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Settlement Of Customary Inheritance Dispute Cases According To Sharia (Islamic Law) In Indigenous Communities In Indonesia

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ABSTRACT

In sharia, settlement of disputes can be done through litigation institutions such as courts, or through non-litigation outside the court. Dispute settlement through litigation is carried out by a process in court where the authority to oversee and decide is exercised by a judge. This study will analyze the settlement of customary dispute cases that are resolved by utilizing sharia or Islamic law in Indonesia, by examining the practices of indigenous people communities. This research is descriptive analytical, which is a study that aims at describing and analyzing facts in an organized and systematic manner. The result, there are three theories regarding the relationship between customary law and Islamic law in terms of settlement of inheritance dispute cases in several regions in Indonesia, namely receptio in complexu theory, receptie theory, and receptio a contrario theory. Judges in the provinces of Aceh and West Sumatra refer to the theory of recepetio a contrario in applying Islamic law, meaning that Islamic law is a legal system that is fully applicable to all Muslims. The Compilation of Islamic Law is a logical consequence of Islamic law as a legal system. Customary inheritance law is accepted because it does not conflict with Islamic law. Whereas in West Java Province, it adheres to the receptie theory, in terms of settlement of inheritance dispute cases, where it does not fully adhere to Islamic law because it has its own system.

Keywords : customary law, Islamic law, Settlement dispute

A. Introduction

Legal pluralism is an undeniable reality in the legal world, including in the field of inheritance law. Legal pluralism in inheritance law is caused by various factors such as historical, cultural, economic, and political constellation (Irianto, 2016).Legal pluralism is not a new area of study in Indonesia. Legal pluralism exists as criticism of centralism and positivism in the application of law to the people(Mohamad & Rideng, 2021). Historically, legal pluralism is initiated by the Dutch colonial government, where legally the Indonesian population as legal subjects are segregated into three population groups, namely indigenous peoples (pribumi or bumiputera), eastern foreigners, and Europeans, as stated in Article 131 of the Indische Staatsregeling in conjunction with Article 163 of the

Indische Staatsregeling(Mohamad & Rideng, 2021).This has resulted in legal pluralism of inheritance law that applies in Indonesia. Even though Law No. 62 of 1958 Concerning Citizenship of the Republic of Indonesia and Presidential Decree No. 240 of 1967 Concerning Basic Policies Concerning Indonesian Citizens of Foreign Descendants have abolished the segregation of the population into groups as above, but in reality,the practice of legal pluralism in the field of inheritance laws still applies today.

There are three inheritance law systems that exist and apply in Indonesia, and although their existence did not begin simultaneously, they have long been a part of people's lives long before the conception and proclamation of independence of the Indonesian state. The three systems of inheritance law in Indonesia are based on the national law which is a European continental law system derived from the Dutch colonists, adat or customary law, and sharia or Islamic law. In some regions in Indonesia, sharia is deeply rooted within the customs and become the basis of their customary law.Naturally, every human being wants to live a comfortable, peaceful, and tranquil life anddisturbed by no one, but sometimesthere are disputes that may arise in living societal lives (Nurhayati, 2019). Henry Campbell Black in Black's Law Dictionary defines the term 'dispute' as "a conflict of controversy; a conflict of claims or rights; an assentation of a right, claim, or demand on one side, met by contrary claims or allegations on the other. The subject of litigation; the matter for which a suit is brought and upon which issue is joined, and in relation to which jurors are called and witnesses examined" (Black, 1989).

In sharia, settlement of disputes can be done through litigation institutions such as courts, or through non-litigation outside the court. Dispute settlement through litigation is carried out by a process in court where the authority to oversee and decide is exercised by a judge. According to the provisions stipulated in Article 25 of Law No. 48 of 2009 Concerning Judicial Powers, there are settlement of disputes that must be carried out first is a non-litigation settlement, such as inheritance dispute cases, where the litigants gather and resolve disputes on their own based on the good faith of the disputing parties, and it is done outside the courts.

