
SOCIALIZATION OF LEGAL UNDERSTANDING TOWARDS STREET MERCHANTS (PKL) WHO PROVIDE TRADING IN LOCATIONS THAT ARE PROHIBITED FROM A PROGRESSIVE LAW ENFORCEMENT PERSPECTIVE

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ABSTRACT

This research aims to provide a description of the distribution of inheritance in Dawung village and provide a description of the Islamic perspective on the practice of distribution of inheritance carried out by the local community. This research uses descriptive qualitative methods. The data sources used are primary data sources which come from interviews and secondary data sources, namely sources obtained based on the results of reviewing books, journals and other written works. The data in this research was collected using literature study and interviews and then analyzed qualitatively. The results of the research prove that the practice of dividing inheritance property in Dawung village uses a traditional inheritance law system using an equal distribution system in which inheritance property is divided equally between daughters and sons, namely 1: 1, even though the majority of people in Dawung village embrace Islam. This is done in order to maintain and guarantee the integrity and harmony of the community so that there are no disputes between family members. Islam considers the practice of dividing inheritance as a shohih al u'rf which often arises in special social life and this distribution is considered valid for a society that has a culture like this because the components of consent and justice according to a society are the result of an agreement between the heirs. as well as the surrounding environmental situation.

Keywords: Customary Inheritance Law; Distribution of Inheritance Property; Al-U'rf

INTRODUCTION

Humans are living creatures who will one day die at a time determined by God. No human being knows when they will experience death because death is a decree that has been given by God. Death cannot be avoided or desired, so humans as servants of God only need to prepare themselves if one day they will experience death. When someone is visited by death, they will leave all their family and all the possessions they have. So based on this context, a regulation is needed that regulates the distribution of assets that will be inherited by the heir who has died and the members of his family who have rights to the assets (Mutiah and Hardani, 2015).

There are several laws in Islam that regulate the distribution of property, including the law regarding the distribution of inheritance. The law on the distribution of inheritance of inheritance based on the compilation of Islamic law is contained in article 171 (a), namely the law which provides rules regarding the transfer of ownership rights to property left by the heir or tirkah, determines the people who have the authority to become heirs and the various values that are inherited to each heir. (Anwar, 2019). So inheritance law in Islam is a set of regulations regarding procedures for distributing assets left behind by someone who has died and determining the heirs who have the right to obtain the inherited assets. Apart from that, inheritance law is also a science that studies the portion of each property left behind in accordance with the provisions taught by the Islamic religion (Manurung, 2016).

Inheritance law in Islam itself has a very important role. Allah Himself has revealed His words in the Koran which regulate the laws of inheritance in detail and clearly because every human being will definitely experience death. So, inheritance becomes one of the issues that is often discussed and gives

rise to problems among heirs (Naskur, 2016). The problem or problem that usually occurs with the distribution of inheritance is that one of the children gets their own share in accordance with Islamic provisions, but in the distribution of assets there are children who feel differentiated (Haries, 2014). There are many people who have minimal knowledge of the law of inheritance distribution in Islam so that these people do not know the exact parts of inheritance they get.

The distribution of inheritance in Islamic law is carried out after the heir dies. Apart from that, the share of boys is 2 parts of that of girls as explained in the Al-Qur'an Surah An-Nisa verse 11.

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ ۚ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۚ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ وَلِلذَّكَوٰتِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ ۚ إِن كَانَ لَهُ وَلَدٌ فَإِن لَّمْ يَكُن لَّهُ وَوَرِثَهُ أَبَوَاهُ فَلِأُمِّهِ الثُّلُثُ ۚ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ ۚ مِن بَعْدِ وَصِيَّةٍ يُوصَىٰ بِهَا أَوْ دَيْنٍ مَّا بَقِيَ ۚ لَكُمْ نَفْعًا ۚ فَرِي

Meaning: "" Allah has given you the Shari'ah regarding the distribution of inheritance to your children. That is, a son's share is the same as the share for two daughters and if there are more than two daughters, they will get 2/3 of the assets left by the testator. If there is only one woman, she gets half the wealth. (QS An-Nisa verse 11).

