
The Gap Between Islamic Inheritance Law and Community Practice: A Legal Sociological Analysis of Inheritance Distribution in Indonesian Society

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Keywords:

Gap, inheritance, sociology of law

Abstract

Islamic inheritance law has a strong normative foundation and regulates inheritance distribution in detail to achieve justice and legal certainty. However, in Indonesian social practice, its implementation often deviates from normative provisions due to legal system plurality and socio-cultural factors. This research aims to analyze the gap between Islamic inheritance law norms (*das sollen*) and inheritance distribution practices in society (*das sein*), as well as identify the influencing factors. The research employs an empirical juridical approach with data collection techniques through interviews with community members and religious leaders in Bukik Sikumpa, Lareh Sago Halaban District, Lima Puluh Kota Regency, West Sumatra. The results of the study show that the practice of inheritance distribution tends to be based on family deliberation, local customs, and consideration of the economic condition of the heirs, so that they do not fully follow the provisions of *faraidh*. The construction of the thought of community leaders also shows that Islamic inheritance law serves more as a normative reference than a binding primary guideline. From a legal sociology perspective, this phenomenon is influenced by the dominance of legal culture, the applicability of customary law as living law, and the low internalization of Islamic inheritance law in society. Social harmonization and conflict avoidance further reinforce the tendency to deviate from legal norms. Therefore, the effectiveness of Islamic inheritance law depends on the alignment between legal norms and living social values. This research emphasizes the need for an integrative approach between Islamic law and social reality to achieve inheritance law harmonization in Indonesia.

INTRODUCTION

Islamic inheritance law is an integral part of the Islamic legal system that has a strong normative foundation, both in the Quran, hadith, and ijthihad of scholars (Dwi, 2025). The provisions for the distribution of inheritance in Islam have been arranged in detail, including the determination of the heirs and the proportions of each share, which aims to realize justice and legal certainty in the distribution of inheritances (Siregar, 2024). However, in social practice in Indonesian society, the implementation of Islamic inheritance law does not always run in accordance with these normative provisions (Masut; Saron, 2022; Ngazizah & Lutfia, 2025; Wahidah et al., 2024; Wardi et al., 2024). Indonesia as a country with a plurality of legal systems, namely customary law, Islamic law, and Western civil law, shows that there are complex dynamics in the practice of inheritance distribution (Rahmatillah, 2024). In many cases, the community prioritizes customary values, family deliberation, or economic

considerations rather than following the textual provisions of Islamic inheritance law. This causes a gap between the laws that should apply (*das sollen*) and the practices that occur in society (*das sein*) (Rahman & Saputra, 2025).

The phenomenon of this gap is influenced by various factors, including the low public understanding of Islamic inheritance law, the strong influence of local culture, and the existence of different perceptions of justice in society (Puteh & Tanjung, 2023). In practice, the distribution of inheritance is often carried out on a familial or voluntary basis, and it is not uncommon to ignore the provisions of proportions that have been established in Islamic law (Putro & Wibowo, 2024). In addition, changes in the social and economic structure of modern society also affect the way of looking at inheritance, including demands for gender equality and the economic contribution of family members (Pitaloka, 2025).

Previous studies have shown that inheritance distribution practices in Indonesia are often the result of a compromise between Islamic law and customary law. In certain societies, such as indigenous peoples who adhere to a patrilineal system, inheritance distribution tends to favor men, which in some ways is contrary to the principle of justice in Islamic inheritance law (Harahap et al., 2025). On the other hand, there is also a tendency for people to reinterpret Islamic inheritance law to be more in line with the modern social context, without eliminating the basic values of sharia (Irwan, 2025). This condition shows that Islamic inheritance law in Indonesia cannot be separated from the social reality of its people. Therefore, an empirical juridical approach becomes relevant to be used in examining the gap between legal norms and practices that occur (Ali, 2022). This approach allows researchers to understand how the law works in society, as well as the social factors that influence its implementation.

