

DISTRIBUTION OF INHERITANCE AGAINST GIRLS

Analysis Study in Tanjung Mompang Village, North Panyabungan District, Mandailing Natal Regency

Nindi Aliska Nasution*

UIN Sunan Kalijaga Yogyakarta, Indonesia
nindialiskaaaa@gmail.com

Article Info		
Submitted	: December 7, 2019	DOI: 10.20885/ijis.vol.3.iss2.art5
Accepted	: February 4, 2020	*Corresponding author
Published	: March 25, 2020	

Abstract

The inheritance is the transition of wealth from one who is edited to his heir realized after the heir passed away. The problems that arise in this study are many people or communities who don't understand the science of Mawaris. In some cases about inheritance in Indonesia, one of which is located in Tanjung Mompang Village, Panyabungan North, South Mandailing Natal, carried out the distribution of inheritance based on traditions that existed and implemented without reference to the provisions of Islamic law. Using a juridical-empirical approach, the paper argued that the division of inheritance in some areas of the population was a majority of Islam but did not prioritize Islamic law in its religious matters, especially those occurring in the village of Tanjung Mompang in Panyabungan North, South Mandailing Christmas. There are two focus problems in this paper, First, how is the implementation of inheritance of property to girls in Tanjung Mompang village?, Second, what are the factors that cause the people of Tanjung Mompang Village to implement the distribution of inheritance based on the tradition? The result of this research is the distribution of inheritance that is done in the tradition because of the lack of public awareness about the rule of law in the Division of inheritance and one of the very basic factors that the division of inheritance. That is done not legally Islamic which is primarily a public ignorance of the procedure, and consequently many feel unfair, causing a dispute over fellow brothers in the family.

Keywords: *Heir, Inheritance and Inheritance*

A. Introduction

Death is an event that can lead to legal consequences, including the birth of rights and obligations between the testator and his heirs. The word *inheritance* comes from the Arabic *miras*. The plural is *mawaris*, which means the inheritance of the deceased who will be distributed to his heirs.¹ Inheritance is the transfer of assets

¹ Dian Khairul Umam, *Fiqh Mawaris*, (Bandung: Pustaka Setia, 2006), 11.

from a deceased person to his heir, which is realized after the heir dies. Islamic inheritance law or commonly called *faraid* is one part of Islamic law that specifically regulates the transfer of property rights of a person who has died (heir) to the living (heirs). As part of religious law, inheritance law is regulated in the Koran and Hadith. However, in practice the division in practice can be found concrete problems not explained in the text.² Inheritance law occupies a very important place in Islamic law. Verses of the Koran govern the inheritance law clearly and in detail. This can be understood that the problem of inheritance is something that everyone will definitely experience. In addition, direct inheritance concerns property which, if not given certain conditions, is very easy to cause disputes between heirs. Inheritance law in Indonesia is still pluralistic, because currently there are three inheritance legal systems, namely customary inheritance law, western inheritance law (BW) and Islamic inheritance law. Customary inheritance law is a law that contains lines of provisions concerning the system and principles of inheritance law, regarding inheritance, inheritance and inheritance alim as well as how the inherited property is mastered and acquired from heir to heir. The customary inheritance law is actually the law of passing on the assets of a generation to its descendants.³

The customary inheritance laws that apply in Indonesia vary greatly depending on the region. In this traditional inheritance there are patrilineal and some are matrilineal, there are also bilateral or parental. This shows the differences in the area of customary law with each other, relating to the family system with the type and status of assets to be inherited. This happens because there is no clear codification in tradition.

Customary inheritance is colored by the family system in the community, the system is differentiated as follows:⁴ *First*, the patrilineal system is a family system that draws the ancestral line from the male side. *Second*, the matrilineal system is a family

² Ahmad Azhar Basyir, *Hukum Waris Islam*, edisi revisi, (Yogyakarta: UII Press, 2001), 3.

³ Hilman Adikusuma, *Hukum Waris Adat*, Cet. VII, (Bandung: PT. Citra Aditya, 2003), 76.