Apart from the inheritance law in Islam, in Indonesia there is also customary inheritance law which contains and regulates lineage regarding the principles and legal system of inheritance, regarding heirs and heirs, regarding inherited assets and how the inherited assets are given ownership and control by the heir. Customary inheritance law is usually also referred to as the law of passing on assets from one generation to the next (Hadikusuma, 2003). This customary inheritance law is more widely used by Indonesian society compared to Islamic inheritance law.

Inheritance assets are generally given by people in Dawung village, Matesih subdistrict, Karanganyar district, namely all assets that a person owns, whether in the form of permanent assets, for example land, houses, and so on. In accordance with inheritance law in KHI Chapter III article 176, it is explained that if there is only one daughter, she will receive half of her heir's assets. And if there are two or more daughters, they will get two of the three shares of the inheritance and if the daughters are together with sons, they will get one in two. (Waskito and Ibrahim, 2020). As for the distribution of inheritance assets in Dawung village, Matesih sub-district, Karanganyar district, a system for distributing inheritance assets equally between women and men is still implemented based on local customary inheritance law. With a system for distributing inheritance based on local customary law, the community considers this law to be the best law because it is considered fairer and does not trigger arguments between relatives.

The formulation of the problem studied in this research is "What is the Juridical Analysis of the mechanism for distributing the inheritance of Muslim residents in Dawung village, Matesih sub-district, Karanganyar Regency according to KHI (Compilation of Islamic Law)". In accordance with the explanation above, the author is interested in carrying out research with the aim of providing a description of the distribution of inheritance in Dawung village, Matesih subdistrict, Karanganyar district and presenting a description of the Islamic view of the practice of distributing inheritance carried out by the community in Dawung village, Matesih subdistrict, Karanganyar district.

RESEARCH METHODS

This research uses field research methods, namely research carried out through collecting data and information obtained directly from the source. This research activity was carried out in a community environment so that in this research the researcher carried out a spontaneous assessment from the main data source or primary data source, namely the community in Dawung village, Matesih subdistrict, Karanganyar district. This research uses a qualitative approach, namely a research process that creates descriptive data in the form of images or words so that it does not emphasize values or numbers but rather emphasizes the meaning of the information observed. In this research the author will describe the distribution of inheritance of Muslim residents in Dawung village according to a compilation of Islamic

law.

There are two types of data sources in this research which are used as information centers that support research data. The data sources in this research are composed of secondary and primary data sources. Primary data sources are data obtained directly from the main source, either by conducting interviews, reports or documents which are then processed by the researcher. Meanwhile, secondary data sources are information that describes primary legal sources, for example scientific books, scientific essays or research results. In this context, it relates to information in the form of literature books that are related to the topic being discussed. The data that supports this primary source is the Civil Code, KHI, Inheritance books and books related to inheritance studies as well as documents related to heirs in Dawung village, Matesih subdistrict, Karanganyar district.

The methods used to collect data in this research were observation, interviews and documentation. The interview method is a method used to collect data by carrying out question and answer activities when research is being carried out, either written or orally, which is carried out by at least 2 people face to face, face to face, participants listen directly to information or information. The informant in this research is Mr. Suryadi, who is a member of the community in Dawung village, Matesih subdistrict, Karanganyar regency. The next method is the observation method, namely the author carries out observations in the field directly and records information while the research is in progress. This activity aims to enable researchers to record and observe information obtained while in the community of Dawung Village, Matesih District, Karanganyar Regency. And the final method is documentation, namely obtaining information about a problem by studying documents in the form of files related to the research. Apart from that, we also carry out literature studies by studying various literature that is related to the problem at hand. This method is used primarily to obtain information and the author needs to take pictures and record things that are needed when the research is in progress.

RESULTS AND DISCUSSION

Distribution of Inheritance Assets in Dawung Village

The practice of distributing inheritance in Dawung Village, Matesih District, Karanganyar Regency, is to utilize the traditional inheritance law system, where the inheritance law adheres to a bilateral or parental system, namely a system that draws lineages based on two sides, either from the mother's side or the father's side. In this inheritance distribution system, the positions of daughters and sons are equal or equal. This means that both women and men are heirs of the property left by their parents (Suparman, 2011).