This research was specifically conducted in the Bukik Sikumpa area, Lareh Sago Halaban District, Lima Puluh Kota Regency, West Sumatra. This area has strong socio-cultural characteristics, especially in the Minangkabau kinship and customary system which tends to be matrilineal. This condition is interesting to study because it has the potential to cause interactions, even conflicts, between Islamic inheritance law and customary practices that apply in local communities. Thus, this research is important to analyze in depth the forms of gap between Islamic inheritance law and community practices, as well as the factors behind them. In addition, this research is also expected to contribute to the development of the study of legal sociology, especially related to the harmonization between Islamic law and social reality in Indonesia.

Based on the background above, this study aims to analyze the gap between the norms of Islamic inheritance law (*das sollen*) and the practice of inheritance distribution in the Bukik Sikumpa community (*das sein*), to identify the social, cultural, and economic factors that influence this gap, and to explain how the construction of community leaders' thinking shapes the implementation of inheritance law in social practice. The benefits of this research are twofold. Theoretically, this study contributes to the development of legal sociology scholarship by integrating normative legal analysis with empirical social reality, particularly in the context of inheritance law harmonization in Indonesia's pluralistic legal system. Practically, the findings provide strategic guidance for religious leaders, customary leaders, and policymakers in designing more effective approaches to bridge the gap between Islamic legal norms and living social values, as well as to enhance public understanding of *faraidh* law without disrupting social harmony. In addition, this research is also expected to contribute to the development of

the study of legal sociology, especially related to the harmonization between Islamic law and social reality in Indonesia.

METHODS

This research used an empirical juridical approach, examining law not only as written norms (law in books) but also as legal practices in society (law in action). This approach was chosen to understand how Islamic inheritance law was implemented in practice and the social factors influencing its application. The research employed a qualitative method with a descriptive-analytical nature, aiming to describe phenomena related to inheritance practices and analyze them from the perspectives of Islamic law and legal sociology.

The research was conducted in Bukik Sikumpa, Lareh Sago Halaban District, Lima Puluh Kota Regency, West Sumatra. The location was selected purposively because it reflects the characteristics of the Minangkabau community with its matrilineal kinship system. The subjects of the study included community members involved in inheritance practices, such as traditional leaders, religious leaders, and family members. Informants were selected through purposive sampling based on their knowledge and experience relevant to the research.

Data were collected through in-depth interviews and field observations. The data were analyzed qualitatively through data reduction, data presentation, and conclusion drawing. The analysis compared the normative provisions of Islamic inheritance law with practices in society to identify disparities and the factors causing them.

RESULTS AND DISCUSSION

The Practice of Inheritance Distribution in the Bukik Sikumpa Community

The practice of inheritance distribution in the Bukik Sikumpa community shows a diversity of patterns that are not entirely based on the provisions of Islamic inheritance law, but are more influenced by family agreements, local customs, and socio-economic conditions of the heirs. Based on the results of interviews with several respondents, it was found that the process of distributing inheritances is not always carried out directly after the heirs died, even in some cases it tends to be postponed or has not been carried out for a long time. In the case submitted by the respondent with the initials S, the distribution of inheritance on his siblings' inheritance was not carried out formally in accordance with the provisions of Islamic law. Assets in the form of houses, shophouses, land, and cars are practically managed and controlled by the heir's children, especially the eldest children, without a clear distribution to all heirs. This is as stated directly by the respondent with the initials S stating that "all assets are managed by children, especially the eldest children, without official distribution according to sharia" (S., personal communication, April 6, 2026). Although some heirs understand the provisions of Islamic inheritance law, it is not used as the main basis in the practice of distribution. This condition has caused internal debates, especially related to home and land ownership, and has given rise to the assessment that the distribution is unfair because it does not involve all parties proportionately. A relatively similar thing was also found in interviews with respondents with the initials YS. He explained that, "until now the distribution of his father's inheritance has not been carried out and is still in the family deliberation stage, and talking about the heritage in an atmosphere of grief is considered inappropriate" (YS, personal communication, April 6, 2026). In the family deliberation process, there are two alternatives that are considered, namely

