

## EVOLUTION OF THE MINANGKABAU INHERITANCE SYSTEM AND ITS RELEVANCE TO GENDER JUSTICE IN ISLAMIC LAW

Nelna Saprina<sup>1</sup> , Yulia Rahmi<sup>2</sup> 

### Korespondensi :

Email : [nelnanelna12@gmail.com](mailto:nelnanelna12@gmail.com)

### Afiliasi Penulis :

<sup>1</sup> Universitas Islam Negeri Sjech M. Djamil  
Djambek Bukittinggi, Indonesia

<sup>2</sup> Universitas Islam Negeri Sjech M. Djamil  
Djambek Bukittinggi, Indonesia

### Riwayat Artikel :

Penyerahan : 06 Juni 2024  
Revisi : 11 Agustus 2024  
Diterima : 14 September 2024  
Diterbitkan : 10 Oktober 2024

### Keyword :

Inheritance System, Gender Justice, Islamic Law

### Kata Kunci :

Sistem Kewarisan, Keadilan Gender, Hukum Islam

### Abstract

The inheritance system in Minangkabau, known for its matrilineal lineage, offers a unique perspective on property distribution, especially when contrasted with the patrilineal structure of Islamic inheritance law. This research delves into the historical and cultural evolution of the Minangkabau inheritance system, examining how it has adapted over time due to various social, legal, and religious influences. While Minangkabau customary law (adat) traditionally prioritizes female heirs, particularly through maternal lines, Islamic inheritance law advocates a more balanced approach, emphasizing the rights of both male and female heirs based on predetermined shares. The contrast between these two systems raises important questions about gender justice and the equitable distribution of wealth. Through a detailed exploration of Minangkabau customs and Islamic jurisprudence, this study investigates how these systems have coexisted and the efforts made by scholars and legal authorities to reconcile the differences. A significant focus is placed on the role of reformist thinkers within the Minangkabau community, who have sought to align local practices with the broader principles of Islamic inheritance law while preserving cultural identity. The research also examines the practical implications of these reform efforts, particularly in light of the evolving role of women in Minangkabau society and the growing calls for gender equality. The findings offer valuable insights into the potential for developing an inheritance model that respects both cultural traditions and Islamic values of justice, ultimately contributing to a broader discourse on gender equity in inheritance laws across diverse Muslim societies.

### Abstrak

Sistem pewarisan di Minangkabau, yang dikenal dengan garis keturunan matrilineal, menawarkan perspektif unik dalam distribusi harta, terutama jika dibandingkan dengan struktur patrilineal dalam hukum waris Islam. Penelitian ini menggali evolusi historis dan budaya dari sistem pewarisan Minangkabau, mengamati bagaimana ia beradaptasi seiring waktu akibat berbagai pengaruh sosial, hukum, dan agama. Sementara hukum adat Minangkabau secara tradisional mengutamakan ahli waris perempuan, khususnya melalui garis keturunan ibu, hukum waris Islam menganjurkan pendekatan yang lebih seimbang, menekankan hak ahli waris laki-laki dan perempuan berdasarkan bagian yang telah ditentukan. Perbedaan antara kedua sistem ini menimbulkan pertanyaan penting mengenai keadilan gender dan distribusi kekayaan yang adil. Melalui eksplorasi mendalam tentang adat Minangkabau dan yurisprudensi Islam, penelitian ini menyelidiki bagaimana kedua sistem ini hidup berdampingan dan upaya-upaya yang dilakukan oleh para cendekiawan dan otoritas hukum untuk mendamaikan perbedaan tersebut. Fokus utama juga diberikan pada peran pemikir reformis di dalam komunitas Minangkabau, yang berusaha menyelaraskan praktik lokal dengan prinsip-prinsip hukum waris Islam yang lebih luas sambil tetap mempertahankan identitas budaya. Penelitian ini juga mengevaluasi implikasi praktis dari upaya reformasi tersebut, terutama dalam konteks peran perempuan yang terus berkembang di masyarakat Minangkabau dan meningkatnya seruan untuk kesetaraan gender. Temuan ini memberikan wawasan berharga tentang potensi pengembangan model pewarisan yang menghormati tradisi budaya sekaligus nilai-nilai keadilan dalam Islam, yang pada akhirnya berkontribusi pada diskusi yang lebih luas tentang kesetaraan gender dalam hukum pewarisan di masyarakat Muslim yang beragam.

## INTRODUCTION

The Minangkabau custom is one of the most frequently discussed topics among academics and Islamic law observers, particularly concerning its inheritance system. The kinship system in

Minangkabau, which follows a matrilineal structure, meaning it is based on the maternal line, distinguishes this society from most other regions in Indonesia that commonly follow a patrilineal system, which is based on the paternal line. In Minangkabau society, the maternal line not only determines kinship but also plays a significant role in inheritance distribution. The land and ancestral property inherited through the maternal line are regarded as family assets that must be preserved and managed by the women. This system highlights the crucial role of women in maintaining the social and economic continuity of the extended family (Fauzi, 2012). The ancestral property is not merely viewed as individual ownership but rather as collective wealth passed down from generation to generation. For this reason, women in Minangkabau families hold a strategic position as rightful heirs to the land and inherited wealth, while the men in the family function to safeguard and manage these assets for the benefit of their sisters and nieces.

In Minangkabau custom, this inheritance system is known as the Parpatiah custom, which dictates that all ancestral property must be passed on to the daughters from the maternal line. No other party, not even the men in the family, has the right to claim or take a portion of this property. Those outside the maternal line are not allowed to manage or control the inherited land, as it belongs collectively to the women in the family (Fauzi, 2012). Men, although not entitled to a share of the ancestral property, have the responsibility to maintain, manage, and develop the property for the benefit of the women in the family. Thus, although men do not hold ownership rights, their role as custodians and managers is crucial in ensuring that the ancestral property remains intact and can be passed on to future generations. This creates a harmonious division of roles between men and women (Asyrofil U et al., 2023), where women hold ownership rights, and men assist in management. The Minangkabau society maintains this balance between rights and responsibilities, ensuring that family assets remain preserved and are not fragmented over time.

