

ACCULTURATION OF LOCAL CUSTOM AND ISLAMIC LAW IN THE PRACTICE OF INHERITANCE DISTRIBUTION OF THE MANDAILING TRIBE OF NORTH SUMATRA

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Abstract:

Acculturation of *al-adat* and Islamic law is a means to determine the extent to which Islamic law and local custom come into contact with the life practices of the Mandailing Tribe community of Islam without any contradictions. This research is empirical research with descriptive analysis. Research data were collected using observation and interview methods, then analyzed using content analysis methods. The results of this study indicate a synergism of the Mandailing tribal community, which adheres to a patrilineal kinship system to carry out Islamic law in parallel and local customs. The practice of sharing inheritance in the Mandailing tribal community is carried out traditionally by containing Islamic values. This practice is a realization of the philosophy of the Mandailing tribal community as "*Omar do adat dot ugama*" and "The Customary Country of Obedience to Worship" as a forum to unite the Islamic legal and the customary law system. The acculturation of Islamic law and customary law in sharing inheritance in the Mandailing community shows that Islamic law can be dialogued with the customs that live in the community while still realizing the values of justice and benefit. Inheritance practice that dialogues Islamic law and the customary law of the Mandailing tribe in the inheritance distribution process, making daughters as heirs, presenting religious and traditional leaders during the inheritance distribution process, while maintaining undivided assets in the form of heirloom houses and objects for the son (youngest).

Keywords: Acculturation, Customs, Islamic Law, Inheritance Sharing

Abstrak:

Akulturası adat dan hukum Islam merupakan sarana untuk mengetahui sejauh mana adat dan hukum Islam dapat bersentuhan dengan peraktek kehidupan masyarakat Suku Mandailing. Dalam penelitian ini ditemukan bahwa ada proses akulturası pada peraktek pembagian warisan masyarakat suku mandailing yang menjadikan harmoni dan interaksi antara adat dan hukum Islam tanpa ada pertentangan. Penelitian ini merupakan penelitian empiris yang bersifat deskriptif analisis. Data penelitian dikumpulkan menggunakan metode observasi dan wawancara, kemudian dianalisis menggunakan metode konten analisis. Hasil penelitian menunjukkan bahwa terdapat sinergisitas masyarakat suku Mandailing yang menganut sistem kekerabatan patrilineal untuk menjalankan hukum Islam secara paralel juga menjalankan adat. Peraktek pembagian warisan pada masyarakat suku Mandailing dilaksanakan secara adat dengan memuat nilai Islam di dalamnya. Peraktek ini merupakan realisasi dari falsafah masyarakat suku Mandailing sebagai "Omar do adat dot ugama" dan "Negeri Beradat taat Beribadat" sebagai wadah untuk mensatukan sistem hukum Islam dan sistem hukum adat. Akulturası hukum Islam dan hukum adat pada peraktek pembagian warisan pada masyarakat suku Mandailing menunjukkan bahwa hukum Islam dapat didialogkan dengan adat yang hidup di tengah masyarakat, dengan tetap merealisasikan nilai-nilai keadilan dan kemaslahatan. Peraktek kewarisan yang mendialogkan hukum Islam dan hukum adat suku Mandailing pada proses pembagian harta warisan yaitu menjadikan anak perempuan sebagai ahli waris, menghadirkan para tokoh-tokoh agama dan tokoh adat pada saat proses pembagian waris, tetap



mempertahankan harta yang tidak dibagi berupa rumah pusaka dan benda-benda pusaka bagi anak laki-laki siapudan (bungsu).

Kata Kunci: Akulturasi, Adat, Hukum Islam, Pembagian Warisan

Introduction

Islam as a religion has history which seen from the perspective of history and social dynamics. In the history of development, Islam can become a religion that can give birth to legal concepts, which then become moral provisions that continue to adapt to the reality of the development of a society that is always dynamic and a culture that is constantly evolving.¹

From the history of law, it is known that the formulation of Islamic law in the early days was very contextual and close to the reality of the society where it was formulated. Islamic law is unlike an ivory tower far from society's roots and pulse. It is an accumulation of religious values that radiate through revelation and human values that are crystallized and take form in social reality.²

The reality of society in the form of habits that eventually become customs significantly influences the formulation of Islamic law. Accepting Islamic law to customs that prevailed in pre-Islamic times was to adopt some ignorant customary rules and change some of them. For example, the inheritance law of the Arab society before Islam adhered to the universal inheritance principle, while Islamic inheritance was attached to the individual guide. In Islamic legacy, the estate must be distributed to individuals referred to in Surah an-Nisa' verse 7, 11, 12, and 176. Any remaining property will be distributed to the closest male relatives, referred to *ashabab* (recipients of the remaining part).³

