuni, al-, Muhammad Ali, *al-Mawarits fi al-Syari'at al-Islamiyyah*, translation of Hamdan Rasyid, *Hukum Kewarisan, Menurut Al-Qur'an dan Sunnah*, Jakarta: Dar Al-Kutub Al-Islamiyah, 2005

Suma, Muhammad Amin, *Keadilan Hukum Waris Islam Dalam Pendekatan Teks dan Konteks*, 109-110. Rasyid Muhammad Ridha, *Tafsir Alquran al-Ahkam (Tafsir al-Manar)*, vol. 4 (t.t: t.p., t.t).

Suryati, *Keadilanm dalam Hukum Waris Islam*, (Purwokerto: Fakultas Hukum Universitas Wijayakusuma Purwokerto, t.t).

Syarifuddin, Amir, *Garis-Garis Besar Fiqh*, Jakarta: Prenada Media, 2005

Umam, Dian Khairul, *Fiqih Mawaris*, Bandung: Pustaka Setia, 2006

Yunus, Mahmud, *Kamus Arab-Indonesia*, Jakarta: PT. Hidakarya Bandung, 1990

Zein, Satria Efendi M, *Ushul Fiqih*, (Jakarta: Prenadamedia, 2005), hlm. 237 Satria Efendi M Zein, *Ushul Fiqih*, (Jakarta: Prenadamedia, 2005).

B. Journals

Al-Mabruri , M. Nasikhul Umam, "Keadilan Pembagian Harta Warisan Perspektif Hukum Islam dan Burgerlijk Wetboek", *Al-Mazahib-Jurnal Pemikiran Hukum*, Volume 5, Nomer 1, (Juni,2017).

Basyar, Syaripudin, *Determinasi Nilai-Nilai Tradisi Terhadap Religiusitas Masyarakat (Kajian Adat Ninjuk dalam Budaya Lampung)*, (Lampung: Lembaga Penelitian Dan Pengabdian Kepada Masyarakat (LP2M) Institut Agama Islam Negeri Raden Intan Lampung, 2014).