

# Analysis of Fairness in Inheritance Distribution according to Badamai Customs among the Muslim Banjar Community in South Kalimantan

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## ABSTRACT

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The distribution of inheritance according to the Badamai custom is a form of customary inheritance law practised by the Muslim Banjar community in South Kalimantan. This custom results in an equal distribution pattern between male and female heirs. This study aims to analyze the value of justice within this equal distribution system using John Rawls' Theory of Justice. Conducted as a field study with a sociological approach in South Kalimantan, the research draws on interviews with members of the Indigenous Muslim Banjar Community, community leaders, and supporting literature, including four journal articles. Viewed through Rawls' theory, the Badamai inheritance system is considered fair because it aligns with two key principles. The first is the principle of equal liberty, which ensures that both men and women have the same fundamental right to inherit property. The second is the difference principle, which seeks to minimize inequality. By implementing equal distribution, the Badamai custom removes disparities in inheritance allocation, ensuring equal opportunities for all heirs. This study contributes to the development of Customary Inheritance Law and encourages local governments to support the establishment of the Badamai institution to help resolve inheritance-related disputes.

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## 1. Introduction

Regulations on inheritance distribution for Muslims in Indonesia are stipulated in Book II of the Compilation of Islamic Law (KHI). However, in practice, each region has its own system of

inheritance distribution, which is generally influenced by local customs and culture. In Indonesia, there are various customary inheritance laws in each region. One example is the system of inheritance distribution prior to the death of the heir in Javanese society [1], parental inheritance system in Bugis society [2], the practice of giving Hareuta Paenulang to the heirs of the Acehnese community [3], and the distribution of high-value heirlooms and low-value heirlooms in Minangkabau customary inheritance law [4], as well as the inheritance distribution system based on the Badamai custom originating from the land of Banjar, South Kalimantan [5]. The diversity in Customary Inheritance Law is influenced by genealogical and territorial factors [6], which has implications for differences in the distribution of inherited property between one indigenous community and another.

In South Kalimantan, among the Banjar people, customary inheritance law is known as Adat Badamai, which consists of two syllables: Adat, meaning the customs or traditions of the community that are passed down from one generation to the next [7] and Badamai, which is an effort made in a peaceful manner. The Badamai decision is reached through a deliberation mechanism, which serves as an alternative approach to finding solutions to societal problems [8]. The division of inheritance according to Badamai custom will result in an equal distribution pattern because, under Banjar customary inheritance law, men and women have equal status as heirs. This is based on the principle of the beneficial use of inherited property, whereby the Banjar community does not differentiate between the legal status of men and women in the receipt of inheritance, including in the distribution process [9].

Most research related to the Badamai custom in Banjar society focuses on aspects of peace, such as the article written by Ahmad Kamal et al. (2024), as well as articles by Erkham Maskuri et al. (2022) with almost the same conclusion, namely the possibility of dividing inheritance through Badamai as long as there is agreement among the heirs, thereby minimizing disputes in the future [10], [11]. In addition, the research focuses solely on aspects of Islamic law, as seen in the article by Ahdiyatul Hidayah (2022) and Muhammad Seman (2024), with the conclusion that inheritance distribution in this manner is permissible [5]. From this, it can be seen that there has been no study discussing the value of fairness contained in the inheritance distribution pattern according to the Badamai custom. Therefore, this study aims to analyze the value of fairness inherent in the equal distribution pattern resulting from inheritance distribution according to Badamai custom, from the perspective of John Rawls' Justice Theory (A Theory of Justice), to provide a comprehensive overview of the value of fairness in the equal distribution of inheritance.

This equal distribution pattern clearly does not comply with the provisions of *faraidh*, which stipulates a 2:1 ratio for male and female heirs, raising the question of whether using an equal distribution pattern with a 1:1 ratio would be fair. Therefore, an in-depth examination of the fairness of the equal distribution pattern in inheritance based on the Badamai custom is necessary. The primary objective of this study is to examine the value of justice inherent in the equal distribution pattern resulting from inheritance division under the Badamai custom, which is the customary inheritance law of the Banjar community, in light of John Rawls' Theory of Justice. This study assumes that the equal distribution pattern between male and female heirs is just, as it fulfils two principles in John Rawls' Theory of Justice: the principle of equal liberty and the second principle of difference or inequality. This study is expected to contribute to the development of Customary Inheritance Law and serve as a consideration for the local government to establish a Badamai Institution to resolve disputes that may arise in the distribution of inheritance under the Badamai Custom.

## 2. Method

The type of research employed was field research with a sociological approach, examining law within a social context [12]. The study was conducted in South Kalimantan. The data sources are divided into two types: primary data, in the form of interview results, and secondary data, including books and research findings [13]. The data collection technique was through semi-structured interviews with informants. The informants were divided into two categories: the Indigenous Community, represented by the Banjar Muslim community, consisting of four informants who

exhibited an equal pattern in the distribution of inheritance according to Badamai custom, and Community Leaders, including the Badamai Custom Expert and Tuan Guru. Data processing and analysis are divided into editing and classification, followed by data display, which encompasses data presentation and analysis, and finally, the drawing of conclusions. To validate the data, source triangulation techniques were employed [14].