The Qur'an, which is the sacred scripture of Islam containing literal transcript of God's speech, as well as hadith (collections of Prophet Muhammad's traditions and practices offer a way of resolving disputes either through court (litigation) through proving legal facts or out of court (non-litigation) through peaceful mechanisms (Abbas, 2017). In Muslim-majority societies, it is not uncommon for problems related to sharia to occur, such as the distribution of inherited land or other inheritances, which ultimately lead to disputes among next-of-kin and other members of the family. This is possibly caused by ignorance and lack of knowledge of property law, inheritance law, inheritance distribution, as well as the entailing legal rights and obligations (Achmadi, Atnawatie, & Memunah, 2017).

The implementation of legal development must be carried out comprehensively, covering legal substances, legal institutions, and legal culture, and accompanied by strict and consistent law enforcement while still upholding human rights, so that the actualization of the function of law as a means of renewal and development, a fair problem solving instrument, as well as regulator of the community's behavior can be achieved (Sudjana, 2016).

Legal awareness cannot be achieved instantaneously (Aulia, Jhoanda, Lestari, & Thariq, 2019), but rather through a series of processes that occur step by step, which can be described as follows:

1. Legal knowledge;
2. Legal understanding;
3. Legal attitude;

4. Legal behavior patterns.

This study will analyze the settlement of customary dispute cases that are resolved by utilizing sharia or Islamic law in Indonesia, by examining the practices of indigenous people communities with strong influence of customary law and sharia on how they resolve their cases through these two law systems without ever going to the state judiciary.

B. Research Method

The writing of this article uses a juridical sociological research method in which the Author will examine various customary law principles and actively direct research into the research object area. This article is supported by the opinions of legal experts contained in various doctrines and books, as well as applicable laws and regulations (Suharyono, 2012) relating to the procedural law of customary dispute resolution institutions in indigenous people communities. This research is descriptive analytical, which is a study that aims at describing and analyzing facts in an organized and systematic manner (Mamudji & Soekanto, 2015).Interviews were conducted with traditional leaders in several regions in Indonesia.

C. Theoretical Review

1. Dispute Settlement through Litigation

The judicial bodies authorized to examine and adjudicate civil cases are the general courts which include district courts and high courts, the religious courts which include religious courts and religious high courts (for certain civil cases, especially for those who are Muslim), and the highest court, which is the Supreme Court.The religious court system handles certain cases such as divorce lawsuit cases and inheritance lawsuit cases where the litigants are Muslims (Sukadana, 2012).Religious courts' jurisdiction over dispute cases related to sharia, such as inheritance dispute cases is stipulated in Article 49 letter (b) of Law No. 3 of 2006 Concerning Amendment to Law No. 7 of 1989 Concerning Religious Courts. This legislation is a clear legal standing for religious court judges in deciding cases related to Islamic inheritance law.The article reads as follows:

> "The religious court has the duty and authority to examine, decide, and settle cases at the first level between persons who are Muslims in the fields of: marriage, inheritance, will, grants, waqf, zakat, infaq, shadaqah, sharia economics.".

Inheritance dispute cases can be settled in two ways, namely:

1. Through a lawsuit. In the event that a lawsuit is filed, it means that there is a dispute over the object of inheritance. This can be caused by inheritance beneficiaries who do not want to share inheritance, causing a conflict between them. The final process of this lawsuit will produce a legal product in the form of a court decision.
2. Through a petition submitted by the inheritance beneficiaries in the event that there is no dispute. With respect to the petition, the court will issue a legal product in the form of a confirmation.

The process for submitting a petition to a religious court is carried out by submitting a petition letter signed by the petitioner or his/her legal counsel and the letter is addressed to the Head of the Religious Court, and it includes the residence of the petitioner in accordance with Article 118 of the

Herzien Inlandsch Reglement (hereinafter referred to as HIR) and Article 142 of the Rechtsreglement voor de Buitengewesten (hereinafter referred to asR.Bg.).

