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## **Inheritance Distribution and Conflict Resolution in Bone Regency: Upholding Women's Rights and Islamic Law Objectives**

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### **Abstract:**

The implementation of the inheritance distribution system within the community remains partially ineffective, as conflicts among heirs frequently arise. These disputes hinder the objectives of Islamic law as outlined in *maqāṣid al-syarī'ah*, emphasizing the need for preventive efforts. This study aims to analyze inheritance conflict prevention in Bone Regency through gender-equitable deliberation by examining conflict resolution methods, causes of disputes, women's inheritance rights, and conflict prevention strategies from the perspective of *maqāṣid al-syarī'ah*. This empirical research was conducted in Bone Regency using a theological-normative approach based on *maqāṣid al-syarī'ah*. Primary data were collected through interviews with academics, judges, and government officials, while secondary data were obtained from relevant literature and analyzed qualitatively. The findings reveal that inheritance disputes can be resolved through court litigation or non-litigation pathways involving local authorities. Key causes of conflicts include heirs' greed, limited understanding of inheritance laws, lack of property transfer documentation, unfair distribution, and delays in inheritance division. Women's inheritance rights in Bone's customary law are preserved through deliberation during the distribution process. To prevent inheritance disputes, measures such as public education on inheritance law, facilitated consultations involving local authorities, and proper documentation of property transfers are

recommended. These initiatives align with the values of *maqāṣid al-syarī'ah*, which prioritize the preservation of religion, life, intellect, property, and lineage. The government and relevant stakeholders are expected to play an active role in guiding and educating communities to ensure effective inheritance distribution and prevent conflicts.

**Keywords:** conflict prevention; inheritance distribution; *maqāṣid al-syarī'ah*.

## Introduction

Islamic inheritance law is one of the aspects governed by the Qur'an and Hadith. In fact, Islamic inheritance law has been enacted as positive law and has become part of the positive legal framework in Indonesia.<sup>1</sup> However, issues in inheritance distribution often lead to conflicts that must be resolved through legal channels. Inheritance disputes rank as the second most common cases in religious courts.<sup>2</sup> Besides religious courts,<sup>3</sup> inheritance disputes frequently occur in rural communities and are often resolved by local authorities. Inheritance conflicts are family disputes that commonly arise, especially regarding the division of inherited assets like land, and they can lead to broken family relationships among heirs.<sup>4</sup> This underscores that inheritance distribution conflicts are complex family issues that require serious attention in their resolution.

<sup>1</sup> Siah Khosyi'ah and Ayi Yunus Rusyana, "Inheritance Settlement of Descendants of Children and Siblings in Islamic Law with Local Wisdom in Indonesia," *Cogent Social Sciences* 8, no. 1 (December 31, 2022): 2126615, <https://doi.org/10.1080/23311886.2022.2126615>.

<sup>2</sup> Syaikhul Syaikhul, "The Dispute Settlements of Inheritance in Palangka Raya: A Legal Anthropology Approach," *Mazahib Jurnal Pemikiran Hukum Islam*, June 30, 2019, 117–41, <https://doi.org/10.21093/mj.v18i1.1441>; Yusna Zaidah, A. Fahmi Al-Amruzi, and A. Sukris Sarmadi, "Unveiling the Role of Local Cultural Considerations in Judicial Discretion: An Analysis of Inheritance Decisions in the Religious Courts of South Kalimantan," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 23, no. 1 (June 24, 2023): 47–58, <https://doi.org/10.30631/alrisalah.v23i1.1351>; Ali Muhtarom and Yuli Sutoto Nugroho, "Grants as a Model of Inheritance Prospective Distribution in the Coastal Santri Community," *Al-Ahkam* 32, no. 2 (October 30, 2022): 169–88, <https://doi.org/10.21580/ahkam.2022.32.2.12557>; Syabbul Bachri, Roibin Roibin, and Ramadhita Ramadhita, "Sociological Dimensions of the Application of Islamic Inheritance in Indonesia," *Justicia Islamica* 21, no. 1 (June 24, 2024): 63–86, <https://doi.org/10.21154/justicia.v21i1.8707>.