### 3. Results and Discussion

#### 3.1. Badamai Customs among the Muslim Banjar Community

The inheritance system of the Banjar community comprises three parts: based on Islamic law, known as *faraidh*; referring to positive law, specifically the Compilation of Islamic Law; and, finally, customary inheritance law, referred to as inheritance distribution according to Badamai custom. The community has complete freedom to independently choose the system of inheritance distribution [15]. This is based on the consideration that the subjective conditions of each family are different. One of the methods of inheritance distribution widely used by the Banjar community is the customary law of inheritance known as Adat Badamai.

Customary inheritance law typically exhibits characteristics that differ from those of other laws [16]. One of these is the procedure for distributing inherited property. Inheritance distribution according to Badamai custom is a process of deliberation between heirs to reach an agreement on the distribution of inheritance [8]. According to experts from Adat Badamai, this is traditional wisdom in resolving issues, including the distribution of inheritance among the Banjar people. The equivalent words for Badamai are *Shuluh*, *Tasaluh*, or *Ishlah*, which have the same meaning. In inheritance distribution according to the Badamai custom, there are two variations: *faraidh-ishlah*, which involves the distribution of inheritance preceded by distribution according to *faraidh*, followed by deliberation and consensus, or *ishlah*. The second variation, *ishlah*, is a stage of inheritance distribution that is carried out directly through deliberation and consensus, without being preceded by distribution according to *faraidh*. In this case, the heirs do not know the portion they will receive based on the provisions in *faraidh* [8].

Referring to the provisions of the Banjar community's customary inheritance law, which does not distinguish between men and women in the distribution of inheritance, the distribution of inheritance according to the Badamai custom, with variations of *faraidh-ishlah* or only *ishlah*, will result in an equal distribution between male and female heirs. From the results of interviews with the community that produced this pattern, there are several reasons for choosing an equal pattern in the distribution of inheritance, namely, according to Mr. Tau, it is to minimize problems, while Mr. Abi's opinion looks at the economic conditions of the heirs, unlike Mrs. Her, who bases it on family needs, and for Mrs. Mei, this method can create peace. This is reinforced by the opinion of Tuan Guru Hasbi, a community leader, who states that the use of the Badamai custom in the distribution of inheritance is beneficial in maintaining good relations and avoiding disputes.

Equal distribution between male and female heirs can be achieved by dividing the inheritance based on *faraidh* and through deliberation. The deliberation must be accompanied by various considerations, such as the economic conditions of the heirs, family needs, and efforts to ensure that the distribution does not cause problems. The result of the deliberation is an agreement on equal distribution, and the inheritance is then divided among the heirs in accordance with the decision of the deliberation. After that, the heirs mutually relinquish their rights, symbolizing their willingness to accept the inheritance distribution and marking the completion of the inheritance distribution according to the Badamai custom.

Equal distribution is indeed not in accordance with the provisions of *faraidh*, but the heirs did not simply abandon the rules of *faraidh*. Instead, they first divided the inheritance according to *faraidh* before conducting a Badamai deliberation. Thus, each heir knew the proportion of their share based on *faraidh*, but still chose the Badamai mechanism, which resulted in an equal distribution of inheritance between men and women. Suppose the pattern of equal distribution is viewed from its motive, which is to minimize the emergence of problems that have the potential to cause divisions

within the family. In that case, this pattern is the right solution. Based on the rules of *fiqh*, namely "Preventing damage is more important than seeking benefit." Islamic law states that preventing *mafsadah* (harm or prohibition) takes priority over achieving *maslahah* (goodness or benefit). In this context, the potential *mafsadah* in the form of conflict and family division due to unequal inheritance between men and women is a reason to avoid it.

Then, referring to Article 183 of the KHI, "The heirs can agree to make peace in the distribution of the inheritance after each realizes his share." Therefore, this pattern is permissible and has legal validity under positive law. Additionally, there is a Religious Court ruling related to the equal distribution of inheritance between male and female heirs, specifically in Article No. 382/Pdt.G/2021/PA. Please note that this decision involves issues of joint property and inheritance distribution. Article No. 382/Pdt. G/2021/Pa. Plh. in inheritance disputes involving shares, the panel of judges decided to grant part of the lawsuit based on Islamic law principles, legal theory, and jurisprudence that emphasize balanced justice, including the application of the hudud theory. The court's decision acknowledged the significant role of daughters in the development of inherited assets, thereby considering an equal distribution of inheritance a fairer option [17]. From this ruling, it can be concluded that one of the considerations for equal distribution is to look at the contribution of female heirs in the management of the inheritance, in particular, and to the deceased during his lifetime in general.

In the Banjar Customary Inheritance Law, men and women have equal status as heirs. Although *faraidh* stipulates a 2:1 ratio for men and women, this is not always the practice. After determining their respective inheritance rights based on *faraidh*, heirs often agree to divide the inheritance equally among themselves [18]. Based on the principle of inheritance benefits, the Banjar community does not differentiate between men and women in terms of their legal status regarding inheritance, including in the distribution process [9]. Therefore, under the Banjar customary inheritance law, women are potentially entitled to receive an equal or even larger share of the inheritance than men. The above description indicates that the equal distribution pattern in inheritance under the Badamai custom is valid under positive law and customary inheritance law. Therefore, the implementation of the equal distribution pattern is considered valid even though it is not in accordance with the provisions of Islamic law.