Petitioners who cannot read and/or write may submit their petition orally before the Head of the Religious Courts (Article 120 HIR, Article 144 R.Bg.). Then, the petitioner shall pay the court fees in accordance with Article 121 paragraph (4) of the HIR, 145 paragraph (2) of the R.Bg., Article 89, and Article 91A of Law No. 50 of 2009 Concerning the Second Amendment to Law No. 7 of 1989 Concerning Religious Courts. After that the judge shall examine the case of the petition, and to the application the judge shall then issue a confirmation.

The judiciaries adhere to the principle of quick, simple, and low-cost trial as reaffirmed by the Circular Letter of the Supreme Court of the Republic of Indonesia No. 3 of 1998 Concerning Case Settlement, which states:

> "For this reason, the Supreme Court deems it necessary to reaffirm and instruct you on the following matters: that cases in Court must be decided and resolved within 6 (six) months including minutes, namely: general civil cases, religious civil cases, and state administrative cases, except because the nature and circumstances of the case, forcing them to last longer than 6 (six) months, provided that the Head of the First Level Court concerned must report the reasons to the Head of the Court of Appeals."

Therefore, all cases, whether petitions or lawsuits that are examined at the first court level, whether at a religious court or a general court, must be decided or resolved within 6 (six) months. For non-Muslims, lawsuits and petitions can be submitted to the District Court in accordance with Article 833 of the Civil Code. Likewise for indigenous peoples. If the settlement of inheritance dispute cases cannot be resolved in the community, then it is brought to the customary institution.The parties may also file a lawsuit at the District Court. The District Court as a representative of the State generally resolves inheritance cases that refer to customary law (Irianto, 2016).In practice, this choice of law creates various problems, because it opens the possibility for the beneficiaries to sue each other in different courts. Requests for a fatwa (legal opinion) to the Supreme Court and/or submitting a legal remedy for cassation to determine which court has the authority and jurisdiction to decide are consequences that must be paid by the parties if they do not agree in determining which choice of law to be applied in the settlement of inheritance dispute cases.

2. Dispute Settlement through Non-litigation

Dispute cases must be resolved first in non-litigation settlements, in which the disputing parties gather and resolve theirdifferences on their own, based on their good faith,and it is carried out outside the court. The Qur'an and hadith offer a way of resolving disputes either through court (litigation) by proving legal facts or out of court (non-litigation) through peaceful mechanisms (Abbas, 2017).Peace is nothing new in the teachings of Islam, for instance, Surah (chapter) An-Nisa' verse 128 of the Qur'an states: "…and if a woman fears indifference or neglect from her husband, there is no blame on either of them if they seek ⌜fair⌝ settlement, which is best. Humans are ever inclined to selfishness. But if you are gracious and mindful ⌜of Allah⌝, surely Allah is All-Aware of what you do" (Ilmiati, 2016).

Mediation can be done in court or out of court. If it is carried out outside the court, the disputing parties can appoint community leaders or ulama (literally, 'the learned ones', or scholars) who are trusted as mediators to help resolve disputes according to the sharia. Mediation can be carried out

in disputes that involve two parties, or more than two parties (multiparty dispute). A settlement can only be reached if all the disputing parties accept the settlement. Due to various factors, there are instances where the parties are unable to reach a settlement so that mediation ends in a stalemate. This situation is what distinguishes mediation from litigation. Litigation must end with a legal settlement, in the form of a judge's decision, although legal settlement does not necessarily end a dispute because tensions between the parties might still continue and the losing party is left dissatisfied (Rahmadi, 2010).

