

Ignoring Islamic Law for Family Harmony: The Practice of Delaying Inheritance Distribution in the Indigenous Muslim Community of Kampar, Riau

Deri Eka Putra* and Riyanta*

*UIN Sunan Kalijaga Yogyakarta, Indonesia

Email: deryeke4@gmail.com

Abstract: The delay in inheritance distribution within the indigenous Muslim community of Kampar, Riau, is a longstanding tradition often justified as an effort to maintain family harmony. This phenomenon indicates that although Islamic inheritance law has been normatively established, its application is often selective or postponed in actual social practice. This study investigates the reasons behind such delays, the justifications provided by the community, and their implications for the understanding and implementation of Islamic law. This article use a qualitative approach, which data were collected through in-depth interviews toward religious and traditional leaders. The findings show that delay is not due to ignorance of Islamic legal obligations. Rather, it is a conscious decision rooted in cultural norms, socio-economic considerations, and emotional factors, such as respect for parents and the desire to avoid family conflict. This practice is supported by a communal consensus that prioritizes unity over immediate legal compliance. However, the study argues that although intended to preserve harmony, such postponements risk marginalizing rightful heirs and contradict the justice-oriented objectives of Islamic law (maqāṣid al-sharī'ah). The study concludes that contextual negotiation between customary traditions and Islamic law is necessary but must occur within a framework that ensures justice and legal clarity.

Keywords: *Inheritance Delay, Islamic Inheritance Law, Family Harmony, Indigenous Muslim Community Kampar, Legal Culture.*

Abstrak: Penundaan pembagian warisan dalam komunitas Muslim adat di Kampar, Riau, adalah tradisi yang telah berlangsung lama dan seringkali dibenarkan sebagai upaya untuk menjaga keharmonisan keluarga. Fenomena ini menunjukkan bahwa, meskipun hukum waris Islam telah ditetapkan secara normatif, ia seringkali diterapkan secara selektif atau tertunda dalam praktik sosial. Studi ini menyelidiki alasan penundaan tersebut, alasan yang diberikan oleh komunitas, dan efeknya terhadap pemahaman dan penerapan hukum Islam. Artikel ini menggunakan pendekatan kualitatif, yang datanya dikumpulkan melalui wawancara mendalam terhadap tokoh agama, dan tokoh adat. Temuan menunjukkan bahwa penundaan tidak disebabkan oleh ketidaktahuan tentang kewajiban hukum Islam. Sebaliknya, itu adalah

pilihan yang dibuat secara sadar berdasarkan norma budaya, pertimbangan sosial ekonomi, dan faktor emosional, seperti penghormatan terhadap orang tua dan upaya untuk menghindari konflik keluarga. Konsensus masyarakat yang mengutamakan persatuan daripada pemenuhan hukum segera mendukung praktik ini. Namun, penelitian ini berpendapat bahwa, meskipun dimaksudkan untuk menjaga keharmonisan, penundaan tersebut berpotensi meminggirkan ahli waris yang berhak, yang bertentangan dengan tujuan keadilan hukum Islam (*maqāṣid al-sharī'ah*). Menurut penelitian ini, perundingan kontekstual antara adat dan hukum Islam perlu dilakukan, tetapi harus dilakukan dalam kerangka yang menjamin keadilan dan kejelasan hukum.

Kata kunci: *Penundaan Warisan, Hukum Waris Islam, Keharmonisan Keluarga, Komunitas Muslim Adat Kampar, Budaya Hukum.*

Introduction

In various indigenous communities across different countries, inheritance practices are shaped by social norms, local laws, and cultural traditions. Although formal inheritance laws rooted in both state legislation and religious doctrines are in place, these practices often deviate from such regulations. It is common for inheritance distribution to be delayed, distributed unequally, or certain heirs to be denied their rightful shares in an attempt to avoid family disputes. These deviations create a tension between codified legal frameworks and evolving social practices, potentially leading to injustice for some heirs. Furthermore, Islamic law provides clear and strict regulations regarding inheritance, including specific entitlements and share allocations for heirs. In some muslim country, such Nigerian legal context, three primary sources of law coexist: common law, Islamic law, and customary law, for example, among the Yoruba people. Inheritance practices are deeply influenced by their cultural traditions.¹ In Negeri Sembilan, Malaysia, custom is regarded as a fixed and immutable rule within society. Simultaneously, it is viewed as a way of

¹ Abdulmajeed Hassan Bello, "Islamic Law of Inheritance among the Yoruba of Southwest Nigeria: A Case Study of Dar Ul-Qadha (Arbitration Panel)," *Journal of Islamic Law* 5, no. 1 (2024): 44–61, <https://doi.org/10.24260/jil.v5i1.2058>.

life or a codified set of laws that must be upheld and passed down across generations.²

One enduring element within society is customary law, as unwritten norms established and maintained by communities to regulate interpersonal relations. Human beings, regardless of their identity, are intrinsically linked to both local and global cultures, which manifest in varying degrees of complexity. Human life is inherently dynamic and cannot remain static; its progression is closely tied to cultural evolution. Indeed, the trajectory of human civilization is profoundly influenced by the extent to which its culture develops and adapts over time.³

Kampar Regency, located in Riau, was chosen as the research site due to its distinct characteristics: an indigenous Muslim society with a strong social structure and deeply rooted local values. Kampar is known for its strong Malay traditions, and its close relationship with Islam has given rise to unique and context-specific religious practices. For generations, the people of Kampar have upheld values such as deliberation, respect for parents, and the avoidance of conflict, including in matters of inheritance. In this context, delaying inheritance distribution is not only seen as a violation of Islamic law but also as a social strategy to preserve family harmony.⁴

Muslim indigenous community in Kampar, Riau faces a similar phenomenon regarding inheritance distribution. The practice of deferring inheritance has been a long-standing tradition, often regarded as a means to maintain family harmony and prevent internal disputes. Although Islamic inheritance law is normatively established, the actual distribution of inheritance is frequently postponed or selectively

² Wan Nur A'ina Mardhiah Wan Rushdan, Mohd Zamro Muda, and Zuliza Mohd Kusrin, "The Difference between The Inheritance of Common Heritage and Customary Heritage in The Practice of Adat Perpatih," *International Journal of Academic Research in Business and Social Sciences* 13, no. 3 (2023): 22–34, <https://doi.org/10.6007/ijarbss/v13-i3/16398>.

³ Rahmat Hidayat, Mohammad Muhibbin, and Mohammad Afifullah, "Pembagian Harta Warisan Menurut Hukum Islam Dan Adat Melayu (Studi Kasus Desa Sungai Muntik Sanggau)," *DiH: Jurnal Ilmu Hukum* 18, no. 2 (August 2022): 223–33, <https://doi.org/10.30996/dih.v0i0.6558>.

⁴ Rahman Rahman et al., "BASIACUONG: ORAL TRADITION IN KAMPAR MALAY CEREMONIAL PROCESSIONS," *TAJIDID: Jurnal Ilmu Ushuluddin* 23, no. 2 (December 2024): 414–41, <https://doi.org/10.30631/tjd.v23i2.507>.

implemented. This postponement isn't solely due to a lack of knowledge about Islamic law; rather, it's a conscious choice influenced by cultural norms, socio-economic conditions, and emotional considerations, such as respect for parents and the desire to prevent conflict. This situation highlights a gap between the provisions of Islamic inheritance law and the social realities on the ground, necessitating a more in-depth examination of how customary practices and Islamic law can coexist harmoniously without compromising justice.

