The Legal Implications of Customary Law on Inheritance Distribution for Daughters from the Perspective of Islamic Family Law

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Abstract

Indigenous peoples of Lampung have a tribal culture which is divided into two large customary groups, namely the Saibatin and Pepadun indigenous peoples, and most of the community members embrace Islam, in terms of marital affairs which will continue to be inherited in the family. Indigenous people in general still use the procedures contained in their customary law. This study aims to analyze the position of women in inheritance distribution in Lampung customary law in Way Kanan and Pesisir Barat districts from the perspective of Islamic Family Law in Indonesia. This research is field research, which describes and describes the situation and phenomena more clearly regarding the situation that occurred. This study intensively studied the position of women in inheritance distribution in Lampung customary law in Way Kanan and Pesisir Barat districts from the perspective of Islamic Family Law in Indonesia. Qualitative descriptive research method is research that only describes situations and events. This study does not seek or explain relationships, does not test hypotheses or make predictions, but only describes variable by variable. This study uses a purposive sample. The informants in this study were: Key Informants: 4 traditional leaders, Main Informants: 4 women who were heirs, Supporting informants: 4 indigenous people. Data sourced from primary data and secondary data, with data collection techniques interview, observation, and documentation. The data collection activities are carried out after the research is carried out or compiled. Data collection is one of the processes in research that can help solve the problems being studied, therefore the data collected must be sufficient. Data analysis by collecting data, data reduction, data presentation, and conclusions.

1. Introduction

The cultural diversity in Indonesia has resulted in various inheritance practices reflected in the customs of each region. The absence of a unified national inheritance law has led to the pluralism of inheritance systems, comprising three main types: Customary Inheritance Law, Western Inheritance Law (BW), and Islamic Inheritance Law, which reflect the diverse beliefs of Indonesian society. Islamic inheritance law, as part of the Sharia, systematically regulates inheritance with strong emphasis on justice. In Islam, heirs are determined based on marriage, blood relations, and emancipation of slaves.

Ideally, women should have equal rights with men, including in inheritance distribution. However, customary inheritance law is often influenced by patriarchy, positioning men as the primary holders of authority. Customary law is closely related to kinship and marriage, influencing the regulation of inheritance. Patriarchal dominance is still evident, particularly in patrilineal systems like those in Lampung. Lampung society is divided into Pepadun and Saibatin groups. Pepadun adheres more strictly to customary practices, while Saibatin is more influenced by Islamic law, especially in urban areas. Among Saibatin communities, the male-majority system applies, where the eldest son inherits all assets. In the absence of a male child, the family is considered without descendants, and adoption is allowed to continue the lineage.

Customary law, as an essential source in shaping national law, governs inheritance through transfers, wills, or instructions. Inheritance may be postponed or balanced according to religious law. This customary legal system differs from both Islamic and Western inheritance laws. Over time, influenced by economic, political, and technological advancements, gender equality has gained momentum, including in inheritance matters. Feminism advocates for legal reforms to eliminate gender-based disparities. However, customary law still exhibits inequalities, and Indonesia has yet to establish a comprehensive national inheritance law.

Thus, Indonesia's inheritance system allows for the application of various legal frameworks, including the inheritance system under the Civil Code (KUH Perdata), customary inheritance law, and Islamic inheritance law. All three systems are applicable within Indonesia’s legal society, leaving it to the parties to choose the most suitable system that reflects their sense of justice.

As a predominantly Muslim country, many people are inclined to apply Islamic inheritance law. Over time and with technological advancements, Islamic legal principles continue to evolve to benefit the community, ensuring fairness for both men and women. Islamic inheritance law emphasizes the principle of proportional justice, where all heirs have rights, albeit with differences in inheritance shares. The focus of Islamic inheritance law is proportional justice rather than absolute equality, though this principle often becomes a subject of debate and can trigger disputes among heirs.

