

Patriarchy in the Heritage of Bima Muslim Society: A Correlation between the Quran, Human Rights and Customs

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Abstract

The Quran and Human Rights in general do not recognize the term patriarchy, either in the family system, roles or inheritance distribution specifically. But in the construction of human culture, classifying family forms, roles and inheritance divisions in the form of patriarchy. The division of inheritance in Islam is bilateral, in line with the Quran and human rights. However, the practice that occurs in Bima Muslim society is patriarchal, where inheritance takes precedence for men so that it is contrary to the Qur'anic commandments and human rights which have the purpose and principle of no discrimination between men and women. The practice according to the Bima Muslim community has been based on the Quran and is accustomed for generations to the next generation. This socio-legal research is conducted using qualitative methodology, and data analysis is done through critical analysis. This article significantly concludes that the pattern of inheritance distribution in Bima Muslim society is a patriarchal model. This practice violates the provisions of the Quran and the nawacita of human rights. Therefore, it is recommended that there should be socialization related to the rules of distribution of Islamic inheritance to the Bima Muslim community so that it is not understood based on the mindset of the community.

Keywords: *Patriarchy, Inheritance, Quran, Human Rights.*

Introduction

The relationship between Islam (the Quran) and human rights is often seen as static. In reality, these relationships are complex and subject to change. Human rights in Islam have the aim of protecting human rights, being a reliable solution, and a practical guide to overcome problems that arise. So Muslims argue that Islam and human rights are harmoniously intertwined which contains principles that answer some of the concerns of Muslims, (Mayer & Ann Elizabeth, 2007).

The Qur'an predates the UN-declared Charter of Human Rights. This shows that the Qur'an is the main reference for human rights including the Human Rights of the United Nations. Historically, the Qur'an laid the foundation for upholding human dignity by respecting its rights long before the United Nations Charter of Human Rights. So it can be concluded that the basis of regulation on human rights is a derivative rule from the Qur'an and has a relationship with each other (Mukhooyaroh, 2019). Therefore, human rights are one of the legal contents in Islamic inheritance law in addition to justice. The existence of teachings about human rights in Islam shows that Islam as a religion has placed humans as honorable and noble beings. Therefore, protection and respect for humans is a demand of the teachings of Islam itself which must be carried out by its people towards fellow humans without exception. (Pitriani, 2016)

The Islamic system of inheritance law regulates human relations, regulates property and its owners arising as a result of the death of the testator and regulates the determination of the share of heirs regulated according to QS al-Nisā' [4] verses 11, 12, and 176. The implementation of the division of inheritance does not have to wait for a dispute, but should be because it wants to carry out the division of inheritance according to the Islamic inheritance law system. (Hamid Pangoliu, 2019)

Islamic inheritance law has a very important position in the development of Islamic law. Islamic jurists and Quranic exegetes discuss this issue a lot, from classical times to the present. But there is no common interpretation of the same verse of inheritance in the Qur'an so that the general public who do not

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understand the meaning of the verse are given a choice over the pattern of inheritance distribution (Muchamad Coirun Nizar & Rozihan, 2018).

Universally, Islam and life are inseparable because Islam uplifts the human dignity of both men and women and restores their rights, which had been violated by male domination, religious traditions, and group fanaticism before the advent of Islam when women's rights were ignored (Dedisyah Putra & Nuriza Acela, 2023). Similarly, in terms of inheritance, there is a reality that the practice of inheritance distribution in Indonesia still uses patriarchal patterns.

In the Law of Inheritance in Indonesia, Indonesians who adhere to various religions and beliefs have various forms of kinship with different hereditary systems. These different hereditary systems greatly affect the inheritance system in the community. Among native Indonesians there is not only one family trait, but in various regions there are various family traits that can be included in three groups of family systems, namely: patrilineal, matrilineal and parental. (Akhmad Kamil Rizani & Ahmad Dakhoir, 2020)

Father-maternal kinship is the most evenly distributed and widely available in Indonesia, namely, in Java, Madura, East, Riau, Aceh, South Sumatra, all of Kalimantan, all of Sulawesi, Ternate, and Lombok. This kind of family system has essentially no difference between husband and wife, man and woman regarding their position in their respective families. Regarding the size of the share of inheritance it can be noted that some important things about the comparative portion of the share of women and the share of men are still strictly maintained that the share of boys is two to one with girls, although in fact quite a lot of people including from among Muslims themselves want the determination of equal shares between men and women. However, the Qur'anic postulates on this matter are unequivocal, including the Compilation of Islamic Law which is considered as positive law in Indonesia governing it. (Akhmad Kamil Rizani & Ahmad Dakhoir, 2020)

The principle of humanity in Islam, men and women are considered equally as honorable creations of God. Allah (the glory of man), and the glory of a person is not determined by his biological characteristics as male or female, but by his degree of reverence for God, (Dedisyah Putra & Nuriza Acela, 2023). Similarly, one of the principles that applies in Islamic inheritance law is the bilateral principle. The bilateral principle is the principle Where a person receives the right to transfer ownership through inheritance comes from both parties, namely from the side of male relatives and from the side of female descendants. It can also be said that the granting of rights to all descendants (male and female) is a provision that can provide comfort and influence the values of life planning for them, (Gerasimos T. Soldatos, 2017).

