

Javanese Inheritance Traditions Seen from Islamic Inheritance Law and Inheritance Law

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Article Info

Article history:

Received: 5 May 2024

Published: 1 July 2024

Keywords:

Inheritance Tradition

Javanese Society

Islamic Inheritance Law

Customary Inheritance Law

Abstract

The tradition of inheritance of Javanese people has a peculiarity that combines Islamic values and local customs. Allah Almighty in the Qur'an regulates and explains in detail about the division of inheritance, as in QS: An-Nisa verses 7-12, verses 33 and verse 176. Allah the Just does not neglect and does not neglect the rights of every heir with very clear and perfect rules. God determines the rights of every heir with justice and wisdom. Because wealth is a milestone enforcer of life for both individuals and community groups. This study aims to analyze the inheritance tradition of Javanese society in the perspective of Islamic Inheritance Law and Customary Inheritance Law. The Javanese tradition of inheritance has several main principles, namely: a) Equality: All children are entitled to receive inheritance, both male and female, b) Wisdom: Heirs can give more inheritance to certain children based on certain considerations, such as needs, achievements, or filial piety, c) Deliberation: The distribution of inheritance is carried out by consensus between heirs. The Javanese tradition of inheritance is basically in line with Islamic Inheritance Law, although there are some differences in the technicalities of inheritance distribution. This research uses normative research methods by conducting a positive legal approach to laws and regulations and case studies using qualitative data types. The data sources used are secondary data obtained from sources in the form of official documents, books, journals, the internet and other sources related to this research. This study recommends that socialization and education be carried out to the Javanese people about Islamic Inheritance Law and Customary Inheritance Law to avoid disputes in inheritance.

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1. INTRODUCTION

Inheriting property and wealth has been an important part of Javanese life since ancient times. Inheritance customs show how technical inheritance is distributed, as well as family relationships, harmony and justice in society. In this context, Islamic values also play an important role in controlling the distribution of inheritance according to religious teachings.

Javanese people are famous for their unique cultural heritage which combines Islamic values with local traditions. Although Islamic teachings in the Koran provide clear guidelines regarding the distribution of inheritance, the Javanese tradition also has its own principles in the field of inheritance. The differences and relationships between Islamic inheritance law and traditional inheritance law are an interesting research topic to understand how the two systems are accepted in the context of inheritance law in Javanese society.

In the era of globalization and modern development, the traditions inherited from Javanese society continue to face new challenges in maintaining traditional values, while Islamic teachings are still considered an important part of people's lives. The changing

dynamics of the situation require a deeper understanding of how Islamic values and local traditions interact in the context of Javanese cultural heritage.

Therefore, this research is useful for knowing and analyzing the inheritance practices of Javanese society in terms of Islamic inheritance law and customary inheritance law. Therefore, we believe that this work can play an important role in preserving cultural diversity and local wisdom while still prioritizing the values of justice, harmony and brotherhood in the succession process of Javanese society.

2. FORMULATION OF THE PROBLEM

Based on the background of the problem, the author formulates the problem as following:

1. How is Islamic inheritance law implemented in Javanese society and customary inheritance law in Javanese society?
2. What are the similarities and differences between Islamic inheritance law and customary inheritance law?

3. RESEARCH METHOD

This research uses normative research methods by taking a positive legal approach to laws and regulations and a case study (case approach) using qualitative data types. The data sources used are secondary data obtained from sources in the form of official documents, books, journals, the internet and other sources related to this research.

4. RESEARCH RESULTS AND DISCUSSION

Point 1: What is Islamic inheritance law like in Javanese society and what is traditional inheritance law like in Javanese society?