According to Amir Syarifuddin, the stipulation of *ashabab* comes from the customs of the ignorant Arab society before Islam came, where only men descended from the closest male line are entitled to inherit. Therefore, women only got inheritance after the arrival of Islam, and the Koran stipulates *furudhul muqaddaroh* (certain parts) for female heirs. Prophet Muhammad SAW took the policy to continue recognizing some customary inheritance, but inheritance according to the prescribed *furud* must take precedence over customary law. This provision is based on the hadith of the Prophet Muhammad SAW "Give *furud* to those who are entitled. If some are still left, give it to the closest male relative through the male line."⁴

In the repertoire of Islam, the acculturation between Islamic teachings and local culture cannot be avoided until the *ushul fiqh* scholars develop rules related to it, namely "*al-Adab al-*

¹Syahrizal, *Customary Law and Islamic Law in Indonesia*. (Aceh: Nadiya Foundation, 2004).1

²Syahrizal.12

³Abdul Ghafur Anshari, *Islamic Inheritance Law in Indonesia* (Yogyakarta: Gajah Mada Press, 2012).15

⁴Amir Syarifuddin, *Implementation of Islamic Inheritance Law in the Minangkabau Customary Environment*. (Jakarta: Gunung Agung, 1984).137

mubakkamah" (customs can be made into law), meaning local customs and cultures that have taken place continuously and does not conflict with *sharia* can be used as a source of law. Even in the science of *ushul fiqh*, one method of legal *istinbath* is *'urf*, which means custom and comes from the word *al-ma'ruf* (already known by any people).⁵

All the Imams of the *madzhab*, starting from Imam Malik, compiled the laws in his book based on the practices of the people of Medina. Abu Hanifah and his supporters also use customs to formulate rules. Even Imam Shafi'i changed the law because there was a change in customs from one area to another, it was from Iraq to Egypt, which we know as *qaul qadim and qaul Jadid*. Likewise, in the book of Imam Hanafi, many laws are based on customs.⁶

In Indonesia, Islam can develop rapidly, even including the country with the most significant Muslim majority in the world. This is the result of the achievements of previous scholars, such as *Wali Songo* on the Java island, and scholars in each region to acculturate Islamic teachings with the customs that live amid society. So that the community can accept the Islamic teachings without stopping the customs that have been going on for generations; this is where the wisdom of the scholars is to maintain Islamic teachings and cultural customs so that they continue to go hand in hand without any conflict.⁷

Mandailing Natal is one of the areas in North Sumatra inhabited by most of the Mandailing Tribe, commonly known as the Lubis and Nasution Clans.⁸ Of course, from a socio-cultural perspective somewhat similar to the culture of the Batak tribe, for example, the use of clans, language similarities, patrilineal inheritance systems, and so on, some cultural figures argue that the Mandailing tribe is part of the Batak tribe.⁹ However, the Mandailing tribe stated that they were not part of the Batak tribe. In the inheritance system, the Mandailing tribe adheres to a patrilineal inheritance system that is accurate to Islamic teachings.

The teachings of Islam are certainly very thick in the life of the Mandailing people because most of them adhere to Islam, and many are *santri*. This can be seen from the life philosophy of the Mandailing people "*Ombar do adat dot ugama*" and "Indigenous lands are obedient to worship."¹⁰ Therefore, they try to harmonize religious teachings with prevailing customs in their daily lives. Among the acculturation of custom and Islamic law that occurs in the Mandailing tribal community

⁵Al Yasa' Abubakar, *Istislahiah Method; Utilization of Science in Usul Fiqh*. (Jakarta: Prenadamedia Group, 2016).151

⁶Abd Rauf, "The Position of Customary Law in the Legal System," *Tabkim* 13, no. 1 (2013): 20–34, <http://www.jurnal.unsyiah.ac.id/kanun/article/view/6285.27-28>

⁷Muhammad Arifin, "Islam and Acculturation of Local Culture in Aceh (Study of the Ritual of Rah Ulei in Graves in the Acehese Pidie Community)," *Jurnal Ilmiah Islam Futura* 15, no. 2 (2016): 251–84.260

⁸Pangaduan Lubis, *The Origin of Clans in Mandailing* (Medan: Pustaka Widiasarana, 2010).11

⁹Lubis.15

¹⁰Abdul Rahim, "The Practice of Distribution of Inheritance to Fathers and Mothers in the Mandailing Community in Mandailing Natal District," *Taqnin : Jurnal Syariah Dan Hukum* I, no. 2 (2019): 25–44.

is the *mangupa-upa* event at the wedding procession, *markobar*, *marpokat*, and so on. The reality is that the two go hand in hand without having to get involved in the conflict. The pattern of relations between religion and custom, as it is today, is the result of a long-running process of Islamization in the Mandailing community, especially in the pattern of harmonizing the teachings of Islam and the local culture of the Mandailing community, including in inheritance practices.¹¹

This research is fundamental to show that Islamic law is dynamic and can adapt to changing places and times (*shalih li kulli Zaman wa al-makan*). This is included in the local culture of the Mandailing tribe because the substance to be applied is justice and benefit without any conflict with the applicable sharia principles. So, the research in this journal tries to explain the acculturation of local customs and Islamic law in inheritance distribution in the Mandailing tribal community in North Sumatra.