This phenomenon reflects a nuanced tension between religious norms and local cultural values, where traditional practices are often given precedence over Islamic legal directives. Postponing inheritance distribution may impede the rightful access of heirs and create conditions for unresolved disputes to emerge later. While customary approaches may be culturally embedded, they diverge from the Islamic legal requirement to distribute inheritance promptly after the death of the estate holder.⁵ This study is essential for understanding the cultural, social, and religious motivations behind the postponement of inheritance distribution. It also seeks to examine the extent to which this practice aligns with or deviates from *maqāṣid al-sharī'ah* (the objectives of Islamic law), particularly in preserving family

Several previous studies on Islamic inheritance law in Indonesia can generally be categorized into three typological approaches: normative-juridical, comparative socio-legal, and contextual-cultural. Normative studies such as those conducted by Nurhanifah⁶, Maulana Adriansyah⁷, Rachmawati & Harahap⁸, Hani Sholihah, Nani Nani

⁵ Hasnah Aziz, "The Distribution of Children's Inheritance in the Islamic Law and Custom Law's Perspective," *International Journal of Law Reconstruction* 7, no. 1 (May 2023): 12, <https://doi.org/10.26532/ijlr.v7i1.30895>.

⁶ Nurhanifah, "ANALISIS MASLAHAH TERHADAP PENUNDAAN PEMBAGIAN HARTA WARISAN (Studi Kasus Di Gampong Lhoknga Kecamatan Kutablang Kabupaten Bireuen)" (UNIVERSITAS ISLAM NEGERI AR-RANIRY, 2023).

⁷ Maulana Ardiyansah, "Analisis Masalah Atas Problematika Pasca Penundaan Pembagian Warisan Masyarakat Muslim Kediri," *Tesis* (Universitas Islam Negeri Mataram, 2021).

⁸ Emy Rachmawati and Burhanudin Harahap, "Justice Dimensions of Islamic Inheritance Law in Determining The Inheritance Rights Of Parents, Children and

Widiawati⁹, Tarmizi Tarmizi et al¹⁰, emphasize the urgency of implementing Islamic inheritance law (*fara'id*) by the Qu'an and Sunnah. These studies argue that delaying inheritance distribution contradicts the *maqāṣid al-shari'ah*, particularly in terms of ensuring justice and protecting rights. Comparative studies such as those by Muhammad Hasan Nasution¹¹, Nurhasanah Walijah¹², RM Imam Abdillah, Devika Rosa Guspita dan Eddi Rudiana Arief¹³, Arbanur Rasyid, Rayendriani Fahmei Lubis and Idris Saleh¹⁴, Fitrohtul Khasanah, Muhajir, Akhmad Mulhaini¹⁵, Diana Zuhroh, Lila Pangestu Hadiningrum, and Andi Cahyono¹⁶ highlight the tension between

Husband/Wife,” *International Journal of Multicultural and Multireligious Understanding* 5, no. 3 (July 2018): 286, <https://doi.org/10.18415/ijmmu.v5i3.338>.

⁹ Hani Sholihah, Nani Nani Widiawati², and Mohd Khairul Nazif Bin Hj. Awang Damit, “Reinterpretation of Justice in Islamic Inheritance Rights Based on Gender,” *Al-'Adalah* 21, no. 1 (June 2024): 101, <https://doi.org/10.24042/adalah.v21i1.21256>.

¹⁰ Tarmizi Tarmizi et al., “Inheritance Distribution and Conflict Resolution in Bone Regency: Upholding Women's Rights and Islamic Law Objectives,” *De Jure: Jurnal Hukum Dan Syar'iah* 16, no. 2 (December 2024): 255–77, <https://doi.org/10.18860/j-fsh.v16i2.29477>.

¹¹ Muhammad Hasan Nasution, “Hukum Waris Dalam Masyarakat Adat Sumando Di Kecamatan Natal Kabupaten Mandailing Natal (Studi Komparatif Hukum Adat Dan Hukum Islam)” (Universitas Islam Negeri Medan, 2020).

¹² Nurhasanah Walijah, “Budaya Hukum Pembagian Waris Adat Masyarakat Sasak Di Desa Jerowaru Kecamatan Jerowaru Kabupaten Lombok Timur Perspektif Antropologi Hukum Islam” (Universitas Islam Indonesia, 2023).

¹³ RM Imam Abdillah, Devika Rosa Guspita, and Eddi Rudiana Arief, “The Complexity of Inheritance: A Comparative Analysis of the Distribution of Inheritance in Islamic Sharia and the Civil Code,” *International Journal of As Suadi: Law and Sharia Review* 1, no. 1 (October 2024): 33–48, <https://doi.org/10.70691/assuadi.v1i1.3>.

¹⁴ Arbanur Rasyid, Rayendriani Fahmei Lubis, and Idris Saleh, “Contestation of Customary Law and Islamic Law in Inheritance Distribution: A Sociology of Islamic Law Perspective,” *Al-Ahkam* 34, no. 2 (October 2024): 419–48, <https://doi.org/10.21580/ahkam.2024.34.2.20843>.

¹⁵ Fitrohtul Khasanah, Muhajir, and Akhmad Muhaini, “Analisis Hukum Waris Terhadap Penundaan Pembagian Harta Warisan Di Desa Jogopaten,” *Jurnal Justitia: Jurnal Ilmu Hukum Dan Humaniora* 9, no. 5 (2022): 2757–65.

¹⁶ Diana Zuhroh, Lila Pangestu Hadiningrum, and Andi Cahyono, “Resepsi Dialektika Hukum Islam Dengan Budaya (Studi Atas Praktek Pembagian Harta Warisan Masyarakat Bumiharjo Dan Selomarto Giriwoyo Wonogiri),” *Mahkamah :*

Islamic law and customary practices. These studies show that many Muslim communities tend to adopt egalitarian patterns of inheritance distribution to preserve family harmony. Meanwhile, a contextual-cultural study by Nurhayati¹⁷, Bakti Ritonga, and colleagues¹⁸ found that local practices, such as family deliberation in Kampar, are often prioritized over *farā'id* rules, as they aim to preserve unity, maintain peace, and prevent conflict.

However, there is limited empirical and field-based research that explores how and why the postponement of inheritance occurs within indigenous Muslim communities, such as the Kampar community in Riau. Previous literature often oversimplifies this practice, overlooking power dynamics, socio-religious rationales, and internal justifications embedded within customary structures. This study adopts an ethnographic approach to the Kampar Muslim community, revealing that the deliberate postponement of inheritance is perceived as a strategy to preserve family harmony, even if it contradicts Islamic legal principles. The focus of this research is to bridge the normative framework of Islamic law with the lived realities of a Muslim community that upholds customary values in Indonesia.

This research employs a descriptive qualitative method using an ethnographic approach¹⁹, which is a branch of anthropology.²⁰ This method was chosen because it allows for a comprehensive exploration of the community's cultural values and social customs, particularly regarding the postponement of inheritance distribution among the

Jurnal Kajian Hukum Islam 5, no. 1 (2020): 60, <https://doi.org/10.24235/mahkamah.v5i1.5989>.