Understanding Islamic Inheritance Law

The word inheritance in the Arabic dictionary comes from the words: *ثَرَاوِيْنٌ* - *ثَرَاوِيْنٌ* - *ثَرَاوِيْنٌ*. It means heirloom, treasure left behind by a corpse. According to the term, the science of inheritance (*fara'idh*) is:

The Prophet *لَا يَمُوتُ حَتَّىٰ يَكْفِيَ لِكُلِّ وَرَثَةٍ عَمَلَهُ* َتَلَا

"The science of Fiqh relating to inheritance issues and the science of calculations convey the special knowledge of each owner of inheritance rights regarding the rights to his share of the inheritance." [1]

According to the Compilation of Islamic Law (KHI) in article 171 Letter (a), what is meant by inheritance law is the law that regulates the transfer of ownership rights to inheritance (*tirkah*) of heirs, determining who has the right to be an heir, and how much each person will share. [2]

According to Wirjono Prodjodikoro, "that inheritance law is the laws or regulations that regulate whether and how the various rights and obligations regarding a person's assets when he dies will be transferred to other people who are still alive. [3]

Terms and Conditions for Distribution of Inheritance

- a) Al-Muwaris, namely heirs of wealth. In the case of n, the conditions for heirs are that they are completely dead (really dead), truly dead, legally dead. Or die by fate.

- b) Al-Waris, namely the person who has the right to inherit the assets left by the deceased.
- c) Al-Maurus/al-miras, namely assets left behind.

Heirs and Their Shares

Azhar Basyir stated that heirs can be classified into three based on their rights to inheritance, namely heirs dzawil furudl, ashabah, dzawil arham. Dzawil furudl is a group of heirs who have certain rights, namely 2, ¼, 3/1, ½, 3/ 6/1, and 18/. Ashabah is a group of heirs whose share of rights is not certain but will receive the entire inheritance if there are no dzawil furudl heirs. If there are dzawil furudl heirs, then the ashabah heirs are only entitled to the remaining assets and if it turns out there are no remaining assets at all then the ashabah heirs do not get any share.

Understanding Customary Inheritance Law, the use of the term customary inheritance is intended to differentiate it from the term's Western inheritance law, Islamic inheritance law and Indonesian inheritance law. Because even though these three terms are in the same context, the subject matter is very different. There are many concepts to better understand customary inheritance law; In his book "Principles and Systems of Adadrecht" which translates as "Principles and Formation of Customary Law", Ter Haar presents a text on the interpretation of traditional heritage as a legal regulation regarding a satisfactory and permanent process.[4]

Soepomo stated: "Customary inheritance law contains regulations that regulate the process of passing on and passing on property and intangible items (immaterial geoderen) from a generation of people (generation) to their descendants." [5]

Customary inheritance law includes three main elements; This is mainly related to inheritance law, namely who inherits and who inherits. Second, about when the inheritance was transferred, how the inheritance was transferred, and the share in each inheritance. Third, inheritance law itself, especially regarding what constitutes inherited assets and whether these assets can be inherited.

Heirs According to Customary Law

Heirs according to customary law are those who have the right to inherit based on lineage and kinship relationships recognized by customary law. The general principles regarding inheritance according to customary law are:

1. Ancestry

Lawcustoms generally adhere to patrilineal, matrilineal, or bilateral lineage systems.

- a. Patrilineal: The father's lineage is the basis of inheritance.
- b. Matrilineal: The mother's lineage is the basis of inheritance.
- c. Bilateral: The father's and mother's bloodlines are the basis of inheritance.

2. Kinship Relations

Kinship relationships recognized by customary law can vary, including:

- a. Nuclear family: Husband, wife and children.
- b. Extended family: Parents, grandparents, grandchildren, siblings, cousins, and so on.

According to Javanese tradition, all male and female children born before or after have the same rights to inheritance from their parents. However, in some areas, especially in Central Java, a senicul system is implemented, where boys get twice as much as girls.

Expertheirs in a bilateral society are biological children (sons and daughters). In a bilateral society (Java), sons and daughters have the same rights to their parents' inheritance. This does not mean that each child has the same rights according to the number of numbers, but the distribution is based on the needs and propriety as well as the abilities (conditions) of each heir.

Childbiological (male or female) is the next generation of their parents. Therefore, inherited assets in any form will be passed on to biological children who in turn will be the original assets. This is in accordance with the Indonesian marriage philosophy, where one of the main objectives of marriage is to continue the offspring (children), so that they can be the successors of their lives. Based on the equality of rights between boys and girls, their respective inheritance shares should be equal (one to one).

IfThe heir does not have any children at all, nor does he have any children or adopted children from relatives' children or from other people's children, then the assets will be inherited successively by, firstly, the testator's parents, father or mother, and if there are no new siblings. the birth of the heir or his descendants, and if these are not available, then the heir's grandparents. And if the heir's grandparents are also absent, it is given to an uncle or aunt, either from the heir's father or mother's line. If this level does not exist, it will be inherited by other family members.

