



Joint Property Inheritance Distribution Practiced by the Community of Bandar Lampung

Abdul Qodir Zaelani

Universitas Islam Negeri Raden Intan Lampung
Jl. Letnan Kolonel H Jl. Endro Suratmin, Sukarame, Kec. Sukarame, Bandar Lampung
Email: abdulqodirzaelani@radenintan.ac.id

Syamsul Hilal

Universitas Islam Negeri Raden Intan Lampung
Jl. Letnan Kolonel H Jl. Endro Suratmin, Sukarame, Kec. Sukarame, Bandar Lampung
Email: syamsulhilal@radenintan.ac.id

Abdul Hanif

Universitas Islam Negeri Sunan Gunung Djati Bandung
Jl. A.H. Nasution No. 105A, Cibiru,, Kabupaten Bandung
Email: abdulhanif@gmail.com

Abstrak

Penelitian ini mengungkap praktik pembagian kewarisan gono gini pada masyarakat Bandar Lampung, ibu kota provinsi Lampung, dikela dengan miniatur Indonesia, beragam suku bangsa terdapat di dalamnya. Penelitian ini merupakan penelitian empiris, menggunakan pendekatan kualitatif dengan metode analisis data yang diperoleh melalui pengamatan dan wawancara. Setelah dilakukan wawancara dengan tokoh agama dan tokoh masyarakat ditemukan fakta bahwa pembagian kewarisan gono gini dilakukan masyarakat Bandar Lampung dengan beragam cara yakni harta tidak diberikan kepada suami atau istri namun harta sepenuhnya dikelola anak bungsu, harta dikelola sepenuhnya oleh anak pertama laki-laki, harta sepenuhnya dikelola istri, dan dibagikan ada kalanya harta tersebut sebelum pewaris meninggal, harta dibagikan setelah kedua orang tua meninggal, serta ada kalanya pembagian harta gono gini sesuai dengan hukum Islam.

Kata Kunci: gono gini, waris, Bandar Lampung.

Abstract

This research reveals the division of joint property (*hartagono-gini*) inheritance of Bandar Lampung community, Lampung provincial capital, known as miniature Indonesia, with its diverse ethnic groups. It was empirical research using a qualitative approach with data analysis methods obtained through observations and interviews. After conducting interviews with religious leaders and community leaders, it was found that the people of Bandar Lampung carried out the distribution of the inheritance of joint property in various ways. The property was not given to the husband or wife. Still, the youngest child fully managed the property, the first son fully managed the property, and the property was fully managed by the wife. Sometimes the property is distributed before the heir dies, the property is distributed after both parents die, and there are times when the property is divided according to Islamic Law.

Keywords: joint property (*hartagono-gini*), inheritance, Bandar Lampung.

Introduction

Inheritance law is one part of civil law and is the smallest part of family law. Inheritance law is closely related to the scope of human life because every human being will experience a legal event called death, resulting in the problem of how to resolve rights and obligations. It has been regulated in the Compilation of Islamic Law and the Civil Code (KUHPerdata). The second book on material matters.

In principle, inheritance is the step for forwarding and passing of tangible and intangible assets from an heir to his heirs. However, in reality, the process and steps of the transfer vary, in this case, both in terms of grants, gifts, and testaments, or other problems.

One of the problems in the community is the distribution of inheritance for couples whose marriages break up due to death. People only understand that joint property often connotes a divorce process. It is as if problems regarding joint property only arise when there is a divorce. It happens because, in general, people only think about the joint property after problems with their respective partners arise. So, it is very natural that people generally view that joint property is only related to a divorce or new exists when there is a divorce.¹

Whereas in the Compilation of Islamic Law (KHI) article 96 paragraph (1), it is stated that in the event of a death divorce, half of the joint property becomes the right of the spouse who lives longer. The provisions in article 96, when traced, seem to contradict with the Islamic inheritance law in the Qur'an, wherein the provisions of Islamic inheritance law a husband or wife cannot immediately be certain of getting half of the inheritance. Still, a husband or wife can get half of the inheritance if the husband or wife does not have children.

