

## THE INHERITANCE OF PROPERTY AND THE POSITION OF SONS IN ACCORDANCE WITH THE MATRILINIAL SYSTEM IN THE MINANGKABAU INDIGENOUS PEOPLE AND ITS RELATIONSHIP WITH THE RULES OF AL-ADAH MUHAKKAMAH

Syafira & Ahyat Habibi

Sekolah Tinggi Dirasat Islamiyyah Imam Syafi'i Jember  
syafirasafar74@gmail.com ; ahyathabibic@gmail.com

### Abstract

*Inheritance according to Islamic law regulates the principles of inheritance, terms and pillars of inheritance, heirs, and arrangements regarding the amount of inheritance received by heirs. Fundamentally related to inheritance matters have been regulated in Islamic law, but in reality not all Muslims share the inheritance with reference to the provisions regarding the distribution of inheritance in the fiqh Mawaris. Customs and habits that grow in a person's social environment, become the reason that person is bound by a law. Such as Minangkabau customary inheritance law is one area that still uses customary law as a reference for the division of inheritance. The matrilineal inheritance distribution system makes the position of the woman's party higher in terms of inheritance portion than the male's. Whereas in the syar'i texts and in what has been taught the portion of men is twice as large as women. The acceptance of custom or urf as a proposition is a form of Islamic law's attention to the customs that apply in society. Meanwhile, related to the rule of al-adah muhakkamah with custom or urf there is a dispute with the syar'i text. This journal writing method uses a normative juridical type of writing, which is a research method that uses studies and explanations in laws and materials that contain law to regulate the legal issues studied.*

**Keywords :** Minangkabau, Inheritance Law, Matrilineal, Adah Muhakkamah

### INTRODUCTION

Indeed, Allah the Exalted has made the Islamic Shari'a lay down the rules of inheritance and the law regarding property as well and justly as possible. Islam establishes a person's property rights over hata, whether male or female through Shari'a, such as the transfer of male and female property while still alive or the transfer of property to his heirs after he dies.

The law of inheritance is the law that governs the transfer of ownership rights of inheritance (*tarikah*) from heir to heir, and determines who can be the heir, and determines how much each share is. The rules of Islamic inheritance law are gradually derived according to the needs of the community and their legal awareness so that it becomes a perfect inheritance law system (H.A. Mukti Arto, 2023).

West Sumatra Province in Minangkabau customs from a socio-cultural point of view has unique characteristics compared to ethnic heritage, rice fields and residences, women occupy a dominant place. Customary inheritance law in Minangkabau is an actual issue that is constantly discussed and questioned. As we know from the past until now applies the system of maternal descent (*Matrilineal*) namely those who come from one mother who are counted according to the maternal line namely brothers and sisters, mothers and their brothers both male and female, grandmothers and their brothers both male and female, and so on according to the female lineage. By itself, all those children can only inherit their own mothers, both for high inheritance and for low inheritance. If the deceased is a man then his children and widow are not heirs to the high estate but the heirs are all daughters and nieces (children of his sister). Minangkabau people are known as people who uphold Islamic customs and religion as a view of life. Not only that, in Minangkabau traditional philosophy is the custom of *basandi syarak*, *syarak basandi kitabullah* (Aziz, Dzofir, & Widodo, 2020).

Therefore custom and *syarak* cannot be separated from one another, in other words custom must not conflict with *syarak* and *syarak* must not conflict with theret.

Adat is also called '*uruf*', which means something that is known, known repeatedly to become a habit in society. Customs have aged into a hereditary part of mankind so that it becomes an identity. '*Uruf* for Muslims there is good and some bad. The establishment of good customs and the removal of bad is the goal of the arrival of religion and Islamic law.

Differences in ethnicity, customs and culture also cause differences in customary law that apply in each region. Because considering the majority of Indonesian people who are Muslim, of course, expect the enactment of Islamic law in Indonesia, including inheritance law for those who are Muslim. Inheritance law is one part of civil law as a whole and is the smallest part of family law (Kamal & Rozi, 2020).