<sup>3</sup> Eko Budiono et al., "Analyzing the Legal Framework of Substitute Heirs in Islamic Inheritance Cases: DKI Jakarta High Religious Courts Perspective," *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 2 (April 12, 2024): 281–99, <https://doi.org/10.18592/sjhp.v23i2.12545>; Agus Suharsono, Nanik Prasetyoningsih, and Sunyoto Usman, "Women's Inheritance Rights in Indonesia from the Perspective of the Triangular Concept of Legal Pluralism," *El-Mashlahah* 14, no. 2 (November 8, 2024): 259–80, <https://doi.org/10.23971/el-mashlahah.v%vi%i.7657>; Suwarti Suwarti, Decha Khunmay, and Stepan Abannokovya, "Conflicts Occurring Due to the Application of Different Legal Inheritance Systems in Indonesia," *Legality: Jurnal Ilmiah Hukum* 30, no. 2 (September 18, 2022): 214–27, <https://doi.org/10.22219/ljih.v30i2.21020>.

<sup>4</sup> Mohammad Takhir et al., "The Takharrūj Method as an Islamic Legal Solution for Customary Inheritance Practices among Muslim Communities in Pakamban Laok, Sumenep, Indonesia," *Journal of Islamic Law* 4, no. 1 (February 28, 2023): 104–22, <https://doi.org/10.24260/jil.v4i1.1044>; Elfia Elfia, Surwati Surwati, and Bakhtiar Bakhtiar, "The Struggle of Custom and Sharia: Classic Dilemma of Inheritance Settlement in Javanese and Minangkabau Ethnic Communities in Indonesia," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 1 May (May 16, 2023): 75–94, <https://doi.org/10.29240/jhi.v8i1.5480>; Syabbul Bachri et al., "Contextualizing Islamic Inheritance Law in Indonesia: Addressing Negative Stigma," *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 7, no. 2 (May 3, 2024): 170–87, <https://doi.org/10.30659/jua.v7i2.35041>.



Inheritance distribution often sparks conflict within communities for various reasons. For instance, in the community of Nagari Ujung Gading, inheritance distribution conflicts are still caused by economic factors, limited public awareness of Islamic inheritance law, and the insufficient role of authorities.<sup>5</sup> Not only in Indonesia, but inheritance conflicts also frequently occur in other countries, such as Germany<sup>6</sup> and Austria.<sup>7</sup> Similarly, in Bangladesh, inheritance rights are a highly debated issue, interpreted differently by the two major religions, Islam and Hinduism.<sup>8</sup> However, inheritance distribution conflicts should not be left unchecked and thus require efforts to prevent conflicts from arising in inheritance matters.

In Bone Regency, South Sulawesi, inheritance distribution is still predominantly influenced by customary systems, which often leads to conflicts within the community. In her research, Asni Zubair investigated inheritance disputes among the Bugis people in Bone Regency. At least 28 cases of inheritance distribution were identified at the research site, classified based on internal and external factors that caused the disputes and their circumstances.<sup>9</sup> The inheritance distribution system practiced uses customary law known as *ade'* within the *pangadereng* system. *Ade'* refers to Bugis customs, while *pangadereng* denotes the customary system adhered to by the Bugis community.<sup>10</sup> The customary principles for inheritance distribution consist of two main approaches: prioritizing mutual agreement over Islamic inheritance law stipulations and favoring heirs in need over others through consensus among the heirs.<sup>11</sup>

The distribution of inheritance is a common source of disputes, often leading to strained relationships among heirs. These conflicts arise due to perceived inequities, disagreements over legal interpretations, or cultural expectations conflicting with religious laws. A significant number of such disputes are resolved in religious courts, while others remain confined to informal family discussions, leaving unresolved tensions that can persist for generations. For example, Haeratun et al. highlight that inheritance cases frequently reach religious courts as a last resort when family mediations fail. Their study observes that disputes often center around

<sup>5</sup> Tarmizi Tarmizi, "Upaya Penyelesaian Konflik Pembagian Harta Warisan Masyarakat di Indonesia," *Al-Adl: Jurnal Hukum* 16, no. 1 (January 27, 2024): 41–60, <https://doi.org/10.31602/al-adl.v16i1.9701>.

