Int. j. adv. multidisc. res. stud. 2025; 5(3):680-688

Received: 07-04-2025
Accepted: 17-05-2025

International Journal of Advanced Multidisciplinary Research and Studies

ISSN: 2583-049X

Inheritance Distribution to Descendants Heirs of "Patah Titi" in Bener Meriah Regency

[1] Tadarus, [2] Iman Jauhari, [3] Teuku Saiful

[1] Postgraduate Student of Master of Notary, Faculty of Law, Universitas Syiah Kuala, Aceh, Indonesia
[2, 3] Faculty of Law, Universitas Syiah Kuala, Aceh, Indonesia

Corresponding Author: **Tadarus**

Abstract

Article 185 Paragraph (1) of Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law (KHI) states that "Heirs who die before the Testator, their position can be replaced by their children, except those referred to in Article 173". However, in the Gayo community in Bener Meriah, in the distribution of inheritance, there is no such thing as a replacement of place (plaatsvervulling) which is very detrimental to the Testator and is considered unfair by one or several parties of the Heirs.

Keywords: Inheritance Distribution, *Patah Titi*, Heirs

1. Introduction

The Indonesian nation is a pluralistic nation known for its diverse ethnic groups, each ethnic group has its own customs and culture. Where there is a society, there are customs.

Custom is an aspect of the culture of society, Custom is a habit, a rule that lives in the midst of a society that has the same idea. Custom arises in society because humans live in groups. Every applicable custom can be known and seen in the form of decisions of legal functionaries, these decisions are not only decisions regarding an official dispute, but also social conflicts that can be resolved, based on the values of wisdom that live according to the social life of the members of the association. Customary Law is a legal system that is known in the social environment, so it can be said that the social system is the starting point in discussing Customary Law in Indonesia.[1]

Law is used to direct society to certain patterns according to what is desired, it also means changing or even eliminating previous habits that are not in accordance with the development of the times. Law, in addition to being mandatory (dwingen) is also regulatory (relegend), in general law is regulatory. In order to achieve the purpose of the law, the law must be used and implemented in various aspects of life, both in the family environment and in society. As a member of society, when someone dies, our direction and way of thinking will certainly lead to the issue of inheritance.

Based on the explanation that has been described above, now a concept has emerged called inheritance, which in other words is an inheritance left by the deceased.[2] Inheritance is the transfer of rights and obligations to something, both property and dependents, from a deceased person to his/her surviving family.

Heirs can be interpreted as people who receive the inheritance of a deceased person. Inheritance Law in Indonesia is still pluralistic, because currently there are three inheritance law systems in force, namely the Customary Inheritance Law system, the Islamic Inheritance Law system, and the Civil Code (KUHPerdata) Inheritance Law system.[3]

The provisions regarding Substitute Heirs are found in the provisions of Articles 841-848 of the Civil Code. In essence, Substitute Heirs are people who replace the position of Heirs who have previously died. The person who has the right to become Substitute Heirs is the child of the deceased Heirs. In the Civil Code, if a parent dies, the Substitute Heirs will occupy

[1] Suriyaman Mustari Pide, A, *Hukum Adat: dahulu, kini, dan akan datang*, Kencana**,** Jakarta**,** 2014, hlm. 5
[2] Oemarsalim, *Dasar-dasar Hukum Waris di Indonesia*, PT. Rineka Cipta, Jakarta. 2000 hlm. 1
[3] Surini Ahlan Sjarif dan Nurul Elmiyah, *Hukum Kewarisan Perdata Barat: Pewaris Menurut Undang-Undang*, Kencana, Depok, 2009, hlm 1

the position of their parents absolutely. all the rights and obligations of their parents related to the inheritance are transferred to him/her.

Article 841 of the Civil Code: Substitution gives the right to the person who replaces to act as a substitute in the same degree and in all rights as the person he replaces. Article 842, Article 844 and Article 845 regulate three types of substitution in this concept: first, substitution in a straight line down continuously without end (Article 842); second, substitution in a lateral line (Article 844); and third, substitution in a deviating lateral line.

The provisions of the Inheritance Law in the Civil Code ("Civil Code") state that closer blood relatives eliminate or close more distant relatives. These blood relatives are arranged in groups known as Heirs groups consisting of groups I, II, III and IV as regulated in Article 852 of the Civil Code, which are measured according to the closeness of the blood relationship with the testator, where the closer group closes the more distant group.

To clarify this, J. Satrio in his book states that: Heirs due to replacement of place are Heirs who are descendants/blood relatives of the Testator, who appear as a replacement for another person, who would have died before the Testator.[4]

The inheritance system of Customary Law is also diverse, its system is influenced by the form of Ethnicity in various areas of Customary Law, some adhere to the Matrilineal, Patrilineal, and Bilateral systems. [5] This shows the differences between one Customary Law area and another, which are related to the family system and the status of the property to be inherited. The Islamic Law Inheritance System regulates the transfer of property from a deceased person to the living Heirs. In this case, it means determining who the heirs are, and the distribution of each Heirs. [6] Islamic Inheritance Law in the world only applies to Muslims whose provisions are based on the Qur'an and Hadith.

Currently, the field of inheritance is experiencing significant development, due to the increasingly complex needs of society and its thought patterns can change according to the times. Among them, Islamic inheritance law has developed with the existence of Substitute Heirs whose implementation in Indonesia is regulated by Presidential Instruction No.1 of 1991 concerning the Compilation of Islamic Law (KHI). The section has been detailed as stipulated in the Quran. Ashabah is the remaining portion after being given to the heirs of ashbul al-furud. As heirs who receive the remaining portion, the heirs of ashabah sometimes receive a large share (the entire inheritance), sometimes they receive a small share, but sometimes they do not receive any share at all, because it has been given to the heirs of ashabul al-furud.[7] Dzawil Arham are dead relatives who are not ashhabul furudh or ashabah, such as the mother's brother (khal), the mother's sister (khalal), the father's sister (amah), the grandson of the daughter, and the granddaughter of the daughter.[8]

The Qur'an does not directly mention children's children (Waladubni or Waladul Walad) in its verses for giving inheritance to grandchildren. However, it is said to be in the form of a replacement system which also applies to descendants of siblings and descendants of the same agreement, in addition to being first addressed to the child's mawali. Thus, the establishment of the Bilateral inheritance teaching is based on the understanding of the verse in the Qur'an itself, namely Q.S Al-Nisa' verse: 33, which means: And for each (male and female) We have appointed heirs for what his parents and his close relatives have left. And those to whom you have sworn allegiance, then give them their share.[9]

Placing the position of grandchildren as those who wear the hijab, of course, this is contrary to the Compilation of Islamic Law in the concept of Substitute Heirs. (Directorate for the Development of Religious Courts, 1991/1992: 152). The hijab of grandchildren whose parents predeceased their grandfathers is in accordance with the Islamic jurisprudence in the books and opinions of previous scholars (the Shafi'i school of thought).