The provisions of Article 96 of the Islamic Law Compilation, when related to the life of husband and wife in modern times, will undoubtedly be more complex. Many wives become career women in modern household life whose income sometimes exceeds their husbands' incomes. If the provisions of Article 96 of the Islamic Law Compilation are applied universally regardless of the wife's contribution in producing wealth in a household, this provision will certainly harm the wife and her heirs if it is the wife who dies in the household because half of the joint property will directly become belongs to the husband, whereas if it is calculated carefully, the property is actually a property that comes from the work of the wife, which basically becomes an inheritance that must be distributed to the existing heirs in accordance with the rights they have.

Based on this, the researcher is interested in researching assets related to Article 96 paragraph (1) of the KHI, which often occurs in the field. It is stated that the distribution of inheritance to widows and widowers divides it directly according to the share of the husband or wife who is still alive, without reducing joint assets first, especially in Bandar Lampung, the capital city of Lampung

¹ Arin T.Muljana, "Harta Bersama Dalam Waris Menurut Hukum Positif Di Indonesia," n.d., http://D:/Harta Gono Gini/rujukan httpsttlegal.comindex_htm_filesHarta%2520Bersama%2520Dalam%2520Waris.pdf.pdf.

province, which is known as a heterogeneous capital city, with various ethnicities in this capital city. Bandar Lampung is often known as a miniature of Indonesia. So, in the distribution of assets, it is also possible that the husband or wife who has died will vary.²

For this reason, this article was written to describe the concept of inheritance distribution in Article 96 paragraph (1) of the Compilation of Islamic Law and to reveal the phenomena that occur in the people of Bandar Lampung regarding the distribution of the inheritance of a husband or wife whose spouse has left her.

Method

This research was empirical research, namely, analyzing various perceptions and practices of the distribution of inheritance of the joint property of Bandar Lampung community. It used a qualitative approach with data analysis methods obtained through observations and interviews.

The Concept of Joint Assets in The Compilation of Islamic Law

The definition of the joint property has several names and designations for several regions and tribes. In Minangkabau, joint property is called *hartasuarang*, in Kalimantan it is called *barang perpantangan*, in Bugis it is called *cakkara*, in Bali it is called *druwegabbro*, in Java it is known as *baranggini* or *gono-gini*, and in Pasundan it is called *gunakaya*, *barangsekaya*, *campurkaya*, or *kayareujeung*. However, what is often heard in the community is even familiar. This joint property is called *Gono-Gini* property.

The legal basis for the joint property is contained in Law No. 1 of 1974 Article 35 chapter VII explains that property acquired during the marriage becomes joint property.³

In the compilation of Islamic Law⁴ described in chapter XIII Article 85, the existence of joint property in a marriage does not rule out the possibility of property belonging to each husband or wife. Article 86 states that basically, there is no mixing of husband's property and wife's property due to marriage. The wife's property remains the right of the wife and is fully controlled by her, as well as the husband's property remains the right of the husband and is fully controlled by him. And Article 87 states that the assets of each husband and wife and the assets obtained by each as a will or inheritance are under their respective control, as long as the parties do not specify otherwise in the marriage agreement. Husband and wife have full rights to carry out legal actions on their respective assets in the form of grants, gifts, *sodaqah*, or others.

² Syaikhul Hakim, "Reaktualisasi Pembagian Harta Bersama Dalam Mazhab Syafii Dan Kompilasi Hukum Islam Di Indonesia," *Akademika* 9, no. 2 (2015): 157, <https://doi.org/10.30736/akademika.v9i2.60>.

³ "Undang-Undang Republik Indonesia No.1 Tahun 1974 Tentang Perkawinan," Pub. L. No. 1 (1974), Pasal 35 Bab VII.

⁴ "Kompilasi Hukum Islam" (n.d.).

In the Qur'an and Hadith, as well as various books of Islamic jurisprudence, joint property is not regulated, and there is no explicit explanation. It is as if the common property is empty and vacuums in Islamic Law. Part of the verse "*li al-rijâli*" is very general and is not a reference for husband and wife only but for all men and women. If they try in their daily lives, the results of their efforts will become private property that each individual controls. Joint assets are a matter of *ijtihâdiyyah*, and in the books of Islamic jurisprudence, there is still no specific discussion, nor are the texts found in the Qur'an and Hadith. In fact, what is happening in Indonesian society regarding joint property has long developed and applies in their daily lives. Therefore, legal provisions regarding joint property in the Compilation of Islamic Law are heavily affected by various factors that develop and apply in society.

