

The Problematics and Challenging of Islamic Law Influence on Order of The *Badui* Community Life

Merry Roseline Pasaribu¹⁾ & Rizki²⁾

¹⁾Faculty of Law, Universitas Prima Indonesia, Medan, Indonesia E-mail: merryroselinepasaribu@unprimdn.ac.id

²⁾ Faculty of Law, Universitas Prima Indonesia, Medan, Indonesia E-mail: rizki@unprimdn.ac.id

Abstract. *The Badui tribe is one of the tribes in Indonesia that has been able to maintain its customs until now and is a society that has closed itself off to a life that is completely advanced both in terms of technology and science. This research is a sociological juridical research by conducting field research and data collection was carried out using method of observation and interviews from the Badui Dalam and Badui Luar tribal communities. From the research results, it is clear that the inner Badui tribe maintains its customs and beautiful natural environment without being touched by outsiders, although this community does not close itself off from the influx of domestic tourists, but they have a strong order and obey the punun and impose punishments. It is clear that if one of the members of the Badui community violates customary rules by expelling a member of the family, he is not allowed to live in the Badui community anymore. The Badui community does not know what education is, so the children of the Badui tribe do not have formal education in school because it is prohibited, education can make a person dishonest, a fraud, a liar, nepotism and collusion which results in an atmosphere of preserving peace and binding customary harmony. However, the Badui children cannot write but can read, and now some are even able to speak Indonesian. Marriage is monogamous, there is no term for divorce and each couple is matched by both parents and the heirs are male and female children with equal portions. If there are adopted children, their position is the same as biological children, both in terms of inheritance, there is no influence of Islamic law. in the order of life of the inner Badui tribe.*

Keywords: *Badui; Influences; Life; Society.*

1. Introduction

Indonesia consists of various ethnic groups and there will definitely be variations in customs and distribution of inheritance, this depends on the tribe of the community itself, but in customary law in Indonesia the inheritance system consists of 3 parts, namely

- a. Collective inheritance
- b. Individual inheritance

c. Inheritance is either male or female.

A collective inheritance system where inherited assets cannot be divided among each heir individually because inheritance is only owned collectively, which means that all heirs only have the right to use and enjoy, whereas individual inheritance is where inherited assets are divided to each heir so that each heir can own and enjoy the inheritance individually. Meanwhile, the inheritance system is male-majority where inheritance is only inherited by the eldest male child with the stipulation that the eldest male child has the obligation to take care of the other siblings as descendants of the heir, and vice versa, inheritance is based on female majority (Anonim, 2011).

For Indonesian society, in addition to the inheritance system, there is also a kinship system that is divided into 3 parts, namely: (Garna, 1988: 19)

a. Matrilineal System

b. Patrilineal System

c. Parental System

In a society based on a matrilineal system, the successors are daughters and the heirs are daughters and descendants of female children, for example: Minangkabau society, male children are not heirs, so in the Minangkabau region it is known by the term "*katok paku kacang balimbiang*", children are held in the lap of their nephews in *bimbiang* (the nephews are the ones who are looked after at school so that their lives will be more decent in the future, while their own children are only given just on my lap). (Wahid, 2009: 18)

Even though this has shifted with the progress of the times and many Minangkabau people have migrated, and of course there is adaptation where they migrate, there is an assimilation of customs so that a Minangkabau family no longer takes care of their children and nieces but rather prioritizes their small family which is usually called with *gezin* (father, mother and child) a Minangkabau father has focused on paying attention to sons and daughters. Also in terms of inheritance for the Minangkabau people, they prefer the distribution of inheritance based on Islamic law (Thalib, 2004:58).

This Patrilineal System applies to the Batak tribe, sons as an heir and successor of the lineage, a daughter does not have the right to inheritance, she only has the right to property given by her male brother. Because men are the successors of the lineage, a family that does not have a son will have its lineage wiped out or extinct and all property will fall to the male brother, the male father (Sitompul, et.al, 2020:102). In the Toba Batak tribe, with the existence of marriage with the payment of *sinamot*, the legal consequences are that the wife enters the husband's family and the wife is not an heir, she only has the right to use (*genot*) the property if the husband dies. In Batak customs, the inheritance system is individual and collective, meaning that the inheritance is divided among each heir and can be enjoyed personally, however, apart from that, there is property that is owned collectively (together), namely the property of relatives, where all heirs only have one share. right to enjoy only.