¹⁷ Nurhayati, "Mengungkap Pelanggaran Hak Kewarisan Ahli Waris Dalam Kasus Penundaan Pembagian Harta Peninggalan Yang Berkepanjangan Menurut Hukum Islam Di Kecamatan Mojojoto Kota Kediri" (Institut Agama Islam Negeri, 2023).

¹⁸ Bakti Ritonga et al., "Islamic Family Law Reform in Indonesia: A Review of the Supreme Court's Decision on the Postponement of the Distribution of Joint Property," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 11, no. 2 (November 2024): 292–311, <https://doi.org/10.32505/qadha.v11i2.9667>.

¹⁹ Scott Reeves et al., "Ethnography in Qualitative Educational Research: AMEE Guide No. 80," *Medical Teacher* 35, no. 8 (August 2013): e1365–79, <https://doi.org/10.3109/0142159X.2013.804977>.

²⁰ Muhtadi Al-Abyadh, Mohammad Reevany Bustami, and Ikomatussuniah Ikomatussuniah, "Religious Anthropology: Catalyst for Unravelling Discourses and Fostering Profound Understanding in Arab Society through Islamic Law," *Nurani Hukum* 6, no. 2 (2023): 335, <https://doi.org/10.51825/nhk.v6i2.21815>.

indigenous Muslim community. Field research was conducted in Sawah Village, North Kampar District, Kampar Regency, Riau Province, over three months, from January to March 2024. This location was selected because it is one of the traditional villages where the majority of the population is Muslim and still upholds customary practices in daily life, including in matters of inheritance. To obtain valid and in-depth data, the researcher employed three main techniques. First, observation, involving direct engagement with and observation of the community's social life. Second, in-depth interviews with three traditional leaders and two religious figures were conducted to explore local perspectives. Third, documentation by collecting relevant materials such as minutes of family deliberations and written records of customary practices. The study applies both inductive and deductive frameworks. The inductive approach is used to identify patterns and themes emerging from social practices in the field. In contrast, the deductive approach analyzes these findings in light of the principles of Islamic inheritance law and the theory of *maqāṣid al-shari'ah*, particularly focusing on the elements of *ḥifẓ al-māl* (protection of wealth) and *ḥifẓ al-'irdh* (protection of family honor).

The Traditional Inheritance System of the Kampar Community

This research was conducted in Sawah Village, a traditional settlement located in North Kampar District, Kampar Regency, Riau Province, Indonesia. The village community is predominantly composed of indigenous Malay-Muslims who have preserved their ancestral customs and social norms for generations. In their daily lives—whether in social interactions, family affairs, or local governance—these customs continue to serve as a central guide alongside national and Islamic law. Although administratively governed by modern legal systems, the people of Sawah Village still rely heavily on customary institutions, particularly in matters of inheritance, marriage arrangements, and community dispute resolution.²¹

²¹ Rury Febrina et al., “Collaborative Governance in Recognizing Customary Law Communities And Customary Communal Land Rights in Kampar Regency,” *Journal of Governance and Public Policy* 8, no. 2 (June 2021): 124–39, <https://doi.org/10.18196/jgpp.v8i2.11104>.

In general, the Kampar community follows a matrilineal kinship system, in which the mother's line determines the main lineage and inheritance rights. The *ninik mamak* plays a crucial role as a customary leader within the social structure, as they are responsible for managing and safeguarding the community's valuable ancestral wealth.²² The Kampar community is organized into clans and tribal groups based on maternal kinship. Customary values are passed down from ancestors to future generations, both orally and through customary assemblies. These values continue to be practiced alongside Islamic teachings.²³

Community traditions arise and develop from real-life needs and are rooted in the general lifestyle and attitudes that form part of the culture of the community from which they originate. Ultimately, they become cultural representations. A person's customs reflect their individuality and are an integral element of their culture. Furthermore, Kampar Regency possesses a customary law system encompassing customs, law, and governance, known as '*tali nan bapilin tigo, tigo tungku sajorangan*'. These three elements — '*datuok samo gondah, togak samo tinggi, ringan samo dijinjing, and boghek samo dipikue*' — combine to form '*tigo tali lantak sabatang*'. Each of these three domains cooperates to achieve the same goal. Without mutual agreement, the government, *syara'* (Islamic law), and traditional leaders cannot engage in judicial processes. All parties must ensure that those who violate the law, norms, or religious teachings are held accountable.²⁴

The nature of kinship within a community affects its inheritance rules; no two families or kinship groups necessarily follow the same inheritance laws. In Indonesia, kinship systems can be classified as matrilineal, patrilineal, or bilateral. This hereditary structure also influences variations in marriage systems and kinship norms.²⁵ No region is without a similar historical background. Inheritance systems

²² Zikri Darussamin, "KEWARISAN ADAT LIMO KOTO KAMPAR," *AL-Fikra: Jurnal Ilmiah Keislaman* 15, no. 2 (2016): 284–97.

²³ Deri Eka Putra, "Mengungkap Tradisi: Sistem Peralihan Harta Warisan Di Kecamatan Kampar Utara," *Syakhshiyah Jurnal Hukum Keluarga Islam* 4, no. 1 (June 2024): 93–107, <https://doi.org/10.32332/syakhshiyah.v4i1.9253>.

²⁴ Amir Luthfi, *Pola Hukum Kewarisan Adat Dan Hak Ulayat Daerah Kampar*, 1st edn (Bangkinang: Yayasan Lembaga Studi dan Pengembangan Masyarakat, 1992).

²⁵ Erdiansyah, Hengki Firmanda, and Nurahim Rasudin. "Sistem Kewarisan Menurut Hukum Adat Masyarakat Suku Talang Mamak," *Jurnal Ilmu Hukum Fakultas Hukum Universitas Riau* 10, no. 2 (2021): 310.

have their unique issues, despite sharing certain commonalities. These systems are strongly influenced by social ethics, religion, and kinship, also known as ancestry. Malay customs are prevalent in places like Riau Province, but they evolve and are characterized by the emergence of new customary regions.

The Malays typically adhere to a patrilineal (genealogical) kinship system based on the father's lineage, although there are also some influences from the mother's side.²⁶ The indigenous Kampar people are Muslims, just like the Malay population in general. Since Islam is regarded as an integral part of Malay identity, they are often referred to as both 'Islam' and 'Malay.' The Kampar people, who share a similar family and kinship system with the Minangkabau, generally trace their lineage through the mother (matrilineal), in contrast to the patrilineal system of the Malays. This practice persisted despite the former influence of the powerful Pagaruyung Kingdom. This may be due to Kampar's geographical proximity to Pagaruyung or their historical connection as part of the Pagaruyung Kingdom.²⁷

One of the issues is that although the Kampar people are Riau Malays, they share traditional rituals and sociocultural practices with the matrilineal Minangkabau, whereas Malay culture is predominantly patrilineal. This makes it challenging to classify them strictly as Malays, since they have many sociocultural similarities with the Minangkabau. However, because the Kampar people are part of the Riau Malay cultural sphere, they cannot be considered Minangkabau either. This is one of the unique characteristics of the Kampar people. Kampar Regency is located at the geographical intersection between the Minangkabau and Riau Malay regions. Thus, although Kampar belongs to the Malay cultural and administrative domain, the Minangkabau culture of West Sumatra strongly influences its social and cultural life.²⁸

As previously mentioned, the family structure of the Kampar community is matrilineal. In Kampar society, certain tribes have long existed and hold significant power. The person who assists the

²⁶ Tim Pengumpul Data Bidang Penelitian/Pengkajian and Penulisan LAM Riau, *Adat Istiadat Kampar* (Pekanbaru: Lembaga Adat Melayu Riau, 1998).

