



Implementation of Low Heritage Health Association According to the Law of Minangkabau in Nagari Balingka, Agam Regency

Fakhrul Fahmi; Yaswirman; Mardenis

Faculty of Law, University of Andalas, Padang, Indonesia

<http://dx.doi.org/10.18415/ijmmu.v7i1.1357>

Abstract

Inheritance is basically a legal event in which the death of a person causes the transfer of material rights and all assets owned during his life to the heirs who are the people entitled to the transfer of material rights and all the assets of the deceased person. Speaking about inheritance in Indonesia, there are several regulations governing the inheritance system that can be implemented, namely in the form of Civil Inheritance Law, Islamic Inheritance Law and Customary Inheritance Law. Regarding the provisions of the legal system used in inheritance this is influenced by the community group, religion and choice of law to be chosen by the heirs to determine the system of inheritance distribution of inheritance from the testator. Therefore, I took the formulation of the problem How is the origin of the formation of low heritage in Nagari Balingka, how is the role of the Notary in the implementation of inheritance low heritage in the customary law area of Nagari Balingka and How is the implementation of Pusako Randah inheritance in the Nagari Balingka area of Agam Regency. The research method used is the empirical juridical method which is a study in addition to seeing the positive legal aspects also see what kind of application in the field and society, the data studied was initially secondary data and then continued with research on primary data in the field.

Keywords: *Inheritance; Heirloom Low "Pusako Randah"; Customary law; Nagari Balingka*

Introduction

Minangkabau is a place in Indonesia where people can meet a society that is regulated according to the mother's legal order, starting from a small living environment from family, up to the environment at the top which is a "nagari" so that it can be seen that "blood-derived factors according to the maternal line" are factors that govern the organization of society, even though in the latter environment it is mentioned that in the village we still encounter other binding factors. Life that is regulated according to the law of the mother is what is referred to in everyday terms as life according to tradition.¹ Touching on the term "adat", this term is usually combined with other terms, namely the term "law", so that the

¹ Chairul Anwar, *Indonesian Traditional Law Reviewing Minangkabau Customary Law*, Rieneka Cipta, Jakarta, 1997, page. 1.

translation of the new term "customary law".² Meanwhile according to Soepomo "Customary law" is as a law that is not written in the legislative regulations (unstatutory law) covers the rules of life which, although not determined by people who are obliged to obey obeyed and supported by the people based on faith that these regulations have the force of law".³

Inheritance is basically a legal event in which the death of a person causes the transfer of material rights and all assets owned during his lifetime to the heirs who are entitled to the transfer of material rights and all the assets of the person who died. Speaking about inheritance in Indonesia, there are several regulations governing the inheritance system that can be implemented, namely in the form of Civil Inheritance Law Islamic Inheritance Law and Customary Inheritance Law. Regarding the provisions of the legal system used in inheritance, this is influenced by the community, religion and choice of law that will be chosen by the heirs to determine the inheritance distribution system of inheritance from the testator.

The term Customary Law was first used by Snouck Hurgronje in his book entitled *De Atjehers and Het Gajoland*, in both books Snouck used the words *Adatrecht*. He himself found the term *Adat* from the law book under Sultan Iskandar Muda's rule entitled *Makuta Alam*.⁴ Yaswirman in his book states that, in the Minangkabau community there are 4 (four) types of "adat" levels, namely:

- a. *Adat Nan Sabana Adat (Customs that are actually customary)*, namely the fact that prevails in society as the law of God (sunnatullah), such as the custom of burning fire, the custom of wetting water.
- b. *Adat Nan Diadatkan (Customized customs)*, that is, designed and passed down by the Minangkabau ancestors in regulating people's lives, especially in the social, cultural and legal fields, as stated in "undang-undang nan duapuluh, cupak nan empat".
- c. *Adat Nan Teradat (Most populous)*, that is local custom and may not exist elsewhere. Can also increase in other places and can also be lost according to interests. This custom was formulated by the local "ninik mamak" and then it was prepared.
- d. *Adat Istiadat (Customs)*, that is, habits associated with behavior and pleasure to accommodate the wishes of the community.⁵

