

The Practice of Using Inheritance Assets for Death Feast Expenses from the Perspective of Islamic Law and the Aceh Customary Council (*Majelis Adat Aceh*)

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Abstract

This study aims to determine the practice of using pre-divided inheritance as funeral expenses in Aceh Singkil Regency from the perspective of Islamic Law and the Aceh Customary Council (*Majelis Adat Aceh*). This study uses a qualitative method with data collection techniques in the form of observation, interviews, and documentation studies. The results of the study found that funeral expenses in Aceh Singkil Regency are often carried out using undistributed inheritance, even though this is contrary to Islamic law. Islamic law prohibits the use of inheritance for funerals except under certain conditions with strict requirements, but the practice in Aceh Singkil shows that many of these requirements are not met. In addition, the view of the Aceh Singkil Regency Customary Council emphasizes that the use of undistributed inheritance for funerals is contrary to sharia and is very relevant. Therefore, the implementation of this prohibition is very important to prevent violations of Islamic Law.

Keywords: *Islamic Law, Inheritance, Death Feast Costs, Aceh Customary Council.*



A. INTRODUCTION

Family and property are very fundamental in Islamic law, especially Islamic inheritance law (Mufid, 2020). Succession rights arise through a valid marriage and are valid after the owner dies because of the strong relationship between marriage and inheritance. The distribution of inheritance serves as a mechanism to distribute wealth from previous generations to the current generation. Thus, inheritance acts as a bridge between past and future generations (Djailani, 1995).

In the social order, especially in the family environment, economic issues play a very important role. A person's economic and social position in society is often influenced by factors from previous generations, one of which is inheritance, or the transfer of assets from the heir to his descendants after death (Bowen, 1984). The consequences of not following Islamic law when distributing the heir's wealth are undeniable, this can be a source of conflict in the family. In addition, unfair distribution can cause someone to act unjustly by taking or controlling property that is not their right in an improper manner (Mahendra, 2023).

Every Muslim has an obligation to carry out the rules and regulations of Islamic law, which are based on authentic texts. As long as there are no new provisions that cancel or replace the rule, the obligation remains in effect. In other words, laws that emerge later can cancel or replace previous laws, and the obligation is adjusted to the

new provisions that have been established. In terms of Islamic law, especially those related to marriage and inheritance, many social groups that make up Indonesia have very different sets of norms (Simanjuntak, 2022; Nidal, 2022). The application of Islamic law in a region is often adjusted to the existing social system, but it must not deviate from the principles of Islamic law. This is in line with the principle of "*Al-'adah Al-muhkamah*" which states that customs or habits can also be a source of law as long as they do not conflict with sharia (Usman, 2002).

Inheritance law, also known as the science of Faraid, is a regulation that describes the process and results of the inheritance of wealth and property of a deceased person to his descendants (Fradhani, 2021). By regulating the transfer of ownership of assets according to the established requirements, the science of Faraid has decided the percentage of assets inherited for the right heirs (Saebani, 2015; Suriani, 2028). All rights and assets owned by a person after death are considered inheritance in Islam. The heirs inherit assets that are already clean because they have been passed down to pay debts and other obligations imposed on the heirs from the inheritance. Because each heir will essentially get a fair share according to the provisions that have been set, without any significant differences, the procedure for distributing inheritance to them does not require complicated calculations. Based on verse 7 of Surah An-Nisa Al-Qur'an.

لِّلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ مِمَّا قَرَّوْنًا

Translation: "For men there is a right to a share of the inheritance of their parents and relatives, and for women there is a right to a share (also) of the inheritance of their parents and relatives, whether small or large according to the portion that has been determined".

Before the inheritance is distributed to the heirs, there are several things that need to be considered, namely the fulfillment of the rights of the heirs such as paying zakat on the deceased that has not been paid while alive, the cost of organizing the funeral from the time of death until the burial is completed, paying off debts, and implementing the will. The inheritance must first be reduced by these obligations before finally being distributed to the heirs (al-Khan & al-Bukha, 2012).

The cost of organizing the funeral, from bathing to burial, can be taken from the assets left by the heir, but it must be done simply, not excessively and in accordance with the limits set by Islamic law. Practices that are not taught in Islam should be avoided. If there are costs that arise due to the insistence of tradition, then these expenses should not be taken from the inheritance of the testator (Basyir, 2001). For example, serving food and drinks before or after a funeral is not taught in Islam, so the costs should not be taken from the inheritance. Likewise, the three-day, seven-day, and forty-day after-death celebrations are not taught in Islamic teachings. If such events are still held because they are part of the customs, the costs must be borne separately and should not be deducted from the tirkah (inheritance of the testator) (Hadikusumo, 1993).

