

# The system of inheritance distribution in South Sulawesi

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This article describes the inheritance distribution system of the people of South Sulawesi. This research uses interviews with several community and religious leaders who understand inheritance law. The research sites are Makassar, Pinrang, Palopo and Bone. The theory used is *maṣlaḥah mursalah*, which analyzes data about the inheritance system, starting from the process of inheritance division and the number of heirs' shares, as well as the interplay between customary law and Islam in the inheritance distribution system in South Sulawesi. Without removing the core of inheritance law, the South Sulawesi people's way of distributing inheritance makes use of the customary law known as *ade'* in the *pangadereng* system. There are three types of distribution, depending on whether the family is still together, whether one parent has deceased, or whether both parents have deceased. The nominal distribution varies, sometimes it is equal and other times it is based on fairness, which means that heirs who have invested a lot of money, such as those who go to high school and live well, give up their rights to relatives who are less established or who remain with the parents in the village. According to the benefit principle, men typically receive a plot of land because they have the energy to cultivate it, while women typically receive a house. This study shows how the customary

division system emphasizes the common good in order to fulfill a number of *maqāṣid al-shari'ah* ideals, including the protection of property, honor, and life (soul).

Artikel ini mendeskripsikan sistem pembagian harta warisan masyarakat Sulawesi Selatan. Penelitian ini menggunakan wawancara kepada beberapa tokoh masyarakat dan agama yang memahami hukum waris. Lokasi penelitian ada empat kabupaten yaitu Makassar, Pinrang, Palopo, dan Bone. Teori yang digunakan adalah *maṣlaḥah mursalah*, menganalisis data tentang sistem waris, mulai dari proses pembagian warisan dan jumlah bagian ahli waris serta pertautan antara hukum adat dan Islam dalam sistem pembagian harta warisan di Sulawesi Selatan. Hasilnya, sistem pembagian warisan masyarakat Sulawesi Selatan menggunakan hukum adat yang disebut *ade'* dalam sistem *pangadereng* tanpa menghilangkan substansi hukum waris. Ada tiga model pembagian, dibagi ketika keluarga masih utuh, atau salah satu dari orang tua telah wafat, atau keduanya sudah meninggal. Adapun pembagian nominalnya bervariasi, terkadang dibagi rata, dibagi berdasarkan keadilan, artinya ahli waris yang telah menghabiskan banyak uang, seperti yang bersekolah hingga jenjang yang tinggi dan hidup berkecukupan, memberikan haknya kepada kerabat kurang mapan atau yang menemani orang tua di desa. Dibagi berdasarkan asas kemaslahatan, perempuan biasanya mendapatkan rumah, sedangkan laki-laki mendapatkan kebun karena memiliki tenaga untuk menggarapnya. Penelitian ini menunjukkan bahwa sistem pembagian secara adat mengedepankan kemaslahatan bersama sehingga dapat mengaktualisasikan beberapa nilai *maqāṣid al-shari'ah*, seperti menjaga keberlangsungan hidup (jiwa), kehormatan dan harta benda.

**Keywords:** *ade'*; Bugis-Makassar; distribution system; *maṣlaḥah mursalah*; pangadereng.

## **Introduction**

The topic of inheritance law is often raised and its implementation is controversial (Judiasih, 2018). Similarly, conflicting interpretations and viewpoints that result in legal variations on the distribution of idealistic inheritances without taking sociological factors into account often lead to family disagreements and problems (Assaad, 2022), even bloodshed (Mansur, 2022). The customary inheritance distribution system in Indonesia varies greatly from region to region (Tarmizi, 2020). Inheritance law debates, such as the inheritance rights of surviving and cohabiting spouses, the legal status of forced inheritance versus testamentary freedom, and the use of wills, are also being debated (Önnerfors, 2017).

