

Analysis Of The Application Of Customary Inheritance Law And Islamic Inheritance Law In The Community Seberang Jambi City

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Abstract

There is still pluralism in regulations regarding inheritance, namely Islamic inheritance law and civil inheritance law. Civil inheritance law is subdivided into civil inheritance law subject to the Civil Code and civil inheritance law subject to customary inheritance law (derived from customary inheritance law which each region differs). The diversity in the law cannot be separated from the classifications in society that have been carried out since colonial times. This division of the classification of Indonesian residents is based on article 131 IS and Article 163 IS. (Indische Staats Regeling).

The people Seberang Jambi City are one of the community communities of Jambi city whose population is predominantly Muslim. In dividing their inheritance, they have varied guidelines, some are guided by Islamic inheritance law, some are guided by customary inheritance law. But the majority of the people prefer customary inheritance laws. However, in practice the implementation of the division of inheritance assets uses Islamic inheritance law, customary inheritance law and grants. The objectives of this study are: 1. To determine the mechanism for the division of inheritance assets in the people Seberang Jambi City. 2. To find out the application of the law in the community Seberang Jambi City in obtaining legal certainty.

This research uses Qualitative research, a type of case study research, data collection is carried out by interviews, observations in the field, and documentation. After the data is obtained, the data is analyzed and the results can be concluded that the mechanism for the division of inheritance in the community Seberang the city of Jambi is : First, determining the division of inheritance if the husband and wife are single and wife more than one, then separating The inheritance becomes 3 parts, namely : heavy property, light property and Seko (nobility title), Secondly, the application of the law of division of heirs Seberang the city of Jambi is that all heirs agree to divide the heir property by combining customary inheritance law and Islamic Inheritance law which is based on the belief that they have carried out the customary law that they have had for generations but does not abandon the Islamic inheritance law as the basis of the religious beliefs they profess and believe in. All research results are poured in the form of neatly arranged and detailed writing.

Research Limitations because some respondents did not want to provide detailed information, looked suspiciously at the author, felt that there was nothing wrong in the practice of dividing inheritance in his area or in his village.

Keywords: Combination of inheritance Law, Amalgamation of inheritance Law, Division of inheritance, Islamic inheritance law

I. INTRODUCTION

Pluralism of Inheritance Law in Indonesia

Inheritance law in Indonesia from ancient times until now is still in various forms, each group of residents is subject to the rules of law that apply to it. Regulations regarding inheritance in Indonesia still have pluralism. In the field of Civil Law in general and Inheritance Law in particular, there is legal pluralism, namely Islamic inheritance law and civil inheritance law. Civil inheritance law is subdivided into civil inheritance law subject to the Civil Code and civil inheritance law subject to customary inheritance law (which is derived from customary inheritance law that each region is different).

The diversity in the law cannot be separated from the classification of the population in society that has been carried out since colonial times. This division of classification of Indonesian population is based on article 131 IS (*Indische Staatsregeling*) and Article 163 IS. (*Indische Staatsregeling*). The *Indische Staatsregeling* was a basic regulation (a kind of Constitution) during the colonial rule of the Dutch East Indies as a substitute for the *Regeling Reglement*. This replacement took place on 23 August 1925 under Stbl.1925 No. 415 which came into force on 1 January 1926.

Based on the provisions of Article 163 paragraph (1) of the *Indische Staatsregeling* (IS) Jo. Article 131 of the *Indische Staatsregeling* (IS), the Population is divided into several groups, the group of the population consists of:

1. European factions and those who are equated with them.
2. Chinese and Non-Chinese Foreign Eastern Groups.
3. The Prince's Earth Group.

Based on the laws and regulations of the Republic of Indonesia. Namely Law Number: 62 of 1958 and Presidential Decree Number: 240 of 1957, the division of population groups as above has been abolished.

1. Customary inheritance law

Customary Inheritance Law is a law of inheritance that is believed and carried out by certain tribes in Indonesia. Some customary inheritance laws are not written, but they are strictly obeyed by the people of certain tribes in an area, and if anyone violates them, sanctions will be given. This type of law is heavily influenced by kinship relations as well as its societal structure.

