The Islamic Legal Perspective on Inheritance Distribution Based on the Principle of Sapikul Sagendhongan

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Abstract
This research aims to analyze the principles of Islamic inheritance law and their relevance to customary law in society as well as the existence of distribution of inheritance based on the Sapikul Sagendhongan principle from an Islamic Law perspective. This research is normative legal research by prioritizing conceptual and statutory approaches. The results of the research confirm that there are eleven principles or principles in Islamic inheritance law which include: the principle of ijbari’, bilateral, individual, balance, solely due to death, sincerity, self-servity, huququl maliyah or material rights, basic rights (huququn thaba ‘iyah), dividing inheritance and benefit, where these eleven principles or principles are the basis for the implementation and regulation of Islamic inheritance law. In connection with the application of customary law practices in the distribution of inheritance, it can actually be seen from the theory of receptio in complex which was initiated by Van Den Berg, the theory of receptio exit which was developed by Hazairin, and the theory of receptio a contrario which was developed by Sayuti Talib which is actually a justification that Islamic law has validity. which sometimes manifests itself in customary law, such as the principle of Sapikul Sagendhongan as implemented by Javanese society. The existence of distribution of inheritance based on the Sapikul Sagendhongan principle viewed from the perspective of Islamic Law is actually no different from the distribution of inheritance in Islamic Law which mandates that men share more than women with the
argument that men have greater responsibility. In this context, the distribution of inheritance based on the principle of sapikul sagendhongan actually has similarities with the distribution of inheritance based on Islamic law.

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Keywords:

Abstrak
sejatinya tidak berbeda dengan pembagian waris dalam Hukum Islam yang mengamanatkan bagian laki-laki lebih banyak dari perempuan dengan argumentasi bahwa laki-laki memiliki tanggung jawab yang lebih besar. Dalam konteks ini, pembagian waris berdasarkan prinsip sapikul sagendhongan sejatinya memiliki persamaan dengan pembagian waris berdasarkan Hukum Islam.

I. Introduction

The matter of inheritance is one of the focuses of study in Islamic Law. This is because inheritance is one aspect that has the potential to create conflicts between individuals, even within a family (Uyuni, Badrah Adnan, 2021). This confirms that the Prophet Muhammad, peace be upon him, in a hadith narrated by Al-Hakim and Al-Baihaqi, emphasized the obligation for the Muslim community to learn and teach the knowledge of inheritance (ilmu faraidh) as it is part of knowledge (Susilo et al., 2021). The obligation for every Muslim to study the knowledge of faraidh (inheritance law) is agreed upon by scholars to be an individual duty. This means that if some individuals in a community have already undertaken this study, others are not obligated to do so, but they still have the virtue of studying inheritance law (Yuliyus & Susilawati, 2021).

The importance of studying inheritance law is at least based on two arguments. Firstly, the argument that inheritance division has been directly emphasized by Allah SWT through Surah An-Nisa verses 11, 12, and 176, which specifically explain matters of inheritance, including the parties entitled to inherit (Weldo Parinussa, Merry Tjoanda, 2021). The inheritance provisions in Surah An-Nisa verses 11, 12, and 176 are qath'i, meaning clear and definitive, leaving no room for multiple interpretations regarding inheritance matters, including the eligible parties to inherit as regulated in Surah An-Nisa verses 11, 12, and 176. Secondly, the importance of studying inheritance law is based on the effort to maintain family ties and brotherhood, especially among relatives (Kosim Kosim, 2022). This is because inheritance matters often lead to conflicts and disputes that frequently sever family ties.

