

Gender Equity in Inheritance System: The Collaboration of Islamic and Bugis Luwu Customary Law

by Al-Ihkam: Jurnal Hukum dan Pranata Sosial

Submission date: 25-Jun-2024 12:44PM (UTC+0700)

Submission ID: 2384845842

File name: DOC-20231126-WA0015..pdf (389.99K)

Word count: 6796

Character count: 38568



1
al-ikhkam: Jurnal Hukum dan Pranata Sosial, 16 (1), 2021: 155-172
ISSN: 1907-591X, E-ISSN: 2442-3084
DOI: <http://doi.org/10.19105/al-ikhkam.v15i1.2682>

2 Gender Equity in Inheritance System: The Collaboration of Islamic and Bugis Luwu Customary Law

Andi Sukmawati Assaad

State Institute of Islam (IAIN) Palopo
hj.a.sukma@iainpalopo.ac.id

11

Saifuddin Zuhri Qudsy

Universitas Islam Negeri (UIN) Sunan Kalijaga Yogyakarta
saifuddin.zuhri@uin-suka.ac.id

7

Baso Hasyim

State Institute of Islami (IAIN) Palopo
basohasyim@iainpalopo.ac.id

Muhammad Taufan Badollahi

Datokarama State Islamic University (UIN) Palu
mtaufan@uindatokarama.ac.id

Wahid Haddade

Alauddin State Islamic University (UIN) Makassar
wahid.haddade@uin-alauddin.ac.id

2

Abstract:

This article is a result of research on the culture of inheritance of Buginese people in Luwu, South Sulawesi. The research questions raised are: how is an inheritance practiced amongst the Bugis Luwu customary society, what are the predominant inheritance practices, and how have Islamic and customary laws combined to create gender equity. This is a normative legal study with statutory, comparative, and case approaches putting its material object. Data are collected through interviews and studies of the relevant documents consisting of primary ones; customary law, jurisprudence, and Islamic law references, and the

1
Author correspondence email: address@mail.ac.id

Available online at: <http://ejournal.iainmadura.ac.id/index.php/alikhkam/>

Copyright (c) 2021 by al-ikhkam. All Right Reserved



2 secondary one; relevant research results, and the works of legal experts. The statutory and comparative. Analysis employed in this study led to the finding that the Bugis Luwu inheritance practices subject to Islamic principles prioritizing discussion and compromise within the family. Furthermore, a mixture of Islamic and customary laws also guides everyday norms and interactions within Buginese Luwu society. Gender equity has been created through the blending of Islamic and customary laws, including the practice known as *passideppungeng*. This article recommends that inheritance law integrate religious law, custom, gender perspectives, and ongoing societal changes, thereby creating a contextual and adaptive system.

24

Keywords:

Gender equity, Legal Collaboration, inheritance systems, customary communities (Bugis)

Abstrak:

Artikel ini merupakan hasil penelitian tentang warisan pada masyarakat Bugis di Luwu, Sulawesi Selatan. Pertanyaan penelitian yang diangkat adalah: bagaimana praktik pewarisan di masyarakat adat Bugis Luwu, praktik pewarisan apa yang dominan, dan bagaimana hukum Islam dan hukum adat digabungkan untuk menciptakan kesetaraan gender. Studi ini adalah penelitian hukum normatif dengan pendekatan perundang-undangan, perbandingan, dan studi kasus yang menjadikan sistem pewarisan sebagai objek materialnya. Pengumpulan data dilakukan melalui wawancara dan studi dokumen terkait, yang terdiri dari bahan primer; hukum adat, fikih, dan acuan hukum Islam lainnya, dan hasil penelitian yang relevan. Penelitian ini mengarah pada temuan bahwa praktik warisan Bugis Luwu tunduk pada prinsip-prinsip hukum Islam, meski tetap mengutamakan musyawarah dan kompromi dalam keluarga. Selain itu, perpaduan antara hukum Islam dan hukum adat juga menjadi pedoman norma dan interaksi sehari-hari dalam masyarakat Bugis Luwu. Kesetaraan gender telah diciptakan melalui perpaduan hukum Islam dan hukum adat, termasuk praktik yang dikenal sebagai *passideppungeng*. Artikel ini merekomendasikan agar hukum waris mengintegrasikan hukum agama, adat, perspektif gender, dan perubahan sosial yang sedang berlangsung, sehingga menciptakan sistem yang kontekstual dan adaptif.

Kata Kunci:

Kesetaraan Gender; Kolaborasi Hukum; Pembagian Waris, Masyarakat Adat, Bugis Luwu

Introduction

Studies of inheritance law and religion have been common. Numerous researchers, for example, have investigated the link between local customs and Islam (Febriawanti & Mansur;¹ Fikri & Wahidin;² Pongoliu;³ Siska, Firman, & Rusdinal;⁴ Haniru.⁵ Others have investigated the intersection between inheritance law and gender Haque;⁶ Ahmad, Batool, & Dziegielewski;⁷ Gultom;⁸ Ezeilo;⁹

¹ Dinta Febriawanti and Intan Apriyanti Mansur, "Dinamika Hukum Waris Adat Di Masyarakat Bali Pada Masa Sekarang," *Media Iuris* 3, no. 2 (July 23, 2020): 119, <https://doi.org/10.20473/mi.v3i2.18754>.

² Fikri, "(Peer Review) Konsepsi Hukum Waris Islam dan Hukum Waris Adat: Analisis Kontekstualisasi dalam Masyarakat Bugis."

³ Usman Jafar, Mawardi Djalaluddin, Nur Taufiq Sanusi, "Eksistensi Hukum Waris Adat dalam Masyarakat Muslim di Kota Gorontalo dalam Perspektif Sejarah," *Jurnal Diskursus Islam* 6, no. 2 (August 24, 2018): 361-401, <https://doi.org/10.24252/jdi.v6i2.6866>.

⁴ Eti Siska, Firman Firman, Rusdinal Rusdinal, "Pergeseran Hukum Waris Adat di Minangkabau (Studi Kasus: Hukum Warisan Tanah Ulayat di Nagari Ladang Panjang Kecamatan Tigo Nagari, Kabupaten Pasaman, Sumatera Barat)," *Culture & Society: Journal of Anthropological Research* 1, no. 2 (December 31, 2019): 157-63, <https://doi.org/10.24036/csjar.v1i2.26>.