⁴ Habiburrahman, *Rekonstruksi Rukun Kewarisan Islam di Indonesia*, (Jakarta: Kementerian Agama, 2011), 97.

system that draws a line of ancestors on the part of women. *Third*, the parental or bilateral system is a system that draws lineage from two sides, both from the father's side and from the mother's side.⁵ Matrilineal heirs are daughters, while boys are not heirs. The eldest daughter is the owner of the inheritance of all the inheritance of her parents, which is not divided up her possession and ownership to the other daughters' heirs. He was assisted by the eldest brother who was called the patron of the descendants.⁶

M. Idris Ramulyo said that in Indonesia there are various inheritance legal systems that apply to Indonesian citizens, namely the Western civil inheritance legal system (*Burgerlijk Wetboek*), the customary inheritance legal system and the Islamic Inheritance Law system.⁷

The treatment system can be specified as follows:

1. Islamic inheritance law applies to Indonesian citizens who are Muslim.
2. Western inheritance law (BW) applies to residents who are subject to Western civil law.
3. Customary inheritance law applies to people who are subject to customary law. This is commonly adopted by residents who live far from urban areas.

Basically the Islamic inheritance law applies to Muslims everywhere in the world. Islamic inheritance law is one of the most important Islamic laws. According to the Compilation of Islamic Law (KHI), inheritance law is a law governing the transfer of inheritance right (*tirkah*) heirs, determining who has the right to become heirs and how much their respective parts are.⁸ In the customary inheritance law section, there are also various non-uniform inheritance provisions. This is partly due to differences in the family system that prevails in Indonesia. Another fact, that

⁵ Soerjono Soekanto, *Hukum Waris Adat*, (Jakarta: Rajawali, 2002), 97.

⁶ Wahyu Kuncoro, *Waris Permasalahannya dan Solusinya*, (Jakarta Timur: Raih Asa Sukses, 2015), 115.

⁷ Idris Ramulyo, *Perbandingan Pelaksanaan Hukum Kewarisan Islam Dengan Kewarisan Menurut Kitab Undang-Undang Hukum Perdata (BW)*, (Jakarta: Sinar Grafika, 2000), 59.

⁸ KHI pasal 171 huruf (a).

in the provisions of Islamic law there are also differences of opinion on the result of *ijtihad* from Islamic jurists (*mujtahid*) in matters that are justified in *ijtihad*.

From the brief description above, it appears that up to now in the State in Indonesia there are still various inheritance laws which all apply to the Indonesian people according to the provisions of each type of law. So thus it can be said that the applicable inheritance law is still diverse (*pluralism*).⁹ Inheritance law is one of the important sciences in Islam, as evidenced at the beginning of its growth it has been able to overhaul the inheritance system or system that applies to Arab Jahiliah society.

There are at least four new concepts offered by the Koran at that time and so on. *First*, Islam puts the child together with the parents of the testator simultaneously with the heirs. In inheritance outside Islam, new parents may get an inheritance if the testator dies without children. *Secondly*, Islam also gives the possibility along with the parents of heirs to die without descendants as heirs. *Third*, husband and wife inherit each other. *Fourth*, there is a breakdown of certain parts for certain people in certain circumstances. Another urgency is that inheritance is directly related to property, which if not provided with provisions (part details) is very easy to cause disputes between heirs.¹⁰

Law Miscellaneous heirs are divided into 3 (three) groups, *zawil furudh*, *residuary*, and *zawil arham*. Regarding the distribution of inheritance in the Qur'an, each Fardh has been determined, especially for the heir *Zawil Furudh*.¹¹ The process of transferring assets from the dead to those who are still alive in the Islamic tenure law regarding three elements, namely the inheritance or heir, inheritance, and heirs. And also the reasons for receiving inheritance there are 3 (three), namely kinship (*al-Qarabah*), marital relations (*al-musharah*), and relationships for the

⁹ Suparman Usman, *Ikhtiar Hukum Waris Menurut Kitab Undang-Undang Hukum Perdata*, (Serang: Darul Ulum Press, 1990), 17.

¹⁰ Abdul Ghofur Anshori, *Hukum Kewarisan di Indonesia: Eksistensi dan Adaptabilitas*, (Yogyakarta: Gadjah Mada University Press, 2012), 6.

¹¹ Zainuddin Ali, *Hukum Perdata Islam Indonesia*, (Jakarta: Sinar Grafika Offset, 2006), 105.

liberation of slaves (*al-wa'la*).¹² The problem that arises now is that many people do not understand the science of mawaris, so it is very difficult to find people who are experts in this science. On the other hand, there are many people who do not want to know the science of mawaris, so as a result they divide inheritance according to their own will and do not stand in the right ways according to Islam. For example, about the portion of inheritance obtained by girls. In the word of God in an-Nisa' (4): 11:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَّاتِ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ وَلَا بَوَىٰهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا الشُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ وَلَدٌ فَإِن لَّمْ يَكُن لَهُ وَلَدٌ وَوَرِثَهُ آبَاؤُهُ فَلِأُمَّهِ الثُّلُثُ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِأُمَّهِ الشُّدُسُ مِنْ بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ ؕ وَأَبَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفَعًا فَرِيضَةٌ مِنَ اللَّهِ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