<sup>6</sup> Jürgen Schlumbohm, "Stepfamilies, Inheritance, and Living Arrangements in a Rural Society of Germany," *The History of the Family* 27 (July 3, 2022), <https://doi.org/10.1080/1081602X.2021.2003841>.

<sup>7</sup> Johannes Kaska, "Equal but Not Identical. Modes of Partible Inheritance in Early-Modern Schlanders (South Tyrol) and Medieval Lambach (Upper Austria) Compared," *The History of the Family* 27, no. 1 (January 2, 2022): 100–124, <https://doi.org/10.1080/1081602X.2022.2026802>.

<sup>8</sup> Jinat Hossain and Ishtiaq Jamil, "Negotiating Gender-Equal Inheritance Rights: The Rise of Islamic Politics and the Global Feminist Landscape in Bangladesh," *Religion, State and Society* 51, no. 2 (March 15, 2023): 174–93, <https://doi.org/10.1080/09637494.2023.2206341>.

<sup>9</sup> Asni Zubair, *Resolusi Konflik Pembagian Harta Warisan Masyarakat Bugis Bone* (Sulawesi Selatan: CV. SYAHADAH CREATIVE MEDIA (SCM), 2023), <http://repositori.iain-bone.ac.id/1390/>.

<sup>10</sup> Abdul Mutakabbir, Hastuti Hastuti, and Mikdar Rusdi, "The System of Inheritance Distribution in South Sulawesi," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 1 (June 22, 2023): 57–76, <https://doi.org/10.18326/ijtihad.v23i1.57-76>.

<sup>11</sup> Tarmizi Tarmizi, Supardin Supardin, and Kurniati Kurniati, "Kaidah Pembagian Harta Warisan Masyarakat di Kecamatan Tellu Siattinge Bone District dalam Pandangan Hukum Islam," *Jurnal Al-Qadau: Peradilan dan Hukum Keluarga Islam* 7, no. 2 (December 24, 2020): 12–29, <https://doi.org/10.24252/al-qadau.v7i2.15330>.



disagreements over asset division, especially where cultural customs influence the perception of fairness in distribution.<sup>12</sup> Similarly, Putra et al. analyze mediation efforts by religious courts, emphasizing that these mechanisms aim to balance legal requirements and familial relationships, yet often struggle to prevent emotional fallout.<sup>13</sup> A study by Khan and Ahmad, in *South Asian Journal of Social Studies*, found that in Pakistan, disputes over land inheritance between male and female heirs under customary and Islamic laws frequently lead to strained sibling relationships. The authors documented cases where sisters forfeited claims due to societal pressure, fostering resentment and family fractures.<sup>14</sup> Moreover, Zuhah et al. note that legal and legislative complexities in inheritance disputes exacerbate familial tensions. Their research underscores how the dual recourse to civil and religious courts reflects the intricate interplay between legal systems and societal norms, with outcomes often leaving one party dissatisfied.<sup>15</sup> These studies collectively demonstrate the profound impact of inheritance disputes on familial harmony and emphasize the need for proactive legal and cultural reforms.