⁵ Rahmat Haniru, "Hukum Waris di Indonesia Perspektif Hukum Islam dan Hukum Adat," *Al-Hukama': The Indonesian Journal of Islamic Family Law* 4, no. 2 (2014): 456-74.

⁶ Muhammad Faizul Haque et al., "Women Rights to Inheritance in Muslim Family Law: An Analytical Study," *International Journal of Islamic Business & Management* 4, no. 1 (April 13, 2020): 15-26, <https://doi.org/10.46281/ijibm.v4i1.543>.

⁷ Mahtab Ahmad, Moazma Batool, and Sophia F Dziegielewski, "State of Inheritance Rights: Women in a Rural District in Pakistan," *Journal of Social Service Research* 42, No. 5 (October 19, 2016): 622-29, <https://doi.org/10.1080/01488376.2016.1177633>.

⁸ Elfrida R Gultom, "Development of Women Position in the Patrilineal Inheritance of Indonesian Society," *Jurnal Dinamika Hukum* 17, no. 2 (May 31, 2017): 194, <https://doi.org/10.20884/1.jdh.2017.17.2.886>.

⁹ Joy Ngozi Ezeilo, "Rethinking Women and Customary Inheritance in Nigeria," *Commonwealth Law Bulletin* 47, no. 4 (October 2, 2021): 706-18, <https://doi.org/10.1080/03050718.2020.1818596>.

Doss;¹⁰ Mostofa¹¹). This article investigates how customary law has intersected with Islamic law to promote gender equity, something rarely considered by scholars.

At the macro level, this article seeks to contribute to the sizable literature on customary inheritance laws and Islamic inheritance laws, as well as the processes and dynamics through which these laws have been implemented. At the micro-level, meanwhile, this study seeks to fill the gap in the literature regarding Buginese inheritance laws and their blending of Islamic and customary practices. It thus answers three questions, namely: 1) how is inheritance practiced amongst the Bugis Luwu customary community, 2) what are the predominant inheritance practices, and 3) how have Islamic and customary laws combined to create gender equity.

This article argues that Indonesian inheritance law, which has been dominated by customary systems is continuously adapting. Collaborative negotiations between Islamic law and customary systems are necessary to create gender equity. This shows that religious spaces are negotiable, adapting to various times and contexts.

The concept of gender equity refers to the situation wherein men and women are treated as equals. This concept is usually informed by the concept of justice, particularly in the division of rights and responsibilities between the sexes.¹² As argued by Sharma and Sharma, gender equity means that men and women have equal access to opportunities, without any biases against them.¹³ Carter writes that gender justice means that men and women

⁹ Cheryl Doss et al., "Women, Marriage and Asset Inheritance in Uganda," *Development Policy Review* 30, no. 5 (September 2012): 597-616, <https://doi.org/10.1111/j.1467-7679.2012.00590.x>.

¹¹ Md Mostofa, "Rights and Practices of Women's Inheritance Rights in Islam: Bangladesh Perspective," *International Journal of Islamic Business & Management* 3, no. 1 (April 5, 2013): 14-20, <https://doi.org/10.46281/ijibm.v3i1.245>.

¹² Shannon M Ruzycki et al., "Association of Physician Characteristics With Perceptions and Experiences of Gender Equity in an Academic Internal Medicine Department," *JAMA Network Open* 2, no. 11 (November 13, 2019): e1915165, <https://doi.org/10.1001/jamanetworkopen.2019.15165>.

¹³ Radha R Sharma and Neha P Sharma, "Opening the Gender Diversity Black Box: Causality of Perceived Gender Equity and Locus of Control and Mediation of Work Engagement in Employee Well-Being," *Frontiers in Psychology* 6 (2015): 1371.

must not be subjected to fixed roles, subordination, marginalization, or violence.¹⁴ As such, Sharma and Sharma identify four indicators of gender equity: (1) access; (2) participation; (3) control; and (4) fair and equitable benefits.¹⁵ In this context, awareness of the need for gender equity is influenced by social and cultural constructions that distinguish between the sexes and their specific roles and responsibilities.¹⁶ As written by Bericat, gender equity is necessary to address the gendered structural inequalities that exist within society.¹⁷

Inheritance systems are part of the traditional customs that remain practiced around the world. Referring to Febriawanti and Mansur, inheritance systems are those systems that ascertain the legitimacy of heirs and manage the division of assets (wealth, property, and knowledge) amongst them.¹⁸ Cooper writes that inheritance systems may be divided into bilineal (along both maternal and paternal lines) and unilineal one (solely along paternal [patrilineal] or maternal [matrilineal] lines).¹⁹ Today, many inheritance systems are pluralistic, being a blend of formal, Islamic, and

¹⁴ Michael Carter, "Gender Socialization and Identity Theory," *Social Sciences* 3, no. 2 (May 12, 2014): 242–63, <https://doi.org/10.3390/socsci3020242>.

¹⁵ Sharma and Sharma, "Opening the Gender Diversity Black Box: Causality of Perceived Gender Equity and Locus of Control and Mediation of Work Engagement in Employee Well-Being."

¹⁶ Sue Jackson, "Young Feminists, Feminism and Digital Media," *Feminism & Psychology* 28, no. 1 (February 8, 2018): 32–49, <https://doi.org/10.1177/0959353517716952>. dalam Muhammad Fahmi *et al.*, "Media Representations Of Gender: The Marginalization Of Female Muslim Scholars In Indonesia," *Journal of Critical Reviews* 7, no. 017 (March 1, 2020), <https://doi.org/10.31838/jcr.07.05.44>. M S Manisha and Sunita Mangla, "Social Construction of Gender through Mediated Communication in India," *Journal of Content, Community & Communication Anity School of Communication* 9, no. 5 (2009): 64–67

¹⁷ Eduardo Bericat, "The European Gender Equality Index: Conceptual and Analytical Issues," *Social Indicators Research* 108, no. 1 (2012): 1–28.

¹⁸ Febriawanti, Mansur, "Dinamika Hukum Waris Adat Di Masyarakat Bali Pada Masa Sekarang."