In contrast to the Minangkabau inheritance system, Islamic law regulates inheritance based on a bilateral system, where inheritance rights are determined from both paternal and maternal lines. In Islamic law, the property inherited is individual in nature, not collective or ancestral property passed down through a single line of descent (Ridwan, 2023). The distribution of inheritance in Islamic law is also meticulously detailed, ensuring that each heir receives their share according to the prescribed rules. One of the main principles in Islamic inheritance distribution is that men receive a larger portion than women, with a ratio of two to one. This principle is based on the consideration that men have greater financial responsibilities within the family, such as providing for their wives and children. However, this difference often sparks debate, especially when compared to the matrilineal inheritance system in Minangkabau, which grants full authority over ancestral property to women. As a result, in the context of Minangkabau society, there is a dynamic interaction between custom and Islamic law, where some families adhere to traditional custom in matters of inheritance, while others choose to follow Islamic law provisions in the distribution of inherited property.

The purpose of this research is to examine the fundamental differences between the Minangkabau inheritance system and the Islamic inheritance system. Although Minangkabau customs are widely regarded as being deeply rooted in Islamic principles, with the philosophy “adat basandi syara’, syara’ basandi Kitabullah, syara’ mangato adat mamakai” (customs based on Islamic law, and Islamic law based on the Qur’an), the reality shows a significant divergence. In Minangkabau, ancestral property is exclusively passed down to female descendants, while men receive no share of this inheritance. This presents a potential conflict, raising the question of why the Minangkabau inheritance system does not reflect the principles of Islamic inheritance law, which is often seen as more gender-inclusive. Furthermore, the marginalization of men in this system seems paradoxical given the Islamic foundation of Minangkabau customs. Despite this, Minangkabau has produced many prominent figures for the nation, which invites both critique and scrutiny of its customs by those raised in the culture. Several influential Minangkabau figures have addressed these concerns and contributed to reforms in the inheritance system. This research will explore the process of change within the Minangkabau inheritance system and analyze how these changes align with the principles of Islamic inheritance law, particularly in terms of gender justice.

## RESEARCH METHOD

This research employs a qualitative approach with the library research method, focusing on literature review to gain a deep understanding of the differences between the Minangkabau inheritance

system and the Islamic inheritance system, particularly concerning gender justice. The data collected in this study comes from a thorough examination of relevant literature on the subject, including books, scholarly articles, research reports, and other supporting sources. Since this research is library research, the analysis method used is document and literature analysis, which allows the researcher to systematically extract information from various written sources. The study does not merely focus on data collection but also utilizes descriptive analysis to depict the phenomena occurring in the Minangkabau inheritance system, along with comparative analysis to explore how this system interacts with the principles of Islamic inheritance law. Through these methods, the research aims to describe the changes that have occurred in the Minangkabau inheritance system over time and evaluate the extent to which these reforms align with the values of gender justice embedded in Islamic law.

The primary data sources used in this study are literatures that specifically discuss inheritance in Minangkabau customs and how these customs have persisted or evolved in response to criticism and modern challenges, especially regarding women's rights and men's roles in inheritance. Additionally, the principle of gender justice in Islamic inheritance law serves as a key benchmark for assessing the relevance of the reforms taking place in Minangkabau. The secondary sources supporting this analysis include academic journals, other research reports, and articles related to inheritance issues from both customary and Islamic legal perspectives. By utilizing a variety of sources, this research will delve deeper into how the principles of gender justice can be integrated into the reform of the Minangkabau inheritance system without eroding the cultural essence that characterizes the Minangkabau community. These sources are expected to provide a comprehensive perspective on the evolution of the Minangkabau inheritance system within the context of Islamic law and its contribution to the discourse on gender justice in Indonesia.

## FINDING AND DISCUSSION

### a. Minangkabau Inheritance System Before the Arrival of Islam

The inheritance of the Minangkabau tribe, also known as harta pusaka (ancestral property), refers to the family inheritance owned and utilized by a single family unit. This property originally came from the ancestors who lived in the Minangkabau region and was obtained through methods such as manaruko (clearing new land), mancancang (marking territory), and malateh (land cultivation). This property was given to a family, which eventually grew into a larger group known as a kaum or clan, and the harta pusaka became the collective property of that clan. In Minangkabau custom, the inherited property is passed down through generations with the primary obligation to maintain and use it. Members of the clan are not allowed to sell or transfer the harta pusaka to anyone else unless all family members agree. The right to use this collective property shifts over time based on the needs of the clan, but the fundamental principle that this property is collectively owned remains.

The system of inheritance in Minangkabau is unique, especially in comparison to other kinship systems. Inheritance is not passed from father to child, but rather from a mamak (mother's brother) to his nieces and nephews. This matrilineal kinship system calculates lineage through the mother's line, meaning that a man does not pass down his wealth or inheritance to his children. Instead, his descendants are considered to come from his sisters, and therefore, his role is to manage and protect the wealth of his nieces and nephews. Men in the Minangkabau society do not hold inheritance rights over harta pusaka, but rather act as custodians who are responsible for preserving and managing the property for their female relatives and their offspring. In this system, a man's primary responsibility lies with the continuation and prosperity of his maternal lineage rather than his direct descendants.