Allah instructs you concerning your children: for the male, what is equal to the share of two females. But if there are [only] daughters, two or more, for them is two thirds of one's estate. And if there is only one, for her is half. And for one's parents, to each one of them is a sixth of his estate if he left children. But if he had no children and the parents [alone] inherit from him, then for his mother is one third. And if he had brothers [or sisters], for his mother is a sixth, after any bequest he [may have] made or debt. Your parents or your children - you know not which of them are nearest to you in benefit. [These shares are] an obligation [imposed] by Allah. Indeed, Allah is ever Knowing and Wise.¹³

The reality is that there is still an imbalance regarding the distribution of inheritance in parts of the region, which is essentially incompatible with the reality with what should be the existence of various kinds of Islamic law in Indonesia, both marriage law, inheritance law and customary inheritance law. But it is no longer denied because maybe in some areas, the community has prioritized what is usually done by the surrounding community, and did not rule out the possibility that the community has ruled out Islamic law in the case of heir even though they themselves are followers of Islam.

¹² *Ibid.*, 111-112.

¹³ Departemen Agama Republik Indonesia, *Kitab Suci Al-Quran dan Terjemahannya*, (Bandung: CV Penerbit Jumanatul 'Ali-ART, 2004), 78.

The people of Tanjung Mompang Village, North Panyabungan District, Mandailing Natal District, carry out the distribution of inheritance based on existing traditions and carried on for generations. "The system of inheritance distribution in Tanjung Mompang Village by the community is more dominant to implement it based on existing traditions".¹⁴

Interview conducted with Alim Ulama of Tanjung Mompang Village, "The community has a stronger hold on existing customs or traditions in carrying out the distribution of inheritance".¹⁵ Likewise, interviews with traditional leaders of Tanjung Mompang stated that:

The distribution of inheritance carried out so far in Tanjung Mompang Village is based on existing traditions and continues to be applied today," he said. that the distribution of inheritance addressed to heirs, especially boys, that boys have received part of the inheritance that is in accordance with the levels or provisions in applicable Islamic Law, but the people of Tanjung Mompang who adhere to the Customary Law system exaggerate the inheritance towards the male portion while the female part is very much less.¹⁶

Likewise, a community leader Desa Tanjung Mompang which states that, "Since I was born the division of inheritance in this village (Tanjung Mompang Village, North Panyabungan District)".

Mandailings Christmas) that I know about the division of inheritance held by indigenous tradition that there and the majority of the people are guided by the provisions of customs or traditions in the distribution of inheritance.¹⁷ The people of Tanjung Mompang Village, North Panyabungan District, Mandailing Natal District, have their own way of resolving the legal relationship arising in relation to the property of someone who has died with a family member he has left behind. The Indigenous People of Tanjung Mompang Village, North Panyabungan District,

¹⁴ Dharma Indra, Kepala Desa *Tanjung Mompang*, *Wawancara Pribadi*, Tanggal 15 November 2019.

¹⁵ Hambali, Alim Ulama Desa *Tanjung Mompang*, *Wawancara Pribadi*, Tanggal 15 September 2019.

¹⁶ Amron, Tokoh Adat Masyarakat Desa *Tanjung Mompang*, *Wawancara Pribadi*, Tanggal 15 November 2019.

¹⁷ Sajaruddin, Tokoh Masyarakat Desa *Tanjung Mompang*, *Wawancara Pribadi*, Tanggal 15 November 2019.

Mandailing Natal District, adheres to the matrilineal system, namely girls who inherit far less shares than boys who actually exceed their share.

Inversely with customary law system which is in the village of Tanjung Mompang with the legal system of tradition in the village of Padang Kahombu, where the provisions of the inheritance of property that the inheritance received by girls much more than the share received by boys on the grounds that the child girls are much higher than boys. However, on the other hand there are some parts of the community, especially the Toba Batak people who implement a customary legal system in patrilineal inheritance whose lineage continues from father to son, and boys have consequences to inheritance rights, social organization, and politics. In his research studies that girls are not considered as the heirs of their parents because he is not the heir of the clan.

