

---

**REINTERPRETATION TO BALANCE IN INHERITANCE DISTRIBUTION ON  
BILATERAL KINSHIP IN ACEH**

<sup>i</sup> M. Roem Syibly, Sidik Tono & <sup>i</sup> Amir Mu'allim

<sup>i</sup> Faculty of Islamic Studies, Universitas Islam Indonesia, Yogyakarta

\*(Corresponding author) email: [roemsyibly@uii.ac.id](mailto:roemsyibly@uii.ac.id)

**ABSTRACT**

The study aims at describing inheritance distribution among Acehnese, balance in inheritance distribution, and reinterpretation to balance in inheritance distribution in a society with bilateral kinship system. This research is a normative research with a juridical approach, with a focus on studies in three locations; Pidie, North Aceh and South Aceh, with primary and secondary data sources, then analyzed descriptive analytic. The results indicate that inheritance law among Acehnese is mainly based on faraid (inheritance distribution) law. Nevertheless, in its development and implementation, there are cases in which the distribution is a result of familial agreement. In general, both male and female heirs have the same rights in inheritance distribution—a common character in bilateral kinship. In the distribution of assets, it was found that Hareuta Peunulang's assets were found, these assets could later be counted as an inheritance. In Acehnese perspective especially in South Aceh, local tradition can decide the position of inheritance and the role of ninik mamak (respected elders), similar to Minangkabau's tradition which adheres to matrilineal kinship. It indicates a tendency among Acehnese to adopt matrilineal system, even though it mainly relies on bilateral system. In maqasid sharia's viewpoint, waqf aims at preserving the wellbeing of waqif's offspring. Acehnese inheritance law is actually in-line with Aristotle's Theory of Justice, in which fairness is a situation where people should apply rules the same and treat similar cases alike.

**Keywords:** *Inheritance Law, Aceh Custom, Bilateral Kinship, Reinterpretation of Justice*

## Introduction

Aceh receives several privileges from the government of the Republic of Indonesia; one of them is the right to manage its local government based on Islamic law and local customs. These regulations are inseparable parts of Acehnese's daily lives. Law No. 40/1999 on Autonomous Status of Aceh reinstates that Aceh receives privileges in terms of custom, religion, and education (Juniarti, 2006, p. 5)

Local institutions among Aceh societies mainly function as centers to conduct governmental, developmental, and socio-cultural activities. Therefore, it shows that local institutions in Aceh run executive, legislative, and judicative functions. Known as a land of fighters in the history of Indonesian independence, the role of local institutions in the societies has their own patterns and approaches (Kamaruddin, 2013, p. 1).

Acehnese uses parental or bilateral kinship system which in its inheritance law, the society provides equal chance to both male and female heirs. The system is primarily sourced from the role of parents (Suparman & Gunarsa, 2005, p. 12). In Acehnese customs, the mixture of local and Islamic values can be easily found in day-to-day aspects. It is as well found in its inheritance system. In real life setting, dispute settlement can be done by having discussion among the society members, without having to bring the dispute to court. One common method to settle disputes is using customary approaches (Putri, 2019).

One of the customary approaches related to inheritance is that the distribution should be based on Islamic law with some customary considerations. Descendants in a family deserves equal chance of inherited family's wealth, on the basis of heirs' agreement and willingness to share (*tameu jeut-jeut*) (Putri, 2019).

Generally, Acehnese customs in handling and settling disputes receive major influences from Islamic teachings. However, inheritance distribution in its practice depends on heirs' agreement (Riska, 2017), rather than be based on Islamic teaching. The teaching becomes an option in the distribution. The position of local institutions turns out be significant and outstanding when a dispute takes place. Inheritance dispute settlement needs to be carried out fairly and peacefully.

The study focuses on three topics; how Acehnese Muslim society which adheres bilateral kinship system conducts its inheritance distribution, how this society keeps balance in its inheritance distribution, and what is the reinterpretation of balance in inheritance distribution among families which adhere bilateral kinship. The study aims at describing inheritance distribution among Acehnese, balance in inheritance distribution, and reinterpretation to balance in inheritance distribution in a society with bilateral kinship system.

## Literature Review

There are several studies discussing inheritance, for instance, a study by Zia Ul Karnain (2017) entitled *Pelaksanaan Pewarisan Berdasarkan Hukum Waris Adat Aceh*. The study describes inheritance system used in Labuhanhaji sub-district which mainly uses both Acehnese and *Aneuk Jamee* customs. Nevertheless, in its inheritance distribution, the community refers to sharia law. Therefore, the position of widow in Acehnese and *Aneuk Jamee* customs becomes distinct. In Acehnese custom, a widow can distribute her inheritance in-line with sharia; yet *Aneuk Jamee* custom requires a widow who receives the right to fully manage her husband's inheritance, not getting any share, since it is part of a shared marriage property. Additionally, this customary council belongs to the *ninik mamak* system (Karnain, 2017).