In addition, this article also discusses the implementation of inheritance practices in a society that adheres to a patrilineal family system and provides rights and inheritance shares for female heirs by acculturating customary law and Islamic law. This study also shows that the term "*adat basandi syara', syara' basandi kitabullah*," the philosophy of life for the Minang Kabau people, is also adopted by the Mandailing tribe with the term "*ombar do adat dot ugamo*."

Research related to the inheritance of the Mandailing community has been widely studied in scientific works such as journal articles. Still, the significant difference in this paper that the researcher wants to convey is that the acculturation of adat and Islamic inheritance law has been implemented in the midst of tribal communities. Mandailing in Mandailing Natal Regency starts from the determination of heirs, the share, and the inheritance process. The acculturation between these two laws goes hand in hand without any conflict between one another.

Term Acculturation

J.W Pawel first introduced the term acculturation in 1980. Pawel defines acculturation as psychological changes caused by cultural differences.¹² So acculturation can be interpreted as a form of assimilation in culture; the influence on one culture by another culture occurs when there is a long relationship between the two with other meanings there is an influence between the two cultures. Acculturation can also be defined as a phenomenon produced by two groups of different cultures through direct contact followed by the original cultural pattern of one or both groups.

¹¹Sakban Lubis, "Distribution of Inheritance in the Muslim Community of Mandailing Natal" (UIN Sumatera Utara, 2020). 228

¹²Sidi Gazalba, *Introduction to Culture* (Jakarta: Pustaka Antara, 1968).119

From some of the definitions above, it can be concluded that acculturation is a civilizing process by mixing two or more cultures that meet and influence each other.¹³

Acculturation occurs due to continuous contact; this contact can occur in various ways, for example, through colonization, war, migration, missions to broadcast religion or *da'wah*, trade, tourism, and mass media, both print and electronic and social media. Acculturation can also occur due to the influence of a solid and prestigious culture on weak and underdeveloped cultures and between relatively equal cultures.¹⁴

Furthermore, *العادة* comes from the word *ال* or *معاودة*, which repeatedly means / *التكرار*. In the books of *ushul fiqh*, the terms *al-adat* and *'urf* are also used. The term *al-adat* is more general than the term *'urf* because *al-adat* can be explicitly interpreted as a person's habits, for example, a person's pattern of getting up before dawn and going to the dawn prayer in the congregation; this is called *al-adat* in a unique sense. While custom in this general sense is the same as the notion of *'urf*, habits that have been in effect in the community continue and are continuous. Hence, it is a habit of all members of the community or the majority of community members.¹⁵

Based on the explanation of the definition of *lafazhd al-Adat* above, a conclusion can be drawn that this rule of *al-'Adat al-Mubakkamah*, can be interpreted that customs can be used as law are customs that analyzed in general, which are equated with the meaning of *'urf*, not customs which are interpreted literally, specifically in the form of personal habits as individuals.

From the above definition, custom can be in the form of words or actions. For a word or to be customary, it must fulfil the following elements, they are:¹⁶

- a. There is an element of repetition that is carried out continuously on an ongoing basis. A word or deed is said to be customary; there must be an element of repetition; in other words, the whole community has done the act many times so that it has already known to the community. The show is also carried out continuously, not only in the community. Do it at one time and not in another situation because it's not categorized as continuous.
- b. It is considered worthy, proper, and good in society's values, authentic according to people's beliefs, and good to do and say. According to point of view, a word or action is customary if the act is appropriate, appropriate, and good in society's values and proven that the show brings goodness and benefits.

¹³Abdurrozaq, *National Encyclopedia of Indonesia* (Jakarta: Delta Pamungkas, 2004).231

¹⁴Arifin, "Islam and Acculturation of Local Culture in Aceh (Study of Rah Ulei Rituals in Graves in the Acehese Pidie Community)". 261-262

¹⁵Abubakar, *Istislahiah Method; Utilization of Science in Usul Fiqh*.160

¹⁶Abubakar.151

c. These habits are not practiced based on rational considerations or choices or coercion because patterns are caused by rational reasons and pressure by the authorities so that people have no choice; these habits are not called customs.