Joint assets were appointed as Islamic Law in the Compilation of Islamic Law based on the argument *'urf* and in line with the Islamic jurisprudence rule, which states:

"a habit can be made into an applicable law"

In general, in Indonesia, households (family) have four types of assets, namely:⁵

1. Assets acquired before the marriage as a result of their respective efforts. In Sumatra, it is called the treasure of celibacy. In Bali it is called *HartaGuna Kaya*. According to Law No.1 of 1974 concerning marriage, this property is determined in the control of each party.
2. The property brought when they married was given to the bride and groom. This property may be in business capital or household furniture or the house where the husband and wife live. In Minangkabau it is called *HartaAsal*.
3. Assets obtained during the marriage occur, but because of a gift or inheritance from their parents or family. In Central Java, East Java, and Yogyakarta, it is called *hartaGawan*. In Jakarta it is called *Barang Usaha*, in Banten it is called *barangSuhu*, in West Java it is called *Barang Benda* atau *BarangAsal*, in Aceh it is called *HartaTua*, in Dayak Ngayu it is called *Pinipit*, and in Minangkabau it is called *Pusaka Tinggi*.
4. Assets acquired during a marriage on a joint venture or the business of one husband and wife are called search assets. This joint property in Aceh is called *HarcutaSihaukat*, in Bali it is called *DruweGabro*, in Java it is called *Gono-Gini*, in Kalimantan it is called *BarangPemantangan*.

In general, based on customary law, according to customary law in Indonesia, if one person dies, or there is a divorce (as explained above), then property no. a and c back to each party. Both the property was obtained before and after the marriage. These assets are the assets of each separately from other assets. As for property point.b, it may be the joint property of the husband and wife, or it may belong to the husband alone, or it may only belong to the wife. As for the assets point.d, namely assets obtained during the marriage for a joint business or the business of one of the husband and wife, which are called search assets, which

⁵ Firdaweri, *Fiqh Mawaris* (Bandar Lampung, 2017), 90.

are known as joint property, this property in the distribution is determined first how much the husband and wife share, depending on custom each. In Java, it is divided between husband and wife in a ratio of 2: 1 (aka. *sepikulsegendong*) *sepikul* for the husband and *segendong* for the wife. Some divide this joint property equally between husband and wife, divided in two.

At least, several things are fulfilled in terms of joint property, namely:

1. Shared assets do not conflict with the existing texts (*nash*).

In the Qur'an and Hadith there is not a single text that prohibits or allows joint property. The prevailing reality in Indonesian society is that joint property has long been practiced. Even the benefits can be felt so great in their lives. So that the legal provisions that apply in Indonesia, in this case, the Compilation of Islamic Law, make the joint property the applicable Law in Indonesia through the process *ijtihad*.

2. Shared assets must always exist.

Shared assets must be an institution that has long developed and always applies in people's lives. For the Indonesian people who have the motto *Bhineka Tunggal Ika* (Diversity in Unity), joint property is an institution whose application is almost applicable throughout Indonesia. In the past, the common property was still adhered to, and its implementation is maintained nowadays.

3. Shared property is a generally accepted custom.

It can be seen from the application of joint property, which is almost comprehensive and has become a habit in Indonesia, even though each custom has a different mention of it.

The growth and development of Islamic Law are not solely sourced from the needs caused by social, cultural, scientific, and technological dynamics. But its growth and development can be supported through a compromise approach with local customary law. The most important thing to note in the compromising approach between Islamic Law and customary law is that the law that was born out of this compromise was within the framework of *maslahah al-mursalah*. Thus, the provisions of this customary law should be taken based on *'urf* as the basis in Islamic Law to be applied in Indonesia.

Such is the legal basis that explains joint property. It is because property in a family has three possibilities:

First is a property that belongs to the husband only. That is the property owned by the husband without the slightest ownership of the wife in the property. For example, the husband's property before marriage, or property obtained from the work of the husband and is not given as a living to his wife, or property that is specifically granted by someone else to the husband, or property inherited from the husband, and so on.