¹⁹ Elizabeth Cooper, "Inheritance and the Intergenerational Transmission of Poverty in Sub-Saharan Africa: Policy Considerations," *Chronic Poverty Research Centre Working Paper*, no. 159 (2010).

customary law.²⁰ It is also affected by factors such as (1) kinship bonds; (2) life events such as marriage, birth, a²¹ death; and (3) retirement.²¹ This reflects the argument that inheritance law is strongly influenced by kinship systems, as a result of which each society has its means of dividing inherited assets.²²

As a concept, customary society has been broadly explored in the literature.²³ As written by Nurhayanto and Wildan, customary societies are those that live their own lives and utilize their own worldviews.²⁴ Davidson writes that customary societies are those peoples who have existed within an area for generations and developed their own values, ideologies, politics, cultures, and territories.²⁵ In this context, customary societies have particular rights and responsibilities, which they transmit orally and performatively through their stories, expressions, and family activities.²⁶ Customary societies have the freedom to establish their own rules through which they assert control of their land, territory, and resources, thereby maintaining their institutions, cultures, and traditions.²⁷

41

²⁰ Deo Andika Putra Sihombing, "Pembagian Waris Adat Masyarakat Suku Bugis di Kecamatan Enok, Kabupaten Indragiri Hilir, Provinsi Riau," *Premise Law Jurnal* 1 (2017).

²¹ Nora Ellen Groce, Jillian London, and Michael Ashley Stein, "Inheritance, Poverty, and Disability," *Disability & Society* 29, no. 10 (2014): 1554-68.

²² Sihombing, "Pembagian Waris Adat Masyarakat Suku Bugis di Kecamatan Enok, Kabupaten Indragiri Hilir, Provinsi Riau."

²³ Turnomo Rahardjo, Hapsari D Sulisty, and Taufik Suprihatini, "Digital Media Literacy in Samin Indigeneous People," ed. Hadiyanto, Maryono, and Budi Warsito, *E3S Web of Conferences* 73 (December 21, 2018): 14018, <https://doi.org/10.1051/e3sconf/20187314018>.

²⁴ Puji Nurhayanto and Dac Wildan, "Transformasi Nilai-Nilai Kearifan Lokal Masyarakat Adat Cireundeu," *Sosietas* 6, no. 1 (2016).

²⁵ Mohammad Mulyadi, "Pemberdayaan Masyarakat Adat dalam Pembangunan Kehutanan," *Jurnal Penelitian Sosial Dan Ekonomi Kehutanan* 10, no. 4 (2013): 22-34.

²⁶ Nicholas James Reo and Kyle Powys Whyte, "Hunting and Morality as Elements of Traditional Ecological Knowledge," *Human Ecology* 40, no. 1 (2012): 15-27.

²⁷ Whyte, "What Do Indigenous Knowledges Do for Indigenous Peoples?," in *Traditional Ecological Knowledge* (Cambridge University Press, 2017), 57-82, <https://doi.org/10.1017/9781108552998.005>.

1

Methods

This study explores the inheritance systems used by the Bugis Luwu of South Sulawesi. Various inheritance systems are recognized by the Bugis Luwu, with some being equitable and others not. Primary data were collected through in-depth and structured interviews, as well as on-site observations at the research location. Data were collected in consideration of availability and efficiency, with the researchers living in the community, observing informants, and listening to their statements regarding their practice of inheritance. Secondary data were collected through an exploration of the literature on Islamic inheritance law (*afraid*), customary inheritance law, gender equity, social anthropology, and associated formal law (*Compilation of Islamic Laws, Indonesian Legal Code - Civil*, etc.). Before the research was conducted, the researchers visited the site to collect data from informants—religious leaders, customary leaders, etc.—regarding disputes. Analysis was conducted using the interpretative method.

In-depth interview was chosen to obtain detailed data and meaningful information. More importantly, it was carried out because the decisions were verbally decided and rarely written down, including in the cases discussed here. In the next stage, this study employed two methods of analysis, namely statutory and comparative analysis. The former analyzes the regulations related to the discussed legal issues. Whereas, the later is comparing those decisions by the Luwu-Buginese practice in the perspectives of customary and Islamic law.

Result and Discussion

Gender Inequity in the Buginese Inheritance System

The Buginese have diverse views of inheritance and kinship. Different elements of Buginese society have their own specific systems; some divide assets equitably, while others distinguish between children. At times, sons receive a greater share than daughters; other times, daughters receive more than sons. In some cases, the eldest child

receives the greatest share; other times, it is the youngest, or the one who has shown the greatest dedication to their parents.²⁸

Table 1. Division of Assets in Buginese Inheritance

| Source | Statement | Coding |
|--|---|--|
| Ikram (eldest son and Asiah (wife) of deceased | BP passed in 2006, leaving a wife, three sons, and three daughters. Leaving land, a shop, and a house. The land was divided evenly amongst the children. The other assets were divided as follows; one shop shared between children, two homes, one home in Palopo given to the youngest son, and the house in Makassar given to the third child (PR) | Equitable rights |
| Wife of deceased | Is left behind a wife, four sons, and a daughter. Home and land were divided using the rasio 2:2:2:2:1 | Sons received a greater share than daughters |
| Ishak, Husband of deceased | ST left behind a husband, two sons, and two daughters. The shop, house, and land were | Daughters received a greater share than sons |

²⁸ Informant, *Interview*, September 2021.

| | | |
|------------------------------------|--|---|
| | inherited. The shop was given to the second and third daughters. The house and land were divided between the son and daughter. | |
| Umi, daughter of deceased | KM left behind a wife, three sons, and a daughter. Assets consisted of houses, land, and plantation. According to the daughter of the deceased, the eldest child received a larger share than the others | Elders child received the greatest share |
| Waru, wife of deceased | HS left behind a wife, three sons, and four daughters. Assets consisted of houses and cars. A car was given to the youngest daughter. The two houses, the first was occupied by the wife, and the second was sold and the proceeds divided amongst the seven children. | Youngest child received the greatest share |
| Fara, the second child of deceased | HM left behind a son and two daughters. Assets consisted of one house, which was given to the second child a | The most faithful child received the greatest share |

| | | |
|--|-----------|--|
| | daughter. | |
|--|-----------|--|

Table 1 shows that six inheritance systems are used by the Bugis Luwu, most of which are inequitable. In the first case, the wife of the departed divided assets equitably between her sons²⁹ and daughters.²⁹ According to the wife of the deceased, they did not distinguish between their sons and daughters. In the second system, sons receive a larger share of assets than daughters³⁰ following religious law. In the third system, daughters receive a larger share of assets than sons,³¹ as they were the ones to dedicate themselves to service their parents.

