

## **Inheritance System Mayorat on the Komeriing Tribe in *Urf* Perspective**

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|| *Submission* : 17-11-2022

|| *Revised*: 05-12-2022

|| *Accepted*: 14-12-2022

**Abstract:** Purpose in study this there are 2 ( two ) , viz for knowing how system distribution inheritance according to the customs of the Komeriingdi tribe Buay Pemuka District Peliung East Oku Regency , South Sumatra Province and for knowing how review Urf about inheritance the customs of the Komeriingdi tribe Buay Pemuka District Peliung East Oku Regency , South Sumatra Province . The research method used is normative sociology . Research type this is *Field research* ( research field ). Informant in study this is the party concerned , chief custom and society local . Based on results study could concluded namely : 1) Implementation inheritance Majority ethnic group Komeriing in Buay Pemuka District Peliung conducted when heir already died , that is inheritance fall down to child man oldest as expert responsible heir \_ answer to his younger siblings as well as family replace role heir (father) as head family . If in a family the no have child man so son-in-law considered man \_ or made successor name family the . 2) Review of Islamic Law against implementation system distribution heritage of the Komeriing Tribe in Buay Pemuka District Peliung East Oku Regency , South Sumatra Province, When reviewed from law inheritance system distribution treasure inheritance mayor ethnic group Komeriing no can enforced draft inheritance because many difference Among inheritance Islamic law with inheritance ethnic group Komeriing . In system his inheritance treasure inheritance more dominant inherited to child man whereas child woman get a third just.

*Keywords: Inheritance , Custom , Urf*

**Abstract:** Tujuan dalam penelitian ini ada 2 (dua) yaitu untuk mengetahui bagaimana sistem pembagian warisan menurut adat Suku Komeriingdi Kecamatan Buay Pemuka Peliung Kabupaten Oku Timur Provinsi Sumatera Selatan dan untuk mengetahui bagaimana tinjauan Urf tentang kewarisan adat Suku Komeriingdi Kecamatan Buay Pemuka Peliung Kabupaten Oku Timur Provinsi Sumatera Selatan. Metode penelitian yang digunakan adalah sosiologis normative. Jenis penelitian ini adalah *Field research* (penelitian lapangan). Informan dalam penelitian ini adalah pihak yang bersangkutan, kepala adat dan masyarakat setempat. Berdasarkan hasil penelitian dapat disimpulkan yaitu: 1) Pelaksanaan kewarisan Mayorat suku Komeriing di Kecamatan Buay Pemuka Peliung dilakukan ketika pewaris sudah meninggal, yaitu warisan jatuh kepada anak laki-laki tertua sebagai ahli waris yang bertanggung jawab terhadap adik-adiknya serta keluarga menggantikan peran pewaris (ayah) sebagai kepala keluarga. Apabila dalam sebuah keluarga tersebut tidak memiliki anak laki-laki maka menantu lelaki yang dianggap atau dijadikan penerus nama keluarga tersebut. 2) Tinjauan Hukum Islam terhadap pelaksanaan sistem pembagian warisan Suku Komeriing di Kecamatan Buay Pemuka Peliung Kabupaten Oku Timur Provinsi Sumatera Selatan, Bila ditinjau dari hukum waris sistem pembagian harta waris mayorat suku Komeriing tidak bisa diberlakukan konsep kewarisan karena banyak perbedaan antara kewarisan hukum Islam dengan kewarisan suku Komeriing. Dalam sistem pewarisannya harta warisan lebih dominan diwariskan kepada anak laki-laki sedangkan anak perempuan mendapat sepertiganya saja

*Kata Kunci : Warisan, Adat, Urf*

## Introduction

Islamic inheritance laws or those in fiqh books normal called *faraid* is law inheritance followed by Muslims in effort they complete distribution treasure legacy deceased family . In some populated countries majority Muslim , *faraid* has Becomes law positive , although in Indonesia only apply for Muslim citizens, no apply in a manner national. Inheritance law is also one part from law civil in a manner whole and is part smallest from law family . Inheritance laws are very strict relation with room scope life human , because every man will experience incident named law death . Consequence next law arise, with happening incident law Dead someone, among others is problem how management and continuation rights and obligations someone who died .<sup>1</sup>

The definition of inheritance law in KHI is mentioned in article 171 paragraph (a) which reads: "Inheritance law is the law governing the transfer of ownership rights to inheritance (*tirkah*) of the heir, determining who has the right to become the heir and what portion each has."<sup>2</sup>

fiqh books is the maximum effort of experts in reflecting on the results of their understanding of the verses of the Qur'an and the Sunnah of the Prophet SAW which regulate Islamic inheritance law. In this case, Allah SWT says in the Qur'an surah An-Nisa verse 11 as follows: Meaning : Allah prescribes for you regarding (the distribution of inheritance for) your children. Namely: the share of a son is equal to the share of two daughters; and if the children are all girls more than two, Then for them two-thirds of the assets left behind; if the daughter is only one, then he gets half the property. and for two parents, for each of them one- sixth of the property left behind, if the deceased had children; if the person who dies does not have children and he is inherited by his parents (only), then his mother gets a third; if the deceased has several siblings, then his mother gets one sixth . (The distributions mentioned above) after fulfilling the will he made or (and) after paying his debts. (About) your parents and your children, you do not know which of them is closer (many) of benefit to you. this is a decree from Allah. Verily, Allah is All-knowing, All-Wise. (QS An-Nisaa : 11)<sup>3</sup>