The solution to the inheritance problem of grandchildren who wear the hijab is because their parents died before the heir, in various countries where the population is predominantly Muslim, they have also given inheritance to these grandchildren. Such as Egypt, Syria, Kuwait, Pakistan and Indonesia. This problem is still in a state of confusion, namely that there is no common perception to find a solution for the hijab-covered grandchildren's problem, in order to obtain the inheritance left by the heirs (grandparents) for the benefit of the grandchildren's lives.

Middle Eastern Muslim countries such as Egypt and Syria have implemented the formula for mandatory wills with the Egyptian Wills Law No. 71 of 1946. In Pakistan, the formulation of full replacement of place is enforced with the provisions stipulated in the personal low ordinance of 1961. While in Indonesia since the enactment of Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law, the formulation of Replacement Heirs has been enforced. Different in terms of inheritance in the Gayo Tribe community in Bener Meriah, where in the distribution of inheritance there is no known replacement of place (plaatsvervulling) which is very detrimental to the heir and is considered unfair by one or several parties of the Heirs.

The inheritance distribution system in Gayo Customary Inheritance Law is based on a descent system that is drawn according to the father's line (Patrilineal) inheritance system, a system drawn according to the father's line where the position of men is more prominent than the position of daughters in the distribution of their inheritance.[10]

The Indonesia, especially in Aceh, the Gayo community, whose Customary Law life is very thick with Islamic Law, this condition is indeed a problem that is still being debated. Some scholars in Aceh still reject the renewal of Islamic Law as stated in the Compilation of Islamic Law on

[4] J. Satrio, *Hukum Waris*, Cetakan ke-2, Alumni, Bandung, 1992, hlm. 56

[5] Mohd, Idris Ramulyo, *Perbandingan Pelaksanaan Perkawinan Kewarisan Hukum Acara Peradilan Agama dan Zakat Menurut Hukum Islam dan Hukum Perdata*, Sinar Grafika, Jakarta, 1994, hlm. 1

[6] Ali, Zainuddin. *Hukum Perbankan Syariah*. Sinar Grafika. Jakarta, 2008, hlm. 33

[7] Amir Syarifuddin, *Hukum Kewarisan Islam*, Kencana, Jakarta, 2004. hlm. 204-205.

[8] Dian Khairul Umam, *Fiqih Mawaris*, Pustaka Setia, Bandung, 2006, hlm. 17.

[9] Sajuti Thalib, *Hukum Kewarisan Islam*, Sinar Grafika, Jakarta, 2018, hlm. 82

[10] Hilman Hadikusuma. *Hukum Waris Adat.* PT. Citra Aditya Bakti. Bandung, 2003, hlm. 33

Replacement Heirs on the grounds that the term replacement of this place is not found explicitly in the verses of the Quran and the Hadith of the Prophet which explain the Law of Faraidh (inheritance law). However, those who accept the existence of this interpretation renewal base it on the fact that Islam also brings values of justice, brotherhood, equality, and upholds orphans. For this reason, they consider it important to practice in Indonesia. Customary Inheritance Law has several problems and differences of opinion on how to divide inheritance and who is entitled to be an Heir or Substitute Heirs. Such as the Minangkabau Customary inheritance distribution system where women are given priority in the distribution of inheritance, but in Gayo Custom where men are given greater inheritance distribution than women.

The inheritance law is rooted in the family on one hand and in wealth on the other hand.[11] The inheritance distribution system in Gayo Customary Law is based on a system of descent drawn according to the father's line (Patrilineal) inheritance system, a system drawn according to the father's line where the position of men is more prominent than the position of daughters in the distribution of their inheritance.

The majority of Gayo people are Muslims. They have the principle of Law orom edet lagu zet oromsifat, meaning Law with Custom is like a substance with nature with the meaning that Custom and Religion go hand in hand. then it can be seen that the law that applies to Gayo society is Customary Law which is inseparable from Islamic teachings. So it can be seen in practice in its implementation that Gayo people always practice Islamic Law and consider it at the same time as Customary Law.

The life of Gayo people whose population is predominantly Muslim, for the implementation of Islamic Inheritance Law does not run effectively using Islamic Inheritance Law, in fact the role and position of Gayo Customary Inheritance Law is so dominant. This can be seen in determining those who are not entitled to receive the inheritance that is assigned to a daughter who Kerje Menik (elopes), those who do not want to reconcile with their parents, someone who abandons their original division, grandchildren whose parents died earlier than their grandparents, as well as someone who is expelled from their division membership due to a mistake. According to the Gayo Traditional Inheritance system, these people are a category of those who are not entitled to receive inheritance. On the other hand, it is also stipulated that the status of adopted children is equal to that of biological children and is entitled to inheritance.

Regarding the issue of inheritance for grandchildren as Substitute Heirs, known as Pewaris Patah Titi, in Gayo society, grandchildren whose parents died before the Heir, in practice the Gayo community does not give inheritance assets to these grandchildren, because the grandchildren occupy the hijab position of Pak Cik, Ama Kol and Ama Ucak (father's brothers).