Islamic Sharia establishes the rules of inheritance in a very orderly and fair form, the ownership of property for every human being, both male and female by legal means. The Islamic Shari'ah also stipulates the transfer of ownership of a person after death to his heirs

from all his relatives and relatives, without distinguishing between male and female, large or small. The Qur'an explains and details in detail the laws pertaining to the right of inheritance without neglecting the rights of anyone. The parts that must be received are all explained according to the position of the nasab towards the heir. As written in Surah An-Nisa verse 11:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ ۚ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۚ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ ۚ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ وَلَدٌ ۚ فَإِن لَّمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَتْهُ أَبَوُهُ فَلِأُمِّهِ الثُّلُثُ ۚ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ ۚ مِن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ ۚ لِأَبَائِكُمْ وَلِأُمَّاتِكُمْ لَا تَدْرُونَ أَيُّهُم أَقْرَبُ لَكُمْ نَفْعًا ۚ فَرِيضَةٌ مِّنَ اللَّهِ ۚ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

Translation of the Ministry of Religion 2019

11. Allah decrees (obliges) you about (the division of inheritance for) your children, (that is) the share of a son is equal to the share of two daughters.<sup>146</sup> If the children are all girls of more than two, their share is two-thirds of the property left behind. If she (the daughter) is alone, she gets half (the property left behind). For both parents, each share is one-sixth of the property left behind, if he (the deceased) has children. If he (the deceased) has no children and he is inherited by both parents (only), his mother gets one-third. If he (the deceased) had several siblings, his mother got one-sixth. (The inheritance is divided) after (fulfilled) the will made by him or (and repaid) his debts. (About) your parents and your children, you do not know which of them will benefit you more. This is God's decree. Indeed, Allah is All-Knowing and All-Wises (Aris & Sabir, 2020).

146) The male share is twice the female share because the obligations of men are heavier than those of women, such as the obligation to pay dowry and provide for (see surah an-Nisā'/4:34).

In the above verse it is clearly stated that the share of sons is equal to the part of 2 girls or 2:1, while in the Minangkabau indigenous community what has happened so far is that the share of men is less with the share of girls. This means that there is a gap between the Islamic inheritance law that should occur and the reality that exists in society. This indicates that they do not use the basis set by Allah the Exalted in the Qur'an as a guide in solving inheritance problems, only with the consent of each heir without paying attention to the actual rules of inheritance (Nasution, 2014).

Apart from the beginning of the emergence of the term customary law, the author will focus on the term customary law in the sense of *al-adah muhakkamah*, namely *urf shahih*, *urf* which does not contradict the *shari'i* proposition, does not justify the *haram* and does not forbid the *halal*. With this understanding, any human custom that does not contradict Islamic law can be established as Islamic law as long as there is conformity with the postulates of the *Shari'a*. Allah the Exalted said in QS. *Al-A'raf* verse 199:

خُذِ الْعَفْوَ وَأْمُرْ بِالْعُرْفِ وَأَعْرِضْ عَنِ الْجَاهِلِينَ

Translation of the Ministry of Religion 2019

199. Be forgiving, command (people) to the accrued, and turn away from fools(Qur'an, 2019).

The verse can be understood as a command to do something that has been considered good so that it becomes a tradition in a society. This appeal is based on the consideration of good habits and is considered useful for their benefit. And for the application and implementation of what is stipulated in the *urf* of a region or custom that certainly does not contradict and violate the requirements of the *nash syar'i*, as well as the *sunnah* of the Prophet *sallallahu 'alaihi waalam*. However, the reality that exists in the Minangkabau community is about the plurality of customs and cultures so that the rules of *al-adah muhakkamah* cannot be applied absolutely in such a wide space, but on the other hand the character of a *fiqh* rule that is indeed universal so that it can be applied in every space and time. So with the customs in the Minangkabau community that adheres to the matrilineal kinship system can cause social inequality between men and women, but this applies to all communities in Minangkabau. However, in the *nash syar'i* it has been clearly explained about the inheritance law between men and women, and Minangkabau customary inheritance law contradicts that.