Women hold a significant and protected position within the Minangkabau kinship and inheritance system (Syahrani et al., 2024). They are the rightful inheritors of the harta pusaka and continue to live in their mother's house or within the family compound, even after marriage. Men who are part of the same maternal lineage do not inherit harta pusaka but are tasked with overseeing its management. If men generate income or wealth through personal efforts, those resources are considered part of their clan's collective wealth. As a result, children and wives of a man have no claim over his property because everything reverts to the collective wealth of the clan. This structure ensures that wealth remains within the family group, blurring the distinction between personal earnings and inherited property. Consequently, neither the wife nor children have legal entitlement to the wealth their father or husband accumulates during his lifetime.

The position of a man in his wife's household is also quite distinct in Minangkabau society. Known as *urang sumando*, or the husband of a Minangkabau woman, a man holds no direct power over the household or children. His role is seen as that of an honored guest who bears responsibility only for his wife's lineage (Izzati et al., 2024). He has limited authority and no control over the property or children, as that authority belongs to his wife's brother or other male relatives. In the event of a divorce, a husband would leave the household with only the clothes on his back, with no claim to any property or belongings from his wife's household. This setup often leaves men without the same familial ties and responsibilities that exist in other societies, prompting some Minangkabau men to marry multiple wives. In their old age, these men are often cared for by their nieces and nephews rather than their own children. This was the state of Minangkabau society before the arrival of Islam.

### **b. Minangkabau Inheritance System After the Arrival of Islam**

There are several opinions that inform about the entry of Islam into Minangkabau, from several opinions that exist include that the entry of Islam into Minangkabau is predicted in the middle of the fourteenth century, this is based on the news about Ibn Battuta who visited Pasai in 1345, and found that the king who ruled at that time was named Sultan Al-Malik Az-Zahir. On his first visit there, the king was not in the country, because he was broadcasting Islam to the country of Muljawa. Historians predict that what is meant by Muljawa (Malay-Javanese) is Minangkabau (Hamka, 1982). However, according to other theories about the entry of Islam into Indonesia, it is estimated that Islam has arrived in Minangkabau long before the establishment of kingdoms in Minangkabau, and it is estimated that Islam has entered Minangkabau around the seventh century AD (Afianah & Salik, 2021).

Departing from the difference of opinion about the beginning of the entry of Islam in Minangkabau, it is certain that in the 14th to 18th centuries it was very clear that the existence of Islam in Minangkabau was very clear. However, the issue of inheritance has not become a special concern. In the 18th century, the life of the Minangkabau indigenous people experienced a very tendencies of becoming, the community was preoccupied with gambling, buying chickens until the heirloom was sold and pawned for it. The custom at that time had really left the sharia. Religions at that time were also not active in filling the customs with religion, religions were increasingly interested in Sufism recitation, so there was an expression that religion had been directed to the issue of Sufism only (Hamka, 1982).

The priestly movement was also present and fought against these deviations. The priestly movement began with the return of three pilgrims in 1803, the three pilgrims were Haji Miskin, Haji Sumanik, and Haji Piobang. They returned home with the spirit of Islam inspired by the puritan Wahhabi movement that existed at that time in the Arabian peninsula. Then from that spirit was also formed in the *luhak* of the masters who were called '*tigers nan salapan*' who also made a determination to uphold the sharia and eradicate the disobedience that was rampant at that time carried out by the indigenous people. Historically-sociologically, the Priestly movement is a socio-intellectual movement, which seeks to renew religious thought (Regev-Messalem, 2020). Because at that time the religious community in Minangkabau was too superstitious and superstitious, and too tolerant of customary customs that were clearly contrary to sharia'. This is what the clergy are fighting for and then straightened out to be in accordance with the sharia (Asroruddin & Amin, 2020).

The presence of the three hajj brings a new pattern to the religious life of the Minangkabau people. The state of society at that time was very far from the Qur'an and the Sunnah of the Prophet. At that time, there was rampant evil and disobedience by the community such as murder, robbery, young people and traditional leaders flocking to cockfighting. Although Islam has been embraced by the community for several centuries, it has not been able to weaken the traditions and customs that apply in society. The scholars and religious teachers did not have the power to change it, they were only allowed to teach in mosques and in *suraus*, where they were heard, but outside of those two places people did not care about it anymore. This is what drives the poor pilgrims and their friends to carry out reforms in Minangkabau. They feel that the invitation in peace does not get a welcome from the community and customs, so there is no other choice according to them except with a radical-revolutionary *da'wah* system. Because according to them, peaceful and *sufistic* ways can no longer improve the condition of society that has been so severe, peaceful ways have been carried out by *Tuanku nan Tuo* and these methods have not worked. However, no matter what the reason, *da'wah* in this way of radicalism is clearly contrary to the norms of the *da'wah* approach in Islamic teachings.



This priestly movement has had an impact on the assimilation between Islamic teachings into Minangkabau customs. Customs undergo modifications and religion as a belief system is strengthened. In its reform, religious doctrine is identified more clearly as the main standard of behavior, so that every customary regulation must be a manifestation of religion (Tedla & Mekonen, 2023). Therefore, the formulation of the custom "syara' mangato adaik mamakai" (religion that regulates and customs that run) was created. After everything that happened, the role of religion is indeed very clear in its position, but its implementation still needs continuous improvement, especially in the inheritance system, in the period after the occurrence of the priestly movement, the inheritance system has not changed, the prevailing system is still the customary inheritance system.