division based on Islamic law or equal distribution. However, the tendency that arises is to prioritize family deliberation by considering certain conditions, such as the condition of elderly mothers. In addition, strong customary factors and disputes related to land ownership also affect the slow process of distribution. Despite differences of opinion, open conflicts have not occurred because of efforts to maintain family harmony. Meanwhile, in the case revealed by the respondent with the initials SR, the distribution of inheritance in the form of land has also not been carried out until now. This is due to geographical factors, namely the location of assets in different provinces, as well as consideration of the needs of each heir. According to SR, "the division is planned based on the agreement of the family and the needs of each (SR, personal communication, April 6, 2026). Although it does not explicitly refer to Islamic inheritance law, families tend to prioritize mutual agreement in determining division. Interestingly, there was no conflict in this case, because all family members felt enough and understood each other's conditions.

In contrast to several previous cases, the respondent with the initials L explained that the distribution of inheritance in his family had been carried out in a relatively orderly manner. According to L, "the distribution process is carried out after all the heir's obligations are completed, and is based on the trust or will of the parents that has been submitted during life." (L., personal communication, April 6, 2026). Although the family was aware of the provisions of Islamic inheritance law, they chose to execute the will by mutual agreement. This process takes place without conflict, and is even considered very fair by the heirs because it is based on collective consent and respect for the will of the parents.

However, a different practice was again seen in the case of the respondent with the initials EI. According to EI, "the distribution of inheritance is carried out through family deliberation involving mamak (uncle) and traditional leaders" (EI, personal communication, April 6, 2026). This shows the strong influence of the Minangkabau kinship system. The division is not completely carried out equally, but rather takes into account the position in the family and the length of time a person has lived in the village. Furthermore, in an interview with the respondent with the initials D, it was found that the distribution of inheritance was not carried out directly, but through a joint management system. Property in the form of rice fields is managed alternately by the women, taking into account the mandate of their parents and the economic condition of each heir. In this practice, the provision of a two-to-one division between men and women is not applied rigidly, because the male side is considered sufficient. Based on respondent D's statement, "the male side is considered to be sufficient, so that the management of rice fields is more given to women" (D., personal communication, April 6, 2026). Although not entirely in accordance with Islamic law, this practice is considered fair by the family because it is adjusted to the real conditions of the heirs and is carried out on the basis of mutual agreement.

Construction of Public Leaders' Thoughts on Inheritance Law

Based on the results of interviews with community leaders in Lareh Sago Halaban District, consisting of the Office of Religious Affairs (KUA) and religious leaders (*da'i/ustadz*), the construction of thinking on Islamic inheritance law is still in a non-dominant position in the social practice of the community. The views of these figures show that there is a tension between textual Islamic legal norms and social realities influenced by local customs and customs. According to Dodi Irawadi as a representative of KUA Lareh Sago Halaban, the

practice of distributing inheritance in the Bukik Sikumpa community is not fully in accordance with the provisions of Islamic law. He stated that "practices in society are often mixed between customs and religions, even in some cases not in accordance with the provisions of sharia" (Irawadi, personal communication, April 6, 2026). In his view, the developed customary system tends to place women in a more dominant position, in contrast to the *faraidh* principle in Islam which stipulates the ratio of men and women with the provision that men are two parts greater than women only one part. This shows that the construction of people's thinking about heritage is not solely based on religious norms, but also on entrenched social values.

Furthermore, the KUA explained that the practice of distributing inheritance is generally not carried out purely based on the science of *faraidh*. Divisions often begin with religious considerations in general, but are then readjusted through family agreements or local customs. This indicates that Islamic law in this context serves more as a normative reference, rather than as a binding primary guideline. From the perspective of legal sociology, this condition reflects the weak effectiveness of formal law due to the dominance of the legal culture of society.