Based on the results of the researcher's interview with one of the people in Dawung Village, namely Pak Suyadi, on May 5 2023, the distribution of inheritance is usually carried out by deliberation between the heirs, witnessed directly by someone from the village, to determine the size of the share that the heirs will get. The inheritance will be divided after deducting the debts owned by the heir. However, there are also people who distribute inheritance only by discussing it with their heirs and not presenting it to the elders in Dawung Village.

The distribution of inheritance in Dawung Village includes: (1) the distribution of inheritance is carried out through deliberation, namely deliberation together with all the heirs or deliberation witnessed by village elders in accordance with the policies and rules of their respective families, (2) based on the timing of the distribution of inherited assets, the distribution will be adjusted to the wishes of the heir, (3) the amount of inherited assets obtained by the heirs will be determined according to deliberation or can also be divided equally between each heir, (4) the role of sincerity and willingness of each heir heirs are very influential so that the heirs are willing to accept whatever portion will be given to them based on the results of the agreement in previous deliberations. This division is because people usually prioritize harmony, peace and the integrity of a country. The distribution of inheritance between daughters and sons in a family in the Dawung Village community is adjusted to the principles of kinship and harmony,

the principles of consensus and deliberation, the principles of citizenship and harmony, the principles of consensus and deliberation found in Dawung Village.

Islamic Views on the Practice of Distributing Inherited Property in Dawung Village

In accordance with the word of Allah in Surah An-Nisa verse 11 and articles 176 to 181 KHI, parts of which are in the Koran, it can be concluded that in reality the division of inheritance law in Dawung Village still uses the principles and principles of customary law compared to uses the principles of Islamic law so that the distribution of inheritance law is not in accordance with Islamic law in the Al-Qur'an, Surah An-Nisa, verse 11 or articles 177-181 of the KHI (Compilation of Islamic Law).

According to inheritance law in Islam, inheritance should be divided after the heir dies because the condition for inheritance distribution is the death of an heir either legally or essentially (Ash-Shabumi, 2013). If the inheritance is distributed before the testator dies, it is also called a non-inheritance gift, where a gift is a gift given by an individual to another individual while still alive and the distribution practice is carried out while the donor has not died (Suparman, 2007).

Based on the explanation above, the majority of people in Dawung Village should carry out the distribution of inheritance in accordance with Islamic inheritance law because a Muslim is obliged to carry out Islamic laws as Allah has said in the Al-Qur'an, Surah An-Nisa, verse 59.

يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ فَإِن تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِن كُنتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا

Meaning: "O people who believe! Obey Allah and obey the Messenger (Muhammad) and the ulil amri (power holders) among you. Then, if you have an opinion about something, then turn to Allah (the Qur'an) and the Messenger (Sunnah), if you believe in Allah and the Last Day, then that is superior for you and the consequences are better."

There is also the word of Allah in the Al-Qur'an surah An-Nisa verse 13

نَ فِيهَا ۖ وَذَٰلِكَ الْقَوْرُ الْعَظِيمُ ۖ تَلْكَ حُدُودُ اللَّهِ ۖ وَمَنْ يُطِيعِ اللَّهَ وَرَسُولَهُ

Meaning: "it is a legal limitation from Allah. Whoever obeys Allah and Allah's Messenger, Allah will admit him to paradise with rivers flowing beneath him, they will be eternal in paradise. And this is a very great victory."

Allah SWT also says in the Al-Qur'an Surah An-Nisa verse 14

وَمَنْ يُعْصِ اللَّهَ وَرَسُولَهُ وَيَتَعَدَّ حُدُودَهُ يُدْخِلْهُ نَارًا خَالِدًا فِيهَا وَلَهُ عَذَابٌ مُّهِينٌ

Meaning: "And for anyone who disobeys Allah and Allah's Messenger and violates the limits of Allah's law, Allah will put him in hellfire, and he will remain in hell forever and he will suffer a humiliating punishment."

