# Reposition of Islamic Law in The Heritage of the *Tasaluh* And ' *Urf Perspectives:* Case Study of Inheritance Distribution in Suppa District, Pinrang Regency

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***Abstract***

*The purpose of this study is to discuss the position of Islamic law which is considered not a solution in the distribution of inheritance in Tellumpanua Village, Suppa District, Pinrang City. The problems raised are first, how is the practice of inheritance distribution in Tellumpanua Village, Suppa District. Second, how is the analysis of Islamic Law on the tradition of inheritance distribution in Tellumpanua Village, Suppa District. This study uses a type of field research with a qualitative descriptive research method with a phenomenological approach in managing and analyzing data, the data in this study were obtained from primary data and secondary data, with data collection techniques, namely observation, interviews, and documentation. This study also uses the theory of tashalu, 'urf, and the theory of justice. The results of this study indicate that first, the practice of inheritance distribution in Tellumpanua Village, Suppa District is that the distribution of inheritance is carried out according to local customs carried out by previous parents until now, the distribution of inheritance is carried out before the testator dies, and daughters are prioritized to receive inheritance in the form of houses or gold jewelry compared to sons. Second, the analysis of Islamic law on the tradition of inheritance distribution in Tellumpanua Village, Suppa District, namely the practice of inheritance distribution was not found during the time of the Prophet Muhammad or in the Qur'an and Sunnah. However, the distribution of inheritance in Tellumpanua Village, Suppa District is permitted because, according to the customs or habits carried out by the community, it is in accordance with Islamic law.*

## 1. Introduction

Islamic inheritance law in Indonesia has basically been regulated in the Compilation of Islamic Law in article 171, through Presidential Instruction of the Republic of Indonesia Number 1 of 1991. [1]However, these legal provisions do not immediately resolve the problems arising from the diversity of inheritance systems that have developed among Muslim communities in Indonesia. [2]However, in reality, the settlement of inheritance distribution based on Islamic inheritance law has not been implemented optimally [3].

In general, in Indonesia there are three inheritance law systems adopted by the community. *First,* inheritance law implemented based on Islamic law, as determined in the science of *faraidh. Second,* customary inheritance law which is always passed down from generation to generation.[4] *Third,* inheritance law based on Civil Law/ *Burgerlijk wetboek* (BW). Among the three types of inheritance law, Islamic inheritance law and customary inheritance law are the most dominant in the practice of inheritance distribution in society [5].

Although the Bugis community of Tellumpanua Village, Suppa District is predominantly Muslim, in the distribution of inheritance, they do not necessarily apply Islamic inheritance law in its entirety. [6]The Bugis community of Tellumpanua Village, Suppa District, Pinrang Regency generally in the distribution of inheritance can be done even though the testator is still alive, they also apply a family system by holding a deliberation first, and there is an agreement among the heirs [7].

The share of sons and daughters has been determined in *the texts* of both the Qur'an

[1] Nusantara Literacy Team, *Compilation of Islamic Law* (CV Literasi Nusantara Abadi, 2021). P. 54.

[2] Hazar Kusmayanti and Lisa Krisnayanti, 'The Rights and Position of Grandchildren as Substitute Heirs in the Inheritance Distribution System Reviewed from Islamic Inheritance Law and Compilation of Islamic Law', *Jurnal Ilmiah Islam Futura* 19, no. 1 (2019): 68–85.

[3] Raja Ritonga, 'The Inheritance Rights of the Fetus and the Method of Calculating Its Share in Islamic Inheritance; Analysis and Application', *Mizan: Journal of Islamic Law* 5, no. 1 (2021): 29–42.

[4] Kusmayanti and Krisnayanti, 'The Rights and Position of Grandchildren as Substitute Heirs in the Inheritance Distribution System Reviewed from Islamic Inheritance Law and the Compilation of Islamic Law'.

[5] NM Wahyu Kuncoro, *Inheritance: Problems and Solutions* (Achieve Hope of Success, 2015). P. 34.

[6] Halimatul Maryani et al., 'Kinship System and Its Influence on Islamic Inheritance Law', *Legal Brief* 11, no. 4 (2022): 2518–25.

[7] Ira Hasnita and Asni Zubair, 'Review of Islamic Law on Ampikale in the Bugis Community Inheritance System ' , *AL-SYAKHSHIYYAH Journal of Islamic Family Law and Humanity* 1, no. 2 (2019): 166–82.

and Hadith. [8]However, it is different with the division of inheritance that applies to the Bugis community in Tellumpanua Village, Suppa District, that daughters seem to be given priority over sons in inheriting certain assets, such as a house and its furnishings along with valuable jewelry belonging to the testator which will be inherited by the daughter after the testator dies. [9]While in the Islamic inheritance law system, there is no inheritance division system like this, but in the Qur'an and Hadith it has been clearly determined the share of daughters and there is nothing that states or requires that daughters can only inherit certain assets [10]. With the existence of an inheritance division system like this, it will actually have an impact on the inheritance obtained by other heirs because their share becomes unclear [11].