²⁷ Ulfia Hasanah and Angga Pratama Devyatno, *Kajian Tentang Hukum Waris Adat Masyarakat Kampar Riau* (Pekanbaru: Universitas Riau, 2015).

²⁸ M Taufik Mandailing, *Islam Kampar: Harmoni Islam Dan Tradisi Lokal* (Yogyakarta: Idea Perss, 2012).

traditional leader is known as *Ninik Mamak*. The presence of these tribes greatly influences the development and continuity of Kampar's traditional society. From an early age, Kampar people identify with their mother's tribe rather than their father's. For the Kampar community, a tribe is considered part of the extended family due to the strong kinship ties that exist throughout their society. Maintaining lineage continuity is essential for preserving tribal relationships.²⁹

The matrilineal mother tribe dates back to 1347. Among the indigenous people, Datuk Perpatih Nan Sabatang is regarded as the founding figure of the matrilineal system and a precursor to democratic governance. He laid out the lineage path from nephew to *mamak* (maternal uncle), then to *penghulu* (chief), and ultimately to *mufakat* (consensus), emphasizing the proper application of consensus and the primacy of truth. The next level of authority was delegated to children or male descendants who were deemed capable, which contrasted with the system of Datuk Ketemanggungan, whose authority was more monarchically mandated. After the deaths of several of his predecessors, Prince Adityawarman ascended to the throne as King of the Pagaruyung Kingdom. A kingdom minister then succeeded the Riau Malay Siompu.³⁰

The kinship system of the indigenous Kampar community is generally matrilineal, tracing lineage through the mother's side. This social structure shapes the pattern of inheritance distribution. In practice, the terms "*pusako tinggi*" (*high heritage*) and "*pusako rendah*" (*low heritage*) are used to describe the customary inheritance system in Kampar.³¹ *Pusako rendah* refers to personal property that is inherited by the children and may be sold at any time. In contrast, *pusako tinggi* refers to ancestral property that is passed down through the maternal lineage and cannot be sold.³²

²⁹ *Ibid.*

³⁰ Bidang Penelitian and Penulis LAM Riau, *Pemetaan Adat Masyarakat Melayu Riau Kabupaten/Kota Se-Provinsi Riau* (Pekanbaru: LAM Riau dan Unri Perss, 2006).

³¹ "Wawancara Dengan Harianto Arbi, Tokoh Agama Desa Sawah, Kecamatan Kampar Utara, Kampar, Riau, Tanggal 25 Januari 2024," n.d.

³² Mhd Zakiul Fikri, "RESTORING CUSTOMARY FOREST RIGHTS THROUGH AGRARIAN REFORM: CASE STUDY OF THE KAMPAR COMMUNITY, INDONESIA," *Diponegoro Law Review* 9, no. 2 (December 2024): 277–96, <https://doi.org/10.14710/dilrev.9.2.2024.277-296>.

Meanwhile, the distribution of *pusako rendah* is more individual. Both sons and daughters may inherit the deceased's assets, such as a house, money, or privately cultivated gardens. This distribution remains adjusted to local customs in Kampar, despite the influence of Islamic inheritance law. For example, daughters are generally prioritized due to the importance of maintaining the matrilineal line. However, this practice may vary in some villages due to syncretism with Islamic principles.³³

The customary inheritance distribution system in Kampar reflects the community's effort to maintain social balance and the integrity of the extended family. However, over time, modernization and the formal application of Islamic inheritance law have sometimes resulted in a duality of legal norms. These overlapping systems often become subjects of negotiation or even sources of conflict within families. Consequently, inheritance disputes are typically resolved through traditional deliberations involving local customary leaders and religious figures.

Division of Inheritance of the Muslim Community in Sawah Village

The distribution of inheritance in Sawah Village is an interesting practice to study because it combines local norms with the provisions of Islamic inheritance law. The people of Sawah Village, who are predominantly Muslim, are generally aware of the Islamic rules of inheritance, such as sons receiving twice the share of daughters and primary heirs, including parents, children, and spouses having inheritance rights.

The Kampar people have their own beliefs and rules regarding heirloom property, or *pusako*, because their lineage is matrilineal. To inherit heirloom property, the lineage must be traced through the maternal line.³⁴ In Kampar society, inheritance is divided into two categories, low *pusako* (or *soko*) and high *pusako* (or *pusako tinggi*). *Soko* property, also known as high *pusako*, is ancestral property passed down

³³ "Wawancara Dengan Muzbar (Tokoh Adat Di Desa Sawah), Kampar, Riau, Tanggal 25 Januari 2024," n.d.

³⁴ "Wawancara Dengan Hendra (Ninik Mamak Di Desa Sawah), Kampar, Riau, Tanggal 10 Februari 2024," n.d.

through the maternal lineage, owned by successive generations of women under the supervision of the *ninik mamak* (maternal uncles). Women are responsible for managing the property, while men are responsible for supervising and defending it in case of disputes. Low-pusako property refers to assets acquired from the husband's and wife's family businesses or their livelihood during the marriage.³⁵

In Sawah Village, inheritance distribution is categorized into two types: distribution while the testator is still alive and distribution after the testator's death. However, most Muslim families who work as rice farmers tend to divide the inheritance only after both parents have passed away.³⁶ According to the traditions of the Sawah Village community, which have been passed down through generations, this distribution takes place only after both parents have passed away.

The various inheritance laws described above indicate that the guiding principles of each system differ. Traditional Kampar society has its own form of inheritance known as *pusako*. According to ancestral lineage customs, property is passed down through the mother's line to the succeeding generation, reflecting this unique system. Based on the principles of the *soko pusako* custom, the Kampar customary system has developed. According to traditional expressions, inheritance is traced through the maternal line, known as the single-belly lineage (*harta soko nan bakalilighan*) and the inherited property (*harta pusako nan bacucuran*). The traditional phrase *tali bapilin tigo* signifies that three legal systems—government law, Islamic law, and customary law—together form the foundation of Kampar customary law.³⁷

It is necessary to determine the status of the assets—whether they are *soko* or *pusako*—before distributing the inherited property. *Soko* property refers to assets of uncertain origin that are owned by the heirs of the maternal lineage, with male relatives responsible for maintaining the land. *Pusako* assets, on the other hand, are acquired through the hard work of the parents, typically through buying and selling.

³⁵ Marro'aini and Nor Kholis, "Kontekstualisasi Hukum Waris Dalam QS. An-Nisa [4]: 11 (Studi Pembagian Harta Warisan Pada Masyarakat Adat Kampar)," *Musawa: Jurnal Studi Gender Dan Islam* 8, no. 1 (2019).