Point 2: Similarities and Differences in Islamic Inheritance Law and Traditional Inheritance Law

Regarding the division of inheritance according to Islamic inheritance law and Javanese customary law above, it can be seen that there are several similarities and differences as follows:

- a. Judging from the definition of inheritance, there are differences between the two. In Javanese customary law, inheritance is seen as the process of transferring and passing on property belonging to the heir, so that inheritance can occur while the heir is still alive, so there is no recognition of the term heir's gift to his heirs while the heir is still alive. This is different from the provisions of Islamic inheritance law, where inheritance only occurs after the testator dies. The transfer or transfer of assets while the testator is still alive is not inheritance according to Islamic law but is referred to as a gift.
- b. Judging from the source of inheritance law, there are very clear differences, where the source of Islamic inheritance law comes from: (1) the Koran, (2) the Sunnah of the Prophet, and (3) ijtihad. In contrast to the sources of customary inheritance law (including Javanese customs), several legal experts state that customary law originates from:
 - 1) Habits and customs related to folk traditions and the recording of laws by kings. In East Java the Ciwasana Law Book by Raja Darma Wangsa, and the Gajah Mada Law Book and his successor Kanaka who gave the order to make the Adigama law book; and
 - 2) Ugeran-ugeran (rules or norms) that immediately emerged as a statement of authentic Indonesian culture.
- c. Judging from the principles of inheritance, between Islamic inheritance law and Javanese traditional inheritance law there are several similarities, for example in Islamic inheritance

law there is a bilateral principle where a person receives inheritance rights or shares from both parties from male relatives and female relatives. In law There is also a customary principle known as bilateral (bilateral decent) which considers the relationship of descent through the father and mother. Islamic inheritance law recognizes the individual principle that inherited assets can be divided among heirs to be owned individually, in customary inheritance law there is also what is known as the individual inheritance system, namely that inherited assets can be distributed to the heirs by their owners, however, families that are more closely related to the heir take precedence over families that are more distant, those that have a stronger relationship to the heir take precedence over those that are weaker. For example, fathers take precedence over grandfathers, siblings take precedence over half-brothers. The difference that can be found in terms of the principle of inheritance is that in Islamic law there is something called the principle of *ijbari*, where the transfer of assets from a person who dies to his heirs applies automatically according to Allah's provisions without depending on the will of the heir or heirs, while in customary inheritance law, it is the heir who usually determines the share of the heirs if the inheritance process is carried out before the testator dies. Also in Islamic law there is a principle of consequence of death, meaning that inheritance exists if someone dies. Inheritance exists as a result of someone's death. Meanwhile, in Javanese customary inheritance law, the process of inheriting property can be carried out while the heir is still alive by prioritizing the principles of harmony and kinship between the heirs. The principle of harmony and kinship which is highlighted in customary inheritance law as an ideal value of social relations which is expected to prevent open conflict, in fact always gives rise to latent feelings of dissatisfaction, which ultimately results in the breakdown of family relations between members of a kin group.

- d. Judging from the pillars of inheritance, Islamic inheritance law and customary inheritance law have similarities, namely first, the existence of inherited assets (*maruts* or *tirkah*), second, the existence of heirs (*muwarits*), and third, the existence of heirs (*warits*). However, if we explain each element, there are several differences between Islamic inheritance law and customary inheritance law: First, regarding inheritance. According to Islamic law, what is considered inheritance are goods and material rights that belong to the heir when he dies, whether in the form of money or other material permitted by Islamic law, so that assets that have been given to his heirs while they are still alive are not included as inheritance. Meanwhile, according to customary law, inheritance includes assets left by the heir when he dies and also assets that have been distributed to heirs when the heir was still alive. Second, regarding heirs. According to Islamic law, heirs are descendants, husband or wife, parents, siblings, uncles, and so on, which are divided into several groups, namely: *dzawil furudz*, *'ashabah* and *dzawil arham* with provisions that are far hindered by those who are more closely related to the heir. In terms of *fara'id*, it is called *hijab*, for example grandfathers are hindered by their father, siblings are hindered by their children or grandchildren, and so on, except that brothers and sisters are not hindered by siblings. According to customary law, the heirs are essentially only descendants, if there are no descendants at all, they are transferred to others in successive groups: parents, siblings and their descendants, grandparents and uncles and aunts and their descendants.
- e. Viewed from an inheritance perspective, according to Islamic law, dividing inheritance according to the provisions of Islamic law requires mathematical calculations using a