Based on the results of the author's interview with one of the communities in Tellumpanua Village, Suppa District, which implements an inheritance distribution system that gives a special portion to daughters, he said:

"I divided the inheritance before I died, so that there would be no disputes among my children in the future. In carrying out the division of inheritance, I chose the customary way as my parents did before. I have 5 children, 2 daughters and 3 sons. The eldest daughter got the land to build a house, the youngest daughter got the house and its contents. As for the sons, I gave each of them a plot of land."[12]

The community in Tellumpanua Village, Suppa District, is predominantly Bugis, and adheres to an inheritance distribution system whereby daughters are given priority in receiving special assets such as houses and their furnishings compared to sons. The inheritance is also divided before the testator dies, so that there is no dispute between the

[8] Reni Nur Aniroh, 'Strengthening the Idea of Gender Equality in the Bilateral Inheritance System: The Post-Hazarin Bilateral Inheritance System', *Al-Ahwal: Journal of Islamic Family Law* 13, no. 2 (2020): 119–38.

[9] Nur Aksin, Rahmat Robi Waliyansyah, and Nugroho Dwi Saputro, 'Expert System for Inheritance Distribution According to Islamic Law', *Walisongo Journal of Information Technology* 2, no. 2 (2020): 115–24.

[10] Yuniar Rahmatiar et al., 'Customary Law of the Bugis Tribe', *Journal of Legal Dialectics* 3, no. 1 (2021): 89–112.

[11] Ihsan Musafir, Usman Jafar, and Supardin Supardin, 'House as a Daughter's Portion in the Inheritance Tradition in Ponre District, Bone Regency (Review of Islamic Inheritance Law)', *Al-Qadau Journal: Islamic Family Law and Justice* 7, no. 2 (2020): 65–86.

[12]Interview with Ngile, Community of Tellumpanua Village, Suppa District, Pinrang Regency, September 14, 2022.

children in the future.

As Muslims, implementing the provisions of Islamic inheritance law is an obligation that must be carried out, because it is a form of piety to Allah and His Messenger. [13]Based on the quotations above, the author is interested in discussing and conducting research with the title "Repositioning of Islamic Law in Inheritance from the Perspective of *Tasaluh* and ' *Urf* (Case Study of Inheritance Distribution in Suppa District, Pinrang Regency)" which will later answer how Islamic Law analyzes the tradition of inheritance distribution in Tellumpanua Village, Suppa District. Based on the background that the author has conveyed above, this study proposes the following problem formulation: First, how is the practice of inheritance distribution in Tellumpanua Village, Suppa District, Pinrang City? Second, how is the analysis of Islamic law on the tradition of inheritance distribution in Tellumpanua Village, Suppa District, Pinrang City? The objectives of this study are as follows: First, to analyze the practice of inheritance distribution in Tellumpanua Village, Suppa District. Second, to analyze the Islamic legal perspective on the tradition of inheritance distribution in Tellumpanua Village, Suppa District.

## 2. Research Method

The research method is implemented in an effort or steps to obtain and be able to obtain accurate information scientifically and systematically and be responsible for the validity of the data. [14]Peter Marzuki understands legal research as a process of searching for legal rules, legal principles and legal doctrines to answer legal questions [15]. Based on this, the author of this study uses the following research methods [16].

Starting from the formulation of the problem, this study uses a qualitative descriptive approach, which means that this study aims to describe, capture, analyze and interpret research topics through observation, interviews and documentation. This type of research is field research because researchers must go directly to the community/field

[13] Mahmud Ikhwanudin, 'Implementation of Gender Equality in the Inheritance Distribution System Based on Islamic Law in Indonesia', *Syntax Idea* 5, no. 10 (2023): 1734–45.
[14] Feny Fiantika, *Qualitative Research Methodology. In Qualitative Research Methodology , Rake Sarasin* (Bandung: PT Remaja Rosdakarya, 2022). P. 17.
[15] Peter Mahmud Marzuki, 'Legal Research', 2013. P. 39.
[16] Lexy J Moleong, *Qualitative Research Methodology* (PT Remaja Rosdakarya, 2021). P. 67.

