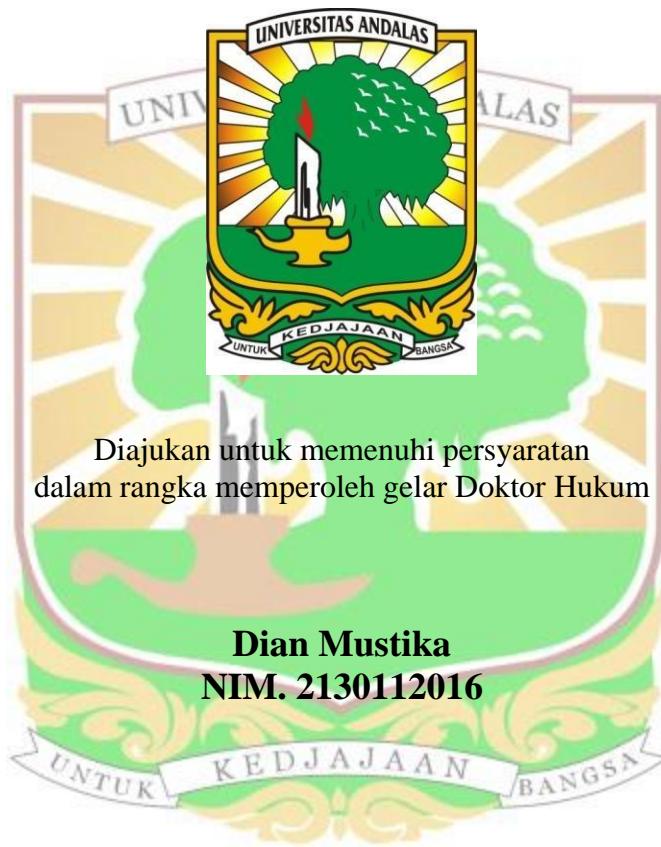


DISERTASI

PERLINDUNGAN HUKUM TERHADAP HAK WARIS PADA MASYARAKAT ADAT MUSLIM SUKU ANAK DALAM DI PROVINSI JAMBI



**PROGRAM STUDI DOKTOR HUKUM
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ABSTRAK

Perlindungan Hukum Terhadap Hak Waris Pada Masyarakat Adat Muslim *Suku Anak Dalam* di Provinsi Jambi

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Masyarakat adat muslim *Suku Anak Dalam* di Provinsi Jambi berada pada posisi transisi antara penerapan hukum adat yang diwariskan secara turun-temurun dan hukum waris Islam yang secara normatif berlaku bagi mereka sebagai pemeluk agama Islam. Dalam proses transisi ini, ditemukan kenyataan bahwa praktik pewarisan masih lebih banyak mengikuti ketentuan adat dibandingkan hukum waris Islam. Ketidaksesuaian tersebut berdampak pada terabaikannya hak-hak ahli waris yang secara syariat seharusnya diakui, sehingga menimbulkan potensi ketidakadilan dan ketidakpastian hukum di tengah komunitas. Oleh karena itu, penelitian ini bertujuan untuk: *Pertama*, mengungkap kedudukan harta dalam perkawinan pada masyarakat adat muslim *Suku Anak Dalam* di Provinsi Jambi. *Kedua*, menggali berbagai fakta tentang proses pewarisan harta pada masyarakat adat muslim *Suku Anak Dalam* di Provinsi Jambi. *Ketiga*, menganalisis perlindungan hukum terhadap hak waris pada masyarakat adat muslim *Suku Anak Dalam* di Provinsi Jambi. Penelitian ini menggunakan pendekatan sosio legal. Pengumpulan data dilakukan melalui observasi, wawancara mendalam, dan dokumentasi, sedangkan analisis data dilakukan secara kualitatif. Hasil penelitian menunjukkan bahwa: *Pertama*, kedudukan harta dalam perkawinan diklasifikasikan menjadi dua, yakni (1) *harto tempatan* (harta bawaan) merupakan harta pemberian orang tua secara turun temurun sebelum berlangsungnya perkawinan. (2) *harto besamo* atau *harto pencarian* merupakan harta yang didapatkan secara bersama dalam masa perkawinan. *Kedua*, dalam praktik pewarisan masyarakat adat muslim *Suku Anak Dalam*, baik dalam sistem perkawinan eksogami dan eleutherogami masih didominasi oleh hukum adat, meskipun dalam beberapa aspek telah mendapat pengaruh dari hukum Islam. *Ketiga*, perlindungan hak waris pada masyarakat adat muslim *Suku Anak Dalam* dapat diklasifikasikan kepada perlindungan preventif dan represif. Perlindungan preventif diwujudkan melalui memasukkan klausul perlindungan hak-hak kelompok lemah seperti janda, anak di bawah umur dalam peraturan desa yang mengadopsi prinsip hukum Islam dan hukum positif agar tidak terjadi diskriminasi berbasis kebiasaan yang merugikan. Perlindungan represif meliputi penyelesaian sengketa melalui mediasi adat berbasis hukum Islam, pemulihan hak berupa pengembalian bagian warisan yang ditahan atau disalahgunakan, dan pendampingan hukum bagi pihak lemah.

Kata Kunci: hak waris; masyarakat adat; perlindungan hukum; *Suku Anak Dalam*

ABSTRACT

Legal Protection of Inheritance Rights among the Muslim Indigenous People of *Suku Anak Dalam* in Jambi Province

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The muslim indigenous people of *Suku Anak Dalam* in Jambi Province is in a transitional phase between the application of customary law, which has been passed down from generation to generation, and Islamic inheritance law, which is normatively applicable to them as muslims. In this transition process, it has been found that inheritance practices still largely follow customary provisions rather than Islamic inheritance law. This discrepancy has resulted in the neglect of the rights of heirs that should be recognized under Islamic law, thereby creating potential for injustice and legal uncertainty within the community. Therefore, this study aims to: first, reveal the status of property in marriage among the muslim indigenous people of *Suku Anak Dalam* in Jambi Province. Second, to explore various facts about the process of inheritance of property among the muslim indigenous people of *Suku Anak Dalam* in Jambi Province. Third, to analyze legal protection of inheritance rights among the muslim indigenous people of *Suku Anak Dalam* in Jambi Province. This study uses a socio-legal approach. Data collection was conducted through observation, in-depth interviews, and documentation, while data analysis was conducted qualitatively. The results of the study show that: First, the status of property in marriage is classified into two categories, namely (1) *harto tempatan* is property given by parents from generation to generation before marriage. (2) *harto besamo* is property acquired jointly during marriage. Second, in the inheritance practices of the muslim indigenous people of the *Suku Anak Dalam*, both in the exogamous and eleutherogamous marriage systems, customary law still dominates, although in some aspects it has been influenced by Islamic law. Third, the protection of inheritance rights in the muslim indigenous people of the *Suku Anak Dalam* can be classified into preventive and repressive protection. Preventive protection is realized by including clauses protecting the rights of vulnerable groups such as widows and minors in village regulations that adopt the principles of Islamic law and positive law to prevent harmful discrimination based on custom. Repressive protection includes dispute resolution through Islamic law-based customary mediation, restoration of rights in the form of returning withheld or misused inheritance, and legal assistance for vulnerable parties.

Keywords: ownership rights; indigenous people; legal protection; *Suku Anak Dalam*