The Aceh Singkil community has an old custom, namely holding a seven-day and seven-night funeral, mekammis, forty and one hundred days after death. This is a tradition that is ingrained in the Aceh Singkil community. If this tradition is not carried out, it will receive social sanctions in the form of ridicule from the surrounding community. However, the costs incurred for the celebration are certainly not small. Indeed, usually neighbors and condolences will give alms in the form of rice, money and others which are intended to help the mourners to cover the costs of the funeral. However, sometimes the alms are not enough to cover the costs of the funeral as is usually done, so the family uses the deceased's inheritance that has not been divided to meet these needs. Sometimes, the use of the inheritance is done without prior permission from the other heirs.

This study aims to determine the practice of using pre-divided inheritance as funeral expenses in Aceh Singkil Regency from the perspective of Islamic Law and the Aceh Customary Council (*Majelis Adat Aceh*).

B. METHOD

This research is descriptive qualitative, providing an accurate and objective picture of the state of the research object (Subagyo, 2008). The findings will be based on data and facts collected at the location, focusing on the practice of Islamic funeral payments using undistributed inheritance in Aceh Singkil Regency.

This research also includes an empirical normative study, which analyzes the application of law according to the norms prevailing in society. The researcher will conduct direct observations and studies related to the practice of using undistributed inheritance for funeral expenses, according to Islamic law and the rules of the Aceh Customary Council in Aceh Singkil Regency.

C. RESULTS AND DISCUSSION

1. Case of Use of Inheritance for Death Feast in Aceh Singkil Regency

Research on the practice of using inheritance for funeral expenses in Aceh Singkil Regency revealed several findings from respondents:

a. Al-Marhum Sahala Hutagalung family

In Siatas Village, Simpang Kanan District, the deceased's family consisted of his wife, Siti Hawa, and four adult children. The funeral ceremony involved a series of feasts, with a total expenditure of around IDR 25 million. The largest expense reached IDR 17 million for the first seven days of feasts, including the purchase of one cow. Some of the funds were obtained from donations from the penta'ziah and relatives, while the rest was taken from the deceased's oil palm plantation. Siti Hawa stated that the use of inheritance was carried out based on family deliberation and was a local custom (Muzakir, 2021).

b. The al-Marhum family of Jambi Padang

The deceased's family in Siatas Village, consisting of his wife Nurhayati and four children, spent around IDR 18 million for the funeral ceremony. They slaughtered cows and goats for the kenduri, with the cost of the 40th kenduri

also coming from the deceased's inheritance. Decision-making was not through deliberation, but based on the direction of their mother (Aceh Social Service, 2023).

c. The family of al-Marhum Zakaria

In Bule Sema Village, the deceased's family spent around IDR 6,800,000 for the first seven days of kenduri. In addition, the kenduri Mekammis and others spent around IDR 1 million each. Although the source did not know the exact total, the use of the inheritance was carried out without consultation with other heirs, because they felt that there was nothing that could be paid for the kenduri (Aceh Disaster Management Team, 2022).

d. The family of the late Naim Pohan

In Tanah Bara Village, the deceased's family spent around IDR 6 million for the first seven days using inherited property, including proceeds from the sale of the deceased's wife's jewelry. Kenduri was carried out without consultation with other heirs, because it had become a necessity and was the result of the deceased's hard work (BPS Aceh Singkil, 2023).

e. The family of al-Marhum Naga

Information from Tanah Bara Village shows that the deceased's family, consisting of his wife and an orphan, felt the need to use the inheritance, including a goat, because the alms money was not enough for the needs of the feast. The source confirmed that they deliberated in making the decision (Muzakir, 2021).

Table 1. Interview Result Table

No.	Case	Practice	Reason	Heirs Status
1	Case 1	Carried out through deliberation and agreement of all heirs	It has become a habit	Nothing is efficacious
2	Case 2	Done with the agreement of the heirs	It has become a habit	One successful heir
3	Case 3	Done without deliberation	Urgent condition	There are no lucky heirs
4	Case 4	Done without deliberation	1. These assets are the result of the deceased's sweat, so it would be good to use them for him. 2. Use of the inheritance of orphans for a feast, because there is a guardian who has the	Two heirs have mahjur status

			right to give permission	
5	Case 5	Done without deliberation	It has become a habit	One heir hahjur

3. The Law of Using Inherited Assets for Death Feasts: Islamic Legal Perspective

The concept of inheritance in Islam refers to the transfer of rights or property from the testator to the heirs after the testator dies. After the completion of the funeral rites, such as burial and debt repayment, the remaining property becomes the right of each heir. In the perspective of *Syirkah Amlak*, the transfer of inheritance property occurs automatically, as stated in Surah Al-Nisa (4:7).