[17]. Field research is a study of an event that actually happened. This study also uses a phenomenological approach that is adjusted to local reality [18]. This research was conducted in Tellumpanua Village, Pinrang Regency, Supa District, with the aim of arousing the interest of related parties in the tradition of hereditary distribution. This research was conducted for approximately 2 months. This research focuses on the practice of inheritance distribution in Tellumpanua Village, Suppa District, Pinrang City. Then analyzed using the *Tasaluh theory approach* of Islamic law and ' *Urf* .[19]

## 3. Results and Discussion

### A. *Tasaluh* and ' *Urf*

Several theoretical and conceptual references are used in this study as a basis for understanding the problems studied and responding to the research subjects. [20]The theories used are as follows:

#### 1) *Tasaluh*

In some areas in Indonesia, Muslim communities still adhere to customary inheritance laws that have different provisions from Islamic inheritance laws. [21]In the distribution of inheritance, they are not guided by the provisions of the science *of faraid,* but rather apply the customary norms that apply in the region and prioritize deliberation and peace [22]. Peace is the alternative that is closest to the value of justice in the distribution of inheritance if each heir has agreed on their share through a process of deliberation. Peace in the distribution of inheritance in the science *of faraid* is called *tasaluh [23].*

[17] Aan Komariah, 'Qualitative Research Methodology', 2019. P. 95.
[18] Feny Rita Fiantika et al., *Qualitative Research Methodology* (Get Press, 2022). P. 85.
[19] Ajat Rukajat, *Qualitative Research Approach* (Deepublish, 2018). p. 24.
[20] Widya Nurreni Astuti and Khotifatul Defi Nofitasari, 'Protection of Inheritance Rights of Adopted Children: A Comparative Study of Mawaris Jurisprudence and Compilation of Islamic Law', *Journal of Legal Anthology* 3, no. 2 (2023): 235–50.
[21] Saadal Jannah, Akrama Hatta, and Winda Sari Agustini, 'Legal Claims of Heirs Over Donated Property from an Islamic Jurisprudence Perspective', *BUSTANUL FUQAHA: Journal of Islamic Law* 3, no. 3 (2022): 297–307.
[22] Saberiani, 'Division of Inheritance for Girls: A Study of Inheritance Practices in the Bugis Bone Community' (Sunan Kalijaga State Islamic University of Yogyakarta, 2021). P. 15.
[23] Muhammad Mahsus, 'Contextual Interpretation and Existence of Women and Their Implications for Equalizing Male and Female Inheritance Shares', *JIL: Journal of Islamic Law* 1, no. 1 (2020): 25–44.

Ahmad Azhar Basyir is of the opinion that *tasaluh* occurs when the heirs make peace in the distribution of their inheritance by releasing some of the heirs from their rights by giving certain assets from the inheritance or other assets, after deliberation.[24]

In Islamic inheritance law, the term *Tasaluh* means that the heirs make peace by seizing the rights of the heirs to a portion in exchange for receiving certain property, inheritance or other property. The heir who removes (resigns) the other heirs in this case is called *ai-mukharij,* while the heir who is willing to leave (resign) is called *al-kharij* or *al-mukharij.*[25]

Sharia permits akad/peace because it is *akad* (agreement) based on the principle of mutual agreement of the heirs who perform *Tasaluh*. *Tasaluh* is considered as three types of contracts/akad [26]:

a. *Tasaluh* is considered a sale and purchase agreement if the assets inherited from the first party (*al - mukharij*) are considered as the purchase value while the assets inherited from the second party (al-kharij) are considered collectible/purchasable.
b. *Tasaluh* is considered an exchange contract if the first party transfers assets which are considered in exchange for assets received by the other party.
c. *Tasaluh* is considered as a distribution arrangement when the property given (to be transferred) to the person set aside is taken from the property itself.

*Tasaluh* method allows for the reduction of efforts to reduce the financial gap between heirs because the financial gap between heirs causes conflict between them. From the division of the inheritance *tasaluh*, the heirs are expected to

[24] Musafir, Jafar, and Supardin, 'House as a Daughter's Part in the Inheritance Tradition in Ponre District, Bone Regency (Review of Islamic Inheritance Law)'.

[25] Iin Suryaningsih, 'Al-Haqiqah Al-Muwafaqah Li Al-Shari'ah: Al-Tasaluh Bayn Al-Tasawuf Wa Al-Shari'ah Bi Nusantara Fi Al-Qarn Al-Sadis 'Ashr Al-Miladi', *Studia Islamika Indonesian Journal for Islamic Studies* 20, no. 1 (2013).