2. Customary Inheritance Law and Islamic Inheritance Law

The inheritance law system that applies in Indonesia, as explained above, is still pluralistic, meaning the inheritance law that applies in society is not only limited to the Civil Code and sharia. Multiple other systems are observed by several communities, such as the customary law system, especially in the distribution of inheritance which is usually very closely related to the hereditary system. Customary inheritance law, in contrast to the customary law system regarding inheritance, according to the two legal systems above, defines inheritance as a number of the testator's assets in a net state, that is, after deducting the payment of the testator's debt and other payments caused by the death of the testator. Therefore, the assets received by the beneficiaries according to the sharia legal system and the customary law system are rightfully theirs, free from any form of debts and demand of their payments by the testator’s creditors.

Soepomo defines customary inheritance law as a series of laws that regulate the forwarding and transfer of inheritance from one generation to another, both regarding material and immaterial objects. Hilman Hadikusuma puts forward that customary inheritance law is a law that contains provisions regarding the system and principles of customary inheritance law, regarding inheritance, as well as the manner in which the inheritance is transferred from the testator to the beneficiaries. Indigenous inheritance is very closely related to the form of society and the nature of kinship in Indonesia. In other words, customary inheritance law is strongly influenced by the kinship system that exists in Indonesian society, which is based on the system of drawing lineage, where there are three kinds. First, the parental kinship system, where children are directly and bilaterally connected to both their parents and their relatives. This kinship system can be found in the Javanese indigenous peoples. Second, the patrilineal kinship system, which is a kinship system that follows the father's lineage. This kinship system is used by the indigenous peoples of Bali and Batak in North Sumatra. Finally, the matrilineal kinship system which is a kinship system that follows the mother's lineage. This kinship system is used by the Minangkabau indigenous people in West Sumatra.

Inheritance law in parental or bilateral kinship system provides equal rights between men and women, both to husbands and wives, as well as sons and daughters, including the families of the man and the woman. This means that sons and daughters are equally entitled to inherit from both parents, even in recent developments, widowers and widows may also inherit each other. The process of giving property to heirs or other beneficiaries, especially to children, both to sons and daughters generally has begun before the death of the testator. The inheritance distribution system in this society is individual, meaning that the inheritance can be distributed from the testator to the beneficiaries, and is owned privately by the beneficiaries.

The nature of the parental or bilateral customary inheritance legal system in general on the island of Java, which includes the provinces of East Java, Central Java, West Java, the Special Region of Yogyakarta, and the Special Capital Region of Jakarta, can actually be seen from several aspects:

1. In terms of gender, this can be divided into two groups, the first is the male group and the femalegroup; and
2. In terms of the relationship between the testator and the beneficiaries, where there are also two groups.The first is group of beneficiaries due to marital ties, such as husband and wife. The second is group of beneficiaries due to blood ties. This group can be further classified into three. First, the testator's lineage group, which includes children, grandchildren, great-grandchildren, and so on down. Second, the testator's origin group, which includes the parents of the testator, grandparents, great-grandparents, and so on upwards. Third, the testator's 'horizontal' group, which includes siblings, both male and female, so on until their children and grandchildren, and uncles and aunts so on until their children and grandchildren.

The parental or bilateral kinship system in inheritance law also adheres to priority or preferred grouping system, as does the matrilineal kinship system. According to Hazairin, there are seven priority groups of beneficiaries in parental or bilateral kinship system. This means that there is the first most preferred group of beneficiaries, second, third, and so on until the seventh. The priority group here is a legal hierarchy that determines which of the testator's family groups is most entitled to his/her inheritance, meaning that the first group takes precedence over the second group and the second group takes precedence over the third group and so on. The seven priority groups are as follows:

1. Children and their descendants;
2. Parents;
3. Siblings and their descendants;
4. Grandparents;
5. Siblings of parents and their descendants;
6. Great-grandparents; and,
7. Siblings of grandparents and their descendants.