Based on the description above, the author is interested in discussing this matter in depth in a journal entitled "The inheritance of property and the position of sons in accordance with the matrilineal system in the Minangkabau indigenous people and their relationship with the rules of *al-adah muhakkamah*".

## **METHODS**

To facilitate the work of this research, a research method, data collection techniques and relevant approach methods are needed. In this case, analytical descriptive research methods are used with a normative juridical approach, which is a research method that uses studies and explanations in laws and materials containing law to regulate the legal issues studied. Secondary data in the form of primary, secondary, and tertiary legal materials and the information is then analyzed in a qualitative juridical manner in depth so that an overview of customary law is obtained. According to Anggara (2018) suggests that research methods are also scientific ways and steps taken to find out the problems that exist in the research location while collecting data and indications that are considered to answer the problems studied.

Based on the description above, conclusions can be drawn from the research method used by researchers, namely by using research with a qualitative approach. Because this qualitative approach is research that produces ideas and describes data related to situations that are happening, views and attitudes that occur in a society, conflicts between two or more circumstances. In qualitative research, the primary data is in the form of words and actions of people observed or interviewed. To obtain primary data, in this study research was carried out, namely by conducting direct research into the field. Among them: Dr. Ali Mukromin S.pd and Nurjanati S.pd. This research was conducted on March 12, 2023 - May 7, 2023

## **RESULTS**

### **Islamic Inheritance Law**

Inheritance according to Islamic law is a law that regulates the transfer of property left by someone who dies and the consequences for his heirs (Perangin, 2008). And also various rules regarding the transfer of property rights in question are in the form of property, a person who has died to his heirs. In other terms, inheritance is also called faraidh. Which means a certain part that is divided according to the religion of Islam to all who are entitled to receive it and who have been determined its parts (Saebani, 2012).

The Islamic law of inheritance is basically the law of Allah the Exalted which was revealed for the benefit of mankind. Its main source is the Qur'an and it is perfected with the sunnah of the Prophet Sallallahu 'alaihi wasalam and ijihad of the scholars. Because the

law of inheritance is the law of Allah delivered by the Prophet Muhammad Sallallahu 'alaihi wasalam, the law in certain cases has principles that are different from man-made laws, in addition to there are also principles that are in fact the same as laws made for humans.

The distribution of inheritance must be based on Islamic law and Allah the Almighty has made property the subject of life for man, as He has said in Q.S. an-Nisa verse 5:

وَلَا تُؤْتُوا السُّفَهَاءَ أَمْوَالَكُمُ الَّتِي جَعَلَ اللَّهُ لَكُمْ قِيَامًا ۗ وَارْزُقُوهُمْ فِيهَا وَاكْسُوهُمْ وَقُولُوا لَهُمْ قَوْلًا مَعْرُوفًا

Translation of the Ministry of Religion 2019

5. Do not hand over to those who are not perfect in their minds (those who are in your power) whom God makes the subject of your life. Give them shopping and clothing from it and speak to them good words (Qur'an, 2019).

Thus, God has established treasure as the subject of life for man, so He has also established some absolute rules that we must follow in arranging the treasure He has given, so that it is used correctly according to His provisions and commandments. One of God's decrees regarding the management of property is regarding the ordinance of the distribution of inheritance left by a person when he dies.

There are several sources of the law of faraidh science are the Qur'an, as-Sunnah of the Prophet Sallallahu 'alaihi wasalam, and ijma' of the scholars.

