

Bagas Godang as an Inheritance for the Youngest Children (Namenekna) in the Traditional Inheritance of Mandailing Natal Perspective 'Urf

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Abstract

Bagas godang is an heirloom house or a house left by parents that are passed down to the youngest child. It is a traditional custom in Purba Baru Village, Lembah Sorik Marapi District. This research aims to find out or analyse how the practice of distributing inheritance to the youngest child (namenekna) as the heir who gets bagas godang in the traditional Mandailing Natal inheritance in Purba Baru Village, Lembah Sorik Marapi District is appropriate and achieves the portion of justice with the existing provisions in 'urf. This research was conducted using empirical research, also known as field research, using field data as the primary data source, such as the results of interviews and observations. Judging from the number of problems resolved with the help of Hatobangon, he is a traditional figure whose majority of decisions are accepted by the community, outside his realm of severe cases, namely murder, drugs and others. This is why the Hatobangon decision, according to some religious figures, is included in 'urf shahih if there is justice and benefit, whereas if there is no justice and there are those who are harmed then it will be 'urf fasid. This is a customary custom in which the heirs conduct deliberations first so that the heirs feel fair and are not disadvantaged. On the other hand, if problems occur in this tradition, certain situations can still be changed through further deliberation.

Keywords: *Bagas Godang, Inheritance for the youngest child, 'Urf*

Abstrak

Bagas godang is an heirloom house or a house left by parents that are passed down to the youngest child. It is a traditional custom in Purba Baru Village, Lembah Sorik Marapi District. This research aims to find out or analyse how the practice of distributing inheritance to the youngest child (*namenekna*) as the heir who gets bagas godang in the traditional Mandailing Natal inheritance in Purba Baru Village, Lembah Sorik District Marapi is by and achieving the portion of justice with the provisions in 'urf. This research was conducted using empirical research, also called field research, using field data as the primary data source, such as the results of interviews and observations. Judging from the number of problems resolved with the help of *Hatobangon*, he is a traditional figure whose

majority of decisions are accepted by the community, outside his realm of severe cases, namely murder, drugs and others. This is the reason for the *Hatobangon decision*. According to some religious figures, it is included in 'urf authentic if there is justice and benefit; on the other hand, if there is no justice and there are those who are harmed, it will be 'urf *fasid*. This is a customary custom in which the heirs conduct deliberations first so that the heirs feel fair and are not disadvantaged. On the other hand, if problems occur in this tradition, certain situations can still be changed through further deliberation.

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Introduction

Bagas godang is an heirloom house or a house left by parents that is passed down to the youngest child (*namenekna*), which is a traditional custom in Purba Baru Village, Lembah Sorik Marapi District, Mandailing Natal Regency. Bagas godang in the community is used as *tondi* (heart medicine) when missing parents and a gathering place for *namarka maranggi* (siblings) if there are events such as *siluluton* (misfortune) and *siriaon* (happiness).¹

Namenekna's child In Mandailing community terms, Natal is the youngest or last child. The youngest child is often referred to as the youngest *child* (spoiled) because they have lived with their parents for the longest time, it is also recommended not to go abroad so that someone will care for and look after their parents in old age, unlike the first child and so on, in Mandailing society they often go abroad or leave their hometown, from a mental point of view, the children of *Namenekna* are different from his brother could be said to be more independent.²

¹ Rangkuti Ali Nafia, "Wawancara Pribadi Dilaksanakan," di Purba Baru, February 20 2024 at 20.15 WIB.

² Nasution Akhiruddin (Hatobangon), "Wawancara Pribadi," di Purba Baru, February 20 2024 at 20.15 WIB.

Inheritance is the transfer of property rights of someone who has died to someone still alive without prior agreement. If there is a legal event, namely the death of a person, it also gives rise to legal consequences, namely regarding how to manage and continue the rights and obligations of the person who died. Settlement of rights and responsibilities as a result of legal events due to the death of a person is regulated in inheritance.³ In KHI article 171, it is explained that inheritance law is the law that governs the transfer of ownership rights of inheritance (*tirkah*) of heirs, determining who has the right to be an heir and what their respective⁴ shares are.