[26] Nagih Ibrahim, 'Da'wa Lil Tasaluh Ma'al-Mujtama'(A Call for Reconciliation with the Society)', *Cairo: AI-Abikan* , 2005.

understand their rights and their share as stated in the Qur'an about *Furud al-Muqaddarah*. After that both parties make peace.[27]

Inheritance with *the Tasaluh method* is usually carried out in such a way with the principles of family and peace so that a good family relationship is established between the heirs. Regarding the nature of this principle, namely the will of the existing heirs to provide a portion according to the wishes of the heirs. [28]For example, if there is an heir who is financially rich while the other heirs are financially poor, then the weaker heir will be happy to take a larger portion while the other heirs are willing and accept to participate in taking their rights.[29]

Settlement of inheritance through the *Tasaluh method* based on the agreement and mutual will of each heir. [30]Hanafi school of thought scholars understand the concept of *tasaluh* based on the principle of *al-Shabah* where the wife of Abdul Rahman bin Auf named Tumadir made peace by making a mutual agreement. with them. closing others. The wives separated from the heirs and received a share instead of 83 dirhams.[31] Therefore, the division of inheritance according to kinship is permitted and some waive their rights if the heirs agree to it. Voluntary inheritance can also be done if the share of each heir has been determined in advance according to sharia provisions. In this case, inheritance can be done by *Tasaluh* .[32]

The division of inheritance tasaluh or peaceful division of inheritance is regulated in QS Al-Quran. An-Nisa (4): 128 that: If a woman is afraid that her

[27] Herfin Fahri, 'Inheritance Law Review from an Islamic Perspective; The Concept of Inheritance in the Koran, Al Sunnah and Fiqh Rules', *Al Hikmah: Journal of Islamic Studies* 13, no. 01 (2023): 165–89.

[28] Khotifatul Defi Nofitasari, 'Tasaluh as a Method of Inheritance Distribution from a Progressive Law Perspective', *AL-MIKRAJ Journal of Islamic Studies and Humanities (E-ISSN 2745-4584)* 5, no. 01 (2024): 1453–65.

[29] Indah Kasih Pita Loka, 'Division of Inheritance by Means of Peace (Tashaluh) According to Islamic Law (Analysis of Medan Religious Court Decision Number 1927/Pdt. G/2015/PA. Mdn)', 2017.

[30] Muhammad Abduh, 'The Settlement of Inheritance Distribution Without Going Through the Court Through the Tashaluh Method', *Ahwaluna | Journal of Islamic Family Law* 1, no. 1 (2022).

[31] Wahbah Az-Zuhaili, 'Islamic Fiqh and the Law of the Prophet Muhammad, Trans.', *Abdul Hayyie Al-Kattani, et al., Jakarta: Gema Insani* , 2011. P. 257.

[32] Ariani Hidayat, 'THE CONCEPT OF PROPERTY FROM THE PERSPECTIVE OF MAQASID AL-SYARIAH AND ITS IMPLEMENTATION IN CASH WAQF', *Bilancia: Journal of Sharia and Legal Studies* 11, no. 2 (2017): 235–66.

husband is uncomfortable or indifferent (*nusyuz*), she can make peace, because peace is better for her, even though human nature is basically stingy. This peaceful method is implemented with the intention of preventing financial differences between the heirs and thus avoiding conflict.[33] Settlement of inheritance division by *tasaluh* in Indonesia is also accommodated in Article 183 of the Compilation of Islamic Law that: "The heirs can agree to make peace in the division of inheritance after each is aware of his share."[34]

**2) *'Urf***

*'Urf* is something which is no longer foreign to a society because it has become a habit, whether in the form of speech, actions or leaving something [35]. ' *Urf* is also often called Adat (tradition) in Indonesia, or customs carried out by a group of people together. For Islamic scholars, there is no difference between ' *Urf* and Adat [36].

The scholars agree that *'Urf* sahih can be used as a basis *for argument* as long as it does not contradict the Shari'a'.[37] Therefore the scholars said: "Custom is a sharia that is confirmed as law."[38] Based on the description above, it can be concluded that 'urf is divided into two types, namely[39]:

a. *'Urf Sahih*, which is *'Urf* that is good and acceptable because it does not contradict advice'. Or in other words, "urf sahih" is something that people used to know and does not contradict Sharia and it is okay to legalize the forbidden and not violate the obligatory.

[33] Saberiani, 'Division of Inheritance for Girls: A Study of Inheritance Practices in the Bugis Bone Community'.

[34] Ministry of Religious Affairs of the Republic of Indonesia, *Compilation of Islamic Law in Indonesia* (Jakarta: Ministry of Religious Affairs, 2018). p. 87

[35] Ali Rusdi Bedong, 'Implementation of Maqashid Al-Mukallaf on the Implementation of Islamic Law (Applicative Solutions Towards Comprehensive Fatwa)' (Makassar: Alauddin University Press, 2014). P. 45.