In the 18th to 19th centuries, Islamic reformers in Minangkabau emerged among them Shaikh Ahmad Khotib al-Minangkabawi, he was born on June 26, 1860 in Koto Tuo, Agam, West Sumatra. He is the son of a noble scholar of Koto Gadang, Bukittinggi, namely Abdul Latif Tuanku Abdullah (Sahid et al., 2018). He went to Makkah to study to deepen his religious knowledge, he belonged to the Shafi'i madhhab. Since going to Makkah, he has never returned to his hometown. Even to the peak of his scientific career as an imam from the Shafi'i madhhab in Masjidil Haram. However, even though his relationship with his hometown is still established through the people of his home region who perform the hajj or through his students who come from Minangkabau or Indonesia at large. (Asroruddin & Amin, 2020) Shaikh Ahmad Khatib is an expert in the fields of fiqh, history, al-Jabar, astronomy, geometry and trigonometry which functions to determine the direction of the Qibla. His philosophy to this day is applied in daily life to determine the time of prayer and how to determine the beginning of Ramadan and the beginning of Shawwal. Not only in Makkah, the great name of Shaikh Ahmad Khatib reached Turkey and has penetrated the palace circles. He was awarded the title "Bey Tunis" by the Islamic rulers of Turkey. This degree is given only to people who have made great contributions to the field of science, the degree is the same today as the degree of "Doctor Honoris Causa".

Although Shaikh Imam Khatib al-Minangkabawi is of native Minangkabau descent, he does not agree with the inheritance system in Minangkabau. He was strongly opposed to the inheritance system in his homeland (Iskandar, 2022). His opposition to the Minangkabau inheritance system can be seen from one of his essays entitled *Al-Da'i al-masnu' fi 'il-radd 'ala yuwaritsu': ikhwah wa awlad al-akhwat ma'a wujud al-ushul wa'lfuru'*, which means Appeal and Children of Sisters Along with Basics and Details, this book was printed in Egypt in 1309 AH and written in Arabic. In his thoughts, he highlighted the inheritance of inheritance according to custom. He emphatically said that the inheritance is haram and the inheritance process is customary against sharia. In his understanding, all Minangkabau people eat illegal property and he is consistent with his opinion so that he does not return to Minangkabau and resides in Makkah until his death (Riva'i, 2022).

The Minangkabau inheritance system is contrary to the shari'a according to him because the heirs who are entitled to the simayit inheritance are children, wives and people who are detailed in the shari'a. There is no heir in shara' like in Minangkabau custom where the heirs are nephews and relatives based on the mother's lineage. From here, it has been seen that there is a contradiction in principle. Another reason that shows the haram and sinfulness of inheritance in Minangkabau is because of the element of deprivation, namely depriving property that should be the right of the heirs stipulated in Islam, for example, the hard work of a father should be an inheritance for his children instead of being inherited to his nephew, while in Minangkabau the result of a man's hard work belongs to the people who will later be inherited to his niece who is a woman. The inheritance is inherited to the female nephew while the male nephew only acts as a maid, cultivating it and maintaining and building the inheritance. In fact, they only get the results which are used as a reward for the work. This is clearly contrary to the shari'a which should be given to men because of the greater responsibility compared to women. From this it also means that there has been an illegal feeding of the rights of others, it means that it also eats the property of orphans, and betrays the mandate of Allah Almighty in the command of the distribution of inheritance. Imposing the inheritance of inheritance in this customary manner means giving up immoral acts, legalizing what is haram, and doubting something whose haram is clear.

According to some experts, Shaikh Ahmad Khatib was the first to oppose the Minangkabau inheritance system. Because he had a very wide influence, his opposition received a response and even triggered a long debate in Minangkabau. However, if you look at his works around inheritance, it is found that Shaikh Ahmad Khatib always positioned himself as a refuter of the opinions of those who defended the Minangkabau inheritance system, not he who started the debate. In this regard, in his book

he wisely writes that "they Minangkabau people say that they have just gotten the inheritance system: we do not want to oppose or differ from the existing one..." And he continued with the reasons for his opposition to the customary system. However, the main idea that he wrote in his essay was a response to a figure who had previously argued in favor of the Minangkabau inheritance system (Iskandar, 2022).

In addition to the thoughts of Shaikh Ahmad Khatib, there are other figures who reform Minangkabau Islamic thought who also gave their ideas related to the Minangkabau inheritance system. The figure is Shaikh Abdul Karim Amrullah, he was born on Sunday, February 10, 1879 AD/17 Safar 1296 H in the village of Kepala Kabun, Jorong Betung Panjang, Nagari Sungai Batang Maninjau, Agam Regency. His father gave him the name Muhammad Rasul. His father's name was Shaikh Muhammad Amrullah and his mother's name was Tarwasa. Shaikh Abdul Karim Amrullah is a descendant of the clergy and respected people in his race and country. From childhood he was handed over by his father to study religion, until when he was 16 years old he was sent by his father to study in Makkah. In 1312 H/1894 AD, Shaikh Abdul Karim left for Makkah, where he studied with Shaikh Ahmad Khatib Al-Minangkabawi for seven years. While studying in Makkah, Shaikh Abdul Karim was a student who was very active in asking questions and even like to argue, he was very loved by his teacher Shaikh Ahmad Khatib, but it was not uncommon for his teacher to be offended by the questions from Shaikh Abdul Karim. Although he is famous as a student who likes to deny his teacher, behind that Shaikh Abdul Karim actually loves his teacher very much, even according to Buya Hamka's confession, Shaikh Abdul Karim never goes through a day without mentioning his teacher's name even until he is old and always mentions his teacher's name every day (Hamka, 1982).

Regarding inheritance in Minangkabau, Shaikh Abdul Karim Amrullah has the opposite thought to his teacher, Shaikh Ahmad Khatib Al-Minangkabawi. In terms of heirlooms, Shaikh Abdul Karim uses the terms jahiliyyah custom and Islamic custom. Adat jahiliyyah is a tradition of customs made by people before Islam and these customs are contrary to Islamic law. It is the same with the custom or limbago (regulation) that is made after a person is a Muslim, but the custom or limbago does not obtain religious information about its origin or about the legality and permissibility of the act. While Islamic customs are customs that originated from the Prophet or were carried out after the death of the Prophet and these customs have been adjusted to the postulates in Islam such as the Qur'an, hadith, ijma', qiyas, istishab and mashlahah mursalah. According to him, the inheritance in Minangkabau that was passed down from mamak to nephews is a limbago jahiliyyah custom that comes from Buddhist people.