The current problem is that there are still many Gayo people in Bener Meriah Regency who prefer to use Customary Inheritance Law or mix Islamic Inheritance Law and Customary Inheritance Law instead of prioritizing Islamic Inheritance Law and continuing with Customary Inheritance Law. As a result of this mixing, the distribution of inheritance is not in full accordance with Islamic Inheritance Law because it is carried out by deliberation, then the distribution of inheritance is not carried out immediately 44 days after the heir dies, the reality is that the distribution of inheritance is carried out a year after the heir dies, and it is not uncommon for the inheritance to be distributed after the testator's wife dies, so that the portion for the testator's wife is never clear, up to the rights of grandchildren as Substitute Heirs who according to the Compilation of Islamic Law get a portion but the distribution of inheritance in the Bener Meriah community, grandchildren as Substitute Heirs mostly only get a portion as a form of affection from the other Heirs whose portions vary even though some get an equal share with other Heirs according to Gayo Customary Inheritance Law.

One of the cases regarding the Patah Titi Heirs occurred in Blang Kucak Village, Wih Pesam District, Bener Meriah Regency. The family of grandfather Zeber bin Abu Samah and grandmother Rukiah binti Burhan had 4 children, 2 boys and 2 girls, where the second child Sulaiman was killed during the Aceh conflict in 2001, leaving behind a wife and 5 children, then in 2003 grandfather Zeber died, and in 2010 his wife grandmother Rukiah also died. during the period from 2003 to 2010 there was no inheritance distribution, even until grandmother Rukiah died, it was not clear how much inheritance was the right of the grandmother as the wife of the heir, in 2011 the inheritance was distributed between the three surviving children, namely Ruhaidah, Lamudin, Kaidah and the child of the late Sulaiman, (2nd child) or the grandchildren of the Heir. Because the second child died first, then the Heir, the children of the late Sulaiman did not become Heirs and did not receive the inheritance that their parents should have received as Substitute Heirs. So as grandchildren they only received inheritance in the form of affection from the surviving children of the Heirs. In the distribution of this inheritance, they did it with family. So there was a discrepancy in the distribution of inheritance which was detrimental to some Heirs because the portion obtained was not in accordance with that regulated by Islamic Inheritance Law and the Compilation of Islamic Law, even though this had been agreed upon together.

This seemingly confusing situation in implementing various formulations that have the same goal, namely providing inheritance to grandchildren who wear the hijab because their parents died before the testator, this is considered important to be studied further in order to find the right formulation in implementing the provisions for providing inheritance to the grandchildren above. At the same time, to study more deeply how the meaning of justice is very related if the grandchildren are not given inheritance from the grandfather, can that justice be felt by the grandchildren because their parents died first, and if given, does this also fulfill the value of justice for the father's siblings, especially for the father's sisters because it will reduce their share and it is even possible that the grandchildren will get more of their share.

Through the background above, it is necessary to study that the solution to the problem of inheritance of grandchildren whose parents died before the testator, has turned out to be more of a human study throughout its history. The resolution of the inheritance problem of grandchildren who wear the hijab is a study of Islamic Law that will consider the values of welfare and justice.

[11] Abdulkadir Muhammad. *Hukum Perdata Indonesia*. Citra Aditya Bakti. Bandung. 2014, hlm. 201.

2. Research Methods

In this study, the researcher used the type of empirical legal research. Empirical legal research is a legal research method that attempts to see the law in a real sense or can be said to see, examine how the law works in society.[12]

In this study, the approach used in solving the problem is to use the Case approach method, the case approach is carried out by reviewing cases related to the issues faced that have become court decisions,[13] or cases that occur directly in the midst of society and are resolved outside the courts.

The source of legal materials in this study is secondary data consisting of secondary legal materials, primary legal materials, and tertiary legal materials.[14]

The data collection techniques in this study are Observation, Interviews and Documentation.

This research was conducted in three sub-districts in Bener Meriah Regency, namely Wih Pesam District, Bukit District and Timang Gajah District. Population or universe is all units or humans who have the same characteristics.[15] In this study, the population is MPU Bener Meriah, MAA Bener Meriah, Village Imam, Traditional Leaders, Patah Titi Heirs and the families of Patah Titi Heirs. Sampling in this study was carried out using purposive sampling, namely from all populations, several respondents and informants were taken who could be representatives of the populatio.[16]

In this study, there are several stages of data processing carried out. The first is to systematically organize the notes of observation or interview results. The next stage is data processing. Analysis of legal materials in this study uses qualitative methods. Research using qualitative methods is based on assumptions about the reality of social phenomena that are unique and complex, in which there are certain regularities or patterns, but full of variations (diversity).

3. Results and Discussion

A. Position of Patah Titi Heirs in Bener Meriah Regency

After understanding the theories about Substitute Heirs or the Gayo Customary term, namely Patah Titi, there are several opinions of Ulama in Bener Meriah Regency and also community leaders in Bener Meriah Regency as supporting materials to understand the procedures for dividing inheritance, especially Substitute Heirs or Patah Titi inheritance.

According to the opinion of one of the tengku of Wih Pesam District. Bener Meriah Regency regarding Patah Titi Heirs. He does not agree with the term Patah Titi used by Aceh Customary, because it can harm the children of Heirs or parents who have died before the Heirs or their grandfathers. If this term is still implemented, it will harm and hurt the orphans. Because the inheritance of the children's parents is their way to continue their lives in the future.[17]

If the inheritance is not given to the children, it can result in the children becoming hungry, not getting an education, being neglected and even causing death to the children. This deviates from the teachings of Islam which encourage us to take care of orphans and not to eat the property of orphans. His opinion is in accordance with Q.S. Al-Baqarah verse 220 which means: "About the world and the hereafter. They ask you (Prophet Muhammad) about orphans. Say, "Improving their condition is good." If you associate with them, they are your brothers. Allah knows those who do mischief and those who do good. If Allah wills, He will certainly cause you hardship. Indeed, Allah is All-Mighty and All-Wise."