Parental System that draws lineage from the father and mother and this is found in the Javanese tribe, the position of sons is the same as daughters and inheritance is known as *sepikul segendong*. However, in the *Badui* tribe research area, there is a uniqueness of society This is a nomadic society (moving around) whose livelihood is farming,

meaning that in dry farming, other crops are planted in the form of sweet potatoes or corn, which is different from rice fields where there are no side crops other than rice in flooded fields (Soerjono, 2003:67). The kinship system is parental and the inheritance system is based on individual and collective because not all assets can be inherited by heirs, especially land, because land is considered to belong to relatives or is a customary right, heirs only have the right to enjoy it, what can be inherited by heirs are only kitchen utensils, barns, crops and farm produce. The *Badui* community is famous for its simple life and being at one with nature, wherever they walk barefoot, not knowing what shoes and sandals are.

2. Research Methods

This research is a descriptive sociological juridical research whose research location is the inner *Badui* and outer *Badui* communities in Kanekes village, Banten Province. The data collection was carried out by observation and interviews for the *Badui* and Jaro adat communities with details of five inner and five *Badui* communities. people from the outer *Badui* community and one person from the inner *Badui* community and one *adat jaro* person from the outer *Badui* community, to get information on what is the reason why the *Badui* tribe is not interested in the hustle and bustle of technological progress and the bright lights of the city around them and persist in their backwardness and have no desire to look forward to a better future, even though there are government regulations and a budget for village development. To advance the village, all data, both data reduction and data display obtained in the field, will be analyzed quantitatively so that it can provide a clear picture of the lives of the *Baduy* community in *Kanekaes* who also have a different religion from the religion recognized by the Indonesian government.

3. Results and Discussion

This *Badui* tribe lives in Banten, Kanekes village, Leuwidamar sub-district, Lebak district, Banten Province, the *Badui* tribe's religion is Sunda Wiwitan and recognizes the existence of the Almighty called *Gusti Nu Maha Suci Allah Nu Maha Kuasa* which is said to be invisible to the eye but can be felt in the heart, this *Badui* tribe also has a holy book called *Sangh Yang Siksa Kandang Karesian*, based on observations in the field, the *Badui* tribe's religion has not been recognized by the Republic of Indonesia. So for the future, it is a matter of thought for the government to be able to make a policy so that this *Badui* tribe can also have an ID card because the *Badui* tribe is the native population of the Indonesian people. For the future, according to the researcher's view, the government should provide a column containing and others besides the five existing religious choices so that it can cover all kinds of religions in Indonesia so that there are no more obstacles in making an identity card, as proof that someone is an Indonesian citizen. The *Badui* tribe is one of the tribes that has its own uniqueness besides other tribes, this is a picture that Indonesia consists of various tribes but remains a unified whole from Sabang to Merauke (Hasanah, 2017:212). The *Badui* tribe has its own uniqueness based on the beliefs of the *Badui* tribe, in the construction of the house the construction is adjusted to the contour of the land, which is made of wood, bamboo and the roof is made of *ijuk* which is done by mutual cooperation, each house is given a distance from each other according to the concept of *buana larang* which is a place for people who have died, this house is called *sulah nyanda* The material of the house must not come from the ground such as bricks and tiles because

the ground is a place for people who have died. All houses must face south because the Sasakadomas place is where the spirits of ancestors gather.

The *Badui* tribe has 3 parts, namely; (Koentjaraningrat,1993:103)

- a. The inner *Badui* tribe (*tangtu*) which is led by a traditional leader called *Pu'un* and
- b. The outer *Badui* tribe (*panamping*) is located in the villages of Cikeusik, Cikertawan and Cibeo which have different life patterns from each other in everyday life.
- c. The *Dangka Badui* tribe which is a branch of the *panamping Badui*.