The second is only the wife's property. That is the property owned by the wife alone without the husband's ownership whatsoever in the property. For example, property belonging to the wife before marriage, property from work obtained from the wife without interfering with her obligations as a wife, property donated by someone else specifically for her, property inherited from the wife, and so on.

The third is joint property. The example is that property donated by someone to a husband and wife, or property such as a house, land, or others purchased from their money, or property that they get after marriage and husband and wife work together to generate income and so on. The third is what is then termed as joint property.

However, property acquired by a family does not necessarily automatically become joint property. The details are as follows:

In general, the husband works and is responsible for the family's livelihood and economy. It is mentioned a lot by Allah and His Messenger.

"Let the man of wealth provide according to his means. As for the one with limited resources, let him provide according to whatever Allah has given him. Allah does not require of any soul beyond what He has given it. After hardship, Allah will bring about ease" (QS. Al-Thalâq (65): 7).⁶

From Aisha, indeed HindunbintUtba said :

"O Messenger of Allah, indeed Abu Sufyan is a very stingy person. He did not give enough wealth for my son and me, except what I took myself without his knowledge." Then the Messenger of Allah said, "Take what is sufficient for you and your child in an acceptable way." (Narrated by Bukhari).

A wife, in her daily life, at least there are possibilities, namely: First, she has absolutely no economic value activities. If so, then the property in the family is the husband's property, and there is no joint property. It is caused that there is no share of the wife in the property.

Second, the wife has an activity that has economic value. Like she works alone, helps her husband in his work, or becomes a work partner for her husband, or the like, then in this condition, the assets in a family are called joint assets or property.

But one problem must be understood: the husband's property is not intact but reduced by some of his obligations as a husband, such as giving his wife a dowry and fulfilling the obligations of living for his wife and children, including clothing, food, housing, health, children's education, and others. At the same time, the wife's property remains intact because there is no obligation for her to provide a living for her husband and children. He gives for his husband and children unless it is with his pleasure.

The Implementation of Bandar Lampung Community Inheritance Distribution

Based on the data carried out regarding the inheritance left for husband or wife with several sources from various sub-districts and various professions, it was found that data and facts related to the distribution of joint property inheritance in it, sometimes the wife gets a share of the inheritance, sometimes it

⁶ Departemen Agama republik Indonesia, *Al-Qur'an Dan Terjemahannya* (Jakarta: Suara Agung, 2008), 1140.

is fully managed the wife, sometimes the wife does not get a share, the inheritance is fully managed by the children according to the customs and ethnicity in the area interviewed. Here is the explanation.

1. Assets Managed by Youngest Child

As stated by DR, gender leader and lecturer at UIN RadenIntan Lampung, in his area where most of the Javanese are ethnic groups, for the distribution of inheritance, if a husband or wife dies, there is no such thing as inherited assets. To the last child (youngest child). Both the youngest children are boys and girls. The youngest child owns the house and the plot of land. The youngest child is in charge of taking care of the property to care for the parents. If the distribution is based on Islamic Law, according to DR., they have no respect, what is right for them, namely *sepikulsegendongan*. In essence, whoever dies, they have divided the inheritance. The goal is not to make conflict. They have no joint property. In essence, they are focused on children, especially the youngest child who controls the house.⁷

Suppose we look at the facts above, that the youngest child has power over the inheritance of the deceased parent. It is considered that the youngest child has a role to guard the property, especially the parents' property. According to Javanese tradition, the youngest child occupies the house and the surrounding land. The goal is that when something happens to one of his parents, the property can be sold to support one of the surviving parents.

2. Assets Managed by the Wife

DR also stated that it also happened in his area, LabuhanDalam, when the husband died, there was no joint property and no distribution of inheritance. All of the inheritance is managed by his wife. Even more ironically, the first child, the result of adultery, was defended by his wife. Born from legal marriage, the second child does not get anything.⁸

The same thing was also conveyed by El., an extension counselor for the City of Bandar Lampung, who stated that the property was managed by his wife when the husband died. The assets are managed without being distributed to their children. It does not matter if the child is economically weak or not. To the extent, there is a deceased child who is not facilitated for business, even though his child's economy is not stable. Unable to provide for his family, not working, and no capital for a business, the child's household was eventually destroyed, leading to a divorce. This situation is very unfortunate, even though the child's parents, or the wife of the husband who died, understand religion. Maybe there is a special issue of inheritance, do not understand inheritance, or is no awareness there.⁹

Likewise, in Rajabasa area, as stated by RD, as one of the environmental leaders in the area explained that the distribution of inheritance was in accordance with the customs of each tribe in the vicinity and was completed

⁷ DR, "Daerah Labuhan Dalam" (28 Oktober 2019, 2019).