The three inheritance law systems, both customary inheritance law, Islamic inheritance law and civil inheritance law have their own characteristics and characteristics that result in differences between legal systems from one another.

1. Four (4) Basic elements in customary inheritance law

which must be fulfilled for the occurrence of an inheritance, namely:

- 1) The Existence of an Heir;
- 2) The Existence of Inheritance;
- 3) There are members of the Heir; And
- 4) Forwarding and passing of inheritance

2. The nature of customary inheritance law, is:

- 1) Inheritance in the Customary Law system is not a unit that can be valued at a price, but is a unity that cannot be divided or divisible but according to its kind and the interests of the heirs; whereas according to the western legal system and Islamic law the inheritance is counted as a unit that can be valued by money.
- 2) In the Customary Inheritance Law there is no idea of the principle of *legitieme portie* or absolute part, as stipulated in western inheritance law and Islamic inheritance law.
- 3) Customary Inheritance Law does not recognize the right for heirs to at any time demand that the inheritance be distributed immediately.

3. Principles (general principles) in Customary Inheritance Law, namely:

- 1) If inheritance cannot be carried out in a declining manner, then this inheritance is carried out on an upward or sideways basis. This means that the heirs are first of all sons or daughters and their descendants. If there are no children or descendants in decline, then the inheritance falls on the father, grandmother and so on upwards. If this is also not the one who inherits are the brothers and sisters of their property and descendants i.e. inbred families according to the sideways line, with the understanding that the closest family excludes distant families.
- 2) According to customary law it is not always that a person's estate is directly divided among the heirs is a deceased sipewaris, but is a single entity whose division is suspended and sometimes not divided because the property is not still a single entity that cannot be divided once and for all.
- 3) Customary law recognizes the principle of replacement of premises (*Plaats Vervulling*). It means that a child as his heir and father, then the place of the child is replaced by the children of the deceased (the grandson of the deceased). And how from this grandson is the same as what his father will acquire as part of the inheritance he received.
- 4) It is known that there is an institution of adoption of children (adoption), where rights and positions can also be like one's own children (Biological).

2. Kinship System

In Indonesian society there are several kinship systems, namely:

- 1) Patrilineal, drawing a lineage from the father's side. For example: Batak, Bali, Ambon
- 2) Matrilineal, drawing a lineage from the mother's side. For example: Minangkabau, Kerinci (Jambi), Semendo (South Sumatera)
- 3) Bilateral/Parental, draws the lineage from both sides of the parents, namely from the father line and from the mother line. For example: Malay, Bugis, Javanese, Borneo (Dayak), etc.

3. Inheritance System in Indonesia,

Inheritance law in Indonesia recognizes several kinds of inheritance systems, namely:

- 1) Hereditary system: this system is divided into three types, namely the patrilineal system, which is based on the father's bloodline, the matrilineal system based on the maternal lineage, and the bilateral system, which is a system based on the lineage of both parents.
- 2) Individual System: based on this system, each heir obtains or owns the estate according to his own share. In general, this system is applied to people who adhere to bilateral social systems such as Java and Batak.
- 3) Collective System: the heirs receive the estate as a unit that is not divided into possession or ownership and each heir has only the right to use or obtain the proceeds of the treasure. An example is the heirloom goods in a particular society.
- 4) Mayorate system: in the majorat system, the estate is transferred as an undivided whole with the right of possession devolved to a particular child. For example, to the eldest child who serves as the leader of the family replacing the position of the father or mother as the head of the family, such as in the balinese and Lampung communities the inheritance property is devolved to the eldest child and in South Sumatra to the eldest daughter.

4. The Law of the Islamic Heir

As it is well known that the law of inheritance that applies in Islam is the Faraidh Law. "Faraidh according to the term of the language is destiny (qadar/provision) and in syara' is the part that is charged or determined for the heirs, thus faraidh is specifically about the share of heirs which has been determined by the size of the heir by syara. Thus, faraidh, among others, regulates the procedure for the division of Inheritance Property, the size of the share between boys and girls, which courts are authorized to examine and decide inheritance disputes, and so on. In Islamic inheritance law adheres to the principle of bilateral individual inheritance, not collective or majorate. Thus Islamic Law does not restrict the heir from the father's side or the mother's side only, and the heirs are thus not limited to the male side or the female side only.

