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(IJIIS)



The Indonesian Journal of Interdisciplinary Islamic Studies, published biannually by the Doctoral Program in Islamic Law, Islamic University of Indonesia, serves as a platform for intellectual exchanges and interdisciplinary studies on various aspects of Islam including, but not limited to, theology, law, education, economy and politics and how they are historically and contingently embedded, expressed and articulated in a variety of historical contexts. The journal welcomes contributions from scholars and researchers of various disciplinary backgrounds in the form of original (theoretical or empirical) research articles on various issues related to Islam in both its normative and historical dimensions.

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## EDITORIAL

We are very pleased to present The Indonesian Journal of Interdisciplinary Studies (IJIIS) Volume 2, No. 2, 2019. This issue mainly consists of a good mix of selected papers discussing several interesting topics covering Islamic law, Islamic economy, religious freedom, Islamic education, and inheritance law.

The first article by Muhammad Iqbal Juliansyahzen discusses the authoritative hermeneutics offered by Khaled Abou el-Fadl as an attempt to challenge authoritarianism in Islamic law. The second article by Imam Khoiri then examines the current debate on the epistemological basis of Islamic economy by referring to the ideas proposed by Abbas Mirakhor. Following this, Eva Fadilah turns to the issue of Islam and freedom and religion by specifically examining the progressive and contextualist thinking of Australia-based Muslim scholar Abdullah Saeed. The next article by Khairun Nissa then discusses the humanistic educational thought of Soedjatmoko, one of Indonesian prominent intellectuals and social thinkers. The last article by Azmi Siradjudin then examines practice of the inheritance law among different ethnic groups in Metro city, Lampung. This issue is then concluded by a review of Muhammad Yasir Alimi's book titled "*Mediation of Religion, Post-Truth, and National Resilience: The Sociology of Religion in the Digital Age*".

It is hoped that this publication will encourage further research and discussion on various issues concerning Islam and Muslim societies from various disciplinary backgrounds.

Editor in-Chief

# IMPLEMENTATION OF INHERITANCE LAW IN THE COMMUNITY OF METRO CITY, LAMPUNG

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## **Abstract**

*This study is aimed to understand and analyze the implementation of the Islamic law of inheritance in four ethnic groups, namely Lampungnese, Javanese, Padangnese and Sundanese, in Metro City, Lampung. It examined the implementation of the Islamic law of inheritance by these four ethnic groups concerning the understanding of the division of inheritance upon death. This is an empirical study using primary data obtained from interviewing 300 respondents and 30 informants, consisting of 10 judges, 5 heads of villages, 5 kiai/ Islamic leaders, and 10 Islamic/village figures. The secondary data were divided into three parts: primary legal materials, secondary legal materials, and tertiary legal materials. The data analysis was carried out in stages: collection, inventory, classification, construction, and descriptive analysis based on content analysis. The study found that the majority of people --those who are lacking religious understanding with various backgrounds-- carried out inheritance based on customary inheritance law. While those who have better understandings of religion --which is a minority-- carried out inheritance based on The Islamic inheritance law. This study also found that 93% of the people agreed that the Islamic inheritance law should be applied to inheritance law for Indonesian Muslim communities in the form of legislation products.*

**Keywords:** inheritance law, Islamic inheritance, Metro City

**A. Introduction**

According to the opening of the third paragraph of the 1945 Indonesian Constitution, independence was obtained through God Almighty, making the country a non-secular polity. Article 29 paragraphs 1 states that the country is based on Belief in the One God, while the second paragraph explains and guarantees the freedom of people to embrace any religion and worship according to their belief.<sup>1</sup> The Indonesian legal system has a metaphysics originating from its nation, thereby making it an inherent strategy.<sup>2</sup>