Islam uses the two-to-one principle to divide inherited property, with two parts distributed to men and one to women (Halimah, 2022). Islamic inheritance law specifies the heirs and their respective shares according to the verses of the Qur'an (Al-Sabuni, 1979). In South Sulawesi, however, heirs follow the line of descent through their children and

grandchildren (Sabri, 2017). Even so, for some cases there can also be sideways paths, such as brothers and cousins (Sihombing, 2017). Even in some circumstances, a distant family member or someone unrelated to the family receives inheritance because they provide services to the family, such as accompanying parents in the village (Tarmizi, 2020).

The distribution of inheritance should be a joyful occasion that acknowledges the death of the property's owner while also fulfilling the rights of each successor from the bequest. However, in other circumstances, inheritance division becomes a display of injustice (Hiksyani, 2019), even deprivation of rights and property (Souaiaia, 2019). This is because some heirs feel powerful and dominant, and they want to seize the largest inheritance, even if it means controlling everything.

Research on inheritance law tends to focus on two aspects. First, it focuses on three types of positive inheritance law in Indonesia, namely civil law (M, 2017), Islamic law (Muni, 2019), and customary law (Bakri, 2021; Ulfiani, 2022). Civil law is a regulation in state law, Islamic inheritance law applies to Muslims in Indonesia, and customary inheritance law applies to individuals who continue to adhere to customs (Supriatna, 2015). Second, it is concerned with the equality of inheritance rights, namely the equality of men and women (Souaiaia, 2019), equal inheritance rights to daughters (Sapkal, 2017), and equal and non-discriminatory rights for people with disabilities (Ballvé, 2021; Permana, 2018).

Existing study has not provided a comprehensive explanation of the prevalent inheritance law system in South Sulawesi. South Sulawesi is the focus of this research, with four regions (Makassar, Bone, Pinrang, and Palopo) to accommodate all people of South Sulawesi geographically (regional location) and sociologically (ethnicity and culture). This article presents a thorough examination of the notion of inheritance law in South Sulawesi, beginning with the process of division and progressing to the heirs, the amount gained, and the advantages.

## **Method**

This study adopts a legal-sociological perspective (Huda, 2021), which considers social conditions as values in society and religious texts as a source of law. The data are analyzed qualitatively (Norman, 1997) in order to verify concepts and generate opinions based on

inheritance law. This is a field study and the data were collected through interviews (Creswell, 2016) with religious and community leaders who understood inheritance law, as well as some people who were actors in four different locations: Makassar, Bone, Pinrang, and Palopo.

This study uses the *maslahab mursalah* theory (Fakhruddin, 2020). In language studies, *maslahab* refers to goodness, appropriateness, and usefulness (Fakhruddin, 2020). According to al-Tufi, *maslahab* can be equated with *al-'urf* and the benefits that lead to *maqāsid al-shari'ah*. Similarly, 'Izz al-Din (1994) and al-Gazali (1997) believe that *maslahab* is a virtue that realizes and preserves *maqāsid al-shari'ah*. In this study, the operation of the framework of *maslahab mursalah* examines the inheritance distribution system under customary law in South Sulawesi. The analysis is based on the data obtained, beginning with the *assamaturuseng* (deliberation) process of dividing the inheritance, the distribution and the amount obtained by the heirs and the person who has the right, and the conditions, objectives and benefits of the inheritance distribution.

### **The Islamic view on family property division**

There are several types of property division systems in Islam, including *'atiyah* (Gaffar, 2011), *wasiat* (Hadi, 2017), and *mawaris* or the science of inheritance (*'ilm farā'id*) (Mansur, 2022), which will be explained as follows.

*'Atiyah* is Arabic for taken from or given to another (Zakariya, 1979). Ibn Mandzur defined it as any type of gift, because anything taken or acquired from someone is the result of a gift (Mandzur, 1414 AH). In fiqh, *'atiyah* is a form of giving someone property rights without reciprocation (Gaffar, 2011). Giving in the form of *'atiyah* might take the form of material or non-material goods like security, comfort, and motivation.