However, the above statement is only a theory that is not implemented in various aspects of life, one of which is the division of Islamic inheritance in the Bima Muslim community. At the observation stage, there is a misalignment of the pattern of inheritance distribution in the Bima Muslim community between the rules determined in the Qur'an and the reality that occurs on the ground.

The assumption of the Bima Muslim community that the pattern of division they do is in accordance with the orders of the Quran and based on the rights of each heir that they must get so that the pattern is perpetuated into a habit for generations. In fact, when combined with normative law, both in the Qur'an and based on the principle of human rights, it contradicts each other. Therefore, this research is important to explore the history and rationale of the Bima Muslim community applying a pattern of division that leads to patriarchy.

In addition, this study has not been researched much. Therefore, the purpose of this study is to explore and explore the pattern of Patriarchy in the Heritage of Bima Muslim Society which is correlated with the Quran, human rights and customs.

Research Methods

This research was conducted in Belo District, Bima Regency, West Nusa Tenggara. This location was chosen because of the unfair practice of inheritance distribution in the Muslim community of Belo District, Bima

Regency (abbreviated-Bima Muslim community). Qualitative data were collected through observations and interviews which formed the basis of this study. Belo District, Bima Regency, West Nusa Tenggara is a rural area that is thick with conservative thinking. Observations on the practice of sharing the heritage of the Bima Muslim community are currently carried out in rural communities with diverse educational backgrounds. The focus is on households with many children, especially households with daughters and sons in order to better understand the social practice of transferring property rights to heirs who should inherit.

In addition to observations, data were collected through interviews with 15 informants representing different age ranges, genders, occupations, positions, and educational backgrounds and having diverse knowledge about the division of Islamic inheritance in the Bima Muslim community. The selection of informants was also based on the original descendants of Bima Muslims and was expected to have a general understanding of the division of inheritance. The questions asked to the informants were directly related to the pattern of Islamic inheritance distribution of the Bima Muslim community and also included statements about discriminatory practices against women and boys in the Bima Muslim community.

Data collected through these approaches will be mapped in categories. The first category describes the cultural construction of the position of men and women in Bima Muslim society. The second category highlights the inheritance share gap between men and women in Bima society. The third category presents an overview of the impact of lawlessness in the division of Islamic inheritance on Bima's Muslim community.

Results and Discussion

- *Correlation of Inheritance with the Quran and Human Rights*

Each verse of the Qur'an has a meaning that corresponds to the grammar and the way the interpreter understands it. According to Ibn 'Arabi, every word in the Qur'an has an infinite meaning, all of which were intended by Allah. The correct interpretation of the verses in the Qur'an will open the reader to new meanings with each reading. (Ibn al-'Arabi, n.d., p. 367)

The law or provision of inheritance in Islam, like other provisions in Islamic law, has its source in the Qur'an and Hadith. Therefore, because it has a different kind of inheritance law made by humans. Even in a study it is stated that the transfer of property ownership with the Islamic inheritance law system has a comprehensive benefit effect and is wider in terms of economic aspects compared to other systems, (Abdul Ghafar Ismail et al., 2014, p. 115). There are at least two strong principles in this inheritance law. First, that the heir receives a share of the inheritance after deducting a will of no more than 1/3 of the estate, and second, that the estate is the property of a person who is transferred to his family after the death of the owner of the property, (E. Ann Black et al., 2013).

Inheritance is part of the process of transferring ownership of property from one person to another. Thus, inheritance aims to preserve material possessions, both their substances and benefits and utilization. The importance of preserving property that has been left behind by a deceased person is part of the implementation of maqashid shari'ah, in the form of safeguarding property (*Hijā' al-Mâl*). In other words, it can be concluded that the purpose of transferring property rights through inheritance is aimed at preserving property both in substance and benefit, (Naerul Edwin Kiky Aprianto, 2017).