The essence of metaphysics is the values contained in Pancasila and the 1945 Constitution. The purpose of the existence of these laws is to ensure that the nation is in order and prospers. This system was built by referring to the mono-pluralist framework, thereby linking legal, moral, and religion very closely. Furthermore, it was extracted from local wisdom and geniuses while considering international changes. Western law, such as the Anglo Saxon, customary law, and Islamic laws become the standard national legal system of the Indonesian community. Law always grows from a real necessity, a way of life, a nation's outlook, down to the society which uses it as a culture where it is applicable and how the legal style will be determined.<sup>3</sup>

According to Von Savigny<sup>4</sup>, human society is divided into many nations with each society possessing its *volkgeist* (soul of the nation) which varies according to place and time. This is expressed in language, customs, and social organization of the people which varies according to place and era as well. The definition of *volkgeist* is the life philosophy of a nation or a pattern of culture or personality that grows due to past experiences and traditions. Furthermore, the law is seen as a

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1 Abdul Ghofur Anshori, "Menggali Makna Sistem Hukum Dalam Rangka Pembangunan Ilmu Hukum Dan Sistem Hukum Nasional," (Oration, February 17, 2008), p. 16.

2 Anshori, "Menggali Makna Sistem Hukum."

3 Anshori, "Menggali Makna Sistem Hukum," p. 17-18 This theory was originally conceived by Gustav Hugo (1764-1861) then developed by Friedrich Carl von Savigny who tried to offer his theory which is famous for the theory of the people's Soul or Volkgeist.

4 Read Theo Huijbers, *Filsafat Hukum Dalam Lintasan Sejarah* (Yogyakarta: Kanisius, 1993), p. 128-130.

result of the historical development of the society where it applies, with its contents determined by the history of human society where it is applicable.

The principles of Savigny which describe the people's spirit are as follows: The law was originally formed customarily and by a force that works silently with other forces. These laws are not static, and it is the subject of every progress and development as other things are reflected in the life of a nation. Furthermore, it comes from the instinct of a nation on what it considers "right" because it is actually "discovered and not made". Also, the legislation will eliminate the vital meaning of customary law. Therefore, the law is an expression of "the soul of a nation" (people spirit) and feelings on what is considered right and fair. According to Savigny, laws are not made but grow and develop together with the community. This concept is influenced by religion (supernatural), as is the case of Indonesia with the enactment of customary law which is determined by "magical-religious" (cosmic) balance.

In Indonesia, Islamic law occupies quite an important and strategic position within the national legal system. This means that it makes a significant contribution to national legal politics. In law, there are elements of justice, certainty, and usefulness as legal values that cannot be ignored by the Indonesian Islamic law and one of such elements is its sociological aspects.<sup>5</sup> Therefore, the existence of Islamic law cannot be separated from community life. Islamic teachings should not be ignored in fostering national law as a legal system in society.

The context and provisions of Islamic law have an organic relationship as an obligation of members of the community, irrespective of their religion. Therefore, its development must be based on the state foundation, i.e., the Pancasila and the 1945 Constitution of the Republic of Indonesia. Islam carries teachings on spirituality that regulate the human relationship with God, as well as the teachings of social life that

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<sup>5</sup> Mochtar Kusumaatmadja, *Konsep-Konsep Hukum Dalam Pembangunan: Kumpulan Karya Tulis* (Bandung: Alumni, 2002), p. 3.

governs their relationship with one another and the environment.

The Indonesian law observers are yet to agree on understanding the function of the law itself, which in return is dependent on the condition, time and place of the society. However, the affirmation states that there are three functions of the law itself, namely social control, dispute settlement, and social engineering. Generally, its main purpose is to ensure there are peace and justice.<sup>6</sup> Therefore, it functions as a sufficiently effective tool in solving problems inherent in a community. Legal duties are utilized to control people's behavior following the nation's rules. Similarly, the legal task is used to resolve disputes that arise in the community, such as those between citizens, groups, and institutions in the community, which it immediately resolves and reconciles using local wisdom and culture to avoid anarchist or unlawful acts of violence. Also, the law manipulates and creates a safe and secure situation by prioritizing its task (*masalah al-ummah*). The three elements above are the same as *maqashid syariah* (the purpose of Islamic law) where the purposes are revealed by Allah to His Messenger for the benefit of humanity and the whole universe (*rahmatan li al-alamin*).