The inner *Badui* tribe still adheres to customs and they live based on nature without any outside influences, they live simply, this tribe is against formal education and modernization, this tribe is prohibited from wearing footwear so that wherever they go outside their village they are barefoot. The inner *Badui* community does not participate in politics and there is no government contribution to this tribe, because they are truly closed off and live depending on nature, it can even be said that this *Badui* tribe is still resistant to the strong currents of modernization and technological advances that occur in society, it can even be said that this tribe is one of the tribes that rejects change. Everyday they wear white clothes and white headbands and black bottoms that are woven and sewn by themselves (Djoewisno, 1987: 193). What is unique from the researchers' findings is that every man still wears a headband knot, for young men it is called *Koncer* and *Telekung* for middle-aged men, apparently all Bedouin men have long hair because according to traditional regulations men are not allowed to cut their hair.

They are very obedient and subject to customary law. Anyone who commits an act that is contrary to custom will be given a customary sanction in the form of expulsion and cannot live in the inner Bedouin. In fact, anyone who wears clothes that resembles the outer *Badui* is deemed to be violating custom and cannot live in the inner *Badui*. This society also has a government system called *kembanguh karuhun* which consists of 3 traditional leaders (Kurnia, 2010: 29). *Pu'un* is the highest position for the *Badui* tribe and is assisted by the *jaro* for daily implementation and each *Pu'un* from each village has different duties from each other. The nature of mutual cooperation is very strong, this can be seen during traditional events such as marriages, the boys are in charge of grilling (smoking) while the girls are in charge of cooking fried foods. Mutual cooperation is also seen in the construction of houses because the *Badui* tribe is a nomadic tribe and the construction of bridges connecting the inner and outer *Badui* has no lighting at night, everything is pitch black and night activities are used to chat with family and play the lute. In contrast to the outer *Badui* tribe (*Badui Panamping*) they have left the customs to *Pu'nuan*, but *Sunda Wiwitan* is still the belief of the outer *Badui* tribe and is led by a *Kokolot Lembur* (village elder), usually wearing black and blue clothes with their heads tied and carrying cloth bags containing betel equipment. The outer *Badui* have accepted outside culture such as being familiar with shampoo and soap and electronic goods.

3.1. Livelihood

The *Badui* tribe lives on dry land and the results of the dry land will be stored in a barn (*luit*) to be consumed and used if there is a party and is food security if there is a famine. The barn is a stilt house and the windows are made above the place where the

rice is put in and must be maintained so that the rice can last a long time and for the *Badui* tribe the barn is far from their place of residence, if the rice is to be processed then it is taken from above Based on observations that not all members of the *Badui* tribe have the right to plant dry land rice, but it is determined by the traditional leader (*pu'un*) in turn, the rice will be harvested for a year and the results are not sold but for consumption and used for other traditional events. Farmers in working the fields do not use cows and buffaloes, because they are considered to damage nature and also raise chickens they slaughter chickens if there is a certain traditional ceremony or wedding. So chicken is a special food. Making palm sugar is also a source of income for the *Badui* tribe, the collection of palm sap must be done at two times, namely: (Permana, 2020:23)

- a. Before the sun shines
- b. Before the sun sets

After the specified time, the palm sugar will taste sour, the processing of palm sugar is by boiling it with boiling water for 6 hours until it thickens Honey, in *Badui* there are 3 types of honey, namely:

- a. Sweet honey that comes from places where there are durian, *aren*, banana, jackfruit trees that are big trees (odeng honey)
- b. Bitter honey comes from wild flowers such as mahogany, *sengon*, kaliandra that grow in the forest.
- c. Damaged honey is sweet honey that foams and produces gas

It's a bit strange that the *Badui* tribe is allowed to plant cassava but the ingredients must be taken outside *Badui Dalam* and if you want to fish, the fishing rod is made yourself, the fish in *Badui* is called Regit fish. If you want to take a bath, you are not allowed to use soap but Honje so there is no environmental pollution. All the tools used in the day are still traditional, the drinking place is made of bamboo so it gives a very different aroma. Based on the fact that the tribal council always holds raids to find out who uses outside goods, anyone who is caught using a cellphone will be punished to leave *Badui* because they have violated customs. There is no difference in social status of the *Badui* community because their houses are the same shape, the only difference is that if one family's furniture consists of a lot of brass, then the family has a high social status. The journey through *Badui Dalam* took 7 hours on foot because the community did not want to accept the government's helping hand for the progress of the community and even strongly rejected the existence of internet access to *Badui Dalam*. Based on interviews, the *Badui* tribe prepared lodging, namely around Cibeo, only enough for one night, if more, they have to move to another village. The price of lodging for 2 days and one night is IDR 260,000 plus dinner and breakfast and if the youngest is excessive and uses the services of a *Badui* person, they will be paid IDR 50,000 (Suryani, 2020).