Inheritance law that applies among \_ Indonesian people arrived now still characteristic Pluralistic , that is someone is submissive to law inheritance in the Civil Code , law slamic inheritance and law custom. Because Indonesian society is diverse from diverse ethnic group nation have custom customs and laws various customs \_ between one \_ with the others different , and have characteristics himself made \_ law custom included in it. In Indonesian context , though the people majority Muslim , however in draft transition treasure through inheritance there is various silverware . \_ In case this law inheritance custom colored by the system kinship in Public namely :

1. Patrilineal system, which is a family system that draws lineage from male ancestors. In this system, the position and influence of men in inheritance law is very prominent, for example in the Batak and Lampung communities.

2. Matrilineal system, namely a family system that draws lineage from the female ancestors. In this family system, the man is not the heir for his children. Children become heirs from the female/mother's line because their children are part of their mother's family, while their father is still a member of their own family, for example in the Minangkabau community.

3. Parental or Bilateral system, which is a system that draws lineage from two sides, both from the father's side and the mother's side. In this system, the position of sons and daughters in inheritance law is the same and equal. This means that both sons and daughters are the heirs of the assets left by their parents.<sup>4</sup>

Besides that, Indonesian families who obey religious law carry out inheritance according to their respective teachings. In this inheritance law, it is determined who will become the heir, who is entitled to a share of the inheritance, how much each of them has, how the terms of the division are, and also regulates various matters relating to the distribution of inheritance.<sup>5</sup>

Meanwhile, the Komering people in Buay Pemuka District Peliung East Oku Regency , South Sumatra Province uses a patrilineal system, namely an inheritance system that draws lineage from the oldest male ancestor who has the right to all inheritance and as the successor of their descendants so that if they do not have sons it is said to be the same as not having children or breaking up. descendants. <sup>6</sup>this \_ often linked tightly with composition

<sup>1</sup>H. Eman Suparman , " *Indonesian Inheritance Law in Perspectives of Islam, Custom and BW* " , ( Bandung.: PT Rafika Aditama , 2011), p. 1.

<sup>2</sup>Iim Fahimah " history development law inheritance in Indonesia " , *Journal Nuances* , Vol 11, No 2, Year 2018 , p. 108.

<sup>3</sup>Ministry of Religion of the Republic of Indonesia, *Al- Qur'an and Translation*, h. 78.

<sup>4</sup>Suhairi , Heti Susanti , " Review of Sharia Economic Law " , *Adzkiya Journal of Islamic Law and Economics* , (Metro, STAIN Jurai Siwo Metro, 2016) Vol. 4 Number 1, h. 13.

<sup>5</sup>Moh Muhibbin and Abdul Wahid, " *Islamic Inheritance Law As Positive Legal Reform in Indonesia* " , (Jakarta: Sinar Graphics , 2011), p. 16.

<sup>6</sup>Hailman Hadikusuma , " *Customary Kinship Law* " , (Jakarta: Fajar Agung 1978), h. 34.

people who are the majority of the Komering Tribe in general, which ones exist child man is very important existence for forward name his family.

There is also habit the Komering Tribe community, if in a family the no have child man so son-in-law man the oldest is considered or made successor name family the. However there is part family that does distribution treasure inheritance with use law Islamic heirs, some are not fully use Islamic inheritance and the customs of the Komering Tribe from party this take Street middle that is with mix up Islamic and customary law. Distribution treasure inheritance in the Komering Tribe community conducted when heir already died, that is inheritance fall down to child man oldest as expert responsible heir \_ answer to his younger siblings as well as family replace role heir (father) as head family. However, along with the development of the era, the distribution of inheritance for the Komering tribe has shifted, where the oldest son should have fully controlled the inheritance, now the daughter also gets its share. In this case it is very contrary to Islamic law which stipulates that every wife and siblings of the heir have the right to inherit the inheritance left by the heir, it's just that the parts will be different.<sup>7</sup>

Problems law inheritance prevailing custom \_ in Buay Pemuka District \_ Peliung East Oku Regency, South Sumatra Province studied because system distribution inheritance Public custom Komering characteristic down hereditary and not there is base law or guidelines about law recorded inheritance \_ so that Public To do distribution treasure inheritance no in accordance with law inheritance I slam and division the contrary with law I slam. Problems regarding customary inheritance laws that apply in Buay Pemuka District Peliung East Oku Regency, South Sumatra Province important to be scrutinized because Public not enough understand about law inheritance I slam so writer want to give information to Public local about distribution treasure inheritance according to law inheritance I slam for society can knowing separation treasure inheritance in accordance law inheritance Islam as well as can apply it. Therefore, researchers feel the need to carry out further research regarding the "Majorate Inheritance System in the Komering Tribe." In *Urf's Perspective (Case Study in Buay Pemuka Peliung District, Oku Timur District, South Sumatra Province)*".