A study by Ucha Hadi Putri (2019) entitled *Peran Majelis Adat Aceh dalam Menyelesaikan Sengketa Waris Tanah Di Kecamatan Tempuk Teungoh Kota Lhokseumawe* indicates that *Majelis Adat Aceh* (MAA/the Aceh Adat Council) in the level of *Gampong* or *Mukim Tempok Teungoh* acts as mediator and facilitator in settling inheritance dispute. In each settlement process in the level of *Gampong* or *Mukim*, the council proposes a decision which covers whole aspects of the conflicting families and has a legal force to create settlement. However, MAA has not fully functioned as the society finds its decisions tend to be biased and leads to another debate in the families. The society argues that MAA mainly relies on customary regulations, instead of using sharia perspective, in making decisions (Putri, 2019).

Mahdalena Nasrun and Mardhatillah Mouna (2019) wrote *Pembagian Rumah Tuo dalam Warisan Adat Aneuk Jamee Ditinjau Menurut Fiqh Mawaris (Studi di Kecamatan Tapaktuan)*. The study explains the distribution of *rumah tuo* (family-owned house) in the inheritance system of *Aneuk Jamee* customs is in accordance with sharia or Islamic law. It is conducted in three steps; first, the time congruence in inheritance distribution, right after the heir's passing; second, appropriateness in distribution between male and female heirs; and finally, its relevance with *qawa'id alfiqhiyah al'adah almuhakamah* in protecting the rights of female heirs in *Aneuk Jamee* society (Nasrun & Mouna, 2020).

From the reviewed articles, the application of inheritance law in local Muslim society has not been studied, in both system and distribution methods, especially on balanced inheritance distribution according to Islamic Law. New perspective on balanced inheritance distribution can create different interpretation in Islamic Law itself. The new findings will lead to interpretations in terms of *ijtihad* (independent reasonings) to models on inheritance distribution among local Muslim societies, especially to those who applies bilateral kinship system. In this study, the researchers use *Ijtihad Intiqai dan Ijtihad Insyaa'i* approach (Al-Qaradlawi, 1987, p. 173). According to Abdurrahman (1996: p.13), approach used in this study refers to *Ijtihad Istislaahi*.

The principles of balance referred in this study mainly implies to Islamic inheritance law. Ahmad Zahari (2003, p. 25) states that balance in Islamic inheritance law means that there is a balance between the acquired rights and inherited assets with loads or obligations fulfilled among the heirs. Therefore, balance in Islamic inheritance law is not measured by similarity in levels among heirs. It is determined by the loads or responsibilities assigned to them, in terms of common life condition (Syarifuddin, 1984, p. 23).

## Research methodology

The study was mainly a field research with sociological-normative and normative-juridical approach. This study took samples in three regions based on language maps, namely Aceh (Pidei), Gayo (North Aceh) and Minangkabau (South Aceh). Main data source in this study is primary data, namely traditional leaders and historians and secondary data from results of previous studies added with several laws and regulations in Indonesia, including Marriage Law, *Kompilasi Hukum Islam* (KHI/the Compilation of Islamic Law), and Aceh's *Qonun* (law or decree). This study used descriptive-explanatory and qualitative analysis technique using "reflective thinking" method with a deduction-induction pattern and divergent mindset (Muhadjir, 1996, p.109). The analysis framework allows the researchers to critically compare the origin of inheritance law, changes occurred due to dynamics in the social structure, relevance of the changes to a local society, and development of the law from critical-philosophical perspective.

## Results and Discussion

### 1. Customary Law in Aceh

Nanggroe Aceh Darussalam (NAD) is one of the provinces in Indonesia which receives privileges to manage its territory, according to Laws of the Republic Indonesia No. 44/1999. The sixth article in the Laws mentions that NAD can establish any policy in terms of empowering, preserving, and cultivating customs and its institutions according to Islamic law. In the next article, government can set up local institution due to requirements in the level of province, district, sub-district, and *Gampong* (village) (*Undang-Ungang Republik Indonesia Nomor 44 Tahun 1999*, n.d.).

Regulations No. 18/2001 on Autonomy for Aceh Special Province to Nanggroe Aceh Darussalam creates three institutions in Aceh, namely *Majelis Adat Aceh* to manage customary affairs, *Majelis Permusyawaratan Ulama* (MPU/Ulama Consultative Assembly) to maintain Islamic affairs, and *Majelis Pendidikan Aceh* (MPA/ Aceh Education Council) to handle educational issues in Aceh (Putri, 2019, p. 149). Thus, Acehnese customs have been administered under two regulations. It indicates that customs, for Acehnese societies, play important roles and they stand side-by-side with other legislative products.

Local institutions in Acehnese societies can function as organizations for community participation in governance, development, and society empowerment. It proves that local institutions can participate in all aspects of executive, legislative, and judicative roles. As groups with an established history, Acehnese's local institutions have their own typical patterns and approaches. Additionally, when the institutions run their patterns and approaches in settling disputes, Indonesian government give a recognition on the settlement as an alternative in conflict resolution (Putri, 2019, p. 147).