Islamic law pays excellent attention to customs which are the reality of habits and traditions that exist in society. From the beginning, Islam respects the existence of different customs of the Arab community. Islam also accepts existing customs as long as they are by the principles of *syara'*. *Syari'a* law ignores social *muamalah* problems by not providing clear boundaries, so the Islamic law field becomes wider through the *ijtihad* process. In the process of *ijtihad*, *al-adat* has an important role, together with the texts, in determining the boundaries and details of the problem by *syara'* law.¹⁷

According to Wahbah Zuhailiy, Islamic inheritance is a set of provisions governing the transfer of property and rights of the deceased to the heirs, with requirements derived from divine revelation in the Koran and hadith.¹⁸ Soepomo argued that customary inheritance law is a law that includes regulations governing the process of passing on and transferring tangible goods and intangible goods from one generation to their descendants.¹⁹ Inheritance is a set of rules regulating the transfer of the heir's inheritance to the heirs using different methods. Islamic inheritance law is based on the Koran and hadith, while ancestral inheritance is based on adopted habits in the family system.

Indeed, there are many writings relevant to this research, including research conducted by (Sakban) under the research title "Division of Inheritance in the Mandailing Season Society (Sociological Study of Islamic Law in Mandailing Natal)" the results of the study show that the implementation of inheritance law The Muslim community in Mandailing Natal is influenced by Islamic traditions that have long entered Mandaling Natal.²⁰ This research has contact with the study in this journal but has a difference. This dissertation describes the sociological approach to inheritance distribution practices in Mandailing Natal. In contrast, this paper describes how Islamic customs and laws can be acculturated in the distribution of inheritance in the Mandailing tribal community.

The research (Nia Kurniati Hasibuan/2020) entitled "Implementation of inheritance law in the Mandailing Overseas indigenous community (Study on Pardomuan Muslim North Sumatra, Palangkaraya City)" results of research from this journal concluded that the Muslim community

¹⁷Yusuf al-Qardawi, *The breadth and flexibility of Islamic law* (Semarang: Dinautama, 1993).19

¹⁸Wahbah Zuhaili, *Al-Fiqhul Islam Wa Adillatuhu Jilid X* (Damsyiq: Dar al-Fikr, 1989).7697

¹⁹Soepomo, *Chapters on Customary Law* (Jakarta: Raja Wali, 1980).72-73

²⁰Lubis, "Distribution of Inheritance in the Muslim Community of Mandailing Natal."1-231

who came from Mandailing were members of the PMSU organization in the city of Palangkaraya. In the practice of inheritance distribution using Islamic inheritance law, it is not using patrilineal customary inheritance law.²¹

The research carried out by Nindi Aliska Nasution, in 2019 under the title "Division of inheritance to daughters in Mandailing Natal" results from this journal article. The portion of inheritance for daughters is based on customary law where women are not entitled to receive the estate; the application of customs like this is because there is still a need for more public knowledge about Islamic inheritance law.²²

The research (Abdur Rahim) with the title "The practice of inheritance distribution to fathers and mothers in the Mandailing community in the district. Mandailing Natal" showed inheritance practices in the district. Mandailing Natal, when a child who already has children and a wife dies, then his parents (father and mother) do not receive an inheritance from their child; the basis for consideration is for the survival of *al-marhum's* wife and grand children. This practice is based on benefit.²³

The research conducted by Erwan, in 2018 under the research title "Division of Inheritance (Analysis Study of the Mandailing Marga in Pasaman Regency Based on the concept of Legal Sociology) " the results of the study concluded that the distribution of property in the Mandailing community living in Pasaman, West Sumatra, divided only the assets that obtained after the marriage. The legal rules used by Islamic law and those who get the inheritance are only the nuclear family.²⁴

The research conducted by Ismail, in 2017 with the research titled "Acculturation of Islamic Inheritance Law With Minang Kabau Customary Inheritance Law" the conclusion of the study explains that the Minangkabau Society has synergized the relationship between customary law and Islamic law with the philosophy of customs, *syarak, basandi, Kitabullah, syarak mengato* custom uses as a basis the unification of the two different legal systems.²⁵

Furthermore, Arskas Salim's research (2021) entitled "Adat and Islamic Law in Contemporary Aceh, Indonesia: Unequal Coexistence and Asymmetric Contestation" looks at customary law and Islamic law,

²¹Nia Kurniati Hasibuan, "Implementation of Inheritance Law in Overseas Mandailing Indigenous Peoples (Study on North Sumatran Muslim Pardomuan Palangka Raya City)," *TAHKIM, Jurnal Peradaban Dan Hukum Islam* 3, no. 2 (2020): 115–30.