In the fourth system, the eldest children receive the greatest share of assets,³² as they are the ones who take on the duties of the departed. In the fifth system, the youngest children receive the largest share;³³ in such cases, the older children have often achieved economic stability or traveled abroad. In the sixth system, it is the children who have most dedicated themselves to their parents who receive the largest share.³⁴

These inheritance systems show that, in general, Buginese society emphasizes the kinship bonds and relations between the deceased and their heirs; religious considerations are secondary.

Most members of Bugis Luwu society are Muslim; however, they have continued to adhere to customary values and traditions. When asked what inheritance system they practiced, most informants simply stated "Islamic". In practice, however, the division of assets follows customary laws that are not found in Islamic teachings (*fiqhi mawaris*), and this is deemed just by informants.

The six inheritance systems used by the Bugis Luwu are varied, and injustice may occur when the deceased and/or their spouse desire to divide assets a certain way. This is influenced by the kinship system, wherein discussions often occur within the family without providing heirs an opportunity to express their views. Many

²⁹ Ikram, eldest child of the deceased, *interview*, September 2021.

³⁰ Haniah, wife of the deceased, *interview*, August 2021.

³¹ Ishak, husband of the deceased *interview*, August 2021.

³² Umi, daughter of the deceased, *interview*, June 2021.

³³ Waru, wife of the deceased, *interview*, July 2021.

³⁴ Fara, second child of deceased, *interview*, June 2021.

would feel ashamed if disputes were brought to court, for example, if the children or heirs disputed their share.

Similarities Between Religious And Customary Inheritance Law

Diverse inheritance laws are practiced by the Bugis Luwu. Two systems are used: Islamic and customary. Both are inexorably intertwined with Indonesian history, including its Hindu and Buddhist kingdoms, the rise of Islam, and the colonial era—all of which have influenced the everyday lives of society. This is seen in Table 2 below.

Table 2. Inheritance Systems Used

| No. | Case | Inheritance System | |
|-----|--|--------------------|---|
| 1 | Equitable Division | Customary | Islamic |
| 2 | Greater share for sons | | Islamic |
| 3 | Greater share for daughters | Customary | |
| 4 | Greater share for the eldest child | Customary | Islamic |
| 5 | Greater share for the youngest child | Customary | Islamic, since the youngest living with parents |
| 6 | Greater share for most dedicated child | Customary | Islamic, since the child cares the parents and his brother much |

Data compiled from various sources

Table 2 shows six forms of inheritance practiced by the Bugis Luwu; five of these refer to customary inheritance law, and five refer to Islamic inheritance law. In one case, a purely religious approach is used; assets are divided using a 2:1 ratio, with sons receiving the greater share. This indicates that, in general, the Bugis Luwu use discussion to determine the best course of action. Many deem it safer and more apt to divide their assets to heirs while they are still

alive—even though, in Islamic and state inheritance laws, assets are only divided after death.³⁵ Islamic inheritance law has been practiced amongst the Bugis since the first king converted to Islam. Over time, customary and Islamic laws blended to create new traditions, such as those found in table 2. Today, members of the public have difficulty distinguishing between Islamic inheritance law and customary inheritance law.³⁶

The Buginese recognize a customary adagium, "*ade' sanrei kisara'e atau sara' sanrei kiade'e*"—custom rests upon Islam, and Islam rests upon custom. As such, Islam and Buginese society are inexorably intertwined and cannot easily be distinguished. This is evident, for example, in the public's general response to the question of what inheritance law is being used; as noted by Zainuddin, "[they say] Islamic law but in reality, they practice customary law".³⁷ Here, Islamic and customary laws intersect, as shown in dialogue. The family of BP and the wife of AI both stated "*de'ku passilengeng wija-wijakku pada manenguwarengngi warang parang*", i.e., they did not differentiate between their children when dividing their assets. Their three sons and three daughters received land, shops, and houses. All land was divided evenly between the children; the three shops were divided amongst pairs (one shop for every two children); the home in Palopo was given to the youngest son; and the home in Makassar was given to the third child—a daughter.³⁸ The pluralistic inheritance system practiced by the Bugis Luwu reflects how different legal systems influence each other.

First, certain elements are shared by both Islamic and customary systems; for example, both recognize daughters' right to receive an inheritance. Likewise, both systems share certain terms and concepts; for example, the Buginese recognize the adage "*mallempai uranewe ma'jujungi makkuraiwe*" (men bear two, women bear one). Such a concept is also contained within the Qur'an; in Surah an-Nisa, Verse 11, it is stated that "Allah commands you regarding your

³⁵ Azimar Rusydi, religious judge and former chief justice of the Palopo Religious Court, *interview*, September 2021.

³⁶ Rusydi, religious leader, *interview*, September 2021).

³⁷ Zainuddin, customary and religious leader, *interview*, July 2021)

³⁸ Asiah, wife of the deceased, *interview*, August 2021.

children: the share of the male will be twice that of the female.³⁹

Second, they contain similarities in the rights and conceptual frameworks used for understanding women and children. Male and female children both have the right to receive an inheritance. emphasized by Said (2015:78),⁴⁰ that the relationship between adat and Islam in Sulawesi has existed for a long time and this has then created an acculturation process so that the influence of adat is slowly influenced by Islam. The link between customary and Islamic law in Sulawesi is a long-standing one that is entrenched in acculturation, through which indigenous customs have been influenced by Islam. It is therefore not surprising that Islam and custom are mutually influential.