The life of many people is determined by the family structure which starts from marriage. This influences the thinking and method of assets and how to settle the transfer of property after death.<sup>7</sup> This act of property transition is also called inheritance. Inheritance is behavioral or sociological phenomena. This can further be defined as ways of a behavioral or sociological phenomenon that contains a variety of values that is studied concerning the differences between men and women. This illustrates how man historically struggled with various problems, including gender discourse, emancipation, democracy, politics, discrimination, systems, and social structures, and problems that show the values of humanization of civilization. Furthermore,

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6 Munir Fuady, *Dinamika Teori Hukum* (Bogor: Ghalia Indonesia, 2007), p. 77.

7 Abdul Ghofur Anshori, *Filsafat Hukum Kewarisan Islam: Konsep Kewarisan Bilateral Hazairin* (Yogyakarta: UII Press, 2010), p. 7.



normative provisions with regards to the formal juridical aspects of inheritance and theoretical or social facts cannot only be studied from a legal perspective regardless of other aspects but related to other fields including anthropology which illustrates the awareness of life universal value.<sup>8</sup>

In inheritance, there is a transfer of rights or wealth from one generation to another which involves the rights of women, which is strongly influenced by *vis a vis* the pattern on men. The Islamic inheritance law includes the provision of unfair distribution between men and women. Equality of position is theoretically studied by Subkhan as an alignment between men and women concept.<sup>9</sup> The alignment between men and women concept carries out two meanings. First, the Qur'an in the general sense recognizes the dignity of men and women in alignment without sex differentiation. Second, men and women have equal rights and obligations in various fields.<sup>10</sup>

In the field of inheritance law, Indonesia does not yet have national rules that are codified or constitute a legal unification. Until now there are still three systems of inheritance law carried out in Indonesia, thus the West civil inheritance law (colonial legacy based on Burgerlijk Wetboek), customary inheritance law, and the Islamic inheritance law. Pluralism in the inheritance law in Indonesia is still ongoing, while the codification and unification of national inheritance law are still at the level of future goal (*ius constituendum*).<sup>11</sup>

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8 Anthropology is a study of science that studies human beings both in terms of culture, behavior, diversity, colors, and so on. The main object in anthropology is human beings in their ethnic, cultural and behavioral societies. Cultural anthropology studies the entire culture including change, acculturation, and cultural diffusion. Instead, the key concept in social culture is a social structure, not culture. Thus, cultural anthropology focuses on tracking the history of cultural elements, while social anthropology focuses on the search for laws and generalizations about social institutions. Cultural anthropology is more historical descriptive, whereas social anthropology is more explanatory. Koentjaraningrat, *Pengantar Antropologi I* (Jakarta: Rineka Cipta, 1996), p. 8-10.

9 Anshori, *Filsafat Hukum Kewarisan Islam*, p. 44.

10 Z Subkhan, *Tafsir Kebencian: Studi Bias Gender Dalam Qur'an* (Yogyakarta: LKiS, 1999).

11 Michael Jacobs and Bernhard Joseph Stern, *General Anthropology* (New York: Barnes & Noble, 1990), p. 128.

Therefore, the applicable the Islamic inheritance law is the Compilation of Islamic Law based on the Qur'an and the hadith of the Prophet Muhammad which is poured into the Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*) as a legal reference for Indonesian Muslims. KHI is a collection of material laws that are put together in the legal document. KHI is a reference for all Indonesian judges within the Religious Courts body.

By identity, the Indonesian Muslim community should have received a portion of the inheritance understanding, with the expectation that the Muslim community would be interested in carrying out the inheritance based on the Islamic inheritance law. However, the facts on the ground show that the majority of the Muslim community in Indonesia do not fully implement the Islamic inheritance law because they also carry out the local customary law. Against this backdrop, this study is important in examining how the Islamic inheritance law, especially in Metro City, exists and adapts with its heterogeneous society.