In the case of the distribution of inheritance, the implementation of the distribution of inheritance is sometimes different from one region to another. This is due to differences in customs and habits used by each of these regions. The provision of inheritance law in Islam is a solution in the event of a dispute in the distribution of inheritance, such as the distribution of inheritance that is often used in the midst of the Minangkabau tribal community is strongly influenced by the Matrilineal kinship system.⁶ This Minangkabau tribe is one of the many tribes in the archipelago. Similarly, other tribes that are widespread in the equatorial emerald region. Minangkabau tribe has its own uniqueness (characteristics) in dividing the inheritance left by its owner. The fundamental difference in this division is influenced by the family

² *Ibid.* page. 2.

³ Soepomo, *Chapters on Customary Law*, Jakarta, University Publishing, 1966, page. 72.

⁴ Dominikus Rato, *Customary Law in Indonesia (An Introduction)*, Laksbang Justitia Surabaya, Surabaya, 2014, page. 6

⁵ Yaswirman. Family law, *Characteristics and Prospects of Islamic and Traditional Doctrines in the Minangkabau Matrilineal community*, Jakarta, 2011: PT Raja Grafindo Persada. page. 162

⁶ Dr. Iskandar Kamal S.H. *Some Legal Aspects of Matrilineal Inheritance to Bilateral in Minangkabau*, (Center for Minangkabau, Padang, 1968), page.153.

system adopted by the Minangkabau tribe community. The family system is matrilineal, this also affects the majority of community life in the Minangkabau, such as marriage and inheritance rituals.⁷

There are six characteristics of the matrilineal system in the Minangkabau tribal community, namely:

- 1) Heredity is calculated from maternal lineage;
- 2) The tribe is formed according to maternal lineage;
- 3) Every person is required to marry someone outside his tribe (Eksogami);
- 4) The power in the tribe is in the hands of “bundo kanduang”⁸ and “mamak”⁹.
- 5) “Sumando” marriage is a husband who visits the wife's house;
- 6) The rights and inheritance are passed on by the mamak to his niece, that is, from the mother's brother to the daughter of the sister.¹⁰

In the Minangkabau tradition there are a number of basic principles of inheritance as outlined in the following explanation:¹¹

1. Unilateral Principle, Unilateral here means that inheritance rights only apply in one kinship line, and one kinship line here is a kinship line through the mother. The inheritance received from the ancestors was only passed on to the women, none of them passed through the male line, both tight and down. Therefore, then what is considered a family is a certain group caused by the birth of a woman. The family structure according to this understanding is, mother and grandmother; to the top again, that is her grandmother's mother. To the side are men and women born to mothers, and male and female born by mother, mother. Down are children, both boys and girls and so on.
2. Collective Principle, This principle implies that those who are entitled to pusako property are not individuals, but a group together. Referring to this principle, the assets are not shared individually, only given to the group in full (not divided).
3. Principle of Virtue, Meaning, in receiving pusako assets or accepting the role of taking care of heirlooms, there are levels of rights which make one party more entitled than the other, and as long as the more entitled one does not accept it.

The inheritance law of the Minangkabau tribe is known for the existence of low heirlooms (Search Treasure) and high heirlooms. Both types of assets have differences both in terms of the origin of the assets and the procedures for the distribution of these assets. Low Heritage Property (Search Treasure) derived from the search for husband and wife while still alive in the marriage rope and the implementation of the distribution of low Heritage property distributed to the heirs by Faraid science).¹²

⁷ Ibid, page. 160.

⁸ Bundo Kanduang is a female leader in Minangkabau, who portrays the figure of a wise woman who has made Minangkabau adat sustainable since the historical times of Minanga Tamwan to the Minangkabau adat era.

⁹ Mamak is the brother of the mother. In the Minangkabau kinship system mamak has a great responsibility for the continuity of his nephew.

¹⁰ Muhammad Rajab, *Minangkabau Kinship System (Center of Minangkabau Studies Padang)*, 1969. page. 17.

¹¹ Amir Syarifuddin, *Implementation of Islamic Inheritance Law in the Minangkabau Indigenous Environment* (Jakarta: Midas Surya Grafindo Limited Company, 1982), p.75

¹² Amir Syarifuddin, *Implementation of Islamic Inheritance Law in the Minangkabau Indigenous Environment*, (Jakarta: Gunung Agung Limited Company, 1990), page. 291.