## Literature Review

According to John W. Creswell, a literature review or *literature review* is a written summary of articles, journals, books, and other documents that explain theory and information, both past and present, organizing literature into topics and documents needed for research. In this paper, the following are some of the writings that became material for the author's literature review, namely:

1. An article was written by Abnan Pancasilawati entitled "The Urgency of the Rules of Jurisprudence and Their Application to Social Problems". This article was published in the Journal of Phenomenon Volume IV Number 2 of 2012. This article explains that fiqh rules are part of the study of fiqh and one of the methods of exploring Islamic law. The position of fiqh rules as a complementary proposition after the Qur'an and Sunnah has become an agreement, while as an independent proposition, it is still being debated by scholars. The author also presents several examples of applying fiqh rules to social cases, such as the case of not asking for waqf on the main road through the rules of *al-mashlahatu al-ammah muqaddamah 'ala al-mashlahah al-khasah*.
2. Article from Toha Andiko entitled "Empowerment of Qawaid Fiqhiyyah in Solving Modern Siyasa Fiqh Problems". An article published by the Al-'Adalah Journal Volume XII Number 1 in 2014. The conclusion of this article explains that by applying fiqh principles, many siyasa fiqh problems will be resolved freely and thoroughly, thus eliminating any doubts that exist, and the community also gets legal certainty. Difficult choices can be handled wisely and promptly.
3. Irwan Maulana wrote an article titled "Implementation of Qawaid Fiqhiyyah in the Islamic Economics and Financial Industry". This article was published by the Asy-Syukriyyah Journal Volume 19 Number 2 of 2018. In his conclusion, Irwan Maulana explained that the implementation of Qawaid Fiqhiyyah in the field of Islamic economics and finance, among others, can use rules that read *al-ashlu fi al-muamalah al-ibabah hatta yadulla al-dalil 'ala tabrimiba*. Qawaid fiqhiyyah can solve various kinds of problems that develop according to the current era, including being able to respond to various current problems in the field of Islamic economics and finance.
4. The article "Implementation of Qawaid Fiqhiyyah in Islamic Banking Through the Qard Contract Landing System". This article was written by Nurma Khusna Khanifa and Handoyo and was published in the Syariati Volume V Journal Number 02 November 2019. The author concludes that Qawaid Fiqhiyyah can help deepen the science of fiqh and provide the ability to analyze various actual problems and then determine the law. In

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<sup>7</sup>M Mizan Asrori Zain Muhammad, " *Division Heritage in Islam* " , ( Surabya : Bina Science 1981), h. 9.

Islamic banking, it is applied to the contract of channelling funds in the form of *qard* or *qard al-basan* based on fiqh rules which read *keullu qardin jarra manfa'atan fahuwa usury*.

5. Article was written by Yudi Permana and Lenny Yanthiani with the title "Urgency and Application of Qawaid Fiqhiyyah About the Concept of *Fii al-Akhdzi bi ar-Rukhsob* in the Development of Islamic Economics". Article published by Al-Kharaj Journal; Journal of Syaria'ah Economics, Finance and Business Volume 2 Number 1 of 2020. In this article, the author concludes by explaining that the concept of *ar-Rukhsob* is part of the relief, spaciousness and convenience given by Allah swt. to His servants to carry out their obligations. However, this relief is not without limitations and is not free. For example, *ar-Rukhsob*, which is allowed not because of immorality, *ar-Rukhsob* because of an emergency, forced and so on. Furthermore, with its dynamic and flexible nature, *ar-Rukhsob* can become a development tool in other fields, one of which is the field of Islamic economics.

From the several articles that have been presented and explained one by one above, there are points of similarities and differences with the articles compiled by the author. The similarities are the themes raised together regarding the implementation, urgency and application of Qawaid Fiqhiyyah. The difference is that the article above generally presents the implementation of Qawaid Fiqhiyyah on social, economic and sharia financial issues. Meanwhile, the article presented by the author here attempts to analyze the application of Qawaid Fiqhiyyah to problems that occurred during the Covid-19 pandemic. Thus, some of the articles above describe problems that occurred outside of or before the pandemic, while the author presents his article with a discussion of the implementation of Qawaid Fiqhiyyah during a pandemic

## Method

This type of research is a *field research*, namely research conducted directly in the field to obtain the necessary data and research whose object is the symptoms or events that occur in a community group. While the nature of this research is descriptive analytic, namely to describe and analyze the system at the same time inheritance mayor of the tribe Komering. The author uses qualitative research, namely research that intends to understand phenomena about what is experienced by research subjects, for example behavior, perceptions, motivations, actions, etc. holistically and by means of descriptions in the form of words and language, in a particular context. natural and by utilizing various scientific methods.<sup>8</sup> So this qualitative research is a research procedure that produces descriptive data in the form of written or spoken words from people and observed behavior. Qualitative research aims to obtain data that is more complete, more in-depth, credible, and meaningful, so that the research objectives can be achieved.<sup>9</sup>

## Result and Discussion

### Profile Buay Pemuka District Peliung

In general, the topography of the Buay Pemuka Peliung District is flat and wavy land located in East Oku Regency, South Sumatra Province. On average each village in Buay Pemuka Peliung District is at an altitude of less than 500 meters above sea level.