## **B. Methodology**

This study examined how inheritance distribution carried out by the Pepadun, Saibatin, Javanese, Padang and Sundanese communities in Metro City Lampung. The research was conducted in Metro City because it is quite attractive with its heterogeneous population. It is one of the cities in Lampung province, about 45 km from Bandar Lampung City. Before it became an autonomous city, it was an administrative city that served as the capital of Central Lampung until 1999.

The starting point of this study is Islamic law, while the specifications are qualitative and quantitative through juridical normative approach and juridical empiric approach involving Islamic teaching, sociology, anthropology, and history. The juridical normative approach in this study is that law is treated as rules (norms) which are laid down as guidelines for regulating the relationship between humans and objects

in society, which is inheritance law in this study. Meanwhile, juridical empiric approach explains the implementation of legal rules into the socio-cultural community. The sociological approach is carried out because the Islamic inheritance law is a manifestation of the interaction result between one and another that is very much determined by the understanding and obedience of citizens in carrying out religious teachings. The anthropology approach is carried out because the Islamic inheritance law is closely related to the community's kinship system. And history discusses the development of the arrival of the Dutch Colonial invaders to Indonesia, the Indonesian kingdoms, legal theories developed in Indonesia, social science theories, and many others.

Stages of the study carried out by literature research which is used as secondary data of the study serves as forming a theoretical framework for the rationale, and the discovery of facts that are useful for analysis and conclusion drawing. Furthermore, field research was carried out with observations, interviews, and questionnaires to 300 respondents from the whole 4 ethnics there, to find out the application of the Islamic inheritance law in the life of the Metro City's Muslim community. The data obtained through literature research was processed systematically by making the classification of written materials and the field to find relevant legal principles to the study topic. The data obtained through field research was processed by the editing and coding stages, then recorded systematically and consistently using tables.

### **C. Results and Discussion**

The system of life of many people is determined by the family structure that starts in the form of marriage. This influences the way these people think and the techniques they adopt in the transfer of property after death, which is known as inheritance.<sup>12</sup> As a sociological phenomenon, inheritance contains a variety of values concerning the differences between men and women as well as the historical struggle

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12 Anshori, *Filsafat Hukum Kewarisan Islam*, p. 7.

of various problems, including gender discourse, emancipation, democracy, politics, discrimination, systems, social structures and problems that illustrate the values of humanization and civilization. Normative provisions under formal juridical aspects of inheritance and theoretical aspects of social facts cannot only be studied from a legal perspective but are always related to other fields such as anthropology which shows awareness of life and its universal value.<sup>13</sup>

Inheritance is a transfer of rights/from one generation to another which involves the position and rights of women strongly influenced by men. Critics of the Islamic inheritance law with regards to women's rights include the provision of unfair distribution between both genders. The equality of position is theoretically studied by Subkhan.<sup>14</sup> According to Koentjaraningrat, acculturation is a social process that arises when a group of people accepts a foreign culture without losing their inherited cultural values.<sup>15</sup> Furthermore, Melville Jakobs defines it as a case of selective and voluntary assimilation of a culture where some are accepted and others rejected.<sup>16</sup>

In Indonesia, the field of inheritance law has no national regulation that is legally unified. There existed three inheritance law systems in Indonesia, namely the West civil, customary, and Islamic law. There is still pluralism in the field of inheritance law in Indonesia, while the codification and unification laws are still at the ideal level (*ius constituendum*). According to Suparman, the inheritance law is not easy to conduct due to the diversity of cultural, religious, social, customs, and family systems within the Indonesian society.<sup>17</sup> For European or Chinese descendant, for example, the Western inheritance law is applied, and for Indonesian, the customary inheritance law can be utilized. Furthermore, Muslims are expected to hold onto the

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13 Koentjaraningrat, *Pengantar Antropologi I*, p. 8-10.