³⁶ interview with Hendra (Ninik Mamak at Sawah village), Kampar, Riau, 10 Februari 2024.

³⁷ interview with Muhammad Nuri (Ninik Mamak at Sawah village), Kampar, Riau, 25 Januari 2024.

According to Islamic law, *pusako* assets are distributed so that male heirs receive two shares for every one share received by female heirs.³⁸ In societies governed by customary law, the status of sons influences land policies, as male descendants hold positions such as *Datuk* (tribal elder) and *mamak* (maternal uncle who advises his nephews). Male descendants are also permitted to manage or cultivate the *soko* land. However, there is an important condition: if they do not use the land, ownership remains with the female descendants.³⁹ According to Ter Haar, usage rights refer to an individual's right to derive benefits from a piece of land.

The Kampar customary inheritance law does not prescribe as comprehensive a distribution scheme as Islamic inheritance law does. Before the advent of Islam, Kampar customs determined the shares of inheritance based on the heirs' mutual consent and the *pisoko* regulations. According to the *pisoko* norm, children have the strongest claim to the inheritance, as the death of either parent is treated as the death of both. Furthermore, inheritance distribution is based on the unanimous agreement of all heirs through the application of the *abih cupak* principle among close relatives and the notion of *abih cupak karena kerelaan*, which holds that legal claims can be nullified by consent and that regulations may lapse due to familial closeness. This customary system emphasizes the honesty of each heir in accepting their share, thereby prioritizing family welfare and unity over the material value of the inheritance.⁴⁰

The couple's youngest daughter, known according to custom as *uma sociek* or *koghong sabidang* (which translates to 'house and house site'), inherits the family home. If the couple has other daughters, the parents will purchase additional land for each daughter's house site. The daughter also receives a garden. According to Kampar customary law, houses and gardens are not inherited by sons. Instead, parents

³⁸ interview with Moh. Yatim (Dt. Paduko Jalelo), Kampar, Riau, 4 Februari 2024.

³⁹ Hengki Firmanda, "Penyelesaian Sengketa Tanah Soko Pada Suku Bendang Kampar Riau Dengan Corak Hukum Islam," *FIKRI: Jurnal Kajian Agama, Sosial Dan Budaya* 3, no. 2 (2018): 289–300 <https://doi.org/10.25217/jf.v3i2.366>.

⁴⁰ Nur Hidayat and Asril, "Analisis Konvergensi Sistem Hukum Waris Adat Kampar Dengan Sistem Hukum Waris Islam," *Jurnal Melayunesia Law* 3, no. 1 (2019): 145.

leave a substantial portion of the house and garden to their daughters. Fair distribution and mutual agreement among siblings are considered effective solutions to potential conflicts. A brother may be allowed to purchase a house without infringing upon his sister's rights, or he may retain partial rights to the garden while respecting the daughters' entitlements. In general, gardens are owned by sons, while daughters inherit houses and house sites.⁴¹

According to Kampar custom, this division of inheritance is based on the belief that sons are generally unable to maintain the family home inherited from their parents. However, if a son does inherit the house, his parents will still have a place to live until their passing. In the case of a daughter, the house left by her parents can serve as a residence for her and her family if she gets married and later has no other place to stay. If the children are unable to support their families, the house inherited from their parents can be used to provide shelter.⁴²

The Purpose of the Sawah Village Community in Postponing the Distribution of Inheritance

Two main objectives underlie the practice of delaying the distribution of inheritance in Sawah Village, North Kampar District, Kampar Regency. The first objective is legal normative, while the second is socio-cultural. This delay serves as a way for the community to reconcile Islamic law, which emphasizes the immediate and detailed distribution of inheritance, with Kampar customary law, which upholds the principle of collective ownership of *pusaka tinggi* (high heirlooms) through a matrilineal system.⁴³

The community understands that Islamic law requires the distribution of inheritance to take place immediately after the testator's death. On the other hand, Kampar customary law stipulates that *pusaka tinggi* (high inheritance) must be passed down through the maternal line

⁴¹ Marro'aini and Kholis.

⁴² interview with Muhammad Nuri (Ninik Mamak at Sawah village), Kampar, Riau, 25 Januari 2024.

⁴³ John Griffiths, "What Is Legal Pluralism?," *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (January 1986): 1–55, <https://doi.org/10.1080/07329113.1986.10756387>.

and managed communally by the community.⁴⁴ Therefore, the postponement is considered a middle ground to avoid conflict between religious norms and customary provisions. This aligns with the theory of legal pluralism, which emphasizes that in a multicultural society there is room for negotiation between state law and customary law.

In addition, the postponement of inheritance distribution serves three important socio-cultural purposes. First, it helps maintain harmony within the extended family because the property remains undivided, thereby preventing potential conflicts. Second, this postponement aims to preserve the integrity of the heirloom so that it is not fragmented or transferred to outsiders, thus safeguarding the family's social status and honor. Third, it supports the family's economic prosperity by allowing the heirloom land to be managed cooperatively, with the proceeds used to meet collective needs.⁴⁵

“According to Moh. Yatim, Dt. Paduko Jalelo, a resident of Sawah Village, the distribution of inheritance is postponed for various reasons, including cultural norms, social structure, and religious considerations within the local community. First, this postponement occurs because the surviving parents may receive the inheritance in a way that is perceived as unfair or improper. The death of a parent is a significant event that requires time for the surviving family members to grieve. Therefore, delaying the distribution of inheritance allows the family more time to come together and prepare themselves emotionally for the process.”⁴⁶

The practice of postponing the distribution of inheritance in Sawah Village essentially demonstrates how the local community employs legal negotiation strategies between two coexisting legal systems: customary law and Islamic law.⁴⁷ This duality creates a space

⁴⁴ Hilman Syahrial Haq, “Legal Pluralism and Inheritance Rights: Resolving Conflicts Between Local Customs and National Law in Indonesia,” *Kosmik Hukum* 25, no. 1 (January 2025): 148, <https://doi.org/10.30595/kosmikhukum.v25i1.23727>.

⁴⁵ Zefrizal Nurdin and Hilaire Tegan, “Legal Certainty in the Management of Agricultural Land Pawning in the Matrilineal Minangkabau Society, West Sumatra,” *Land* 8, no. 8 (July 2019): 117, <https://doi.org/10.3390/land8080117>.

⁴⁶ “Wawancara Dengan Moh. Yatim (Dt. Paduko Jalelo), Kampar, Riau, Tanggal 4 Februari 2024.”