Third, similarities in the sanctions and regulations binding members. The *Compilation of Islamic Laws*,⁴¹ provides formal guidelines for resolving disputes in matters of inheritance. According to several scholars, the *Compilation of Islamic Laws* is an Indonesian form of *fiqh* (Syarifuddin Daud, Religious leader, interview July 2021).⁴² in the second book of this compilation, both women—be they grandmothers, mothers, wives, daughters, granddaughters, sisters, or aunts—and men—be they grandfathers, fathers, husbands, sons, grandsons, brothers, or

³⁹ Mu'ammarr Zayn Qadafi. "The Contemporary Discussion on Women's Inheritance (A Study on Nasr Hamid Abu Zayd's Interpretation and Its Implication)". *ESENSIA: Jurnal Ilmu Ushuluddin* 12 (2). (2011). Yogyakarta, pp:289-308. <https://doi.org/10.14421/eseia.v12i2.714>.

⁴⁰Muhazzab Said, a Study on the Acculturation of Islam and Local Culture Bungamale as a Local Culture of South Sulawesi, *JICSA: Journal of Islamic Civilization in Southeast Asia* 4, (2), 2015.

⁴¹The Indonesian compilation of Islamic law (Kompilasi Hukum Islam) is a *fiqh* codification document based on the collective *ijtihad* taking into account the various customs and traditions across Indonesia and *mashlahat* (exigency). This Comilation of Islamic Law was formally issued under the Indonesian Presidential Instruction No. 1 of 1991 as guideline of material law for the Religious Courts, containing three books: the Book of Marriage; the Book of Inheritance, Wills, and Gifts; and the Book of Waqf. Habiburrahman, *Rekonstruksi of Islamic Inheritance Law in Indonesia*, (Jakarta; Kencana Prenada Media Group, 2011). 53. See Also Amin Husein Nasution, *Inheritance Law an analysis of Mujtahid Thought and Compilation of Islamic Law*, (Jakarta; Rajagrafindo Persada, 2012). 12

⁴² Syarifuddin Daud, Religious Leader, Ex MUI Leader. Interview July 2021

uncles—are identified as having the right to inherit assets. Jurisprudence also provides guidance for resolving disputes in inheritance matters.

Collaborating Islamic and Customary law to Create Gender Equity

Amongst the Bugis Luwu, diverse mechanisms are used to divide assets between heirs. This often results in inequity, in part because of diverse understandings of inheritance law and in part because families tend to divide their assets as they please. Many heirs feel as though the assets have not been distributed fairly. Therefore, it is necessary to develop a new model, a strategic solution that blends Islamic and customary understandings of inheritance.

Table 3: Blended Models

| No. | Member of Society | Model | Description |
|-----|---|----------------------|--|
| | Religious and customary leader | Massideppungeng | Bringing together the core family and government, religious and customary leaders. |
| | Government leader, customary leader, and religious leader | Conditional | Assets divided conditionally, based on facts in the field |
| | Religious and customary leader | Proportional justice | Assets are divided between heirs justly, to achieve a specific goal. |

Source: Primary data, collated by researchers

Table 3 explains the collaborative models of inheritance used by the Bugis Luwu. It is divided into three sections. Zainuddin, a religious and customary leader in Palopo, used the term *massideppungeng* to refer to a process through which the heirs,

family, government, and religious customary leaders are united. This is intended to provide a further legal foundation for the heirs and distribution of assets, ensuring that items are distributed proportionally and fairly, as agreed by all involved. As stated by one informant, in the distribution of assets, it is important to involve the authorities (for example, religious leaders and elders) as they best understand the distribution of assets.⁴³

Second is the conditional distribution of assets, in accordance with the facts in the field. First, all expenses incurred by the death of the departed are subtracted—hospital fees, funeral preparations, outstanding debts, and charity. Second, other debts are settled. Third, the current assets of the heirs are identified. Fourth, the main heir is identified.⁴⁴ Third is proportional justice, in which the heirs and their specific needs, desires, and goals are identified. Heirs are not equal. Some may be established, while others may not be. Some have used much of their parents' money for school, marriage, etc., while others have not. As stated by one informant, the particular situation of heirs must be considered; for instance, if Son A has had his education funded through his undergraduate degree, and his parents' sold land to pay for his marriage, while Daughter B lived at home and helped her family, receiving only a high school degree, it would not be just to give the son the larger share. Such factors are considered carefully when dividing assets.⁴⁵

Studies of gender equity have developed models that make it possible to investigate the inheritance issues amongst the Buginese of Sulawesi. The collaborative model used by the authors, which referred to Islamic inheritance law, has enabled them to explore the development of gender equity in Buginese society.

Conclusion

This article has shown that, although the majority of Buginese are Muslim, Islamic approaches to inheritance tend not to be practiced—even though Islam provides highly detailed guidelines for distributing assets to heirs. Amongst the Bugis Luwu, assets tend to

⁴³ Syarifuddin Daud, Religious Leader, *interview*, August 2021.

⁴⁴ Rusydi, *interview*, July 2021.

⁴⁵ Azimar Rusydi, religious judge and former chief justice of the Palopo Religious Court, *interview*, July 2021.

be distributed proportionally, with both sons and daughters receiving an equitable share. Six specific models for distributing assets were identified as being used by the Bugis Luwu. Five of these were rooted in customary law, as negotiated with Islamic law, while one followed the 2:1 ratio provided by the Qur'an. The Bugis Luwu thus rely heavily on a familial or discourse-based system, and the gender-equitable Massideppungeng, conditional, and proportional justice models.

The decision to not employ Islamic law in inheritance matters indicates a genuine problem with the approach. Textual understandings of the Qur'an, which emerged in Arabic society fourteen centuries ago, tend to result in inheritance matters being handled discriminatively. As a consequence, the use of customary law to distribute assets amongst heirs provides an ideal model for equitable inheritance. This article thus recommends the creation of a new model, one that integrates religious, customary, and social perspectives to provide an approach to inheritance that is contextual, adaptive, and gender-equitable.

Having only taken the Bugis Luwu as its sample, many findings can still be made. Further research could explore, for example, the dialog between religion and custom that exists amongst the Bugis Luwu of Sulawesi or, more broadly, amongst Indonesia's diverse Muslim-majority population.