The issues of inheritance like this often encountered in most other regions, both issues concerning about the level of wealth that will be accepted, the question of who is entitled to be heirs or other problems te ntu owing to a fa c tors or the cause behind it. Issues that can be discussed based on this research are *Distribution of Inheritance to Girls in Tanjung Mompang Village, North Panyabungan District, Mandailing Natal Regency*.

B. Research Methods

a) Type of research

This type of research conducted in this study is a qualitative research that is descriptive analysis, which describes the distribution of inheritance to girls in the village of Tanjung Mompang, North Panyabungan District, Mandailing Natal Regency. This research generally aims to describe systematically, factually and accurately about a certain population or area regarding certain characteristics, characteristics or factors.¹⁸

b) Research Location and Time

¹⁸ Bambang Sunggono, *Metodologi Penelitian Hukum*, (Jakarta: Rajawali Pers, 2012), 35.

The location of this research is located in Tanjung Mompang Village, North Panyabungan District, Mandailing Natal Regency . This research began from the beginning of November 2019 until the end of November 2019.

c) Data Sources

1. Primary data source

Primary data source is the result of interviews obtained from information in Tanjung Mompang Village, Panyabungan Utara District, Mandailing Natal District , and data in the form of a letter / deed of distribution of inheritance by the community.

2. Secondary data source

Secondary data sources, namely, data sources obtained from other sources that are not directly obtained from research subjects . This secondary data comes from legal materials relating to family law, especially Islamic inheritance law which is governed by the Law and validly valid under Islamic law. This data can be obtained from documents, newspapers, archive books, magazines, scientific journals, or research reports related to the research.¹⁹

d) Data Collection Instruments

In research, there are generally three types of data collection tools, namely the study of documents or library materials, observations or observations and interviews, or interviews.²⁰

1. Interview

Interview is a dialogue conducted by the interviewer (interviewer) to obtain information from the interviewee (interviewee).²¹

2. Documentation

¹⁹ Mukti Fajar Nur Dewata dan Yulianto Ahmad, *Dualisme Penelitian Hukum Normatif dan Empiris*, (Yogyakarta: Pustaka Pelajar, 2013), 156.

²⁰ Soerjono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: Penerbit Universitas Indonesia, 1986), 79.

²¹ Suharsimi Arikunto, *Prosedur Penelitian: Suatu Pendekatan Praktek*, (Jakarta: Rineka Cipta, 2010), 198.

Documents are any written material or film, other than records that are not prepared because of a researcher's request.²²

C. Research Result

Issues that can be discussed based on the research are Distribution of Inheritance to Girls in Tanjung Mompang Village, North Panyabungan District and Mandailing Natal Regency. The inheritance distribution system for in Tanjung Mompang Village, North Panyabungan District and Mandailing Natal Regency, that only a part of the community knows who has the right to become heirs and also about their parts in accordance with Islamic law, even those who used to be ever went to an Islamic boarding school or Madrasah Aliyah, there were also some who did not know it, which could have been caused by forgetting and so on. But in general, in the distribution of inheritance, which are often used as heirs only boys and girls. Regarding the portion that will be received between men and women traditionally, namely for women regardless of their number, they will get a 1/8 of the inheritance, while for men, 7/8 of the assets.²³

The same was conveyed by one of the Alim Ulama of Tanjung Mompang Village, he said that in the Koran there was already a detailed explanation of the distribution of inheritance, both about the types of heirs and also their parts. He further said that the matter of the heirs outlined in the Koran by the people of Tanjung Mompang Village actually did not run, because in reality the community more often made heirs confined to boys and girls only, and indeed there was also a small portion that involving his parents as heirs but that is very rarely found. Then specifically, regarding the issue of the customary portion between men and women, for women, regardless of their number, they will get 1/8 of the inheritance, while for boys 7/8 of property, this is usually the case conducted by the community in the distribution of inheritance.

According to Ripain Harahap and by one of the Alim Ulama Desa Tanjung

²² *Ibid.*, 199.

²³ Sajaruddin, Masyarakat Desa Tanjung Mompang, *Wawancara Pribadi*, Tanggal 16 September 2019.