*Wasiat* means message, promise, representation (Al-Zuhaili, 2011), or the relationship between one and another (Hadi, 2017). In Islamic legal terminology, a will is a directive issued by a person while living that will be honored after death, both in the form of material and non-material matters (Hadi, 2017). As a result, willpower is required to ensure that the mandate is clear (Hadi, 2017) and maintained until it reaches the intended person (Sanjaya, 2018). The will should not be more than one-third (1/3) of the entire estate of the deceased (Al-Malik, 1994). This is done to ensure that the family left behind by the

property's owner retains their rights.

The science of inheritance is also called *'ilm farā'id*, which means the science that discusses inheritance, heirs, and all related matters (Muslim, 1992). The inheritance is referred to as *al-tarikah*, which is any form of legacy left by the deceased (Makhluf, 1976), including debts (Al-Jaziri, 2003). As a result, what the family inherits is not only property, but all unfinished business relating to the person is also the obligation of the heirs.

There are 10 heirs on the male side (14 if itemized and 15 if the status of the master is included) and 7 on the female side (10 if itemized and the female master is included) (Al-Zuhaili, 2011). More details can be seen in the following table:

**Table I.**  
**Male Heir Group**

Male Heir Group			
1	Son	8	Biological nephew
2	Grandson	9	Nephew from the same father
3	Father	10	Biological uncle
4	Grandfather	11	Uncle from the same father
5	Biological brother	12	Biological cousin
6	Biological brother	13	Cousin from the same father
7	Brother from the same mother	14	Husband

Source: Al-Zuhaili, 2011

**Table II.**  
**Female Heir Group**

Female Heir Group			
1	Mother	6	Grandmother from the father
2	Wife	7	Wife of biological sibling
3	Daughter	8	Sister from the same father
4	Granddaughter	9	Sister from the same mother
5	Grandmother from the mother	10	Female master

Source: Al-Zuhaili, 2011

The basis for the use of *farā'id* science in the distribution of inheritance and its amount, including the groups of heirs (as in tables I and II) is explained in detail in the Qur'an,

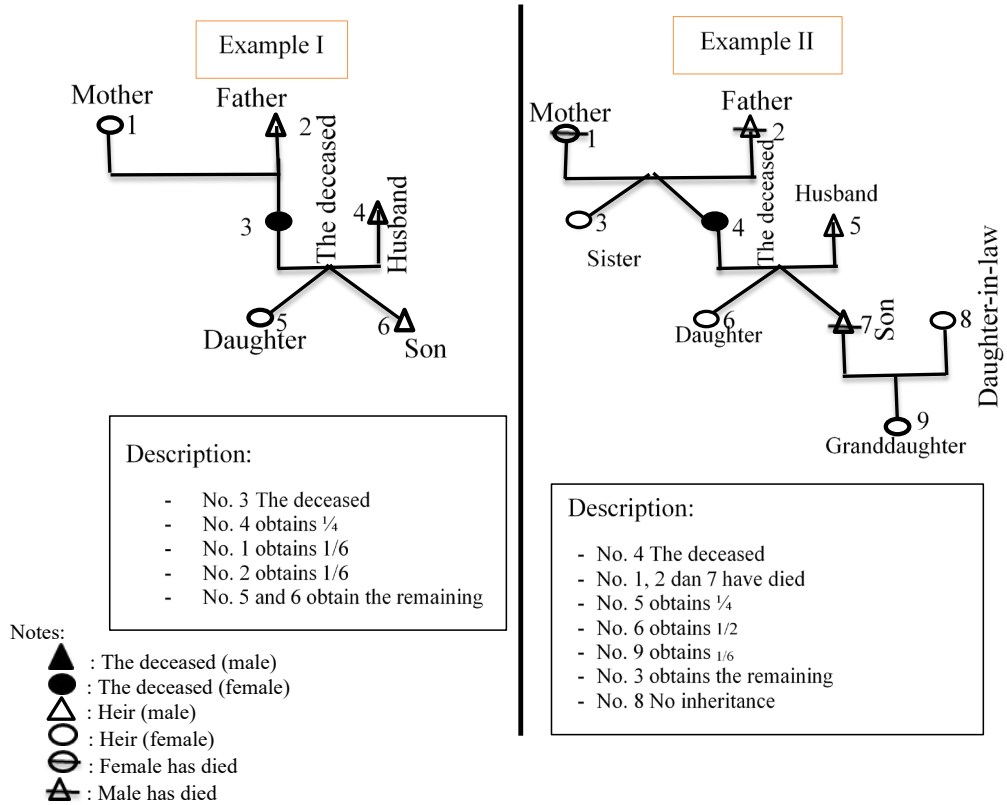
though it still requires the Prophet's hadith, *ijma'*, and *qiyas* of scholars in certain cases that are not accommodated. QS. al-Nisā/3:11 discusses two subjects: the shares of men and women, as well as the amount of the father's and mother's shares. QS. al-Nisā/4:12 discusses three subjects: the husband's share, the wife's share (one or more), and the share of a male or female sibling from the same mother. QS. al-Nisā/4:176 explains the amount that a sibling sister will receive. The following table is based on the Qur'anic description of the heirs and their shares.