[36] Abdul Wahab Mukallaf, *The Science of Usul Fiqh* (Semarang: Dina Utama Semarang, 2014). P. 134.

[37] Fitrah Nisardi, Supardin Supardin, and Andi Muhammad Akmal, 'APPLICATION OF THE RULE OF FIQH AL-ADAH MUHAKKAMAH IN THE DISTRIBUTION OF INHERITANCE PROPERTY IN THE ISLAMIC SOCIETY IN TANETE RIATTANG DISTRICT, BONE REGENCY', *Qadauna: Scientific Journal of Islamic Family Law Students* 4, no. 2 (2023): 498–517.

[38] Rusdaya Basri, *Usul Fiqh 1* (Parepare: IAIN Parepare Press, 2019). p.121

[39] Wahbah Zuhaili, "Ushul Al-Fiqh Al-Islami," Beirut: Dar Al-Fikr, 1986, p. 38.

b. *'Urf Fasid* , namely customs or habits that are known by the wider community or a group of people, but these habits are in conflict with the provisions of Islamic law, in other words, making permissible what has been forbidden and vice versa [40].

*'Urf* can be used as an argument and accepted in Islamic law by the ulama' based on several *proofs* , namely [41]:

a. Verse 199 of Surah al-A'raf (7) states that al-'Urfi in this verse is ordered by scholars of ushul-fiqh and is understood as goodness by scholars of ushul-fiqh, which has become a custom in society. Based on this, this verse is understood as an invitation to do good, so that it has become a tradition in society.[42]
b. Islamic law essentially views and acknowledges good customs or traditions in society as long as they do not conflict with the Qur'an and the Sunnah of the Prophet. The arrival of Islam did not completely eliminate traditions that were integrated into society. However, some were selectively acknowledged and maintained and some were eliminated. For example, recognized tariffs, business cooperation through profit sharing (*al-mudharabah*). This practice developed among the Arabs before Islam and was later recognized by Islam as Islamic law.[43] Based on these facts, scholars concluded that good behavior can be used as a legal basis if certain conditions are met .

## B. Repositioning of Islamic Law in Inheritance Distribution Practices in Pinrang Regency

Inheritance law according to KHI is that a person receives an inheritance from the female or male lineage [44]. Inheritance rights exist if several elements are met, namely: First, heirs, namely people who have been declared dead and have

[40] MSI Asep Maulana Rohimat, *Contemporary Usul Fiqh* (Asep Maulana Rohimat, 2021). P. 146
[41] Abdul Karim Zaidan, 'Al-Wajiz Fi Ushul Al-Fiqh', *Cet. VII* , 1994. P. 211.
[42] Habib Arrasyid, 'Interpretation of Inheritance Division in QS. An-Nisa [4]: 11: Fazlur Rahman's Double Movement Hermeneutic Analysis', *Jurnal Semiotika-Q: Kajian Ilmu Al-Quran Dan Tafsir* 3, no. 2 (2023): 400–413.
[43] Indah Sabarina and Deny Febriansyah, 'Analysis of Heirs' Rejection of Inheritance Results According to Islamic Law and Civil Law', *AZ-ZAWAJIR JOURNAL* 2, no. 1 (2019): 14–27.
[44] Suci Ramadhona, 'Yusuf Qardhawi's Concept of Priority Fiqh' (Postgraduate Program, UIN North Sumatra, 2014). P. 57.

left heirs and inheritance. Second, the heirs, namely. People who are related by blood or marriage to the heir are Muslims and the law does not prevent them from becoming heirs. Third, inheritance is property left by heirs.[45]

The inheritance law adopted by the Tellumpanua Village community, Suppa District, has a major influence on the traditions and customs that have developed in the community from ancient times to the present. These provisions include the inheritance law system, inheritance, inheritance distribution practices, heirs, heirs, and the time the inheritance is handed over to the rightful heirs. The customary inheritance law applied to the Tellumpanua Village community, Suppa District, is carried out by considering the aspect of justice through a deliberation process between the heir and the heirs and does not cause conflict for the heirs.