⁸ DR.

⁹ El M.Ag, "Penyuluh Kota Bandar Lampung" (29 Oktober 2019, 2019).

by the family concerned without involving the head of the Local Neighborhood or the local environment. It is just that based on his personal experience, the inheritance that was distributed to his wife and children, but until now is managed by his wife.¹⁰

Inheritance managed by the wife also occurs in Kemiling, apart from the distribution being carried out before or after the husband or wife dies, as stated by Ais., a female figure in the area. Usually, what often happens in their environment is that the distribution system is before death, and after death, the inheritance is divided between the children. But what often happens is that most parents share their inheritance before they die so that it is safer and does not happen unwanted things. Then, suppose a husband/wife who dies, for example a husband who dies for young children, the inheritance is usually held by his wife, with the intention of managing the property for the good of their children, after it is considered that the children are grown. In that case, it is distributed. that is also if the children collect or ask for the inheritance.¹¹

Based on the facts and data above, the wife holds the distribution of inheritance for several reasons. First, the wife feels that her husband's inheritance is her absolute right. And completely managed by her regardless of whether her child is still young or grown-up, and regardless of whether her child is a child from a legal marriage or not. Second, the wife manages the inheritance from her husband because their children are still young, they are considered unable to keep their husband's inheritance, after they grow up, it will be distributed to their children. Third, the property is held by the wife and managed by her. Suppose the child is still young and will grow up, or is an adult but does not ask for a share of the inheritance. In that case, it is considered his permanent property, but if the child asks for his share, the inheritance will be distributed to his child according to his child's share.

3. Assets Managed by First Son

After the husband or wife dies, the assets should be given immediately, and all children get a share of the inheritance. What happened in Bandar Lampung, which still holds the Lampung tradition for the Lampung tribe, the holder of property control is the eldest son. Not even the eldest holds the inheritance, as long as the holder is a male. His younger siblings must obey the man, and the fact is that the man is not responsible. And even the distribution of inheritance, sometimes after his parents died.¹² The similar statement was also conveyed by Ros., one of the Local Neighborhood Chiefs in Way Halim area. He stated that the inheritance was dominantly shared with men in his family. Men are considered capable of managing the inheritance.¹³

If we look at the facts above, sons' presence is more dominant and is considered capable of maintaining the inheritance. It happens, of course,

¹⁰ RD, "Raja Basa Raya, Kecamatan Raja Basa, Bandar Lampung" (November 2019, 2019).

¹¹ Ais, "Pinang Jaya, Kemiling, Bandar Lampung" (November 2019, 2019).

¹² M.Ag, "Penyuluh Kota Bandar Lampung."

¹³ Ros, "Daerah Way Halim, Bandar Lampung" (November 2019, 2019).

because of the culture and understanding of parents or society towards the existence of men.

4. Before Death, Property Has Been Divided

On the other hand, from the interview results, it was also found that before the husband or wife died, the inheritance had been divided. Husband or wife have their own share, likewise, with his children. The case in Bumi Manti, LabuhanRatu, was based on interviews with respondents, Nv and Sar, who are Javanese, who stated that all assets had been divided before the husband or wife died. It is done because no one knows the age. This is also done so that there will be no commotion or conflict in the future when the husband or wife dies. He stated that there was also a husband before he died that had been distributed. Some people use a will. Most of them in the area before they died had been distributed in writing. The thought of the person who died before was afraid that his son would be noisy after his parents died. Mostly like in the area, some accept it, and some object. Some are not satisfied because they share a little. It is fair but depends on the reaction of the person receiving it.¹⁴