⁴⁷ Usman Al Farisi et al., “Negotiation Between Customary Law and Islamic Law: The Practice of Palang Pintu in The Traditional Marriage in The Betawi Muslim

for consensus, where postponement is used as a solution to ensure that no norms are neglected. This condition illustrates how indigenous communities adapt religious rules to align with local culture within the framework of legal pluralism.⁴⁸

Legally, this postponement serves as a form of adaptation. In the Sawah Village community, the principle of *pusaka tinggi* (high heirlooms) that must not be privatized takes precedence over the Islamic legal provision (QS. An-Nisa: 11), which requires distribution immediately after the testator's death. This indicates that the postponement is not simply a rejection of Sharia but rather an expression of respect for religious norms alongside existing social structures. Idrus refers to this as a pragmatic agreement, whereby the community complies with Islamic law regarding personal business assets, known as *pusaka rendah* (low heirlooms), while retaining *pusaka tinggi* as a symbol of clan continuity. This study found a similar practice: customary law employs the postponement of distribution to preserve land integrity and ensure continuity across generations.⁴⁹

Delaying the distribution of a deceased person's property is equivalent to being negligent and interfering with the rights of others, as it is a trust that should be promptly transferred to its rightful owners.⁵⁰ As stated in the wording of the well-known hadith of the Prophet Muhammad (SAW) concerning *faraidh*: *Al-ḥiqū al-farā'idā bi-ablāḥā, fa-mā baqiya fa-li aulā rajulin dbakar*, Allocate the prescribed shares (*faraidh*) to those entitled to them (the heirs), and whatever remains shall be given to the closest male relative.⁵¹

Community,” *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 2 (December 2023): 268–85, <https://doi.org/10.18860/j-fsh.v15i2.21241>.

⁴⁸ Misran Ramli et al., “State, Custom, and Islamic Law in Aceh: Minor Dispute Resolution in the Perspective of Legal Pluralism,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (May 2024): 872, <https://doi.org/10.22373/sjhk.v8i2.15924>.

⁴⁹ Afnaini Afnaini and M. Syamsudin, “Changes In The Inheritance System Of Pusako Tinggi Assets And Their Impact On The Minangkabau Traditional Inheritance System,” *Prophetic Law Review* 4, no. 2 (December 2022): 222–40, <https://doi.org/10.20885/PLR.vol4.iss2.art5>.

⁵⁰ Ahmad Sarwat, *10 Penyimpangan Pembagian Harta Warisan Di Indonesia* (Jakarta Selatan: Rumah Fiqih Publishing, 2018).

⁵¹ Wahbah Az-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu* (Damaskus: Dar al-Fikr, 2009).

The Aṣḥāb Ash-Shāfiʿī group of scholars holds that the concept of *ijbārī* must be implemented immediately because, according to their interpretation, the *ṣiḡḥah amr* (imperative form) has also been supported by the Mālikīyah, Ḥanābilah, and some Ḥanafī scholars:

الأَصْلُ فِي الْأَمْرِ يَفْتَضِي الْفَوْرَ⁵²

Based on the aforementioned regulations, it can be inferred that the directive requires the prompt distribution of inherited assets. However, there is also an instruction not to rush to a particular place, as illustrated by the following *ṣiḡḥah amr*:

الأَصْلُ فِي الْأَمْرِ لَا يَفْتَضِي الْفَوْرَ⁵³

This issue is a subset of the preceding one: the purpose of the directive not to immediately divide the heirs' wealth while their children are still young is to safeguard their future and legal rights. Granting authority or control to someone who is mentally ill, feeble-minded, gravely ill, or still an infant is prohibited by Allah SWT, because wealth must be managed properly, as it is one of life's necessities. In other words, one may argue that people's livelihoods are sustained by their wealth.⁵⁴

The concepts of individual rights and fairness that underpin Islamic inheritance law are closely linked to the practice of delaying the distribution of inheritance to young children. The principle of 'balanced justice' describes how rights and obligations are aligned with what is acquired according to needs and utility. This principle places strong emphasis on a fair and equitable distribution that considers the unique circumstances faced by minor heirs, as well as the needs and capacities of the inheritance beneficiaries.⁵⁵

⁵² Muḥammad Abū Nūr Zuhāir, *Uṣhūl Al-Fiqh*, cet. ke-1 (Kairo: Al-Maktabah Al-Azhāriyah at Turāth, 2011).

⁵³ Tajuddīn Ibn Al-Firkah, *Ṣarḥ Al-Waraqāt*, ed. by Muḥammad Hassān Al-Shafel, 6th edn (Beirūt: Dār Al-Kutūb Al-ʿIlmiyah, 2017).

⁵⁴ Erkhām Maskuri, "Hak Waris Bagi Ahli Waris Di Bawah Pengampunan Dalam Perspektif Hukum Islam," *Al-Aḥwāl Al-Syakhshiyyah: Jurnal Hukum Keluarga Dan Peradilan Islam* 4, no. 1 (2023): 29–46 <https://doi.org/10.15575/as.v2i2.14327>.

⁵⁵ Haniah Ilhami, "Kedudukan Asas Keadilan Berimbang Dalam Hukum Kewarisan Islam Dikaitkan Dengan Peraturan Mahkamah Agung R.I. Nomor 3

From a socio-cultural perspective, postponement is seen as a way to prevent conflict.⁵⁶ Ownership conflicts are particularly sensitive in large matrilineal families due to the intergenerational kinship structure and the role of the *mamak* (maternal uncle). Hasty divisions, especially in an economy that still relies on collectively managed agricultural land, risk undermining the integrity of the tribe. Therefore, postponement helps prevent potential conflicts and preserves social cohesion.⁵⁷ According to Najmu, customary mediation plays an important role as a social buffer⁵⁸ in inheritance disputes in Kampar.

Interestingly, economic rationality is also linked to the delay in inheritance distribution. In an interview with the traditional leader of Sawah Village, it was explained that if the land were divided too quickly, the children might sell it. *Where will you farm tomorrow? What will the next generation live on?* he asked rhetorically⁵⁹

This statement supports the idea that extended families can sustainably maintain productive assets through the collective management of *pusaka tinggi* (high inheritance). This aligns with moral economy theory in economic sociology, which explains how agrarian societies prioritize collective survival over individual gain. To maintain long-term land tenure, delaying inheritance division prevents land fragmentation and ensures continuous production for future generations.⁶⁰

However, delays can also create problems. Prolonged postponement may disrupt social stability and cause intergenerational

Tahun 2017 Tentang Pedoman Mengadili Perkara Perempuan Berhadapan Dengan Hukum,” *Jurnal Mimbar Hukum* 32, no. 2 (2020): 243–59.

⁵⁶ Ramli et al., “State, Custom, and Islamic Law in Aceh: Minor Dispute Resolution in the Perspective of Legal Pluralism.”

⁵⁷ Adri Wanto, “Sharia, Two Sides of the Same Coin: The Contradictions between Sharia and Adat (Case Studies of Minangkabau’s Matrilineal and Land Tenure System),” *Walisongo: Jurnal Penelitian Sosial Keagamaan* 25, no. 1 (December 2017): 1–40, <https://doi.org/10.21580/ws.25.1.1833>.

⁵⁸ Najmu Laila Sopian, “Informal Dispute Resolution Based On Adat Law: A Case Study Of Land Dispute In Flores, East Nusa Tenggara, Indonesia,” *Indonesia Law Review* 5, no. 2 (2015), 106–22 <https://doi.org/10.15742/ilrev.v5n2.157>.

⁵⁹ “Wawancara Dengan Moh. Yatim (Dt. Paduko Jalelo), Kampar, Riau, Tanggal 4 Februari 2024.”