Islam regulates the way of inheritance based on justice between the interests of family members, religious interests and the interests of society. Islamic law not only gives inheritance to a male or female from the father's or mother's lineage, but also gives inheritance to the offspring of both fathers of the mother, either in a straight line down, straight line up, or a line to the side, whether male or female. For this reason, Islamic inheritance law is bilateral and individual. Since its bilateral and individual nature is clear evidence of the recognition of Islamic inheritance of one's right to ownership of the inheritance left by the testator, this is the spirit of human rights, (Akbar Kadengkang, 2017).

This is confirmed by the Qur'an Surat an-Nisa verse 7 which means: "*for men there is a right to a share of the property left by their fathers and relatives, and for women there is a right to a share (also) of the property left by fathers and relatives, either a little or a lot according to the portion that has been determined*".

The affirmation that men and women have a share of the inheritance is Islam's great respect for equality and human rights. Previously in Arab societies, the tradition did not grant inheritance rights to women and children. Along with social changes, customary law emerged that did not give inheritance rights to men and also to women with consideration of customary law in force in their respective regions, (Sulistiyowati Irianto, 2005).

International human rights, which according to the author is a derivative of the Quran, have the principle of equality regardless of gender. Women have the same rights as men in all aspects. According to human rights as stated by the Human Rights Committee, that men and women have equal rights, (Mashood A Baderin, 2010).

- *The Position of Men and Women in the Culture of Bima Muslim Society*

Man

From pre-Islamic times until today, men have always been seen as superior beings. This fact exerts a tremendous influence, to the extent that hierarchical gender relations in the household have settled in the subconscious of both men and women, (Salmah Intan, 2014, p. 2).

Until now, the legacy of these historical values, which seems to be framed by Islamic normative values, has been misinterpreted due to the extreme dogma of Islam textually distinguishing between male and female roles. These values are still very thick in various aspects of life, both political, social, economic, and others. In short, status *Quo* Women as oppressed creatures still survive today, (Nasaruddin Umar, 1999).

The practice that occurs in Bima Muslim society implements religious dogma which states that "if a woman (wife) wants to go to heaven, she must serve her husband with the highest obedience". Men as children too, will be different in the treatment of parents towards boys and girls. Men as husbands, served from waking up to going to bed again. Even when eating should be given food that is still warm and accompanied until the rest of the food is sorted out.

The men of the Bima Muslim community are central to the policy that acts as a single player both in the household as the head of the family and in the community. Domestic violence committed by men is even considered commonplace by society, because it is considered a lesson so that women do not raise their voices to men and carry out all orders.

Privilege belongs to men from all aspects. That privilege when described into the articles of the Act, Article 1 reads that men are never wrong. If it is wrong, then return to article 1 without seeing if it was indeed a mistake and not considering the legal consequences caused.

If it refers to the Qur'an and human rights, it should follow the hadith delivered by the Prophet that the best man is the best in morals and the gentlest in his attitude to his family, including his wife of course; and as the word of God encourages husbands to treat their wives well. In addition, the husband should note that the wife is not entitled to receive insults from the husband because the Prophet (peace be upon him) forbade swearing at the wife. It is also advised that husbands please their wives, provide for themselves, refrain from getting angry easily if their wives hurt her, (Nina Nurmila, 2015).

Woman

Women of the Bima Muslim community whether from the level of education, married or not, as well as the social strata of the family, are considered equal in position *secondclass*. Women are always placed in the domestic area, namely taking care of the household related to the kitchen, well and mattress, (Maria Mut,

2023). Bima women from the aspect of inheritance distribution, decision makers in the family, taking care of children and in solving problems that exist in society still depend on the decisions of men who are considered as *Usbah* (*Ashabah*).

Term *Usbah* (*Ashabah*) According to the Muslim community, Bima has misunderstood both linguistically and in terms. *Usbah* What is meant by the Bima Muslim community is male descendants who will be the pillar of the family as the center of policy making of all family affairs. While *Ashabah* in Islam heirs are those who get the remaining share of the heirs who have already determined the exact share by the Qur'an, (Kurahman O.T et al., 2018).

Although historically, that Bima woman is not included in the history of heroism. However, the dignity and dignity of women after the coming of Islam which was revealed to the covenant on human rights has equality with men in all aspects, not otherwise discriminated against (Valentyna Lukianets Shakhova et al., 2023).

Indonesia with a history of equality between men and women has lasted for more than a century, there has been no significant positive change. This can be seen from the policies carried out by the state apparatus in public spaces (Nadezhda A. Shvedova, 2023) Until the private sphere by the family applies equally that women remain subordinate to men.