Although Shaikh Abdul Karim was against the inheritance system falling to his nephews, he did not mention the old property. He said that in Minangkabau the property that can be used by the heirs in Islam is the property left by the deceased who has been removed from him, the tahjiz of the deceased and the rights of other people in the property. This inheritance comes from the deceased's business during his lifetime such as from being mined by his diaruko,ancang lath, bought, or exchanged from his mother and father or from people who should be inherited by him according to Islamic customs, from wills, zakat, alms, grants, or gifts from people to him. The point is that everything that comes from various things that cause something to belong to someone is not common property. So that is the property that can be used by the heirs according to Islamic law. As for the goods or property that a person waqf to him, then the goods or property should not be used unless it is determined by the person who gives the waqf that the waqf is passed down from generation to generation to grandchildren and other heirs mentioned when the waqf giver recites the waqf. Goods or property that have been waqfed, then the ownership is no longer the property of human beings but belongs to Allah Almighty only. The recipient of the waqf can only take the benefits as long as he is alive. If the recipient of the waqf has died, the goods or assets of the waqf will return to the nearest family of the waqf giver. This closest family can be called dzawil arham such as his nephew or grandson of a daughter or of his nephew and others.

Shaikh Abdul Karim argued that the high estate (old treasure) whose origin is no longer clear is included in the treasure of the musabalah. Musabalah property is property that is left alone as customary is done to it. High estate is also referred to as a treasure that remains as it is and has not changed. In this way, this property is divided into two, namely musabalah mahbusah for Muslims in the country, that is, all are allowed to take their benefits such as cemeteries or certain goods to a race or tribe such as old treasures (Amrullah, 1930). Secondly, the property is like waqf property, it cannot be transferred to other races, cannot be mortgaged, and cannot be inherited to the heirs specified in Islam. This is because the property is no longer the property of humans but only belongs to Allah Almighty alone. The people who are allowed to benefit from the high pusako property are only those who are determined according to

the Limbago custom that applies to them, namely descending along the custom from ninik down to mamak, from mamak down to nephew. Taking advantage of it by planting, taking the results and others. As for the proceeds obtained from the land, if it is also traded to other land or other goods, then the land and purchased goods belong to the person who bought it and the property and purchased goods can be inherited to the heirs specified in Islamic teachings. The purchased property does not include high inheritance, so it cannot be claimed by relatives and nephews. Because the property is not obtained by selling goods or high pusako property, but from the results of the business of cultivating high pusako land so that the result becomes the right of the cultivator.

According to Shaikh Abdul Karim, the decline of high inheritance assets, which are not necessarily of origin, to nephews, is not contrary to Islamic customs (Caulfield, 2019). The property will continue to be treated customarily for eternity. Property that can be inherited in Islam is personal property that is obtained by one's own efforts or in the ways that have been explained above which essentially makes the property a person's personal property rather than jointly owned. Meanwhile, the property that is passed down to the nephew is the high estate property owned by a tribe or tribe (Amrullah, 1930). Shaikh Abdul Karim saw the inheritance in a form that was separated from the search property. He said that the inheritance is the same as the waqf or disastrous property that Umar bin Khattab once did with the property he obtained in Khaibar, where the property can be used but cannot be reclaimed for his land (Hamka, 1968). The similarity of this high estate with waqf property still has a point of difference, but this equalization is to state that the property cannot be inherited according to Islamic inheritance rules. Thus this property is separate from the group of assets that must be inherited by Islamic inheritance. The Islamic inheritance law does not apply to the high inheritance property because the property is jointly owned by a race or tribe and the property is no longer known from whom it originated (Syarifudin, 1984).

Shaikh Abdul Karim's thinking is what caused the people in Minangkabau to welcome Shaikh Ahmad Khatib's call to carry out inheritance according to the law of inheritance in Islam. However, this is only directed to search treasures, not high treasures. They agreed not to include the search treasure in the group of high treasures, so the search treasure is inherited according to Islam. In 1914 AD, a scholar named Shaikh Khatib Ali initiated the inheritance of treasures in Muara Labuah. In 1929, the congress of the Tarbiyah Islamiyah Association (PERTI) issued a motion that voiced the hearts of the ulama, this was also supported by several leaders from the niniak mamak circle, this was addressed to all the authorities who demanded that the treasure of the search be inherited according to sharia', so that Minangkabau Muslims would avoid eating treasures that were haram according to religion. (Riva'i, 2022) Further deliberations are also carried out to provide decisions that can communicate between Islamic law and customary law. So in 1953 a big meeting was held in Bukittinggi which was attended by Mr. Haji Agus Salim. In the meeting, the growing opinion was strengthened about the distribution of property in Minangkabau which became high estate and search property (Hamka, 1963). That the high inheritance that has been obtained from generation to generation from ancestors according to the maternal line is passed down according to custom. That the search property that is called customary as a low inheritance is revealed according to the sharia regulations.

From the discussion above, it can be carefully understood how the changes that occurred from the beginning of a father's search property were mixed with the high property belonging to his people, so that when a father died, all his search property became the property of his people and was passed down to his nephew and not to his son (Lembang et al., 2022). Then the lack of father's role and father's responsibility was seen at that time because his position as a mother required him to take care of his nephews and protect the inheritance belonging to his people. As for after the entry of Islam into Minangkabau, this gradually changed even after a very long time, which then emerged scholars in Minangkabau such as Shaikh Ahmad Khatib Al-Minangkabawi and Shaikh Abdul Karim Amrullah who paid great attention to the inheritance system in Minangkabau. So that finally an understanding of the separation of inheritance in Minangkabau is obtained into two, namely high inheritance property is traditionally inherited and low inheritance (search property) is inherited according to sharia rules. With the separation of the search property from the treasure, Minangkabau Muslims are safe from eating haram property because of the rights of orphans and other heirs' rights in the property that if mixed between the search and the high property. What Shaikh Ahmad Khatib was worried about was avoided because of the separation of this property. With this thought of Shaikh Abdul Karim, a father has seen his responsibility for his children and wife, so a man in Minangkabau is not only responsible for his

nephew and high inheritance belonging to his people, but he also carries the responsibility as a father of his children and as a husband to his wife. Thus, this thinking has led Minangkabau Muslims to the bilateral principle as taught in Islamic law.