Local institutions in Aceh are also recognized by the Aceh's *Qonun* in 2008, as: *Majelis Adat Aceh*, *imeum mukim* or head of *mukim* (a group of several *gampong*); *imeum chik* or head of mosque in a *mukim*; *keuchik* or head of *gampong*; *tuha peut* or consultative body in a *gampong*; *tuha lapan* or local institution in a *mukim*; *imeum meunasah* or religious leader in a *gampong*; *keujruen blang* or land administrator; *panglima laot* or coastal and marine administrator; *pawang glee/uteun* or forest management administrator; *petua seuneubok* or land clearing and cultivating administrator; *haria peukan* or market administrator; dan *syahbanda* or water traffic administrator. In addition, there are also other local institutions which have been recognized, preserved, and empowered in the societies. These are independent institutions and they act as government's partners (*Qonun Aceh No. 10/2008 on Local Institutions, Chapter II Article 3 dan Chapter III Article 3*, n.d.).

One of the main concerns among local institutions is inheritance since the institutions play a significant role in keeping local values and customs to stay in accordance with Islamic law. These institutions also serve in settling disputes in the society. Inheritance can trigger various disputes; hence, local institutions need to confirm their existence in reconciliation and dispute settlement.

Inheritance law used in Aceh societies at present mainly be based on parental or bilateral kinship system. It illustrates that inheritance distribution in the societies gives equal chances to both male and female heirs, based on *tameu jeut-jeut* (willingness and mutual acceptance principles). Parental or bilateral inheritance system in Acehnese societies lies mainly on parents' lineage (Prodjodikoro, 1983, p. 15–16). Essentially, customary law in Aceh relies on Islamic law because normally, Acehnese is a devout Muslim. However, in handling inheritance, the customary law goes hand-in-hand with Islamic law in its application (Hoesin, 1970, p. 163).

## 2. Customary Inheritance System in Aceh

The people of North Aceh such as; Aceh Besar, Banda Aceh and its surroundings, they are strong in sharing inheritance according to their customs and traditions according to the science of *faraid*. As for other areas, the expansion of the kingdom of Aceh to especially the South West region

from West Aceh to the border of North Sumatra, such as the Singkil area they rarely use the basis of faraid science, they prefer to use adat. The faraid division will be used when an inheritance dispute occurs. The distribution of inheritance is traditionally influenced by Minang culture. Because the Minang nomads came from the South West of Aceh, the route map was clear for the Sheikh. Singkir, Trumong, Kluet, Compliance, Labuhan Haji to Meureubo Aceh Barat (Ikram, 2020).

Before discussing customary inheritance system in Aceh, there will be a description on types of wealth in an Acehnese marriage, namely prenuptial property, joint property, and inheritance distribution.

#### a. Prenuptial Property

Law No. 1/1974 mentions that wealth attained during marriage becomes joint property. On the other hand, prenuptial property comes before the couple gets married and it becomes either gift or inheritance. Additionally, the property stays under personal supervision until the couple decides its status differently (UU No.1/74 Pasal 35-37 and KHI Pasal 87. Husband or wife has full right upon his/her prenuptial property when divorce ensues. Later, dispute settlement on joint property mainly lies on Islamic law for Muslim couple (Ramulyo, 1999, p. 65).

In Acehnese traditions, prenuptial property is entitled as *hareuta tuha* and belongs to its owner as it is achieved before marriage takes place. Joint property can also belong to husband or wife as it results of work, parents or relative's inheritance, or grant.

In Acehnese society, there is a concept related to the wife's inheritance, namely Hareuta peunulang. According to Muhammad Ridho Agung, a teacher at Dayah Bukit Eqra, West Aceh as well as a writer and observer of Aceh history, Hareuta peunulang means that when a person has property he does not have other people's property and when he dies the property must be returned. Another meaning of Hareuta peunulang is the property that must be repatriated when someone else owes it to us he uses it using our rice fields, when we die someone else has to repatriate that treasure. May we as objects may we as subjects. If we have other people's assets, they will return to us and that will be used by our children and grandchildren later (Ikram, 2020)

According to Tgk Muhammad Amin, a member of the Aceh MPU, Pidie Regency (2020), Hareuta peunulang is an asset that parents give to their children, and this property is not joint property. For example, a child is given a cow by his parents after his parents' death, the property is carried by the child until he is married, and when the child dies, the peunulang property can be passed on to his heirs, but in the distribution of this property must be distinguished from joint inheritance (treasure gono-gini). Peunulang hareuta can be considered as inheritance, however in the distribution of peunulang assets must be separated from collective assets (Syaibani, 2020).

*Hareuta peunulang*. It is a grant from parents to their daughters in form of fixed property (i.e. land or house). The property is handed down in front of *geuchik* (head of village) when a daughter is legally separated from her family since she is about to get married (*peumekleh*). (Salim, 2006, p. 24). A ceremony called *peukleh* is held and attended by *geuchik* and *Imeum Meunasah* (Ilyas, 2016, p. 99).