Whereas high heirlooms are treasures that are obtained for generations to be owned collectively by heirs from several generations to previous generations. In turn, the treasure has until now become a hazy origin.¹³ In addition, the implementation of the distribution of high heirloom property in accordance with the Minangkabau inheritance law. Inheritance law in Minang basically has the principle of a system of collective inheritance in which inheritance is inherited or more precisely controlled by a group of heirs in an undivided state as if it were a family or kinship legal entity.¹⁴ The inheritance in the Minang inheritance system is referred to as the Asheritance which is a relic of a people or someone who no longer exists, because of death in the form of fixed objects (immovable objects) or moving objects.¹⁵

The inheritance which is a legacy in the Minang indigenous people is divided into:¹⁶

- 1) High Heritage Property "*Harta Pusako Tinggi*", which is a inheritance received from generation to generation in a bloodied tribe according to maternal lineage.
- 2) Low Heritage Property "*Harto Pusako Randah*", that is relics that are not hereditary, but are obtained from someone from the income of their husband or wife or individuals from them, or from the results of "*suarang*" or innate before marriage.

This collective distribution system of inheritance applies to high inheritance assets. High heritage property is a legacy inherited from generation to generation, whose inheritance rights are drawn from the lineage of women or mothers. Low inheritance assets, especially livelihood assets, in concept that become inheritance are assets that have been divided in half by the husband or wife who lives the longest. This is because livelihood assets are joint assets obtained during marriage. The distribution of inheritance of low inheritance assets in the form of these assets, has a inheritance system that is different from the distribution of inheritance for high inheritance. The distribution of inheritance for inheritance is low, especially the distribution of inheritance for children, in the Minang customary law community if the inheritance of the inheritance comes from livelihood assets, then both boys and girls have the same rights to be able to become heirs.

In practice the distribution of inheritance of these assets, women are more dominant position. This is because according to custom there are girls in the Minang customary law community who are the successors of lineage who have an obligation to look after their parents, so it is more demanded to remain in his house. Boys in the customary law community of Minang have the habit to go abroad.

The dominance of this woman's position in inheritance is also influenced by the concept of boys coming out of the house. After marriage, boys also generally leave the house to live and settle in the wife's family home. This happened during a marriage in the permanent residence of the Minang customary community, where men enter the wife's family environment as migrants or outsiders while still being members of the family in the family.

Islamic law in its development, strongly influences the pattern of customary law to the Minang customary law community. The influence of Islamic law in Minang customary law can be seen from

¹³ *Ibid.* page. 216.

¹⁴ Hilman Hadikusuma, 1996, Indonesian Inheritance Law According to Law, Customary Law, Hindu Religious Law, Islam, Limited Company Citra Aditya Bakti, page. 16.

¹⁵ Idrus Hakimi and the Adat and Sharak Bureau of Trustees, Without Years, Sako Pusako and Sangsoko According to Minang Kaabau Customs, Archives of the Directorate of Village Development in West Sumatra Province, page. 40.

¹⁶ *Ibid.*

philosophy “*adaik basandi syara, syara basandi kitabullah*”, yang memiliki arti adat bersumber pada syariat Islam, syariat bersumber pada Al-quran.

This also affects dependent inheritance “*adaik basandi syara, syara basandi kitabullah*” has become an ideology in carrying out community life in each region within the territory of the Minangkabau customary law community which in principle also has diversity and different habits. This affects the joints of life in the Minang customary law community, and also affects the inheritance system itself.