14 Anshori, *Filsafat Hukum Kewarisan Islam*, p. 44.

15 Koentjaraningrat, *Pengantar Ilmu Antropologi* (Jakarta: Rineka Cipta, 2002), p. 248.

16 Melville Jakobs and Bernhard Yahya Harahap, *Kedudukan Janda, Duda, Dan Anak Angkat Dalam Hukum Adat* (Bandung: Citra Aditya Bakti, 1993), p. 62.

17 Koentjaraningrat, *Pengantar Ilmu Antropologi*, p. 248; Michael Jacobs and Bernhard Joseph Stern, *General Anthropology* (New York: Barnes & Noble, 1990), p. 128.

teachings of Islam, with the Islamic inheritance law while the foreign east group (Arabic, India, and Pakistan) make use of customary laws.<sup>18</sup>

Concerning the inheritance law, Indonesia as a country that has long been independent and sovereign has certainly craved the existence of inheritance law for Muslims that applies nationally (such as Law Number 1 Year 1974 concerning Marriage and Law Number 41 Year 2004 concerning Waqf) which follows the Indonesian philosophy and living law in the community. However, to realize the Islamic inheritance law with a form of legal unification that applies to all people/Muslim communities in Indonesia is problematic in itself because many tribes still uphold customary inheritance systems, such as the Lampung Abung with Pepadun tribes, both in urban and rural areas who still hold fast the distribution of inheritance based on the male major system.

The Lampung community is 100% Muslim, and therefore, Islamic law is a religious teaching that is deeply attached to indigenous peoples, even though in the issue of inheritance some share Islamic and traditional inheritance laws. This is common with the male community, with the oldest trusted by the testator to hold both movable and immovable property such as customary land, land/farmland, rice fields, and old houses, all of which are left to the oldest sons to be processed and maintained for the continuation of the family. The parents, grandparents, brothers, and sisters, all have responsibility of ensuring that the oldest son continues his next life.<sup>19</sup>

The Lampung tribe adopts the culture of giving respect to elders in the family according to custom and religion. For example, in a family, the siblings must call their older brothers both male and female with traditional titles. Also, the oldest son is addressed as “udo” by all his younger siblings, and the oldest daughter is addressed as “wo”. In axiology, the ancestors greatly appreciated the existence of the oldest

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18 Eman Suparman, *Intisari Hukum Waris Indonesia* (Bandung: Mandar Maju, 1991), p. 7.

19 Hilman Hadikusuma, *Hukum Waris Adat* (Bandung: Citra Aditya Bakti, 1993), p. 9.

son due to the magical values which must be maintained. Ontologically, the essence of maintaining the oldest son as a child is to ensure they pick up responsibility for receiving the transfer of leadership after the death of their father. This is similar to the culture of the Javanese people, especially in the city of Yogyakarta, where it is still very strong.<sup>20</sup> The weakness and goodness of the major inheritance system lie in the leadership of the oldest son that maintains the integrity and harmony of the family until all heirs (siblings) are independent and married.

The Javanese (*Wong Jowo* or *tiang Jawi*) is the most populous tribe in Metro City compared to other cities in Lampung. In the life of any Indonesian society, it cannot be denied that the religion embraced by a person tends to influence their various aspects of life. Therefore, it is natural for Islamic law to be experienced in the life of the Javanese community. Furthermore, the legal pluralism between Islamic law and customary law is difficult to avoid though it is usually taken for granted. In this case, Sudaryanto states that the dualism of religious and customary laws is difficult to avoid because in reality the Muslim community before knowing the teachings of Islam are used to carry out and obey the customary law.<sup>21</sup>

To determine the truth of the statement, this study examined the Javanese inheritance system in Metro City which adhere to the system of parental kinship, in which the ownership was based on an individual system, where each heir receives a share without distinguishing between men and women even though the division is not same. However, this is different, when compared to the Islamic inheritance law in terms of characteristics.<sup>22</sup>

In the customary law, *legitieme portie* (a definite part) does not exist, because this is based more on heirs' harmony and justice.