The ideals of the parents of the *Badui Dalam* community are enough for the children to help their parents. However, the *Badui Luar* community has been contaminated with modernization. Some of the people have used cellphones even though there is no electricity, so to charge the battery they have to go to Cibolegar or Cijahe village on foot and pay Rp. 1,000. If there is an inspection by the tribal council, the cellphone will

be hidden in the fields. The *Badui* tribe lives on dry land and the results of the dry land will be stored in a barn (*luit*) to be consumed and used if there is a party and is food security if there is a famine.

The barn is a stilt house and the windows are made above the place where the rice is put in and must be maintained so that the rice can last a long time and for the *Badui* tribe the barn is far from their place of residence, if the rice is to be processed then it is taken from above observations that not all members of the *Badui* tribe have the right to plant dry land rice, but it is determined by the traditional leader (*pu'un*) in turn, the rice will be harvested for a year and the results are not sold but for consumption and used for other traditional events. Farmers in working the fields do not use cows and buffalo, because they are considered to damage nature and also raise chickens they slaughter chickens if there is a certain traditional ceremony or wedding. So chicken is a special food.

3.2. The *Badui* Tribal Marriage

For the *Badui* tribe, if a man wants to get married, he must go through several processes like other tribes in Indonesia by holding a proposal first:

- a. The prospective bride and groom must first report to *Pu'un*
- b. Bring *betel*, *gambir* and areca nut
- c. *Betel*, *gambir* and areca nut are brought to the prospective bride's house
- d. The prospective groom brings a ring made of white steel as a dowry
- e. Bring clothes for the prospective bride with household equipment

There are three stages of the proposal, there is a meeting between the parents of both parties to match their son / daughter first,

- a. The prospective groom gives a wedding tool in the form of *gambir*, lime, *betel* and *betel* and informs that the parties have been matched, then asked for prayers and permission from *Pu'un*
- b. Only in the second stage after several months the man gives a ring made of silver steel (*meneg*) here the woman cannot refuse
- c. The man brings a set of kitchen utensils in the form of a bamboo fan tray (*hihid*), a cauldron and a set of women's clothes.

There are good days in carrying out a marriage which are said to make the household peaceful, harmonious and calm, namely the months of *Kalima*, *Kenem* and *Kapitu*, the marriage ceremony should not be held in the months of *Safar* and *Kawalu*, namely the months of *Kasa*, *Karo* and *Katiga*. Usually the wedding schedule is carried out for 3 days, namely:

- a. On the first day of the event, the traditional leader asks for prayers to obtain safety and avoid disturbances and obstacles and at this stage also preparations for food and drinks that will be served to the *kokolot*
- b. When receiving relatives and neighbors and guests to express their joy and convey congratulations to the bride and groom, this is where the marriage contract is held according to the *Sunda Wiwitan* belief
- c. The third day is considered to be the legalization of the marriage, the bride and groom have already performed the ceremony of going down the bride and groom (*pangurip*) until the event is dissolved by the traditional figure

Marriage requirements for the *Badui* community, men aged 16 years and women aged 14 or 13 years, an *ijab Kabul* is held based on the *Sunda Wiwitan* belief

In the Marriage Law, Article 7 states that marriage is only permitted if the man has reached the age of 19 years and the woman has reached the age of 16 years and if there is a deviation from Article 67 (1) must obtain permission from the Court or other Officials appointed by the parents of the man or woman. If seen, marriage in the *Badui* tribe does not comply with what is required by positive law, but the marriage is valid according to religion and customs in the *Badui* tribe community, in law it is known that a regulation has absolute legal force if the community submits to and obeys the regulation and customary law is a law that lives in the midst of society, it can even be said that the life of the *Badui* tribe does not recognize the existence of positive law, they prioritize their customary law which comes from their ancestors.