Inheritance according to Islamic law is a law that regulates the transfer of property left by a person who dies as well as the consequences for his heirs.¹ And also various rules on the separation of property rights. According to the Compilation of Islamic Law that: The law of inheritance is a law that regulates the transfer of ownership rights of inherited property (tirkah) of the heir, determining who is entitled to be the heir and how much part each of them is. (Article 171 a).

1. Three conditions of a person or heir to receive inheritance according to the ruling of Islamic heirs:

- 1) The bequeathing person (heir) has passed away and can be legally proven that he has died. So that if there is a division or gift of property to the family at the time the heir is still alive, it does not fall into the category of inheritance but is called a grant.
- 2) The inherited person (heir) is still alive at the time the bequeathing person dies.
- 3) People who pass on and inherit have a hereditary or kinship relationship, either a straight-up-line relationship such as father or grandfather and a straight-down relationship such as children, grandchildren, and uncles.

2. Elements of inheritance in the Compilation of Islamic Law

1) Beneficiary

An heir is a person who at the time of his death or who is declared dead based on the judgment of the Islamic court, leaves the heirs and estates of the inheritance.

2) Beneficiary Property

According to Islamic law, an inheritance is anything left by an heir who can legally pass to his heirs.

Islam states that inherited property is: *property left by the heir both in the form of objects that belong to him and his rights.*

3) Heirs

In the Compilation of Islamic Law, the heir is: A person who at the time of death has a blood relationship or marital relationship with the heir, is Muslim and is not hindered by law from becoming an heir.

3. Heirs may be hindered from becoming beneficiaries of inheritance

- 1) Blamed for killing or attempting to kill or severely mistreat the heirs.
- 2) Libelously blamed has filed a complaint that the testator has filed a crime that carries a penalty of 5 years in prison or a more severe sentence.

4. Those entitled to inherited property are grouped into two,

- 1) According to the blood relationship, it is divided into two, namely:
 - a) From the male class, it consists of: father, son, brother, uncle and grandfather.
 - b) From the female group, consisting of: mother, daughter,
- 2) According to the marital relationship, it is divided into two, namely:
 - a) Widower.
 - b) Widow.

e. Beneficiary's Obligation to the Heir

- 1) Take care of and finish until the funeral of the corpse is completed.
- 2) Settle both debts in the form of treatment, care, including the obligations of the testator and collect receivables.
- 3) Resolving the heir's will
- 4) Dividing the estate among the entitled heirs.

f. Civil Inheritance Law

General Requirements for Inheritance, there are 2:

¹ Effendi Perangin, The Law of Inheritance, (Jakarta: Rajawali Pers), 2008, p.3.

- 1) *Erflater* or deceased person who is called the heir. Article 830 of the Civil Code states that inheritance only lasts due to death.
- 2) *Erfgenaam* or a person who was still alive at the time of the heir's death who is referred to as the Heir. The basis is Article 836 of the Civil Code where it is stipulated that the heirs must be present at the time the estate is open. Related to this and based on the provisions of article 2 paragraph (2) The Civil Code, that a baby who is still in the womb can be considered an heir, because it is a subject of law if he is born alive.

g. General Principles of Inheritance

- 1) Basically only rights and obligations in the field of wealth can be passed on by the heir to his heirs. Rights and obligations that cannot be transferred, for example membership in the company, certain powers of attorney, right of use and so on.
- 2) The rights and obligations of the heir in the field of wealth passed to his heir instantly at the time of his death *duania*.
- 3) In general, the heir is a family that is inbred with the heir.
- 4) Basically, the relics must be divided up.
- 5) Basically, everyone, including a newborn, says bequeathing, unless they're declared to be unwarranted.

h. How to Get a Legacy

- 1) Inheritance *by intestato* or *testamentair*, i.e. inheritance due to being appointed in a will, or
- 2) Inheritance *by ab-intestato*, that is, inheritance under the provisions of the law, which is carried out only if the sipewaris dies by not leaving a will.