The women's movement advocating for equal rights with men is growing, as the roles of women and men are now almost equal in the family economy. Women, who were previously limited to household duties, now experience role shifts in line with changing times. The Lampung community consists of two major ethnic groups with different topographies. Lampung Saibatin, which inhabits regions like Meninting, Teluk, and Belalau, uses the "api" dialect, while Lampung Pepadun, which resides in the lowland and highland areas like Abung and Tulang Bawang, uses the "O" or "Nyow" dialect. The presence of these two major ethnic groups in Lampung has resulted in the region having two cultures that are similar but implemented differently in each customary area. This diversity makes Lampung a region rich in color, with its people's customs and traditions. However, although these two ethnic groups have different cultures, they are united by what is known as "*piil pesenggirei,*" a philosophy of life followed by the people of Lampung in their daily lives. This philosophy, which shapes the character and attitude of the Lampung people, consists of:

a) *Pi-il Pesenggiri* (dignity)
b) *Juluk Adek* (honorary titles)
c) *Nemui Nyimah* (open-handed)
d) *Nengah Nyappur* (community life)
e) *Sakai Sambayan* (helping each other)

The Lampung indigenous community, particularly the Pepadun group, holds a strong sense of self-esteem. A *penyimbang* (traditional leader) is regarded as a prominent figure with distinct qualities. From childhood to adulthood, individuals adopt prestigious names *(juluk),* and after marriage, they use titles—*adok* for men and *inai* for women. Their fondness for praise is reflected in the traditions of *nemui* (welcoming guests) and *nyimah* (giving gifts), especially to relatives. These traditions also encompass forgiving attitudes, visiting one another *(nengah),* socializing *(nyappur),* and engaging in deliberations, albeit sometimes excessively. Additionally, they value

cooperation in major tasks, such as building houses or organizing traditional ceremonies.

Their high sense of self-esteem drives the Lampung people to seek noble titles through grand ceremonies. However, this same pride often makes them reluctant to engage in tasks deemed lowly. The customs and philosophy of Lampung serve as a strong foundation for their way of life, including in matters of marriage and inheritance.

The Lampung indigenous community, the majority of whom are Muslim, continues to prioritize customary laws in marriage and inheritance, even though Law No. 1 of 1974 governs marriage in Indonesia. This law establishes a bilateral kinship system, regulates family law, and ensures equal status for husbands and wives, including in inheritance matters. This reflects the principle of equality between men and women in family law.

Based on the explanation above, women should also have the same inheritance rights as men, regardless of their status in customary law. This study will provide an analysis of the position of women in inheritance distribution according to Lampung customary law in Way Kanan and Pesisir Barat districts, from the perspective of Islamic Family Law in Indonesia.

2. Research Method

This research is a field research study, which aims to describe and illustrate the situation and phenomena more clearly regarding the circumstances that occur. The study focuses on the position of women in inheritance distribution within the Lampung customary law in Way Kanan Regency and Pesisir Barat Regency, viewed through the perspective of Islamic Family Law in Indonesia. The descriptive qualitative research method is employed, which only describes the situation and events. This research does not aim to find or explain relationships, test hypotheses, or make predictions but merely depicts each variable. In this case, it describes the position of women in inheritance distribution within Lampung customary law in Way Kanan and Pesisir Barat Regencies, viewed from the perspective of Islamic Family Law in Indonesia. The sampling technique used in this research aims to gather as much information as possible from the sources and their constructions. For determining the sample in this research, a purposive sample is applied. The informants in this study are: Key Informants: 4 customary leaders, Main Informants: 4 female heirs, Supporting Informants: 4 members of the customary community. Data sources include both primary and secondary

data, with data collection techniques such as interviews, observations, and documentation. Data collection activities are conducted after the research is carried out or compiled. Data collection is a process in research that can help solve the problems being studied, and therefore, the data gathered must be sufficient. Data analysis is performed through data collection, data reduction, data presentation, and conclusion drawing.

3. Results and Discussion

Inheritance Practices in the Pepadun Customary Community of Way Kanan

The Pepadun Customary Community in Way Kanan, Lampung, adheres to a patrilineal kinship system, emphasizing the male lineage. Within their inheritance system, there is the concept of male-majority inheritance, where the eldest son (the sole heir) has the right to all the parents' inheritance and is responsible for continuing the family line. The eldest son not only inherits the property but also carries social responsibilities, such as funding the marriages of unmarried siblings and maintaining family harmony. If the sole heir dies, his rights and responsibilities can be passed on to the next eldest son. In contrast, daughters in the Pepadun community are considered "queens" and have no inheritance rights over the family's property. This is due to the "honest" marriage tradition, where the male party gives a dowry to the female party, and thus, after marriage, the daughter is considered part of the husband's family. Unwritten customary law, which has grown and developed and is deeply rooted in traditional culture, manifests as the true law of the people in Indonesian society.