Customary inheritance law is customary law which contains provisions regarding the system and principles of inheritance law, regarding inheritance, heirs and heirs and how control and ownership of inherited property are transferred from heir to heir; in other words, the law of passing on assets from one generation to their descendants.⁵ *Adat* is a term quoted from the Arabic "*Al-adab*", which means "custom", namely community behaviour that always occurs. Apart from that, some say it comes from the word "*urf*". With the word '*urf*', What is meant is all Indonesian morality and customs (legal regulations governing living together).⁶

Among the general public the term customary law is rarely used, what is often used is "custom". The customs in question are habits that generally apply in the society concerned. For example, suppose it is said to be a Javanese custom. What it means is the habit of behaviour in Javanese culture, likewise, with other terms such as Minangkabau customs, Batak customs and others.⁷ Apart from Islamic law and positive law, the author also needs to explain the meaning of inheritance in customary law briefly. According to B. Ter Haar, customary inheritance law is a process of passing on and transferring wealth, both material and immaterial, from generation to generation. Meanwhile, according to Soepomo, customary inheritance law is a law that contains regulations governing the process of passing on and transferring property from a generation of people to their descendants, the distribution of which can be done before or after death.⁸

³ Ramulyo Idris, *Hukum Perkawinan, Hukum Kewarisan, Hukum Acara Peradilan Agama Dan Zakat Menurut Hukum Perdata*, cet I (Jakarta: Sinar Grafika, 1995), h. 93-94.

⁴ *Kompilasi Hukum Islam*, pasal 171.

⁵ Ellyne Dwi Poespasari, *Development of Customary Inheritance Law in Indonesia*, (Surabaya, 2016) Pg. 2

⁶ Samosir Djamanat, *Hukum Adat Indonesia: Eksistensi Dalam Dinamika Perkembangan Hukum Di Indonesia*, 8th ed. (Bandung: CV. Nuansa Aulia, 2013).

⁷ Hilman Hadikusuma, *Pengantar Ilmu Hukum Adat Indonesia*, 8th ed. (Bandung: Mandar Maju, 2003), h. 8.

⁸ Soekanto Soerjono, *Hukum Adat Indonesia*, cet. 11 (Jakarta: Rajawali Pers, 2011), h. 259.

In accordance with the title of this research, it refers to previous research, such as the results of research written by Israr Hirdayadi and M. Ansor in the results of their study, which examined the practice of distributing inheritance to youngest daughters, which has been carried out for a long time, namely by giving greater inheritance rights to other heirs.⁹ Meanwhile, research written by Mohammad Hamim and David Yulian provides a view of Islamic law regarding the practice of distributing inheritance for the youngest children, giving priority to getting gifts and inheritance that is larger in terms of harmony and conditions of the gift, it is in accordance with and fulfils the provisions of Islamic law and the gift above. Agreement on other heirs besides the youngest child.¹⁰

In line with Amelia's research, Firdausya and Udin Juhrodin, in this research, examine the case of distribution of inheritance that occurred in Kampung Sapan Rw 01, Sukamanah Village, Rancaekek District, namely by giving the parent's house to the youngest child, this is a beneficial custom because in its implementation the parents and heirs have hold deliberations first so that the heirs feel fair and are not disadvantaged. On the other hand, in certain circumstances, if a problem occurs in this tradition, it can still be changed through deliberation.¹¹

Based on the phenomena that occur, the researcher aims to study how the practice of distributing inheritance to the youngest children (*na menekna*) as the heir who received Bagas Godang (heirloom house) in the inheritance of the Mandailing Natal custom in Purba Baru Village, Lembah Sorik District Marapi. How does '*urf review*' the heritage practices of Bagas Godang? (heritage house) in Purba Baru Village, Lembah Sorik Merapi District, Mandailing Natal Regency. Is it appropriate and achieves the portion of justice with the provisions contained in '*urf*'.

Research Methodology

This research uses an empirical type of research, also called field research, namely research that uses field data as the primary data source, such as the results of interviews and observations. Empirical research is used to analyse law, which is seen as patterned social behaviour in people's lives which constantly interacts and relates to social aspects. This

⁹ Israr Hirdayadi and M Ansar, "Teknik Pembagian Warisan Terhadap Anak Bungsu Perempuan Dalam Masyarakat Kemukiman Lamblang Kec. Kuta Baro Kab. Aceh Besar Menurut Hukum Islam," *Jurnal Arraniry* 2, no. 1 (2018).

¹⁰ Hamim Mohammad, "Problematika Antara Hibah Dan Waris Terhadap Anak Bungsu Implementasinya Di Kelurahan Setiawargi Kecamatan Tamansari Kota Tasikmalaya," *Jurnal Abwaluna* 3, no. 1 (2023).

¹¹ Firdausya Amelia, "Pemberian Rumah Untuk Anak Bungsu Perspektif Masalah Mursalah Di Kp. Sapan, Rw 01, Desa Sukamanah, Kecamatan Rancaekek Kabupaten Bandung," *Jurnal Jimmi* 4, no. 2 (2021).

research is also useful for obtaining data on bagas godang inheritance for the youngest children by collecting dahelpful inta in the field, namely in Purba Baru Village, Lembah Sorik District Marapi. The nature of this research includes qualitative research, that is, it aims to describe or describe an object to be studied using data or samples that have been collected with analysis or conclusions that apply generally.