²²Nindi Aliska Nasution, "Distribution of Inheritance to Daughters at Mandailing Natal," *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi* 3, no. 1 (2020): 69–81, <https://doi.org/10.24090/volkgeist.v3i1.3278.69-81>

²³Rahim, "The Practice of Inheritance Distribution of Fathers and Mothers in the Mandailing Community in Mandailing Natal District".25-44

²⁴Erwan, "Distribution of Inheritance (Analysis Study of Mandailing Clans in Pasaman Regency Based on Basic Concepts of Sociology of Law)," *Al-Himayah* 2, no. 2 (2018): 217–30.

²⁵Ismail, "Acculturation of Islamic Inheritance Law with Minangkabau Traditional Inheritance Law," *Alburriyah: Jurnal Hukum Islam* 02, no. 01 (2017): 57–68.

which are respectively applied in contemporary Aceh. This article offers a different approach by considering the unequal relationship between customary law and Islamic law and thus argues that the two coexist unequally and asymmetrically contradict each other. (Salim, 2021)

This research differs from the studies stated above, so this research is expected to fill the void in the study of the acculturation of custom and Islamic law, especially in inheritance. This study examines the acculturation of custom and Islamic law in the estate distribution in the Mandailing tribal community in North Sumatra.

Research methods

This research is field research in which researchers go directly to the research field to collect data, with the type of empirical research that is descriptive analysis. Sources of data used consist of a) Primary Data, namely data obtained directly from the research location with data collection methods through observation and interviews, either structured or unstructured.²⁶ Informants used as interview objects to obtain information related to the research consisted of *Hatobangan* or traditional leaders, village *malim* or religious leaders, and the community who carried out the distribution of inheritance. b) Secondary data obtained from library materials that are relevant or related to the research title. c) Tertiary data sources in the form of data that explain the primary and secondary data. This data is obtained from the explanation in the dictionary or encyclopedia.²⁷

To collect the necessary data, the following techniques are carried out: a) Interviews, by direct communication between researchers and competent parties on matters related to research.²⁸ This is done to obtain an overview of the acculturation of custom and Islamic law in implementing the inheritance distribution of the Mandailing tribe. This interview uses an unplanned (non-standardized) interview. This does not mean that the researcher does not prepare the questions to be asked but is not bound by strict rules. b) Observation is a way of systematically observing and recording the symptoms or phenomena being investigated.²⁹ It aims to find out and check the correctness of the informants' answers regarding the implementation of the distribution of inheritance for the Mandailing tribe. c) Documentation: reading and reviewing materials related to the research title. It aims to analyze the acculturation of custom and Islamic law in implementing the inheritance distribution of the Mandailing tribe.

After the necessary data has been collected, it is then analyzed using qualitative analysis techniques with the following steps: a) Data reduction is a simplification, and classification, of data in such a way that the data can produce meaningful information and make it easier to conclude. In

²⁶ Amiruddin and Zainal Asikin, *Introduction to Legal Research Methods* (Jakarta: Raja Grafindo Persada, 2008).30

²⁷ Amiruddin and Asikin.30

²⁸ Faizar Ananda Arfa and Watni Marpaung, *Islamic Law Research Methodology* (Jakarta: Pranadamedia Group, 2016).93

²⁹ Arfa and Marpaung.93

this data analysis, the researcher will select data relevant to the final goal of the study, namely data on the acculturation of custom and Islamic law in the implementation of the distribution of inheritance for the Mandailing tribe. b) Data Display Simplified data is arranged systematically and easily understood, thus providing the possibility of concluding. The form of presentation of qualitative data used in this research can be in the form of narrative text (in the form of field notes) and a matrix. c) Conclusion Drawing and Data Prifification Researchers see that data reduction results still refer to achieving the analysis objectives.³⁰ This stage aims to find the meaning of the data collected by looking for the acculturation of customs and Islamic law in the implementation of the distribution of inheritance for the Mandailing tribe to conclude an answer to the existing problems.

Research Results and Analysis

Mandailing is one of the areas in North Sumatra inhabited by most of the Mandailing tribe. According to the figures, the word Mandailing, derived from the phrase *manda holing*, indicates a vast kingdom area in ancient times covering the areas of old mountains, *sibubuan*, *angkola*, and *pinu Delhi* in Mandailing. In addition, some say that Mandailing comes from the word *Mandalay*, the name of a large city in Burma; in North Burma, there is a city center of civilization and culture, and the capital city of government is called Mandalay. The meaning of lost here is formulated from the fact that when the influence of the Malay nation entered this region, the condition of the capital city had moved to another area so that the Malays called the lost mandala, which in the end became the word *Mandailing*.³¹