D. DISCUSSION

Customary law does not originate from the law made by the Dutch East Indies government, but it comes from the complexity of norms that are rooted in the people's sense of justice which is always evolving and includes the rules of human behavior in everyday life in society. Customary law is mostly unwritten, but its existence is obeyed, adhered to, and respected by the people, because this law has consequences (sanctions), has sacred values, and its conception is heavily influenced by religious values. Customary law is not enacted, nor it is enforced by the government, but the regulations in it are still believed, obeyed, and supported by the people based on the belief that these regulations have legal force (Rahmadi, 2010).When drafting a law, the norms and noble religious values adopted by the Indonesian people must always be considered, so that the actualization and implementation of the law will not be in contradiction or even violate religious values.

The reception of customary law by judges in court also requires a theory of the relationship between customary law and religious law in Indonesia, especially the sharia or Islamic law. Indonesia,

which consists of thousands of islands, both small and large, is inhabited by various ethnic groups with various styles of culture and customs. The existence of these cultures and customs is one of the nation's invaluable assets, as well as being the glue of the nation. Furthermore, the Indonesian nation is a religious society.On the one hand, religion, culture, and customs, seem to coexist harmoniously, but from certain angles, sometimes conflicts and contradictions may arise between them (Rauf, 2013).

There are several terms that must be understood comprehensively when examining customary law in Islam, such as al-adat and al-urf. This is due to the arguments of several scholars who consider the two are within the same level of definition, although some others also argue that the two terms are actually different even though there are similarities between the two. The two terms are of Arabic origin which were later adopted into standard Indonesian (Hakim, 2017). Etymologically, 'urf can be defined as ‘something known’, and the word 'urf is synonymous with the word 'adah or adat which can be defined as ‘habit’ or ‘practice’ (Sinnah, 1947), (Syalabi, 1986). These two terms ('urf and 'adah) have the same meaning (al-'urf wa al-'adah bi ma'na wahid), which is something that the general public or the community is used to (Mahmasani, 1981), (Hamid, 1983).According to Abu Zahrah, 'urf or 'adah is something that humans get used to in mu'amalah (commercial) affairs (Samir, 2004),such as ordering goods, saying hello, thanking people who have helped, and giving gifts to people who have contributed, as stipulated by Prophet Muhammad who gave an explanation regarding the relationship between the Sultan and his people, where the Prophet said:

> “Whoever intercedes for his brother in the form of merit, then that person gives him a gift and then accepts it, then his action means that he has entered a large door from the doors of usury” (Daud, 1994).

Al-'urf al-khas is 'urf which only applies or is only known in one place, while in other places it does not apply (Al-Zarqa). For example, jemputan and hilang payments in marriage practices by the people of Padang Pariaman, West Sumatra, or hantaran payments by Riau Malay indigenous communities.Al-'urf ash-syar'i are the terms used by sharia which require a special meaning. For example, the word shalat is an expression of prayer that requires a specific kind of worship (Sinnah, 1947).

There are three theories regarding the relationship between customary law and Islamic law in Indonesia, namely receptio in complexu theory, receptie theory, andreceptio a contrariotheory (Ali, 2006). The following are some examples of customary dispute settlements that fully adoptssharia in several regions in Indonesia:

1. **Province of Aceh**

   There are three law systems that apply in Aceh, namely sharia or Islamic law, the law enacted by the government and enforced by its judiciaries, and customary law.Islamic and customary law play an important role in Acehnese society, even though they have experienced vacuum during the New Order era. The Acehnese people have since then demanded Islamic law to be re-imposed in Aceh Province. The status quo in Aceh Province, especially in Central Aceh Regency is very interesting, where on one hand, it is a region where all dispute cases, especially relating to distribution of joint assets, inheritance, and divorce lawsuits are settled by using sharia, but on the other hand, customary law is also strongly upheld and prioritized in the same region. The Indonesian Government responded to this fact by enacting several legislations which in essence emphasized the greater degree of implementation of sharia in Aceh, such as by

allowing the establishment of Sharia Courts in the region (Sesarina, 2013), as stipulated in Article 98 paragraph (1) and paragraph (2) of Law No. 11 of 2006 Concerning Aceh Governance.