The people of Bener Meriah Regency have been resolving inheritance cases for generations to become Patah Titi Heirs. The term Patah Titi in Bener Meriah Regency means that the Heirs who are left behind do not receive inheritance. The case of Patah Titi Heirs means people who do not receive inheritance because their parents have died while the Heir is still alive. So Patah Titi here is known that the meaning of Patah Titi is used if the Heirs who died before the Heir by leaving children and the children of the Heirs here cannot replace the position of the Heirs to receive inheritance from the Heir. According to the opinion of one of the Petue in Blang Kucak village, Wih Pesam District, Mr. Hamdan. He has an opinion about this Substitute Heirs or the Gayo Customary term is Patah Titi/Mate Mata. He said that a child whose parents have died before the Heir (grandfather) then the child cannot receive the inheritance of his parents because the requirements for receiving the inheritance have been broken, namely the death of the Heir.[18]

He also fully adheres to the Gayo Custom where the Patah Titi Heirs do not receive any portion except for the gift from the surviving siblings of the Heirs. The reason that strengthens his opinion that children whose parents died before the testator do not receive a portion of the inheritance is because there is no detailed legal basis for the Substitute Heirs. Both in the Qur'an and in classical fiqh books. However, the child receives part of the property within the scope of not the inheritance of the Heir but only as a form of gift or gift from the surviving relatives of the Heirs. When asked about the Compilation of Islamic Law, he had only heard of it.

Another reason from Mr. Hamdan is that he is afraid to play with schools of thought and adhere to many schools of thought. If this happens, it is feared that it will trigger disputes between many groups of ulama or village teungku. He said that for the problem of the Substitute Heirs or Patah Titi, he has a flexible opinion. If the settlement of the inheritance uses Village Customs, it is legitimate, as well as if it uses Islamic Law, then the matter is that the one who will settle it is the Village Imam up to the Ulama Consultative Assembly.

B. Opinion of the Gayo Customary Council on the Position of the Patah Titi Heirs

The initial fundamental basis of this Gayo Custom is still guided by the Qur'an but in Custom it can be decided by deliberation with the provision that it does not deviate from religious teachings in the term Gayo Custom Edet

[12] Zainuddin Ali, *Metode Penelitian Hukum*, Sinar Grafika, Jakarta, 2019.

[13] Peter Mahmud Marzuki, *Penelitian Hukum Edisi Revisi*, PT Kharisma Putra utama, Bandung, 2015, hlm. 134

[14] Soerjono Soekanto Dan Sri Mamudji, *Penelitian hukum Normatif, Suatu Tinjauan Singkat*, PT.Raja Grafindo Persada, Jakarta, 2003, hlm. 13

[15] Amiruddin dan Zainal Asikin, *Pengantar Metode Penelitian hukum*, PT Raja Grafindo Persada, Jakarta, 2016, hlm. 95

[16] Hadari Nawani, *Metode Penelitian Bidang Sosial*, Gajah Mada University Pres Yogyakarta, 2019, hlm. 72

[17] Tgk Samsul, Wawancara pada tanggal 16 januari 2025, Pukul 08.10 WIB.

[18] Hamdan, Petue Kampung Blang Kucak, Kecamatan Wih Pesam, Kabupaten Bener Meriah, Wawancara pada tanggal 13 Februari 2025, Pukul 16.35 WIB

Munukum Bersifet Wujud (reality) provisions that have been determined and cannot be changed in their use, Hukum Munukum Bersifet Kalam (written) Customary provisions that can be changed based on deliberation between the parties concerned

In the time of our ancestors, this Replacement Heirs in Gayo Custom was indeed not applied, but proof of affection for young grandchildren who had been left by their parents who died only a few times after the death of the Heirs (grandmother/grandfather). Moreover, seeing the economic condition of the grandchildren is very, very concerning. Therefore, granting rights to the Substitute Heirs is a very good policy and in line with the mission of Islam as rahmatan lil 'alamin. However, in this practice there is a difference of opinion between the Heirs (uncles) who do not agree that the distribution of property to nephews (grandchildren) because according to them the relationship of inheritance has been broken because their parents have passed away so their portion is also buried, the Gayo Customary term calls it like that.[19] In the Gayo community in Bener Meriah Regency, the term Patah Titi has become a concept that refers to the negative impact on children whose parents have died before the heir (grandfather and great-grandfather). Several expressions that have become common among the Gayo community in Bener Meriah Regency reflect this negative view, including the following:

1. “Kao Nge Mosop Hak, Karena Nge Patah Titi" (You have lost your rights, because your titi is broken). This means that an uncle tells his nephew that the nephew does not have the right to receive any inheritance from the property left by the nephew's parents (uncle's siblings). This is due to the fact that the nephew's parents have died before his grandfather, so the inheritance rights that should have been inherited are no longer valid.
2. "Kite Gerara Neh Mu Ikaten, Karena Kite Nge Patah Titi" (We no longer have ties, because we are already broken). Such expressions are generally uttered by a nephew to his uncle. However, the meaning of this statement is not merely about the loss of kinship with the uncle, but rather the fact that the nephew is not entitled to a share of his grandfather's inheritance because the nephew's parents died before his grandfather.
3. "Kao Gere Pas Niro Hak Warisen, Karena Kao Nge Patah Titi" (You cannot claim the right to inheritance, because you have a broken titi). In this context, the expression means that a grandson is not allowed to claim a share of his grandfather's inheritance, due to the fact that the grandson's parents died before his grandfather, while the parents have a brother who is still alive.

The three sentences above are very often said by Heirs when distributing inheritance to grandchildren who have Patah Titi. According to Mr. Alamsyah, regarding the Tunung Patah Titi Hanging Law, this law was previously applied in the Gayo Traditional Community, a grandchild did not receive a share of the grandfather's inheritance because the relationship had ended or the child's parents had died from the grandfather, but currently the Tunung-Patah Titi Hanging Law has begun to be abandoned by the Gayo community because of the development of the era. However, most Gayo people in Bener Meriah Regency still adhere to the Customs and Traditions that have been passed down from generation to generation. Although some Gayo people who have a good understanding of religion often disagree with the process of inheritance distribution according to the prevailing Gayo Customs.