**Table III.**  
**Definite Heirs**

No.	<i>Aṣḥāb al-Furuḍ</i> (Definite Heirs)	Shares
1.	Husband	$\frac{1}{2}$ , $\frac{1}{4}$
2.	Wife	$\frac{1}{4}$ , $\frac{1}{8}$
3.	Daughter	$\frac{1}{2}$ , $\frac{2}{1}$
4.	Granddaughter (of a son) if the father is dead	$\frac{1}{2}$ , $\frac{2}{3}$ , $\frac{1}{6}$
5.	Father	$\frac{1}{6}$ , $\frac{1}{6}$ + remaining
6.	Mom	$\frac{1}{3}$ , $\frac{1}{6}$ , $\frac{1}{3}$ + remaining
7.	Grandfather (father's father)	$\frac{1}{6}$ , $\frac{1}{6}$ + remaining
8.	Grandmother (mother's or father's mother)	$\frac{1}{6}$
9.	Biological sister	$\frac{1}{2}$ , $\frac{2}{3}$
10.	Sister from the same father	$\frac{1}{2}$ , $\frac{2}{3}$ , $\frac{1}{6}$
11.	Sister from the same mother	$\frac{1}{3}$ , $\frac{1}{6}$
12.	Brother from the same mother	$\frac{1}{3}$ , $\frac{1}{6}$

Source: *Al-Zubaili*, 2011

Figure I.  
Example of Inheritance Division



### Inheritance distribution system in South Sulawesi

South Sulawesi's inheritance distribution system is based on custom, while some people employ inheritance law (*'ilm faraid*) (Galib, 2022). This is inextricably linked to the Bugis-Makassar community's institution of life and customary law (*panngaderrereng*), which existed prior to the arrival of Islam in South Sulawesi (Galib, 2022). When Islam gained influence, it became the religion of the kingdoms of Luwu, Gowa, and Bone (later) and the religion of the majority (Mattulada, 1998), however it did not replace customary law in Bugis-Makassar culture; in fact, there was an enculturation of the two (Maryam, 2013).

In South Sulawesi society, the phrase *mallempa uruwane'e majjujung mangkuraiyye* (Bugis) or *allembara burannea ajujung baineyya* (Makassar) signifies that males carry while women uphold (Galib, 2022). The meaning refers to the Bugis-Makassar tribe's institutionalized system of equality, fairness, and familial responsibility allocation. To ensure that each heir receives an equitable and fair part, the inheritance is divided while taking the heirs' obligations and circumstances into account.

The division of inheritance according to custom nevertheless takes into account the tenets of Islamic inheritance law, which give priority to family members with the tenets of justice, benefit, and benefit. In reality, it's possible that women's shares are equal to men's shares, and occasionally even higher. First, women are more in need than men, who have established careers. Sisters who look after and care for their parents come in second. Thirdly, daughters who are the youngest or who are still living with their parents are given houses, which may be more expensive than the plots given to sons. Fourth, because he has spent a lot of money on his education to the highest level and is well established, the son receives just enough, even giving the sister all of it (Galib, 2022).