Mandailing consists of two areas, *Mandailing Godang* and *Mandailing Julu*. Each region is the origin of most clans in Mandailing, namely the Lubis and the Nasution clan. Mandailing Godang is the origin of the Nasution clan, which has a vast area starting from the district. *Siabu*, *Malintang Hill*, *North Panyabungan*, *Panyabungan City*, *South Panyabungan*, *West Panyabungan*, and *East Timor Panyabungan* are dominated by the Nasutian clan. For now, they have blended in with other clans. Meanwhile, Mandailing Julu is the origin of the Lubis clan, whose territory consists of the cities of *Nopan*, *Pakantan*, *Muara Sipongi*, *Puncak Sorik Marapi*, and *Kec. Laru*, although this *Mandailing Julu* comes from the Lubis clan and is dominated by the Lubis clan, there are many other clans in the area.³²

³⁰Anselm Strauss and Juliet Corbin, *Fundamentals of Qualitative Research* (Yogyakarta: Pustaka Pelajar, 2003), Pustaka Pelajar.79

³¹Pandapotan Nasution, *Mandailing Cultural Customs in the Challenges of the Times*, ed. Forkala SU (Medan, 2006).5

³²Lubis, *The Origin of Clans in Mandailing*. 150

Regarding regional planning in North Sumatra, Mandailing is located in Mandailing Natal Regency. The Republic of Indonesia Law no. 12 of 1998 stipulates that Mandailing Natal is a Level II District. The northern border of Mandailing Natal is with the West Padang Sidempuan District, Siais District, Batang Angkola District, Sosopan District, Barumon District, and Sosa District. In the east and south, it is bordered by the province of West Sumatra, while the Indian Ocean borders the west. Mandailing Natal has an area of approximately 662,070 hectares or 6,620.70 square kilometers, with a population of 403,894. The majority of the Mandailing tribe inhabits Mandailing Natal.³³

The majority of the religion adopted by the Mandailing community is Islam; even in their daily life, the influence of Islamic teachings is powerful, including in setting the rules that apply to society.³⁴ According to Abbas Pulungan, there are 3 reasons Islam can develop rapidly in the Mandailing area; it can even be rooted and integrated into people's lives by following Shafi'i school; firstly, Islam brought by the Padri from West Sumatra to Mandailing does not touch the essence of Islamic teachings itself, because at that time what was necessary for the Padri was the conquest of the kingdoms that existed at that time, the two Ulama who spread Islam in the next period came from the Mandailing area. They were already studying in Mecca and other Middle Eastern regions. The Islamic understanding they convey is based on the Shafi'i school and is moderate towards the socio-cultural society of the Mandailing community. Third, the Islamic knowledge that develops in society is reasonable by following the Shafi'i school of thought.³⁵

Implementing inheritance law in an area does not escape the community's cultural, economic, social, and religious customs.³⁶ Likewise, the Mandailing tribe, which adheres to a patrilineal family system, draws a lineage from the father's side. This can be seen from the clan used by the Mandailing community drawn from the father's line so that daughters are considered unable to continue their lineage (father's family) to their children because daughters' children will take their clans from their fathers.³⁷ This fact certainly affects the inheritance distribution system of the Mandailing tribe.

In the traditional inheritance practice of the Mandailing tribe, the inheritance of the deceased parent's estate is the most prioritized for boys. The principal heirs in this customary inheritance

³³Data BPS Kab. Mandailing Natal, 2022

³⁴“Ulama's Perception of the Division of Inheritance,” n.d. 75

³⁵Abbas Pulungan, *The Development of Islam in Mandailing*, ed. P Siregar (Bandung: Cita Pustaka Media Printis, 2007).34

³⁶Soerjono Soekanto, “The Relationship between Customary Law and Islamic Law” *Jurnal Hukum & Pembangunan* 17, no. 2 (2017): 152, <https://doi.org/10.21143/jhp.vol17.no2.1300.152>

³⁷Nasution, “Distribution of Inheritance to Daughters at Mandailing Natal.”80

division are the eldest son, the youngest son, and the son between the most senior and the most youthful. So it is the son who is prioritized to receive the inheritance of his parents.³⁸

There are several reasons why boys are prioritized over girls, namely: a) boys can pass on the lineage (*marga*) while girls cannot continue the lineage, b) In the family, the child will follow his father's clan, while the mother's clan is no longer passed on to the child, c) In custom, only boys can replace the father's position, while girls will switch to her husband's family.³⁹

Meanwhile, girls in this customary inheritance get a share of the property as a gift or affectionate gift (*holong ni roba*) from a brother or parent, either in the form of movable objects such as gold, money, household appliances, or immovable objects such as rice fields. When this girl is about to get married, this gift as proof of love for a girl is termed "*ulos no sora bad*" (a blanket that is not worn out).⁴⁰