Based on the two orientations above, studying inheritance law is one of the important aspects for every Muslim. Although the guidance and implementation of inheritance for Muslims refer to the provisions in Surah An-Nisa verses 11, 12, and 176 along with the Sunnah of the Prophet Muhammad SAW, in practice there are applications of inheritance law that
refer to customs or traditions that have grown in society. One of the practices is the application of inheritance law that refers to customs or traditions that have grown in society, such as the practice of dividing inheritance according to the principle of "Sapikul Sagendhongan". The division of inheritance according to the principle of "Sapikul Sagendhongan" is commonly practiced by the Javanese community, emphasizing that the division of inheritance must be based on the principles of "Sapikul" and "Sagendhongan". "Sapikul" means two parts and "Sagendhongan" means one part. The division of inheritance based on the principles of "Sapikul" and "Sagendhongan" emphasizes that in the division of inheritance, males receive a "Sapikul" share or two parts, while females receive a "Sagendhongan" share or one part.

The inheritance division that refers to the Sapikul Sagendhongan principle commonly applied by the Javanese community is essentially based on the view that brothers have a greater responsibility to protect and care for their female counterparts. Men are considered to have a greater responsibility to care for women. This emphasizes that the Sapikul Sagendhongan principle is not fundamentally based on gender discrimination but is rather a part of the normative tradition of the Javanese society in recognizing the greater responsibility of men, hence the inheritance division is carried out based on the Sapikul Sagendhongan principle.

The inheritance division that refers to the principle of Sapikul Sagendhongan is essentially a form of relation between Islamic Law and customary law because the inheritance division referring to the principle of Sapikul Sagendhongan is carried out by the Javanese community even though they are followers of Islam. Therefore, this aspect is interesting to be researched, so this study focuses on aspects (i) the principles of Islamic inheritance law and its relevance to customary law in society and (ii) the existence of inheritance division based on the principle of Sapikul Sagendhongan viewed from the perspective of Islamic Law.

Research examining the relationship between Islamic law and customary law in inheritance division has actually been conducted by three previous researchers, which include: (i) research conducted by Supian et al. (2023)

which focuses on customary inheritance division in the Bancey community, Subang. The novelty of the research conducted by Supian et al. (2023) is that although the majority of the Bancey community in Subang is Muslim, the existence of customary inheritance division is still applied, even involving local religious figures. Subsequent research was conducted by (ii) Tanjung et al. (2023) who analyzed inheritance division for women in Lampung from the perspective of gender justice. The novelty of Tanjung et al.’s research (2023) is the need for an understanding of gender justice perspectives so that inheritance division remains carried out proportionally and accommodates contemporary developments. Further research was conducted by Bala and Marsaulina (2024) discussing customary inheritance division from the perspective of religious moderation. The novelty of Bala and Marsaulina’s research (2024) is that there are several values of religious moderation by the community used as references in the practice of inheritance division so that besides considering religious aspects, inheritance division also refers to aspects of religious moderation.

From the three previous studies mentioned, this research is original as it specifically discusses inheritance distribution referring to the principle of Sapikul Sagendhongan conducted by a community that has not been specifically analyzed in the previous three studies.

2. Research Method

The research that discusses inheritance division referring to the principle of Sapikul Sagendhongan conducted by society in the perspective of Islamic Law is a normative legal research. (Irwansyah, 2020). The main characteristics of normative legal research lie in the aspects of legal principles and principles along with concepts and theories aimed at addressing existing legal issues. The primary legal source in this research is the Compilation of Islamic Law (KHI). The secondary legal materials in this research are books, journal articles, and research results discussing inheritance distribution referring to the principle of Sapikul Sagendhongan and inheritance distribution in Islamic Law. Non-legal materials include language dictionaries. The approach used is conceptual and legislative.
3. Results and Discussion

The Principles of Islamic Inheritance Law and Their Relevance to Customary Law in Society

Islamic law is essentially a field of Islamic studies that studies various aspects of law, whether it be Sharia or jurisprudence, examining various aspects from the perspective of Islamic teachings (Hikmah, 2022). This affirms that Islamic Law is comprehensive, meaning it encompasses various aspects of human life as a Muslim. Specifically, one significant aspect in the study of Islamic Law is the discussion regarding inheritance law. Inheritance law is understood as legal provisions that address various aspects of inheritance, such as the parties entitled to inherit and their shares, the elements within inheritance, as well as efforts to settle disputes related to inheritance (I Gusti Ayu Ketut Artatik, I Gusti Ngurah Alit Saputra, 2022).