Before the division of the inheritance, the rights of the deceased must be fulfilled: the *tajhiz* of the deceased, the settlement of debts, and the implementation of the will, as explained in the hadith and the word of Allah. The inheritance that has not been divided is considered joint property (*Syirkah Amlak*). Therefore, the use of this property for the death feast must be based on the agreement of all heirs, in accordance with the principles of sharia which emphasize that actions without the permission of all owners are prohibited.

Terms of Use of Inherited Property

- The assets must be separated from the deceased's inheritance, debts and wills.
- Heirs must be aware of the extent of their share.
- Consent from all heirs is required.
- There are no heirs who have the status of *mahjur* (not yet mature or of sound mind).
- Analysis of the Reasons for Using Inheritance Assets for Death Celebration Costs

The interview results show four main reasons why people use inherited assets for funeral celebrations:

- Custom: The use of inherited assets is considered to be in line with culture, although this is difficult to justify if there is no agreement from all heirs.
- Urgent Conditions: In limited and urgent situations, the host feels it is inappropriate to ignore the guest, but this cannot be used as a valid excuse according to Islamic law.
- Good Intentions for the Deceased: The assumption that the deceased has more right to his property for the benefit of the feast is not justified if it is not supported by the agreement of all the heirs.
- Authority of Guardians of Orphans: Some believe that guardians have full rights to use the property of orphans, but this is contrary to the Islamic principle of protecting the rights of orphans as mentioned in several verses of the Qur'an.

4. The Traditional Council's View on the Use of Inheritance in Death Traditions

According to Ustaz Zakirun Pohan, Chairman of the Aceh Singkil Customary Council, the funeral kenduri is an important tradition that contains elements of charity and prayer for the deceased. Although the implementation of the kenduri is a collective responsibility, the Customary Council emphasizes that the cost of the kenduri must come from charity or the personal funds of the heirs.

The Customary Council rejects the use of undivided inheritance for kenduri expenses, because it is contrary to Islamic law. This statement emphasizes the importance of carrying out kenduri according to religious norms without being excessive and respecting inheritance rights (Manan & Arifin, 2019).

In other words, the Customary Council urges the community to carry out funeral celebrations as best they can and not to use inherited property that has not been divided, in order to comply with the principles of Islamic law.

The practice of funeral kenduri in Aceh, especially in Aceh Singkil Regency, is an important tradition that is carried out on the seventh, fortieth, and hundredth days after someone dies. This kenduri serves as a final respect and sending of prayers for the deceased. However, there are often deviations in the use of inheritance to finance this kenduri, which violates the provisions of Islamic law (Hasibuan, 2020).

Research shows that the use of inheritance is done without consultation among the heirs, including situations where there are heirs who are still minors or mahjur. This action is contrary to the principle of fair distribution of inheritance in Islam (Al-Qur'an, Surah An-Nisa: 11-12). Many heirs use inheritance that has not been divided for kenduri, driven by narratives such as "custom" or "urgent conditions." Some assume that the guardian of the orphan has the authority to give permission, so the use of the property is considered valid without the consent of all entitled parties (Islamic Law, Abdul Qadir).

In general, Islamic law prohibits the use of inheritance for funeral expenses except in very specific circumstances. The conditions for its use are:

- a. The assets used must be separate from the costs of tajhiz, debt payments, and execution of wills (Hadith of the Prophet Muhammad SAW).
- b. All heirs must know their respective shares and the amount of funds used for the feast.
- c. Consent must be obtained from all heirs; the disapproval of one heir makes the use of the property invalid (Ibn Hajar al-Haitami).
- d. There are no heirs with mahjur status.

However, many people in Aceh Singkil do not understand Islamic inheritance law well, so this practice continues even though it is against sharia. The view of the Aceh Singkil Customary Council which emphasizes that the use of inheritance for funerals is against Islamic law is very important to implement in order to prevent violations. Public awareness regarding Islamic inheritance law needs to be increased, and education is needed regarding the distribution of inheritance according to Islamic teachings, so that practices that violate sharia can be avoided.