Therefore, *hareuta peunulang* is a prenuptial property and it fully belongs to the owner. In addition, *hareuta peunulang* cannot be shared to other heirs. There is highly unlikely dispute occurred based on ownership of *hareuta peunulang*. Dispute on this property is considered disrespect to late parents' will (Ilyas, 2016, p. 100). There is still a possibility where male heir who may object to *hareuta peunulang* distribution in his family. Nevertheless, societies in Aceh see *hareuta peunulang* as an irretrievable grant (Abbas, 2004, p. 219–220).

### b. Joint Property

Joint property is a type of property spent together throughout marriage (*Kementerian Pendidikan dan Kebudayaan*, 1991) or property attained by the couple by the beginning of the marriage up to their separation or divorce (Djuniarti, 2017, p. 447).

In Acehese tradition, joint property is known as *hareuta sihareukat*. It is a type of property which jointly gained and owned by husband and wife during their marriage. In its practice, transfer of rights over joint property to a third party is mainly signed by the husband. The wife can offer her approval by a verbal agreement. The agreement is commonly delivered to *geuchik* who will sign the letter on transfer of rights over a fixed property in a *gampong*. Wife should also sign the letter; however, it is considered common for a head of sub-district as *Pejabat Pembuat Akta Tanah* (PPAT/ Land Titles Registrar) to delegate the process to a *geuchik* (Salim, 2006, p. 27).

In the Acehese customary law, joint property will not be divided as long as the couple is still tied in marriage. It is shared when they separate, either divorced or widowed. Syahrizal mentions that the distribution of joint property in Aceh is strongly influenced by situation that determined the end of a marriage. When one is divorced and has no child, the property is split in half for each side. When one is divorced and has children, the wife receives half, the husband receives a quarter, and the children receive a quarter of the property. When one is widowed without any child and he/she has other heir, three-quarter of the property belongs to the husband/wife and the rest is given to the other heir. When one is widowed without any child and other heir, three-quarter of the property belongs to the husband/wife and the rest goes to *bait-ul mal* (treasury). When one is widowed and has sons, all of the property goes to wife and her sons. Finally, when one is widowed and has daughters, the property goes to the wife and her daughters, as well as the family's guardian (Abbas, 2004, p. 275).

### c. Inheritance Distribution (A Case Study in North Aceh and South Aceh Districts)

There are 7 (seven) tribes living in Aceh Province based on the language map published by the Aceh Province Language Center, Aceh, Batak, Devayan, Gayo, Javanese, Minangkabau and Sigulai. Researchers only focus on the Gayo and Minangkabau tribes. Both of them are among the big tribes in Aceh Province. (<https://bbaceh.kemdikbud.go.id/peta-bahasa/>).

Acehnese commonly conducts inheritance distribution after 100 days of the heir's passing. However, this timeline is considered flexible as there are also families who decide not to conduct inheritance distribution until all the heirs are mature or married. If the inherited property is considered limited, the distribution is held privately within family or with the help of close relatives (Hoesin, 1970, p. 100).

In its customs, Acehese heirs can make an agreement on sharing the inheritance. Generally, male and female heirs discuss and decide sharing the inherited wealth equally and *in natura* (based on willingness). Female heirs receive house and its yard; meanwhile, male heirs receive rice field, cattle, store, or other forms of property. House that the female heirs received feasibly has better economic value; however, male heirs mostly understand this sharing mechanism because it is considered a taboo when their sisters are neglected and live without having their own personal residences (Hoesin, 1970, p. 102).

Societies in North Aceh district distributes inheritance according to Islamic and customary laws. In general, each descendant, male or female, equally deserves the wealth passed by his/her parents. It is conveyed by giving the same right in inheritance distribution to male and female heirs, on the basis of heirs' agreement and willingness to share (*tameu jeut-jeut*) (Riska, 2017).

The role of community leaders in inheritance distribution typically provides advice and suggestions; they also encourage conflicting families to settle down inheritance distribution fairly

and peacefully. Internal dispute settlement avoids further problem in the future and keeps the families in a positive situation. This type of settlement helps the conflicting families to realize that dispute over inheritance is not a battle to win over, but a battle to settle down. A meeting to settle down the dispute is usually conducted in the parents' house or the eldest heir's residence. It is considered acceptable for communities in North Aceh to settle the dispute down by having a discussion with community leaders and *ulama*. They are considered experienced and competent in settling down disputes (Riska, 2017).

On the other hand, inheritance distribution in South Aceh, according to Zia Ul Karnain (2017), operates in two systems: Acehese customary system and *Aneuk Jamee* system. First of all, according to Acehese customs, inheritance should be in accordance with Islamic jurisprudence and its distribution should be in-line with *faraid* (inheritance distribution) law. Therefore, inheritance distribution needs to follow guidelines mentioned in Quran and hadith. Next, in *Aneuk Jamee* system, a child grows up with his/her groups, similar to Minangkabau's concept of *Bako*. Inheritance, in *Aneuk Jamee* viewpoint, is *pusaka* (heritage). It consists of two parts. Firstly, *sako* is passed from grandfather to his descendants in inanimate forms, for instance, religion, title, clan, or line (i.e. *Said* or *Habib*), etc. Secondly, *pusako* is passed from grandfather to his descendants in fixed forms, such as, rice field, farm, property, store, securities, or other belongings (Karnain, 2017).