### c. Principles of Gender Justice in Islamic Inheritance Law

In Islam, the matter of inheritance is regulated in great detail. In Islam, the inheritance of a deceased person cannot necessarily be divided to the heirs, from the property left by the deceased, the cost of the burial process of the deceased must be incurred first, pay the debts of the deceased, and the deceased's will is fulfilled first if he has ever made a will (Regev-Messalem, 2020). After these three rights have been removed from the property left behind, the remaining property becomes property that can be inherited to the existing heirs (Salim, 2019). The people who are entitled to receive the inheritance are also determined and the most important ones who cannot be hijab the right to receive the inheritance are the father, mother, husband or wife, and the children of the deceased. These are the main people who are entitled to receive inheritance, the existence of these main people is hijab for other relatives to receive inheritance from the deceased, for example, grandchildren are hijab because of children, grandfathers are hijab because of fathers, grandmothers are hijab because of the mother of the deceased, brothers are hijab because of the children of the deceased (Nawawi, 2016). The principle of Islamic inheritance is a bilateral principle, namely a person receives inheritance rights sourced from both sides of the family, namely the female lineage and the male lineage (Jamhir, 2019). An explanation of the people who are entitled to receive inheritance, the extent of their share, and this bilateral principle can be found in the Qur'an surah an-Nisa' verses 7,11,12, and 176. In addition, inheritance in Islam is also based on the individual, meaning that each heir receives a part of the inheritance left by the deceased individually without being tied to other heirs.

In terms of the division of inheritance in Islam, the share of each heir is not the same. The distribution of inheritance depends on the status of the relationship between the heirs and their heirs and all of them have been regulated by the Shari'a (Rasjid, 2018). If the wife dies, the inheritance for the husband is 1/2 of the property left behind if the simayit has no children, or gets 1/4 if there are children. Meanwhile, if the deceased is the husband, the wife gets 1/4 if the deceased has no children or 1/8 if there are children. The share for the father of the simayit is 1/6 if the simayit has offspring. If the deceased has no children, then the father gets a share as 'ashabah (which consumes all the remaining nutrients of the inheritance) and a share for the mother of the simayit 1/3 if the simayit has no children and does not have any siblings or 1/6 if the deceased has children or siblings of the deceased. A daughter gets 1/2 if she inherits alone without any other siblings with her. Or 2/3 because she has two or more daughters. Or the daughter becomes 'ashobah because she is with the son of the deceased. Boys are 'ashobah (Yudistira, 2022).

There are two values of justice in bilateral inheritance in Islamic law, namely the justice of Allah and the justice of man. God's justice is the absolute justice that God has ordained in His Word. The purpose of the shari'a that Allah has set is for the benefit of man. Meanwhile, human justice is justice that is fundamental to the principles of human justice. In the inheritance system based on Islamic law, gender justice is not seen from the same size of the part between men and women, it is not such a thing that is meant by justice. Justice in the inheritance of Islamic law is balanced justice. The meaning of justice can be interpreted to various meanings depending on its use. The meaning of justice in inheritance is the balance between rights and obligations, the balance between what is obtained and what is needed and usefulness. The fundamental justice in Islamic inheritance law is that both men and women have equally strong rights as heirs.

This is clearly regulated in the Qur'an surah an-Nisa' verse 7, in which it is explained that men and women have the right to share the inheritance of their parents and relatives. It appears in the verse that the position of men and women is not differentiated but is the same as heirs. In surah an-Nisa' verses 11,12,176 it is explained in detail the parts of the heirs and the main ones are such as father and mother, husband or wife, sons and daughters (Sahid et al., 2018). As in the example of the division explained earlier, there is a difference in the size of the share, it does not mean that this is a form of injustice. Justice is not measured by the amount of inheritance obtained but is linked to its responsibility and usefulness. In Islam, men have a double duty, namely for themselves and for their families, including for women under their protection, as explained in surah an Nisa' verse 34 that men are protectors for women. So if it is connected between their responsibilities and the amount of money received, it will be



seen that the level of benefits felt by men is the same as that felt by women. Although the men's part is twice the women's part, part of what is received will be given again to women because of the man's responsibility as a guide and protector of women. The man is responsible for the maintenance of his children and wife, while what the woman receives only for herself there is no obligation attached to her to provide for anyone. From all this, it can be understood that this is justice in Islamic inheritance law, which is commonly called balanced justice not equal justice. So it is clear that Islamic inheritance law contains gender justice that does not marginalize women or men, in the Islamic inheritance system both men and women have a strong position as heirs.