The *panggaderreng* system, which is used as a rule by the Bugis-Makassar community, has similarities to Islamic law and can therefore be easily applied (Rasdiyanah, 1995). On the other hand, sometimes the names and procedures differ. In terms of division, for example, Islam has numerous techniques and phrases such as *hibah* (gift), *'atiyah* (gift or taking), inheritance law, and wills. In particular, inheritance law is a method of distributing inherited property to each successor in a predetermined number of shares. *Assamaturu* (Makassar) and *massamaturu* (Bugis) are terms for consensual deliberation used in the South Sulawesi community, regardless of whether the person who owns the land is still alive or has passed away.

Furthermore, the enculturation approach used by the Bugis-Makassar community in the division of property when Islam introduced inheritance law was included into *panggaderreng* law while maintaining the idea of distribution. Meanwhile, the method of division, the amount of inheritance to be shared, and other technical variables are altered in accordance with the outcome of the family deliberation (heirs) (Galib, 2022).

Thus, the customary law used by the people of South Sulawesi does not eliminate the principle of inheritance law that prioritizes the common good. In the study of *masalah*



*mursalah*, the benefits provided by the inheritance distribution system in South Sulawesi satisfy at least three of the *maqāṣid al-shari'ah*, such as the protection of the soul, the protection of honor, and the protection of property. Simply put, the existence of *assamaturu* or *massamaturu* (deliberation-consensus) prevents heirs from family conflicts; on the contrary, they protect each other's honor and share the inheritance according to the agreement of the heirs.

### **Inheritance distribution system in Makassar City**

The inheritance distribution system in South Sulawesi is an application of customary law with different rationales and purposes of use (Ubbe, 2005). According to Wahid (2022), one of the customary legal systems in the division of inheritance is *assamaturu* (Makassar) or *massamaturu* (Bugis). *Assamaturu* has two concepts, namely the division of property carried out when the owner is still alive and when he has died.

According to Ghany (2022) and Azka (2022), the division of inheritance is not discussed when a family member dies. This is due to the fact that the assets owned are in the form of a house or foundation that can be managed jointly. Furthermore, some of the assets were utilized to pay for their children's education up to the master's level, while others were provided cash for enterprises. However, according to Ghany (2022) and Azka (2022), In certain circumstances, conversations take place after the deceased has been buried for several months or years, and the decision is left to family elders or those regarded wiser.

The same point was made by Baharuddin (2022), who explained that it is unusual to hear about the division of inheritance when someone dies. This is because the land was divided while the owner was still healthy to avoid family feuds (Nur, 2020). Even so, there are occasionally family members who choose to take legal action because they are dissatisfied. In such cases, further discussions must be held to resolve the dispute within the family, with the help of elders, Islamic leaders (*gurutta*: Bugis) or the local government and existing witnesses. Because the disputants may be only one or two people, or may not be the head of the family, if the deliberation phase is not completed, the case is taken to court with witnesses and evidence. The results are usually the same as in the first discussion.

Abdul Ghany (2022) and Rahmat Hamid (2022) found that the division of property by custom and kinship was also practiced among local Islamic scholars who understood

the law of inheritance. For example, the founders and initial leaders of various Islamic boarding schools, such as Pon-Pes Darul Istiqamah, Pon-Pes al-Fakhriyah, Pon-Pes Darul Ulum, Pon-Pes Imam Ashim, and others, divided the duties for their children and some of their close relatives to manage units, even branches of the Islamic boarding schools. This is done to avoid conflicts among children or families in managing the schools.

Horizontal conflicts between successors to the Islamic boarding schools or foundation leadership are common, due to a shift in focus from a religious to an economic context, or a desire to have more shares than others (Hamid, 2022). If this occurs, the Islamic boarding schools or foundation will suffer a decrease. It does not even rule out the possibility of closure due to a protracted conflict between the foundation's successors (Mursalim, 2022).