The boundaries of Buay Pemuka Peliung District are as follows:

- a. Buay Madang District.
- b. To the south it is bordered by Martapura District.
- c. To the east it is bordered by the District/Province of Lampung.
- d. To the west it is bordered by Martapura District and Madang Suku 3 District.

The area of Buay Pemuka Peliung District is 154,130 Km<sup>2</sup> which includes 13 villages. Negeri Pakuan village is the village that has the largest area, namely 45 Km<sup>2</sup> or about 32 %, while the village with the smallest area is owned by Bandar Jaya village of 2 Km<sup>2</sup> or about 1 %. All villages in Buay Pemuka Peliung District still have village status until the end of 2018. Buay Pemuka Peliung District consists of 65 hamlets, 151 Neighborhood Associations (RT), 156 village officials and 121 BPD members. Negeri Pakuan village has the highest number of hamlets, namely 7 hamlets, while Bandar Jaya village has the least number of hamlets, namely 2 hamlets. Likewise, when viewed from the highest number of neighborhood associations, Banuayu village consists of 20 RTs, while the village with the fewest number of neighborhood associations is Bandar Jaya village, namely 4 RTs

<sup>8</sup>Lexy J. Moleong " *Methodology Study Qualitative* ", ( Bandung: Youth Rosdakarya , 2010), h. 6.

<sup>9</sup>Sugiyono , " *Understanding Study Qualitative* ", ( Bandung: Alfabeta , 2014), p. 181.

### Definition of Inheritance According to Islamic Law

*Inheritance* according to Islamic law is the law governing the transfer of assets left by someone who dies and the consequences for his heirs.<sup>10</sup> and also various rules regarding the transfer of property rights, the property rights in question are in the form of property, a person who has died to his heirs. In other terms, inheritance is also known as *fara'id*. Which means a certain part that is divided according to the Islamic religion to all who are entitled to receive it and whose parts have been determined.<sup>11</sup>

Etymologically, according to Muhammad Ali Ash - Shabuni, *waris* ( *al - mirats* ), in Arabic is the mashdar ( *infinitive* ) form of the word *waritsa-yaritsu irtsan-miratsan*. Its meaning according to language is the transfer of something from one person to another or from one people to another.<sup>12</sup> The word "*warits*" comes from the Arabic *mirats*. The plural form is *Mawaris*, which means the inheritance of the deceased which will be distributed to their heirs.<sup>13</sup>

Some definitions of the term in inheritance law according to the Indonesian General Dictionary, namely:

- a. Inheritance: This term means a person who has the right to receive inheritance (heritage) of a person who has died.
- b. Inheritance: Means inheritance, inheritance, and wills.
- c. Heir: Is the person who gives the inheritance, namely the person who dies and leaves a number of assets, inheritance, or a will.
- d. Heirs: Namely all people who become heirs, meaning people who are entitled to receive the inheritance of the heir.
- e. Inherit: That is to get an inheritance, usually all heirs are to inherit the heir's inheritance.<sup>14</sup>
- f. Inheritance Process: This term has two meanings or two meanings, namely:
  - 1) Means the continuation or appointment of heirs when the heir is still alive; and
  - 2) Means the distribution of inheritance after the heir dies.<sup>15</sup>

In terms of terminology, there are several formulations, for example according to Ali Ash -Shabuni is the transfer of ownership rights from a person who died to his heirs who are still alive, whether what is left behind is in the form of assets (money), land or anything in the form of legal ownership rights according to *shar'i*.<sup>16</sup>

The Word of Inheritance Law in *Compilation of Islamic Law* (INPRES Number 1 of 1991) article 171 point (a) is governing law \_ about transfer right ownership treasure legacy ( *tirkah* ) heir, determine who is entitled Becomes expert inheritance and how much their respective<sup>17</sup> parts .

In his book B. Ter Haar Bzn "*Principles and Structure of Customary Law*" translated by K. NG. Soebakti Poesponoto provides the following formulation of inheritance law: "Inheritance law are legal rules regarding how from century to century the continuation and transfer of tangible and intangible assets from generation to generation".<sup>18</sup>

In his book A. Pitlo also writes regarding "Inheritance Law According to the Dutch Civil Code" provides the following limitations on inheritance law: "Inheritance law, is a collection of regulations, governing the law regarding wealth due to the death of a person, namely regarding the transfer of wealth left by the deceased and the consequences of this transfer for people who get it, both in their relationship with them, and in their relationship with third parties."<sup>19</sup>

According to R. Santoso Pudjosubroto's opinion, that: "What is meant by inheritance law is the law that regulates whether and how the rights and obligations regarding a person's property when he dies will be transferred

<sup>10</sup>Effendi Warringin, *Inheritance Law*, ( Jakarta: Rajawali Pers, 2008), p.3.

<sup>11</sup>Beni Ahmad Saebani, *Fiqh Mawaris*, ( Bandung: Pustaka faithful, 2012), h. 13.