According to sharia, when the husband dies and the wife is widowed, then she shall receive 1/8 of the inheritance if there are children from their marriage, or 1/4 if there aren't any. The parents of the testator, both the father and the mother, receive 1/6 of the inheritance, and the testator's siblings, both male and female, shall receive the remainder if the testator does not have children. If the testator has children, then his/her siblings are not entitled to the inheritance (Zia, 2017).Judges in Aceh refer to the theory of the application of sharia, specifically the theory of receptio a contrario, which sees sharia or Islamic law as a legal system that is fully applicable to Muslims. This theory was put forward by Hazairin who believes that customary law applies if it does not conflict with Islamic law as contained in the positive law. Using this theory, the distribution of inheritance is accommodated by the Compilation of Islamic Law as a logical consequence ofIslamic law as a legal system. Customary inheritance law is accepted because it does not conflict with Islamic law. In fact, it is in line with the concepts of maslahat and al-urf(customs can be used as law).

2. West Sumatra Province (Minangkabau Indigenous People)

The Minangkabau indigenous people are a society that adheres to Islam. It is simultaneously influenced and surrounded by two 'forces', which are customs and religion. Both of these forces have a value system which demands high loyalty from the Minangkabau community, namely subservience to religion as a Muslim and obedience to customs as Minangkabau people.

The main principle in terms of inheritance in Minangkabau is consensus or agreement by all beneficiaries. The law that applies to the distribution of inheritance in Minangkabau society today is that high inheritance (harta pusaka tinggi) is inherited by custom with a matrilineal collective inheritance system, while low inheritance (harta pusaka rendah) is inherited by Islamic law or sharia with a bilateral individual inheritance system. Therefore, the provisions regarding the share and amount of inheritance distributed in a will basically follow the rules on the distribution of inheritance. According to Minangkabau customary law system, everything that has become rules and regulations in sharia, is carried out and enforced as customs by the Minangkabau people. This is based on the Minangkabau traditional philosophy which serves as the main principle of Minangkabau customary law, 'adat basandi syarak, syarak basandi kitabullah', meaning the Minangkabau people in carrying out their customary law must always adhere to Islamic law.Therefore, a violation to sharia is considered to be also a violation to the Minangkabau customary law (Djanuardi, Kusmayanti, & Sekarieva, 2020).

One of the disputes that often occurs in the Minangkabau society is regarding will and testament. According to Islam, will is defined as an act of giving of an object by the testator to another person or institutions as beneficiaries that will take effect after he/she dies (Abubakar, 1973).According to Jazairin, will is different from inheritance, where will may not exceed 1/3 of the total amount of wealth, and its nature is supplementary (Hazairin, 1982).In Minangkabau society, instances of will dispute cases where a person's will exceeds 1/3 of his inheritance are not rare occurrences. According to Minangkabau customary law, inheritance is divided into high

inheritance (harta pusaka tinggi) and low inheritance (harta pusaka rendah). The provision regarding will in Minangkabau customary law is that if the willed property exceeds 1/3 of the portion included in high inheritance, the will is considered invalid due to the status of the property being collective property. However, if the inherited property exceeds 1/3 of the share is a low inheritance, then Islamic law applies with the stipulation that the will is valid as long as there is agreement and consensus among all beneficiaries, but if there are beneficiaries who do not agree, then the remaining 1/3 of the property becomes invalid because it contains the rights of the beneficiaries.In that case, the provisions of the will refer to Islamic law, specifically to Article 171 of the Compilation of Islamic Law and is further emphasized in Article 195 of the Compilation of Islamic Law (Sanjaya, 2018).