From the perspective of *maqāṣid al-syarī'ah*, inheritance conflicts are considered among the most sensitive issues, impacting property, lineage, intellect, life, and religion, which are the core objectives of Islamic law that must be preserved. Because inheritance conflicts significantly affect these primary goals of Islamic law, resolving such conflicts through the concept of *maqāṣid al-syarī'ah* is highly appropriate. Furthermore, research on the system for preventing inheritance conflicts from the *maqāṣid al-syarī'ah* perspective has not been deeply explored, and the application of *maqāṣid al-syarī'ah* in inheritance distribution is still limited. Therefore, it is crucial to examine and study the prevention of inheritance conflicts through the lens of *maqāṣid al-syarī'ah*, as it could offer a new approach to inheritance distribution. The implementation of *maqāṣid al-syarī'ah* values in various cases is considered vital in

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<sup>12</sup> Haeraton Haeraton et al., "Heritage and Its Distribution in Practice in Religious Courts," *Jurnal Pengabdian Pancasila (JPP)* 3, no. 3 (October 11, 2024): 159–68, <https://doi.org/10.55927/jpp.v3i3.11241>.

<sup>13</sup> Ido Gustiawan Putra, Dominikus Rato, and Dyah Ochtorina Susanti, "Mediation as an Effort to Settle Inheritance Disputes from the Legal Objective Theory Perspective (study of Supreme Court Regulation Number 1 of 2016)," *JURNAL ILMIAH ADVOKASI* 12, no. 3 (October 29, 2024): 529–38, <https://doi.org/10.36987/jiad.v12i3.5608>.

<sup>14</sup> Shahla Tabassum, Dr Amber Ferdoos, and Dr Akhlaq Ahmad, "Gender, Family, and Politics of Inheritance in Pakistan," *Research Journal of Social Sciences and Economics Review* 1, no. 4 (December 26, 2020): 368–77, [https://doi.org/10.36902/rjsser-vol1-iss4-2020\(368-377\)](https://doi.org/10.36902/rjsser-vol1-iss4-2020(368-377)).

<sup>15</sup> Zuhrah, I. Gusti Ayu Ketut Rachmi Handayani, and Burhanuddin Harahap, "Legislative Legal Politics of Inheritance Law in Indonesia," *Journal of Ecohumanism* 3, no. 6 (September 17, 2024): 910–16, <https://doi.org/10.62754/joe.v3i6.4059>.



preventing conflicts.<sup>16</sup> In particular, inheritance conflicts, which continue to occur frequently, require attention and solutions based on *maṣlahah* (public interest).<sup>17</sup>

So far, studies on the resolution of inheritance distribution conflicts have been addressed in previous research. Conflict resolution based on customary law has been discussed by Miftahul Huda, Niswatul Hidayati, and Khairil Umami. Meanwhile, Anugrah Reskiani et al. focused their study on the reform methods of Islamic inheritance law in Indonesia.<sup>18</sup> Elfia et al., on the other hand, concentrated on the patterns of resolving inheritance disputes related to extinct traditions.<sup>19</sup> In the context of *maqāṣid al-syarī'ah*, Yusep Abdulsiddik et al. centered their research on inheritance cases still under litigation in the Talu Religious Court, analyzing court decisions from the perspective of *maqāṣid al-syarī'ah*.<sup>20</sup> However, discussions regarding the prevention of inheritance distribution conflicts from the *maqāṣid al-syarī'ah* perspective remain underexplored. In fact, the context of *maqāṣid al-syarī'ah* could provide valuable insights into preventing inheritance conflicts, in alignment with the objectives of establishing Islamic law. This research uses *maqāṣid al-syarī'ah* as the foundational theory to analyze the system of preventing inheritance conflicts, contributing to the achievement of the goals of Islamic law.