Discussion

Mandailing Natal Traditional Heritage Distribution System

Apart from problems in the field of munakahat, problems in the field of faraidh or inheritance are indeed a topic that is always interesting to discuss. Even though Indonesia is a country with a Muslim majority, this does not mean that Islamic law, especially in the area of inheritance, has been implemented correctly by the community. Only a portion of society still adheres to the Shari'a, which still applies inheritance law properly, while for the rest, here and there there are still many deviations in the field of inheritance law. This is the part where ijihad is important to deal with new problems that emerge on the surface.¹² When talking about this heritage, there are many types or practices of implementation carried out by society in general, as stated by Mr Akhiruddin. Nasution, as chairman of the Hatobangon (traditional leader) of Purba Baru village, said the following regarding the Mandailing Natal traditional inheritance distribution system:

“Na uboto sistem pembagian warisan na adong i Mandailing Natal on adong lima mocom na parjolo sistem marpokat pala maninggal orangtua marbagi me alai sude harto nai tinggalkon i di sada bagas hasil nai ima kesepakatan nialai sude na marsudaro, napadua sistem sitodo-todo pala on anak alaklai nagodang na paling berpengaruh dot mengambil keputusan bagian masing-masing ahli waris ben na madung i anggap madung dewasa dot matang pala mambaen keputusan, napatolu sistem bagi dos on maksud na pala madung maninggal orangtua alai na marsudaro mambagi hartoi samo rata inda dong bedana alaklai dot adaboru, napaopat marlakeuna bukum adat dung madung mamboto bagian masing-masing menurut bukum Islam pada dasarna kean i agama na madung adongma ketentuan bagian ahli waris masing-masing makana sebelum i dalankon adat angkon na binoto bagian na sude so ulang adong parbadaan i pudi niari, napalima bagas godang warisan bagian ni anak na menekna di pambagian on anak na menekna ma ahli waris na utamo na mandapot bagas godang inda i pandang anak alaklai sanga adaboru beda dot batak toba na mandapot anak alakla, harana biaso na rap tinggal anak na menekna on rap orangtua naonokna dot ia muse marawatna selama mangolu beda dot sudaro nai na lain nai biaso na maranto bagian nialai ima harto nai bagi sesuai kesepakatan nialai sude.”

five types of inheritance distribution systems in Mandailing Natal: *the first is the marpokat* (deliberation) system. When parents die, the heirs share all the assets left behind by mutual agreement. *Second: the sitodo-todo* system (accusations) in this system, the first son makes the decision and determines the share of each heir because he is considered mature and mature in making decisions. *Third: the distribution* system (equally) means that when their

¹² Abdillah Muhammad Alwin, “Sistem Pembagian Harta Warisan Dalam Hukum Islam (Studi Kasus Di Desa Sungai Lueng, Kecamatan Langsa Timur, Kota Langsa),” *Jurnal Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 9, no. 1 (2022).

parents are the heirs, they are divided equally, there is no difference between men and women. *Fourth*: system *customary law* applies after knowing each individual's share according to Islamic law. Basically, in the Islamic religion there are provisions for the share of each heir, so before carrying out the custom you must know everyone's share so that there are no disputes in the future. *Fifth*: the bagas godang system as an inheritance for the youngest child (*namenekna*) in this division the youngest child becomes the main heir who gets the bagas godang, not seen as a boy or a girl, different from the Batak Toba tribe who gets a boy, because usually the youngest child lived with their parents the longest and cared for their parents throughout their lives, unlike other siblings who usually migrated, their share was the property that was divided according to their agreement."

Discussing bagas godang as an inheritance for *namenekna's children* Mr Ali Nafia Rangkuti as Hatobangon said, *"This custom has been around for a long time from the ompung-ompung (ancestors) of ancient times. It is not certain what date, month and year it is, but this custom existed before Islam came to Mandailing Natal. On average, the community agrees to carry out this because they feel there is justice in it, but as time progresses, there are those who do not carry it out when faced with a conflict, resolve it through deliberation, but if there is no result or agreement from several parties, Hatobangon suggests that it be resolved in court as the party involved. responsible for resolving a case."*¹³

When asked about the value of bagas godang, Mr. Ali Nafia Embrace it as Hatobangon Purba Baru village said *"if the value is high this will be good luck and a reward for the child menekna, however if the value is low it could be a loss for the namenekna child but usually the heirs provide additional if the value is low it could be in the form of assets or money based on the agreement of the respective heirs. The relationship between bagas godang and inheritance is very close because there is a special value in it depending on one's fortune, if it is bagas "The godang that is inherited is good and spacious, there is a high possibility that it will have a high value, whereas if the bagas godang that is left behind is not so good, the value may be lower."*¹⁴

Based on the information above, the researcher concludes that the Mandailing Natal traditional inheritance distribution system has all been determined by its respective divisions. The aim is for the benefit of society in aspects of life in the world to avoid the impact of damage. Because we are fully aware that the purpose of the customary law system is none other than to realize benefits for humans.