Likewise, with other sources interviewed, namely In. He told the inheritance case that had happened to his neighbor. The neighbor is a non-Muslim (Chinese), where the neighbor's child requested that the inheritance be immediately divided because the economic situation of the children is in need. At the same time, the parents objected because this should not have been done while the parents were still alive. Then the final solution to the problem was that the parents divided their wealth and then moved to Bogor with the money to distribute their own property.¹⁵

Another source also said that, as stated by Sur, according to him, the situation in the surrounding area had used Islamic legal procedures to distribute the inheritance. Sur explained that there is no joint property, only inheritance before death for the distribution of joint property.¹⁶

Likewise, what was conveyed by Muk, in the Kemiling area of the Betawi ethnicity, stated that the inheritance distribution system in its place used the inheritance distribution system according to each custom according to needs. He uses Betawi customs to distribute inheritance; boys get more than girls because boys will need more to help their younger siblings. It can be said that boys have greater responsibilities than girls. Then, from his observations, for distributing inheritance in the surrounding environment, most of these assets are distributed before the parents die so that their children do not get into fights in the future, such as conflicts over inheritance. But there is also the division of inheritance is done after his parents died, but that is a small part.¹⁷

Likewise, what happened in Way Halim, SN., said that the distribution of inheritance was based on deliberation. However, there are those whose

¹⁴ Sar Nv, "Bumi Manti, Labuhan Ratu, Bandar Lampung" (02 November 2019, 2019).

¹⁵ In, "Bandar Lampung" (November 2019, 2019).

¹⁶ Sur, "Bandar Lampung" (November 2019, 2019).

¹⁷ Muk, "Beringin Raya, Kemiling, Bandar Lampung" (November 2019, 2019).

tolerance is divided equally or those who do not want to receive an inheritance. Like him, none of the brothers took the inheritance. So, it is left to the girls. There are also five children in their area, two boys and three girls, but they are divided equally, given their respective houses, and sent to college up to college level. So, husband and wife are still there, but all the property has been divided among their children.¹⁸

Based on the facts and data above, inheritance was distributed before his parents died for various reasons. First, there is no quarrel or conflict when husband or wife dies. Children and husband or wife all already have an absolute share. Second, the distribution of inheritance before the parents die is aimed at keeping the family in harmony. The children are distributed according to the wishes and considerations of both parents. The son's share of the property is not taken and given to the daughter. So that the son does not have absolute inheritance belongs to him. Third, the distribution of property first. The goal is not to have a conflict when the husband or wife dies, it is just that if the husband or wife is still there, the property, even though it has been distributed, remains the property of the husband or wife, but if the husband or wife dies, then the property is absolute. It becomes an inheritance for their children in accordance with the distribution that has been given. Fourth, the distribution of inheritance before death, due to economic pressure, so that parents (husband and wife) are forced to share their assets with their spouse and children who are born.

Property is Distributed After Both Parents Die

From several respondents, it is stated that inheritance is distributed after both parents die. Suh., a resident of GunungTerang, Kemiling, stated that the distribution of inheritance varies in the area. From what he saw, the inheritance distribution system was usually varied, some using Islamic Law, some with their respective customs and tribes. Incidentally, he also experienced the division of inheritance because both his parents had died. If it refers to Islamic Law where the distribution of inheritance between men and women is different, boys get 2 (two) parts and girls 1 (one) share. Then, in distributing inheritance in their neighborhood, some share the inheritance before their parents die, but that is only a small part because they think that their children will not make a fuss in the future. However, if the majority of the inheritance distribution process is done after both parents die, then the inheritance is distributed. That can only be said for inheritance. And as far as he knows, the distribution of inheritance before the parents die is called a grant or a gift to their children.¹⁹

In line with Suh., Ustadz Hab., the caretaker of the Nasihuddin Islamic Boarding School, and the Secretary of Nahdlatul Ulama Branch Management of Bandar Lampung City stated that the distribution of inheritance was carried out if all husband and wife died. Then the new inheritance is distributed to the children.

¹⁸ SN, "Way Halim, Bandar Lampung" (November 2019, 2019).

¹⁹ Suh, "Gunung Terang, Kemiling, Bandar Lampung" (November 2019, 2019).

If one of them, namely the husband or wife, is still present, it is not an inheritance if the property is distributed among the children. It is called a grant or a gift.