In the inheritance distribution of *Aneuk Jamee* system, *pusaka tinggi* (high-level inheritance) is passed from grandmother to her daughter who will be a mother. She will also pass her inheritance to her daughter, and so forth. This type of inheritance distribution only happens to female heirs in a family. However, in a family without any female heir, the properties will be handed down to *mamak* (uncles). Male heirs do not have any possession or right to maintain *pusaka tinggi*; nevertheless, they can use the properties as long as their *mamak*, mothers, or sisters allow them to. *Pusaka rendah* (low-level property) is wealth as the result of parents' works which will be passed down to their children. When the children died, it will be handed down to their aunts or uncles. In this case, both male and female heirs have the same position. When a nuclear family only has a child and he/she died, *pusaka rendah* will be managed by his/her mother's family (Karnain, 2017).

Additionally, *pusaka tinggi* is not passed down from *mamak* to his nieces or nephews. It is given from grandmother to her daughter and so forth (MS, 2000, p. 93). *Pusaka rendah* will be offered as *pusaka tinggi* for the family of wife when a married couple has no descendent in their nuclear family (Karnain, 2017).

According to researchers, the existence of *Pusaka tinggi* and *Pusaka rendah* (high-and low level inheritance) in South Aceh is more influenced by the Minangkabau tribe, in West Sumatra and its surroundings with a matrilineal kinship system. (see Tono, 2019)

### 3. Inheritance Dispute Settlement

Customary justice in Aceh in settling a dispute, including inheritance dispute, does not merely decide on one's winning or losing a case. The justice tries to create a "win-win" settlement, as stated in Acehese verses; "*Daripada crah leubeh get beukah*" (it is better breaking than cracking), "*Daripada sihet roh meuhabe*" (it is better spilling than sloping), "*Pakiban crah lagee nyan beukah*" (as in cracking, it will lead to breaking), "*Pakiban manoe lagee nyan basah*" (as in showering, it will certainly get soaking). Customary justice in Aceh divides into levels. *Geuchik* will handle the settlement in a *gampong*. When *geuchik* cannot settle the dispute down, head of *mukim* will take over the case. Head of *mukim* may not be able to settle the dispute as well, then the case is the responsibility of *Ulee Balang* which is similar to head of sub-district (Karnain, 2017). Inheritance dispute settlement is commonly addressed as *Uleu Beumatee*, *Ranteng bek patah*. It is an analogy renowned among Acehese. The analogy deals with handling a poisonous snake; one who handles the snake should use a stick to hit it; however, he/she should not let the

stick break. Therefore, dispute settlement should put forward integrity and reconciliation (Putri, 2019, p. 156).

According to Aceh's *Qonun*, *geuchik* and *imam meunasah* will lead each meeting in a *gampong* to settle any complaint or dispute. In this meeting, conflict that occurs among heirs can be diplomatically resolved (Pasal 12 Qonun Nomor 7 Tahun 2000. P.12). Dispute settlement can take place after a report made by a member of the conflicting family to the *geuchik*. He will analyze the situation, whether he needs any help from other local institutions or handles the case by himself. When the case is considered a serious dispute, *geuchik* will review it with *imam gampong*, *tuha peut*, or other community leaders. The result will be recorded and signed by family members and community leaders as the settlement (Kamaruddin, 2013, p. 57–59).

The role of *Majelis Adat Aceh* is mediating and facilitating the inheritance dispute settlement. *Geuchik* dan *Teungku* have double functions, namely mediator-communicator and community leader-negotiator. Moreover, *geuchik* should act as arbitrator or peacemaker. Decision made in the level of *gampong* or *mukim* accommodates all aspects of the conflict. It is then applied to both conflicting sides as the decision has been made as reasonable as possible, considering norms in the community itself based on Quran and hadith (Putri, 2019, p. 151).

#### 4. Analysis to Balance in Acehnese Inheritance Distribution

Local institutions in Aceh is the place to resolve conflict due to inheritance distribution. Settlement made in the level of *gampong* is voluntarily conducted, using targeted procedures, creating mutual agreement and benefit, maintaining confidentiality, having flexible solutions, saving time and cost, preserving the community's integration, and keeping manageable supervisions (Sesarina, 2014, p. 19).

One issue that is still considered challenging among Acehnese is *hareuta peunulang* (a grant given to girl who is going to get married). There are cases when parents (as the grant givers) decease, none of their sons receives their rights in terms of inheritance. These gentlemen find it discriminating and demand for sharing on their sisters' grant (Munirah & Mansur, 2017, p. 118–125).