Mompang, that the division of inheritance are also often performed individually without any agreement, even never invite or summon traditional leaders in the process of division of the inherited property. So far Pain Harahap has never known a family that does carry out the distribution of inheritance truly in *Islamic sharia*, the implementation of the distribution of inheritance is always carried out in a custom that will actually still adhere to the tendency. He further said that in the case of people who often become heirs when the distribution of inheritance is usually mostly limited to boys and girls even though in Islamic law there are still many other heirs than that. Whereas the portion that will be received by boys and girls is usually for women regardless of their number, they still get a 1/8 portion of inheritance while for boys 7/8 of property, this is what is usually done by the community in division of inheritance.²⁴ When viewed in terms of public knowledge about the heirs and sections according to slam law I very few know about it. As for those who know it but do not implement it, even they have forgotten it like it used to be at the Islamic boarding school or Madrasah Aliyah. According to the presentation given by some members of the community of Tanjung Mompang Village about who has the right to become heirs and their parts, each leads to ignorance, this is in accordance with what was conveyed by the Chief of Tanjung Mompang Village who said that many people were still lacking understand and know about the distribution of inheritance, i.e. who has the right to become an heir and how much each part is. Nevertheless there are still people who know and will be the light for the people of Tanjung Mompang Village, those who are highly educated who already hold degrees such as Bachelor of Religion and so on.

About the portion that will be received by male and female heirs in a customary manner, that is, for women, usually regardless of their number, they will be able to share wealth of inheritance while for boys of property. "This is about the distribution of inheritance in this village that I know from birth", said Chief of

²⁴ Amirhan Tampubolon, Alim Ulama Desa *Tanjung Mompang*, *Wawancara Pribadi*, Tanggal 15 November 2019.

Tanjung Mompang Village.²⁵

According to Ripain Harahap, one of the Alim Ulama of Tanjung Mompang Village, the distribution of inheritance in Tanjung Mompang community is often carried out individually without an agreement, even never inviting or summoning traditional leaders in the process of distributing the inheritance. Pain Harahap so far has never been aware of a family that is carrying out the division of inheritance really is *Syari'at Islam*, the implementation of the division of inheritance is always carried out by custom will it actually still adrift tendencies. He further said that in the case of people who often become heirs when the distribution of inheritance is usually mostly confined to boys and girls even though in Islamic law there are still many other heirs than that.²⁶ As for the portion that will be received by boys and girls is usually for women regardless of their number, they still get a share of inheritance while for boys from property.

It is not uncommon to find conflicts in the distribution of inheritance which are carried out arbitrarily and without mutual consent of the brothers which ultimately makes the brothers become inaccurate and ultimately hostile to one another. Islam is *rahmatan lil' alamin, rahmatan lil' alamin* consisting of meaning; *First, Baladan Aminan* means safe and peaceful, *Second, Baldatun Tayyibatun* means fair, prosperous and environmentally friendly. Whereas the law outlined by the *syar'i* is the benefit of those who want to carry out and practice it, including in terms of the distribution of inheritance which is outlined by the *syar'i* is a benefit to run it in the direction of justice to avoid conflicts in the future, especially related with inheritance, because one of the biggest causes of conflict, even fellow brothers and sisters, is divided because of property problems.

Inheritance of Girls in the Village of Tanjung Mompang, concerning the most important issue in this study is the portion of inheritance received by girls in the community inheritance system in Tanjung Mompang Village. People of Tanjung

²⁵ Asbi Harahap, Kepala Desa Tanjung Mompang, Wawancara Pribadi, Tanggal 15 November 2019

²⁶ Pain Harahap, Alim Ulama Desa Tanjung Mompang, Wawancara Pribadi, Tanggal 15 November 2019.

Mompang Village who carry out the distribution of inheritance assets are not based on slam I law due to several factors. Based on the results of interviews with Mr. Mahadin Lubis, the barrier factor encountered in the implementation of the distribution of inheritance among the people of Tanjung Mompang Village is the strong influence of culture (tradition) and with the lack of understanding of the people of Tanjung Mompang Village on Islamic inheritance law.²⁷

The strong influence of culture (tradition) makes it difficult for people to carry out the distribution of inheritance according to *faraidh* science. The people of Tanjung Mompang Village are entirely of the first slam religion, but the community is more obedient to customary law (custom), especially in terms of the distribution of inheritance. The daughter is one of the heirs whose part has been determined in the Koran, there are times when the daughter gets half, two thirds, and even becomes an *heir* if he is with a boy. In the inheritance system of the people of Padang Kahumbu, that which is outlined in the section on girls in particular seems to have not been able to be carried out because of the strong influence and it seems to have been a guideline and guide of the community to continue to carry out the distribution of inheritance which is dominated by the strong influence of customary law. The custom in the process of distributing inheritance has been going on for a long time for generations in the community. Such a strong cultural influence until now people prefer to use customary law (tradition) rather than Islamic law in terms of the distribution of inheritance.