<sup>12</sup>Muhammad Ali Ash -Shabuni, *Distribution of Inheritance According to Islam, Terj. Basalamah*, (Jakarta: Echo Human Press, 1995), h. 33.

<sup>13</sup>Dian Khairul Umam, *Fiqh Mawaris*, (Bandung: Faithful Library, 2006), h. 11.

<sup>14</sup>WJS Poerwarda Minta, *Indonesian General Dictionary*, (Jakarta: Depdikbud, Center for Development of Indonesian Language, 1982), h. 1148.

<sup>15</sup>Hilman Hadikusumah, *Customary Inheritance Law*, ( Bandung: Alumni, 1980), h. 23.

<sup>16</sup>Hilman Hadikusumah, *Customary Inheritance Law.....*, h. 24.

<sup>17</sup> Saekan and Erniati Effendi, *History of Compilation Compilation of Indonesian Islamic Law*, ( Surabaya: Arkola, 1997), h. 125.

<sup>18</sup>Ter Haar Bzn, *Beginnelsen en Stelsel Van Het Adat Recht*, Trans. K.Ng. Soebakti Poesponoto, "*The Principles and Structure of Customary Law*", (Jakarta: Pradnya Paramita, 1981), h. 197.

<sup>19</sup>A.Pitlo, *Inheritance Law According to the Civil Code*, trans. M. Isa Arief, (Jakarta: Intermedia, 1979), h. 1.

to another person who is still alive".<sup>20</sup>

The implementation of inheritance law gradually underwent changes for the sake of changes, all of which led to perfection, namely an orderly, just and prosperous society with a bilateral family structure. It is believed that the family system built by Islamic Shari'ah is a bilateral family system, but it turns out that the influence of the customs of the Arab Jahiliyah society which was patrilineal was so strong that it influenced thoughts and practices of family law and inheritance law during the Companions era and afterwards. This very prominent patrilineal family practice has influenced the practice and Ijtihad of Islamic inheritance law in the past until now. This understanding is entered and taught to Muslims in Indonesia.<sup>21</sup>

No balance has occur because law family that is embraced and developed in Indonesia is steamed bilateral family , temporary \_ law inheritance taught \_ so patrilineal \_ law patrilineal inheritance \_ not enough get welcome in a manner hand open because felt not yet / not suitable for applied in practice . Here it is needed exists review repeat and new ijtihad in the field law inheritance .

### **Inheritance system custom ethnic group Komerling in Buay Pemuka District Peliung East Oku Regency , South Sumatra Province**

#### 1. Inheritance System

From the research results, the author obtained data that the inheritance system adopted by the Komerling tribe has 2 different systems, namely:

##### a. Mayoral Inheritance System

's mayoral inheritance system , it is described that only one child inherits, namely the eldest son, which means that the right to use, the right to manage and collect the proceeds is fully controlled by the eldest son with the rights and obligations to take care of and care for his younger siblings, both male and female. both men and women until they can stand on their own.

mayoral inheritance system for the continuation of rights is given to the eldest child as the head of the family, replacing the father and mother. He only serves as a mandate holder, and is not an individual owner of assets. The goodness of this system lies in the leadership of the oldest child, if he is full of responsibility then the integrity and harmony of the family can be maintained, while the weakness is the opposite.

Komerling tribe, this inheritance distribution system is carried out when the heir has died, that is, the inheritance goes entirely to the oldest son as the sole heir who is responsible for his younger siblings and the family replaces the role of the heir as the head of the family. If there are no sons in the family, then the eldest daughter has the right to inherit the inheritance.

This was reinforced by the opinion of the source, Mr. Ansor, who stated that the Banumas Village Community also uses an inheritance system in which the inheritance is fully given to the eldest son, because it is the eldest son who continues the family head to replace heirs and finance his family and younger brother her daughter until she has a husband.<sup>22</sup>

##### b. Mayoral Inheritance System is Experiencing a Shift

major inheritance system for the Komerling Tribe underwent a shift, initially the inheritance distribution system was only given to the eldest son, while the daughters did not receive any . However, in this system, the eldest son dominates the inheritance or gets more, while the daughter gets only one- third .

This was reinforced by the opinion of Mr. Darsan as the Traditional Leader, Mr. Jumain as a Community Leader, and Mr. Misdi as a Komerling Tribe community member, who stated that the Komerling tribal inheritance distribution system experienced a shift, so that initially all inheritance went to the eldest son, while daughters do not get the inheritance, but now there has been a shift in which the oldest son dominates the inheritance while girls get a third if there are no other sons or in a family only has 1 son.<sup>23</sup>

If in the family there is more than 1 son, then the distribution of the oldest son gets half of the inheritance then the third half is taken for all the girls then the rest is returned to the eldest son then from all the assets owned by the child the oldest man takes a quarter for his younger brother. Meanwhile, the wife of the heir does not receive the inheritance, but all needs are borne by the eldest son or eldest son-in-law.<sup>24</sup>

Because 2 different data have been obtained, the author checks the data again for spaciousness, from the results of checking this data the writer finds that the division of the inheritance of the Komerling Tribe in Negeri Agung Village and in Banumas Village has 2 different inheritance systems. At first the Komerling people used the male

<sup>20</sup>R. Santoso Pudjosubroto , *Everyday Legal Problems* , (Yogyakarta: Hien Hoo Sing, 1964), p. 8.