### 3.2. John Rawls' Theory of Justice

John Rawls has been a Professor of Philosophy at Harvard University, USA, since 1962, and previously lectured at Princeton University and was a professor at Cornell University. He was born in Baltimore in 1921. He completed his higher education at Cornell University and then obtained his doctorate at Princeton University in 1950. A Theory of Justice is considered his magnum opus on ethics, discussing social justice. Since its first publication in 1971, this book has been reprinted more than 22 times. After that, he wrote many articles and papers to defend and explain the theories in his book [19].

John Rawls (1971) states that social justice must prioritise the principle of the difference principle, namely that inequality is only justified if it benefits the least fortunate [20]. John Rawls, through his theory of justice, argues that justice cannot only be measured rationally but must also align with subjective understandings of what is fair. However, the concept of justice is not determined by individual incidents, but rather by a social framework, specifically to ensure the fundamental rights of every individual. According to this philosophy, justice is based on two fundamental principles. First, there is the basic principle that all individuals have the same rights and freedoms. Second, socioeconomic inequality is acceptable as long as it benefits all individuals by ensuring equal opportunities for everyone to occupy various social and professional positions [21].

Rawls' two principles of justice are, first, the principle of equal liberty, and second, the difference principle and the principle of fair equality of opportunity. The essence of the first principle is that social and economic differences must be regulated in order to provide the greatest benefit to those who are least fortunate. The term socio-economic difference in the difference principle refers to inequality in a person's prospects of obtaining the basic elements of welfare, income, and authority.

Meanwhile, the term “least advantaged” refers to those who have the least opportunity to achieve well-being, income, and authority. Thus, according to the difference principle, the basic structure of society is regulated in such a way that the gap in prospects for obtaining the main elements of well-being, including income and authority, is intended to benefit the least advantaged [22].

The above principle is based on lexical order, meaning that it will be applied in practice sequentially, in accordance with the order outlined above. Under this principle of fairness, the allocation of wealth and income does not need to be equal, but must be based on something that benefits everyone. At the same time, everyone must still have access to every command position or position of authority. The application of this second principle makes every position accessible to everyone, so that indirectly, everyone will be subject to this restriction and will help regulate or modify any socio-economic inequality, thereby benefiting everyone [23].

For Rawls, individuals are not entirely rational beings who pursue their own good, as predicted by utilitarians, but rather beings who behave reasonably and fairly. The concept of rationality implies that each individual tends to fulfil their own interests and achieve the concept of goodness. Rationality provides an effective way to achieve goals, establish a value hierarchy, and prioritize tasks. In other words, what is right comes before utility, and people behave rationally. This concept is related to the formation of relationships and enables the achievement of justice, revealing fair social cooperation [19].

John Rawls' social justice framework emphasises fairness in distributing rights and obligations, as well as benefits and burdens, to each member of society's basic structure (the family). It can therefore be said that John Rawls, in constructing his theory of social justice from the perspective of the rights and obligations of legal subjects, must fulfil equally and in balance. This means that every member of the family or community has their rights and obligations fulfilled fairly, that is, equally and in balance. Rawls justifies the principle of justice with the argument of contract theory based on fairness, so that it is seen as expressing the general will and is universally applicable. Suppose John Rawls' theory of social justice is formulated in more detail in the form of substantive principles. In that case, the details can be stated as follows: equality means that every individual in the community has the same rights and obligations, balance means that every individual in the community has equal rights and obligations. Freedom means that individuals in the community have as much basic freedom as other individuals in the community [24].

### 3.3. Analysis of John Rawls's Theory of Justice in the Equal Distribution of Inheritance in the Badamai Custom

The majority of the muslim community in Banjar still maintains the inheritance distribution system based on customary inheritance law. Customary law is one option for inheritance distribution because national law, which is supposedly modern, is not always able to resolve all human problems [25], so that, at times, customary law becomes the right choice. Customary inheritance law encompasses the entirety of customary rules that govern the system and principles of inheritance law, including inherited property, the person who bequeaths the inheritance, and the mechanism for transferring rights to inherited property from the inheritor. Customary inheritance law is essentially the law governing the transfer of wealth from one generation to its descendants [23]. When compared to Islamic and Western inheritance laws, there are significant differences, especially in the distribution of inherited property. Unlike Western inheritance law, which adheres to the principle of *legitime portie* (mandatory portion), or Islamic inheritance law as outlined in Surah An-Nisa, customary inheritance law does not recognize the concept of a mandatory portion [23].