Therefore, distributing assets while the owner is still alive is a proactive way to avoid conflicts among heirs. According to *maṣlaḥah mursalah*, early distribution of assets has numerous benefits for both the owner of the assets and the heirs or other family members. When each family member is allocated a share, they become responsible for their own share. Being responsible, taking care of it, and developing it will result in benefits such as defending the family's life, property, and honor. Thus, the early distribution of inheritance in Makassar is carried out in the spirit of realizing the value of *maqāṣid al-shari'ah*.

### **Inheritance distribution system in Pinrang Regency**

The inheritance distribution system in Pinrang also uses the customary system with consensus deliberation (Faisal, 2004). According to Salam Latarebbi (2022), The Pinrang people are more likely to rely on the family system, and property is divided by allocating a share to each child and relative based on their willingness. In addition to avoiding controversy upon the death of the owner, division by consent is simpler and is also permitted in Islam (Nur, 2020).

The division of property by deliberation occurs throughout Pinrang Regency area, starting from Watang Sawitto' (Nurhalisah, 2020), Pa'leteang, Duampanua (Arfaing, 2022), Lembang (Gafar, 2022), and Mattiro Sompā (Mukhtar, 1987). According to Abdul Gafar (2022), most Pinrang people divide their property in a unique manner, as described here.:

*The Pinrang community often divides property among their children and relatives while they are still alive, or there is a document of will revealed when they die. This is done to avoid future conflicts.*

*Furthermore, if there are persons or families who do not share family assets or parents, especially if one of the parents is still alive, the solution is to implement a turn system. This means that if the deceased's rice fields or plots are left, they are planted in rotation by all families and relatives who are eligible to inherit (Gafar, 2022).*

Property division through utilization in rotation is unique; this method is known as *manak makkaleang* (division in rotation) (Faisal, 2004). In some cases, the use of inherited assets in rotation is carried out while the owner is still living, and the results are shared with the owner (Faisal, 2004).

Basri, for example, has a one-hectare (ha) fishpond and has reached old age. Because he believes he is getting old, his pond is managed by his children on a rotating basis. Depending on the agreement, the profits are shared fifty-fifty or seventy-thirty. In another example, Basri died leaving behind three children, a brother, and a niece, as well as an acre of land with 500 coconut trees. After his funeral, his children and brother agree to manage the plantation together and take turns harvesting. The first harvest is by his brother, the second harvest is by the eldest son, the third harvest is by the third son, the fourth harvest is by the deceased's nephew, and the fifth harvest is by his brother again, and so on.

The division of inheritance through *manak makkaleang* (rotation) allows all relatives to profit from the inheritance in turn. Even still, future conflict is likely, especially if it has been passed down to each of its offspring. As a result, legitimate evidence or an agreement letter from all people with rotation rights is required. This is done to ensure that the property's status is clear and to avoid future conflicts (Latarebbi, 2022).

From the perspective of *maṣlahah mursalah*, the distribution of property by *manak makkaleang* (rotation) is a system that provides *maṣlahat* to all heirs. Some of the benefits of the *manak makkaleang* (rotation) method include the heirs getting equal management rights so as to minimize family conflicts. The heirs can work together to manage the inheritance, then the results are divided according to the agreement. The *manak makkaleang* (rotation) system, combined with the cooperation of the heirs, can maintain family unity, foster a loving attitude toward each other's souls, and protect family property and honor.

### **Inheritance distribution system in Bone Regency**

In Bone Regency, the customary procedure is also used to divide inheritance (Akmal, 2022). Only a few percent of the population use a system known as *urane mallempa-makkekunrai majjujung*, which translates to two portions for males and one for women (Zubair, 2022), which is considered in accordance with the principles of inheritance law (Raden, 2022). The division system is implemented in two stages: during the parents' lifetime and after their death. The two approaches are intentional in order to establish justice and mutual benefit in the family. When the parents are alive, they decide how much each child or family will receive according to the principle of *assitinajang* (appropriateness). If both parents are deceased, the decision is made through deliberation to reach agreement on the principle of *asitinajang* (adequacy) (Sabri, 2017).