In the Pepadun Lampung customary community, which uses the honest marriage system, the male-majority inheritance system is applied. This system of inheritance grants the eldest son the right to inherit all of the parents' property and continue the family lineage. The position of a son in the family is so strong that if there are no sons, it is considered the family has no descendants or a broken lineage. In practice, if a family does not have a son, it is considered as if the family line has ended. This reflects the significant position of the son in the Pepadun family structure. To address situations without male heirs, some families may adopt a son or transfer inheritance rights to another male relative to ensure the continuation of the family lineage.

The "honest" marriage in Lampung's customary community involves the payment of a dowry from the man to the woman, with the consequence that the woman is subject to her husband's customary law, including in personal matters and property, except for specific provisions regarding the wife's personal

belongings. In the inheritance system, the Lampung customary community follows a male-majority lineage, where only the eldest son has the right to inherit and manage the family's assets. The eldest son is responsible for continuing the family line, replacing his father as the head of the family, and has the right to manage and utilize the inheritance for the welfare of the entire family. In the following interview with Mr. Andi, he explained about customary inheritance as follows:

"Customary inheritance consists of two types: first, the inheritance that cannot be divided, and second, the inheritance that can be divided. The inheritance that cannot be divided is something that cannot be privately owned; it can only be utilized and enjoyed."

The traditional house is included in the category of undivided inheritance because it is a shared asset acquired during marriage. This house is the only property that becomes the wife's sole possession after her husband's death. Mr. Andi further added:

"A traditional house is part of the ancestral inheritance that cannot be divided because it is a joint asset (harta gono-gini) intended for the spouse who is left behind. The surviving spouse does not receive other properties like land, plantations, or capital".

Therefore, the Lampung Pepadun people place great importance on having male children, as the inheritance system they follow is patrilineal, with inheritance exclusively passed down through sons to ensure the continuity of the family line. If a family does not have a male child, they will make efforts to have one, as explained by Mr. Andi:

"Lampung people, if they don't have a male child, will keep trying to have one while they are still able. But if they cannot, they may adopt a male child from a less fortunate relative through a formal adoption ceremony".

Mr. Rohmat provided a similar explanation about the Lampung customary inheritance, stating:

"There are two types of Lampung inheritance: divisible and indivisible. Divisible inheritance includes business capital, while indivisible inheritance includes ancestral possessions like titles, traditional houses, and public halls".

Regarding the inheritance system of the Lampung Pepadun people, it can be understood that their inheritance practices are as follows. The inheritance system refers to the way in which the deceased transfers their wealth to heirs while they are still alive, and how the inheritance is managed and used by the heirs after the death of the deceased.

This aligns with what Mr. Rudi explained:

"The system used by the Lampung Pepadun people is a male-majority system, where the eldest son inherits all the wealth owned by the parents. After this wealth is passed on to the eldest son, it will be used for his survival and to maintain the family's unity".

The role of males in Lampung culture is crucial, not only as the successors of the family line and sole inheritors but also as future heads of households. Thus, it is the eldest son who controls the inheritance. As Mr. Rudi further explained:

"Because the son will be the continuation of the father's lineage, he will marry a woman by paying the dowry, which is based on the bride's demands, such as the dowry amount, household items, and jewelry".

For families without sufficient wealth to provide a dowry for a formal marriage proposal, the "lari-an" (elopement) custom is used. Mr. Rudi elaborated:

"If the man lacks the resources, we, the Lampung people, use the lari-an marriage tradition. In this case, the girl is kidnapped. Once the girl has been kidnapped, she loses her honor and is no longer worthy of receiving a dowry".

The Lampung Pepadun people use two methods for dividing inheritance: transfer and designation, as explained by Mr. Rudi, Suttan Marga Kaya:

"The Lampung people use two ways to divide inheritance: first, by transfer or assignment, and second, by designation. When a male child is settled in a household and the father is elderly, the inheritance will be handed down to the eldest son to continue the family line and maintain the family union. The father then becomes an advisor, reporting on family matters. In the designation method, the wealth is transferred to the heir (eldest son) after the father's death, but before this happens, the children gather to hear what the father has decided regarding the wealth".

Other methods of inheritance include gift-giving and bequests, as Mr. Rudi added:

"Another method is through gift-giving or bequests. If the father plans to travel far, such as going on pilgrimage, he may give his wealth away or leave a bequest to relatives or close kin".

In cases where the father has passed away, the inheritance still belongs to the eldest son, as explained by Mr. Andi during the interview:

"The inheritance right of the husband or wife left behind does not exist; all property falls to the eldest son, who inherits it with a sense of responsibility".

The widow, after her husband's death, will be supported by the son who has inherited from the father.