Meanwhile, the kinship system of the Banjar people traces descent from both sides, namely the father's side and the mother's side, resulting in a parental or bilateral kinship system [25]. The inheritance system adopted is a mixture or combination (mixed) of an individual inheritance system, which gives each heir a share of the inheritance to manage and own privately, and a primogeniture system, in which the inheritance is controlled by only one heir. In general, the inheritance will be divided after 40 days of the deceased's death or after the *ma'ampat puluh hari* ceremony, with several variations in the distribution of the inheritance. These variations include the entire inheritance being

distributed, part of the inheritance being distributed, and no inheritance distribution being carried out at all [26].

The distribution of inheritance according to Badamai custom begins with distribution according to *faraidh*. At this stage, each heir knows their position as an heir and the share they will receive. Then, a deliberation is held to re-determine the distribution of the inheritance, resulting in an equal distribution pattern between male and female heirs as the final outcome of the inheritance distribution. This pattern eliminates the disparity in shares between male and female heirs, ensuring that both receive equal and equivalent shares.

One of the considerations for creating an equal distribution pattern is based on the principle of benefit or usefulness. The principle of benefit in the process of distributing inheritance is a principle that looks at the usefulness of the inheritance, meaning that of the property left behind by the deceased, when viewed from the perspective of the heirs, which heir has the most to benefit from it. The benefit can be viewed from three perspectives: which heir most needs or requires the inheritance to live their life, which heir played the most significant role in caring for the deceased (their parent) when they were sick or elderly, and the benefit is also viewed in relation to the nature of the inheritance itself. This is typically related to productive items or heirlooms that will be beneficial if the inheritance is given to an heir who can utilize them. Examples include large boats (*jukung tiung*), small boats (*jukung trading* in the floating market), *keris* daggers, and books [9].

Therefore, the consideration for distributing an inheritance is which heir will provide the most benefit to the deceased. One indicator is who took care of the deceased. At the same time, they were alive, followed by an examination of the inheritance left behind, with consideration given to the heir who is most skilled at managing the inheritance. This aligns with the explanation from the Traditional Leader, who stated that the difference between the Customary Inheritance Law of the Banjar Community and Islamic Law (*faraidh*) lies in the distribution of inheritance. In Surah An-Nisa, it is based on gender, whereas in the Customary Inheritance Law, it is based on the principle of inheritance.

Furthermore, referring to positive law, namely Article 183 of the Compilation of Islamic Law, which states, "The heirs can agree to make peace in the distribution of the inheritance after each realises his share." Therefore, this equal distribution pattern is permitted and has legal validity in positive law. Additionally, this pattern is part of the inheritance distribution system, as described in the article, which utilizes the family system. This is based on the belief of Islamic scholars that inheritance is an individual right, whereby those who have the right may use or not use their rights, or use their rights in a certain way as long as it does not harm other parties, in accordance with the standard rules that apply in normal situations [27]. This article emphasizes the importance of an agreement between heirs on the distribution pattern that will result from the division of inheritance. This agreement is one of the efforts to achieve peace. In addition to agreement, justice is equally important. Justice is a value that must be present in human life, whether in politics, business, or even within the family [28].

From the perspective of John Rawls' Theory of Justice, this equal distribution has fulfilled justice for all parties. According to Rawls' perspective, justice does not always require strict equality but demands recognition and priority for the freedom and equality of all individuals. Therefore, any inequality must be justified by its overall value to all parties involved, especially those who are most disadvantaged [26]. The distribution of inheritance is not always strictly in a 2:1 ratio, but rather depends on the subjective circumstances of each family. When male and female heirs have the same duties and responsibilities in the family, both parties are entitled to equal rights. This is justified by the consideration that the obligations fulfilled are equal to the rights that will be obtained.

The system of inheritance distribution in this case can be said to be a basic structure of society that is the main subject of justice. Theoretically, a structure that applies in social life must be in line with the agreed concept of justice, as described by John Rawls in A Theory of Justice. Referring to the definition of justice above, justice in this case rejects the justification of the loss of freedom for some people as being more important than the greater hopes and interests of others. The most important aspect of justice is the guarantee of stability and balance between individuals. When viewed

from the meaning and concept of John Rawls' Theory of Justice, the structure or rules of society in this equal distribution of inheritance are essentially reflective equilibrium, which is a basic characteristic for realizing justice based on rational justice, namely reason, and justice based on intuitionism, namely a sense of justice felt by every member of society under the prevailing social structure [26].

The equal distribution of inheritance between male and female heirs in the inheritance system based on Badamai custom, which is part of the Banjar community structure, can be said to provide a balance in life between individuals because men and women receive equal rights in inheritance. This is also related to the fact that women have the same duties and responsibilities as men, so equal distribution is not limited to the inheritance received, but also encompasses the duties, burdens, and responsibilities of both men and women within the family. In this context, it is related to the custom of the Banjar community, which is that when the heir enters old age, the heir will prefer to be cared for by their daughter because they are considered to be more attentive. Daughters are not only responsible for caring for the heir, but also for the entire household, including helping to support the family financially. In this situation, they bear a greater burden than sons. In some cases, even after the heir has passed away, it is the daughters who hold prayer gatherings on the third, seventh, and fortieth days, as well as once a year on the anniversary of the heir's death. Therefore, giving daughters an equal share of the inheritance is not only fair but also beneficial.