There are several terms for the division of inheritance in Bone, such as *mabbage*, *pabbere*, *ampikale* (Zubari, 2019) and *mattungke'-tungke* (Tarmizi, 2020). *Mabbage* is a system of distributing property to families (usually descendants) while the owner of the property is still alive. *Pabbere* is the giving of property to anyone who is desired, children, grandchildren and family, even to other people. *Ampikale* is a system of dividing the inheritance of the Bone community from generation to generation based on the decision of the parents (Zubari, 2019). As for *tungke'-tungke'* is the distribution of property to each heir equally (Tarmizi, 2020).

The principle of Bugis-Bone customary inheritance law is implemented from generation to generation (Sabri, 2017). If inheritance cannot be passed down through generations, it is passed up or sideways. Thus, the first heirs are the biological sons or daughters. In the absence of the first group, the heirs are the father, mother, grandfather, grandmother, and so on. If the second group is also absent, the heirs are the owner's brothers and their descendants, i.e. the blood relatives according to the line to the side, with the understanding that the closest family excludes the distant family (Sabri, 2017).

Of the several terms used by the Bone community regarding the distribution of inheritance, all of them use a deliberation system (*assamaturuseng*) with the principle of *assitinajang* (appropriateness). *Mabbage*, *pabbere* or *ampikale* are also done in consultation with close relatives, although the final decision remains the right of the parents or the owner

of the property. This is intended for mutual respect between families and to maintain the principle of justice. This means that the parents' will is based on family knowledge, and they still feel valued by the decision (Zubari, 2019).

The system used in Bone takes into account the interests of the whole family. There are several advantages to the Bone inheritance distribution system from the standpoint of *maṣlahah mursalah*, including the protection of the soul, honor, and family finances. These benefits are achieved because the inheritance distribution system considers the principle of *assitinajang* (appropriateness), in the process of distribution and the amount of property divided.

### **Inheritance distribution system in Palopo City**

Palopo City has the same inheritance distribution scheme as other regions; the only difference is the cause factor. According to Rusydi Hasyim (2022), In the city of Palopo or Luwu Raya, the distribution of inheritance is often based on the consent of the parents, who share their property equally during their lifetime and are completely controlled by the heirs when they de cease.

In practice, there are two ways to achieve an equitable distribution. First, and most commonly, assets are divided equally among all family members. Second, when the assets are divided, the amount of assets used by the family or its descendants is calculated and added to the amount received until the total is equal (Hashim, 2022).

For example, children who attend college (bachelor's, master's, or even doctoral level) with parental financial support will differ from those who stay at home and forgo higher education. Because they have never spent much money, the children who stay at home will receive a larger share. Those who go to college, on the other hand, have spent a lot of money, and therefore their share is smaller. However, when all the costs are summed up, the total remains the same. Furthermore, in some circumstances, children who have attended college do not receive a portion since they are believed to be economically established. According to Wahid Haddade (2022), family members who have been given the opportunity to study at a high level and are still looking for an inheritance from their parents should feel ashamed, while other relatives are willing to forgo attending college in order to take care of their elderly parents in the village.

The reason is what distinguishes Palopo from other places in terms of the property division system. In Palopo or Luwu Raya (not inheritance law), the division is done by deliberation because sometimes there are two or even three different religions in one house, which could lead to family conflict if Islamic inheritance law is applied. Thus, the solution to the division of inheritance is to divide it among relatives by consensus while they are still alive (Assaad, 2022).

In Palopo, the division of inheritance favors the common good. This is demonstrated through the division of property after deliberation and family agreement, such that even non-Muslim relatives receive inheritance property (Hasyim, 2022). In the study of *maqāṣid al-shari'ah*, this practice is beneficial because it can provide a source of income (protecting the soul) for non-Muslim relatives.