Based on the explanation of several verses, it is an obligation for Muslims to divide inheritance in accordance with Islamic law because the sources of Islamic law are the Sunnah and the Koran. However, the distribution of inheritance in Dawung Village is not in accordance with Islamic law, but instead divides inheritance using customary law. The distribution of inheritance in Dawung village has become a custom that has been passed down from generation to generation. This is of course considered wrong because it is not relevant to the text or the arguments that have been narrated by Islamic law. However, based on a sociological approach, the distribution of inheritance in accordance with Customary Law is considered good because this practice is determined based on the principles of society and family so that it can become a Sharia goal (Alimashariyanto et.al, 2022)

In Islam, inheritance can be given if the heir has died, this is related to the principle of *ijbari*, namely a principle in Islamic inheritance law which means that the transfer of the inheritance of an individual who has died to his heirs takes place automatically based on Allah's decree. without depending on the wishes of the heirs or heirs (Harahap, 2022). A mandatory element in the Islamic inheritance law is that heirs are not allowed to refuse the transfer of inheritance to them in accordance with the amount determined by Allah. In this way, the prospective heir, a person who will die, does not need to plan the use of his assets

after he dies because the assets will automatically be given to the heirs in predetermined shares (Ria and Zulfikar, 2028). The principle of *ijbari* in Islamic inheritance law can also be reviewed based on the aspect of the transfer of assets which definitely occurs when someone dies, based on the value of the assets that has been determined for each heir and based on the aspects of the heirs who will receive the assets in marriage (Ali, 2000).

The practice of dividing inheritance in Dawung village is to divide the inheritance before the heir has died, namely using a gift system. But there are also people who divide the inheritance when the heir has died. So it can be concluded that the distribution of inheritance by the people of Dawung village with the distribution of inheritance as determined by Islam is regarding the transfer of inheritance from the heir or parents to their children as heirs carried out when the heir is still alive or has died while based on Islamic law the distribution of inheritance This is done when the heir has died. Allah SWT has given the Shari'a regarding grants because in this activity there is an effort to strengthen and tame the human heart. (Sabiq, 2006). Meanwhile, the distribution of inheritance in Dawung village between women and men as the main heirs is equal. This is because children have full rights to the property inherited by their parents as heirs. For the people in Dawung village, there is no difference between girls and boys or who is born first because they have equal rights.

For this reason, customary inheritance law can be considered valid as long as when distributing inherited assets it needs to be agreed upon by the heirs. If when distributing inheritance according to customary law there is no agreement between the experts then this distribution is considered invalid and prohibited by Islamic law. The agreement regarding the distribution of inheritance according to customary law has a legal basis, namely *Al' aadaah muhkamah*, which means that custom can be used as law. Islamic Sharia law also explains the components of peace which are based on *wa sulhu khair* which means peace is good so that with the existence of this element of peace the practice of dividing inheritance does not give rise to disputes between the heirs (Ashari, 2016). Therefore, it is not permissible for an individual to give more wealth to his children because this will have an effort to sow the seeds of discord and can break the relationship and ties of brotherhood between families so Allah commands that giving excessive things to children when giving inheritance is an act that is deviant and false (Usman, 2020).

The practice of distributing inheritance carried out by the Dawung village community has things that do not deviate from the rules of Islamic law. According to the author, if this practice does not conflict with Islamic Sharia law and is used as a benefit for a particular community, then the practice of dividing inheritance property under customary law is permissible because fundamentally the law on dividing inheritance property is aimed at human benefit and creating justice. However, it is different with the distribution of inheritance based on Islamic law which has been established and gives rise to disputes due to differences in shares between daughters and sons which does not add beauty to Islamic rules.

CONCLUSION AND SUGGESTION

Conclusion

The distribution of inheritance is carried out in Dawung village, Matesih subdistrict, Karanganyar regency, namely through the use of the traditional inheritance law system, namely through an equal distribution system in which inheritance assets are distributed to girls and boys equally even though the majority of the population in Dawung village, Matesih subdistrict, Karanganyar regency has a religion. Islam. Nowadays, the practice of distributing inherited assets in the Dawung village community can be considered as the result of a social contract so that Islam considers the practice of distributing inherited assets using customary inheritance law as a legalized *Al-U'rf*. In accordance with the principle of *Al'aadah muhkamah*, which means that any custom can become law and Islamic law also allows the implementation of laws that contain a peace component. Based on the social aspect, this practice of distributing inheritance is considered valid for the community that adheres to it because there is an element of willingness and justice based on the perspective of a community so that it is the result of an

agreement between the heirs and the situation in the surrounding environment.

Suggestion

It is recommended that further research not only conduct research using normative research because this research does not aim to assess or adjudicate a meaning in life but to describe, understand and describe social phenomena and symptoms that appear in the community.

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