The *Badui Dalam* tribe may marry other people as long as the prospective groom fulfills several conditions, namely:

- a. Must prepare a set of white cloth that is 2 or 4 meters long which is intended to cleanse oneself
- b. Oil
- c. Knife as a tool to sharpen so that people believe what is being said and sharp to gain success if carrying out a business
- d. Mat and bowl. The bowl is usually a place for kings' betel in the past which consists of brass.

After all is fulfilled, the wedding ceremony is held based on *Badui* customs and *Sunda Wiwitan* religion

The consequences of this marriage are:

- a. The bride and groom and their descendants are not allowed to live in *Badui Dalam* anymore, even if in the future they want to visit their parents or family in *Badui Dalam*, they are only given a visit of 2 nights.
- b. The rights of the bride and groom as heirs to the inheritance from their parents are lost.

Based on the above, it means that the position of the bride and groom who marry outsiders is the same as domestic tourists who are given the right to stay for 2 nights but must be in a different village.

In choosing a partner, there are already provisions that apply to the community

- a. Marriage in the *Badui Dalam* community is monogamous, there is no such thing as divorce, a husband can only remarry if his first wife dies
- b. A person is matched with someone since they are in the womb
- c. No one rejects the matchmaking because of obedience to custom
- d. In the *Badui Dalam* community, matchmaking is regulated by custom, love cannot choose because everything is based on obedience to custom
- e. *Badui Dalam* can marry *Badui Luar* but the person concerned must move to *Badui Luar*, the custom of moving will be regulated by the kokolot
- f. The marriage is carried out in front of *Pu'un*, a traditional leader who leads in the traditional hall.

The wedding party for the *Badui* community costs quite a lot, usually held overnight and for 3 consecutive days sending food and side dishes to all the people in *Badui* for those who cannot afford it, just with the closest neighbors. In the wedding party in the *Badui* saweran tribe, it must be done, by scattering small objects that have extraordinary meanings with the intention that if the bride and groom live happily, then don't forget to share love. Saweran has a different meaning for society in general, according to the *Badui* tribe, saweran is a way of conveying advice from parents to the bride and groom and is considered a sign of parental affection. The term sawer is a place where water falls from the roof of the house. After the event is over, the bride and groom receive a bowl containing rice, small change, turmeric and bon2, all of which have certain meanings, namely:

- a. Rice symbolizes prosperity with the hope in prayer that the bride and groom can live prosperously, happily and peacefully.
- b. Small change means that prosperity can be obtained by sharing love with the poor.
- c. While bon2 or candy means that the lives of the bride and groom are sweet like sugar
- d. Turmeric means a symbol of glory.

Unlike the *Badui* community who embrace Islam, they live with the *Badui* Muslim community in Landeuh, do not receive inheritance either when their parents die or when the parties get married. *Badui* Islam holds the wedding ceremony twice

- a. holding a marriage according to *Badui* tribal customs carried out by *Pu'un*
- b. marriage based on Islamic law carried out in front of the tuan kadhi

3.3. Inheritance according to *Badui* Customary Law

In customary law, there are 3 types of inheritance, namely:

- a. Collective inheritance system: where the heirs inherit together, cannot be divided and the heirs only have the right to use it, for example: Minangkabau
- b. Individual inheritance system: inheritance is divided individually to the heirs and can be enjoyed by individuals, for example: Javanese tribe
- c. The inheritance system that is predominantly male means that it is only inherited by the eldest son. For example in Lampung.

The inheritance system of the *Badui* community is bilateral, the position between the mother and father is equally strong and individual, which means that both sons and daughters have the same rights. There is no division of inheritance upwards, namely the grandmother or sibling of the heir, while the *Badui* tribe only recognizes the division of inheritance downwards, namely husband and wife, male and female children and adopted children (*anak pulung*) In the *Badui* tribe, land is not an inheritance because land belongs to a legal community (communal), the distribution of inheritance can be done in 2 cases, namely:

- a. When someone gets married
- b. When the testator dies.