Inheritance in the Mandailing tribe's customs can be categorized into 2 types: assets that can be divided and support that are not separated (assets that all heirs share). The assets that are divided are assets in the form of fields, gardens, money, gold, and so on. At the same time, the assets that are not divided are the heirlooms and the heirlooms in the house.⁴¹

In determining the share of each heir in the distribution of traditional inheritance, this Mandailing does not recognize certain parts as in Islamic inheritance law. The community does not use strict mathematical calculations in dividing the estate; the distribution of inheritance is not based on a certain amount but on the type or form of property left behind. The assets are divided into gardens, rice fields, money pools, and gold. So in the distribution, each person is given according to their needs without any strict calculation.⁴²

After Islam developed rapidly in Mandailing and became the religion of most of the population in Mandailing Natal, the customary inheritance law above underwent acculturation with Islamic rules and values. Several provisions of customary inheritance law have been changed to create justice and benefit amid the family; for example, the distribution of inheritance, which initially used the patrilineal a sich system, turned into a bilateral procedure, where the heirs consist of sons and daughters equally get property. Inheritance. Indeed, the share of men is more than the share of women, which was adopted from the Islamic inheritance rules that the share of men is twice the share of women. So women are no longer considered as other people in the distribution of inheritance, even though they cannot pass the clan from parents to their children.⁴³

³⁸Sutan Adil Lubis, Mandailing Tribe Traditional Leader, Interview, Kab. Mandailing Natal, 5 March 2022

³⁹Sutan Adil Lubis

⁴⁰Sutan Adil Lubis

⁴¹Mahmud Lubis, Traditional Mandailing Leaders, Interview, Kab. Mandailing Natal, 6 March 2022

⁴²Sutan Kumala, Mandailing Tribe Traditional Leader, Interview, Mandailing Natal, 12 March 2022

⁴³Nazaruddin Nasution, Mandailing Tribe Religious Leader, Interview, Mandailing Natal, 13 March 2022

Regarding the assets left by the heirs, the inheritance divided by the heirs is only the inheritance that can be divided into gardens, rice fields, ponds, money, and gold. Meanwhile, assets that are not shared (assets that all heirs share) in the form of an inheritance house or a house where the heirs do not share the inheritance of the parents and the heirlooms in it, but this house where all the heirs gather at the same time. Certain moments, for example, on *Eid al-Fitr*. Usually, this undivided property will be occupied and guarded by the youngest son (*siadudan*) or the most prominent son (*panggoaran*).⁴⁴

In determining the portion of each heir of the Mandailing tribal community, they still adhere to the prevailing custom that the distribution of assets does not use strict mathematical calculations but is based on the type or form of the property left behind. So in the distribution, each person is given according to their needs without any strict calculation. The process of dividing the inheritance always begins with deliberation between the heirs and involves the village *malim* and *hatobangan* to reach an agreement and justice.⁴⁵

Based on the description above, it can be understood that the change in customary law only occurs in rules contrary to justice and benefit, for example, in determining heirs, where the heirs were initially only boys. Still, with Islamic traditions, girls are also categorized as heirs entitled to inherit. Then the rule adopted from Islamic inheritance law is the rate or share of the heirs, namely the male two parts from the female, although, in its realization, it is not with a strict calculation. But the procedure for dividing the inheritance is still carried out in the customary way of *marpokat*, *martabi* (deliberation).

The acculturation of custom and Islamic law in the distribution of inheritance in the Mandailing tribal community cannot be avoided. It is because on the one hand, they are adherents of Islam who are obliged to follow Islamic rules. However, on the other hand, they still adhere to the cultural customs handed down by their ancestors. They believe that the rules that have been set must contain the value of goodness and benefit the offspring.

The Mandailing people and their customs existed long before the arrival of Islam; in fact, they already had a standard life order individually and as a group (society). Therefore, they believe that the customs passed down from generation to generation have a critical position and are believed to have good values. Because of that, customary rules cannot be separated from the life of the Mandailing people.

When Islam entered the Mandailing area and was embraced by the majority of the Mandailing community, there was a tug-of-war between the rules that had to be implemented. On the one

⁴⁴Palit Lubis, Mandailing Tribe Traditional Leader, Interview, Mandailing Natal, 19 March 2022

⁴⁵Samruddin Nasution, Mandaing Tribe Traditional Leader, Interview, Mandailing Natal, 19 March 2022

hand, as indigenous peoples, they must carry out customary regulations that have been passed on for generations; on the other hand, as adherents of Islam, which regulates all aspects of life, they also demand obedience from their followers.