Based on the results of pre-research with Datuak Basa (datuak from the Pili tribe) and Nagari Indigenous Density Kanagarian Balingka the distribution system of inheritance to low inheritance assets in the form of the Minang customary community's livelihood today is according to Islamic law. If there is a dispute over the distribution of inheritance which is settled by Adat Nagari, then the Nagari Traditional Density resolves the dispute by way of the distribution of inheritance according to Islamic law in accordance with philosophy the “*adaik basandi syara, syara basandi kitabullah*”¹⁷

Inheritance system in Islamic law, Broadly speaking, in the distribution of inheritance for children, the share for girls only gets half of the share obtained by boys. Boys are essentially in such circumstances more dominant as heirs than girls.¹⁸ This division of inheritance is more like the way of distributing inheritance in an individual inheritance system. The distribution of inheritance to low inheritance assets in the form of livelihood assets is contrary to the system of collective inheritance of high inheritance assets in the Minang customary community, the inheritance rights owned by the heirs based on the lineage of the mother or woman. It also contradicts the matrilineal kinship system in the Minang customary community where women are considered dominant and are the successor to the family line.

Research Method

The problem approach that will be used in this research is the empirical juridical approach,¹⁹ that is a study besides looking at the positive legal aspects also looking at how the application in the field and the community, the data studied initially secondary data to then proceed with research on primary data in the field, namely research on the parties involved in matters of the practice of implementing the inheritance of low heirlooms by the Minang tribe especially in West Sumatra. Meanwhile, according to Ronny Hanitijo Soemitro, an empirical juridical approach is a library approach that is guided by regulations, books or legal literature and materials that have a relationship problem and discussion in writing this thesis and taking data directly on the object of research related to the implementation of inheritance of low heritage in West Sumatra.²⁰

¹⁷ Pre-research Interview Results with Datuak Basa (datuak from pili tribe) and Kanagarian Balingka Indigenous Density, May 1, 2018 in Bukittinggi

¹⁸ Pre-research Interview Results with Datuak Basa (datuak from pili tribe) and Kanagarian Balingka Indigenous Density, May 1, 2018 in Bukittinggi

¹⁹ Soemitro in Soejono and Abdurahman, 2003, Legal Research Methods, Jakarta: Rineka Cipta, p. 56.

²⁰ Ronny Hanitijo Soemitro, Legal Research Methodology and Jurimetry, Ghalia Indonesia, Jakarta, 2001, p. 10.

Result and Discussion

Implementation of Inheritance Distribution to the Minangkabau Indigenous Peoples in Nagari Balingka Agam Regency

1. Implementation of Inheritance Distribution

From the results of the study that in the implementation of the division of Minangkabau community heritage in Nagari Balingka Agam Regency is inseparable from two main things, namely: heirs, the inheritance left behind. To elaborate on the two points above, the points relating to the distribution of the Minangkabau community's heritage in Nagari Balingka Agam Regency will be raised:

1) Inheritance System

From the results of interviews with the chairman of ninik mamak, it can be stated that what is meant by inheritance is the transfer of assets left by parents to their children, both movable and immovable property.²¹ Then he also added that the inheritance system implemented by the people in Nagari Balingka Agam Regency was more inclined towards the Islamic heritage system. But sometimes the application is not so pure, this is because in practice the division is actually carried out equally.²² The explanation above is in line with the responses from the respondents that the community prefers how to divide the inheritance according to deliberations and consensus in carrying out the distribution of inheritance rather than in accordance with Islamic law and Minangkabau adat provisions. The distribution is done equally because the souls of people who are more inclined to deliberate in solving a problem, especially inheritance problems.²³

No.	HERITAGE SYSTEM	AMOUNT	PERCENTAGE
1	According to the provisions of Islamic law	-	-
2	According to the Minangkabau Customary Conditions	-	-
3	According to Deliberation and Consensus-Building	10	100%
AMOUNT		10	100%

Survey Data on Society 2019

From the above table and the results of research conducted in Nagari Balingka Agam Regency, that the community in dividing inheritance is done by dividing inheritance in accordance with deliberations and consensus, where 10 respondents who answered, stated that the method of dividing the inheritance that they applied was in accordance with deliberations and consensus, with practice in the field of division carried out by being divided equally. The reason respondents are equally distributed in practice in the field is due to avoid disputes or friction between heirs.