In Islamic Law, inheritance law essentially holds a significant position because inheritance law can serve as a means of integrating various potential disputes regarding inheritance. Disputes or conflicts caused by inheritance distribution commonly occur in society, even leading to rifts within families and resulting in violence that ends in murder (Nasution & Ritonga, 2023). From various potentials regarding the existence of inheritance disputes above, studying inheritance law is highly recommended and occupies the most important aspect in Islamic Law. The importance of studying inheritance law also makes it obligatory for every Muslim to study inheritance law, but if there are already several people studying inheritance law in a community, then the obligation for every Muslim to study inheritance law, which is judged as a collective obligation, becomes a strongly recommended tradition or recommended practice (Fahrur Roji, 2020).

The Compilation of Islamic Law (KHI), which serves as the standard norm in the enforcement of Islamic Law in Indonesia, essentially provides clarification through Article 171 letter a, which fundamentally states that generally, inheritance law specifically regulates the property that constitutes the inheritance of the deceased (tirkah) and the parties who are heirs along with the proportion
of distribution (Saiin, 2017). In general, there are three main elements in inheritance law, namely: the deceased, heirs, and the inheritance estate. The deceased is the person or party who has passed away and left behind an inheritance estate. Heirs are the parties who can legally inherit the inheritance estate left by the deceased in accordance with Islamic law (N. Oneng Nurul Bariyah, Siti Rohmah, Heni Ani Nuraeni, 2021). Although heirs are the rightful parties to inherit the estate left by the deceased, they also bear the responsibility to settle any unfinished obligations of the deceased during their lifetime, such as debts, business transactions, and various other matters (Suganda, 2020). This reinforces that besides having the right to legitimately possess the inheritance left by the deceased, heirs are also obliged to fulfill duties towards the deceased.

Inheritance is property or various aspects related to the wealth left by the deceased to the heirs. The three elements in inheritance law, namely the deceased, heirs, and inheritance, are three important aspects that will always be the subject when discussing inheritance law (Nurhaliza & Mansur, 2021). In addition to the three elements mentioned above, Islamic inheritance law must also accommodate several principles or principles related to Islamic inheritance law. Principles or principles in legal science are fundamental bases because legal principles are meta-norms (Hamzani, 2018). The fundamental nature or principle of law, which is meta-normative, asserts that principles serve as both guidelines and the basis for the validity of a legal norm. This emphasizes the importance of understanding legal principles before studying the aspects of legal norms with applicative dimensions (Peter Mahmud Marzuki, 2020).

The importance of understanding the basic principles or principles of law above is also in line with efforts to understand the principles or principles regarding inheritance law. The principles or principles regarding inheritance law serve as guidelines or fundamental bases in understanding the technical and practical provisions regarding inheritance law (Aulia et al., 2021). Here are some of the main principles related to Islamic inheritance law: first, the principle of ijbari’. The principle of ijbari’ is a principle in Islamic inheritance law which states that the division of inheritance is essentially based on the provisions emphasized by Allah SWT and the Prophet Muhammad SAW. This principle also emphasizes that the division of inheritance must also refer to the Book of Allah (the Qur’an)
and the Sunnah of the Prophet Muhammad SAW (Jamaluddin, 2019). This principle mandates that heirs do not need to promise excessively or specifically to any one heir contrary to the Islamic inheritance distribution. This is because the distribution of inheritance is governed by the regulations set by Allah SWT and the Prophet Muhammad SAW.