The provision of inheritance in Bener Meriah Regency to grandchildren whose parents died before the Heir (grandparents) is carried out in two ways, namely by Islamic Inheritance Law and Customary Inheritance Law. The concept of providing inheritance to grandchildren whose parents died before the Heir in the Gayo community in Bener Meriah Regency in practice does not determine how much inheritance is given to the grandchildren. However, in almost every case of grandchildren whose parents died before the Heir whose position is veiled, in Bener Meriah Regency, inheritance is given, some of the portions received by the grandchildren are not as large as their parents' portions. However, there are also those who receive the same as those received by the Heirs where it is based on Customary customs (Gayo Customary Heir) where the distribution of inheritance is carried out through deliberation with equal distribution for both men and women. However, there are still many where grandchildren do not receive any portion from the Heir.

According to Tgk Abd Kasah (Head of Aceh Customary Council of Bener Meriah Regency) in the past, the Heirs of Patah Titi did not receive any inheritance at all because they were affected by Patah Titi or Mate Mata (Death of the Eye) where the inheritance relationship between the Heir and the grandchildren was severed because the parents had died before the Heir. However, currently, the Heirs of Patah Titi receive a portion in accordance with the Heirs' deliberation but can receive an equal portion with all Heirs.[20]

Regarding the size of the inheritance distribution to the grandchildren, the Gayo community in Bener Meriah Regency is in three forms. First, saying that they were only given an inheritance in moderation. The second group, stated that they were given half of the portion received by their parents. The third group, stated that the grandchildren were given an inheritance in the amount of the portion received by their parents. In line with the reality in the field, the Gayo community does not recognize Substitute Heirs or the term replacement of places in inheritance, because there is no provision for how much inheritance must be given to the grandchildren, when receiving an inheritance from their grandparents as a replacement for parents who have died first.

C. Opinion of the Ulama Consultative Assembly Regarding the Position of Patah Titi Heirs

According to Abah Tgk. Abdurrahman, S.Sy[21] (Chairman of the Ulama Consultative Assembly (MPU) of Bener Meriah Regency), explained that there is no such thing as Gayo Customary Inheritance Law, all customs are the same, in his

[19] Wawancara dengan Alamsyah, Bagian Hukum Majelis Adat Gayo kabupaten Bener Meriah, Pada tanggal 14 Januari 2025, Pukul 11.30 WIB.

[20] Wawancara dengan Tgk Abd Kasah, Ketua Majelis Adat Gayo kabupaten Bener Meriah, Pada tanggal 14 Januari 2025, Pukul 12.20 WIB.

[21] Tgk Abdurrahman,Ketua Majelis Permusyawaratan Ulama(MPU) Kabupaten Bener Meriah, Wawancara pada tanggal 16 januari 2025, Pukul 12.00 WIB.

opinion, Heirs who are affected by Patah Titi do not have the right to receive inheritance because they are veiled by the siblings of the parents of the grandson who died first, which is called Mahjub Isqath or Hirman, namely someone from the Heirs dies because there is someone closer to the deceased such as grandchildren and siblings cannot because there are sons. Fiqh Mawaris also explained that grandchildren who are affected by Patah Titi cannot inherit, grandchildren do not receive inheritance, but grants from their uncles.

According to Tgk Abdurrahman, S.Sy, if referring to the Compilation of Islamic Law Article 185, in paragraph 1 it is explained that there is the word Replacement Heirs can, where the word can in legal interpretation is translated with the meaning of being able or not which means the position of grandchildren who are veiled by the uncle/sibling of the Heirs who died before the Heir. He also said that since ancient times the Gayo community has known what is called the term "Gantung Tunung Patah Titi, Gantung Tunung Gere Demu Reta, Patah Titi gere demu Pusaka", which means hanging followed by Patah Titi, hanging followed not getting property, Patah Titi not getting heirlooms. In accordance with the facts on the ground, the position of the Heirs of Patah Titi in most inheritance cases does not have a clear position in receiving inheritance in Bener Meriah Regency, most of the community is of the opinion that grandchildren who are affected by Patah Titi have no right to inherit from the property left by the Heir.

1. Distribution of Inheritance to Grandchildren Whose Parents Predeceased the Heir in Bener Meriah Regency

The people of Bener Meriah Regency are all Muslims, Customary Law is an unwritten law that lives and develops in society, according to Customary Law to determine whether an act is right or wrong can be examined from the problem. One form of Customary Law in Bener Meriah Regency is the distribution of substitute heirs. Customary Law that lives in society as a rule that is observed together without coercion which aims to provide a sense of justice, welfare, welfare, and security.

In Bener Meriah Regency, the resolution of the matter of substitute heirs according to Custom is carried out by Customary leaders through complaints from the community whose families want to resolve the matter of the distribution of inheritance. So the Customary leaders take the policy to hold a joint deliberation with other customary leaders, then decide on the case. This can happen because the Bener Meriah community in resolving a problem or a job that concerns the interests of humans together including the problem of resolving inheritance law always prioritizes peace, this is in line with the provisions of Islamic law, which always recommends peace. And in accordance with the principles of Islamic family law which states that the highest legal solution is peace and in line with the Hadith of the Prophet which states, which means: Peace (al-sulhu) may be made between fellow Muslims, except for peace that prohibits what is halal or permits what is haram and Muslims are (bound) to the conditions they make, except conditions that prohibit what is halal or make lawful what is haram.

This is also in accordance with the resolution of disputes according to Acehnese Custom, where priority is given to resolution through deliberation or through the Customary Court, because the decision given by the Aceh Customary Court is a "Win-Win Solution".[22]

In the application of what is meant by the distribution of inheritance in the Bener Meriah Regency community is the provision of inheritance to the heirs when the settlement of the inheritance is carried out. The implementation of the distribution of inheritance is usually carried out after 44 days of the testator's death. The implementation of the distribution of inheritance is carried out after first completing matters relating to the deceased's inheritance, namely debts and payments of all costs related to the implementation of fardhu kifayah for the deceased. After this has been completed as a whole, the distribution of inheritance is carried out together by the heirs. This is in accordance with the reality in the field that in general the community says that the implementation of the distribution of inheritance is carried out 44 days after the day of death with the provision that all costs for managing the body, paying off debts and implementing the will must first be completed, which are the responsibility of all heirs. In general, the distribution of inheritance to the heirs is carried out at the testator's house by calling traditional figures so that the distribution of inheritance is divided by traditional figures who determine the distribution with the provisions of customary law. Furthermore, from the interview results, the people of Bener Meriah district stated that the distribution of inheritance was carried out by the families of the heirs through peaceful means.