i. Not Entitled to Be an Beneficiary

- 1) First, the person who by the judge's ruling has been found guilty and convicted of murder or has tried to kill the heir.
- 2) Secondly, the person who embezzled, destroyed, and forged the will or by force has prevented the testator from making a will of his own will.
- 3) Third, persons who, because of a judge's ruling, have been found to be defamatory of the deceased and committed a crime, are punishable by a sentence of five years or more.
- 4) Fourth, the person who has embezzled, damaged, or forged the will of the testator.

II. LITERATURE REVIEW

Pluralism in regulations regarding inheritance, namely Islamic inheritance law and civil inheritance law. Civil inheritance law is subdivided into civil inheritance law subject to the Civil Code and civil inheritance law subject to customary inheritance law (derived from customary inheritance law which each region differs). The diversity in the law cannot be separated from the classifications in society that have been carried out since colonial times. This division of the classification of Indonesian residents is based on article 131 IS and Article 163 IS. (Indische Staats Regeling).

Definition of Inheritance and Elements of Inheritance Law

Wirjono Prodjodikoro in Inheritance Law in Indonesia explains that inheritance is a matter of whether and how the rights and obligations regarding a person's wealth when he dies will be transferred to other people who are still alive.²

² Wirjono Prodjodikoro, 1983, "Hukum Warisan di Indonesia", Sumur Bandung, Bandung,

Civil Inheritance Law in Indonesia and Its Characteristics

The division of inheritance according to civil law is the oldest way of dividing inheritance in Indonesia. Civil inheritance law is the oldest law in Indonesia because it is based on BW or Burgerlijk Wetboek voor Indonesie which has been in force since 1848 on the principle of concordance. This principle means that whatever regulations are enforced in the Netherlands, they are also enforced in their colonies, including the Dutch East Indies (Indonesia). Then, how is the division of inheritance? It is important to note that civil inheritance law does not differentiate the amount of inheritance for men or women.

The rights of men and women in terms of inheritance are considered equal. Inheritance rights are emphasized to the family, either by blood or by marriage. To facilitate understanding of the division of inheritance according to civil law, here are a number of characteristics of civil inheritance law : ³

1. The legal basis is the Civil Code.
2. Intended for non-Muslims.
3. Inherit from the father and mother or bilateral.
4. There is no difference in the section for men or women.
5. The heir is the person closest to the heir.
6. Inherit privately, not in groups.
7. The opening of inheritance when the heir dies.
8. If there is a dispute, it is resolved in the District Court.

III. METHODOLOGY

. This legal research is carried out through a series of systematic and measurable scientific steps. The method used in this writing is with the Research Type and Approach Type, as follows:

1. Types of Research and Approaches a. Research Type This legal research is classified as Qualitative research, which is a research method that is considered to be able to answer research problems, especially in social science disciplines. Scientific research emphasizes the research process more than the results, meaning that if the research process is appropriate, the results will naturally be valid. So that the main purpose of qualitative research is to provide an understanding (to understand) of the phenomenon or social symptom being studied⁴

The development of science, especially in the field of social sciences, also influences the formation of more specialized branches of science and will naturally affect the development of the research methodology used. Within the scope of qualitative research methods are also developed in a wide variety of social research methodologies. Below are several types of research based on their purpose, based on the place where the data is collected and based on their nature, namely:

1) Research based on its objectives: Selitiz and Hyman, suggest that research can be classified according to its purpose. Here's the explanation⁵

³Sari, Indah. Vol 3, No 2 (2013): JURNAL ILMIAH HUKUM DIRGANTARA - Artikel ... PEMBAGIAN HAK WARIS KEPADA AHLI WARIS

⁴ Rois Leonard Arios, (Researchers at BPSNT Padang), Various Type Research Qualitative: Is it still Needed?, 2015.