Implementation of the Distribution of Bagas Godang Inheritance as an Inheritance for the Youngest Children (*Namenekna*) in Purba Baru Village

Implementation of the distribution of Godang bagas for *Namenekna's* youngest children (youngest) in Purba Baru Village as stated by Mr. Khairunnafis Siregar stated that *"the distribution of bagas godang to the youngest children is given based on the customs and customs of the people of Purba Baru village. This has been happening since the time of the previous ompung-ompung (ancestors) so it has become a tradition in Purba Baru Village. "In this implementation, the youngest child is not considered male or female, as long as the youngest child will get bagas godang, because this has become a habit."*¹⁵

¹³ Ali Nafia Rangkuti (Hatobangon), "Wawancara Pribadi ." di Purba Baru, 20 Februari 2024 Pukul 20.15 WIB

¹⁴ Ali Nafia Rangkuti.

¹⁵ Siregar Khairunnafis, (Perangat Desa), Wawancara Pribadi di Kantor Desa Purba Baru, 21 Februari 2024 Pukul 10.23 WIB.

In carrying out the distribution of the inheritance of Bagas Godang for the youngest child: the researcher interviewed Mr. Husein Tanjung as the recipient of Bagas Godang, he said, *"So, before sharing the inheritance, initially all the siblings gathered together and presented the Hatobangon to divide and witness the distribution of the inheritance. The result is that Bagas Godang is for my brother, while the other inheritance is for my brother, there are no comments that disagree. If you think about it, you are lucky, this is because the bagas godang that you get is quite large if you convert it into rupiah, maybe this is more expensive than the one you got."*¹⁶ After interviewing the recipient, the researcher also interviewed Mr. Iwan Tanjung as his heir and sibling, he said: *"Bagas Godang's share of Namenekna's children has become an agreement between us and No one here is at a loss because this is an agreement. If you look at the price, it may be more expensive than the price of the godang bagas than the property we shared, but this is a tradition that must be carried out. here because when his parents were his younger brother and sister who took care of him here because we are mostly in ranto."*¹⁷

Second: researchers interviewed Mr Fauzi Nasution, as the recipient of the Godang bagas, said, *"After a few days, Mamak Abang died, come together in one house, we, the brothers, were brought together. Hatobangon to divide the assets left by my brother's parents, the results are according to the agreement between Hatobangon and us brothers, Bagas Godang is for my brother, while the garden and land are for my brother. The older brother feels that he has benefited from the wealth his parents left behind not much. If you think about it, this customary law is also good, I think because my brother doesn't have a house yet, while all of my brothers can be said to have enough."*¹⁸ After interviewing the recipient the researcher also interviewed Mr Siddiq Nasution, as his heir and sibling, said, *"If you look at it from an economic perspective, our little brother could be said to be weak, that 's why we agreed that Bagas Godang would be inherited by him, you could say the price is high, different from the wealth we got or not. "There's a problem with us brothers because you could say that we as brothers are already well off compared to our younger siblings."*¹⁹

Third: interviewing Barmawi Lubis, as the recipient of the Bagas Godang, said: *"Before my father died, I made a will for my brother. If my father dies, Bagas Godang will be left to my brother, so after my brother died, we as brothers gathered and presented the hatobangon as a result of the agreement, that's Bagas Godang for my brother, that's it. Neither of your brothers feel disadvantaged because this is your father's will. Also, this is the customary law in this village. Your brothers also get property like land and gardens. You don't get that anymore because you also feel that this is enough of all that. deck."*²⁰ After interviewing the recipients, the researchers also interviewed Samsir Lubis, as his heir and sibling, said: *"So when the inheritance was distributed, there was also our father's will, Bagas Godang, for our little brother to minimize, plus this is customary law so there is no problem here for us, so in the distribution we don't feel disadvantaged. "Even though Bagas Godang could be said to be more spacious and not bad if it was appreciated, only if we came to our sister's house, we were obliged to serve us like guests, right here, and be a place for our brother to stop by when we came from Ranto."*²¹

¹⁶ Tanjung Husein, (Penerima Bagas Godang), Wawancara Pribadi di Tempat kerja beliau Tanggal 27 Februari, 2024 Pukul 19.49 WIB..

¹⁷ Tanjung Iwan, (Ahli waris), Wawancara Pribadi di kediaman beliau Purba Baru, 26 Februari 2024 Pukul 16.49 WIB..

¹⁸ Fauzi Nasution, (Penerima Bagas Godang), Wawancara Pribadi di kediaman beliau Tanggal 24 Februari, 2024 Pukul 19.49 WIB..

¹⁹ Nasution Siddiq, (Ahli waris), Wawancara Pribadi di kediaman beliau Purba Baru, 26 Februari 2024 Pukul 16.49 WIB.