D. CONCLUSION

The funeral kenduri in Aceh Singkil Regency is carried out in several stages, such as the 7-day kenduri, mekammis, 40 days, and 100 days. This event is held at the funeral home with activities such as reading Yasin, Al-Quran, dhikr, and prayer, which ends with a meal. The animals slaughtered vary, from chickens, goats, to cows. Therefore, the cost of the kenduri also varies, from millions to tens of millions of rupiah. This cost is generally taken from donations from mourners, money from the deceased's family, and even from inheritance. Several respondents admitted to using undistributed inheritance for funeral ceremonies in Aceh Singkil Regency. This was driven by several reasons, including: because it had become a habit, because of the urgent situation, the assumption that the deceased had more rights to the inheritance and the assumption that the guardian of the orphan had the authority to grant permission to use the orphan's property.

Islamic law generally prohibits the use of inheritance for funeral expenses, except in certain conditions that meet strict requirements. These requirements include: a) inheritance must be separate from funeral expenses, debts, and wills; b) all heirs must be aware of and know their respective portions and the amount used for the funeral; c) the consent of all heirs is required; and d) there are no heirs who are *mahjur*. In practice in Aceh Singkil, many of these requirements are not met due to the lack of public understanding of Islamic inheritance law and the existence of social pressures that influence this practice. Therefore, the view of the Aceh Singkil Regency Customary Council which emphasizes that "the use of inheritance for funerals is contrary to sharia" is very relevant in this context. Therefore, it is important to implement this prohibition to prevent violations of Islamic Law.

REFERENCES

1. Basyir, A. A. (2001). *Islamic Inheritance Law*. Yogyakarta: UII Press.
2. Bowen, J. R. (1984). Death and the history of Islam in highland Aceh. *Indonesia*, (38), 21-38.
3. Djailani, A. Q. (1995). *Sakinah Family*. Surabaya: Bina Ilmu.
4. Pradhani, S. I. (2021). Pendekatan Pluralisme Hukum dalam Studi Hukum Adat: Interaksi Hukum Adat dengan Hukum Nasional dan Internasional. *Undang: Jurnal Hukum*, 4(1), 81-124.
5. Hadikusumo, H. (1993). *Customary Inheritance Law*. Bandung: Citra Aditya Bakti.
6. Hasibuan, S. H. (2020). *Hukum Pelaksanaan Horja Turun (Kenduri Kematian) Perspektif Maqoshid Syariah (Studi Kasus Kecamatan Barumun Tengah Kabupaten Padang Lawas)* (Doctoral dissertation, Universitas Islam Negeri Sumatera Utara).
7. Mahendra, M. (2023). *Analisis Praktik Gala Umong di Kecamatan Seunagan Timur Kabupaten Nagan Raya Menurut Mazhab Syāfi 'ī* (Doctoral dissertation, Universitas Islam Negeri Ar-Raniry).
8. Manan, A., & Arifin, M. (2019). Cultural Traditions in Death Rituals within the Community of Pidie, Aceh, Indonesia. *Miqot: Jurnal Ilmu-Ilmu Keislaman*, 43(1), 130-144.

9. Mufid, A. (2020). Rekonstruksi Hukum Warisan di Indonesia Perspektif Pluralisme Agama. *Al-Qadha: Jurnal Hukum Islam dan Perundang-Undangan*, 7(1), 60-72.
10. Nidal, A. (2022). Analisis Yuridis Terhadap Budaya Hukum Masyarakat Terhadap Pembagian Harta Warisan di Kabupaten Pidie. *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh*, 10(2), 399-412.
11. Saebani, B. A. (2015). *Fiqh Mawaris*. Bandung: Pustaka Setia.
12. Simanjuntak, Z. U. (2022). Tinjauan Hukum Islam Terhadap Tradisi Kerjanjahat (Kenduri Kematian) Pada Masyarakat Muslim Suku Pakpak Sidikalang, Dairi. *Al-Mashlahah Jurnal Hukum Islam dan Pranata Sosial*, 10(02), 623-648.
13. Subagyo, J. (2008). *Research Methods in Theory and Practice*. Jakarta: Rineka Cipta.
14. Suriani, I. (2018). *Makna Simbolik Patèe 40 Hari Kematian pada Masyarakat Desa Blang Padang Kecamatan Tangan-Tangan Kabupaten Aceh Barat Daya* (Doctoral dissertation, UIN Ar-Raniry Banda Aceh).
15. Usman, S. (2002). *Islamic Law, Principles and Introduction to the Study of Islamic Law in Indonesian Legal System*. Jakarta: Primary Media Style.