From the perspective of national law, the Compilation of Islamic Law Article 211 states that parents' grant can be considered as inheritance; therefore, *hareuta peunulang* as a grant given by an heir to his/her daughter can be regarded as an inheritance (Abbas, 2004, p. 218–219). Hence, the daughter has received a part of her parents' inheritance.

In a case where *hareuta peunulang* given is exceeding 1/3 of the total inheritance, the grant can be retrieved since it causes injustice among siblings. The Compilation of Islamic Law Article 212 states that generally grant cannot be retrieved, except parents' grant to their children. The amount of parents' grant has also been arranged in the Compilation of Islamic Law Article 210 (1), namely 1/3 of parents' fortune. Therefore, officials, like, *geuchik*, *imuem meunasah*, and others are essentials in the societies since their presence is in accordance with both local customs in Aceh and Islamic law.

Likewise, cases of *Aneuk Jamee* customs also take place in South Aceh district, especially in Samadua sub-district. A study by Oktariadi and Ibnul Sadri (2017) specifies that inheritance distribution in *Aneuk Jamee* customs mainly be based on the types of property. Inheritance is "laid in men's backs" and "carried in women's hands"; it symbolizes portions of the inheritance itself. Men receives twice larger than women because in Islam, they bear heavier responsibilities.

A feature of inheritance distribution in *Aneuk Jamee* customs is that parents' house will be given to the youngest daughter. It is a kind of token for her staying with her parents to take good care of them. When the daughter lives separately, the house will be handed down to the other daughter who lives with and takes care of her parents until their final days (Ma & Sadri, 2017, p. 124).

The location of balance in the distribution of Aceh's traditional inheritance, according to Tgk Muhammad Amin, a member of the Aceh MPU Pidie Regency, balance in inheritance distribution of Aceh inheritance is contained in consensus deliberations, while the results of the consensus



deliberations can become binding law and are recognized by the syar'iyah court (Syaibani, 2020) . The meaning of balance in inheritance distribution according to Acehese customs is the same as Islamic inheritance balance itself. The Acehese traditional foundation was built by Abdurrauf as-Singkili during the kingdom of Aceh. The traditional law of *lagezadengosipuet* is Aceh's custom which has strong Islamic values. Being Aceh, automatically becoming Islam (Ikram, 2020).

Balance in inheritance distribution among societies in Aceh lies on the principle in which consequences or responsibility that an heir bears is in accordance with the legacy he/she receives. Male heirs receive big portion of inheritance since he will bear responsibilities on behalf of their parents, including being responsible on the life of their sisters. Similarly, female heirs receive big portion of inheritance since they live with and take care of aged parents.

Balance in Islamic inheritance law can be clearly seen from the shared responsibilities that the heirs take care of, not merely from the shared portions of inheritance. According to Amir Syarifuddin, "balance between rights and obligations, as well as balance between purposes and uses", or sense of balance between loads and responsibilities among the heirs. Hence, balance in inheritance distribution will be achieved (Suryati, 2013).

Balance or fairness puts emphasis in harmony. Plato defines balance as "the supreme virtue of the good state" and a fair person is "the self disciplined man whose passions are controlled by reason". Plato observes balance is not directly related to law. Balance and legal system are general substances in a society to create and maintain its existence (Johan, 2014, p. 119).

In South Aceh district, especially in Labuhanhaji sub-district, Zia Ul Karnain (2017) finds out that in terms of *Aneuk Jamee* tradition, there are *pusaka tinggi* and *pusaka rendah*. *Pusaka tinggi* is actually passed from a mother to her daughter and so forth, instead of from *mamak* (uncles) to his niece (MS, 2000, p. 93). *Pusaka rendah* will change its status into *pusaka tinggi* for family of the wife when a married couple has no descendent in their nuclear family (MS, 2000, p. 119).

Similar to Minangkabau's customs, *pusaka tinggi* can be seen as waqf or *mussabalah* as Umar bin Khatab had done to his personal property in Khaibar. People can get benefits, but they cannot do *tasharruf* upon the property. In its congress on 4 - 5 May 1952 in Bukittinggi, the Consultative Body of Minangkabau's Ulama, *Ninik Mamak*, and Intellectuals agreed that customary law will regulate the distribution of *pusaka tinggi* and *faraid* will regulate the distribution of *pusaka rendah* (Tono and Syibly, et al., 2019, p. 39–55).

## Conclusion

Inheritance law in Aceh is quite different from inheritance law applied in other regions of Indonesia since Acehese relies their lives in a strongly influenced Islamic environment. The inheritance law developed and existed up to present days is one that is in accordance with parental or bilateral kinship system. Thus, inheritance distribution in this region adheres equal sharing between male and female heirs.

Basically, Acehese customary law adopts Islamic law as Acehese lives with Islamic influences in their day-to-day life. However, both Islamic and customary law go hand-in-hand outstandingly. In terms of inheritance law, heirs can conduct an agreement on the portions of distributed inheritance. The societies also have *hareuta peunulang* as a grant from parents to their daughters who will live separately from their parents after they get married. Nevertheless, the grant should be less than 1/3 of the total inheritance.