References

- Aditya, Zaka Firma. "Romantisme Sistem Hukum di Indonesia : Kajian atas Kontribusi Hukum Adat dan Hukum Islam terhadap Pembangunan Hukum di Indonesia." *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 8, no. 1 (May 15, 2019): 37. <https://doi.org/10.33331/rechtsvinding.v8i1.305>.
- Ahmad, Mahtab, Moazma Batool, and Sophia F Dziegielewski. "State of Inheritance Rights: Women in a Rural District in Pakistan." *Journal of Social Service Research* 42, no. 5 (October 19, 2016): 622-29. <https://doi.org/10.1080/01488376.2016.1177633>.
- Anderson, Siwan. "Legal Origins and Female HIV." *American*

Economic Review 108, no. 6 (2018): 1407-39.

Bahrami-Rad, Duman. "Keeping It in the Family: Female Inheritance, Inmarriage, and the Status of Women." *Journal of Development Economics* 153 (November 2021): 102714. <https://doi.org/10.1016/j.jdevec.2021.102714>.

Bennett, Thomas. "Indigenous Peoples, Customary Law and Human Rights—Why Living Law Matters, by Brendan Tobin: London and New York, Earthscan Routledge, 2014, Xxii+ 302 Pp., \$145 (Hardback), ISBN 978-1-13-801968-3." Taylor & Francis, 2015.

Bericat, Eduardo. "The European Gender Equality Index: Conceptual and Analytical Issues." *Social Indicators Research* 108, no. 1 (2012): 1-28.

Berkah, Dian, and Tjiptohadi Sawarjuwono. "Inheritance Wealth Distribution Model and Its Implication to Economy." *Humanities & Social Sciences Reviews* 7, no. 3 (April 1, 2019): 01-10. <https://doi.org/10.18510/hssr.2019.731>.

Carter, Michael. "Gender Socialization and Identity Theory." *Social Sciences* 3, no. 2 (May 12, 2014): 242-63. <https://doi.org/10.3390/socsci3020242>.

Cooper, Elizabeth. "Inheritance and the Intergenerational Transmission of Poverty in Sub-Saharan Africa: Policy Considerations." *Chronic Poverty Research Centre Working Paper*, no. 159 (2010).

Daud, Syarifuddin, Religious Leader, Ex MUI Leader, Ex Palopo STAIN Leader.

Deere, Carmen Diana, Abena D Oduro, Hema Swaminathan, and Cheryl Doss. "Property Rights and the Gender Distribution of Wealth in Ecuador, Ghana, and India." *The Journal of Economic Inequality* 11, no. 2 (June 7, 2013): 249-65. <https://doi.org/10.1007/s10888-013-9241-z>.

- Deininger, Klaus, Aparajita Goyal, and Hari Nagarajan. "Women's Inheritance Rights and Intergenerational Transmission of Resources in India." *Journal of Human Resources* 48, no. 1 (2013): 114-41. <https://doi.org/10.3368/jhr.48.1.114>.
- Doss, Cheryl, Mai Truong, Gorrettie Nabanoga, and Justine Namaalwa. "Women, Marriage and Asset Inheritance in Uganda." *Development Policy Review* 30, no. 5 (September 2012): 597-616. <https://doi.org/10.1111/j.1467-7679.2012.00590.x>.
- Ezeilo, Joy Ngozi. "Rethinking Women and Customary Inheritance in Nigeria." *Commonwealth Law Bulletin* 47, no. 4 (October 2, 2021): 706-18. <https://doi.org/10.1080/03050718.2020.1818596>.
- Fahmi, Muhammad, Irwan Abdullah, Hasanah Hasanah, Imam Mujahid, and Misbah Zulfa Elizabeth. "Media Representations of Gender: The Marginalization of Female Muslim Scholars in Indonesia." *Journal of Critical Reviews* 7, no. 05 (March 1, 2020). <https://doi.org/10.31838/jcr.07.05.44>.
- Febriawanti, Dinta, and Intan Apriyanti Mansur. "Dinamika Hukum Waris Adat di Masyarakat Bali pada Masa Sekarang." *Media Iuris* 3, no. 2 (July 23, 2020): 119. <https://doi.org/10.20473/mi.v3i2.18754>.
- Fikri, Fikri. "(Peer Review) Konsep Hukum Waris Islam dan Hukum Waris Adat: Analisis Kontekstualisasi dalam Masyarakat Bugis," 2022.
- Groce, Nora Ellen, Jillian London, and Michael Ashley Stein. "Inheritance, Poverty, and Disability." *Disability & Society* 29, no. 10 (2014): 1554-68.
- Gultom, Elfrida R. "Development of Women Position in the Patrilineal Inheritance of Indonesian Society." *Jurnal Dinamika Hukum* 17, no. 2 (May 31, 2017): 194. <https://doi.org/10.20884/1.jdh.2017.17.2.886>.
- Habiburrahman, Rekonstruksi of Islamic Inheritance Law in

Indonesia, Jakarta; Kencana Prenada Media Group, 2011.

Haniru, Rahmat. "Hukum Waris di Indonesia Perspektif Hukum Islam dan Hukum Adat." *Al-Hukama': The Indonesian Journal of Islamic Family Law* 4, no. 2 (2014): 456-74.

Haque, Muhammad Faizul, Sohirin Mohammad Solihin, Nadzrah Ahmad, and Mohd Shah Jani. "Women Rights to Inheritance in Muslim Family Law: An Analytical Study." *International Journal of Islamic Business & Management* 4, no. 1 (April 13, 2020): 15-26. <https://doi.org/10.46281/ijibm.v4i1.543>.

Heath, Rachel, and Xu Tan. "Intrahousehold Bargaining, Female Autonomy, and Labor Supply: Theory and Evidence from India." *Journal of the European Economic Association* 18, no. 4 (August 1, 2020): 1928-68. <https://doi.org/10.1093/jeea/jvz026>.

Jackson, Sue. "Young Feminists, Feminism and Digital Media." *Feminism & Psychology* 28, no. 1 (February 8, 2018): 32-49. <https://doi.org/10.1177/0959353517716952>.

Jafar, Usman, Mawardi Djalaluddin, and Nur Taufiq Sanusi. "Eksistensi Hukum Waris Adat dalam Masyarakat Muslim di Kota Gorontalo dalam Perspektif Sejarah." *Jurnal Diskursus Islam* 6, no. 2 (August 24, 2018): 361-401. <https://doi.org/10.24252/jdi.v6i2.6866>.