<sup>21</sup> Revelation Abdul Jafar, 2022. "Political Buzzer In Islamic Law And Its Impact On Muslim Society". *Hamdard Islamicus* 45 (3). <https://doi.org/10.57144/hi.v45i3.491>.

<sup>22</sup> Ansor, *Interview* , 19 July 2021.

<sup>23</sup> Misdi , *Interview* , July 18, 2021.

<sup>24</sup> Friday, *Interview* , July 17, 2021.

major inheritance system, but now there has been a shift in which the dominant inheritance goes to sons while girls get one third if there are no sons or in a family only has 1 boys , if the family has more than 1 son, the distribution is as follows:

if a family has 4 children, 2 boys and 2 girls and has an inheritance of 100 million, then 50 million is given to the oldest son and 50 million is taken a third and distributed to daughters, then the rest of the a third of which is 30 million going back to the eldest son so a total of 80 million, because there are 2 sons then 60 million for the oldest son and 20 million for the younger brother. If there are no sons in the family, then the oldest son-in-law has the right to inherit the inheritance and the distribution method is the same. Meanwhile, the wife of the heir does not receive the inheritance, but all needs are borne by the eldest son or eldest son-in-law.<sup>25</sup>

The Komering Tribe community, especially Negeri Agung Village and Banumas Village , use more of the inheritance system which has experienced a shift. This was reinforced by 3 sources who said the Komering Tribe Community uses this inheritance system. However, there are still some people who still use the male <sup>26</sup>majority inheritance system, this is reinforced by the opinion of Mr. Ansor as the resource person.

## 2. Expert inheritance

According to customary law, two basic lines are used to determine who is the heir, namely:

### a. Mayor's Inheritance

In this Mayorat inheritance system , only the eldest son inherits, if a family does not have sons, then it is the eldest first child who inherits the inheritance. This was confirmed by the source, Mr. Ansor <sup>27</sup>, who stated that the Komering Tribe Community in Banumas Village only gave inheritance to the eldest son. If there are no sons in the family, then the eldest daughter has the right to inherit the inheritance.

### b. Majority Heirs Who Have Experienced a Shift

In the Mayorate inheritance system , which experienced this shift, the heirs were only the children of the heir, both male and female. Meanwhile, the wife of the heir did not receive the inheritance, but all needs were borne by the eldest son or eldest son-in-law . If the family does not have sons, then it is the oldest son-in-law who holds the most inheritance, this is reinforced by the opinion of the source, Mr. Darsan as Traditional Leader, Mr. Jumain as Community Leader, and Mr. Misdi as the Komering Tribe community. If there are no sons in the family, the eldest son-in-law is entitled to inherit the most inheritance.<sup>28</sup>

## 3. Distribution inheritance

The Islamic community wants To do distribution inheritance in accordance with view and awareness the law , that is based on Islamic and customary law . A number of Public custom has grant application they with give determination inheritance , petition it continues \_ increase good quantity nor quality .

So, before treasure inheritance shared especially formerly expert inheritance must complete obligation si corpse that has not fulfilled :

a. The heirs must pay for the management of the corpse, starting from taking care of sick expenses, washing, shrouding , praying , and burying . The costs used to take care of all of this were taken from the inheritance left by the heir.

b. Paying off the deceased 's debts while still alive, the costs are taken from the heir's inheritance because the family has no obligation to pay off the deceased 's debts with their own assets.

c. Fulfilling the will left by the heir, namely in accordance with what was written by the heir before he died and after the heir died, the heir must carry out what was bequeathed.

If all obligations have been fulfilled then the assets can be distributed to the person who becomes the heir. This was reinforced by the opinion of Mr. Darsan as the Traditional Leader, Mr. Jumain as a Community Leader, and Mr. Misdi , Mr. Ansor as the Komering Tribe community.<sup>29</sup>

## **Review ' *Urf* About The Indigenous Inheritance of the Komering Tribe in BP Peliung District East Oku Regency , South Sumatra Province**

If seen from the context that happened to law inheritance in Indonesia where besides law Islamic inheritance , law inheritance that applies in Indonesia to moment this still prularistic , and still is many law inheritance in society

<sup>25</sup> Darsan , *Interview* , July 16, 2021.

<sup>26</sup> Ansor, *Interview* , 19 July 2021.

<sup>27</sup> Ansor, *Interview* , 19 July 2021.

<sup>28</sup> Darsan , Jumain, Misdi . *Interview*, 16-18 July 2021.

<sup>29</sup> Darsan , Jumain, Misdi , Ansor. *Interview*, 16-19 July 2021.

\_\_ like system law inheritance custom where in distribution treasure his heir related tightly with system descent . Like what happened \_ in distribution treasure inheritance from inheritance the custom of the Komering Tribe . Basically \_ inheritance in the custom of the Komering Tribe is inheritance with system mayor man .