After conducting research and interviews, the researcher found findings related to the inheritance distribution practices applied by the community in Tellumpanua Village, Suppa District. As the results of the researcher's interview with Mr. Rusli S.Pd. I as the Imam of the Ar-Rahman Lappa-lappa'e Mosque, Tellumpanua Village, Suppa District, provided an explanation regarding the inheritance distribution practices of the local community, he said that:

"The distribution of inheritance carried out by the local community is carried out before the testator dies, because it avoids disputes in the future. Parents have given their respective portions to each of their children. The community tends to use the customary inheritance system rather than the Islamic inheritance system , due to the lack of community knowledge about the distribution according to Islamic inheritance law. In the distribution of inheritance, the community gives special assets to their children, such as assets in the form of houses or gold jewelry which are prioritized to be given to daughters rather than sons, while sons are mostly given inheritance assets such as land. They only carry out the distribution

[45] Dwi Putra Jaya, 'Editor: IIm Fahimah, INHERITANCE LAW IN INDONESIA' (Zara Abadi, 2020). h. 16

of inheritance according to Islamic inheritance law if one of the heirs demands it."[46]

Mr. Rusli here explains that people tend to choose inheritance distribution according to custom rather than according to Islamic inheritance law, which has become a tradition carried out from time to time by the community. One of the reasons why people do not use Islamic inheritance law in inheritance distribution is due to the lack of knowledge about the distribution that has been regulated in Islamic inheritance law, in other words, people are still unfamiliar with inheritance distribution according to Islamic inheritance law.

The author also found out about customary inheritance distribution practices as carried out by Mrs. P. Kartini, as in the results of an interview with the author, she said that:

"The inheritance distribution applied in my family is using customary inheritance law, as my parents did before. Previously, I had distributed the inheritance to each heir. I gave my house to my daughter, and my son got the land that had been agreed upon by my children. The inheritance was distributed before death to avoid any disputes between the heirs in the future."[47]

The inheritance is divided according to the tradition that has been carried out by the previous parents. In addition to following the tradition/custom carried out by the previous parents , one of the reasons why P. Kartini took the inheritance division according to custom was to avoid any disputes between her heirs after she died later. In addition, as the results of the interview conducted by the author with Mrs. I Nabe:

"The division of inheritance that is often done by the community is to follow the tradition of the distribution of parents in the past, and so it is with me. In dividing the inheritance, I divided it before I died, with the aim of avoiding

[46]Rusli, Imam of the Ar-Rahman Mosque, Lappa-lappa'e, Tellumpanua Village, Suppa District, Pinrang Regency, *interview* in Lappa-lappa'e, March 20, 2023.

[47]P. Kartini, Community of Tellumpanua Village, Suppa District, Pinrang Regency, *Interview* in Lappa-lappa'e, March 10, 2023.

quarrels between my children after I am gone. I have four sons and three daughters. I gave the land assets to my four sons, to build houses, plantation land, or to be used to build a business place, while for my three daughters, two of them I gave land to build houses, while my youngest daughter I gave a house and land. The reason I gave my youngest daughter the property in the form of a house is because she was the last to get married and live with me and take care of me in her old age, besides that she has not been able to build her own house while her other siblings already have their own houses, and this has been done from generation to generation that the daughter gets the share in the form of a house. Before dividing the inheritance, of course, it goes through a process of deliberation and has been agreed upon by each heir."[48]

Although using inheritance division according to tradition/custom, before determining the portion of each heir, Mrs. I Nabe first held a discussion with her children and it was agreed that each heir's portion would not cause problems. Likewise, the results of the interview conducted by Mrs. Hermiati, she said:

"The division of inheritance carried out by the community has become a tradition. This is also what my parents did, namely giving their house and gold jewelry to their daughter. Through a family deliberation process and agreed upon by the other heirs regarding their respective portions peacefully. As for the amount of inheritance, the parents divided it equally, namely 1:1."[49]

The inheritance distribution implemented by the Tellumpanua Village community, Suppa District, mostly follows the traditions carried out by previous parents that have been carried out from generation to generation, which is carried out in a familial and peaceful manner, however, the amount of inheritance given to each heir is uncertain, some are divided equally between both sons and

[48]I Nabe, Community of Tellumpanua Village, Suppa District, Pinrang Regency, *Interview* in Lappa-lappa'e, March 15, 2023.

[49]Hermiati, Community of Tellumpanaua Village, Suppa District, Pinrang Regency, *Interview* in Lappa-lappa'e, March 1, 2023.

daughters with a ratio of 1:1, and there are also inheritances that are simply divided without looking at the amount of inheritance distributed .

*Tasaluh's* analysis of the results of this study shows that the practice of inheritance distribution in Tellumpanua Village, Suppa District, although in reality it is not found in the Qur'an, however, by looking at the inheritance distribution by means of peace through family deliberation based on the agreement of each heir, they have realized their share, so that it can be justified because it does not cause conflict and no heir feels disadvantaged, and as long as this does not conflict with Islamic law in the field of fiqh [50].

Based on the results of the study, the analysis of *'urf* on the practice of inheritance distribution in Tellumpanua Village, Suppa District, that the customs or traditions carried out in the distribution of inheritance, although not found in the time of the Prophet. However, this tradition is considered good and is still carried out today, and in line with the formation of Islamic law, namely the realization of the welfare of the people based on the Qur'an and Sunnah [51].