Regarding the portion received by the daughter to inheritance, the community explained that the daughter gets inheritance $\frac{1}{8}$ of the inheritance left by her parents while the male gets the remaining $\frac{7}{8}$. Likewise, Mr. Mulkan Hasibuan said that he himself owned several hectares of land and other assets, by his children the assets had been divided after his wife died and they were adopted according to customary law. He said that for his daughters he gets $\frac{7}{8}$ of his wealth and the rest for boys, even though his daughters outnumber boys.

²⁷ Mahadin Lubis, Masyarakat Desa *Tanjung Mompang*, *Wawancara Pribadi*, Tanggal 15 November 2019.

From the results of the interviews that have been carried out, in general they say the same thing, namely for the portion of girls getting one-eighth, while the remaining seven-eighth is for boys.

1. Examples of cases of inheritance distribution in Padang Kahombu Village

Case example I

In a family consisting of:

Husband: Mulkan Hasibuan (Still Life)

Wife: Died (Heir)

Asset:

- Rice fields: 1 hectare
- Coconut and Chocolate Plantation: 0.6 hectares
- Houses: 1 (Fruit)

- Heirs:

- Boys:

1. Pandi
2. Sulhi
3. Mardan

- Girls:

1. Dernawati
2. Maimuna
3. Emma
4. Ratna
5. Masriana

Based on the above conditions, the heirs divide the inheritance as follows:

- a. 3 boys received 1.3 hectares of land including rice fields, coconut and cocoa plantations as well as 1 (fruit) house, and by the three of them shared the property equally.
- b. While the heirs of 5 daughters only get a portion of 0.3 hectares of land that

is only half of the coconut and cocoa plantations, and by the three of them share the property obtained equally.

- c. For the husband does not get the treasure at all.
- d. The implementation will only be realized if the husband (parent) has passed away.

Case Example II

In a family consisting of:

Husband: Death (Heir)

Wife: Siti (Still Life)

Asset:

- Rubber gardens: 0.7 hectares
- Coconut and Chocolate Plantation: 0.6 hectares
- Rice fields: 0.2 hectares
- Houses: 1 (fruit)

Heir:

- Boys:

1. Roni Dalimunthe
2. Sahdar Dalimunthe

- Girls:

1. Asma wati Dalimunthe

Based on the above conditions, the heirs divide the inheritance as follows:

- a. 2 boys get 1.3 H of wealth in the form of rubber plantations, coconut and cocoa plantations and 1 (fruit) house, and they will divide the wealth into two parts.
- b. As for the heirs of 4 daughters, they get only 0.2 hectares of property in the form of rice fields and that is what they will share equally or with other agreements.
- c. Similar to the example of the first case, the wife did not get any assets at all

and this provision would be realized if the wife (parents) had died.

Case Example III

Husband: Died (first from wife)

Wife: Died

Asset:

- Plantation land: 1 hectare
- Vacant Land: 25 m²
- Chocolate Plantation: 0.5 hectare
- Rice fields: 0.5 hectares
- House: 1 (fruit)

Heir:

- Boys:

1. Pahrul Siregar
2. Bahrul Siregar
3. Lasdan Siregar
4. Muhammad Siregar
5. Zulkar Siregar
6. Ardi Siregar

- Girls:

1. Rome Siregar

Based on the above conditions, the heirs divide the inheritance as follows:

- a. 6 boys got a total inheritance of 1.75 hectares of land including vacant land, rice fields, cocoa and plantation land as well as 1 (fruit) house, and this has been realized and they have distributed it to each heir .
- b. While the heirs of girls only get a quarter of a hectare (0.25 hectares) of estate land.

Case IV

In a family consisting of:

Husband: Died

Wife: Died

Asset:

- Only Rice Fields: 1.12 hectares divided into five places

Heir:

- Boys:

1. Irman Galingging
2. Safaruddin Galingging
3. Arisman Galingging
4. Samsul Ahmad Galingging

- Girls:

1. Marlina Galingging
2. Cahaya Galingging

Based on the above conditions, the heirs divide the inheritance as follows:

- a. 4 boys got a part of 1 hectare of rice fields which were divided into four fields. For 1 (one) son, he gets inheritance of 0.25 hectares or 1 piece of rice field (village term).
- b. While the heirs of 2 girls only get a part of 0.12 hectares of rice fields, which are only half the size of the rice fields (village term).