⁶⁰ Franz von Benda-Beckmann and Keebet von Benda-Beckmann, “Temporalities in Property Relations under a Plural Legal Order: Minangkabau Revisited,” *The Journal of Legal Pluralism and Unofficial Law* 46, no. 1 (January 2014): 18–36, <https://doi.org/10.1080/07329113.2014.886869>.

conflicts of interest, uncertainty over property rights, and administrative legal issues if one of the heirs dies before the distribution is completed. This indicates that many inheritance disputes in Kampar arise because the younger generation wants clarity on the status of their inheritance to start a business.

Therefore, the postponement of inheritance distribution in Sawah Village can be regarded as an unstable negotiated agreement. This arrangement continues to be renegotiated in response to internal family dynamics and external factors, such as the contemporary economy. In the future, to reduce conflict without disregarding local wisdom, customary norms could be harmonized with positive legal instruments through local regulations or scholarly fatwas.

The Ninik Mamak's Perspective on the Delay in Inheritance Distribution

In the Sawah Village community, the *ninik mamak* customary leaders, who generally serve as mediators, advisors, and guardians of the clan's heirlooms, play a central role in determining when and how inheritance is distributed. For the *ninik mamak*, postponing the distribution of inheritance, especially communal ancestral heirlooms (*pusaka tinggi*), is not viewed as opposing Islamic law but rather as a form of collective protection for the customary social structure that has been preserved across generations.⁶¹ In an interview with the *ninik mamak*, it was revealed: 'If the *pusaka tinggi* land were to be divided according to the same rules as Islamic inheritance for personal property, then the communal land would eventually be depleted. Where would our descendants farm in the future? That is why we hold on to it and protect it.'⁶²

This perspective demonstrates that for the *ninik mamak*, *pusaka tinggi* is not regarded merely as the property of individual heirs but rather as communal property that sustains the identity and continuity of the clan. In general, there are several key arguments consistently put

⁶¹ Desma Royana, Sofia Hardani, and Mohd Yunus, "Eksistensi Ahli Waris Pengganti Dalam Hukum Adat Kampar Kecamatan Bangkinang Perspektif Kompilasi Hukum Islam," *Al-Ahwal Al-Syakhsyiyah: Jurnal Hukum Keluarga Dan Peradilan Islam* 3, no. 2 (2022): 139–60, <https://doi.org/10.15575/as.v3i2.19869>.

⁶² "Wawancara Dengan Moh. Yatim (Dt. Paduko Jalelo), Kampar, Riau, Tanggal 4 Februari 2024."

forward by the *ninik mamak* to legitimize the postponement of the distribution of *pusaka tinggi*:

1. Collective Interests of the Tribe

The *ninik mamak* believe that *pusaka tinggi* is a symbol of identity and a collective source of livelihood for tribe members. Distributing this communal property to individuals can lead to land fragmentation, thereby threatening the community's economic sustainability. By postponing its distribution, customary land remains collectively managed and continues to provide sustainable benefits for all descendants.

2. Generational Sustainability

The postponement of the distribution of *pusaka tinggi* is viewed as a form of intergenerational responsibility. Maintaining agricultural land intact ensures that future generations continue to have access to vital sources of livelihood.

3. Principle of Consensus

The *ninik mamak* emphasizes that any decision regarding *pusaka tinggi* must not be made unilaterally but through deliberation and consensus among all clan members. The postponement of its distribution is generally agreed upon collectively to preserve harmonious kinship relations. This principle distinguishes a legitimate postponement, according to custom, from the unlawful act of withholding inheritance.

4. Social Stability

From a sociological perspective, the premature distribution of *pusaka tinggi* often triggers internal conflicts, particularly disputes over land boundaries and usage. The delay facilitated by the *ninik mamak* functions as a social buffer to prevent potential open conflicts.

From the perspective of the *ninik mamak*, customary law and Islamic law are not positioned as opposing systems but rather as two complementary layers of norms. In practice in Sawah Village, Islamic law governs the distribution of *pusako rendah*, such as houses, individual gardens, and personal savings, while customary law regulates *pusako tinggi*. This division of responsibility is perceived as a concept of normative harmony. As emphasized by the *ninik mamak*: "We apply Islamic law to manage personal property acquired by the parents, and

we apply customary law to manage clan property. We respect both equally; without this balance, everything would be in disarray.⁶³

This statement demonstrates that the *ninik mamak* hold a practical interpretation of legal pluralism. They believe that fully standardizing inheritance distribution according to the normative Islamic framework could disrupt customary order and social stability. In other words, legal pluralism is practiced as living law through adaptations to the local context.

These findings are consistent with the study conducted by Rahmadanil and Rifka Zuwanda.⁶⁴ which explains that in Riau, particularly in Kampar, the customary inheritance system operates in parallel with Islamic law within a tolerant framework of legal dualism. Inheritance disputes in Kampar are generally resolved through informal mechanisms under the guidance of the *ninik mamak* and religious leaders, rather than through formal court proceedings. This demonstrates the strong social authority of the *ninik mamak* in maintaining harmony within the extended family.

Thus, the perspective of the *ninik mamak* affirms that the postponement of inheritance distribution is a strategy to ensure economic continuity and social cohesion, which is legitimate according to customary logic and does not substantially contradict Islamic principles. The relationship between these two legal systems is articulated through daily practices and deliberative consensus (*musyawarah mufakat*), positioning legal dualism not as a source of conflict but as a means of dynamic normative adaptation.⁶⁵

Dār al-Iftā' al-Maṣriyah has expounded on the ruling regarding the postponement of inheritance distribution, stating that no heir may conclude an inheritance case in the absence of other heirs or hinder or delay the distribution of the shares legally assigned to each heir.

⁶³ “Wawancara Dengan Moh. Yatim (Dt. Paduko Jalelo), Kampar, Riau, Tanggal 4 Februari 2024.”

⁶⁴ Rahmadanil Rahmadanil and Rifka Zuwanda, “Application of Inheritance Law in Minangkabau According to Islamic Law,” *JURNAL HUKUM ISLAM* 19, no. 2 (December 2021): 349–65, <https://doi.org/10.28918/jhi.v19i2.5087>.

⁶⁵ Uswatun Hasanah, Mohammad Hamzah, and Muffarijul Ikhwan, “PLURALISME HUKUM DALAM PENYELESAIAN SENGKETA WARISAN PADA MASYARAKAT MADURA,” *Arena Hukum* 11, no. 1 (April 2018): 163–83, <https://doi.org/10.21776/ub.arenahukum.2018.01001.9>.

Similarly, individual heirs are prohibited from using inherited property without the consent of the other heirs. Consequently, it is unlawful to deny heirs their rights or to postpone the transfer of assets unless there is a valid reason and the consent of all heirs has been obtained.⁶⁶

According to Amina Wadud, the laws governing inheritance distribution may be modified to better balance the interests of justice and individual benefit.⁶⁷ The Islamic inheritance system generally allows heirs some discretion in how they manage their inheritance, as illustrated by the practice of delaying its distribution. However, under the *ijbari* system of justice, inheritance transfers automatically to the heirs upon the testator's death, without consideration for who should receive specific assets.⁶⁸ The heir who has the closest kinship to the deceased (the testator) is entitled to receive the inheritance before more distant relatives, by the principles of equitable inheritance distribution. This reflects a balance between each heir's rights and family responsibilities, embodying justice in inheritance.⁶⁹

The principle of discussion and consensus among all heirs forms the basis for delaying the distribution of inherited property. This aligns with the traditional expression '*Apobilo mancapai kato mupokek, apobilo bulek sagilong, picak salayang, apobilo sepandapek basamo, apokan dibuek-bueklah*'.⁷⁰ This saying implies that when a mutually agreed-upon decision is reached and collective effort is ensured, the intended outcomes of the agreement can be implemented. Naturally, any discussion and consensus must be genuine and must come from the sincere conscience of each heir involved in the distribution.