The main factor that affects this condition, according to Dodi Irawadi, is the low public understanding of Islamic inheritance law and the strong influence of customs. In addition, there is also an assumption that the distribution of inheritance can be adjusted to the condition of each child. For example, boys who are considered economically established tend to not get a significant share, while girls who live in villages and are considered more needy actually get a larger share. This pattern shows that the concept of justice embraced by society is contextual and needs-based, not on normative provisions that have been established in Islamic law.

Similar views were also conveyed by local religious leaders, who emphasized that the practice of inheritance distribution in Bukik Sikumpa is still dominated by the Minangkabau customary system which is matrilineal. In practice, large inheritances are likely to be inherited to the family through the maternal line, while small inheritances are likely to be divided through customary deliberation without using *faraidh* calculations. In addition, the division is often led by the *mamak* or *penghulu* as a representation of customary authority, not by religious leaders who understand the law of *faraidh*. This shows that social structures and kinship have a significant influence in shaping inheritance practices in society. Furthermore, religious leaders stated that the dominant factors that caused the non-implementation of Islamic inheritance law include the strong influence of customs, the lack of public understanding of the science of *faraidh*, and the existence of social pressure to maintain family harmony. In many cases, people tend to avoid the strict application of Islamic law for fear of triggering conflicts between heirs. Therefore, family deliberation is the main mechanism that is considered to be better able to maintain social stability, although it has the potential to ignore the normative rights of heirs.

Regarding the role of religious leaders, both the KUA and the *ustadz* agree that this role is not optimal in the practice of inheritance distribution. Dodi Irawadi revealed that during his three years of service, almost no people actively consulted about the distribution of inheritance to religious leaders, in this case the official Islamic-based government institution, namely KUA. This shows the low awareness of the public to solve inheritance problems through formal Islamic law. On the other hand, religious leaders are usually only involved when conflicts or disputes occur, not as parties who play a preventive role in providing understanding from the beginning. In practice, religious leaders also face various obstacles, including the difficulty of explaining the law of *faraidh* which is considered complicated by the community, the lack of

synergy between scholars and traditional leaders, and the uneven mastery of *faraidh* knowledge among religious leaders themselves. In addition, the absence of a special institution that handles Islamic heritage at the local level is also an inhibiting factor in optimizing the role of religious leaders.

Nevertheless, various efforts have been made to increase public understanding, such as through studies, socialization, and counseling by KUA. Religious leaders also emphasized the importance of synergy between scholars and traditional leaders so that there is harmonization between Islamic law and applicable customs. A persuasive approach using simple language is considered more effective in introducing the concept of *faraidh* to the public.

Legal Sociology Analysis of the Gap between Inheritance Norms and Practices

In the context of the Bukik Sikumpa community, there is a real gap between the Islamic inheritance law as *das sollen* and the practice of distributing inheritance as *das sein*. From the perspective of legal sociology, this phenomenon shows that the applicability of law is not only determined by written norms, but is also greatly influenced by social structure, legal culture, and living values (Arfa et al., 2024). Normatively, Islamic inheritance law has regulated in detail who is entitled to be an heir and the amount of share received by each. The principles of justice, balance, and legal certainty are the main basis in the Islamic inheritance system (Supangat, 2024). However, in the practice found in the field, the norm is not always the main reference in the distribution of inheritance. This is in line with the findings of the study which states that there is a disharmony between the provisions of Islamic inheritance law and the social practices of the community due to the influence of social and cultural factors.