20 M. Amin Abdullah, *Mazhab Jogja, Menggagas Paradigma Ushul Fiqh Kontemporer* (Yogyakarta: Ar-Ruzz Media, 2002), p. 15.

21 Agus Sudaryanto, "Sepikul Segendong: Harmonisasi Hukum Adat Dan Hukum Islam Dalam Pewarisan Terhadap Anak," in *Ekspresi Islam Dalam Simbol-Simbol Budaya Di Indonesia*, ed. Atik Triratnawati and Mutiah Amini (Yogyakarta: Adicita, 2005), p. 225.

22 Tolib Setiady, *Intisari Hukum Adat Indonesia: Dalam Kajian Kepustakaan* (Bandung: Alfabeta, 2015), p. 285.

Also, the existence of children closes the potential group to become heirs.<sup>23</sup> This means that the inheritance principle in the customary law adheres to a pattern of mutual closure if the main group of heirs exists. Therefore, the customary inheritance law applies the limitation principle, meaning with the existence of the main group (the descent line, namely the child), both the upper and horizontal descent lines, will be eliminated.

In the Minangkabau community, inheritance can either be high or low.<sup>24</sup> Assuming the amount is high, the heirs are family members of the mother, but when low, then the inheritance is inherited depending on the wishes of the heir at the time of life. Whether the property is given to the children when the testator is still alive or equally divided between the testator's will, it is in accordance with the Islamic inheritance law.

The livelihoods of a husband and wife during their marriage days are valid both in religious and state law. These livelihoods consist of jewelry, vehicles (cars and or motorbikes), houses, farmlands, and paddy fields, businesses such as shops, warehouses, and foundations. The Sundanese have similar culture with the Javanese and Padang tribes. For instance, the Padang tribe inheritance is transferred to women, however, this is not the same in the pre-survey strategies utilized in Metro City. The tribe is more inclined to dividing the inheritance equally between men and women. This is different from the Semendo tribe (South Sumatra) who domiciled the city based on the interviews conducted by the researcher with several respondents. According to the reports obtained, the Semendo tribe still upholds the traditions of parents, as men do not acquire the inheritance. Rather, it is given to women because they are weak and must be protected, while men must be trained to be independent. However, they receive the remaining assets such as a portion in the form of land and houses.<sup>25</sup>

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23 C. Dewi Wulansari, *Hukum Adat Indonesia Suatu Pengantar* (Bandung: Refika Aditama, 2010), p. 73.

24 Chairul Anwar, *Hukum Adat Indonesia: Meninjau Hukum Adat Minangkabau* (Jakarta: Rineka Cipta, 1997), p. 88.

25 Nizaruddin, Interview with Mr. Nizaruddin, Lecturer of IAIN Metro, May 23, 2018.

Normatively, the Islamic inheritance law is imperative, meaning that it must be carried out by every Muslim. The command to obey is stipulated in the Qur'an, QS An-Nisa verses 13-14 which states "These are the limits set by Allah, and whoever obeys Allah and His Messenger will be admitted into Paradise where rivers flow, abiding eternally therein; and that is the greatest attainment. However, anyone who disobeys Allah and His Messenger will be put into the Fire to abide eternally with humiliating punishment"

The provisions of the verse are a continuation of the previous verses by Allah in the Qur'an in An-Nisa verse 13-14 which explains the Islamic inheritance law. In this case, the implementation is *qath'i*, the absolute truth, because it comes from the Creator of Shari'a. In this case, the behavior of Muslim societies (*das sein*) should adjust to the will of its Creator. However, the behavior of Muslim communities in Metro City (*das sein*) has not referred to the will of the Creator of Shari'a (*das solen*).<sup>26</sup> Based on the phenomena that exist in the Muslim community of Metro City, the study is interested in examining more deeply the existence of Lampung, Java, Padang and Sunda tribes.