"Her future livelihood will be provided by the son who inherits the father's wealth,

and the mother will receive support for the rest of her life. She doesn't inherit any property, except for joint property like the traditional house".

This is also in line with what Mr. Rahmat explained:

"Parents who are left behind by their spouses do not have the right to inherit. They serve as advisors for the eldest child who is the sole heir. The inheritance is intended to ensure the family's continuity until the children are ready to form their own households".

Mr. Promono also explained the position of a widow in Lampung inheritance traditions:

"A widow in Lampung tradition does not inherit; she only receives lifelong support from the child who inherited the father's wealth. The widow only retains property that was given to her by her late husband during marriage".

Conversely, when a mother passes away, the father remains the head of the household, but the property he owns has already been designated to the children. The father will then serve as an advisor to the family. As explained by Mrs. Amirah:

"The living father becomes the advisor to the children who inherit the property. The property inherited by the child is managed under the father's designation and can only be fully controlled by the eldest son after the father's death".

The male-majority inheritance system is one where the wealth left by the deceased is solely controlled by the eldest son. In the Lampung Pepadun community, daughters have no inheritance rights because they will be married off to a man who will pay a dowry. Mrs. Amirah explained to the researcher:

"Why can't daughters inherit? Because they are taken by a man as a wife and will receive a dowry. All the responsibilities and property of the wife will belong to the husband. Daughters are prepared to become part of another family that strengthens the other family's lineage".

If the young man cannot afford to pay the dowry, with the consent of the girl, the lari-an custom will be used, in which the girl is kidnapped or elopes. Mrs. Amirah, like Mr. Rudi, explained this as follows:

"A Lampung girl who is eloped or involved in the lari-an tradition is considered to have lost her honor, and is no longer considered pure".

In the Lampung Pepadun tradition, which follows a patrilineal system where male descendants are prioritized, the practice of "honest marriage" takes place. After marriage, the wife severs her kinship ties with her father's family. Mr. Saleh explained this as follows:

"The daughter, once taken by a man as his wife, and after giving the honest money and a gift, will sever her ties with her father's family and will only have blood relations, with no right to inheritance".

Mrs. Dewi also provided an explanation on this matter, stating:

"When a daughter becomes a wife, she no longer has any kinship ties with her birth family, and she cannot interfere in her biological family's affairs, including having no right to inheritance. She will enter her husband's kinship system".

Inheritance assets are not distributed as long as they are still being used to meet the needs of the family left behind. However, disputes often arise when heirs regard the assets as their rightful share. In the Lampung Pepadun indigenous community, inheritance disputes are resolved amicably through deliberation, either in family or customary forums, led by a *penyimbang* (traditional leader) or elder.

Inheritance practices in the Lampung Pepadun community differ from Islamic law, particularly regarding women's rights. In Islam, inheritance is distributed fairly, with sons receiving twice the share of daughters, without disregarding the rights of women. In contrast, Lampung Pepadun customs often exclude daughters from inheritance rights, potentially leading to gender inequality.

Reconstructing the customary inheritance system through dialogue among traditional leaders, Islamic scholars, and the community is essential to create agreements that respect tradition while adhering to the principles of Islamic justice. This approach is expected to enhance community welfare and serve as a model for harmonizing customary and religious laws.

Inheritance Practices in the Lampung Sai Batin Society of Pesisir Barat

Inheritance practices in the Lampung Sai Batin community in Pesisir Barat Regency reflect variation in the application of the inheritance system. Some clans, like the Marga Pasar Krui, follow a matrilineal mayorat system where inheritance is passed down through the maternal line. However, this system is not universally applied across the Lampung Sai Batin community, as some other clans still adhere to a patrilineal mayorat system, where inheritance is passed down through the paternal line. This difference reflects the dynamics and adaptation of the Lampung Sai Batin community to external influences, including national law and Islam. Although the majority of Lampung Sai Batin people are Muslim, traditional inheritance practices are still maintained, even though there has been a shift in values and inheritance practices due to modernization and the introduction of new values. Most members of the Lampung Sai Batin

community, who are Muslim, still practice inheritance that deviates slightly from Islamic law, as stated by Mr. Zulkifli, an adat leader. Mr. Zulkifli commented on the inheritance model in Lampung Sai Batin as follows:

"Regarding Islam, we all know in the science of faraid there are portions like 1/3, 2/3, etc., of inheritance, but in Lampung Sai Batin, this is adat law. Adat is recognized by the state and is perfectly valid, but when we refer to sharia law, it is indeed slightly deviated, not fully in sync with sharia law".