The second principle is the bilateral principle. This bilateral principle explains that a deceased heir directly transfers their inheritance to their heirs in two directions or two parties. The meaning of two directions or two parties is that the inheritance will transfer to both male and female parties according to Islamic law (Djawas et al., 2022). The third principle is the principle of individuality. The meaning of this principle is that the distribution of inheritance according to Islamic law is intended for each heir to possess it individually. The fourth principle is the principle of balance. This principle emphasizes the balance between the rights and obligations received by the heirs regarding the inheritance (Saujan et al., 2022). This simply means that the heir who receives the largest share of the inheritance must also fulfill the unfinished or unsettled obligations of the deceased while still alive, such as outstanding debts.

The fifth principle is the principle of sole consequence of death. This principle emphasizes that the division of inheritance is solely based on the death of the deceased. It prohibits any distribution of inheritance while the deceased is still alive. The sixth principle is the principle of sincerity. It emphasizes that in matters of inheritance law, sincerity and sincerity must be prioritized, including sincerity in carrying out the proportion of inheritance distribution in accordance with Islamic law. The seventh principle is the principle of self-surrender. This principle asserts that complying with various provisions in Islamic inheritance law is part of devotion and piety to Allah SWT and the Prophet Muhammad SAW.

The eighth principle is the principle of huququl maliyah or property rights. This principle emphasizes that what can be inherited is related to property rights. (Adam et al., 2022). This affirms that beyond property rights, certain privileges like job positions, and the like cannot be inherited. The ninth principle is the principle of fundamental rights (huququn thaba’iyah) (Suwarti et al., 2022). The basic principles affirm the existence of the rights of heirs as humans. This is
similar to when an heir is a baby, they should be considered proportionally like other heirs. The tenth principle is the principle of dividing the inheritance completely. This principle asserts that in matters of inheritance, the estate should be divided until nothing remains. The eleventh principle is the principle of benefit, where the distribution of inheritance should be based on the benefit for the receiving heirs. For example, if there is an heir who later leaves Islam but still cares for the deceased during their lifetime, they still receive a portion of the inheritance through obligatory bequest (Suwarti et al., 2022). This is intended to fulfill the aspect of welfare in the distribution of inheritance.

From the above eleven principles, it can be concluded that these eleven principles or principles must be the basis for the implementation of inheritance practices based on Islamic law. Although in general there is an obligation for every Muslim to implement Islamic law, including implementing inheritance law based on Islamic law, in practice there are also Muslims in society who carry out their inheritance practices based on customary law. The practice of carrying out inheritance based on customary law is generally done in the distribution of inheritance where the distribution of inheritance based on customary law refers to principles or concepts recognized by customary society and does not refer to the distribution of inheritance in accordance with Islamic inheritance law (Is et al., 2022). One of the customary inheritance divisions is based on the principle of Sapikul Sagendhongan.

The principle of Sapikul Sagendhongan is one of the principles applied in inheritance division according to Javanese society. The common application of the Sapikul Sagendhongan principle by Javanese people is essentially based on the belief that male siblings have a greater responsibility to protect female counterparts (Hamdani et al., 2022). In society, men are considered to have a greater responsibility to protect and provide care for women (LaOde, 2022). This affirms that the principle of Sapikul Sagendhongan is not fundamentally based on gender discrimination, but is rather a part of the normative tradition in Javanese society regarding the greater responsibility of men, thus leading to the distribution of inheritance based on the principle of Sapikul Sagendhongan.

Upon careful analysis, the principle of inheritance distribution based on
the principle of Sapikul Sagendhongan is not inherently contradictory to Islamic inheritance law. It can be observed that, in principle, it refers to Article 176 of the Islamic Law Compilation (Kompilasi Hukum Islam), which states that generally men receive 2/3 of the inheritance while women receive 1/3 (Assaad et al., 2022). This provision is essentially similar to the principle of Sapikul Sagendhongan as practiced by the Javanese community in the division of inheritance. Regarding the division of inheritance based on the principle of Sapikul Sagendhongan, which has similarities with the division of inheritance based on Islamic law, it is necessary to analyze the relationship between customary law and Islamic law.