²¹ Results of Interviews with Datuak Basa (datuak from pili tribe) and the Customary Density of Kanagarian Balingka, 11 February 2019 in Bukittinggi

²² Results of Interviews with Datuak Basa (datuak from pili tribe) and the Customary Density of Kanagarian Balingka, 11 February 2019 in Bukittinggi

²³ Results of Interviews with Datuak Basa (datuak from pili tribe) and the Customary Density of Kanagarian Balingka, 11 February 2019 in Bukittinggi

2) Element of Inheritance

a. Heir

Heir is a person who at the time of his death left an inheritance and left an heir. In this case the Minangkabau community in Nagari Balingka Agam Regency which is called the heir is a person who has died both father and mother in a family.

b. Legacy

In this case, the inheritance for the Minangkabau community in Nagari Balingka Agam Regency is a livelihood from the search for both parents during their lifetime. These assets are both immovable objects and moving objects. As for immovable property, namely land and houses, and movable property, namely cars and motorbikes. Where the property is directly distributed to children or wives for their living needs. As long as the search treasure is not mixed with union property (joint venture assets with other parties).²⁴ The results of the interview above are in accordance with the answers of the respondents, that the assets left behind by the heir are the livelihood of both parents during their lifetime. Of the 10 respondents all answered thus and the assets left were the proceeds of the search for parents namely land and houses, motorbikes and also in the form of money.

No.	Type of Inheritance	Amount	Percentage
1	High Heritage Property	-	-
2	Low Heritage Property / Livelihoods	10 people	100%
3	Default Property	-	-
Amount		10 people	100%

Survey Data on Society 2019

c. Ahli Waris

From the results of the interview with the chairman of “ninik mamak”, that the heirs of the Minangkabau community in Nagari Balingka Agam Regency are a general provision. This means that all heirs will most likely get a share of the inheritance equally, especially for the heir's child (both male and female). As long as they are one family, there is no interruption or one mother / father.²⁵ The statement of the head of ninik mamak above is in accordance with the answers of the respondents, that all respondents stated that the heirs fell to their children, both boys and girls. It's just that there are different in terms of the number of shares.

No.	Heir	Amount	Percentage
1	Nephew	-	-
2	Wife and Child (Male or girl)	2 persons	20%
3	Children (Male or Female) only	8 people	80%
4	Sibling	-	-
Amount		10 people	100%

Survey Data on Society 2019

²⁴ Results of Interviews with Datuak Basa (datuak from pili tribe) and the Customary Density of Kanagarian Balingka, 11 February 2019 in Bukittinggi

²⁵ Results of Interviews with Datuak Basa (datuak from pili tribe) and the Customary Density of Kanagarian Balingka, 11 February 2019 in Bukittinggi

2. *Shifting Inheritance Distribution to Minangkabau Communities in Nagari Balingka Agam District Due to the Effect of Islamic Law*

Factors that influence the development of a society in general are things that come from outside (self) and from within (self) the community itself. For the Minangkabau community, the development of social values is also not immune from the above phenomenon, furthermore the development of that value also becomes the reality of the community.²⁶ The Minangkabau traditional doctrine has actually signaled this development from the beginning by stating:

Sakali aie gadang
Sakali tapian baralieh
 Once big water,
 Once the edges change

Changes that occur in the life patterns of the Minangkabau people do not eliminate the existence of adat as a part that regulates the life patterns of their people. "*Tapian baralieh*" is evidence of dynamic life but substantial matters or elements that are bound to the existence of indigenous Minangkabau communities remain unchanged. The Minangkabau community is like a river that continues to flow towards the estuary, although in the process of traveling from upstream, they have to change or shift left and right sides into new edges. Its essential nature as a current is still moving, this is what the customary fatwa says "*indak lapuak dek hujan, indak lakangdek paneh*", something that is lasting and sustainable. There is a guarantee of the existence of the Minangkabau custom, because the custom takes its primary source from an eternal, nature.²⁷

The Minangkabau traditional doctrine is considered to be based on natural phenomena and the reasoning power of the human brain. Nature which was made a teacher by Minangkabau custom was formulated as part of his doctrine. This was confirmed by M. Nasrun as follows: Then the Minangkabau custom itself determines in advance some of the natural provisions of the custom itself".²⁸