The meeting of these two different legal rules, namely customary and Islamic rules, each of which demands obedience, creates an intense connection between the interests of customs and religion. The reality is that customary law and Islamic law in the Mandailing community are two legal orders that both have strengths. Customary law cannot reject Islamic law; on the other hand, Islamic law cannot reject customary law. Finally, a meeting point was found between these two laws: the acculturation between applicable customs and Islamic law. So that the term appeared in the Mandailing community, "*ombar do adat dohot ugama*," and the latest expression was confirmed by one of the Regents of Mandailing Natal, H. Dahlan Hasan Nasution "The traditional country obeys worship."

So herein lies the role of the *malim kampung* ulama in the area to adjust the customary and Islamic rules without conflict so that Islamic teachings can provide a sense of justice and benefit without injuring the prevailing cultural customs.

The Mandailing tribe is a community that is obedient to customs, and traditional leaders or elders (*batobangon*) are role models for the community who guide their actions. Until now, the descendants of the kings in Mandailing still have influence. In addition, there is a device in the lineage called *dalihan na tolu*. So in the traditional process, the role of *dalihan na tolu* is vital for achieving goodness in society.⁴⁶

In addition to the traditional leaders of the Mandailing tribe, they are also very obedient to the ulama, the *malim kampung*. For the Mandailing community, which is predominantly Muslim, the position of the *malim kampung* is very central, including in resolving the distribution of inheritance so that there are no disputes. Malim Kampung is certainly not the choice of the government or traditional leaders. Still, the stamp of this village is obtained from the title given by the community because its position is critical in providing solutions and answers to community problems, especially those related to the problem of Islam.⁴⁷

To spread Islamic teachings in the Mandailing area, the Ulama or *malim* of this village carry out recitations from mosque to mosque from one town to another. This method is one way to instil Islamic values in the hearts of the Mandailing people. This method is successful, so that people can accept changes in cultural customs that have been going on for generations to be

⁴⁶Salohot Pulungan, Mandailing Community, Interview, Mandailing Natal, 20 March 2022

⁴⁷Abdur Rahman, Mandailing Tribe Religious Leader, Interview, Mandailing Natal, 26 March 2022

acculturated with Islamic values, including traditional marriage processions, inheritance customs, and so on.⁴⁸

According to one of the Mandailing communities, the superior wisdom of traditional leaders and Malim Kampung in the Mandailing area enabled the community to practice both without conflict. Customary inheritance is still carried out by incorporating Islamic values and rules on provisions contrary to justice and benefit, as described above.⁴⁹

Judging from the perspective of Islamic law, the acculturation between customary law and Islamic law in distributing inheritance in the Mandailing community is acceptable. It does not conflict with Islamic law itself. Because in the early history of the development of Islamic law, we can also see that many cultural customs of the pre-Islamic society were adopted into Islamic law. So the scholars formulated a method, "*al-adat al-muhakkamah*," customs can be used as *nash*.⁵⁰

Usul Fiqh scholars qualify that *al-adat* can be used as a source of Islamic law if it meets the following requirements: a) Customs can be accepted by common sense and recognized by public opinion. b) It happens repeatedly and is common in society. c) The custom has been running or is running; it is not allowed that the customer will apply. d) There is no agreement that is different from custom. Does not conflict with *nash*.⁵¹

Islamic law pays excellent attention to customs which are the reality of habits and traditions that exist in society. From the very beginning, Islam respected the existence of 'different customs. Islam also accepts existing customs, as long as these customs are by the principles of *syara'*. Shari'a law ignores social muamalah problems by not providing clear boundaries, so the Islamic law field becomes wider through the *ijtihad* process. In the process of *ijtihad*, *al-adat* has an important role, together with the texts, in determining the boundaries and details of the problem by sharia law.⁵²

Conclusion

Based on the discussion above, we can conclude that Islamic custom and law can be acculturated as long as the business is by the values of justice and benefit and does not conflict with the texts of Islamic law. Meanwhile, customs that are contrary to justice and use can be replaced by Islamic rules themselves. With the recognition of Islamic law on the applicable customs based on the rules of *al-adat al-muhakkamah* and the acceptance of *al-adat* against Islamic law, acculturation took place between the two legal systems.

⁴⁸Observation, Panyabungan, Mandailing Natal, 27 March 2022

⁴⁹Syukri Nasution, Mandailing Community, Interview, 2 April 2022

⁵⁰Dedi Sumanto, "Customary Law in Indonesia Sociological and Anthropological Perspectives of Islamic Law," *JURIS (Jurnal Ilmiah Syariah)* 17, no. 2 (2018): 181, <https://doi.org/10.31958/juris.v17i2.1163.189>

⁵¹Hasby As-Siddiqi, *Philosophy of Islamic Law* (Jakarta: Bulan Bintang, 1993).78

⁵²al-Qardawi, *The Breadth and Flexibility of Islamic Law*.19

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