#### **d. Relevance of the Evolution of the Minangkabau Inheritance System to the Principles of Gender Justice in Islamic Inheritance Law**

Inheritance in Minangkabau initially marginalized men. The inheritance is only given to female descendants from the mother's line. While the male side does not get the inheritance, the man is in charge of maintaining the inheritance and developing it. Sadly, the results of the man's business in his tribe's inheritance land or other business results also return to his people, so that because of this, his children and wife are not entitled to inherit their search property because it is considered part of the development of the tribe's inheritance. This not only marginalizes men in the use of property but also removes the rights of children and wives who should get a share of the search for a father or husband. This is contrary to the shari'a that Allah Almighty has determined (Rohman, 2022). Islam has entered and spread in the lives of the Minangkabau people, there has been a renewal in the Minangkabau inheritance system which culminates in the separation of search property and high property property. In the deliberations held in Bukittinggi in 1953, it was determined that the high estate property obtained from ancestors according to the mother's line was passed down along the custom. Meanwhile, the search property which is referred to as the property of the randah estate is handed down according to Islamic inheritance law. The reforms that exist in the current Minangkabau inheritance system can be said to contain gender justice. This is because the property of a husband's search if the husband dies, it will be divided according to the rules of sharia'. This is in accordance with what is desired by the Shari'a'. As for gender justice in Islamic inheritance law, it has been discussed before, that justice in Islamic inheritance appears from the position of men and women who are equally strong in their position as ahi heiris, as explained in the Quran surah an-Nisa' verse 7. Islamic inheritance law does not marginalize women or men (Tajani & Morano, 2017). As for the difference in the number of inheritance shares, men get twice the women's shares, which cannot be said to be an injustice. Because fair has many meanings according to the context of the discussion and its use. In this discussion of inheritance, justice in a large part of inheritance is seen from the balance between rights and obligations, the balance between what is obtained and the needs and uses.

Men in Islam have a dual responsibility, namely to themselves and to their families, including women, in their protection. The double share that men get will later be partly returned to women, this is because of their capacity as protectors and guides, men are responsible for providing for their children and wives while the women who get the inheritance will only belong to them, women have no obligation to provide for anyone, unlike men. Thus, the benefits felt by the man are the same as those felt by the woman. This is justice in Islamic inheritance law, justice is balanced, not equal. Gender justice in the renewal of the Minangkabau inheritance system related to the search property that is inherited according to Islamic inheritance law has shown the existence of gender justice, unlike the previous Minangkabau inheritance which marginalized the male side (Sahid et al., 2018). As for the high inheritance that is still traditionally passed down based on the descendants of the maternal line, this does not marginalize the male side and does not mean that there is gender injustice in this matter. This is because high inheritance is not part of the inheritance punished by the Islamic inheritance system. High estate is qiyased with waqf property as it used to be passed down to female descendants from the maternal line, so this will last forever (Ahn, 2021). The high property is jointly owned by the people and not by individuals, therefore this property cannot be punished with inheritance according to Islam, but this is the same as waqf property or musabalah property that can be taken advantage of, but it should not be tasharruf. The reform of the Minangkabau inheritance system is relevant to the principle of gender justice. The high inheritance is not an inheritance that is punished by Islamic inheritance law, but is considered as a waqf property given by ancestors to the descendants of women of the mother's line.

## CONCLUSION

The evolution of the Minangkabau inheritance system, rooted in its matrilineal tradition, reflects a dynamic interplay between cultural customs and religious principles, especially when considered in light of Islamic inheritance laws that emphasize both male and female heirs' rights. Historically, Minangkabau's matrilineal system prioritized the maternal line, with ancestral property being passed down through women, while men held the role of guardians rather than beneficiaries of family wealth. This structure, while culturally significant, created inherent disparities in property distribution, particularly when compared to Islamic inheritance laws that advocate a bilateral system where inheritance is shared between both male and female descendants. As Islam became more ingrained in Minangkabau society, these differences prompted ongoing discussions about the compatibility between local adat (customary law) and Islamic principles. Reformist thinkers within the Minangkabau community began to challenge the traditional inheritance system, seeking ways to integrate Islamic values of gender justice without eroding the cultural identity of the region. This reconciliation process, though gradual, demonstrates the community's efforts to harmonize local customs with Islamic law, ensuring that gender roles in inheritance are more equitable.

The relevance of gender justice within Islamic inheritance law has increasingly gained attention in this context, as scholars and legal authorities strive to ensure that both men and women receive their rightful shares of inheritance. Islamic jurisprudence, particularly through its verses in the Qur'an, offers clear guidance on the equitable distribution of wealth among heirs, advocating fairness between genders. The reform efforts in Minangkabau have led to shifts in inheritance practices, with a focus on integrating these Islamic principles while respecting the cultural significance of matrilineal heritage. As a result, the evolving inheritance system in Minangkabau serves as an important case study for addressing broader issues of gender equality in Muslim societies. It offers valuable insights into how cultural traditions can adapt to modern understandings of gender justice, without undermining deeply held social norms. This evolution signifies not only a legal transformation but also a cultural one, where both tradition and religion work together to support a fairer, more just system for future generations.