Moreover, Mr. Zulkifli further explained:

"I do not dare to comment too much on this because it relates to adat law, which has already been recognized by the state as a legal foundation that can be applied by society. The people of Lampung follow sharia law according to faraid, but if the amount of inheritance is substantial, those who do not receive a share are often those with smaller portions. This means that if the inheritance is small, the person receiving the share may not be entitled to much.

In principle, Lampung's patrilineal system identifies lineage through the father and male ancestors. The eldest son has a significant responsibility to care for the family, protect his siblings, and manage the shared assets. However, if a family member marries, they do not stay with the eldest son. Due to the patrilineal system, the wife leaves her birth family and becomes part of the husband's family, with children becoming the heirs of the husband. In Lampung Sai Batin adat law, only sons are considered heirs. If no sons are present, the family may adopt a male son-in-law as an heir. In addition to material wealth, inheritance also includes the family name and traditional titles.

An heir in adat law plays a significant role within the family as they are considered a replacement for the father in the family's responsibilities. This includes managing the inherited wealth left behind, caring for the family members, and maintaining the family's honor. Inheritance is a legal principle that governs the relationship between the deceased and the heirs regarding the inheritance left behind, whether after the deceased has passed away or while they are still alive. The inheritance system in the Lampung Sai Batin community must be carried out to be legally valid, which includes the transfer of rights, obligations, and the amount of inheritance received by the heir. The inheritance system in Lampung Sai Batin includes both the male mayorat system and the female mayorat system, with the inheritance process carried out by means of continuation or transfer and designation.

1. Continuation or Transfer

In Lampung, the continuation or transfer of inheritance rights is typically done when the deceased has aged and the eldest son has settled into family life, along with his siblings. With the continuation of rights and duties as the head of the household, the father still acts as an advisor and oversees family matters while alive. Similarly, in terms of transferring or allocating certain wealth, such as land, garden, or rice fields, it is given to children who are about to start their own families

2. Designation

In Lampung, the designation or appointment (known as "Pengonjuk Jolma Tuha") is a practice where parents designate specific inheritance to their children or heirs. The transfer of ownership occurs fully when the parent passes away. While the parent is still alive, they retain authority over the designated property, but the designated child or heir can start using or benefiting from it. In the Lampung Sai Batin community, when parents designate part of their wealth, all children are usually gathered. As explained by Badaruddin, the example is as follows:

"After everyone has gathered, the father will make a statement, for example, a one-hectare rice field located here belongs to his child A, and the car he uses belongs to his child B. Once this is done, when the father passes away, A and B will have the right to the inheritance given."

Imelda also commented:

"When parents are gone, the inheritance will go to those designated, because the others have already received their share. In Lampung, if we are married and there's land to divide, it's divided right away. If the parents are still alive, the land is divided: 'this is yours, this is yours'. Some even have this designated before, they've chosen: 'this is yours, this is yours'. Meanwhile, if the child is not in the village or far away, there is a book record for it, and when the parents pass away, they just open the book."

In the Lampung Saibatin indigenous community, aside from the wealth that has already been transferred through inheritance or designation, the remaining undivided assets will be controlled by the eldest son. For example, the house inherited from the parents. Even if the parents leave no will or message regarding the undivided wealth, the position of this asset will automatically be controlled by the eldest son. As for adopted children in this community, they bear full responsibility to their adopted parents, both in terms of personal responsibility as children and in relation to the status of the adopted parents. This includes responsibilities for the inheritance and relatives of the adopted parents. A male adopted child who has been taken as a husband will have his position replaced with that of a biological child and can act as a co-inheritor. When it comes to

using the inherited property, the position of the husband and wife is equal. However, even though the rights to the entire inherited property are equal for both husband and wife, the status of the adopted son as a replacement for a biological child means that the husband's position is still secondary to that of the wife. This was stated by Sahroni:

"*Even if there is no son, if there is a daughter and she gets married, the system of marriage in Semanda (where the husband is adopted by the wife's family) applies. The husband is taken by the wife's family without incurring any costs in the marriage; all costs are covered by the wife's family. The husband will live with the wife's family forever, and the inheritance will be given.*"

In legal actions between husband and wife under the Semanda marriage system, there is an imbalance. Although the husband is outwardly visible, due to the greater influence of the wife, the husband's position is lower than the wife's. This is evident in the kinship system on the wife's side, where the husband acts only as an assistant, while the authority lies with the wife's family. The husband only serves as a lineage successor until a son is born, and has no claim to the inherited wealth, as the rightful heir is the biological son of the couple.