However \_ follow development era system the mayor of the Komering Tribe experience initial shift \_ at first treasure inheritance fully fall down to child man oldest now treasure his heir divided that is treasure his heir more dominant fall down to child man whereas child woman get a third just

#### 1. Overview *Urf* About Inheritance System

The Islamic inheritance system is system inheritance that implementation and settlement treasure inheritance that if heir died . If anyone dies \_ so there is problem heir . So when there is someone leaving \_ treasure riches so means there is treasure a must inheritance distributed to experts \_ inheritance Men or still woman \_ live .

Inheritance system mayorat which was carried out in the Komering Tribe of Banumas Village and Negeri Agung Village namely systems and practices forwarding and redirection right mastery on treasure to be divided to whole expert inheritance bestowed dominant to child man oldest on duty as leader house ladder or head family replace father's position as head family .

However \_ now already experience which shift child man oldest dominate treasure inheritance whereas child woman get one third if no there is child man or in a family only have 1 child man .

If inside family the have child man more from 1 then division child man get half from treasure inheritance the then the half taken one third for all child woman then the rest returned to child man oldest then from whole owned property \_ child man oldest take it quarter for younger brother her son . Whereas wife from heir no get treasure legacy , however all needs borne by the child man oldest or son-in-law oldest man .

Refer to the rules *Usul Fiqh* namely *Urf* , *Urf* is something that already Becomes habit among ijthad expert , both in form words or deed .<sup>30</sup> In system distribution inheritance mayor ethnic group Komering need for reviewed repeat for minimize dispute between \_ expert heir . Because deep system this child man more dominant get treasure inheritance the most whereas child woman only obtain a third with pretext not quite enough answer child man far more big compared child girl .

The inheritance system imposed by the Komering Tribe this division conducted with method deliberation and peace . Get to know each other willing and mutual accept from experts \_ heir , which in essence no contrary with Islamic law category jurisprudence because in accordance with destination stipulated Islamic Shari'ah i.e guard religion, soul , mind , lineage and guard treasure . Then p thereby allowed throughout no raises kemudharatan , so also in Compilation of Islamic Law, if expert inheritance agreed with peace in distribution treasure inheritance after experts \_ inheritance aware of each part .

Based on the basics here it is so system community inheritance \_\_ \_ ethnic group Komering is thing that is allowed Because in distribution treasure inheritance in the custom of the Komering Tribe no raises *mafsadat* and *loss* Thing this in accordance with *urf* authentic because is something known deed \_ human and not contrary with theorem syara ' and not something is breaking rule Islamic law .

#### 2. Overview *Urf* About Determination of Heirs

Based on the arguments stated earlier, when viewed from the perspective of Islamic law regarding the wife's position as heir, the wife is entitled to  $\frac{1}{4}$  of the inheritance if she does not have children, and if she has children, the wife is entitled to a share of the inheritance of  $\frac{1}{4}$  . Then when referring to the hadith , in the hadith narrated by Ibn Abbas RA this Hadith implies that the distribution of inheritance must be given to the heirs entitled to their share of the inheritance.

The heirs in the Komering Tribe inheritance system are only focused on sons and daughters, while the wife of the heir does not receive an inheritance, but all needs are borne by the eldest son or eldest son-in-law . This is not done based on the provisions of the Islamic religion and is done according to customary law.

In fact, if they use customary law in matters of inheritance based on family reasons, then in fact they are also using Islamic law. Because in Islamic law itself there is the term kinship, where in Surah Al-Maidah verse 2 it is explained that fellow Muslims must help each other in goodness. <sup>31</sup>Then it was clarified again by the informant who stated that Islamic law was not used in the distribution of inheritance because the most important thing in an inheritance distribution was how to distribute inheritance in a peaceful way without conflict, so that what was prioritized was a sense of family unity, mutual acceptance and mutual acceptance.

So that they know more about customary inheritance problems that have been passed down from generation to generation. Even so, we cannot convict directly that what was carried out by the Komering Tribe community in Banumas Village and Negeri Agung Village is unlawful, because if we understand more about the practice of distributing inheritance to the Komering Tribe community in Banumas Village and Negeri Agung Village by way

<sup>30</sup>Satria Efendi, *Usul Fiqh* ..... , h. 157.

<sup>31</sup>Mardani, *Islamic Inheritance Law in Indonesia* , ( Jakarta: PT. Raja Grafindo Persada, 2014), h. 87.

of deliberation and peace is the right choice.

Recognizing mutual willingness and mutual acceptance of heirs, which in essence does not conflict with Islamic jurisprudential law because it is in accordance with the objectives of establishing Islamic law, namely protecting religion, soul, intellect, lineage and protecting assets. So that in Islamic law the category of fiqh that the division of the <sup>32</sup>Komering Tribe's inheritance does not conflict with the substance of the Islamic shari'ah. So this is permissible as long as it does not cause harm, as well as in the Compilation of Islamic Law, if the heirs agree peacefully on the distribution of the inheritance after the heirs are aware of each part, and this matter is free from consuming assets in an illegitimate way as prescribed prohibited in the Qur'an.

### 3. Overview *Urf* About Distribution Inheritance

The distribution of inheritance in adat is a tradition that has been going on for a long time and has been passed down from generation to generation which is still valid today. Several factors underlie the use of the Al-'Urf method *or* habits in the Komering Tribe community. Among them, there are still people who do not understand Islamic inheritance distribution and prefer to use customary law.