#### 1. Qur'an

From the first legal source of the Qur'an, there are at least three verses that contain the law of inheritance. There are several verses related to inheritance, namely:

It is said in Surah an-Nisa verse 11:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ ؕ

Translation of the Ministry of Religion 2019

11. Allah decrees (obliges) you about (the division of inheritance for) your children, (that is) the share of a son is equal to the share of two daughters (Qur'an, 2019).

Imam Al-Bukhari said in connection with the interpretation of this verse: has told us Ibrahim ibn Musa, has told us Hisham, that Ibn Juraij once told them, has told me Ibn al-Munkadir, from Jabir ibn Abdullah who said: 'The Prophet sallallahu 'alaihi wasallam and Abu Bakr Radhiyallahu 'anhu came on foot to visit me in Banu Salamah. The Prophet met me unaware of anything. Then he asked for ablution water and performed ablution, then

splashed (the former ablution water) on me until I realized. Then I asked, "O Messenger of Allah, what will you command me in relation to my treasure? What should I do with him?" And so came his word. Allah decreed for you about (the distribution of inheritance to) your children. That is, the share of one son is equal to that of two daughters. The same is narrated by Imam Muslim and Imam An-Nasai through the hadith Hajaj ibn Muhammad Al-A'war, from Ibn Juraii with the same pronunciation.

So God commanded them to do justice among themselves (heirs) in the distribution of the principal inheritance. but the second part of the type is distinguished by Allah subhanahu wa ta'ala; He made the son's share equal to the part of two daughters. Because it is because a man is required to provide for himself, and other expenses. toil in business, and try and endure all the hard things.

A more affirming verse of male and female heritage is in Q.S. an-Nisa verse 176:

يَسْتَفْتُونَكَ قُلِ اللَّهُ يُفْتِيكُمْ فِي الْكَلَالَةِ إِنَّ امْرُؤًا هَلَكَ لَيْسَ لَهُ وَلَدٌ وَلَهُ أُخْتٌ فَلَهَا نِصْفُ مَا تَرَكَ وَهُوَ يَرِثُهَا إِنْ لَمْ يَكُنْ لَهَا  
 وَلَدٌ فَإِنْ كَانَتَا اثْنَتَيْنِ فَلَهُمَا الثُّلُثَانِ مِمَّا تَرَكَ وَإِنْ كَانُوا إِخْوَةً رِجَالًا وَنِسَاءً فَلِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ يُبَيِّنُ اللَّهُ لَكُمْ أَنْ  
 تَضِلُّوا وَاللَّهُ بِكُلِّ شَيْءٍ عَلِيمٌ ۝

Translation of the Ministry of Religion 2019

176. They ask you for a fatwa (about kalālah).191) Say, "Allah gives you a fatwa on kalālah, (that is) if a person dies and he has no children, but has a sister, his share (that sister) is one-second of the property he left behind. As for her brother, she inherits (all of her sister's property) if she has no children. However, if the sisters are two people, for both of them two-thirds of the property left behind. If they (the heirs consist of) several brothers and sisters, the share of one brother is equal to the share of two sisters. Allah explained (this law) to you so that you would not go astray. Allah knows all things (Qur'an, 2019)."

## 2. Hadith

There are several hadiths that explain the division of inheritance including

((الْحَقُّوَا الْفَرَائِضَ بِأَهْلِهَا، فَمَا بَقِيَ فَهُوَ لِأَوْلَى رَجُلٍ ذَكَرٍ)) مُتَّفَقٌ عَلَيْهِ

It means: "Give the inheritance to the person who deserves it, while the contents are to the closest male relative." In this hadith the Prophet Sallallahu 'alaihi wasallam ordered that the distribution of inheritance starts from Ashabul Furudh, namely heirs who get a

certain ration (half, quarter, eighth, two-thirds, thirds, or sixths), then if there is a residue it is given to the closest male relative (Zuhri & Dewi, 2018).

أَعْطَى كُلَّ ذِي حَقِّ حَقَّهُ وَلَا تَجُورُوا لِوَارِثٍ)) وراه مسلم فذ الله ((إنَّ

Meaning: from Ibn Abbas Radhiyallahu 'anhu Prophet Muhammad صلى الله عليه وسلم said: "Give the inheritance to the rightful one after that the rest to the man who is more important."