²⁰ Barmawi Lubis, (Penerima Bagas Godang), Wawancara Pribadi di kediaman beliau Tanggal 29 Februari, 2024 Pukul 08.28 WIB.

²¹ Samsir Lubis, (Ahli waris), Wawancara Pribadi di kediaman beliau Purba Baru, 29 Februari 2024 Pukul 17.00 WIB

The researcher concluded that the distribution of bagas godang to the youngest children (*namenekna*) is that this custom still continues today because there is goodness in it, so it is continuously carried out by the people of Purba Baru village with the aim of none other than for the benefit and common interest. In this custom, if viewed in relation to the rules:

المحافظة على القديم الصالح والأخذ بالجديد الأصح

"Maintaining good old things (traditions) and taking new, better things."²²

This rule is very relevant to customary conditions in the era of globalization, that the law stipulated in dividing inheritance has been determined in the Al-Qur'an surah An-Nisa verse 11, however the Al-Qur'an does not explicitly regulate the distribution of the youngest child (*namenekna*). The custom has accommodated the youngest child's share, namely giving Bagas Godang (heirloom houses). This custom has existed since ancient times and is still carried out on the principle of volunteerism. Even though this is not by the Al-Qur'an, the distribution method is still in accordance with Islam because they already know about the law of inheritance because this area is close to the Islamic boarding school. They are full of pleasure and sincerity in giving their share of the inheritance because their services help parents with all their needs and basically the rules provide an understanding that the inheritance laws that have been determined must be maintained and in accordance with the Islamic religion is good but giving the inheritance of the house to the youngest child is better and it is appropriate because they already know the law of inheritance but they give it willingly and sincerely in order to maintain the relationship and inheritance left by their parents and it is also called *'urf Sahih* which is in accordance with the corridors of Islamic religious provisions.

Bodang Bagas for Youngest Children (*Namenekna*) in Purba Baru Village

The views of some village officials when researchers interviewed regarding bagas godang for the youngest children in Purba Baru Village, they said "*in our village there are rarely cases of disagreement with this custom. We as village officials take the role of mediators and servants for the community. In resolving the case of bagas godang as an inheritance for the *namenekna* (youngest) child, we handed it over to the experts, namely Hatobangon, because they understand this matter better.*"²³

Regarding the distribution in this case, researchers interviewed the recipients of Bagas Godang First: Mrs. Nur Ainun Batubara, when discussed about the bagas godang which was inherited to her, said: "*When the inheritance was distributed, it was called Hatobangon and the family to divide and resolve this, the brothers and sisters agreed that Bagas Godang would be inherited by me Yes, I refused, but what else have you all agreed on? Where else can Bagas Godang get this? instead of what? The small size is different from your mother's relatives who get land cakes, the price of the garden is much higher if you compare it, so mother feels aggrieved, but how else can it be made, the results have to be*

²² Zain Musthafa, *Nukhbatul Afkar Min Musyanwarotil Akhyar* (Jakarta: DKI Jakarta, 2016).

²³ Khairunnafis, dan Hamdi Rangkuti, (Perangkat Desa), Wawancara Pribadi di Kantor Desa Purba Baru, 21 Februari 2024 Pukul 10.23 WIB."

*sincere, even though basically they're not.*²⁴ After the researcher interviewed the recipient of the godang bagas, the researcher also interviewed Mr. Umar Batubara as the heir, he also said: *"I think the distribution of our inheritance is right, even though at first our little brother didn't accept it, right? But what else is wrong with the customary law that is usually carried out? in the village you have to accept the risk and be accepted as a namenekna's child "It's not that we refused at first, but according to our agreement, in the end, we accepted it, even though it looked like it was hard for him to accept this distribution."*²⁵

Second: the researcher interviewed Mr. Sofyan Rangkuti, as the recipient of Bagas Godang, said: *"When we discuss the legacy of Bagas Godang, my brother still feels disappointed. because my brother felt that the distribution was not appropriate, but what else could this be, this was the result of my brother's decision, at the beginning we gathered and presented a hatobangon to divide the inheritance left by our parents, that was the result of the agreement, Bagas Godang for my brother, while the other assets didn't get, like a rice field and a plot of land, that's what, brother. I wanted to share that time in fara'id terms but my brother refused, so my brother felt like he was at a loss, because if you convert it into rupiah, the price is very different from that of Bagas Godang."*²⁶ After the researcher interviewed the recipient, the researcher also interviewed Mr. Amin Rangkuti as the heir, he said: *" At first we divided the inheritance based on customary law, but our little brother didn't accept it, he wanted fara'id law, all of us brothers refused, so Bagas Godang's inheritance went to Our little sister was named after we discussed and agreed that in the end she also wanted to go to Manala. We are still steeped in village customs so we have to carry it out. Indeed, there are already provisions for children of namesakes who get a share, whether they like it or not, they have to be ready and accept it willingly."*²⁷