In addition, there is a casuistic phenomenon in modern culture, namely the increased presence of women from the domestic sphere to the public sphere, as well as the increasing perception that women are capable of balancing the position of men in terms of leadership in the family because they are able to earn their own living and even support the family economy. In this case, women have the same rights to inherit their share of the estate as men [29].

Furthermore, the results of equal inheritance distribution, when analyzed further in terms of rational justice, indicate that when the obligations of women and men in the family are equal, their rights should also be equal, including the right to inherit. With the elimination of differences between men and women in terms of duties, burdens, and responsibilities in the family, this will immediately affect the inheritance they receive. Contemporary reality shows significant progress for women who are active in the public and domestic spheres, sharing the burden of family expenses, and sometimes even becoming the main economic pillar of the family. These conditions, which differ from those of the past, indicate a shift in responsibilities and burdens between men and women that is becoming increasingly equal [29].

The reality in society shows a shift in household responsibilities, where men, who should be fully responsible for the family's finances, in some cases hand over this responsibility to women. The phenomenon of women supporting the family economy, especially in families where women are forced to become the primary breadwinners, reflects a shift in societal structure, where women are no longer just housewives but share the same responsibilities as men in providing for the household and family economy [30]. From this, it can be seen that in modern societies that increasingly emphasize equality, especially those involving women with the same responsibilities as men, the 2:1 inheritance ratio is no longer always relevant; therefore, a 1:1 ratio in customary inheritance law can be an alternative.

Justice based on intuitionism is the sense of justice felt by each community within its prevailing social structure. When women's duties expand beyond the home to include helping with the family's finances, their responsibilities become similar to those of men. As a result, a sense of justice can be achieved through the equal distribution of inheritance. This pattern aligns with the principles of harmony and kinship in customary inheritance law, which emphasize maintaining harmonious kinship relationships in managing and distributing inherited property [29].

John Rawls' theory of justice contains two principles for achieving justice, namely (1) the principle of equal liberty with respect to basic liberties. This principle states that the broadest right to basic freedoms is the same for everyone, where freedom in this principle is equal freedom for every citizen because in a just society, every citizen has the same basic rights, and injustice occurs when

there are inequalities that can be detrimental to every community [23], (2) The principle of difference is a principle that regulates the distribution of economic resources [31]. The pattern of equal inheritance distribution, when viewed from a first principle, embodies justice, in which every member of society has the same basic rights, regardless of gender, and avoids injustice by minimizing inequalities that can be detrimental to all members of society. The inequality between male and female heirs is eliminated, resulting in equal shares, because in the current situation, it is necessary to ensure equal inheritance for men and women, given the large number of career women working in the public sphere and supporting family needs [32].

Then, the second principle is difference or inequality, which comprises two parts: difference and equality of opportunity. Difference is an acknowledgement of inequality or injustice, provided that the inequality benefits all parties, especially the most disadvantaged. So that if this second principle is linked to equal distribution, it is certain that there will be no conflict, no inequality, and justice will be achieved by eliminating differences in the distribution of inheritance to both male and female heirs, so that both have the same opportunity to obtain equal inheritance rights.

When discussing the social rules that govern communal life, Rawls emphasizes the effort to formulate principles that regulate the distribution of rights and obligations among all members of a society. The emphasis on the issue of rights and obligations, which is based on a concept of justice for social cooperation, shows that Rawls' theory of justice focuses on how to distribute rights and obligations evenly within society so that everyone has the opportunity to benefit from them and, in reality, bear the same burden. Therefore, in order to ensure the balanced distribution of rights and obligations, Rawls also emphasizes the importance of a fair agreement among all members of society. Only a fair agreement can encourage social cooperation. Rawls believes that a fair agreement can only be achieved through an impartial procedure. Only with an impartial procedure can the principles of justice be considered fair and equitable. Therefore, for Rawls, justice as fairness is pure procedural justice [33].

A fair agreement in the distribution of inheritance according to Badamai customs is one in which all parties are satisfied and willing to accept their share of the inheritance. In Banjar society, this is generally marked by the saying "*berelaanlah*" (Be willing to help each other) and answered with "*sama-sama, berelaan jua*" (You're welcome, be willing to help each other as well). The willingness of each heir to implement an equal distribution pattern is an effort to minimize and, ideally, eliminate potential problems, aiming to bring peace to the family. The existence of an agreement is the essence of inheritance distribution according to the Badamai custom because with an agreement, each heir is considered to have reached a consensus on the procedure for distributing the inheritance. In this context, an agreement cannot be forced but must come from the awareness of each heir. However, it cannot be denied that the agreement to reconcile is influenced to a certain extent by the Banjar culture, which always prioritizes Badamai in every issue, especially inheritance, because in Banjar society, when a family is in conflict over inheritance, the community will label the family as *mambari supan*, which means shameful and a disgrace to the family because it is a sign of the failure of parental education and the breakdown of family relationships just because of inheritance (inheritance). An agreement based on mutual consent will result in a sense of fairness for all parties.