The Padang tribe, in dividing the inheritance, is similar to the Javanese, where both male and female heirs receive almost the same share. The inheritance is divided based on the matrilineal system based on Islamic law assuming the heirs can understand its various rules. Mr. Joni, a native of one of the villages in Padang Panjang, is unhappy with the matrilineal system. According to Mr. Joni, "inheritance should be equally shared between men and women, for peace to reign".<sup>27</sup> This was however contrary to Mr. Nizaruddin's belief which stated that property inheritance especially houses should be handed over to women. Furthermore, the Sundanese tradition is almost similar to the Javanese and Padang tribes who share/provide property to each prospective heir before death. This is carried out for the benefit of their children after their death. However, heirs who understand the Islamic inheritance

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<sup>26</sup> Suparman Usman, *Hukum Islam Asas-Asas Dan Pengantar Studi Hukum Islam Dalam Tata Hukum Indonesia* (Jakarta: Gaya Media Pratama, 2002), p. 18.

<sup>27</sup> Joni, Interview with Mr. Joni at Metro City, October 11, 2016.



law will be more inclined to carry out division based on it.

Inheritance is certainly preceded by marriage, which is between a man and a woman of two different backgrounds to spend the rest of their life together raising a family. According to the Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage Chapter 1, Article 1, marriage is “a spiritual bond between a man and a woman as husband and wife to form a happy and eternal family (household) based on the belief in the one and only God”.<sup>28</sup>

The word “eternal” refers to the *sakinah, mawaddah, and warahmah* family. In marriage, there will be descendants, obligated to some marital rights. The couples tend to declare and distribute their assets among their kids before or after their death. When the property is shared when its owner is still alive, it is known as *tirkah*, and after its owner has died it is called the testator.

Indonesia is a multicultural, multiethnic, multi-religious nation with multicultural backgrounds. Pluralism, on the one hand, is a beautiful social power and diversity which synergizes and works together to develop the nation. However, if not properly managed and empowered, it will be a trigger for conflict and violence capable of destabilizing the life of the nation and state.<sup>29</sup>

Assuming an Indonesian die, their inheritance is divided according to their beliefs. For non-Muslims, the B.W Civil Law (*Burgerlijk Wetboek*), namely the Civil Code is adopted, while the Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*) based on the Qur’an and the hadith of the Prophet Muhammad is used for Muslims. KHI is a collection of material laws incorporated in a judicial document and a reference for all judges in Indonesia within the Religious Courts.

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28 Arso Sosroatmodjo and A. Wasit Aulawi, *Hukum Perkawinan Di Indonesia* (Jakarta: Bulan Bintang, 1981), p. 34; Also read Kantor Wilayah Departemen Agama Propinsi Lampung, Bidang Urusan Agama, *Buku Pedoman PPN, Wakil PPN Dan Pembantu PPN* (Bandar Lampung: Gunung Pesagi, 2000), p. 25.

29 Muslikh Ks et al., *Teks Kajen Dan Serat Cebolek Sebagai Model Pembelajaran Resolusi Konflik: Studi Metaetika* (Yogyakarta: Pusat Studi Islam Universitas Islam Indonesia, 2011), p. 19.

Substantially the KHI formulation process is carried out by referring to the two sources of Islamic law, namely the Qur'an and the hadith with the hierarchy referring to these laws and regulations. When KHI is formulated, adequate attention is paid to its developments that are globally applicable to the written level of western law especially the Continental European and customary laws which have a meeting point with Islamic law. Based on these, there will be adaptation and modification of other legal conditions into the KHI. Therefore, it is a manifestation of the Islamic law that is unique in Indonesia, and which contains the Law of Inheritance in Chapter I is in line with the General Provision of Article 171 consisting of 9 verses. Chapter II is related to Heirs and consists of Article 172, 2 verses from 173, 174, and 175. Chapter III is the Amount of Share which consists of Articles 176-193. Chapter IV AUL and RAD consist of Article 192 and 193, Chapter V is known as the Testament consists of Articles 194-209, while Chapter VI which is the Grant, consists of Articles 210-214.<sup>30</sup>