There is also *Aneuk Jamee* tradition; a daughter who lives with and takes care of her parents will receive bigger portion of inheritance. A son can also receive more portions when he takes over his parents' responsibilities after their passing. *Aneuk Jamee* also covers *pusaka tinggi* and *pusaka rendah*, similar to the Minangkabau's tradition. Female heir who receives *pusaka tinggi* cannot automatically claim her rights, for the inheritance becomes a communal or major asset, similar to family waqf in Islamic jurisprudence. On the other hand, *pusaka rendah* is distributed based on *faraid* or family's agreement. Inheritance dispute will be settled down internally with mediators from local institutions in Aceh.

Balance in inheritance distribution in Acehese societies can be clearly seen from the shared responsibilities that the heirs take care of. A male heir can receive big portion of inheritance when he takes over his parents' responsibilities after their passing, including his sisters' lives. A female heir will receive bigger portion of inheritance as she lives with and takes care of her parents. Balance in inheritance distribution is not only seen from the shared portions, but also from the shared responsibilities that the heirs bear. Thus, the heirs' inheritance portion, both male and female, is highly likely decided by their loads and responsibilities.

### Acknowledgement

We would like to express my special thanks of gratitude to The Ministry of Research and Technology/National Agency for Research and Innovation, The Republic of Indonesia (RISTEK-BRIN) as well as Universitas Islam Indonesia, Yogyakarta who gave us the opportunity to do fundamental research grants. I came to know about so many new things I am really thankful to them.

### References

- Abbas, S. (2004). Hukum Adat dan Hukum Islam di Indonesia: Refleksi Terhadap beberapa Bentuk Integrasi Hukum dalam Bidang Kewarisan di Aceh. *Lhouksema: Nadia Fondantion*.
- Abdurrahman, A. (1996). Sorotan terhadap Beberapa Masalah sekitar Ijtihad. *Fakultas Syariah IAIN Sunan Kalijaga*. Pidato Pengukuhan Jabatan Guru Besar, Yogyakarta.
- Al-Qaradlawi, Y. (1987). Ijtihad dalam Syari'at Islam, Beberapa Pandangan Analitis tentang Ijtihad Kontemporer, terj. *Achmad Syathori, Jakarta: Bulan Bintang*.
- Al-Shajarah, E. E., Tono, S., Syibly, M. R., Mu'allim, A., Nurozi, A., & Purwanto, M. R. (2019). The Harmonious Relationship between Minangkabau Custom and Islam in the Distribution of Inheritance. *Al-Shajarah: Journal of the International Institute of Islamic Thought and Civilization (ISTAC)*, 39–55.
- Balai Bahasa Propinsi Aceh dalam <https://bbaceh.kemdikbud.go.id/peta-bahasa/>
- Djuniarti, E. (2017). Hukum Harta Bersama Ditinjau dari Perspektif Undang-Undang Perkawinan dan KUH Perdata. *Jurnal Penelitian Hukum DE JURE*, 17(4), 445–461.
- Hoesin, M. (1970). *Adat Atjeh: Dinas Pendidikan dan Kebudayaan, Propinsi Daerah Istimewa Atjeh* (Tjet. 1. Banda Atjeh). Dinas Pendidikan dan Kebudayaan, Propinsi Daerah Istimewa Atjeh ; Pustaka Meutia.
- Ikram, Muhammad, Interview 2020, “Keadilan Waris Adat Aceh Sistem Kekeluargaan Bilateral” di Kabupaten Aceh Selatan.
- Ilyas, I. (2016). Analisis Penyelesaian Hareuta Peunulang Menurut Hukum Adat dan Hukum Islam di Kota Banda Aceh. *Kanun Jurnal Ilmu Hukum*, 18(1), 93–107.
- Johan, B. (2014). Kajian Filosofis Tentang Konsep Keadilan dari Pemikiran Klasik Sampai Pemikiran Modern. *Jurnal Yustisia*, 3(2).
- Juniarti. (2006). *Peran Strategis Peradilan Adat Aceh Dalam Memberikan Keadilan Bagi Perempuan Dan Kaum Marjinal*. Badan Litbang Pusat Analisis Perubahan Sosial (PASPAS).
- Kamaruddin, K. (2013). Model Penyelesaian Konflik di Lembaga Adat. *Walisongo: Jurnal Penelitian Sosial Keagamaan*, 21(1), 39–70. <https://doi.org/10.21580/ws.21.1.236>
- Karnain, Z. U. (2017). *Pelaksanaan Pewarisan berdasarkan Hukum Waris Adat Aceh (Studi Kasus Di Kec. Labuhanhaji Kab. Aceh Selatan)* [PhD Thesis]. Universitas Muhammadiyah Surakarta.
- Kementerian Pendidikan dan Kebudayaan. (1991). *Kamus Besar Bahasa Indonesia*. Balai Pustaka. <https://kbbi.kemdikbud.go.id/Beranda>
- Ma, O., & Sadri, I. (2017). Pembagian Harta Warisan Menurut Adat Aneuk Jamee di Kecamatan Samadua Aceh Selatan. *Al-Mursalalah*, 3(2), Article 2. <http://jurnal.staitapaktuan.ac.id/index.php/Al-Mursalalah/article/view/97>