Although most of the people in the Komering Tribe already know about the distribution of inheritance in accordance with the provisions determined by Allah swt. but do not rule out if there are still some community leaders who do not know about it. They only look at the habits of their ancestors or their ancestors when dividing inheritance so they follow them and maintain these habits. Apart from that, there isn't any participation or socialization from local related party (KUA).

So, before treasure inheritance shared especially formerly expert inheritance must complete obligation si corpse that has not fulfilled:

a. The heirs must pay for the management of the corpse, starting from taking care of sick expenses, washing, shrouding, praying, and burying. The costs used to take care of all of this were taken from the inheritance left by the heir.

b. Paying off the deceased's debts while still alive, the costs are taken from the heir's inheritance because the family has no obligation to pay off the deceased's debts with their own assets.

c. Fulfilling the will left by the heir, namely in accordance with what was written by the heir before he died and after the heir died, the heir must carry out what was bequeathed.

If all obligations have been fulfilled then the assets can be distributed to the person who becomes the heir. The Komering people carry out an inheritance distribution system by distributing dominant inheritance to the eldest son, while girls get one-third if there are no sons or in a family only has 1 son. If in the family there is more than 1 son, then the division of the son gets half of the inheritance then the third half is taken for all the girls' children then the rest is returned to the oldest son then from the total assets owned by the child the oldest man takes a quarter for his younger brother. Meanwhile, the wife of the heir does not receive the inheritance, but all needs are borne by the eldest son or eldest son-in-law. Inheritance that exists in the Komering Tribe community is the inheritance of their ancestors in the form of land, gadang houses, fields, plantations.

The weakness and goodness of the mayorate system lies in the leadership and responsibility of the eldest son in his position as a substitute for parents who have died in managing assets and utilizing them for the benefit of all family members left behind. <sup>33</sup>The eldest son who is full of responsibility will be able to maintain the unity and harmony of the family until all the heirs become adults and can independently manage their own household.

However, the eldest son who is irresponsible, who cannot control himself over property or inheritance, is a wasteful and so on. The eldest son as a substitute for a deceased parent is not an individual owner of the inheritance, he is only having a position as a ruler, as a mandate holder for parents who are limited by family deliberations, limited by the obligation to take care of other family members left behind, not solely based on inheritance but also based on the principle of helping each other.<sup>34</sup>

It can be concluded that the inheritance system carried out by the Komering tribe community is permissible because in the distribution of inheritance in the Komering tribe custom it does not cause *mafsadat* and *harm*, this is in accordance with *urf* authentic because it is an act that is known to humans and does not conflict with the Shari'a proposition and is not something that violates the rules of Islamic law, The division of the inheritance is still carried out because it still holds the beliefs from the past until now it is enforced. This means

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<sup>32</sup> Muksana Pasaribu, *Benefits and Development as the Basis for the Determination of Islamic Law*, Vol. 1 No. 04, (Pare-Pare: IAIN Pare-Pare), h. 128.

<sup>33</sup> Amir Syarifudin, *Islamic Inheritance Law .....*, p. 46.

<sup>34</sup> Hasbiyallah, *Learning Easy Inheritance Science*, (Bandung: PT Juvenile Rosdakarya, 2007), h. 19.

that the traditions and customs of the distribution of the inheritance of the Komering tribal mayor in Buay Pemuka Peliung District, East Oku Regency , South Sumatra Province, have been carried out by the community, which then came with legal provisions to be relied on.

## **CONCLUSION**

Based on the results of the research that the writer has done, the writer draws the following conclusions: first, the inheritance system of the Mayorat of the Komering tribe in Buay Pemuka Peliung District carried out when the heir has died, namely inheritance falls dominantly to the eldest son as the heir who is responsible for his younger siblings and the family replaces the role of the heir (father) as the head of the family while daughters only get one third if there are no sons others or in a family only has 1 son. If in the family there is more than 1 son, then the distribution of the son gets half of the inheritance then the third half is taken for all the girls then the rest is returned to the eldest son then from all the assets owned by the son -the oldest man takes a quarter for his younger brother. If a family does not have sons, then the eldest son-in-law is considered or made the successor to the family name. Meanwhile, the wife of the heir does not receive the inheritance, but all needs are borne by the eldest son or eldest son-in-law. Second , an Islamic law review of the implementation of the inheritance distribution system for the Komering tribe in Buay Pemuka Peliung District, Oku Timur Regency, South Sumatra Province, when viewed from the inheritance law system for the distribution of the inheritance of the Komering ethnic majority , the concept of inheritance cannot be applied because there are many differences between Islamic legal inheritance and inheritance. Komering Tribe. However, in terms of the existence of Islamic Law, the inheritance system of the Komering Tribe is not contradictory because it is based on responsibility and kinship. If seen from the point of view of Ushul Fiqh, the inheritance of the Komering tribe majorate is included in this *urf* authentic , because something that is known to each other by humans and does not conflict with the Shari'a argument , also does not justify what is unlawful and also does not cancel what is obligatory.

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