According to Soerjono Soekanto's thoughts, the effectiveness of the law is influenced by five main factors, namely the law itself, law enforcement officials, facilities or facilities, society, and legal culture. In the context of inheritance in Bukik Sikumpa, the cultural factors of law and society seem to be more dominant than the legal norms themselves. This can be seen from the tendency of the community to prioritize family and customary agreements rather than normative *faraidh* provisions (Soekanto, 2020). Furthermore, the concept of living law put forward by Eugen Ehrlich becomes relevant in explaining this phenomenon. Ehrlich argues that the law that is actually alive and applicable in society is the law that is practiced in everyday life, not merely the law written in the regulations (Ehrlich, 2009). In the practice of inheritance distribution in Bukik Sikumpa, it can be seen that customary law and family agreements are actually living laws that are more obeyed by the community than formal Islamic inheritance laws.

The results of the interview showed that in the case of a family with the initials S, there was control of inheritance by children without formal division. This phenomenon can be analyzed as a form of dominance of power relations in the family structure, where those with stronger social positions (such as the eldest child) tend to control the distribution of wealth. From the perspective of legal sociology, this shows that law does not stand neutral, but is influenced by the power structure that exists in society. This condition also shows that legal norms can be reduced by more pragmatic social practices. Furthermore, in the case of YS and SR's families, the delay in the distribution of inheritance indicates the existence of social norms that place the value of politeness and empathy in an atmosphere of grief as a priority. This reflects that laws are often confronted with more dominant social values, so their implementation is delayed or even neglected. In Satjipto Rahardjo's perspective, the law should

be responsive to the needs of the community, so that in practice it can experience flexibility or adjustment in accordance with evolving social conditions (Rahardjo, 2014).

Meanwhile, the practice of distributing inheritance in L and D families shows a form of compromise between legal norms and social reality. The division based on the trust of the parents and the economic condition of the heirs reflects a reinterpretation of Islamic inheritance law. In this case, the concept of justice is no longer understood textually (based on mathematical proportions), but substantively, that is, based on the needs and conditions of each heir. This phenomenon shows a shift from formal justice to social justice. On the other hand, the practice that occurred in the EI family shows the dominance of customary law in the inheritance system. The involvement of *mamak* and traditional leaders shows that the matrilineal Minangkabau kinship structure has a strong influence in determining the distribution of inheritance. In this context, customary law functions as a system of norms that is more legitimate in the eyes of the public than formal Islamic law. This strengthens the argument that the enactment of the law is largely determined by the level of social acceptance (Alfariel et al., 2025).

Overall, the findings of this study show that the gap between inheritance norms and practices is influenced by several main factors, namely: (1) the dominance of customary law culture; (2) low internalization of Islamic inheritance law; (3) the strong role of family deliberation; (4) economic considerations and needs; and (5) orientation to social harmonization. These factors indicate that law works in a complex and dynamic social system, so it cannot be rigidly imposed without considering the social context of society.

From the perspective of legal sociology, this condition shows that the law of Islamic inheritance in the Bukik Sikumpar community has not been fully socially effective. The effectiveness of the law is highly dependent on the conformity between legal norms and the values embraced by society. When legal norms are considered not in line with a sense of justice or social conditions, people tend to look for other alternatives that are considered more appropriate, such as deliberation or customs. This confirms that the applicability of the law is not only juridical, but also sociological.

CONCLUSION

The practice of inheritance distribution in the Bukik Sikumpa community demonstrates a gap between the normative provisions of Islamic inheritance law and its implementation in society. In practice, inheritance distribution is more strongly influenced by family agreements, Minangkabau customary values, and socio-economic considerations than by the principles of *faraidh*. The dominance of the matrilineal kinship system, limited public understanding of Islamic inheritance law, and the minimal involvement of religious leaders contribute to this condition. From the perspective of legal sociology, the effectiveness of Islamic inheritance law is closely tied to public acceptance and local legal culture, where customary practices often function as the prevailing living law. Therefore, greater efforts are needed to harmonize Islamic law with social practices through legal education, strengthening the role of religious leaders, and fostering synergy between customary and Islamic law to achieve inheritance distribution that is both legally and socially acceptable. Future research is recommended to examine inheritance practices in other customary communities to compare the interaction between Islamic law and local legal cultures in different social contexts.

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