Prabu further explains:

"In this case, if the woman who has married and later passed away without children, the right to the inheritance for the adopted male child (son-in-law) will be lost, and the lineage ends there."

Thus, the adopted son is automatically considered removed from the extended family of the wife after the woman's passing. In the Lampung Saibatin community, inheritance occurs after the death of the heir. The inheritance system dictates that the eldest son inherits the role of the head of the family, responsible for his siblings and the family, replacing the role of the deceased father. According to the customs of the Lampung Saibatin people, the eldest son can distribute the inheritance to his siblings based on the family's agreement. Hence, individual inheritance systems are not recognized in Lampung Saibatin society. This is confirmed by a community member:

"The inheritance is given entirely to the eldest son, who is responsible for his siblings. The house belongs to the eldest son, and how it is divided is up to him. However, the eldest son still replaces the father's role."

Therefore, if the remaining inheritance after the parents' passing is substantial, the eldest son can distribute it. However, if the inheritance is small, only the eldest son holds the full inheritance rights.

Implications of Women's Status in Inheritance Distribution under Customary Law in Lampung Selatan and Way Kanan Districts from the Perspective of Islamic Family Law in Indonesia

In the Lampung indigenous communities of the Pepadun in Lampung Selatan and Saibatin in West Coast Lampung, inheritance is passed on from one direction: from the father or male parent. Thus, if the mother passes away, the inheritance for the heirs in the family is not opened, and a wife has no inheritance rights. In contrast, under Islamic inheritance law, inheritance is open from both the mother and father when they pass away, and a wife also has inheritance rights. The practice of inheritance in the Pepadun and Saibatin communities still does not fully align with Islamic inheritance law. In many cases, the inheritance is primarily given to male descendants, while female descendants are overlooked, though some male heirs do share part of the inheritance with their sisters. However, this division is not based on the total inheritance but on the eldest son's family agreement. There are even cases where the inheritance is not divided until both parents have passed away, with a future agreement to follow Islamic inheritance law. Nonetheless, some communities in Lampung, particularly in Saibatin and parts of Pepadun, are beginning to recognize Islamic inheritance law and are adopting it, although the division may not strictly follow Islamic principles. However, the values of Islam, which respect and uphold the rights of women and children, are beginning to be reflected in the inheritance practices. According to Islamic inheritance law, inheritance should be divided based on the Quran, specifically Surah an-Nisa (4): 11, which outlines the rightful shares of inheritance.

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ ۖ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنْثَيَيْنِ ۚ فَإِنْ كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۖ وَإِنْ كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ ۚ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِنْ كَانَ لَهُ وَلَدٌ ۚ فَإِنْ لَمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَهُ أَبَوَاهُ فَلِأُمِّهِ الثُّلُثُ ۚ فَإِنْ كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ ۚ مِنْ بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ ۗ آبَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفْعًا ۚ فَرِيضَةً مِنَ اللَّهِ ۗ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

Meaning: Allah has decreed for you regarding the inheritance of your children. The share of a male child is equal to that of two female children; and if the children are all female and more than two, they shall receive two-thirds of the inheritance; if the female children are only one, she shall receive half of the inheritance. As for the parents, each shall receive one-sixth of the inheritance if the deceased has children; if the deceased has no children and is only inherited by the parents, the mother shall receive one-third; if the deceased has siblings, the mother shall receive one-sixth. (These shares) are after fulfilling any bequests made or (and) paying debts. Regarding your parents and children, you do not know which of

them is more beneficial to you. This is the decree of Allah. Indeed, Allah is All-Knowing, All-Wise.

The verse above is evidence that Allah SWT is the Most Just and Wise, who never neglects or disregards any of His servants' rights. In this case, Allah SWT has provided clear and perfect rules regarding the fair and wise division of inheritance for every heir. Allah's justice is absolute, and it is implemented to eliminate oppression among humans.