Women in Bima are only a complement to men's affairs, even extreme events in the Bima Muslim community that has farmers' livelihoods are very concerning. If the business of planting planting, in this case planting onions fails to harvest up to three times in a row. Then the failure is considered as the misfortune of the wife who has no sustenance, so the wife will be divorced and look for another wife.

But there is something different in the culture of Bima Muslim society towards boys and girls when getting married. Girls are given a larger share when viewed from the price than gifts for boys. Girls get a vacant house yard measuring approximately 2 acres for 150,000,000 (one hundred and fifty million rupiah), while boys buy a 9-pole wooden house for 75,000,000 (seventy-five million rupiah). This culture is contrary to the traditional pattern of inheritance distribution.

The above reality illustrates that women are placed in a sacred space separate from the male space. This reality is seen as a social phenomenon in which religion serves as a doctrine that directs the behavior of society within a cultural framework. As a result, the customs of the Bima Muslim community are also based on religious beliefs.

Neither dogma nor the division of labor between men and women is in writing. Men work outside the home as breadwinners, but never want to do household duties when there is no wife. On the contrary, women although serving in the domestic sphere, but are able to replace the role of men as husbands in terms of earning a living. This means that women are always ready to be a spare tire for men's duties plus their own duties.

- *Patriarchal Model of Inheritance Division of Bima Muslim Community*

Every article in the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, as well as the relevant articles in the Convention on the Elimination of All Forms of Discrimination and analyzed clearly and clearly in Islamic law, (Mashood A & Baderin, 2010). The concept of human rights opposes all forms of discrimination based on sex. This includes discrimination in employment, education, access to health care, political participation, and legal treatment, (Janusz Symonides, 2000, p. 79).

Human rights in the context of the family refers to individual rights relating to relationships and dynamics within the household, such as: Gender Justice: Human rights emphasize that all family members, regardless of gender, have equal rights and should be treated well. Fairness in the family. This includes recognition of the contributions and needs of each individual in the family, as well as protection against discrimination

and gender-based violence, (Patricia Prentice & Abdullah Saeed, 2023). Similarly, regarding the right to inherit the property of the testator, it applies equally between men and women.

One factor in the difference in behavior between men and women is the traditional division of gender roles. Many families continue to follow a traditional gender role distribution pattern, where women are expected to take care of the household and children, while men are seen as the backbone of the economy. This has legal consequences on the consideration of the division of inheritance between men and women. In fact, the modern family should no longer be limited to the pragmatic understanding that gender is not a barrier to granting inheritance rights according to the allocation of men and women respectively based on the Qur'an and human rights, (Andrea Doucet, 1995).

There are six heirs whose rights have been determined in the Qur'an, of which the share may not be increased or subtracted, consisting of 1/2, 1/3, 1/4, 1/6, 1/8, and 2/3 of the inheritance. In addition to inheriting the estate by getting a definite share, heirs can also inherit by getting a residual share (*'Aṣābah*) which starts from the sequence of nasab. If there are no heirs, then the inheritance becomes the right of the mall if it runs in accordance with the Shari'a. Otherwise, the inheritance must be given to a guardian who can distribute it in the way of benevolence to all Muslims or the poor. (Muhammad Lutfi Hakim, 2023)

The practice that occurs in the Bima Muslim community is to prioritize men called *Usbab*. *The usbab* referred to by the Bima Muslim community is an absorption of *Ashabah* in the term Islamic inheritance, which is interpreted as the primacy of the family line on the part of men. However, the Ashabah referred to in Islamic inheritance is the expert who receives the remainder of the heir's rights that have been determined in his share. This has legal implications for the pattern of inheritance distribution.

The rights of heirs in Islamic inheritance law are basically expressed in a certain amount or part with a definite number. The exact number is stated in the Qur'an. This part of the number is commonly referred to in fiqh books as faridhah with the form jama' faraidh, so fiqh scholars named the law on the division of inheritance with faraidh, (Mahalliy, n.d.).

Along with the above statement, that Islamic inheritance adheres to bilateral kinship that gives inheritance to each heir connected with his father and mother. Sons and daughters will inherit when the father dies or the mother dies (QS. al-Nisā' [4] verse 7). While in QS. al-Nisā' [4] verses 11 and 176 explain that the rights of male heirs are twice as great as the rights of female heirs that many societies have abandoned. Basically the most detailed system of inheritance law is the Islamic inheritance law system which demands the obedience of Muslims to carry it out as a reflection of their obedience to Allah (QS. al-Nisā' [4] verses 13 and 14) which is seen in the redaction "*tilka hudūdullah*" is the provisions of the section (1/2, 1/3, 1/4, 1/6, 1/8, 2/3 and 2:1 contained in QS. al-Nisā' [4] verses 11, 12 and 176.