Several lessons can be learned from settling inheritance with equal distribution between male and female heirs. The relationship between the parties can become better and closer, as peace involves giving and relinquishing rights. Once an agreement is reached to divide ancestral property equally, inheritance is a right. When one heir relinquishes part of their rights to their siblings, this does not violate Islamic law. Achieving peace does not drag on, so other activities are not disrupted. Dividing assets through deliberation and agreement among the heirs is more readily accepted. The problem can then be resolved peacefully, and hostility between the parties can be avoided. Peace is achieved in a familial manner [34].

#### 4. Conclusion

The distribution of inheritance according to the Badamai custom, which results in an equal distribution pattern between male and female heirs, embodies justice based on John Rawls' Theory of Justice. Two principles of justice have been fulfilled: the principle of equal freedom about basic freedoms, ensuring that both men and women have the same basic rights to inherit and avoid injustice by minimizing disparities that could be detrimental. The second principle is that of difference or inequality, which comprises two parts: difference and equality of opportunity. When linked to equal distribution, there is certainly no contradiction or difference, and it embodies justice by eliminating differences in the distribution of inheritance between male and female heirs, ensuring both have the same opportunity to obtain equal inheritance rights. The distribution of inheritance according to the Badamai custom is inseparable from a fair agreement with the consent and willingness of all parties regarding the inheritance received, thereby creating a sense of justice for each heir and minimizing or even eliminating the potential for conflict.

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#### References

- [1] F. Ad, F. Zenrif, and Z. Mahmudi, "Pembagian Waris Pra-Kematian Pada Masyarakat Islam Jawa Perspektif Hukum Progresif [Pre-Death Inheritance Distribution in Javanese Muslim Communities from the Perspective of Progressive Law]," *Al-Qadhafi J. Huk. Islam Dan Perundang-Undangan*, vol. 9, no. 1, pp. 231–250, (Indonesia), 2022, doi: <https://doi.org/10.32505/qadha.v9i1.4087>.
- [2] M. Sabri, "Persepsi hukum Islam terhadap sistem kewarisan berbasis budaya pada masyarakat Bugis Bone [Islamic Legal Perceptions of Culture-Based Inheritance Systems in the Bugis Bone Community]," *Al-Risalah J. Huk. Kel. Islam (Ahwal Al-Syakhsyiyah)*, vol. 3, no. 1, pp. 234–256, (Indonesia), 2017, [Online]. Available: <https://download.garuda.kemdikbud.go.id/article.php?article=2945205&val=26070&title=PERSEPSI HUKUM ISLAM TERHADAP SISTEM KEWARISAN BERBASIS BUDAYA PADA MASYARAKAT BUGIS BONE>
- [3] D. K. Anggraini and R. A. Puspitasari, "Pembagian Waris Masyarakat Aceh Hareuta Peunulang Menurut Hukum Adat [Inheritance Distribution in Acehnese Communities: Hareuta Peunulang According to Customary Law]," *Indones. J. Soc. Sci. Humanit.*, vol. 3, no. 2, pp. 74–79, (Indonesia), 2023, [Online]. Available: <https://journal.publication-center.com/index.php/ijssh/article/view/1573>
- [4] A. Indrasukma, "Pengelolaan Harta Pusaka Tinggi Di Minangkabau Studi Kasus Di Kubang Putih Kecamatan Banuhampu Kabupaten Agam Sumatra Barat [The Management Of High Heritage Assets In Minangkabau: Case Study In Kubang Putih, Banuhampu District, Agam Regency, West Sumatr,]" *Al-Ahwal*, vol. 14, no. 1, pp. 99–111, (Indonesia), 2021, doi: <https://doi.org/10.14421/ahwal.2021.14108>.
- [5] A. Hidayah, "Pembagian Harta Waris Menurut Adat Masyarakat Banjar Kalimantan Selatan [Distribution of Inherited Property According to the Customs of the Banjar Community, South Kalimantan]," *Al Qalam J. Ilm. Keagamaan dan Kemasyarakatan*, vol. 16, no. 6, pp. 2106–2130, (Indonesia), 2022, doi: <http://dx.doi.org/10.35931/aq.v16i6.1416>.
- [6] M. S. Arif, "Mengenal sistem hukum waris adat [Understanding the System of Customary Inheritance Law]," *Siyasah J. Huk. Tata Negara*, vol. 5, no. 1, p. (Indonesia), 2022, [Online]. Available: <https://ejournal.an-nadwah.ac.id/index.php/Siyasah/article/view/420>
- [7] E. O. H. Soetoto, Z. Ismail, and M. P. Lestari, *Buku Ajar Hukum Adat*. Malang: Madza Media, 2021.