The relationship between customary law and Islamic law can be seen from the theory of receptio in complex, which is the main idea of Van Den Berg. Referring to the theory of receptio in complex, Van Den Berg suggests that every Muslim acknowledges and accommodates the applicability of Islamic law manifested in customary legal practices (Kridasakti et al., 2022). This emphasizes that every Muslim carries out Islamic Law practiced within customary law. The existence of Islamic Law within customary law practices in Indonesia can be seen from the perspective of the Minangkabau community, which asserts that customs are based on Islamic Sharia (Saptina et al., 2023). This affirms that the relationship between customary law and Islamic Sharia is mutualistic and complementary.

Further insights into the theory of receptio in complex, which is the main idea of Van Den Berg, include the theory of receptio exit developed by Hazairin and the theory of receptio a contrario developed by Sayuti Thalib. (Warman et al., 2018)(Cavalcanti, 2020). In general, the theories of receptio exit and receptio a contrario assert that religious law applies directly to the community that professes and declares adherence to a particular religion, so customary law remains valid as long as it does not conflict with religious law (Muhammad et al., 2023). This confirms that the existence of religious law (in this case Islamic Law) does not need to be doubted because it applies instantly when society embraces Islam.

The theories of receptio in complex proposed by Van Den Berg, receptio exit developed by Hazairin, and receptio a contrario developed by Sayuti Thalib
essentially justify that Islamic Law has validity that sometimes manifests itself in customary law. This is essentially relevant to the principle of Sapikul Sagendhongan as practiced by the Javanese community in the distribution of inheritance, which undeniably is part of the manifestation of Islamic Law in the form of customary law. From the above explanation, it can be concluded that generally there are eleven principles or principles in Islamic inheritance law, including: the principle of ijbari’, bilateral, individual, balance, solely due to death, sincerity, self-surrender, huququl maliyah or property rights, basic rights (huququn thaba’iyah), dividing the inheritance completely, and the principle of welfare, where these eleven principles serve as the basis for the implementation and regulation of Islamic inheritance law.

Regarding the occurrence of customary law practices in inheritance division, it can actually be seen from the theory of receptio in complex proposed by Van Den Berg, the theory of receptio exit developed by Hazairin, and the theory of receptio a contrario developed by Sayuti Thalib, which essentially justify that Islamic law sometimes manifests itself in customary law, such as the principle of Sapikul Sagendhongan as practiced by the Javanese community. This confirms that in inheritance division, customary law is allowed to be implemented as long as it does not contradict religious law, in this case, Islamic law.

The Existence of Inheritance Division Based on the Principle of Sapikul Sagendhongan: A Perspective from Islamic Law.

The division of inheritance for every Muslim ideally should be carried out in accordance with Islamic law. However, in practice, customary law also still exists as a reference in the inheritance distribution process in society. One of the customary laws that is still used as a reference by the community in inheritance distribution is related to the application of the principle of "Sapikul Sagendhongan." The principle of "Sapikul Sagendhongan" in inheritance distribution is actually implemented by the Javanese community.

The inheritance division that refers to the principle of Sapikul Sagendhongan is commonly practiced by the Javanese community, emphasizing that inheritance division must be based on the principles of Sapikul and Sagendhongan. Sapikul means two parts and Sagendhongan means one part. Inheritance division based on the principles of Sapikul and
Sagendhongan emphasizes that in the inheritance division, males receive a Sapikul portion or two parts, while females receive a Sagendhongan portion or one part (Hasballah et al., 2021).

The division of inheritance that refers to the Sapikul Sagendhongan principle commonly applied by the Javanese community is essentially based on the view that brothers have a greater responsibility to protect and care for the female side. Men are considered to have a greater responsibility to care for the female side (Gusti Malayudha et al., 2023). This affirms that the principle of Sapikul Sagendhongan is not fundamentally based on gender discrimination, but is a form of the normative tradition of Javanese society in recognizing the greater responsibility of men, hence the inheritance division based on the principle of Sapikul Sagendhongan.