- Mesraini, M. (2012). Konsep Harta Bersama dan Implementasinya di Pengadilan Agama. *AHKAM : Jurnal Ilmu Syariah*, 12(1), Article 1. <https://doi.org/10.15408/ajis.v12i1.980>
- MS, A. (2000). *Adat Aneuk Aceh dalam Pola dan Tujuan Hidup dalam Bermasyarakat*. PT. Zikra Abadi.
- Muhadjir, N. (1996). *Metodologi penelitian kualitatif: Pendekatan positivistik, rasionalistik, fenomenologik, dan realisme metafisik telaah studi teks dan penelitian agama*. Rake Sarasin.
- Munirah, L., & Mansur, T. M. (2017). Pelaksanaan Hareuta Peunulang Menurut Tinjauan Kompilasi Hukum Islam di Kabupaten Pidie, Aceh, Indonesia. *Jurnal Ilmiah Mahasiswa Bidang Hukum Keperdataan*, 1(1), 118–125.
- Nasrun, M., & Mouna, R. M. (2020). Pembagian Rumah Tuo dalam Warisan Adat Aneuk Jamee Ditinjau Menurut Fiqh Mawaris (Studi di Kecamatan Tapaktuan). *Media Syari'ah : Wahana Kajian Hukum Islam dan Pranata Sosial*, 21(2), 209–219. <https://doi.org/10.22373/jms.v21i2.6493>
- Pasal 12 Qanun nomor 7 tahun 2000 tentang Penyelenggaraan Kehidupan Adat*. (t.t.).
- Prodjodikoro, W. (1983). *Hukum Waris Indonesia* (II). Sumur.
- Putri, U. H. (2019). Peran Majelis Adat Aceh Dalam Penyelesaian Sengketa Waris terhadap Tanah di Kecamatan Tempuk Tengoh Kota Lhokseumawe. *JCH (Jurnal Cendekia Hukum)*, 5(1), 145–159. <https://doi.org/10.33760/jch.v5i1.198>
- Qonun Aceh Nomor 10 Tahun 2008 tentang Lembaga Adat, Bab II Pasal 3 dan Bab III Pasal 3*. (t.t.).
- Ramulyo, M. I. (1999). *Hukum perkawinan Islam: Suatu analisis dari Undang-Undang Nomor 1 Tahun 1974 dan kompilasi hukum Islam*. Bumi Aksara.
- Riska, R. (2017). Pengaruh Hukum Waris Islam terhadap Pelaksanaan Waris Adat Aceh (Studi di Aceh Utara). *PREMISE LAW JURNAL*, 14(0), Article 0. <https://jurnal.usu.ac.id/index.php/premise/article/view/16219>
- Salim, A. (2006). *Praktek Penyelesaian Formal dan Informal Masalah Pertanahan, Kewarisan dan Perwalian Pasca Tsunami Di Banda Aceh dan Aceh Besar*. Laporan Penelitian International Development Law Organization (IDLO) Post-Tsunami Legal Assistance Initiative for Indonesia. Banda Aceh.
- Sesarina, R. (2014). Analisis Yuridis Putusan Lembaga Adat Aceh dalam Penyelesaian Sengketa Pembagian Warisan di Kota Banda Aceh. *PREMISE LAW JURNAL*, 3(0), Article 0. <https://jurnal.usu.ac.id/index.php/premise/article/view/8261>
- Suparman, E., & Gunarsa, A. (2005). *Hukum waris Indonesia: Dalam perspektif Islam, adat, dan BW*. PT Refika Aditama.
- Suryati, S. (2013). Keadilan dalam Hukum Waris Islam. *Cakrawala Hukum*, 15(41), 23186.
- Syaibani, Interview 2020, “Keadilan Waris Adat Aceh Sistem Kekeluargaan Bilateral” di Kota Sigli, Kabupaten Pidie.
- Syarifuddin, A. (1984). *Pelaksanaan hukum kewarisan Islam dalam lingkungan adat Minangkabau*. : Gunung Agung.
- Tono, S and Syibly, M, (2019) The Harmonious Relationship Between Minangkabau Custom And Islam In The Distribution Of Inheritance. *AL SHAJARAH* Special Edition 2019.
- Undang-Ungang Republik Indonesia Nomor 44 Tahun 1999*. (t.t.).
- UU No. 1 Tahun 1974 Pasal 35-37 dan KHI Pasal 87 (1) dan (2)*. (t.t.).
- Zahari, A. (2003). *Tiga Versi Hukum Kewarisan Islam: Syafi'i, Hazairin dan KHI*. Romeo Grafika.