The implementation of the division of inheritance by means of peace is carried out in a family way because they generally already know and understand the provisions stipulated in customary law. Although some people divide it equally between daughters and sons, granddaughters and grandsons, sisters and brothers. But in fact the heirs already know their respective parts and then make peace in a family way with a voluntary agreement to divide it equally.

As with the provisions above, the legal basis for the division of inheritance in the Bener Meriah Regency community is based on customary law. In accordance with the conditions in the field, where the community answered with 3 (three) forms of answers regarding the legal basis for the division of inheritance, namely: First, in general the community says that inheritance is divided based on customary law (applicable customs). Second, there are some people who also say with the law of faraid which is sourced from the Nash Al-Quran and Al-Sunnah. Third, there is a small part of the community also states based on the ijtihad of local scholars.

From the community's answers above, it can be concluded that in general the Bener Meriah district community divides its inheritance based on customary law, the meaning of which is Custom because what is meant by being resolved according to Custom here is a settlement through deliberation. This is in accordance with Maqashid Syariah by maintaining property so that there is no conflict and is based on the principle of justice, According to Adam Smith: Justice actually only has one meaning, namely commutative justice which concerns equality, balance, harmony in

[22] Nurdin MH, Dahlan, Suhaimi, Mustakim, Using Mediation Method in Customary Justice of Aceh Indonesia, *International Asia of Law and Money Laundering*, Vol. 3 No.2 June 2024, pp. 115-120, https://doi.org/10.59712/iaml.v3i2.96.

relations between one person or party and another person or party.

From the reality in the field, the community considers customary law to be Islamic law, so what is meant by customary law here is Islamic law that has been integrated with community customs. Because in Islamic law it is recommended to resolve matters by agreement (making peace) by mutually accepting the provisions that have been agreed upon through deliberation.

The community's answer stated that it was based on the ijtihad of local ulama, in this sense that the ijtihad adheres to the provisions of inheritance law that apply in Islamic law, because the religious figures in the community are religious figures who adhere strictly to the provisions stipulated in Islamic law.

Like an invitation for peace in the distribution of inheritance. This fact can occur by determining each section first in accordance with the provisions of faraid law. So it is not directly reconciled with equal shares between heirs, for example between sons and daughters.

According to Tgk. Abd Kasah, the practice of Patah Titi Heirs is still practiced by people today, although it is rarely found. It once happened to Kakek Zeber's family in Blang Kucak Village, Wih Pesam District, Bener Meriah Regency. The incident occurred around 2001 when Kakek Zeber's son, Sulaiman, died first, and left behind a child. The child (the child of the late Sulaiman) who was veiled according to Islamic law did not receive inheritance because there was a sibling of the heir who died first, but his uncle and aunt, Mak Kol, Lamudin, did not give the inheritance to Sulaiman's family. According to Mr. Lamudin, the reason for not giving a portion of the inheritance to the children of the late Sulaiman was because the inheritance relationship had been severed, which in Gayo society is called Mate Mata. He further explained that the conflict resulting from this division has continued until now, where the child of the late Sulaiman did not want to sign the land certificate made by the heirs, including himself.[23]

2. Efforts Undertaken by the Heirs of Patah Titi in Obtaining Inheritance Rights in Bener Meriah Regency

The resolution of cases resolved through deliberation has 3 levels starting from deliberation between families, deliberation at the village level and deliberation at the village court level. The stages used are:

a. Resolved through deliberation between families for the distribution of inheritance which is carried out through deliberation between families, the entire family is gathered. After that, everyone deliberates, who has the right to be the heir of Ashhabul Furudh or ashabah in the family, after that it is divided according to the knowledge of faraidh and witnessed by witnesses from parties who are not heirs. After the agreement is accepted, it will be made in black and white so that there are no disputes between heirs. As for the place of resolution of cases carried out through family, it depends on the heirs themselves, including being resolved at home through deliberation. The heirs invite people who are considered to have knowledge and influence at the village level to the house for the distribution of inheritance.

This resolution through deliberation between families has been carried out by the family of the late. Zeber in 2013, but because the Heirs had their own opinions and insisted on the portion that they thought was their right, the deliberation did not go well and ended without any agreement so that the inheritance was still Joint Property and its management was carried out by each with different portions, and without any portion from the Heirs of Patah Titi. Family deliberations have also been carried out by the family of Mr. Rahmadi S.A. Saflil without any conflict between children and grandchildren, all children agreed on the division made by their parents with equal shares and for the grandchildren to get one more share from their late parents.

The children agree to whatever decision their parents make and do not dispute the share received by the grandchildren, according to them one of the reasons is because the grandchildren are the ones who accompany their parents every day, because they are married and have their own homes.

Family deliberations have also been carried out by the grandchildren of Tgk Iklil Ilyas Leube, where the dispute process for the Patah Titi case that occurred in the family of Tgk Iklil Ilyas Leube in Bandar Lampahan Village, Timang Gajah District, Bener Meriah Regency did not go well and without conflict, this happened because the children of the late Ilham and Iklil demanded inheritance rights from their grandfather, where the children of the late. The grandfather did not want to give a share to the children of his siblings who died while their parents were still alive.

The grandchildren did not accept the distribution of heirs that occurred in 2023 regarding the hot spring object in Bandar Lampahan village. The two grandchildren who were affected by Patah Titi demanded an inheritance that was the same amount as what their late parents should have received. However, the children of the Heir insisted on not giving the grandchildren a share. According to Mr. Adi, they had no right to demand a share of the inheritance when their parents had died while their mother was still alive.[24]

b. Settled through deliberation at the Village level

For the distribution of inheritance carried out through deliberation at the Village level if the settlement between families is not accepted. The place of implementation is at the Village Reje office. Attended by Village Apparatus, Faraidh Experts, Heirs who are entitled to be heirs and those who do not accept the decision made through deliberation between families, because if the whole family gathers and participates in the division it will not be completed. After that, it is divided according to the knowledge of Faraidh and witnessed by witnesses from parties who are not Heirs. After the agreement is accepted, it will be made in black and white so that there are no disputes between Heirs.