⁵ Koentjaraningrat, Methods Research CommunityPT. Gramedia, Jakarta, 1985

- i. Research that is exploring or exploratory, aims to deepen knowledge about a certain symptom or phenomenon. This study can also aim to get new ideas or formulas regarding a symptom with the intention of formulating certain hypotheses because there is no reference to deduce hypotheses. Usually this research will get a new explanation of a phenomenon.
- ii. Research that is descriptive, This research aims to describe precisely the properties of individuals, circumstances or special symptoms in society and the description of natural phenomena. This type of research can or may not have hypotheses depending on the presence or absence of knowledge about the problem in question. This research is usually referred to as taxonomic research and is intended for exploration and clarification of a phenomenon or social reality.
- iii. Explanatory research or explaining, this explanatory research aims to test hypotheses about the existence of causation between the various variables studied. The hypothesis is the focal point of the next steps of the study. The hypothesis itself describes the relationship between two or more variables, to know if something variable is associated with another variable; or whether something variable is affected by the presence or absence of other variables.
- iv. Experimental research, Experimental research is very appropriate for testing certain hypotheses and is intended to know the relationship of research variables. Its implementation requires clear concepts and variables and careful measurement. In experimental research researchers deliberately manipulate a variable and then examine the effects or influences it causes.
- v. Action research, this research is also called action research. In this study, researchers not only conducted research to come to conclusions about the relationship between variables but also examined the action of relationships between variables. A key feature of action research is to obtain operationally significant discoveries so that they can be used when policies are implemented .

2) Research based on where or where the data was collected; divided into 3 types, namely:

- i. Library Research is a research conducted in a library. The activity carried out is to find sources from studies in the library by being able to see from bku sources, scientific magazines or other historical sources.
- ii. Laboratory Research, which is a study conducted in the laboratory. This laboratory is used to test certain symptoms that can be used for scientific studies.
- iii. Field Research, which is a research conducted in the field in accordance with the research theme.

Research by its nature;

- i. Historical Research, Historical research includes the activities of investigation, understanding and explanation of past circumstances. Conclusions are drawn based on the causes, impacts or developments of past events that can be used to clarify current events and anticipate future events. Data sources are chosen in two ways, namely primary data (community participation) and secondary data (documents or descriptions that have been compiled by the community).
- ii. Exploratory Research, This research activity is usually carried out for testing on hypotheses. Where the hypothesis is based on past experiences or previously studied theories. The problem that often occurs is the inability to raise hypotheses because there is no solid basis for raising theories because the problems faced are still new. So, an exploratory researcher is the excavation of facts that occur and or to support a hypothesis.
- iii. Descriptive Research, Descriptive Research, is carried out to find out and be able to explain the characteristics of the variables studied in a website. For example, research on a class on the percentage of members who are in the senior or junior year, gender colposition, age group, number of semesters remaining before graduation, the number of business courses taken can be considered descriptive.

iv. Correlational Research, Correlational research is an attempt to determine whether there is a relationship between two or more variables, as well as how far the level of relationship exists between the variables studied. A variable is a concept that is assumed to be a range of values. Examples of variables are income, age, level of motivational education and success.

Approach According to his field of research, the approaches used in this legal research are normative juridical approach and empirical juridical approach.

1) Normative Juridical Approach is an approach that is carried out based on the main legal material by examining theories, concepts, legal principles and laws and regulations related to this research. This approach is also known as the literature approach, namely by studying books, laws and regulations and other documents related to this research.

2) The approach of *Yuridis E* is *mpiris* which is done by looking at the reality that exists in practice in the field. This approach is also known as the sociological approach that is carried out directly into the field. The research carried out in this study is empirical juridical research, which is research carried out directly in the field to find out the problems that actually occur, then it will be connected with applicable laws and regulations and existing legal theories.⁶

Empirical Juridical, in other words, is a type of sociological legal research and can also be called field research, which is to examine the applicable legal provisions and what happens in reality in society. Or in other words, it is a study carried out on the actual situation or real circumstances that occur in society with the intention of knowing and finding the facts and data needed, after the required data is collected then leads to the identification of the problem leading to solving the problem⁷

The problems that have been formulated above will be answered or solved using the empirical juridical approach method. Juridical approach (law is seen as norm or *das sollen*), because in discussing the problem this research uses legal materials (both written and unwritten laws or both primary legal materials and secondary legal materials).