This study generally aims to examine the system of preventing inheritance distribution conflicts in Bone Regency through deliberation based on the perspective of *maqāṣid al-syarī'ah*. Specifically, the objectives of this research are to explore methods of resolving inheritance conflicts, analyze the causes of inheritance distribution conflicts, protect women's inheritance rights, and transform the values of *maqāṣid al-syarī'ah* in efforts to prevent inheritance conflicts in Bone Regency. The prevention of inheritance conflicts through the *maqāṣid al-syarī'ah* concept also aims to educate the Indonesian public on avoiding conflicts in inheritance distribution. This research offers the implementation of *maqāṣid al-syarī'ah* as a more effective approach in the system of preventing inheritance conflicts based on deliberation and gender equality. This study can provide understanding to all stakeholders, including

<sup>16</sup> Fikri Fikri et al., "Transformation of Maqāṣid Shari'ah in Divorce Mediation in Religious Courts: Revitalization of the Bugis-Mandar Customs, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (March 31, 2023): 431–54, <https://doi.org/10.22373/sjhk.v7i1.9141>; Abbas Arfan et al., "The Implementation of Maqashid Sharia: Heterogeneity of Scholars' Fatwas towards Islamic Banking Contracts," *Legality: Jurnal Ilmiah Hukum* 32, no. 1 (March 14, 2024): 105–28, <https://doi.org/10.22219/ljih.v32i1.32170>; Noer Yasin, "The Authority Rationalization Philosophy of the Indonesia Competition Commission: The Due Process of Law and Maqashid Sharia Perspectives," *Jurisdictie: Jurnal Hukum Dan Syariah* 13, no. 1 (July 27, 2022): 63–89, <https://doi.org/10.18860/j.v13i1.15873>.

<sup>17</sup> Musa Taklima, "Urgensi Perlindungan Hukum Terhadap Konsumen Motorcycle Taxi Perspektif Hukum Perlindungan Konsumen Dan Teori Mashlahah," *Jurisdictie: Jurnal Hukum Dan Syariah* 10, no. 2 (2019): 192–214, <https://doi.org/10.18860/j.v10i2.5502>.

<sup>18</sup> Miftahul Huda, Niswatul Hidayati, and Khairil Umami, "Fiqh and Custom Negotiation in Avoiding Inheritance Dispute Tradition among Mataraman Society East Java," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 15, no. 2 (2020), <https://doi.org/10.19105/al-lhkam.v15i2.2714>.

<sup>19</sup> Elfia et al., "Patterns for Settlement of Punah Inheritance Disputes In the Community of Nagari Salareh Aia from the Perspective of Islamic Law," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 2 (December 31, 2022): 480–505, <https://doi.org/10.19105/al-lhkam.v17i2.6246>.

<sup>20</sup> Yusep Abdulsiddik, Utari Roza Elsera, and Alfi Husni, "Analysis of Religious Court Decisions in Resolving Inheritance Disputes Still Under Collateral a Maqashid Syariah Perspective," *Hakamain: Journal of Sharia and Law Studies* 3, no. 2 (August 21, 2024): 59–68, <https://doi.org/10.57255/hakamain.v3i2.342>.



the government, religious leaders, and the community, on the system of preventing inheritance conflicts that should be carried out in accordance with the *maqāṣid al-syarī'ah* concept, to achieve *maṣlahah* (public benefit) and avoid *mafsadah* (harm). The findings of this research are also expected to serve as a foundation for policy development in positive law, particularly regarding the distribution of inheritance within Indonesian society.

## Method

This research was conducted empirically in Bone Regency, South Sulawesi, where data sources related to inheritance distribution conflict cases, both resolved in the Watampone Religious Court and within the community, are available. Four sub-districts were selected as the main locations for this study: Tanete Riattang Timur, Ulaweng, Tellu Siattinge, and Barebbo. The approach used in this study is a theological-normative approach, based on the concept of *maqāṣid al-syarī'ah*, which serves as the framework for analyzing the system of preventing inheritance conflict in Bone Regency. Primary data for this study was obtained through interviews, while secondary data was sourced from literature related to the concept of *maqāṣid al-syarī'ah*, fiqh mawāris (Islamic inheritance jurisprudence), and regulations in the Compilation of Islamic Law. Data was collected through in-depth interviews with informants, including 3 academics, 3 judges, and 23 local government officials in Bone Regency. These informants were selected because they were deemed competent and capable of providing information on inheritance conflict issues occurring in the community. Data analysis in this study used a qualitative descriptive technique, following the three stages proposed by Miles and Huberman: data reduction, data presentation, and drawing conclusions or verification. The conclusions of this research will outline the system of preventing inheritance conflict in Bone Regency, analyzing its feasibility from the perspective of *maqāṣid al-syarī'ah*.