The settlement of the dispute at the Village level has been carried out by the Heirs of Patah Titi, the Son of the late Sulaiman, the grandson who is the oldest son of the late Sulaiman insisted that the right to inherit from his parents was transferred to them as his children. In 2023, the children of the late. Sulaiman and Mak Kol and Lamudin and Kaidah agreed to hold a meeting in Kekuyang Village, Ketol District, at Lamudin's house. This meeting was also attended by the Village Head, Village Secretary and other Village Apparatus to help find a way out and to be witnesses to the agreement that was taken later.

[23] Wawancara dengan bapak Sulaiman, Keluarga ahli waris patah titi, wawancara dilakukan pada tanggal 15 februari 2025, pukul 21.00 WIB

[24] Adi. Keluarga Ahli Waris Patah Titi. Wawancara dilakukan pada tanggal 05 Mei 2025. Pukul 16.15 WIB

The deliberation that lasted half a day found a bright spot where the remaining assets of the garden object were given to Kaidah. and the parties agreed on the house of the Heir which was also given to Kaidah because she had taken care of the Heir when she was sick until she died [25] The children of the late Sulaiman did not get anything as Heir but received a small gift from his uncle and aunt. According to Mr. Lamudin, the reason for not giving a portion of the inheritance to the children of the late Sulaiman was because they were already Mate Mata (broken off inheritance ties) because when the late Father and Mother were still alive, their parents had passed away. On the other hand, Mrs. Kaidah argued that many of her parents' assets had been sold by the late Sulaiman during his lifetime and as stated by Mr. Lamudin, she no longer had the right as the child of the late Sulaiman to ask for a portion of her parents' inheritance. She further explained that the conflict resulting from this division has continued until now where the children of the late Sulaiman did not want to sign the making of the land certificate carried out by the heirs including herself.[26]

The son of the late Sulaiman never brought this case to the Sharia Court because according to him he did not want to drag on in the trial process, with costs that would definitely have to be incurred for the needs during the trial. So the grandson only brought this conflict to the Village Court level even though the portion received was only a gift.[27] To bring this dispute to the Gayo Customary Council or the Ulama Consultative Assembly, he did not know at all that it could be done.

c. Resolved through deliberation at the Village Customary Court level

For the distribution of inheritance which is carried out through deliberation at the Village Customary Court level if the settlement between families and at the Village level is not accepted. The settlement through Village Customary is carried out by Customary figures, namely the Village Reje, Sarak Opat, Village Imem, Village Secretary, Ulama and other Customary figures according to needs.

If the problem cannot be resolved through deliberation, then the disputing parties, in this case the grandson affected by Patah Titi, can go to the Gayo Traditional Council or the Bener Meriah Regency Ulama Consultative Council to ask for assistance in resolving the inheritance case.

The settlement of the Patah Titi case carried out by the Bener Meriah Regency Ulama Consultative Assembly is by calling all Heirs and the grandchildren of the Heirs who died before the Heirs, then the Bener Meriah Regency Ulama Consultative Assembly will provide an approach to the Heirs that as the uncles of the grandchildren, they are obliged to maintain and protect the survival of the grandchildren who are the children of their siblings, the heirs must provide grants or gifts to the grandchildren as a form of responsibility, and see the condition of the grandchildren who are orphans or orphans. If the efforts made by the Heirs cannot provide a sense of justice, the grandchildren can sue the Heirs to the Bener Meriah Regency Sharia Court, because with a court system that uses the basis of the Compilation of Islamic Law and there is no other meaning from the contents of Article 185 of the Compilation of Islamic Law, so that the grandchildren's share can be a maximum of 1/3 or no more than 1/3. The Judge's decision will be final and the Heirs must implement the decision, that as the uncles of the grandchildren, they are obliged to care for and maintain the survival of the grandchildren who are the children of their siblings, the heirs must provide grants or gifts to the grandchildren as a form of responsibility, and see the condition of the grandchildren who are orphans.

If the efforts made by the heirs cannot provide a sense of justice, the grandchildren can sue the heirs to the Bener Meriah Regency Sharia Court, because with a court system that uses the basis of the Compilation of Islamic Law and there is no other meaning from the contents of Article 185 of the Compilation of Islamic Law, so that the grandchildren's share can be a maximum of 1/3 or no more than 1/3. The Judge's decision will be absolute and the heirs must implement the decision.

4. Conclusion

The concept of giving inheritance to grandchildren whose parents died before the testator in the Gayo community in Bener Meriah Regency in practice does not determine how much inheritance is given to the grandchildren. However, in almost every case of grandchildren whose parents died before the testator whose position is veiled, in Bener Meriah Regency, inheritance is given, some of which the portion received by the grandchildren is not as large as their parents' share. However, there are also those who receive the same as that received by the heirs where it is based on customary customs (Gayo customary inheritance) where the distribution of inheritance is carried out through deliberation with an equal distribution for both men and women.

In the distribution of inheritance in Bener Meriah Regency, the heirs of a broken titi are done in different ways, where some give it to replacement heirs but many more do not give it to heirs but give it in the form of a grant, not all of which are in the form of land. Ulama through the Ulama Consultative Assembly (MPU) of Bener Meriah Regency agree that the heirs of a broken titi are not included in the heirs and do not receive a share of the inheritance except for a grant from an heir who is equal to the deceased heir, while the Gayo Traditional Council said that the heirs of a broken titi receive an inheritance based on a family agreement, it can be equal or given a larger share.

In practice, the resolution of cases in Bener Meriah Regency, some can be resolved through deliberation. The stages used are:

a. Resolved through deliberation between families For the distribution of inheritance carried out through deliberation between families, the entire family is gathered.

b. Settled through deliberation at the Village level For inheritance distribution carried out through deliberation at the Village level if the settlement between families is not accepted.

c. Settled through deliberation at the village customary court level For inheritance distribution carried out through deliberation at the village customary court level if the settlement between families and at the Village level is not accepted.

[25] Lamudin, Keluarga Ahli Waris Patah Titi, Wawancara dilakukan pada tanggal 05 Mei 2025, Pukul 17.30 WIB.