### 3. Ijma and Ijtihad

The companions, the tabi'in, the post-companion generation and the tabi'it tabi'in and the post-tabi'in generation. Have ijma or agreed on the legality of the science of faraidh and no one can violate it. Madhhab imams who play a role in solving the problem of inheritance are described in nash-nash shohih (Ahmad et al., 2018).

## **Minangkabau Customary Inheritance Law and Matrilineal System**

Islamic inheritance law is very different from various other inheritance law systems, for example inheritance law based on customary law, customary inheritance law in Minangkabau adheres to a collective inheritance system and an individual inheritance system. The collective inheritance system is a system of inheritance that requires that the inheritance remains undivided among each of his heirs, and it is desired that the inheritance of his ancestors be preserved. The individual inheritance system is an inheritance system where inheritance can be divided and can be owned individually (Agung., 2023).

In addition to having a very rich culture, Minang customs are also known for the matrilineal kinship system adopted by the community from generation to generation. Minangkabau is indeed one of the largest tribes in Indonesia that inhabits the region in West Sumatra. Currently the Minang tribe is the largest matrilineal adherent community in the world. According to Nasrun (Khairat, Mastura, & Atikah, 2022) in the Minangkabau customary law philosophy, this kinship system according to maternal lineage (matrilineal) is the oldest system when compared to other kinship systems (Agung., 2023). It is also said, "In Minang culture and custom, it is established that the lineage of descendants takes the mother's lineage, which is called the matrilineal system. This kinship system is intended so that love and appreciation for women always lives in the soul of men" (Sopyan & Suryani, 2020).

In the principle of matrilineal kinship that regulates kinship through the maternal line, with this line the child will take his tribe from his mother, this line also has a meaning in the forwarding of inheritance, where a daughter will inherit according to the maternal line, the inheritance in question is hereditary inheritance from the mother's family called high inheritance.

A matrilineal family, the arrangement usually consists of a man called mamak (as the head of the ruling family in the family) and the children of the woman both male and female. In the family house there are two generations, namely the mamak generation and the nephew generation. In the past, the mother and the mother were the nieces and nephews of Ninik and her sister. According to Minangkabau custom, the holder of property is practically a woman because in the hands of a centralized matrilineal family (Djawas & Samad, 2020). Mamak has a role to supervise and regulate the use of the treasure. As said, "the distribution of inheritance in Minangkabau customs for men and women has different rights because Minangkabau has a matrilineal system, so that the property does not pass into the hands of wives or other groups". Also said. " Why is there a difference in the division of inheritance in Minangkabau customs between men and women, namely Minangkabau customs are the same as the laws of inheritance in Islam according to paragraph 11 of Surat Annisa, namely sons 2 times ank girls, but in Minang society there are religious and some are with the matrilineal system" (Aziz et al., 2020).

The Minangkabau people to this day still recognize and continue the lineage from the mother. The wealth of dignity and title is passed down through the female line. Marriage and other matters are arranged based on the agreement of the family parties and decisions are made in agreement with ninik mamak.

In this kinship system, offspring according to the maternal line is considered very important, giving rise to family relationships that are much closer and pervasive among the citizens of the family. The matrilineal kinship system applies a form of semanda marriage, carried out without honest payment on the part of the man to the woman. After marriage, the man must settle on the side of the wife's kinship. This kinship system is adopted by the Minangkabau community (Yahya, Untung, Nasif, Setiawan, & Fajari, 2020).

With this matrilineal system children can only inherit from the mother. The inheritance obtained is a high inheritance, and a treasure obtained from generations of previous generations. The heirs also get a low inheritance which is a treasure acquired down

from a generation earlier. Livelihood property acquired by *taruko* or purchased, will fall to his descendants who are classified as low inheritance if the owner of the property has died. If the deceased is a man, then his children and wife do not become heirs to the high estate, the heirs of which are all his security.