QS. an-Nisa' (4): 11 above explains how Allah SWT has decisively removed the injustice that usually befalls two weak groups of people, namely women and children. Allah SWT provides for both with mercy, wisdom, and justice. Allah SWT grants inheritance rights fairly, without differentiating between the small and the large, the male or the female. There is no distinction between those who receive a larger or smaller portion, nor is it based on consent or reluctance. So why does Allah SWT decree that the portion of the male heir is twice that of the female heir? This is due to several reasons, including:

Firstly, Women are not obligated to provide financial support to anyone in this world. On the other hand, men are required to provide financial support to their families and relatives, as well as those who are obligated to receive support from them. Secondly, Men's expenses (financial obligations) are far greater than those of women. Thus, the need for men to acquire and possess wealth is significantly greater and more extensive than that of women. Thirdly, Men are required to pay the dowry to their wives, provide housing, and give them food, drink, and clothing. When they are blessed with children, they are also obligated to provide them with the same essentials. Fourthly, Men are responsible for covering the costs of their children's education, medical treatment if the children (or wives) fall ill, and other expenses, which all fall solely on the men.

Male children receive almost all types of inheritance, and in some cases, they inherit everything, both divided and undivided property. This is because male children have the full responsibility to care for, support, and sustain a decent life for the entire family, including younger siblings and living parents, such as taking care of younger siblings who are not yet independent, like those who are not married or still in school.

4. Conclusion

The practice of inheritance division in the Lampung indigenous community, both in the Pepadun area of South Lampung Regency and the Saibatin area of

West Coast Regency, is still heavily influenced by the patriarchal system. In this system, inheritance rights are predominantly given to male children, while female children and wives are often neglected. In the Pepadun Lampung community, the male-preference system prioritizes the eldest son as the sole heir, reflecting the dominance of a patrilineal kinship system, which weakens the position of women in inheritance. Similarly, in Lampung Saibatin, female children are not considered heirs, even if they are biological, stepchildren, or adopted, and even if they are widows. This practice contradicts Islamic inheritance law, which asserts that women and wives also have the right to inherit. Nevertheless, there are signs of gradual change in some communities, which are beginning to open up to the application of Islamic inheritance law that emphasizes justice without gender discrimination. Inheritance distribution according to Islamic law, based on the principles of justice and financial responsibility, acknowledges the rights of women and wives as heirs. This is an important step toward creating a balance of rights within the Lampung indigenous community, while still respecting existing cultural values.

Refrences

Ali, Daud, *Hukum Islam Dan Peradilan Agama* Jakarta: Raja Grafindo Persada, 2002

Ali, Zainudin, 2010, *Pelaksanaan Hukum Waris Di Indonesia*, Jakarta, Sinar Grafika.

Amirah, *Perempuan Penerima Waris,* Wawancara Pada Tanggal 10 Mei 2022

Andi, *Masyarakat Adat,* Wawancara Pada Tanggal 10 Mei 2022

Andi, *Tokoh Adat,* Wawancara Pada Tanggal 10 Mei 2022

Anshori, Abdul Ghofur, *Hukum Kewarisan Islam Di Indonesia Eksistensi Dan Adaptabilitas* Yogyakarta: Gajah Mada University Press, 2012

Badaruddin, *Tokoh Adat*, Wawancara Pada Tanggal 24 Mei 2022

Bisri, Ilhami, 2004, *Sistem Hukum Indonesia: Prinsip Implementasi Hukum Di Indonesia,* Jakarta, PT. Raja Grafindo Persada.

Dewi, *Perempuan Penerima Waris*, Wawancara Pada Tanggal 10 Mei 2022

Haar, Ter. 1990. *Asas-Asas dan Susunan Hukum Adat*, Terjemahan R. Ng Surbakti Presponoto, Let. N., Bandung: Voricin Vahveve.

Hazairin, *Hukum Kewarisan Bilateral Menurut Al-Qur'an Dan Al-Hadis* Jakarta: Tintamas, 1982

Hilman Hadikusuma, *Hukum Kekerabatan Adat*, PT. Fajar Agung, Jakarta, 1978.

_____, *Hukum Perjanjian Adat,* Bandung: Citra Aditya Bakti, 1994

_____, *Hukum Perkawinan Adat dengan Adat Istiadat Dan Upacara Adatnya*, Edisi IV, Citra Aditya Bakti, Bandung, 2003.

_____, *Hukum Waris Adat*, PT. Citra Aditya Bakti, Bandung, 2003.

_____, *Masyarakat dan Adat Budaya Lampung* Bandung, Mandar Maju, 1989.

Imelda, *Perempuan Penerima Waris*, Wawancara Pada Tanggal 24 Mei 2022

Indrayani, R. (2022). Eksistensi Waris Adat Lampung Pepadun sebagai Wujud Hukum dan Produk Budaya. *Jurnal Hukum dan Kebudayaan*, 5(2), 103-117.