[26] Kaidah, Keluarga Ahli Waris Patah Titi, Wawancara dilakukan pada tanggal 05 Mei 2025, Pukul 17.30 WIB.

[27] Rahmat, Ahli Waris Patah Titi, Wawancara dilakukan pada tanggal 05 Mei 2025, Pukul 17.30 WIB.

5. Suggestions

After drawing conclusions, some suggestions in this study are: it is expected that the Gayo community, especially in Bener Meriah Regency, which still applies the Patah Titi Law, can pay attention to the position of grandchildren who have the position of orphans or orphans, because in the Qur'an and Hadith it has also explained how about inheritance and its distribution to grandchildren who are veiled by the heir's siblings.

It is expected that the Gayo community in Bener Meriah Regency will resolve the inheritance division case as well as possible, so as not to cause unwanted legal consequences, such as disputes between families, and the severance of kinship between uncles and nephews who do not get the inheritance rights that have been determined.

It is expected that the Ulama Consultative Assembly (MPU) of Bener Meriah Regency will socialize the position of substitute heirs to the Gayo community who have not provided a share in the distribution of inheritance to substitute heirs so that in the Gayo community it is applied more widely and provides a deeper understanding of the Faraidh law and the Compilation of Islamic Law. In the sense that grandchildren can receive grants or gifts from heirs either in the form of land or other assets, considering the position of grandchildren as orphans. It is expected that the Gayo Customary Council (MAG) of Bener Meriah Regency can adjust the implementation of Customary Law so that it does not conflict with Islamic Law even though it is based on deliberation so that there is no conflict within the family.

6. References

1. Suriyaman Mustari Pide A. Hukum Adat: dahulu, kini, dan akan datang, Kencana, Jakarta, 2014, hlm 5.
2. Oemarsalim. Dasar-dasar Hukum Waris di Indonesia, PT. Rineka Cipta, Jakarta, 2000, hlm 1.
3. Surini Ahlan Sjarif, Nurul Elmiyah. Hukum Kewarisan Perdata Barat: Pewaris Menurut Undang-Undang, Kencana, Depok, 2009, hlm 1.
4. Satrio J. Hukum Waris, Cetakan ke-2, Alumni, Bandung, 1992, hlm 56.
5. Mohd, Idris Ramulyo. Perbandingan Pelaksanaan Perkawinan Kewarisan Hukum Acara Peradilan Agama dan Zakat Menurut Hukum Islam dan Hukum Perdata, Sinar Grafika, Jakarta, 1994, hlm 1.
6. Ali Zainuddin. Hukum Perbankan Syariah. Sinar Grafika. Jakarta, 2008, hlm 33.
7. Amir Syarifuddin. Hukum Kewarisan Islam, Kencana, Jakarta, 2004, hlm 204-205.
8. Dian Khairul Umam. Fiqih Mawaris, Pustaka Setia, Bandung, 2006, hlm 17.
9. Sajuti Thalib. Hukum Kewarisan Islam, Sinar Grafika, Jakarta, 2018, hlm 82.
10. Hilman Hadikusuma. Hukum Waris Adat. PT. Citra Aditya Bakti. Bandung, 2003, hlm 33.
11. Abdulkadir Muhammad. Hukum Perdata Indonesia. Citra Aditya Bakti. Bandung, 2014, hlm 201.
12. Zainuddin Ali. Metode Penelitian Hukum, Sinar Grafika, Jakarta, 2019.
13. Peter Mahmud Marzuki. Penelitian Hukum Edisi Revisi, PT Kharisma Putra utama, Bandung, 2015, hlm 1.
14. Soerjono Soekanto, Sri Mamudji. Penelitian hukum Normatif, Suatu Tinjauan Singkat, PT.Raja Grafindo Persada, Jakarta, 2003, hlm 13.
15. Amiruddin, Zainal Asikin. Pengantar Metode Penelitian hukum, PT Raja Grafindo Persada, Jakarta, 2016, hlm 9.
16. Hadari Nawani. Metode Penelitian Bidang Sosial, Gajah Mada University Pres Yogyakarta, 2019, hlm 72.
17. Tgk Samsul. Wawancara pada tanggal 16 Januari 2025, Pukul 08.10 WIB.
18. Hamdan, Petue Kampung Blang Kucak, Kecamatan Wih Pesam, Kabupaten Bener Meriah, Wawancara pada tanggal 13 Februari 2025, Pukul 16.35 WIB.
19. Wawancara dengan Alamsyah, Bagian Hukum Majelis Adat Gayo kabupaten Bener Meriah, Pada tanggal 14 Januari 2025, Pukul 11.30 WIB.
20. Wawancara dengan Tgk Abd Kasah, Ketua Majelis Adat Gayo kabupaten Bener Meriah, Pada tanggal 14 Januari 2025, Pukul 12.20 WIB.
21. Tgk Abdurrahman. Ketua Majelis Permusyawaratan Ulama(MPU) Kabupaten Bener Meriah, Wawancara pada tanggal 16 Januari 2025, Pukul 12.00 WIB.
22. Nurdin MH, Dahlan, Suhaimi, Mustakim. Using Mediation Method in Customary Justice of Aceh Indonesia, International Asia of Law and Money Laundering. 2024; 3(2):115-120. Doi: https://doi.org/10.59712/iaml.v3i2.96
23. Wawancara dengan bapak Sulaiman, Keluarga ahli waris patah titi, wawancara dilakukan pada tanggal 15 februari 2025, pukul 21.00 WIB.
24. Adi. Keluarga Ahli Waris Patah Titi. Wawancara dilakukan pada tanggal 05 Mei 2025. Pukul 16.15 WIB.
25. Lamudin, Keluarga Ahli Waris Patah Titi, Wawancara dilakukan pada tanggal 05 Mei 2025, Pukul 17.30 WIB.
26. Kaidah, Keluarga Ahli Waris Patah Titi, Wawancara dilakukan pada tanggal 05 Mei 2025, Pukul 17.30 WIB.
27. Rahmat, Ahli Waris Patah Titi, Wawancara dilakukan pada tanggal 05 Mei 2025, Pukul 17.30 WIB.