In the Minangkabau customary inheritance system, there are four types of heirlooms, namely:

1. High Heritage Property is property obtained from cooperation or mutual assistance, between mothers and nephews in a tribe or race, in the past which was intended for benefits for sisters and nieces, according to the tribe or race from the maternal line according to the matrilineal concept, Usually this property is in the form of houses, rice fields, fields, ponds and forests. High Inheritance cannot be fought for and can only be mortgaged. Each tribe or tribe has the right to use and is usually managed by the mother of the head of the heir (*angku*). Mortgaging high inheritance can only be done after deliberation among tribal officials, mortgaged to the same tribe but can also be mortgaged to other tribes (Lazuardi, 2015).

2. Low inheritance is all property obtained from one's own work and livelihood. This property can be sold and mortgaged according to the needs by agreement of the heirs. is property either movable or immovable acquired by a person or one *parnik* based on a gift or grant or owned by a family based on his livelihood, purchase, *taruko* and or has been inherited once or twice a straight-line line. This *low heritage* is regulated based on Faraidh Law or Islamic Law with the provisions of the Qur'an and Hadith, or it can also be based on agreement by means of deliberation for consensus (Lazuardi, 2015).

3. Livelihood Property means the livelihood property of a husband and wife acquired during marriage. Livelihood assets obtained by buying or in customary terms called *gold tembilang* can be in the form of rice fields, fields, gardens and others. In the event of divorce, they can share this livelihood property (Lazuardi, 2015).

4. Congenital Property / *Suarang* is property owned by a person, both by husband and wife before the marriage occurs. After marriage, the status of this property still belongs to each other. So this property is the property of the husband and the wife's property, and it is a treasure of accuracy. Since this property belongs to "*suarang*" or personal property, it can be given to others without being tied to his husband or wife.

Some say, "Minangkabau people are often identified with religious people in embracing their religion. But in the concept of offspring they use a matrilineal system. This relationship is contrary in the application of Islam itself which uses the Patriat system. This system certainly has its own reasons carried out by the Minangkabau community"

## DISCUSSION

### **The Relationship Between Al-Adah Muhakkamah Rules and Property Inheritance with the Matrilineal System in Minangkabau Customs**

As we know that Islam is a special religion. One of the peculiarities of Islam lies in its teachings which provide ample space to receive the entry of elements of outside culture. This is evident when Islam was brought by the muballigh to new areas, then Islam did not completely get rid of the teachings that had been in effect for a long time in the community, but provided enough space and space to adapt to the local culture, such as among others in Indonesian society which showed Islam and local culture seemed so friendly and understood each other.

Thus, al-adah or 'urf is one of the sources in the istinbath of law, establishing that it can be postulated if there is no nash found from the book (Qur'an) and Sunnah. The conditions of 'Adah or 'Urf can be relied upon by law are as follows:

- a. Not contrary to nash. That is, a tradition can be used as a legal guide if it does not contradict the nash of the Qur'an or the hadith of the Prophet (peace be upon him). Therefore, a tradition that does not meet these requirements must be rejected and cannot be used as a legal foothold for society. The nash referred to here is a definite nash. Namely nash which has clear and firm legal content, so it does not allow takwil or other interpretations (Haq, 2017).
- b. 'Adah or 'Urf it must be generally applicable. That is, 'Urf it must be understood by all levels of society, both in all regions and in certain regions. Therefore, if it is only the 'Urf of the people, of course, it cannot be used as a legal backing.
- c. 'Adah or Unf has been going on for a long time, not a new 'Urf, In this case an example is if someone says for Allah's sake, I will not eat meat forever. And when he said the word what was meant by meat was mutton and beef, then five years later, 'Urf society changed that the meaning of meat is all meat including fish meat. Then

the person eats fish meat, so the person is not punished for breaking his oath because a lafadz is not based on the 'Urf that appeared later.