Living in a Muslim-majority country, Indonesian Muslim community are supposed to have good understanding of the Islamic inheritance law and expected to carry out the distribution based on it. However, the fact in the field shows that the majority of Muslim communities in Indonesia have not fully implemented the Islamic inheritance law. These are the main attraction of this study especially in Metro City, with the hope of spreading the Islamic inheritance law so that Muslim communities are interested in its knowledge and practice. The Muslim community of Metro City is quite heterogeneous with several dominant tribes of Lampung, Java, Padang, and Sunda.

It cannot be denied that religion tends to influence people in Indonesia in various aspects of their lives where they associate and socialize. Therefore, it is very natural that Islamic law among the majority of Indonesian people lives side by side with customary law. The results of the study, however, show that legal awareness is relatively

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30 Abdurrahman, *Kompilasi Hukum Islam Di Indonesia* (Jakarta: Akademika Pressindo, 1992), p. 34-36.

lacking. Respondents' knowledge and understanding of the legal system does not show a close relationship with the legal behavior patterns. That is, the behavior of not following the law shows that respondents still choose alternative ways outside the law as a reference. This behavior appears not only in tradition, as introduced by social action theory, but also because of social interests, social risk and ignorance.

Based on the descriptions above, the study concludes that the development of customary inheritance law will go in the same direction as the Islamic inheritance law. Relevant elements such as legal experts from Muslim scholars, religious leaders, customary leaders, community leaders, both central and regional council members and the government must try to provide the good and correct explanation/education regarding the Islamic inheritance law.

Muslim communities generally do not understand the Islamic inheritance law. Therefore, education in both religious and general education is the core effort to improve the quality of human resources, especially Muslim resources in the field of Islamic inheritance. This fact shows the need for steps to improve the planning, implementation, utilization, and evaluation of Muslim human resources. Because qualified Muslim human resources will bring understanding and appreciation, especially in the field of civil law, namely the Islamic inheritance law. Finally, Metro City Muslim community which is dominated by four tribes namely Lampung, Java, Padang, and Sunda is increasingly interested in carrying out the distribution of inheritance according to the Islamic inheritance law.

#### **D. Conclusion**

The implementation of the inheritance system in Metro City's Muslim community which consists of four tribes, namely Lampung, Java, Padang, and Sunda, is divided into three groups. First, the majority group of community who does not apply the inheritance based on The Islamic inheritance law because they have used customary inheritance

law from generation to generation so that it is considered as the most ideal inheritance law and fulfills a sense of justice and is not in conflict with the law outlined by God. This might be also caused by their limited religious knowledge, especially regarding the calculation of Islamic inheritance. Second, the minority group who apply the Islamic inheritance law caused by a fairly strong understanding of their religion and a belief in God's law that can promise a good life in the world and the hereafter. The third group is those who apply the distribution of inheritance using "hibah".

The existence and adaptability of the Islamic inheritance law are quite good with the existing customary inheritance law among the Lampung, Padang, Java and Sunda ethnic groups. Both laws live side by side and people as well as Islamic community leaders also live side by side regardless of inheritance law they use. From this study, it can be concluded that if the customary inheritance law is not rejected by the Muslim community, then it cannot be said that this law confronts God's law because if it truly contradicts God's law, it will certainly be rejected by the Muslim community.

The awareness of the Islamic inheritance law is still lacking. This is caused by several factors, including internal factors such as self-esteem or a sense of justice to oneself who believe that the customary inheritance law implementation does not confront God's law. And there is no specific study on the Islamic inheritance law taught to the public as an external factor. The idea of establishing a national inheritance law is highly aspired by the people of Metro City to actualize the law unification on Islamic inheritance, namely by making the Islamic inheritance law a positive law or a legislation product that applies to all Muslims in Indonesia.

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