separate calculation method because the numbers that will be faced are fractional numbers from the heirs' share as determined in the Al-Qur'an and Al-Sunnah. namely $\frac{2}{3}$, $\frac{1}{2}$, $\frac{1}{3}$, $\frac{1}{4}$, $\frac{1}{6}$, and $\frac{1}{8}$, so it is necessary to look for the least common multiple (KPT) or in *fara'idh* science it is called the root of the problem. This is to make it easier to calculate how many parts each heir so that the inheritance is completely divided. There are several calculation methods to solve problems in calculating inheritance distribution, including: *al-'aul*, *ar-radd*, *garawain*, and *musyarakah*. In contrast to inheritance according to Javanese customary law, which is dominated by two inheritance processes, namely before the heir dies and after the heir dies, Besides, its implementation does not require complicated mathematical calculations. The inheritance process when the heir is still alive can occur in several ways, namely transfer (*lintiran*), appointment (*acungan*), and message (*welingan* or *wekasan*). After the heir dies, there are two possibilities for dividing the inheritance according to Javanese customary law between sons and daughters, namely:

1. The method of *dum dum kupa* or *igar watermelon*, meaning that the parts for boys and girls are equal;
2. The *sepikul* method means that the boy's portion is twice as large as the girl's portion.

5. CONCLUSION

Based on research on the inheritance traditions of Javanese society from the perspective of Islamic Inheritance Law and Customary Inheritance Law, it can be concluded that:

1. The inheritance tradition of Javanese society combines Islamic values and local customs in the distribution of inheritance, with the principles of equality, wisdom and deliberation as the main basis.
2. Islamic Inheritance Law provides clear guidelines regarding the distribution of inheritance based on the Al-Qur'an and the Prophet's Sunnah, while Javanese Customary Inheritance Law also has its own principles that influence the inheritance process.
3. Although there are technical differences in the distribution of inheritance between Islamic Inheritance Law and Customary Inheritance Law, the inheritance traditions of Javanese society are basically in line with the principles of justice, harmony and kinship.
4. This research makes an important contribution in maintaining cultural diversity and local wisdom, while strengthening the values of justice and harmony in the inheritance process in Javanese society.
5. There is a need to provide outreach and education to the Javanese community regarding Islamic Inheritance Law and Customary Inheritance Law to avoid disputes in inheritance distribution and maintain traditional values.

Thus, this research provides a deeper understanding of how Islamic values and local customs interact with each other in the context of inheritance in Javanese society. [1]

6. BIBLIOGRAPHY

Scientific Journal:

- A. L. Belakang, "C.S.T.Kansil, Pengantarilmu Hukum dan Tata Hukum Indonesia , Jakarta: Balai Pustaka 1986 hal. 214. 1 1," pp. 1–30, 1986.
- A. Vela, "Pembagian Waris Pada Masyarakat Jawa Ditinjau Dari Hukum Islam Dan Dampaknya," *As-Salam J. Stud. Huk. Islam Pendidik.*, vol. 4, pp. 67–91, 2015.
- A. Wantaka, "Pembagian Warisan dalam Perspektid Hukum Islam dan Hukum Adat Jawa," *Huk. iWaris slam*, vol. 01, no. 1, p. 21, 20189.

V. Lusiana, “Hukum Kewarisan di Indonesia (Studi Komparatif antara Kompilasi Hukum Islam dengan Kitab Undang-Undang Hukum Perdata),” *J. Alwatzikhoebillah Kaji. Islam. Pendidikan, Ekon. Hum.*, vol. 8, no. 2, pp. 291–306, 2022.

Online Source:

E. R. Y. SH and Hukumonline, “Pembagian waris menurut hukum adat Jawa,” Aug. 06, 2012.
<https://www.hukumonline.com/klinik/a/berhak-atau-tidaknya-mendapatkan-waris-dari-orang-tua-tugas-hk-waris-adat--lt4fcc4bee2ae6f/>