Empirical approach (law as a social, cultural reality or *das sein*), because in this study primary data obtained from the field were used. So, the empirical juridical approach in this study means that in analyzing the problem, it is carried out by combining legal materials (which are secondary data) with primary data obtained in the field, namely about " Analysis of the Application of Traditional Inheritance and Islamic Inheritance in Communities Opposite Jambi City".

2. Data Types and Sources

a. Data Type

The types of data used in this legal research are primary data and secondary data.

1) Primary Data: Data obtained from communities that carry out the division of inheritance with Islamic inheritance law and Customary inheritance law, Traditional figures and Religious figures.

2) Secondary Data : Data obtained from books related to the law of inheritance.

b. Data Sources

⁶ Bambang Sunggono, *Legal Research Methods*, Rajawali Pers, Jakarta, 2006, p. 75

⁷ Bambang Waluyo, *Research Law Deep Practice*, (Jakarta:Ray Grafika), 2002, pp.15-16

The data sources in this study were obtained from the results of interviews, observations and documentation.

1) Data Collection Techniques, Data collection techniques are carried out by means of interviews, observations, documentation and literature related to inheritance.

2) Data Analysis Techniques The data analysis technique used in this legal research is to use Qualitative analysis, namely: analyzing, describing, and summarizing various conditions, situations from various data collected obtained from the results of interviews or observations on the problems studied that occur in the field.⁸

Qualitative data analysis technique is a method or way to get a data into information so that the characteristics of the data become easy to understand and also useful for finding solutions to problems in a study. Data in qualitative research is obtained using various data collection techniques (interviews, questionnaires, video/audio recordings, data from books, data from the web), and is carried out continuously until the data is complete. Qualitative data is data that refers to non-numerical information such as interview transcripts, notes, video and audio recordings, images and text documents.

IV. RESULT AND DISCUSSION

Regulation and Practice of Customary Inheritance Law and Islamic Inheritance Law in The Community Seberang Jambi City.

1. Customary Inheritance Law Arrangements Across Jambi City:

All arrangements derive customary law from the customary law of marriage, divorce, customary inheritance law to the Customary Law Entity in general are contained in the Overview Book of Malay Customs in Jambi City, where the special arrangements are in each local customary law community . For example: for the area Seberang Jambi is specifically regulated by itself and usually local customary stakeholders will take care of everything, in this case local customary stakeholders have an important role.

2. Islamic Inheritance Law Arrangements Opposite Jambi City

All arrangements regarding Islamic inheritance law that became a place of residence Seberang Jambi City are sourced to the Qur'an and the Al-Hadith.

3. Kinship System of The People Opposite Jambi City

The kinship system of the people Seberang jambi city is bilateral, that is, the hereditary system drawn through the line of both parents, or according to the two-sided line (father-mother), where the positions of men and women are not distinguished in terms of inheritance

4. There are 2 forms of inheritance distribution process Seberang Jambi City, namely:

The process of sharing inheritance can be carried out if all the heirs (husband and wife) have passed away, where the division of inheritance is given by:

- 1) The estate is given to the heirs of the same amount for both men and women.
- 2) Giving more heirs to heirs who are considered economically not yet established.
- 3) Giving more inheritance to heirs who have treated the heirs to death .
- 4) The estate is granted its right of possession to one of the trusted heirs, usually to the eldest son or the eldest daughter. Whereas if there is an heir who needs the property, then it is given his rights, while in the division there can be a division suspended, the division is carried out in a balanced, comparable or according to religious law.

5. Inheritance Law Elections

The heir in dividing the heir property that has been agreed to be divided, the division can make a choice of which inheritance law to use, can use Islamic law, or local customary law or by combining the two, for

⁸ I Made Wirartha, socioeconomic research methodology, Yogyakarta, CV. Andi Offset, 2006, Pp. 155

example: For movable property is used the division of inheritance by Islamic inheritance law, For immovable property is used the local customary inheritance law. After the heir dies, the estate can be directly given to the heir, usually given after a date or tahlilan at least 100 days after the death of the heir.