According to the Compilation of Islamic Law, a will is defined as an act of giving of an object by the testator to another person or institutions as beneficiaries that will take effect after he/she dies. The Compilation of Islamic Law states that a will is only allowed a maximum of 1/3 of the inheritance unless all beneficiaries agree otherwise. A will must state explicitly and clearly who is appointed to receive the property. If one of the beneficiaries does not agree to a will that exceeds the 1/3 threshold, then the 1/3 limit prevails (Yasin, 2014).

3. West Java Province (Kampung Naga, Tasikmalaya)

The next research study is the settlement of inheritance dispute cases of indigenous peoples in West Java, one of which is in Kampung Naga, Tasikmalaya Regency, where the majority of the population adheres to Islam but in terms of dispute settlement and conflict resolution, they still use the provisions of customary law, one of which is in the field of inheritance. According to the belief of the people of Kampung Naga, carrying out the customs of the karuhun (ancestors) means respecting them. Anything that does not come from the teachings of the ancestors of Kampung Naga, and anything that ancestors did not do is considered as taboo. Committing these taboos means violating the customs, and violating the customs means disrespecting the ancestors, and disrespecting the ancestors is believed to lead to disaster.

In practice, the distribution of inheritance in the indigenous community of Kampung Naga prefers to divide inheritance fairly in 1:1 ratio between men and women through distribution by means of grants, and always prioritizes the principles of kinship and justice. All inheritances are distributed as grants and will be discussed within the family to avoid disputes with the aim of maintaining family harmony. This discussion is held to determine the share of inheritance that will be received by each beneficiary of the inheritance. In the perspective of Islamic law, the settlement of inheritance dispute cases in Kampung Naga is considered to be in accordance with the teachings of Islam, especially by using the consensus mechanism. Dispute settlement and conflict resolution in Islamic law emphasizes the principle of peace efforts as an initial step, as stated in the Qur'an Surah Al-Hujurat verse 9 which reads: "…and if two parties of believers fall to fighting, then make peace between them. And if one party of them doeth wrong to the other, fight ye that which doeth wrong till it returns unto the ordinance of Allah; then, if it returns, make peace between them justly, and act equitably. Lo! Allah loveth the equitable" (Djanuardi, Kusmayanti, & Permadi, 2021).

In principle, Muslims are urged to choose to resolve their inheritance dispute cases in a peaceful way. This is due to the fact that several existing institutions, such as the courts, are often procedurally less accommodating and persuasive in resolving inheritance disputes, both in terms of justice, expediency, certainty, and the application of quick, simple, and low-cost judicial principles. The deliberation mechanism can also be linked to the provisions contained in Article 183 of the Compilation of Islamic Law which reads: "the beneficiaries can agree to make peace in the distribution of inheritance after each is aware of his/her share" (Djanuardi, Kusmayanti, & Permadi, 2021).

Kampung Naga has been practicing an inheritance law system that is not in accordance with provisions set out in Islamic inheritance law. They prefer to use other methods, such as grants and testaments. They consider these two methods to be able to anticipate disputes between heirs, because in this way the share of each beneficiary is equal, and it is distributed while the parents are still alive (which is related to the grant method). In testamentary grants there are certain rules, namely, the goods donated are not followed by the delivery of the goods. The delivery is carried out after the death of the testator (Yandi, 2009).

E. Conclusion

There are three theories regarding the relationship between customary law and Islamic law in terms of settlement of inheritance dispute cases in several regions in Indonesia, namely receptio in complexu theory, receptie theory, and receptio a contrario theory. Judges in the provinces of Aceh and West Sumatra refer to the theory of recepetio a contrario in applying Islamic law, meaning that Islamic law is a legal system that is fully applicable to all Muslims. The Compilation of Islamic Law is a logical consequence of Islamic law as a legal system. Customary inheritance law is accepted because it does not conflict with Islamic law. Whereas in West Java Province, it adheres to the receptie theory, in terms of settlement of inheritance dispute cases, where it does not fully adhere to Islamic law because it has its own system.

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