In this case, the researcher interviewed Mr. Ali Nafia as hatobangon who said *"the distribution of bagas godang as an inheritance for the youngest children has existed since the days of the ompung-ompung (ancestors) past until now in Purba Baru Village, Lembah Sorik District Marapi. Some people agree and there are also those who don't, which is rare. If there are heirs who do not agree regarding the distribution of Godang bagas for Namenekna's children then Hatobangon will take it by deliberation with the heirs. If there is no middle ground then Hatobangon will direct you to the next path, namely through the courts. Solving problems with different backgrounds is dividing inheritance by specializing bagas godang as inheritance for the youngest child (namenekna). Basically, there are no sanctions, but the public will label those who do not act as naso maradat (not upholding customs) considering that the Mandailing community is known as a traditional country or is known for its strong customs."*

In the case above, the researcher concluded that regarding the distribution of Bagas Godang for the youngest children (*namenekna*), the majority of people agree, it is very rare to find someone who disagrees, if they feel disadvantaged then there will be a discussion again. This is very rare because the community has been doing this for a long time, starting from ancient times until now. conflict rarely occurs.

Bagas Godang as a legacy for the youngest child (*Namenekna*) Perspective 'Urf

²⁴ Batubara Nur Ainun, (Penerima Bagas Godang), Wawancara Pribadi di kediaman beliau Purba Baru, 28 Februari 2024 Pukul 12.55 WIB.

²⁵ Umar Batubara, (Ahli waris), Wawancara Pribadi di kediaman beliau Purba Baru, 27 Februari 2024 Pukul 15.00 WIB..

²⁶ Rangkuti Sofyan, (Penerima Bagas Godang), Wawancara Pribadi di kediaman beliau Purba Baru, 26 Februari 2024 Pukul 13.30 WIB.

²⁷ Rangkuti Amin, (Ahli waris), Wawancara Pribadi di kediaman beliau Purba Baru, 25 Februari 2024 Pukul 19.30 WIB.

Islamic law is the law that regulates human life in the world in order to achieve happiness in this world and the hereafter. Therefore, Islamic law covers all aspects of human life, both as individuals and members of society in relation to themselves, other humans, the natural environment and their relationship with God.²⁸ Islamic law in the general understanding that applies in society is often related to two main concepts, namely sharia and fiqh.

These two terms are also often used interchangeably to refer to what are called legal rules in Islam. Even though there are many similarities between the two, in their specific meaning there are several fundamental differences in the boundaries and scope of the two. An understanding of these two terms is very necessary to understand how Islamic law itself was born, what its sources are, how it is implemented in practice, and so on.²⁹

Islamic inheritance law is the law that regulates everything relating to the transfer of rights and/or obligations over a person's assets after he dies to his heirs.³⁰ From this definition, the understanding can be drawn that inheritance is the process of transferring ownership from someone as a result of death.³¹ In Islam, regarding inheritance, there is a portion that has been determined for heirs in accordance with the word of Allah SWT in surah An- Nisa verse 11:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ ۚ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۚ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ ۚ وَلَا يُورِثُهُ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ ۙ وَلَدٌ ۚ فَإِن لَّمْ يَكُنْ لَهُ ۙ وَلَدٌ وَوَرِثَتُهُ ۙ أَبَوُهُ فَلِأُمِّهِ الثُّلُثُ ۚ فَإِن كَانَ لَهُ ۙ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ مِنْ بَعْدِ وَصِيَّةِ يُوصِي بِهَا أَوْ دَيْنٍ ۗ لِأَبَائِكُمْ وَأَبْنَاؤِكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفْعًا ۚ فَرِيضَةٌ مِّنَ اللَّهِ ۗ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

"Allah has prescribed (required) you regarding (distribution of inheritance to) your children, (namely) the share of one son is equal to the share of two daughters. If there are more than two children, their share is two-thirds of the assets left behind. If she (daughter) is the only one, she gets half (the property left behind). For both parents, each shares one-sixth of the assets left behind, if he (the deceased) has children. If he (the deceased)

²⁸ Ria Wati Rahmi, *Ilmu Hukum Islam* (Bandar Lampung, 2015), h. 1.

²⁹ Darmalaksana Wahyudin, *Hukum Islam Suatu Tinjauan Filosofis* (Bandung, 2022), h. 70.

³⁰ Assyafira Gisca Nur, "Waris Berdasarkan Hukum Di Indonesia," *Jurnal Hukum Islam Dan Pranata Sosial Islam* 08, no. 1 (2020): 70.