6. Division of suspended Estate

For some reason the inheritance there is a suspended division. The reasons for the suspension include:

- 1) Limited inheritance , for example: the inheritance property is in the form of 2 fields of rubber plantations worth 50 million, while the number of heirs is 10 people if divided equally by the heirs, the value will be very small, then a policy was taken to suspend the division of the garden by handing over the management of the garden to a person or several people or an enterprise and the proceeds were divided in rotation to each heir.
- 2) Certain types of sorts;
- 3) The beneficiaries are immature;
- 4) There are heirs who are not yet present;
- 5) It is not yet known the debts owed by the heir;

7. Things that must be considered in inheritance to the people Seberang the city of Jambi, namely:

- 1) Inherited things :
 - a. Peseko, inherited property from the heir in the form of land , houses, agricultural land / rice fields, jewelry and others.
 - b. Seko, i.e . Title of descendant of nobility or Tribe.
- 2) How to Bequeath Inherited Property from the Heir The inheritance or property of the heir directly comes down to the heir after the heir dies .

8. Three (3) conditions that must be met in inheritance :

- 1) There is an Heir who at his death leaves property and may leave debts.
- 2) The existence of one or several heirs .
- 3) The existence of abandoned property / Treasure: For heritage treasures there are 3 types, namely:
 - a. Harta Berat (Heavy Property), in the form of residential houses, rice fields, and rice barns.
 - b. Harta Rungan (Light Property), all treasures other than heavy property such as jewelry, clothing and others.
 - c. Seko, in the form of a knighthood.

9. The division of inheritance in the form of Heavy Treasures, Light treasures and Seko

- 1) Harta Berat (Heavy Treasures) live in the inner (daughter) in the form of hard objects / immovable treasures such as: residential houses, farmland, rice booths, stalls or stalls. Clothing and Jewellery, though not heavy property but also not divided into male heirs .
- 2) Harta Ringan (Light Treasures) carried by the son of the male (son) a. In the form of livestock such as buffalo, cows and others, b. Motorized vehicles such as cars, motorbikes, pompong (vehicles in the water), boats and so on.
- 3) Seko, The legacy of the heir is in the form of a customary title of nobility that belongs to the common property, but all the attributes of nobility are held by the eldest son .

10. Unknown Successor Heirs.

Even though they do not know the successor heirs, the children of the deceased brother still get the inheritance from the father from his parents, namely from the siblings of the father or whose mother name is the gift of love dear.

11. The right of the heirs of the Adopted Child.

The adopted child can receive inheritance from both adoptive parents if at the time the child was a child there was a suckling to the adoptive mother, but if not then the adopted child can't inherit but can grant from his adoptive parents.

D. Division of Inheritance Assets in the Community Seberang Jambi City.

The distribution of inheritance assets to the people Seberang the city of Jambi through a mechanism or methods as follows:

1. Division of Inheritance Property if the Husband and Wife are single (one allied property), the mechanism for the division is as follows:

a. The division of inheritance can be carried out if all the heirs (husband and wife) have passed away, where the division of inheritance is given by:

- 1) Treasures are first divided into 3 types of treasures, namely Heavy Treasures (Immovable treasures), Light Treasures (movable treasures) and Seko (Nobility titles)
- 2) Heavy Property or Immovable property and some light property such as clothing and jewelry belonging to the heir are given to some female experts equally, if the female expert is only one then it is left all to the female heirs.
- 3) Light Property, such as motor vehicles in the form of cars, motorbikes, watercraft (getek), and farm animals such as buffaloes, cows, goats are given to male heirs, if the male heirs are more than one then divided equally, usually valued as a whole with money then only divided equally, or based on the agreement of the male heirs to take or receive what property, all are decided equally family deliberations.
- 4) Seko, that is, the title of nobility becomes the right of all heirs, both male heirs and female heirs. But all attributes of nobility belonging to the heir are given full rights to the eldest male heir.
- 5) The estate is given to the heirs of equally large sums for both men and women.
- 6) Giving more heirs to heirs who are considered economically not yet established.
- 7) Giving more inheritance to heirs who have treated the heirs to death.
- 8) If the estate cannot be divided then it is granted the right of possession to one of the trusted heirs, usually to the eldest son or eldest daughter. Where if there is an heir who needs the property, then it is given the right, while in the division there can be a division suspended, the division is carried out in a balanced, comparable or according to religious law.