The customary inheritance laws that apply in Indonesia are very diverse, each region has different traditions, the customary inheritance system that is applied has been carried out since ancient times and has become a habit in a society [52]. This is also the case in the Tellumpanua Village community, Suppa District, which has its own tradition in dividing inheritance. As the results of the researcher's interview with Mrs. I Nabe, she said:

"I divided the inheritance by following the customary law/tradition that was carried out by my parents in the past, by dividing the inheritance according to tradition in my opinion it is easier because the method of division is already known because it has been carried out for generations. Unlike the division of inheritance according to Islamic law, we are still unfamiliar with the method of

[50] Hasnita and Zubair, "Review of Islamic Law on Ampikale in the Bugis Community Inheritance System . "

[51] Muhammad Syukri Albani Nasution and Rahmat Hidayat Nasution, *Philosophy of Law & Maqashid Sharia* (Prenada Media, 2020). P. 97.

[52] The Rules of Fiqh and Duski Ibrahim, *AL-QAWA `ID AL-FIQHIYAH AL-QAWA `ID AL-FIQHIYAH* , nd

division, so we prefer to divide the inheritance according to customary law/tradition that has been carried out since ancient times. I gave a house as a portion for my daughter, and I gave my son a plot of land, this kind of inheritance division has been carried out for a long time and has become a tradition carried out by previous parents that daughters are prioritized to receive property in the form of a house compared to sons. In this inheritance division, I have also discussed it in a family way between me and the children and have agreed on their respective portions"[53]

Based on the interview above, the researcher concluded that the community in Tellumpanua Village, Suppa District , in dividing inheritance, took the method of dividing following the tradition that has existed since ancient times until now, through family deliberation, because it has been done from generation to generation and is considered easier and also avoids quarrels between heirs in the future, therefore the inheritance is divided first before the testator dies. [54]The community does not choose to divide inheritance according to Islamic law because they are still unfamiliar with the distribution of inheritance according to Islamic inheritance law.[55]

Indeed, in Islamic law it has been determined that the share of male heirs is greater than the share of female heirs, namely that male heirs are twice the share of female heirs [56]. Allah says in QS An-Nisaa/4: 11: "Allah instructs you concerning your children: for the male, what is equal to the share of two females. But if there are (only) daughters, two or more, for them is two thirds of one's estate. And if there is only one, for her is half. And for one's parents, to each one of them is a sixth of his estate if he left children. But if he has no children and the parents (alone) inherit from him, then for his mother is one third. And if he has

[53]Interview with I Nabe, Community of Tellumpanua Village, Suppa District, Pinrang Regency, March 15, 2023.

[54] Elva Imeldatur Rohmah and Isniyatin Faizah, 'The Concept of Justice in Muhammad Syahrur's Inheritance Law', *The Indonesian Journal of Islamic Law and Civil Law* 3, no. 2 (2022): 186–200.

[55] Anjar Kususiyanah, 'Gender Justice in Islamic Inheritance: A Historical Sociological Study', *Al-Mazaahib: Journal of Comparative Law* 9, no. 1 (2021): 63–82.

[56] Sayyid Sabiq, *Fiqh Sunnah Volume 1* (Bandung: Republika Publisher, 2017). P 178.

brothers (or sisters), for his mother is a sixth, after any request he [may have] made or owe. Your parents or your children - you know not which of them are closest to you in benefit (These shares are) an obligation (imposed) by Allah".[57]

The verse above explains that there are rights for both men and women in the form of certain portions of the inheritance of the mother, father, and relatives that have been regulated by Allah SWT. This verse also explains that in Islam the division of inheritance of a son is the same as the portion of two daughters with a ratio of 2:1. And if the deceased leaves one son and two daughters, then the son gets two-thirds (2/3) and the daughter one-third (1/3) of the testator's inheritance. At the end of the verse, it is also mentioned that the heirs are obliged to carry out the will made by the testator, and the heirs are obliged to pay the testator's debts before dividing the testator's inheritance [58].

The Islamic inheritance law system is based on the Qur'an and Sunnah, while customary inheritance law is based on in the thought patterns of society that are formed through traditional customs that have long been carried out and are considered good by society.[59]

Islam provides the opportunity to establish a law according to local custom ('urf), however not all customs ('urf) can be used as a legal basis. There are customs ('urf) that can be used as a legal basis if they meet the following requirements [60]:

a. It does not contradict the texts of the Qur'an or the hadith.
b. It does not cause harm and does not lose benefits, including not causing difficulties.