Based on the facts and data above, the distribution of inheritance is absolute if the husband and wife have all died. As long as the husband or wife is still there, the property belongs to the husband and wife. If the property is given while the husband or wife is still there, it is not called an inheritance, but a grant or gift. This fact makes it possible to understand the terminology of inheritance and the culture behind the concept.

Distribution of Inheritance Based on Islamic Law

Joint property is distributed. Boys and girls are divided differently according to the rules of Islamic Law. As stated by Ik., the distribution of inheritance in the area is in accordance with Islamic Law.²⁰ Likewise, with Jul.'s statement, according to him, the distribution of inheritance is in accordance with Islamic Law, related to joint property assets. The system of division of the property in this family means that the son will get the greatest wealth. Even though the eldest is a girl, or in a family with five daughters and one youngest son, the boy will get the greatest wealth, even though the boy is the youngest child. In the system of distribution of assets that have been experienced, there must be a family deliberation. For example, if the husband dies, the wife only gets 30% of the property, then the son gets 40% of the property, and the daughter only gets 20% of the property. Men get bigger assets because it has been passed down from tradition that in Lampung tribe, boys will get bigger assets. The inheritance distribution system that has been divided before the husband/wife dies is to avoid commotion between siblings and make the child independent if the child wants to open a business or so on.²¹

Similarly, the results of an interview with Kyai Iz., Caretaker of PondokPesantrenKelurahanKaliawi, TanjungKarang Pusat District, NU Bandar Lampung Branch Chief, he stated that he had been asked several times to participate in inheritance division deliberations, he would follow what the heirs wanted. Because if they ask in *faraidh*/Islamic law, they will blame themselves as if conspiring with people who can share a lot. From what he has experienced in the division of joint property, if the husband or wife or one of them dies and has children if the division of the property follows *faraidh*, sometimes the wife does not approve of the division of the property because in *faraidh* the wife can only 1/8 from this joint property. Sometimes, a corpse's parents left a larger part than the wife. For example, he also explained that there is a corpse leaving a wife, 1 (one) son, 1 (one) daughter and parents. The corpse left a fortune of 24 million. Here the parents will also get the property of each 1/6 means 8 million. The wife only gets 1/8 means 3 million, and the child will get 13 million. Here girls get 1 (one) part, and boys will get 2 (two) parts. Sometimes daughters do not receive the division

²⁰ Ik, "Labuhan Ratu, Bandar Lampung" (2 November 2019, 2019).

²¹ Jul, "Kelurahan Kelapa Tiga, Kecamatan Tanjung Karang Pusat, Bandar Lampung" (November 2019, 2019).

of the property. The girls' backgrounds do not approve of the division because the girls feel that those who are already struggling to take care of their parents. So now, a lot of joint wealth is divided equally, and men or women will get equal wealth. According to him, if property division has been divided before death, it is called a grant. If property division is divided after death, it is only called inheritance property. "Because now many are seized, so many inheritances have been shared before death."²²

In the process of inheritance distribution, as stated by Sup., One of local neighborhood chiefs in Rajabasa said, in the residential environment in terms of inheritance distribution system using Islam because the people of Banten prefer Islamic Law then based on Banten customs in number two, after that regarding the proportion of heirs is more preferred or more boys than girls, it is based on the traditions of the surrounding community where most people are Banten, and about boys are more dominant in the ownership of inheritance than girls because based on "philosophy" that men as leaders are then a greater burden on boys so that is why boys get more inheritance in accordance with Islam that boys get more inheritance 2 (two) fold than the daughter. And about the second part of the joint property in the inheritance distribution system before it is distributed, the community first gives the joint property to the husband or wife who is left later after the deduction and others, the rest is distributed to all the heirs. Although there are residents around the neighborhood who died a husband who worked as a Civil Servant when he died, the property left was first given joint property to his wife, but regarding the wife's inheritance property was not given inheritance property due to information that the wife remarried so based on the knowledge of the rights of the abandoned wife is scorched, while also not having a biological child only has an adopted child. Still, the adopted child also does not get the inheritance property because, in the beginning, there was never or no agreement made, so that for that reason, the adopted child did not get an inheritance. Like his own siblings, even his family did not inherit, so the inherited property was only taken and managed by his biological mother.²³