- d. Does not clash with tashrih (one's firmness in a problem). If a clashes with tashrih, then the 'urf does not apply.

In addition, there are several conditions for the use of 'Urf, including:

- a. 'Urf should not be used for things that would infringe on the existing nash.
- b. 'Urf should not be used when it overrides the public interest.
- c. 'Urf can be used if it does not lead to ugliness or damage (Djalil, 2010).

The rule of al-Adah Muhakkamah is used if there is no shar'i nash that explains a shari'a problem, then when there is no shari'a nash that explains a problem, it is returned to urf. As for if there is a shar'i nash that comes in a problem then this is the basis, and urf cannot defeat nash, urf must be abandoned, because there is no right for urf to defeat nash.

As for the issue of inheritance, nash has come clearly in the Qur'an, even Allah explains one after another. So such a thing cannot be defeated with urf. And urf cannot be made a law because it investigates nash.

Thus, the inheritance of sons' property with a matrilineal system in Minangkabau customs cannot be justified and investigates what is taught by the Shari'a, and which has been described by Allah the Exalted in the Qur'an and the Sunnah of the Prophet Sallallahu 'alaihi wa salam.

## CONCLUSION

Minangkabau customs carry out the principle of matrilineal kinship. Their lives are supported by property owned for generations. The property is owned by all family members. In the mechanism of transfer of property occurs collectively. With the entry of Islam in Minangkabau has given a new understanding of the property in a house.

The Minangkabau customary inheritance law has been finalized, which must be sourced from customary rules that have been agreed upon by the scholars and existing people, namely "*Adat basandi syara' and syara' basandi kitabullah al-Qur'an*", that is, the Minangkabau customary inheritance law should be the Islamic inheritance law itself, it cannot be interpreted otherwise. But even in the family, if the family is religious, it must still follow

inheritance according to Islamic law faraidh, while other families still follow the custom with a scale of 1: 2 for men and women, it is different if you apply the principle of peace where inheritance for men is given more by women.

The division of inheritance between Minang custom and Islamic faraidh law is different. In Islamic faraidh law, property is inherited more to men while in Minangkabau more to women. That's how in Minang from the past, there has never been a meeting point between religion and custom.

In the provisions of the application of al-adah as a basis for the determination or application of a legal provision, it is said that al-adah must not contradict nash syar'i in the sense of conflicting uses in expression and conflict in generality and solemnity of nash syar'i.

In the matter of inheritance it has been explained clearly and in detail in the Qur'an and hadith, therefore it cannot be defeated with urf, because the custom is very contrary to Islamic faraidh law. 'Urf cannot be made law because it investigates nash.

It is hoped that the Minangkabau custom based on "adat basandi syara' syara' basandi kitabullah" will not only become a motto, but can be proven in its implementation, namely the custom of really returning to *kitabullah* (Qur'an and hadith) according to Islamic law. It is hoped that the next generation of Minangkabau customs will understand about Minangkabau customs so that they can still preserve Minang customs based on the Qur'an and hadith. The rules of fiqh, especially the rules of al-adah al-muhakkamah are still little known by the community, these rules should be socialized more thoroughly to the community so that people have knowledge of adah in accordance with shari'a and make the inheritance of property in Minang in accordance with Islamic faraidh law.