## Results and Discussion

### Forms of Inheritance Conflict Resolution in Bone Regency

Inheritance distribution conflicts within society require efforts to resolve them. Generally, there are two main methods used to settle inheritance disputes: through family mediation or local government involvement, or by formal court proceedings. First, non-Litigation Inheritance Conflict Resolution. One of the common methods used by the community is mediation outside of court, often referred to as non-litigation. Asni Zubair explains that non-litigation resolution methods are diverse, ranging from solutions within the family environment, involving religious and community leaders, resolution by village government, to mediation at the sub-district government office<sup>21</sup>. Lukman outlines the steps in inheritance conflict resolution as follows:

*First, the parties involved are given time to think further before being mediated by the village government. Then, the mediator helps the parties realize that the conflict will only have negative consequences. Once they are brought together, they are reminded of the importance of resolving the conflict peacefully. The village government hopes that the matter can be settled at the village level. After mediation, a statement letter is issued,*

<sup>21</sup> Asni Zubair, Senior Lecture at Institut Agama Islam Negeri Bone, *Personal Interview* (Watampone – Bone District, 21 August 2024)



*signed by the village head, local police (Bhabinkamtibmas), and military (Bhabinsa). In many cases, this leads to successful resolution without further escalation to the Religious Court. However, if mediation fails, the parties are asked to decide whether they wish to pursue the case in court or accept the outcome of the village government mediation. Many people hesitate to take the case to court due to fear of potential physical, economic, siri' (which refers to honor or dignity), and time-related losses.<sup>22</sup>*

The conflict resolution efforts carried out by the government, as explained by A. Artati, are as follows: "The conflicting parties are invited to the office and provided with solutions based on mutual agreement. Cases are resolved as much as possible at the village level through family discussions. If an agreement is reached, a peace statement letter is issued by the government. So far, no cases have escalated to the Religious Court." Similarly, Apriadi describes the inheritance conflict resolution process: "The conflicting parties are encouraged to reconcile, and religious and community leaders often provide advice. If mediation fails twice, the case is directed to the sub-district level".<sup>23</sup>

Non-litigation conflict resolution is preferred over litigation due to considerations that litigation tends to consume a long time, incur significant costs, and may damage the relationship between the disputing parties. Rooted in the tradition of resolving inheritance disputes through deliberation, the community tends to prefer mediation outside the court because it offers a more practical solution. The rationale is that inheritance conflicts are family matters, and therefore, the resolution should also be approached within the family framework, with the local government acting as an active mediator.<sup>24</sup> The form of conflict resolution through customary law involves the participation of customary leaders or the Customary Council who are knowledgeable about the local customary law. Resolving conflicts through the Customary Council is considered easier, more practical, and faster in its handling and resolution.<sup>25</sup> In Banjarmasin, for example, the community resolves inheritance disputes through a peace process called Adat Bedamai (Customary Peace).<sup>26</sup> Similarly, in a study by Miftahul Huda et al., regarding the negotiation model in resolving inheritance disputes in the Mataraman community of East Java, it is noted as a response to the high number of inheritance conflicts that frequently become acute family social disputes.<sup>27</sup> This also applies to other regions that have their own customary systems in inheritance distribution and conflict resolution. The common

<sup>22</sup> Lukman, Head of Itterung Village Tellu Siattinge Sub District, *Personal Interview* (Tellu Siattinge – Bone District, 14 August 2024)

<sup>23</sup> Apriadi, Head of Bajoe Village Tanete Riattang Timur Subdistrict, *Personal Interview* (Bone District, 9 August 2024)

<sup>24</sup> Adi Nur Rohman, "Shifting the Role of Mediation in Islamic Inheritance Disputes: An Overview of Islamic Legal Philosophy," *Diponegoro Law Review* 7, no. 2 (October 27, 2022): 230–44, <https://doi.org/10.14710/dilrev.7.2.2022.230-244>.