Irwan, Alex, *Perisai Perempuan Kesepakatan Internasional Untuk Perlindungan Perempuan* Yogyakarta: Yayasan Galang, 1999

Izzati, N., & Saputra, D. A. (2024). Pergeseran Nilai Praktek Hukum Waris dalam Masyarakat Adat Lampung. *Jurnal Media Akademik (JMA),* 2(9), DOI: https://doi.org/10.62281/v2i9.774.

Kusnadi, K. (2018). Pembagian Harta Waris Adat Lampung Sai Batin Kabupaten Pesisir Barat Perspektif Hukum Islam. *Ijtimaiyya: Jurnal Pengembangan Masyarakat Islam,* 10(2), 217-240, DOI: http://dx.doi.org/10.24042/ijpmi.v10i2.2362.

Listyawati, P. R., & Dazriani, W. 2015. Perbandingan Hukum Kedudukan Ahli Waris Pengganti berdasarkan Hukum Kewarisan Islam dengan Hukum Kewarisan menurut KUHPerdata. *Jurnal Pembaharuan Hukum*. Vol. 2, No. 3.

Manan, Abdul, *Reformasi Hukum Islam Di Indonesia* Jakarta: Raja Grafindo Persada, 2006

Moeleong, Lexy J., *Metodologi Penelitian Kualitatif* Bandung: Remaja Rodaskarya, 2013

Muhammad, Bushar, *Asas-Asas Hukum Adat Suatu Pengantar* (Jakarta: PT. Balai Pustaka persero, n.d.

New Merah Putih, *Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan* Jakarta: Galang Press, 2009

Nugroho, Sigit Sapto. 2016. *Hukum Waris Adat di Indonesia*. Solo: Pustaka Iltizam.

Prabu, *Masyarakat Adat*, Wawancara Pada Tanggal 24 Mei 2022

Pramono, *Masyarakat Adat*, Wawancara Pada Tanggal 10 Mei 2022

Pratama, D. (2023). Hak Anak Perempuan Lampung Pepadun Terhadap Waris Menurut Hukum Islam. *Al-Gharra: Jurnal Ilmu Hukum Dan Hukum Islam*, 1(1), 50-65.

Rakhmat, Jalaludin, *Metode Penelitian Komunikasi* Bandung: Remaja Rodaskarya, 1995

Rudi, *Tokoh Adat*, Wawancara Pada Tanggal 10 Mei 2022

Sahroni, *Masyarakat Adat*, Wawancara Pada Tanggal 24 Mei 2022

Saleh, *Masyarakat Adat,* Wawancara Pada Tanggal 10 Mei 2022

Sinta, *Perempuan Penerima Waris*, Wawancara Pada Tanggal 24 Mei 2022

Sudarmaji, C. I., & Pratiwi, B. A. (2022). Sistem Pembagian Waris Adat Lampung Pepadun Perspektif Maqâshid Al-Syarî'ah Dan Al-'Urf. *An-Nawa: Jurnal Studi Islam,* 4(1), 25-39, DOI: https://doi.org/10.37758/annawa.v4i1.439.

Sudiyat, Imam, *Hukum Adat Sketsa Asas* Yogyakarta: Liberty, n.d.

Suparman, Eman, *Hukum Waris Indonesia* Bandung: Rajawali Press, 2005

Yanggo, Huzaemah Tahido, *Fiqh Perempuan Kontemporer* Jakarta: Ghalia Indonesia, 2010

Yusha, B., R. M. Sinaga, S. Widodo. (2021). Kedudukan Anak Perempuan Dalam Sistem Pewarisan Pada Adat Ulun Lampung Saibatin Di Kecamatan Pesisir Tengah Kabupaten Pesisir Barat, *Socia: Jurnal Ilmu-ilmu Sosial*, 18 (1), 21-29.

Zahrah, M. Abu, *Ahkamal-Tirkah Wa Al-Mawarith* Kairo: Dar al-Fikr al- Arabi, n.d.

Zamzami, Mukhtar, *Perempuan Dan Keadilan Dalam Hukum Kewarisan Indonesia* Jakarta: Kencana Prenada Media Group, n.d.

Zuhraini, Z. (2018). Perempuan dan Hukum dalam Masyarakat Hukum Adat Lampung Sebatin. *Ijtimaiyya: Jurnal Pengembangan Masyarakat Islam*, 10(2), 197-125, DOI: http://dx.doi.org/10.24042/ijpmi.v10i2.2361.

Zulkifili, *Tokoh Adat,* Wawancara Pada Tanggal 24 Mei 2022