³¹ Nawawi Maimun, *Pengantar Hukum Kewarisan Islam* (Surabaya, 2016), h. 4.

has no children and he is inherited by his parents (only), his mother gets a third. If he (the deceased) has several siblings, his mother gets one sixth. (The inheritance is divided) after (fulfilling) the will he made or (and paying off) his debts. (Regarding) your parents and your children, you do not know which of them will benefit more for you. This is God's decree. Indeed, Allah is All-Knowing, All-Wise."

In Islamic law there are four customary requirements that can be used as a legal basis; First, it doesn't contradict any of the texts sharia ; second, apply and be enforced generally and constantly; third, this tradition has been formed over time implementation; fourth, there are no words or actions that are contrary to the substantial values contained in tradition.³²

Etymologically 'urf comes from the word 'arafa-ya'rifu which means something known and good, something highest, sequential, recognition and patience.³³ While 'urf according to terminology, it is something that is a tradition among humans and they carry out actions and words that are familiar to them, this includes 'urf amaly and qauly. In other words, 'urf is what humans know and applies to them, whether in the form of words, actions or leaving something behind.³⁴

Abdul Wahab Khalaf define 'urf

مايتعارفه الناس و يسرون عليه غالبا من قول او فعل

Meaning: something that is popular and usually done by humans, whether in the form of words or deeds. ³⁵

Al- Jurjani explained the customs;

أخرى بعد مرة اليه وعادوا العقول حكم على عليه النفس إستمر ما

*Meaning: something that is continuously done by humans, can be accepted by reason, and humans repeat it continuously*³⁶

The word 'urf' The meaning is not seen in terms of the number of times an action is carried out, but in terms of the fact that the action is equally known and acknowledged by many people. The existence of these two different points of view (from a repeated point of

³² Haq Abdul and et al., *Formulasi Nalar Fiqh: Telaah Kaidah Fiqh Konseptual (Buku Satu)* (Surabaya: Khalista, 2006), h. 283.

³³ Al-Zuhailiy Wahbah, *Usul Al-Fiqh Al-Islamiy*, Cetakan 16, vol. II (Damaskus: Dar al-Fikr, 2008), h. 104.

³⁴ Umantoro Totok, *Kamus Ilmu Ushul Fiqh* (Jakarta: Amzah, 2005), h. 1.

³⁵ Kholidah, "Otoritas 'Urf Dalam Penalaran Hukum Islam," *Jurnal Al-Maqasid: Jurnal Ilmu Kesyarabatan Dan Keperdataan* 8, no. 2 (2022): 244.

³⁶ Fawzi Ramdan, "Aplikasi Kaidah Fikih Al-Adatu Muhakkamah Dalam Bidang Muamalah," *Jurnal Ekonomi Dan Keuangan Syariah* 2, no. 1 (2018): 148.

view, and from a known point of view) is what causes there to be no difference in principle because the meaning of the two words is the same thing, namely: an action that has been done repeatedly becomes known and recognized by many people, whereas because the action is already known and recognized by many people, the action is carried out repeatedly. Thus, although the two words can be distinguished, the difference is not meaningful.³⁷

Abdul Wahhab Khallaf define *'urf* as something that is recognized and done by humans, both in terms of words and actions, including something they leave behind.³⁸ Definitely *'urf* in the science of ushul al- fiqh became synonymous with 'adat' after being absorbed into Indonesian, namely becoming "Traditional". It can be seen from Abdul Wahab's explanation Khallaf, who emphasized that according to the Shari'ah, there is no difference between *'urf* and 'custom'.³⁹

'Urf fasid (not good) is a habit for people but is contrary to the syara` or it can also justify what is haram, canceling what is obligatory. For example, the habit of people committing evil acts at parties. Legally, *'urf* Fasid does not have to be maintained because maintaining it can result in conflict with the Shar'i propositions or can even invalidate the Shar'i propositions. Because this fasid habit can allow prohibited aqad.⁴⁰

'Urf Sahih (good) is a habit that is carried out by people and does not conflict with a *Shariah proposition*, does not justify something that is forbidden. For example, people's habits of ordering goods are in accordance with local customs as long as they do not violate Islamic law, giving gold jewelry to a wife is usually not included in the dowry, and so on. The law *'urf Authenticity* must be guarded and maintained in establishing laws, deciding laws and so on. Mujtahids must maintain it within *tasysri'nya* and for judges to maintain the law. Because what people know about each other and what people have experienced can be used as evidence, agreement and for their benefit. It is obligatory to maintain it as long as it does not have any challenges with the shari'ah propositions.⁴¹

From the description above, researchers also interviewed several religious figures in Purba Baru Village. First: Ustadz Ja'far Lubis, he said, *"Indeed, this implementation has been widely implemented in this village. I personally disagree on this and I don't think it can be 'urf because the division is not in accordance with the science of fara'id and the law is in accordance with the word of Allah SWT which has regulated the share of heirs in Surah An-Nisa' verse 11. In this verse, the share of each heir has been determined and in my opinion it is not in accordance with the Shari'a' at Islam."*⁴²

³⁷ Syarifuddin Amir, *Ushul Fiqh, Jilid 2* (Jakarta: Kencana, 2011), h. 387-388.