Similarly, with Sap., Regarding the inheritance system in the environment around his residence, although he still uses the customary inheritance system and their respective tribes, because he is a Javanese, the division of inheritance between boys and girls is equal. However, suppose the joint property is related, according to him, in the division between the property and the inherited property left. In that case, it is separated first, and then it is separated again for the management of the remains and the rest is distributed to the heirs. Never before the husband or wife dies is the property distributed. In his opinion, the action is a negligent grant if one dies before the management or division of inheritance is done Regarding the possession of inherited property without being managed or distributed to his heirs, according to Mr. Sapuan, an individual who wants to control for his benefit.

²² Iz, "Kecamatan Tanjung Karang Pusat, Pengurus Cabang NU Bandar Lampung" (November 2019, 2019).

²³ Sup, "Kota Baru, Rajabasa, Bandar Lampung" (November 2019, 2019).

To the best of his knowledge, he had never heard or experienced such a thing in his place of residence. But he had heard of it but not in the neighborhood where he lived, but out there.²⁴

Based on the above facts and data, it is known that the division of joint property is still valid in some places in Bandar Lampung. It is just that based on the data above, the division is still considered unfair because one of the heirs did not receive the division of the inheritance.

Conclusion

Based on the discussion described, several things can be concluded that the implementation of the division of common property in Bandar Lampung is very varied. Sometimes the wife or husband gets the joint property, as in the teachings of Islam. Sometimes a wife has a lot of property to manage. Sometimes the wife gets nothing, the first son of a man, or the youngest child in the family (depending on custom or tribe). Sometimes, the husband or wife and the children they give birth to can inherit before they die. Sometimes, the inheritance is divided after both parents die.

References

- Ais. "Pinang Jaya, Kemiling, Bandar Lampung." 2019.
- Arin T.Muljana. "Harta Bersama Dalam Waris Menurut Hukum Positif Di Indonesia," n.d. //D:/Harta Gono Gini/rujukan httpsttlegal.comindex_htm_filesHarta%2520Bersama%2520Dalam%2520Waris.pdf.
- Departemen Agama republik Indonesia. *Al-Qur'an Dan Terjemahannya*. Jakarta: Suara Agung, 2008.
- DR. "Daerah Labuhan Dalam." 2019.
- Firdaweri. *Fiqh Mawaris*. Bandar Lampung, 2017.
- Hakim, Syaikhul. "Reaktualisasi Pembagian Harta Bersama Dalam Mazhab Syafii Dan Kompilasi Hukum Islam Di Indonesia." *Akademika* 9, no. 2 (2015): 155–75. <https://doi.org/10.30736/akademika.v9i2.60>.
- Ik. "Labuhan Ratu, Bandar Lampung." 2019.
- In. "Bandar Lampung." 2019.
- Iz. "Kecamatan Tanjung Karang Pusat, Pengurus Cabang NU Bandar Lampung." 2019.
- Jul. "Kelurahan Kelapa Tiga, Kecamatan Tanjung Karang Pusat, Bandar Lampung." 2019.
- Kompilasi Hukum Islam (n.d.).
- M.Ag. El. "Penyuluh Kota Bandar Lampung." 2019.
- Muk. "Beringin Raya, Kemiling, Bandar Lampung." 2019.
- Nv, Sar. "Bumi Manti, Labuhan Ratu, Bandar Lampung." 2019.
- RD. "Raja Basa Raya, Kecamatan Raja Basa, Bandar Lampung." 2019.
- Ros. "Daerah Way Halim, Bandar Lampung." 2019.

²⁴ Sap, "Sawah Brebes, Bandar Lampung" (November 2019, 2019).

Sap. "Sawah Brebes, Bandar Lampung." 2019.

SN. "Way Halim, Bandar Lampung." 2019.

Suh. "Gunung Terang, Kemiling, Bandar Lampung." 2019.

Sup. "Kota Baru, Rajabasa, Bandar Lampung." 2019.

Sur. "Bandar Lampung." 2019.

Undang-Undang Republik Indonesia No.1 Tahun 1974 Tentang perkawinan,
Pub. L. No. 1 (1974).