Usually inherited assets are in the form of rice, hamlet, leuit, welit kirai and cubicle what is inherited is usually: gold, money, machetes, plants that produce the fruit of inheritance are usually distributed during a seven-day, forty-day or one-hundred-day

salvation ceremony and the heirs' happiness is carried out when the heirs gather. The inheritance is shared by the mother or father who has lived the longest, the oldest male or female child or a traditional leader or religious leader appointed by the heir. Jaro intervenes in the distribution of inheritance if an agreement cannot be reached between the heirs.

Loss of rights as heirs for the *Badui* tribe:

- a. If someone leaves *Badui* land and chooses to live in a certain city
- b. Someone embraces Islam

If there are no other heirs in a family, the person who manages all the inherited assets is the heir's uncle (*mamang*), even though he will not inherit anything at all, he has an obligation to place the proceeds from the sale of the inherited assets in the correct place according to custom. (Sitompul, 2023,:49) that is, it is used for the common benefit of the *Badui* community, which is used to pay for building bridges or buying bamboo for water channels. Usually inherited property for the Bedouin tribe: in the form of rice barns, houses, household furniture.

Based on the results of observations in the field, there is not a single written reference regarding the distribution of inheritance portions for the *Badui* community, everything is based on customary law (*kembanguh*) and all inheritance assets are distributed to the heirs of the heir's descendants, namely: (Oemarsalim , 2006:67)

- a. Boys
- b. Girl
- c. Adopted child (*anak pulung*)

In the Bedouin tribe, adopted children have the same rank as biological children. Meanwhile, for the Islamic Bedouin tribe who live in Cicakal Girang village, inheritance distribution is carried out based on Islamic law which is based on the Koran and is familiar with the *maslahah* of deliberation to reach consensus in inheritance distribution. The fundamental difference between the inheritance law of the Bedouin community and Islamic inheritance law lies in *Pikukuh* which is the basis for the unwritten inheritance distribution rules which in Islamic inheritance law are clearly based on the Al-Quran and As-Sunnah and know *Furudh al-muqoddaroh*, namely 1/2, 1/ 4, 1/8, 2/3, 1/3, 1/6 (Zainudin , 2020:23).

Apart from that, there are similarities between the inheritance law of the Bedouin community and Islamic inheritance law in that the heirs are the descendants of the person who died and the inheritance can only be distributed after the death of the testator. However, the Bedouin community does not distribute inheritance to the lineage and above. Distribution of inheritance is still carried out based on customary law and does not recognize what is known in Islamic law in fact, the *Badui* tribe can be given a thumbs up because there is gender equality, even though they live in the middle of the forest and are very far from modern life, whereas gender equality is a problem that is very difficult to solve anywhere in tribal communities in Indonesia.

In terms of inheritance, it is clearly regulated in Islamic law which is based on the Al-Quran and Sunnah, while in the *Badui* tribe, *Pikukuh* is the basis for distribution of inheritance which is not written, and the *Badui* tribe does not recognize the existence of division of inheritance upwards, namely parents. For the Muslim *Badui* tribe, there is

a very striking difference in that they place adopted children in the same position as biological children. Especially in sharing inheritance and physical and spiritual needs, the same share as biological children. Meanwhile, Islamic law does not recognize the position of adopted children in terms of inheritance, Islam only recognizes foster children

4. Conclusion

The *Badui* tribe is a tribe that lives in simplicity without being tempted by the current of modernization around them, everything is based on preserving nature, even in building houses, building bridges, and planting rice and the land must not be disturbed because it destroys nature, even if the residents If the Bedouin dies within 7 days, it must be leveled and planted. The Bedouin community should not be exposed to education because education is considered to destroy nature and traditional norms that have been handed down by their ancestors and will give rise to feelings of envy, jealousy and riots that will eliminate the traditional order. There is no influence of Islamic law in the lives of the inner *Badui* community, but for the outer *Badui* community it is only in the implementation of marriages that the marriage contract is carried out based on customary law based on the *Sunda Wiwitan* religion and the marriage contract is based on Islamic law, but in the distribution of inheritance it is carried out based on *Badui* customary law. that is, only the sons and daughters of the heir are heirs. However, for the Bedouin community, Islamic law applies and recognizes the distribution of heirs from top to bottom and recognizes the portion of the inheritance.

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