The four research areas show that the people of South Sulawesi use the *assamaturuseng* system known as *ade'* in the concept of *pangngaderreng*, which is used as an instrument in the distribution of inheritance. In *assamaturuseng*, the customary system still presents the principle of inheritance law according to Islamic law with the principle of *assitinajang*. *Assitinajang* translates as “appropriateness,” which includes the ideals of fairness and benefit (Sabri, 2017). As a result, each heir or family receives a fair share without prejudice or deception.

The customary law used by the people of South Sulawesi in the distribution of inheritance is different from Islamic law. Islamic law adheres to the understanding of two male parts and one female part. While customary law adheres to the concept of equal distribution for men and women, with occasionally higher women's shares, there are still those who practice two to one for men and women. The method and quantity of division in Islamic law have been set by the Qur'an, but customary law is based on an agreement between the heirs (the owner of the property if still living).

On closer examination, there are no *qat'ī* and detailed arguments that can accommodate customary law in the distribution of inheritance, except at the level of decision-making by consensus and purpose (QS. Ali 'Imrān/3:159, al-Syūrā/32:38). However, if we turn to the study of *uṣūl fiqh*, we find the theory of *maṣlaḥah mursalah* as a legal basis. *Maṣlaḥah mursalah* can be used as a normative basis for the permissibility of inheritance distribution

by customary law even though it is not supported by *qat'i* evidence.

The *maṣlaḥah mursalah* theory shows that the use of the customary system in South Sulawesi provides a variety of benefits because it is based on justice and *assitinajang* (appropriateness). As a result, an heir cannot receive a small part and be treated unfairly. On the contrary, everyone will be given a fair portion based on the ideals of propriety and justice. With a partition based on the principles of propriety and justice, all heirs, including families, are kept away from disagreements that could lead to conflict, fostering a mutual care attitude (safeguarding the soul). Similarly, the divide with the idea of propriety indicates respect amongst families without regard for gender, age, or educational level. The division of property in accordance with the principles of appropriateness and justice ensures that descendants (children and grandchildren) can live better lives with the inheritance received. Thus, the division of property with the customary system is able to bring benefits as a form of application of *maqāṣid al-shari'ah*, such as protecting the soul, protecting honor, protecting descendant, and also protecting property.

## Conclusion

The people of South Sulawesi continue to apply customary law (*ade'*) in their inheritance distribution system. The mechanism for dividing property is carried out by consensus (*massamaturu* or *assamaturu*) by considering the principle of *assitinajang* (appropriateness). However, there are differences in terms of the concept and reasons for the division of inheritance. The division in Makassar is *assamaturu* (deliberation) with the principle of justice. In Pinrang there is the concept of *manak makkaleleang*, where ownership of property is not fully controlled, but with a rotating system. In Bone there are several terms such as *mabbage* (sharing), *pabbere* (giving), *tungke'-tungke'* (dividing equally), and *ampikale* (division depending on the decision of the owner of the property). In Palopo, the inheritance is divided by consensus because of the diversity characteristic, ensuring that all families receive an equitable legacy despite the fact that they practice other religions.

The inheritance distribution system in South Sulawesi must be maintained since it still adheres to Islamic law principles while protecting the rights of families of other religions, as seen in the Palopo and Luwu Raya regions. Based on the perspective of *maṣlaḥah mursalah*,

the Bugis-Makassar tribe's customary law, which prioritizes the welfare of the family from the legal process to the nominal distribution, is consistent with religious teaching and guidance. This indicates that the benefits for the entire family, especially the heirs, are at the core of the whole customary system in use. The benefits of the customary method of inheritance distribution include the realization of the *maqāṣid al-shariah*, which includes the protection of family (and soul), property, children, and honor.

This research has two implications. Conceptually, it becomes more important to understand how inheritance is distributed, especially in South Sulawesi. In South Sulawesi, whether by customary law or Islamic law, the division of inheritance can be done in a fair and reasonable manner by upholding the rights of each heir and all stakeholders. The four districts of Makassar, Pinrang, Bone, and Palopo, which constitute the research area for this article, are used as samples. Therefore, it is recommended that future researchers visit all cities and regencies to collect more detailed and comprehensive data.

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