Thus the Minangkabau custom does not claim to be static but rather tends to be progressive. This is evidenced by the non-shocking of the norms and joints of tradition when Islam began to develop in this area. According to Nasrun, even with the inclusion of Islam as part of the norms of life in Minangkabau, the tradition was elevated to a better level. The process of harmonization between adat and Islam is due to the customary norms "*lowong*" set about worshiping something outside of himself. Islam comes with its doctrine of monotheism. The science of God in Islam is actually very moving people to understand nature explicitly or implicitly discuss or prove the greatness of the Creator, Allah SWT.²⁹

The special feature of the Minangkabau indigenous people is the lineage according to the mother, on the other hand the Islam actually draws it, according to the father's line. At first glance as contradictory but it seems in reality there is a harmonization between traditional and religious doctrines. So that today the matrilineal nature of society remains among the Minangkabau people. Nasrun said that actually the Minangkabau adat legal system is one of the oldest systems in Indonesia because the system was also found in the Ancient Agam community. Further logic is that this society draws a lineage since before the existence of a marriage institution in human life, at that time the legal (and biological) relationship with the child was only with the mother, the person who gave birth to it.³⁰

²⁶ Firman Hasan, Op.Cit., page. 3

²⁷ Ibid., page.4.

²⁸ M. Nasrun, Op.Cit., page. 39.

²⁹ Ibid., page. 38.

³⁰ Ibid., page. 33-34.

The matrilineal system which has been so entrenched has not been disturbed by Islam, because in such fields of life Islam has an area of tolerance.³¹ Thus the Minangkabau tradition and the Islamic religion were able to maintain each other's characteristics without destroying one another's doctrines and jointly regulating the Minangkabau people's behavior patterns. In other words between Islam and adat, there is not a "coexistence" between a thesa and an anti-thesa that causes a synthesis, a new thing that is completely different from its origin. Islam and tradition have shown their characteristics and grow side by side in harmony. Here is the traditional concrete evidence "*basandi syarak, syarak basandi kitabullah* atau adat *bersendisarak, syarak bersendikan*" Kitabullah or Al-Qur'an.³²

As for what causes a shift in the distribution of inheritance in the Minangkabau community in Nagari Balingka Agam Regency is influenced by 2 (two) factors, namely internal factors and external factors. Internal factors are caused by the awareness in the Minangkabau community in Nagari Balingka Agam Regency that they do not live in the realm of Minang (home), so that the community felt unable to implement the Minangkabau customary law as a whole in the overseas area. This is in accordance with the principle "Where the earth is trampled, that is where the heavens hold." which means that where people live (domiciled), they must follow the existing rules in the residence or area. Thus, the community must be able to adjust to determine the implementation of inheritance which is implemented in Nagari Balingka Agam Regency, namely by following Islamic law.³³

The external factor is that there is a state administrative uniformity that becomes the government's policy, sometimes overriding the customary norms that govern it. Although this policy is actually intended in the context of efficiency and as a result of the centralized government policy. Besides that, migrant life patterns are also considered to be part of the Minangkabau people's characteristics. Interaction with other communities has led to the emergence of new values acculturated in Nagari Balingka Agam District, which could result in setting aside Minangkabau traditional traditions.³⁴

With the explanation above, it can be concluded that there is a shift in the distribution of inheritance among the Minangkabau people in Nagari Balingka, Agam Regency, which is closely related to the community's insight into the Minangkabau tradition and the Islamic religion. This is due to developments that occur as a continuation of the struggle of ideas experienced by the Minangkabau community which has an influence on the views and beliefs of the community which in turn will lead to and reinforce the norms that are considered relevant and obscure or exclude matters that are considered no longer compatible with the development of society today.

Conclusion

Based on the results of research and discussion on the distribution of inheritance to indigenous Minangkabau in Nagari Balingka, Agam Regency, then it can be concluded several things as an answer to the problem of this study, as follows:

³¹The history of the development of Islam in the time of the Prophet Muhammad (PBUH) proves that Islam completely revoked the "worship tradition" of the Quraysh who worshiped idols. In the ritual worship of God, Islam has no tolerance at all. In contrast to things that are muamalah (fellow human relations). Islam since the time of Muhammad has proven its ability to accept other different systems.