³⁸ Khallaf Abdul Wahab, *Ushul Fiqh* (Jakarta: Dar Al-Kutub Al-Islamiyah, 2010), h. 89.

³⁹ Wahab.

⁴⁰ Wahab.

⁴¹ Ibid 89

⁴² Lubis Ja'far, "Wawancara Pribadi," n.d.

Second: Ustadz Sukron Sawadi Nasution stated that "regarding the problems that have occurred, it is true that many inheritances like this have been carried out in our village, I personally agree that if the distribution of the heirs is in accordance with the division of Islamic law and the result of a mutual agreement and this will be 'urf shahibah and if otherwise it is not in accordance with Islamic law and mutual agreement then this will be 'urf fasidah It should also be emphasized that custom can be juxtaposed with law if it is in accordance with the shari'at as in the qaedah Qawaidul Fiqh "Al- Adatul Mubakkamah "(custom can become law)."⁴³

On the other hand, the researcher also interviewed Ustadz H. Syamsir Batubara, as the administrator of the MUI Mandailing Natal, who served as chairman for two terms, he said, "Regarding the distribution of Bagas Godang which is inherited to the youngest child (*namenekna*), this has been carried out for a long time until now if there is justice in the distribution. meaning that you already know each other's parts and no one feels disadvantaged. This will be 'urf Sahib, on the other hand, if someone is harmed and justice is not achieved, this will become 'urf fasid."⁴⁴

Please bless me with the blessings of Allah SWT in Surah An- Nahl 'ayat 90:

إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ وَإِيتَاءِ ذِي الْقُرْبَىٰ وَيَنْهَىٰ عَنِ الْفَحْشَاءِ وَالْمُنْكَرِ وَالْبَغْيِ يَعِظُكُمْ لَعَلَّكُمْ تَذَكَّرُونَ

"Allah is pleased to bring a curse and to bless him, to hold his feet on the ground, and to bring him (her) into the world, to make peace, and to bless him. The members of the family are forced to take risks if the work is not carried out."

From the problems above, the researcher drew conclusions regarding the problem of bagas godang as an inheritance for the youngest child (*namenekna*) based on the opinion of religious figures. If the distribution of inheritance is in accordance with Islamic law and 'urf then the distribution is permissible and will be 'urf shahibah, but on the contrary if the distribution of inheritance is not in accordance with 'urf then it will be 'urf fasida.

Regarding the problems resolved by *Hatobangon*, this is something that has been done for a long time and this is approved by the local community of the Mandailing Natal Batak tribe. Some of the problems handled by *Hatobangon* are as explained in the discussion above, namely inheritance of assets. Basically, there are provisions in Islamic law, but the community still adheres to customs (*'urf*) as the legal basis.

Based on this provision, it is customary for the people of Purba Baru village to choose *Hatobangon* as the decision maker for every reported problem. If there is goodness, benefit, pleasure, justice and strengthening ties in it, then this is included in the provisions of 'urf which must be agreed upon and carried out continuously. This is the reason that the *Hatobangon decision* is included in 'urf authentic. On the other hand, if in the implementation of

⁴³ Nasution Sukron Sawadi, "Wawancara Pribadi," n.d.

⁴⁴ Syamsir Batubara (MUI Mandailing Natal) Interview conducted on June 30 2024, at 20.59 WIB


this custom someone feels disadvantaged in terms of inheritance provisions, it will become *'urf facade*. Judging from the many problems that were resolved with *Hatobangon's help* the majority of decisions accepted by the community are rarely rejected, outside the realm of serious cases, namely murder, drugs and others.

Conclusion

Based on the description stated above, the researcher can conclude that the people of Mandailing Natal are known as a traditional country and are devout in worship. The majority of the people still strictly adhere to their customs, for example, in their heritage, they still adhere to customary laws which are made *in one piece or another*. (ancestors) from ancient times because it is still relevant today in its application. Sanctions for those who do not carry out the bagas godang tradition for the youngest child "*na menekna*" basically it doesn't exist, but people will label those who don't carry it out as "*nasos maradat*" (not obeying customs) considering the people of Mandailing Natal as citizens who uphold customs. In the distribution of inheritance that occurred in Purba Baru village, Lembah Sorik District Marapi is by bequeathing bagas godang to the youngest child (*namenekna*). According to some religious figures, this is a custom which has become a benefit which continues to be carried out to this day because in the implementation of prior deliberation in which there is justice, pleasure, and increased friendship between fellow heirs, this custom will become *'urf authentic*. On the other hand, if a party who is harmed or oppressed by this custom does not receive justice then it will become *'urf fasid*.

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