[57] Ministry of Religion of the Republic of Indonesia, *Al-Qur'an and its Translation* (Jakarta: Lajnah Pentasshihan Mushaf Al-Qur'an, 2019). p. 106.

[58] As-Sayyid Salim, 'Abu Malik Kamal Bin', *Sahih Fiqh As-Sunnah Wa Adillatuhu Wa Taud} Ih Mazahib Al-A'immah, Translated by Khairul Amru* , 2008. H. 234.

[59] Muhammad Ali Murtadlo, 'Gender Justice in Islamic Inheritance Law: The Perspective of Muhammad Syahrur's Theory of Limit', *Gender Equality: International Journal of Child and Gender Studies* 4, no. 1 (2019): 173–88.

[60] Fadlih Rifenta and Tonny Ilham Prayogo, 'The Value of Justice in the Islamic Inheritance System', *Al-Manahij: Journal of Islamic Legal Studies* 13, no. 1 (2019): 111–27.

c. It has been applied to Muslims in general, meaning it is not just something that is usually done by a few people.
d. And it does not apply in matters of mahdah worship.

So customs can be used as legal considerations as long as they do not conflict with Islamic law and are considered good by the general public. [61]Therefore, the Ulama said: "Custom is a sharia that is confirmed as law."[62]

As in this study , the community in Tellumpanua Village, Suppa District, the distribution of inheritance was carried out according to customary law or traditions that have been in effect since ancient times, not using the provisions that have been determined according to Islamic inheritance law.

Based on the research results, the analysis of *'urf* on the practice of inheritance distribution in Tellumpanua Village, Suppa District, shows that the customs or traditions carried out in the distribution of inheritance, although not found in the time of the Prophet. However, this tradition is considered good and is still carried out today,

The community in Tellumpanua Village, Suppa District, uses deliberation or family and peace methods to resolve problems related to inheritance . In essence, peace is a justified method, so that family life runs well. The peaceful distribution of inheritance in Islam is known as *tasaluh.*

Seeing this reality, the KHI accommodates the system of peaceful inheritance distribution in the Compilation of Islamic Law (KHI) book II article 183 that: "the heirs can agree to make peace in the distribution of inheritance after each is aware of their share."

Based on the results of interviews with several community and religious figures in Tellumpanua Village as stated above, it is known that the practice of inheritance distribution in the Tellumpanua Village community, Suppa District, is as follows:

[61] Mohammad Syifa Urrosyidin, 'The Essence of Justice in Islamic Inheritance', *Ijtihad: Journal of Islamic Law and Economics* 15, no. 2 (2021): 257–81.
[62] M Ag Nurhayati and Ali Imran Sinaga, *Fiqh and Usul Fiqh* (Kencana, 2018). P. 78.

a. Distribution of inheritance is carried out before the testator dies.
b. The provision of special inheritance to female heirs, namely property in the form of a house or gold jewelry.
c. The distribution of inheritance is carried out through deliberation/family consultation.
d. The inheritance is only distributed to the children.

The reasons why people in Tellumpanua Village, Suppa District, give special assets to girls, such as houses or gold jewelry, based on interviews with several residents in Tellumpanua Village, Suppa District, are as follows:

a. Because the daughter takes care of her parents and lives with them .
b. following traditions that have been carried out from generation to generation .

An agreement made by parents and through prior deliberation by each heir.

## 4. Conclusion

Based on the results of research and discussion regarding "Analysis of Islamic Law on the Tradition of Inheritance Distribution in Tellumpanua Village, Suppa District", several conclusions can be drawn as follows:

First, the practice of inheritance distribution in Tellumpanua Village, Suppa District is that the inheritance distribution is carried out before the testator dies, the inheritance is only given to his children, the inheritance distribution is carried out according to customs or traditions that have been carried out by previous parents through family deliberation and peace, and giving special assets to daughters such as assets in the form of houses or gold jewelry while sons are not prioritized to receive assets in the form of houses but rather their share such as land, and heirs can take their share whether the testator is still alive or has died.

Second, the analysis of Islamic law on the tradition of inheritance distribution in Tellumpanua Village, Suppa District, which takes the inheritance distribution according to local customs, where female heirs are prioritized to receive property in the form of a house or gold jewelry compared to male heirs, and the inheritance distribution is carried out before the heir dies. The practice of inheritance distribution like this has not been found in the Qur'an or the Sunnah of the Prophet, but by looking at the practices carried out by the community in Tellumpanua Village, Suppa District, it is permitted because according to the customs or

habits carried out by the community in accordance with the formation of Islamic law, namely by holding deliberations between heirs and realizing the welfare of the people and peace based on the Qur'an and Sunnah.

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