## REFERENCES

- Afianah, V. N., & Salik, M. (2021). KH. Abdul Karim Amrullah dan Gagassannya Dalam Pengembangan Pendidikan Islam Di Sumatera Barat. *Edureligia*, 05(02), 13–32.
- Ahn, B. (2021). Searching for Fairness in Revolutionary China: Inheritance Disputes in Maoist Courts and Their Legacy in the PRC Law of Succession. *Modern China*, 47(1), 49–84. <https://doi.org/10.1177/0097700420923148>
- Amrullah, A. K. (1930). *Sendi Aman Tiang Selamat*. Haidats.
- Asroruddin, & Amin. (2020). Gerakan Paderi Dan Munculnya Modernisasi Pemikiran Islam Di Indonesia. *El-Huda*, 11(2), 81–91.
- Asyrofil U, F., Bagus S, M. D., & Rozieq, N. (2023). Sistem Hukum Waris Adat Minangkabau. *Jurnal Hukum, Politik Dan Ilmu Sosial (JHPIS)*, 2(1), 94–102.
- Caulfield, S. (2019). Jesus versus Jesus: Inheritance Disputes, Patronage Networks, and a Nineteenth-Century African Bahian Family. *Hispanic American Historical Review*, 99(2), 209–245. <https://doi.org/10.1215/00182168-7370214>
- Fauzi, A. (2012). Dualitas Hukum Waris Minangkabau Dan Islam (Studi Konstruksi Sosial Masyarakat Muslim Minangkabau Di Malang). *Jurisdictie, Jurnal Hukum Dan Syariah*, 3(1), 45–54.
- Hamka. (1963). *Adat Minangkabau Menghadapi Revolusi*. Firma Tekad.
- Hamka. (1968). *Adat Minangkabau Dan Harta Pusakanya*, in *Menggali Hukum Tanah Dan Hukum Waris Minangkabau*. Center for Minangkabau Studies Press.
- Hamka. (1982). *Ayahku (Riwayat Hidup Dr. Abdul Karim Amrullah dan Perjuangan Kaum Agama di Sumatera Barat)* (cet ke-IV). Umminda.
- Iskandar, N. (2022). Kompromi Hukum Islam Dan Adat Dalam Kewarisan Pusaka Tinggi Di Minangkabau. *Jurnal Integrasi Ilmu Syari'ah*, 3(3), 483–495.
- Izzati, N. R., Arfa, M. F. A., Pebriansyah, T. P., Na'im, A., & Asnawi, M. N. (2024). EFFECTIVENESS OF MEDIATION IN OUT-OF-COURT SETTLEMENT OF INHERITANCE DISPUTES. *ANAYASA : Journal of Legal Studies*, 2(1), 93–100. <https://doi.org/10.61397/ays.v2i1.181>

- Jamhir. (2019). Hukum Waris Islam Mengakomodir Prinsip Hukum Yang Berkeadilan Gender. *TAKAMMUL: Jurnal Studi Gender Dan Islam Serta Perlindungan Anak*, 8(1).
- Lembang, A. A. R., Nababan, N. A. J., & Latifiani, D. (2022). LIMITATION OF ABSOLUTE AUTHORITY OF RELIGIOUS COURTS AND DISTRICT COURTS IN SETTLEMENT OF INHERITANCE DISPUTES. *Wacana Hukum*, 28(2). <https://doi.org/10.33061/wh.v28i2.7705>
- Nawawi, M. (2016). *Pengantar Hukum Kewarisan Islam*. Pustaka Radja.
- Rasjid, S. (2018). *Fiqh Islam*. Sinar Baru Algensindo.
- Regev-Messalem, S. (2020). How the Law “Keeps the Money in the Family”: Lessons at the Intersection of Elder Care and Inheritance Disputes in Israel. *Law & Social Inquiry*, 45(1), 81–110. <https://doi.org/10.1017/lsi.2019.47>
- Ridwan, M. (2023). Implementasi Kewarisan Adat di Sumatera dalam Tinjauan Maqashid Syari’ah dan Ketatanegaraan Indonesia. *Jurnal Birokrasi & Pemerintahan Daerah*, 5(1), 171–178.
- Riva’i, A. A. (2022). Pemikiran Ahmad Khatib dan Abdul Karim Amrullah tentang Hukum Islam dan Adat Minangkabau. *Hukum Islam*, 22(2), 23–51.
- Rohman, A. N. (2022). SHIFTING THE ROLE OF MEDIATION IN ISLAMIC INHERITANCE DISPUTES: AN OVERVIEW OF ISLAMIC LEGAL PHILOSOPHY. *Diponegoro Law Review*, 7(2), 230–244. <https://doi.org/10.14710/dilrev.7.2.2022.230-244>
- Sahid, M. M., Nor, A. H. M., Rahman, A. Ab., Rab, M. A. A., Gunardi, S., Ali, M. M., Wardi, F., Wajis, N. R. N., & Hami, M. I. (2018). Syeikh Ahmad Al-Khatib Al-Minangkabawi Dan Pemikirannya Terhadap Pewarisan Harta Dalam Adat Minangkabau: Satu Kajian Perbandingan Dengan Isu Tanah Adat Di Malaysia. *Malaysian Journal of Syariah and Law*, 7, 143–159.
- Salim, A. M. K. bin as-S. (2019). *Fiqh Sunnah Wanita* (M. T. Arsyad, Trans.). Griya Ilmu.
- Syahriani, F., Yufriadi, F., Ngardi, V., & Firdaus, B. (2024). Traces of the Archipelago Heritage: Uncovering the Historical Significance of Minangkabau in Negeri Sembilan Culture. *Tarikhuna: Journal of History and History Education*, 6(2), 139–159. <https://doi.org/10.15548/thje.v6i2.9538>
- Syarifudin, A. (1984). *Pelaksanaan Hukum Kewarisan Islam dalam Lingkungan Adat Minangkabau*. Gunung Agung.
- Tajani, F., & Morano, P. (2017). The Definition of Fair Divisional Projects in Bankruptcy and Inheritance Disputes. In S. Stanghellini, P. Morano, M. Bottero, & A. Oppio (Eds.), *Appraisal: From Theory to Practice* (pp. 255–266). Springer International Publishing. [https://doi.org/10.1007/978-3-319-49676-4\\_19](https://doi.org/10.1007/978-3-319-49676-4_19)
- Tedla, W. T., & Mekonen, K. D. (2023). Inheritance-induced familial disputes in north-west Ethiopia: The role of legal-policy gaps and aggravating socio-economic dynamics. *Humanities and Social Sciences Communications*, 10(1), 92. <https://doi.org/10.1057/s41599-023-01558-5>
- Yudistira, A. (2022). Role of the village head in handling inheritance disputes outside the court in the customary inheritance law of the Osing Tribe (Blambangan) (Study in Kemiren Village, Glagah District, Banyuwangi Regency). *Requisitoire Law Enforcement*, 14(1), 8–13. <https://doi.org/10.59651/relae.v14i1.72>