The Qur'an is very clear about giving the right to share the heirs of the main group. The timing of division also varies, sometimes divided before the testator dies and sometimes divided after the testator dies. The division before death is to avoid conflict or the children get married so it is considered as a provision of living capital for heirs in this case children.

However, the practice in the Bima Muslim community is not in line with the Quran including: *First*, the practice carried out by the Bima Muslim community is between sons owned by the heir if he inherits with 3 (three) people who should get an equal share. But the ones who got the bigger share were the first and third sons. While the second son gets a share just like the girl in the context of inheriting with the son. *Second*, the distribution to sons and daughters is not based on QS an-Nisa verse 11 with a pattern of 2:1 or in Bima language translated *Sancu'u Salemba* which means *Sancu'u* (one) for women and *Salemba* (two) for men. The practice that occurs when a man inherits with a daughter can get a share of 3:1

Third, if the husband and wife as heirs die and have no children, then only the husband's brother is entitled to the inheritance share and even then only the brother. While the brothers of the wives, both male and

female, did not get at all. Similarly, the sister of the husband. This is contrary to an-Nisa verse 12 which gives rights to brothers both on the side of husband and wife.

Fourth, when a woman dies and is unmarried and has brothers and sisters. So the only one who gets the share of inheritance is his brother because he is considered his *Usbab*. It should be based on verse 12 of QS an-Nisa, if you have brothers and sisters only, then these brothers get 1/6 each. But, if the brothers are more than one, then they associate in 1/3 after deducting the will.

Fifth, if the heir has an adopted child inheriting with the biological child, then the adopted child gets according to the portion of the biological child. If the adopted child is a boy, then he gets 2 shares, and the biological daughter who inherits together only gets 1 share. If it is a daughter, then she should get 1/2 based on QS an-Nisa verse 11, while adopted children only get grants that cannot be more than 1/3.

Sixth, if the heir leaves a wife and daughter, then his share is 1/2 of the union between wife and daughter. While the remaining 1/2 is given to the father's brother. If there is no brother even if there is a sister, then the one who is entitled to it is the heir's uncle. The share of a daughter should get 1/2 share while the wife because there are children gets 1/8 according to verse 11 and verse 12 of QS an-Nisa.

Judging from the above practice, all of them give a lot of rights to men, both as children, brothers and uncles who are considered as *Usbab* in the family. While women as children and wives are only given the remaining part of the male class. The status of women as aunts is not considered at all. The Qur'an is very clear about the share of rights for both male and female heirs, but in practice it is very contradictory. In addition, the practice of dividing inheritance above is the arbitrariness of the parties who are considered competent in dividing inheritance based on the Qur'an without asking for the agreement or willingness of the heirs who are taken away.

This can be said to be semi-customary law, because the distribution procedure must be with the knowledge of religious figures as well as community leaders who in Bima Muslim community terms are *Lebe Na'e* (Imam of the Mosque). Notification by the family to *the Lebe Na'e* (Imam of the Mosque) if they want to divide the inheritance and this applies to all communities, only there is no official customary institution structure and written laws like other regions.

There is no more room for compromise because it is dominated by patriarchal culture which is considered to have become the culture and tradition of the Bima Muslim community. These cultures and traditions both from the perspective of the Quran (Islam) and human rights certainly harm one party and benefit the other despite in principle having equal access rights in the division of inheritance. There is also no cultural penetration, but a misinterpretation of religious dogma that is increasingly discriminatory, even though today is a modern era that is open to outside science and information.

Conclusion

The patriarchy that occurs in the inheritance division of the Bima Muslim community is the result of the construction of dogma in the name of religion that is perpetuated in culture and tradition for generations. Of course, this practice is contrary to the Quran and human rights, because the results of the study found a reality that has an impact on discrimination on the part of the rightful heirs as if the practice carried out was a religious commandment.

One solution to patriarchal practices in the inheritance division of the Muslim community in Bima is to settle it in a takharuj manner. Takharuj is essentially one way of dividing inheritance or adjustment in the implementation of Islamic inheritance law that is not based on the provisions that have been stipulated in the Qur'an with certainty, more to the willingness of the heirs (agreement of the heirs) to determine the attitude in the distribution of inheritance. This is also a solution to eliminate the gap between boys and girls and the fulfillment of the right to justice based on human rights. Therefore, the Quran and human rights must continue to be socialized to the Bima community as a basis for dividing inheritance. So that in practice,

the distribution of inheritance of the Bima Muslim community is based on the Qur'an and human rights and is translated into a hereditary custom.

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