- [Online]. Available: [https://sar.ac.id/stmik\\_ebook/prog\\_file\\_file/ReVQTVJdEs.pdf](https://sar.ac.id/stmik_ebook/prog_file_file/ReVQTVJdEs.pdf)
- [8] A. Hasan, *Adat Badamai: interaksi hukum Islam dan hukum adat pada masyarakat Banjar*. Banjarmasin: Tahura Media, 2020.
- [9] G. Muzainah, *Asas Kemanfaatan Tentang Kedudukan Perempuan Dalam Hukum Waris Adat Masyarakat Banjar*. Yogyakarta: Pustaka Akademika, 2016. [Online]. Available: [https://idr.uin-antasari.ac.id/16182/1/Buku bu Gusti Muzainah Asas Kemanfaatan.pdf](https://idr.uin-antasari.ac.id/16182/1/Buku%20bu%20Gusti%20Muzainah%20Asas%20Kemanfaatan.pdf)
- [10] R. Chandra, "Analisis Hukum Islam Terhadap Harta Waris Secara Islah Dalam Masyarakat Banjar [Islamic Legal Analysis of Inheritance through Islah in the Banjar Community]," *Darul Ulum J. Ilm. Keagamaan, Pendidik. dan Kemasyarakatan*, vol. 15, no. 1, pp. 41–50, (Indonesia), 2024, doi: <https://doi.org/10.62815/darululum.v15i1.159>.
- [11] E. Maskuri and D. A. Aufa, "Hukum Kewarisan Masyarakat Adat Banjar Dalam Perspektif As-Sulh [Inheritance Law of the Banjar Indigenous Community from the Perspective of As-Sulh]," *Al-Adalah J. Syariah dan Huk. Islam*, vol. 7, no. 2, pp. 334–354, (Indonesia), 2022, doi: <https://doi.org/10.31538/adlh.v7i2.2535>.
- [12] B. Bachtar and M. H. SH, *Metode Penelitian Hukum*, vol. 1. Tangerang: Unpam Press, 2019.
- [13] Z. Ali, *Metode penelitian hukum*. Sinar Grafika, 2021. [Online]. Available: [https://books.google.co.id/books?hl=en&lr=&id=y\\_QrEAAAQBAJ&oi=fnd&pg=PA1&dq=Z.+Ali,+Metode+Penelitian+Hukum.+Jakarta:+Sinar+Grafika,+2011.&ots=ZTAHL78UbX&sig=wMcJRPIpsUabl-T752dFZNpjwV8&redir\\_esc=y#v=onepage&q&f=false](https://books.google.co.id/books?hl=en&lr=&id=y_QrEAAAQBAJ&oi=fnd&pg=PA1&dq=Z.+Ali,+Metode+Penelitian+Hukum.+Jakarta:+Sinar+Grafika,+2011.&ots=ZTAHL78UbX&sig=wMcJRPIpsUabl-T752dFZNpjwV8&redir_esc=y#v=onepage&q&f=false)
- [14] N. Solikin, "Pengantar metodologi penelitian hukum," 2021, CV. Penerbit Qiara Media, Pasuruan. [Online]. Available: [https://digilib.uinkhas.ac.id/14916/3/METODELOGI PENELITIAN HUKUM.pdf](https://digilib.uinkhas.ac.id/14916/3/METODELOGI%20PENELITIAN%20HUKUM.pdf)
- [15] S. M. Hayati and H. Khitam, "Mengulik Praktik Kewarisan Masyarakat Banjar: Pemilihan Hukum Adat sebagai Jalan Keluar [Exploring Inheritance Practices of the Banjar Community: Choosing Customary Law as a Way Out]," in *FUAD-International Conference on Islamic Studies*, 2022, p. (Indonesia). [Online]. Available: <https://e-proceedings.iain-palangkaraya.ac.id/index.php/FICIS/article/view/1182>
- [16] M. Maimanah, M. F. Al-Amruzy, A. Arni, and S. Faridah, "Delay in the Division of Inheritance: A Theoretical Review within Legal System Framework in Indonesia," *Syariah J. Huk. Dan Pemikir.*, vol. 24, no. 1, pp. 241–257, 2024, doi: <https://doi.org/10.18592/sjhp.v24i1.12916>.
- [17] A. Aisya, B. Djaja, and M. Sudirman, "Pembagian Harta Bersama Secara Merata Anak Laki-Laki dan Perempuan (Studi Putusan No. 382/Pdt. G/2021/Pa. Plh) [Equal Distribution of Joint Property between Sons and Daughters (Case Study of Article No. 382/Pdt. G/2021/Pa. Plh)]," *J. Sos. Teknol.*, vol. 4, no. 12, pp. 1027–1034, (Indonesia), 2024, doi: <https://doi.org/10.59188/jurnalsostech.v4i12.31774>.
- [18] M. A. Karim, *Pelaksanaan Hukum Waris di Kalangan Umat Islam Indonesia*. Jakarta: Maloho Jaya Abadi Press, 2010.
- [19] C. P. Orji, R. G. Nwagbara, T. T. Egberongbe, and P. D. E. Chukwu, "A Critique of John Rawls Ethical Principle of Justice and the Problems of Social Justice in Modern Society," *NIU J. Leg. Stud.*, vol. 11, no. 1, pp. 73–80, 2025, doi: <https://doi.org/10.58709/niujs.v11i1.2136>.
- [20] C. B. Saputra, M. F. Nugraha, J. N. O. Ramadhan, and M. F. Ardabilly, "Analisis Distribusi Warisan Berdasarkan Gender Dalam Hukum Islam: Telaah Atas Prinsip Keadilan Dan Ekonomi Syari'ah [Analysis of Gender-Based Inheritance Distribution in Islamic Law: A Study of Justice Principles and Sharia Economics]," *Al-Zayn J. Ilmu Sos. Huk.*, vol. 3, no. 2, pp. 281–290, (Indonesia), 2025, doi: <https://doi.org/10.61104/alz.v3i2.981>.
- [21] J. Rawls, *A Theory Of Justice*, Revised Ed. Harvard University Press, 1999.
- [22] D. Fattah, "Teori keadilan menurut john rawls [The Concept of Justice According to John Rawls]," *J. Tapis J. Teropong Aspir. Polit. Islam*, vol. 9, no. 2, pp. 30–45, (Indonesia), 2013, doi: <https://doi.org/10.24042/tps.v9i2.1589>.
- [23] U. Fauzan and H. Prasetyo, *A Theory of Justice, John Rawls, Teori Keadilan*, Indonesian. Yogyakarta:

- Pustaka Pelajar, 2011.
- [24] M. Marilang, "Rekonstruksi Epistemologi Teori Keadilan John Rawls [Reconstruction of John Rawls' Theory of Justice Epistemology]," *J. Huk. Unsulbar*, vol. 1, no. 1, pp. 41–56, (Indonesia), 2018, doi: <https://doi.org/10.31605/j-law.v1i1.50>.
  - [25] M. M. M. Muhtarom, "Pengaruh Budaya Hukum Terhadap Kepatuhan Hukum Dalam Masyarakat [The Influence of Legal Culture on Legal Compliance in Society]," *Suhuf*, vol. 27, no. 2, pp. 121–144, (Indonesia), 2015, doi: <https://doi.org/10.23917/suhuf.v27i2.1428>.
  - [26] G. Muzainah, "Korelasi Hukum Waris Adat dengan Hukum Agama Islam pada Masyarakat Banjar [ (Indonesia)]," *J. Indones. Adat Law*, vol. 3, no. 2, p. (Indonesia), 2023, [Online]. Available: <https://jial-apha.or.id/journals/article/download/56/article2/184>
  - [27] S. Amina, *Hukum Kewarisan Islam*, vol. 2, no. 2. Bojonegoro: Madza Media, 2021. doi: 10.70379/njis.v2i2.4590.
  - [28] R. S. Nugroho, M. Asy'arie, and C. Chusniatun, "Konsep Adil Keluarga Poligami Dalam Tinjauan Pendidikan Islam [The Concept of Justice in Polygamous Families from the Perspective of Islamic Education]," *Suhuf*, vol. 34, no. 2, pp. 180–196, (Indonesia), 2022, doi: <https://doi.org/10.23917/suhuf.v34i2.20954>.
  - [29] M. Mahsus, "Tafsir Kontekstual Dan Eksistensi Perempuan Serta Implikasinya Terhadap Penyetaraan Bagian Waris Laki-Laki Dan Perempuan [Contextual Interpretation and the Existence of Women and Its Implications for Equal Inheritance Shares between Men and Women]," *JIL J. Islam. Law*, vol. 1, no. 1, pp. 25–44, (Indonesia), Feb. 2020, doi: <https://doi.org/10.24260/jil.v1i1.19>.
  - [30] M. Zamzami, *Perempuan dan keadilan dalam hukum kewarisan Indonesia*. Jakarta: Kencana, 2023.
  - [31] A. Wahyudi, "Filsafat Politik Barat dan Masalah Keadilan: Catatan Kritis atas Pemikiran Will Kymlicka [Western Political Philosophy and the Problem of Justice: A Critical Note on Will Kymlicka's Thought]," *J. Filsafat*, vol. 14, no. 1, pp. 88–99, (Indonesia), 2007, [Online]. Available: <https://philpapers.org/rec/WAHFPB>
  - [32] J. Tarantang and J. Tarantang, "Teori Dan Aplikasi Pemikiran Kontemporer Dalam Pembaharuan Hukum Keluarga Islam [Theory and Application of Contemporary Thought in the Reform of Islamic Family Law]," *J. Transform. (Islamic Stud.)*, vol. 2, no. 1, pp. 27–46, (Indonesia), Sep. 2018, doi: <https://doi.org/10.23971/tf.v2i1.882>.
  - [33] I. Hasanuddin, "Keadilan Sosial: Telaah atas Filsafat Politik John Rawls [Social Justice: A Study of John Rawls' Political Philosophy]," *Refleksi*, vol. 17, no. 2, pp. 193–204, (Indonesia), Dec. 2018, doi: <https://doi.org/10.15408/ref.v17i2.10205>.
  - [34] Z. Zaynal, R. Bin Ridwan, and L. Asha, "Praktik Pembagian Waris Secara Merata Antara Laki-Laki Dan Perempuan Di Kecamatan Kepahiang [The Practice of Equal Inheritance Distribution Between Men and Women in Kepahiang District]," *Al Qalam J. Ilm. Keagamaan dan Kemasyarakatan*, vol. 16, no. 6, pp. 2172–2185, (Indonesia), 2022, doi: <http://dx.doi.org/10.35931/aq.v16i6.1377>.