Jubba, Hasse, Mustaqim Pabbajah, Zainuddin H Prasadjo, and Zuli Qodir. "The Future Relations between the Majority and Minority Religious Groups, Viewed from Indonesian Contemporary Perspective: A Case Study of the Coexistence of Muslims and the Towani Tolotang in Amparita, South Sulawesi." *International Journal of Islamic Thought* 16 (2019): 13-23.

Kasdi, Abdurrohman, and Khoiril Anwar. "Inheritance Distribution of Adopted Children in the Perspective of Customary Law and Islamic Law Compilation: Case Study of the Application of Inheritance Law in Kudus." *Al-Ahkam* 29, no. 2 (2019): 141-58.

- Kurniawan, Puji. "Akulturasi Hukum Islam dan Budaya Lokal." *Yurisprudentia: Jurnal Hukum Ekonomi* 3, no. 2 (2017): 1-13. <http://194.31.53.129/index.php/yurisprudentia/article/view/1518>.
- Miswardi, Miswardi, Yefri Joni, and Nasfi Nasfi. "A Acculturation of Islamic Teachings and Traditional Minang Kabau Locality in Economic Practices." *INTERNATIONAL JOURNAL OF SOCIAL, POLICY AND LAW* 2, no. 1 (2021): 27-36.
- Mostofa, Md. "Rules and Practices of Women's Inheritance Rights in Islam: Bangladesh Perspective." *International Journal of Islamic Business & Management* 3, no. 1 (April 5, 2019): 14-20. <https://doi.org/10.46281/ijibm.v3i1.245>.
- Mulyadi, Mohammad. "Pemberdayaan Masyarakat Adat Dalam Pembangunan Kehutanan." *Jurnal Penelitian Sosial Dan Ekonomi Kehutanan* 10, no. 4 (2013): 224-34.
- Mutawali, Muhammad. "The Dialectics of Customary Law and Islamic Law: An Experience from Dou Donggo Customs of Bima, Indonesia." *AHKAM: Jurnal Ilmu Syariah* 21, no. 1 (June 30, 2021). <https://doi.org/10.15408/ajis.v21i1.19825>.
- Muzainah, Gusti, and Miftah Faridh. "Akulturasi Hukum Waris Adat pada Masyarakat Dayak Meratus." Antasari Press, 2019.
- Nasution, Adelina. "Pluralisme Hukum Waris di Indonesia." *Al-Qadha* 5, no. 1 (July 1, 2019): 20-30. <https://doi.org/10.32505/qadha.v5i1.957>.
- Nasution, Amin Husein, *Inheritance Law an analysis of Mujtahid Thought and Compilation of Islamic Law*, Jakarta; Rajagrafindo Persada, 2012.
- Nuraidah, Siti, and Ani Yumarni. "An Acculturation of the Application of Inheritance Law in the Sundanese Indigenous Community of Wiwitan." *Indonesian Journal of Social Research (IJSR)* 3, no. 2 (2021): 135-42.

- Nurhayanto, Puji, and Dadan Wildan. "Transformasi Nilai-Nilai Kearifan Lokal Masyarakat Adat Cireundeu." *SOSIETAS* 6, no. 1 (2016).
- Qadafi, Mu'ammarr Zayn. "The Contemporary Discussion on Women's Inheritance (A Study on Nasr Hamid Abu Zayd's Interpretation and Its Implication)". *ESENSIA: Jurnal Ilmu-Ilmu Ushuluddin* 12, no. 2 (July 22, 2011): 289-308. Accessed September 27, 2022. <https://ejournal.uin-suka.ac.id/ushuluddin/esensia/article/view/122-06>.
- Qamar, Nurul, Baharuddin Badaru, and Aan Aswari. "Local Wisdom Culture of Bugis-Makassar in Legal Perspective." In *International Multidisciplinary Conference and Call for Paper*, 12:87, 2017.
- Rahardjo, Turnomo, Hapsari D Sulistyani, and Taufik Suprihatini. "Digital Media Literacy in Samin Indigeneous People." Edited by Hadiyanto, Maryono, and Budi Warsito. *E3S Web of Conferences* 73 (December 21, 2018): 14018. <https://doi.org/10.1051/e3sconf/20187314018>.
- Reo, Nicholas James, and Kyle Powys Whyte. "Hunting and Morality as Elements of Traditional Ecological Knowledge." *Human Ecology* 40, no. 1 (2012): 15-27.
- Ruzyccki, Shannon M, Georgina Freeman, Aleem Bharwani, and Allison Brown. "Association of Physician Characteristics with Perceptions and Experiences of Gender Equity in an Academic Internal Medicine Department." *JAMA Network Open* 2, no. 11 (November 13, 2019): e1915165. <https://doi.org/10.1001/jamanetworkopen.2019.15165>.
- Sabri, Muh. "Persepsi Hukum Islam Terhadap Sistem Kewarisan Berbasis Budaya Pada Masyarakat Bugis Bone." *Ar-Risalah Jurnal Hukum Keluarga Islam* 3, no. 2 (2017): 233-56.
- Said, Muhazzab. "A Study on the Acculturation of Islam and Local Culture Bungamale as a Local Culture of South Sulawesi." *JICSA (Journal of Islamic Civilization in Southeast Asia)* 4, no. 2

(2015).

Samide, Zainuddin, Customory and Religious Leader, MUI Leader.

Sharma, Radha R, and Neha P Sharma. "Opening the Gender Diversity Black Box: Causality of Perceived Gender Equity and Locus of Control and Mediation of Work Engagement in Employee Well-Being." *Frontiers in Psychology* 6 (2015): 1371.

Sihombing, Deo Andika Putra. "Pembagian Waris Adat Masyarakat Suku Bugis di Kecamatan Enok, Kabupaten Indragiri Hilir, Provinsi Riau." *PREMISE LAW JURNAL* 1 (2017).

Siska, Eti, Firman Firman, and Rusdinal Rusdinal. "Pergeseran Hukum Waris Adat di Minangkabau (Studi Kasus: Hukum Warisan Tanah Ulayat di Nagari Ladang Panjang Kecamatan Tigo Nagari, Kabupaten Pasaman, Sumatera Barat)." *Culture & Society: Journal of Anthropological Research* 1, No. 2 (December 31, 2019): 157-63. <https://doi.org/10.24036/csjar.v1i2.26>.