³² Firman Hasan, Op.Cit., page. 6

³³ Results of Interviews with Datuak Basa (datuak from pili tribe) and the Customary Density of Kanagarian Balingka, 11 February 2019 in Bukittinggi.

³⁴ Results of Interviews with Datuak Basa (datuak from pili tribe) and the Customary Density of Kanagarian Balingka, 11 February 2019 in Bukittinggi

1. The origin of the formation of a low heirloom is divided into two, namely “*sako*” and “*pusako*”, “*sako*” is inheritance in the form of a title of adat that is given to the customary head as the leader of the people who are descended according to maternal lineage where “*sako*” is also considered as the identity of the people. While “*Pusako*” is something material that can be transferred to another person due to the death of the owner of the property.
2. The role of the notary is needed as a place of consultation so that the public understands how the implementation of inheritance according to Civil law, Customary law and Islamic law and notary public can also ratify the form of deed which can later have legal force. In addition, the Notary can be a helper if an inheritance dispute has occurred, even if no peace is found, then the Notary together with an advocate is needed for settlement in accordance with the provisions and applicable law.
3. The implementation of the distribution of Minangkabau heirs in Nagari Balingka Agam Regency is more likely to implement an Islamic heritage system but in practice the distribution is carried out on the basis of the principle of deliberation and consensus, where the distribution is done equally. That is because the soul of the community that likes to deliberate in determining a decision and for the sake of maintaining harmony in the family so that no disputes or friction occurs between the heirs. Indigenous peoples in the distribution of inheritance are experiencing a shift, people are more likely to choose the system of inheritance of Islamic law in the distribution of inheritance than the system of inheritance of customary law. Although the division in the field practice is not in accordance with Islamic law, that is to be divided equally. The shift is based on principle "Where the earth is trampled on where the sky is held", which means that where the community is domiciled, then the rules at the domicile must be obeyed, namely by obeying Islamic law.

Reference

1. Books

- Amir Syarifuddin, *Implementation of Islamic Inheritance Law in the Minangkabau Indigenous Environment*, Jakarta: Midas Surya Grafindo Limited Company, 1982.
- Amir Syarifuddin, *Implementation of Islamic Inheritance Law in the Minangkabau Indigenous Environment*, Jakarta: Gunung Agung Limited Company, 1990.
- Chairul Anwar, *Indonesian Traditional Law Reviewing Minangkabau Customary Law*, Rieneka Cipta, Jakarta, 1997.
- Dominikus Rato, *Customary Law in Indonesia (An Introduction)*, Laksbang Justitia Surabaya, Surabaya, 2014.
- Dr. Iskandar Kamal S.H. *Some Legal Aspects of Matrilineal Inheritance to Bilateral in Minangkabau*, Center For Minangkabau, Padang, 1968.
- Hilman Hadikusuma, *Indonesian Inheritance Law According to Law, Customary Law, Hindu Religious Law, Islam*, Limited Company Citra Aditya Bakti. 1996.
- Idrus Hakimi and the Adat and Sharak Bureau of Trustees, *Without Years, Sako Pusako and Sangsoko According to Minang Kaabau Customs*, Archives of the Directorate of Village Development in West Sumatra Province.
- Muhammad Rajab, *Minangkabau Kinship System (Center of Minangkabau Studies Padang)*, 1969.

Ronny Hanitijo Soemitro, *Legal Research Methodology and Jurimetry*, Ghalia Indonesia, Jakarta, 2001.

Soemitro in Soejono and Abdurahman, *Legal Research Methods*, Jakarta: Rineka Cipta. 2003.

Soepomo, *Chapters on Customary Law*, Jakarta, University Publishing, 1966.

Yaswirman. Family law, *Characteristics and Prospects of Islamic and Traditional Doctrines in the Minangkabau Matrilineal community*, Jakarta, PT Raja Grafindo Persada. 2011.

2. Interview

Pre-research Interview Results with Datuak Basa (datuak from pili tribe) and Kanagarian Balingka Indigenous Density, May 1, 2018 in Bukittinggi .

Results of Interviews with Datuak Basa (datuak from pili tribe) and the Customary Density of Kanagarian Balingka, 11 February 2019 in Bukittinggi.

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).