The heirs or involved parties divide the inheritance based on consensus and deliberation, with the eldest heir typically leading the process. All parties must engage in meaningful dialogue and reach a

⁶⁶ Fatwa Dar al-Ifta' al-Masriyah, "Hukum Penundaan Pembagian Harta Warisan," 2022.

⁶⁷ Amina Wadud Muhsin, *Qur'an Menurut Perempuan: Meluruskan Bias Gender Dalam Tafsir* (Jakarta: Serambi Ilmu Semesta, 2001).

⁶⁸ Suhrawardi K. Lubis and Komis Simanjuntak, *Hukum Waris Islam (Lengkap Dan Praktis)* (Jakarta: Sinar Grafika, 2007).

⁶⁹ Hamid Pongoliu, "Wujud Keadilan Dalam Sistem Hukum Kewarisan Islam," *Manahij: Jurnal Kajian Hukum Islam* 6, no. 2 (2012): 177-190.

⁷⁰ interview with Moh. Yatim (Dt. Paduko Jalelo), Kampar, Riau, 4 Februari 2024.

genuine, sincere agreement.⁷¹ Customary inheritance issues that arise under various circumstances can be appropriately resolved by local customary law through a process of consensus and deliberation. In certain regions of Indonesia, customary law is still observed, and it is believed that customary inheritance practices have a more conciliatory effect than court proceedings, as disputes are settled through discussion and mutual agreement.⁷²

There are various ways in which the residents of Sawah Village manage delays in inheritance distribution. This process depends on each heir's willingness and is carried out only after careful consideration and mutual consent. Persistent or inappropriate attitudes towards parents who are still living at the time of inheritance distribution can also cause delays. The passing of a parent is a significant event that requires time for the surviving family members to grieve. In such instances, postponing the distribution of inheritance provides the family with more time to gather, heal, and emotionally prepare for the division process. Reaching an agreement and thoroughly considering all perspectives are of greater importance to the heirs. This principle is known as *as-sulhu*, which signifies settlement or reconciliation, and is referred to in Surah An-Nisā', verse 128, which means 'better peace.

In general, Sawah Village's practice of delaying inheritance distribution through discussion and compromise reflects the anthropological approach to Islamic law, which emphasizes fairness, collective consensus, and respect for local cultural values and customs. This process not only ensures an equitable distribution of inheritance but also strengthens social and familial bonds.

Regional cultural customs form an integral part of Islamic doctrine. Traditions and socio-cultural structures are upheld as long as they do not contradict the universal teachings of the Qur'an. The Qur'anic perspective serves as a guide for the continuous process of the inculturation of customs. Consequently, people are free to embrace Islam while preserving their cultural practices. When Muslims implement the principles of their faith within their cultural context, it demonstrates the authenticity of Islam. Various factors, such as religion

⁷¹ Aulia Nur Faradila and Wahyu Sukma Dewi, "Implementasi Asas Musyawarah Dan Mufakat Dalam Penyelesaian Sengketa Hukum Waris Adat Di Indonesia," *Indonesian Journal of Social Sciences and Humanities* 3, no. 2 (2023): 43-44.

⁷² Sri Warjiyati, "Eksistensi Hukum Adat Dalam Penyelesaian Konflik Pada Daerah Otonom," *Abkam: Jurnal Hukum Islam* 6, no. 2 (2018): 389-410.

and belief, influence societal regulations, as previously explained. Laws—whether religious, customary, or derived from local beliefs—shape social behavior and legal phenomena. In legal anthropology, the relationship between human legal behavior and legal culture is determined by how people respond to legal doctrines and their practical application.⁷³

Legal diversity is empirically demonstrated by the way Islamic law and customary law interact in Sawah Village to delay the distribution of inheritance, whereby certain aspects of social life are simultaneously governed by these two legal systems. In *Law in Anthropological Studies*, co-authored by Marhaeni Ria Siombo and J. M. Henny Wiludjeng, Griffiths categorizes legal pluralism into two types: strong legal pluralism and weak legal pluralism. Weak legal pluralism is essentially another form of legal centralism, where state law retains its supremacy over other legal systems while acknowledging their existence and recognizing subordinate legal orders. An example of weak legal pluralism, as described by Hooker, is the coexistence of colonial state law with folk law and religious law in colonial countries. In contrast, strong legal pluralism implies that there is no hierarchy indicating the dominance of one legal system over another, due to the extensive coexistence and simultaneous application of multiple legal norms to the same social groups. Consequently, according to Eugene Ehrlich's theory of living law, every society possesses normative legal orders that often operate independently of, or even conflict with, the state legal system, thus exemplifying strong legal pluralism.⁷⁴

From the perspective of Islamic legal anthropology, the postponement practiced by the Muslim community of Sawah Village reflects legal pluralism, manifested in the coexistence of customary law followed by the community and Islamic law upheld as a religious obligation. This conclusion can be inferred from the explanations provided above and indicates that legislation can be culturally inclusive and adaptable. In this context, Islamic legal anthropology aims to prioritize societal well-being over potential harm. It observes that lingering emotional ties or improper attitudes toward living parents at

⁷³ Ali Sodikin, "Antropologi Hukum Sebagai Pendekatan Dalam Penelitian Hukum Islam," *Al-Manahij: Jurnal Kajian Hukum Islam* 7, no. 1 (2013): 115–26 <https://doi.org/10.24090/mnh.v7i1.581>.

⁷⁴ Marhaeni Ria Siombo and J.M Henny Wiludjeng, *Hukum Dalam Kajian Antropologi*, 1st edn (Jakarta: Universitas Katolik Indonesia Atma Jaya, 2019).

the time of inheritance distribution are key factors contributing to the delay. The loss of a parent is a profound life event, and the grieving family requires sufficient time to come to terms with it.

Conclusions

This study demonstrates that despite clear provisions in Islamic law, the indigenous Muslim community of Kampar, Riau, consciously delays the distribution of inheritance, particularly communal ancestral property (*pusaka tinggi*). The Ninik Mamak support this practice to maintain family harmony, prevent disputes, and preserve collective land use, which is considered more valuable than strict adherence to formal inheritance law. Therefore, this delay reflects a pragmatic balance between religious norms and customary obligations to sustain social cohesion.

This study underscores the importance of a policy framework that recognizes legal pluralism and local values, particularly in addressing inheritance disputes within indigenous communities. However, this research has certain limitations, as it focuses on a single village and employs a descriptive ethnographic approach without quantitatively evaluating the economic impacts. Further research is recommended to compare similar practices in other regions and to examine how state laws accommodate or challenge these deeply rooted customary arrangements.

Conflicts of Interest

The authors have no conflict of interest with any party in writing this article.

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