Case Example V

In a family consisting of:

Husband: Died

Wife: Died

Asset:

- Rubber gardens: 2 hectares
- Coffee Plantation: 2 hectares
- Rice fields: 1 hectare
- Chocolate Plantation: 0.5 hectare
- Houses: 1 (fruit)

Heir:

-Boys:

1. RomaliSiregar
2. Agus Japar Siregar
3. Ahmad Hengki Siregar

- Girls

1. Samsinar Siregar
2. Rosmaini Siregar
3. Godang Siregar
4. Rosnawan Siregar
5. Endang Siregar
6. Sahera Siregar
7. Nurdiana Siregar

Based on the above conditions, the heirs divide the inheritance as follows:

- a. 3 boys get a 4.7 hectare piece of property in the form of a 2 hectare rubber plantation, Kopi2 hectare plantation, a 0.7 hectare rice field consisting of 3 rice fields and 1 (fruit) house for the youngest son, and of the treasure they will divide by three.
- b. As for the heirs of 7 daughters, they get only 0.7 hectares of assets in the form of 0.45 hectares of cocoa gardens and 0.25 hectares of rice fields consisting of one point of rice fields. The cocoa fields are distributed equally by each of them while the rice fields by the seven of them take turns to use them.

2. Analysis of Research Results

Slam I inheritance law is very important role in community life, especially family life, this is because the slam I inheritance law regulates its distribution fairly. Because the community will not be separated from the problem of inheritance, when someone dies, it is necessary to have fair rules to regulate the distribution of his assets. With these fair rules, the community will obtain their rights over the inheritance from their respective families. These rules will create a peaceful

and harmonious family relationship in the community.

But not always a law is always obeyed by the community, as is the case in Tanjung Mompang Village, North Panyabungan District, Mandailing Natal District, which has minimal legal awareness, although a small portion of the Tanjung Mompang Village community already knows the rules regarding the distribution of inheritance. In matters like this, there are several factors underlying the people of Tanjung Mompang Village to divide their inheritance outside *faraidh's* law. One very basic factor is the distribution of inheritance which is not carried out legally first, the main thing is the community's ignorance of the procedure, as a result many feel unfair, which eventually results in disputes between brothers and sisters in the family.

Based on information obtained from the community, religious leaders, traditional leaders, and alim ulama of Tanjung Mompang Village, researchers can analyze that the implementation of the distribution of inheritance carried out by the community so far that they consider legitimate, is due to the strong influence of customs and traditions in so that it continues to run and finally ignores the slam I inheritance law. And maybe they are actually already bound by this rule which is followed by an element of coercion to continue to implement it, and even though there are also those who follow these customary rules accompanied by an agreement between them heirs. However, it would be better if the distribution of inheritance is carried out based on Islamic law.

The table below will illustrate the difference in inheritance that will be received by the heirs based on the previous case examples between the implementation of customary law and Islamic law.

TABLE 1
Comparison of Acceptance of Part of Inheritance in Customary Way and Islamic Law in Application of 2: 1 Based on Cases

No.	Treasure	Heir	Customary law	Islamic law
1	Rice fields: 1 Ha Garden: 0.6 Ha House: 1 Bh	Men: 3 people	1.3 Ha	1.06 Ha
		Female: 5org	0.3 Ha	0.53 Ha
2	Rice fields: 0.2 Ha Garden: 1.3 Ha House: 1 Bh	Men: 2 people	1.3 Ha	1 Ha
		Female : 4 org	0.2 Ha	0.5 ha
3	Rice fields: 0.5 Ha Garden: 1.5 Ha House: 1 Bh	Male: 6 org	1.75 Ha	1.33 Ha
		Female : 1 person	0.25 Ha	0.66 Ha
4	Rice fields: 0.5 Ha	Men: 4 people	1 Ha	0.74 Ha
		Female: 2 org	0.12 Ha	0.37 Ha
5	Rice fields: 1 Ha Garden: 4,5 Ha House: 1 Bh	Men: 3 people	4.7 Ha	3.66 Ha
		Female: 7 org	0.45 Ha	1.83 Ha

Based on the above comparison, it can be concluded that the distribution of inheritance assets legally slam I is more beneficial to female heirs than by customary law.

The lack of understanding of the people about inheritance law I slam greatly influences the mindset and perspective in making policy towards the problem at hand. One of the factors that can influence people's views is the prevailing habits or culture of the community. Whatever habits prevail in an area will naturally affect one's personality. Someone's personality is very dependent on cultural patterns that are the background of the formation and development of these personalities, more or less will be influenced by patterns of thought so that the situation can cause conflict with what is shari'ated by religion.