b. The process of Division of inheritance cannot be implemented if one of the surviving heirs (Widow or widower) of the heir is still alive.

c. The process of dividing the inheritance also cannot be carried out if the widow or widower of the heir is still alive and the heir leaves one or several heirs who are minors. Where the inheritance will be used to finance the life of the widow or widower of the heir and heirs who are underage until they are adults and independent.

d. The adopted child does not receive an heir from his adoptive parents but can receive a grant provided that it does not exceed one-third of the heir's estate witnessed and approved by the heirs either in writing or orally and is known by the local customary apparatus, however if as a child the adopted child suckles on the adoptive mother then the adopted child can receive an heir but the amount depends on the willingness of other legal heirs.

e. Heirs who die first than the heir leaves the child, the child does not receive an heir but they will receive from the heirs (relatives of the father or mother) with a gift called the grant of affection, where the amount and the like depend on the agreement of the heirs (Do not know the successor heirs).

E. Application of the Law for the Division of Inheritance Seberang Jambi City in Obtaining Legal Certainty.

Since the time of their ancestors, the people Seberang the city of Jambi, if there is a cross-section of disputes between community members, between families, if it cannot be resolved by deliberation, then there is already a body that will solve the problem, namely the Customary Court. The traditional judiciary in a village or village usually consists of three levels commonly called Seko Tigo Takak or Lembago Tigo Jinjing. namely:⁹

- a. Kerapatan Tenganai (Tenganai density)
- b. Kerapatan Mamak (Mamak's Density)
- c. Kerapatan Kampung (Village Density).

Tenganai Density, Mamak Density and Village Density are still functioning so that none of the Seberang-disputes starting from the RT, RW and Kelurahan/Desa levels cannot be resolved. In customary Language, "there are no tangles that cannot be resolved, clouds that cannot be cleared up". This Customary Court is very helpful for the community in solving legal problems both civil and criminal so that many customary cases can be resolved in this customary court so that there is no need for these cases to reach the general judiciary. In every problem that occurs in the community Seberang the city of Jambi (Sekoja), especially the problem of the division of inheritance, inheritance disputes and others, it is always resolved by means of deliberation and consensus.

V. CONCLUSION

From all the descriptions above, several conclusions can be drawn that:

1. The distribution of inheritance assets to the people Seberang the city of Jambi is carried out through a mechanism or means as follows:
 - a. Determining the Division of Inheritance Property if the husband and wife are single (one allied property) and the division of inheritance from the heir who has more than one wife (Several allied assets) which is carried out when all the heirs (husband and wife) have passed away, by separating the property into 3 types of property, namely Harta Berat, Harta Ringan, and Seko (Nobility title).
 - b. The estate is given to the heirs of equally large sums for both men and women.,
 - c. Giving more heirs to heirs who are considered economically not yet established,
 - d. Giving more inheritance to the heirs who have treated the heirs to death and
 - e. If the estate cannot be divided then it is granted the right of possession to one of the trusted heirs, usually to the eldest son or the eldest daughter.

⁹ Outlines of Customary Guidelines for Indigenous Stakeholders in the Municipality of Dati II Jambi, Jambi Level II Customary Institutions, 1995 P.83.

2. That the application of the law of division of inheritance in the community of Seberang Kota Jambi in obtaining legal certainty is that all heirs agree to divide the inheritance by combining customary inheritance law and Islamic inheritance law in the practice of inheritance division based on the belief that they have implemented the customary law they have for generations but do not leave Islamic inheritance law as the basis religious beliefs they have. All heir division agreements are recorded in a letter of agreement signed by all heirs known to local customary stakeholders so that the agreement becomes a law that must be obeyed by all heirs and interested parties so that legal certainty can be created.

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