Although Sapikul Sagendhongan is a principle of inheritance division practiced by the Javanese society, it is not the only principle used in inheritance division among them. Besides being based on the Sapikul Sagendhongan principle, the Javanese inheritance division principle also relies on an equal distribution principle. Typically, in inheritance division based on equal distribution, the assets of the deceased are divided equally among the heirs. Nevertheless, the Sapikul Sagendhongan principle is still commonly applied by the Javanese society. The application of inheritance division principles, whether through Sapikul Sagendhongan or equal distribution, emphasizes the flexibility of inheritance division in Javanese society. This flexibility emphasizes that in inheritance practices, what is emphasized is the mutual trust and acceptance among the heirs towards the inherited assets (Tanjung & Mariadi, 2023).

The principle of Sapikul Sagendhongan is still applied by the Javanese community with the argument that men have greater responsibility compared to women. The principle of Sapikul Sagendhongan cannot be understood as a form of discrimination, but rather as an adaptation of the Javanese society in understanding the existing reality (Sukma, 2024). This means that the principle of Sapikul Sagendhongan can be considered as a form of Javanese community strategy in distributing inheritance proportionally according to the needs and realities of the society. It can also
be understood that the principle of Sapikul Sagendhongan accommodates the principle of inheritance distribution based on Islamic Law.

Looking at the reality that Sapikul Sagendhongan, which is a Javanese community strategy in inheritance distribution, is relevant to the substance of Islamic Law, it can be understood that there is mutual influence between customary law and Islamic Law. In the context of Islamic Law, for example, there is a well-known principle stating that al 'adah muhakkamah, which means that a customary practice can be used as a guideline in determining law (Muasmara & Ajmain, 2020). Certainly, the meaning of the principle of al 'adah muhakkamah is customs that do not contradict Islamic Shariah provisions. This emphasizes that in practice within society, the relationship between Islamic law and customary law influences each other, and as long as it does not contradict Islamic law, customary law can be applied (Saptina et al., 2023).

Referring to the principle of inheritance division by the Javanese society based on the principle of Sapikul Sagendhongan, from the perspective of Islamic Law, the principle of Sapikul Sagendhongan is actually relevant and in accordance with Islamic Law. This means that the practice of inheritance division by the Javanese society based on the principle of Sapikul Sagendhongan, on one hand, is a manifestation of the implementation of Islamic law, even though for the Javanese society conducting inheritance division based on the principle of Sapikul Sagendhongan, they may not understand inheritance division based on Islamic Law.

4. Conclusion

Generally, there are eleven principles or principles in Islamic inheritance law, which include: the principle of ijbari', bilateral, individual, balance, solely as a result of death, sincerity, self-submission, huququl maliyah or property rights, basic rights (huquququn thaba'iyah), dividing the inheritance completely, and welfare, where these eleven principles or principles become the basis for the implementation and regulation of Islamic inheritance law. Regarding the application of customary law in the division of inheritance, it can actually be seen from the theory of receptio in complex proposed by Van
Den Berg, the theory of receptio exit developed by Hazairin, and the theory of receptio a contrario developed by Sayuti Thalib, which actually justifies that Islamic law has applicability that sometimes manifests itself in customary law, such as the principle of Sapikul Sagendhongan as practiced by the Javanese community. This confirms that in the distribution of inheritance, customary law is permitted to be implemented as long as it does not contradict religious law, in this case, Islamic law.

The existence of inheritance division based on the principle of sapikul sagendhongan, viewed from the perspective of Islamic Law, essentially does not differ from inheritance division in Islamic Law which mandates a larger portion for males than females, arguing that males have greater responsibilities. In this context, inheritance division based on the principle of sapikul sagendhongan essentially bears similarities to inheritance division based on Islamic Law.

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