Based on the description above it can be concluded that the distribution of inheritance arises when someone dies leaving the property and leaving an heir whose

implementation system has been established in the Koran. But the people of Tanjung Mompang Village are still lacking in this law, so the community is very dependent on dividing inheritance from the system stipulated by Law A dat. For this reason, efforts need to be made to improve the community's understanding of inheritance, especially in learning and exploring the inheritance law of Islam.

D. Conclusion and Suggestions

1. Conclusion

Based on the results of the research as outlined in this Journal, the following conclusions can be drawn: That the implementation of the distribution of inheritance in the village of Tanjung Mompang will only be distributed in full to the heirs if both parents have died, whereas if the deceased is still one of them, they will heirs only share about each part that will be accepted. Regarding the part of the daughter explained in the Koran that the part of the son is twice the portion of the daughter, while the distribution of inheritance carried out by the people of Tanjung Mompang Village is not in accordance with the provisions, what the community does is that the daughter always gets / of the property which is left while the rest will be inherited by boys. That provision still applies regardless of how many daughters they are, because it has been the customary law of inheritance.

From the results of research conducted by researchers, it was found that the most important factor that caused the Tanjung Mompang Village Community to carry out the distribution of inheritance with these provisions was because it was still influenced by the strong provisions of customary inheritance law in Tanjung Mompang Village so that the community did not place much importance on the legal provisions wa ris explained by the slam I law , besides from the other side indeed because of the public's knowledge about the law of inheritance I slam is still relatively minimal and lack of awareness to add more knowledge of the Islam inheritance law.

2. Suggestions

Based on the description above conclusions, researchers provide the following suggestions:

- 1) For the people of Tanjung Mompang Village, they should try to improve their knowledge and insight about Islamic law, especially regarding the distribution of inheritance and its parts by prioritizing children's education in Islamic boarding schools rather than general education.
- 2) To the Ministry of Religion in this case the KUA and the relevant Religious Courts should try to provide Islamic Civil Law counselling to the community relating to inheritance, especially regarding the distribution of inheritance so that public knowledge is increased.
- 3) To the leaders of Indigenous and also to the entire community of Desa Tanjung Mompang should rethink inheritance law this custom t erutama traditional leaders who have the right to determine the customary law, it would be better if it can be modified and implemented in accordance with the inheritance law of Islam in order to realize the division fair inheritance and far from problems.

References

- Adikusuma, Hilman., 2003, *Law of Customary Inheritance*, Cet. VII, Bandung: PT. Citra Aditya.
- Ali, Zainuddin., 2006, *Indonesian Islamic Civil Law*, Jakarta: Sinar Grafika Offset.
- Anshori, Abdul Ghofur., 2012, *Inheritance Law in Indonesia: Existence and Adaptability*, Yogyakarta: Gadjah Mada University Press.
- Arikunto, Suharsimi., 2010, *Research Procedure: A Practice Approach*, Jakarta: Rineka Cipta, 2010.
- Basyir, Ahmad Azhar., 2001, *Islamic Inheritance Law*, revised edition, Yogyakarta: UII Press.
- Habiburrahman, 2011, *Reconstruction of the Pillars of Islamic Heritage in Indonesia*, Jakarta: Ministry of Religion.
- Kuncoro, Wahyu., 2015, *Inheritance of the Problem and the Solution*, East Jakarta: Winning Asa Success.
- Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage and Compilation of Islamic Law (KHI), 2014, Jakarta: Grahamedia Press.
- Ministry of Religion of the Republic of Indonesia., 2004, *Holy Qur'an and Translation*, Bandung: CV. Publisher Jumanatul 'Ali-ART.
- Ramulyo, Idris., 2000, *Comparison of the Implementation of Islamic Inheritance Law and Inheritance According to the Civil Code (BW)*, Jakarta: Sinar Grafika.
- Soekanto Soerjono., 1986, *Introduction to Legal Research*, Jakarta: University of Indonesia Publishers.
- _____, 2002, *Legal Waris Adat*, Jakarta: Rajawali, 2002.
- Sunggono Bambang, *Legal Research Methodology*, Jakarta: Rajawali Press, 2012.
- Umam Khairul Dian, *Fiqh Mawaris*, Bandung: Pustaka Setia, 2006.
- Usman Suparman, 1990, *Inheritance Law According to the Civil Code*, Serang: Arul Ulum Press.
- Yulianto, Ahmad., and Dewata Nur Fajar Mukti., 2006, *Dualism of Normative and*

Empirical Legal Research, Yogyakarta: Student Library.

_____, 2013, *Dualism of Normative and Empirical Law Research*, Yogyakarta: Student Library.