## REFERENCES

- Agama, D. (2019). *Al-Qur'an dan Terjemahannya Edisi Penyempurnaan* (1st ed.). Jakarta: Lajnah Pentashihan Mushaf Al-Qur'an.
- Agung., Y. M. (2023). *Dinamika Sistem hukum Adat Minangkabau*. Jakarta.
- Ahmad, M. Y., Mohamad, M. N., Muda, M. Z., Jamsari, E. A., Hassan, W. Z. W., & Kashim, M. I. A. M. (2018). Confronting the problem of managing unclaimed inheritance property of muslims in Malaysia. *International Journal of Civil Engineering and Technology*, 9(4), 1459–1466. <https://doi.org/10.34218/IJCIET.09.4.2018.161>
- Arif, & Sabir, M. (2020). Hukum Islam Dan Problematika Sosial; Telaah Terhadap Beberapa Hukum Perdata Islam Dalam Kompilasi Hukum Islam Di Indonesia. *DIKTUM: Jurnal Syariah Dan Hukum*, 18(2), 283–295. <https://doi.org/10.35905/diktum.v18i2.1608>

- Aziz, E., Dzofir, M., & Widodo, A. (2020). The acculturation of islam and customary law: An experience of Minangkabau, Indonesia. *Qudus International Journal of Islamic Studies*, 8(1), 131–160. <https://doi.org/10.21043/QIJIS.V8I1.7197>
- Djalil, A. B. (2010). *Ilmu Ushul Fiqih (Satu dan Dua)*. Jakarta: Kencana Prenada Media Group.
- Djawas, M., & Samad, S. A. A. (2020). Conflict, traditional, and family resistance: The pattern of dispute resolution in acehnese community according to Islamic law. *Samarah*, 4(1), 65–84. <https://doi.org/10.22373/sjhk.v4i1.5271>
- H.A. Mukti Arto. (2023). “Pembahasan Kompilasi Hukum Islam” (Online). <https://Isbjfbunnes.Wordpress.Com/Paparan-Kuliah/Hukum-Kewarisan/.Htm>.
- Haq, H. (2017). “Kaidah Al-‘Adab Mubakkamah dalam Tradisi Pernikahan Masyarakat Jawa”, *Skripsi*. IAIN Tulungagung Jawa Timur.
- Kamal, M., & Rozi, S. (2020). the Cultured Islam: the Boundary of Islamic Identity Between the Minangkabau and Mandailing Ethnics. *ELHARAKAH (TERAKREDITASI)*, 22(2), 223–243. <https://doi.org/10.18860/eh.v22i2.9021>
- Khairat, N., Mastura, L. F., & Atikah, A. (2022). Status “Uang Panjaputan Sumando” Dalam Masyarakat Adat Minangkabau Ditinjau Dari Hukum Islam Di Nagari Salimpaung, Kabupaten Tanah Datar. *Proceeding Iain ...*, (Ncssr), 920–927.
- Lazuardi, D. A. dan E. P. (2015). *Kedudukan Anak Laki-laki Minang Terhadap Penguasaan Harta Pusaka Tinggi Menurut Hukum Waris Adat Minangkabau (Studi Kasus Nomor: 18/PDT.G/2015/PN PDG)*.
- Nasution, A. H. (2014). *Hukum Kewarisan Islam: Suatu Analisis Komparatif Pemikiran Mujtabid dan Kompilasi Hukum Islam* (3rd ed.). Kota Depok: PT Rajagrafindo Persada.
- Perangin, E. (2008). *Hukum Waris*. Jakarta: Rajawali Pers.
- Saebani, B. A. (2012). *Fiqih Mawaris*. Bandung: Pustaka Setia.
- Sopyan, Y., & Suryani, H. (2020). Marriage with Same Tribes in the Customary Law of Minangkabau Batipuh Ateh (A Legal Anthropology Approach). *Jurnal Hukum Islam*, 18(2), 157–172. <https://doi.org/10.28918/jhi.v18i2.3262>
- Yahya, Y. K., Untung, S. H., Nasif, H., Setiawan, M. N. H., & Fajari, I. A. (2020). *Islamic Identity in Minangkabau: A Case Study of the Rejection of Minangkabau Bible Translation Application*. 491(Ijcah), 567–573. <https://doi.org/10.2991/assehr.k.201201.099>
- Zuhri, S., & Dewi, S. K. (2018). Living Hadis; Praktik, Resepsi, Teks, dan Transmisi. *Yogyakarta*, 1–158.