Sugianto, Fajar, Vincensia Esti Purnama Sari, and Graceyana Jennifer. "Ketimpangan Hak Berbasis Gender dalam Hukum Waris Adat Suku Lamaholot." *DiH: Jurnal Ilmu Hukum* 17, no. 2 (July 7, 2021): 152-66. <https://doi.org/10.30996/dih.v17i2.4854>.

Sumardi, Dedy, Ratno Lukito, and Moch Nur Ichwan. "Legal Pluralism within the Space of Sharia: Interlegality of Criminal Law Traditions in Aceh, Indonesia." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 1 (2021): 426-49.

Tono, Sidik, M Roem Syibly, Amir Mu'allim, Ahmad Nurozi, and Muhammad Roy Purwanto. "The Harmonious Relationship between Minangkabau Custom and Islam in the Distribution of Inheritance." *Al-Shajarah: Journal of the International Institute of Islamic Thought and Civilization (ISTAC)*, 2019, 39-55.

Whyte, Kyle. "What Do Indigenous Knowledges Do for Indigenous Peoples?" In *Traditional Ecological Knowledge*, 57-82. Cambridge University Press, 2017.

<https://doi.org/10.1017/9781108552998.005>.

Wibowo, Dwi Edi. "Peran Ganda Perempuan Dan Kesetaraan Gender." *Muwazah: Jurnal Kajian Gender* 3, no. 1 (2011). <https://ejournal.iainpekalongan.ac.id/index.php/Muwazah/article/view/6>.

Yusuf, Muhammad. "Relavansi Nilai-nilai Budaya Bugis dan Pemikiran Ulama Bugis: Studi Atas Pemikirannya Dalam Tafsir Berbahasa Bugis Karya MUI Sulsel." *El-HARAKAH* 15, No. 2 (December 30, 2013): 199. <https://doi.org/10.18860/el.v15i2.2766>.

Zubair, Asni. "Integrasi Hukum Islam dan Hukum Adat dalam Pewarisan Masyarakat Bugis Bone," n.d.

Zuhdi, Muhammad Harfin. "Dakwah dan Dialektika Akulturasi Budaya." *RELIGIA* 15, no. 1 (October 3, 2017). <https://doi.org/10.28918/religia.v15i1.122>.

Gender Equity in Inheritance System: The Collaboration of Islamic and Bugis Luwu Customary Law

ORIGINALITY REPORT

20%

SIMILARITY INDEX

19%

INTERNET SOURCES

11%

PUBLICATIONS

10%

STUDENT PAPERS

PRIMARY SOURCES

| | | |
|---|---|-----|
| 1 | www.researchgate.net Internet Source | 5% |
| 2 | www.scilit.net Internet Source | 3% |
| 3 | journal.iaincurup.ac.id Internet Source | 1% |
| 4 | www.grafiati.com Internet Source | 1% |
| 5 | 123dok.com Internet Source | 1% |
| 6 | repository.uin-malang.ac.id Internet Source | 1% |
| 7 | www.jurnalhukumdandanperadilan.org Internet Source | 1% |
| 8 | journal.uinjkt.ac.id Internet Source | 1% |
| 9 | Submitted to Kenyatta University Student Paper | <1% |

| | | |
|----|---|------|
| 10 | jurnal.iain-bone.ac.id Internet Source | <1 % |
| 11 | digilib.uin-suka.ac.id Internet Source | <1 % |
| 12 | jurnal.albidayah.id Internet Source | <1 % |
| 13 | Kate Galloway. "Listening to Indigenous Knowledge of the Land in Two Contemporary Sound Art Installations", <i>Feminist Media Histories</i> , 2020 Publication | <1 % |
| 14 | Submitted to Boston University Student Paper | <1 % |
| 15 | link.springer.com Internet Source | <1 % |
| 16 | Submitted to College of the Canyons Student Paper | <1 % |
| 17 | jurnal.umt.ac.id Internet Source | <1 % |
| 18 | jurnal.unpad.ac.id Internet Source | <1 % |
| 19 | Submitted to iain Student Paper | <1 % |
| 20 | ojs.unud.ac.id Internet Source | <1 % |

| | | |
|----|--|------|
| 21 | ejurnal.ung.ac.id Internet Source | <1 % |
| 22 | iris.unisr.it Internet Source | <1 % |
| 23 | repository.iainpalopo.ac.id Internet Source | <1 % |
| 24 | repository.uindatokarama.ac.id Internet Source | <1 % |
| 25 | dokumen.pub Internet Source | <1 % |
| 26 | garuda.ristekbrin.go.id Internet Source | <1 % |
| 27 | journal.uinsgd.ac.id Internet Source | <1 % |
| 28 | radjapublika.com Internet Source | <1 % |
| 29 | reliefweb.int Internet Source | <1 % |
| 30 | www.merit.unu.edu Internet Source | <1 % |
| 31 | Ahmad Faisal, Mustaqim Pabbajah, Irwan Abdullah, Nova Effenty Muhammad, Muh. Rusli. " Strengthening religious moderatism | <1 % |

through the traditional authority of in
Indonesia ", Cogent Social Sciences, 2022

Publication

32

Jevlin Solim. "The Accommodation of ASEAN
Convention against Trafficking in Persons
(ACTIP) in Indonesia Regulation", FIAT
JUSTISIA, 2019

Publication

<1 %

33

Submitted to PES University

Student Paper

<1 %

34

ajk.pte.hu

Internet Source

<1 %

35

discovery.ucl.ac.uk

Internet Source

<1 %

36

e-journal.iainptk.ac.id

Internet Source

<1 %

37

ejournal.uin-suka.ac.id

Internet Source

<1 %

38

open.uct.ac.za

Internet Source

<1 %

39

ksascholar.dri.sa

Internet Source

<1 %

40

Submitted to University of Dundee

Student Paper

<1 %

41

files.osf.io

Internet Source

<1 %

42 pkns.portalapssi.id
Internet Source

<1 %

Exclude quotes On

Exclude matches Off

Exclude bibliography On