<sup>25</sup> Amran Mahmud, "Sistem Kewarisan Etnik Kaili (tinjauan Menurut Hukum Islam)," *SUPREMASI: Jurnal Pemikiran, Penelitian Ilmu-ilmu Sosial, Hukum dan Pengajarannya* 14, no. 1 (March 28, 2020): 32–47, <https://doi.org/10.26858/supremasi.v14i1.13304>.

<sup>26</sup> Dian Novida Rahmi, Suciati Suciati, and Anindya Bidasari, "Implementasi Mengenai Pembagian Harta Warisan Menurut Kompilasi Hukum Islam Di Masyarakat Hukum Adat Banjar," *Nomos: Jurnal Penelitian Ilmu Hukum* 1, no. 1 (January 29, 2021): 1–6, <https://doi.org/10.56393/nomos.v1i1.56>.

<sup>27</sup> Huda, Hidayati, and Umami, "Fiqh and Custom Negotiation in Avoiding Inheritance Dispute Tradition among Mataraman Society East Java."



practice in Indonesia is for the community to choose to resolve inheritance disputes through deliberation, with the consideration of maintaining familial relationships and avoiding the escalation of problems to the legal action.

Second, Litigated Inheritance Dispute Resolution. Inheritance disputes that are not resolved within the local government or family framework are brought before the religious court. However, there are cases where disputes are directly taken to the religious court without prior attempts at resolution within the local government. In Bone Regency, inheritance cases that reach the trial stage are handled according to the procedures of the Watampone Religious Court. Dasri Akil explains the process of resolving inheritance disputes at the Watampone Religious Court, stating that:

*In the resolution of inheritance disputes, an initial mediation effort is made, where the appointed mediator conducts mediation using both sociological and religious approaches. This serves as an early attempt to reconcile the parties, so that the case can be resolved amicably. If the mediation fails, the case proceeds to court where one party wins and the other loses. However, through mediation, both parties can potentially reach the best outcome. Typically, this effort succeeds in reconciling the parties, and the case is not continued to trial. If mediation fails, the parties are still advised during the trial process.<sup>28</sup>*

The explanation provided by Musabbihah aligns with this approach, noting that "The resolution of inheritance disputes in the religious court begins with mediation. If this fails, the case proceeds to trial, and parties are still given guidance throughout the proceedings."<sup>29</sup> Similarly, Sitti Amirah adds, "Mediation is attempted, but it rarely succeeds. Despite efforts to advise the parties, they often wish to proceed with a court decision."<sup>30</sup> Inheritance disputes are handled in a structured and systematic manner according to the law. These disputes fall under the exclusive jurisdiction of religious courts, which handle them as civil matters.<sup>31</sup> In many cases, inheritance disputes are resolved through mediation at the religious court. Mediation in civil cases can occur either at the outset of the litigation or during the trial itself.<sup>32</sup> From the beginning of the case, the mediator works to reconcile the parties involved, and mediation is deemed successful if both parties agree not to continue the legal proceedings. However, if mediation fails, the case advances, and the inheritance is distributed according to the principles of Islamic inheritance law (fiqh mawāris), as determined by the judge's ruling. Resolving inheritance disputes through the court is a legally grounded effort, as the court has the exclusive authority to settle inheritance conflicts. The rulings issued are not made arbitrarily; they are based on strong considerations by the judge, who takes into account both religious and legal aspects

<sup>28</sup> Dasri Akil, Judge at Pengadilan Agama Watampone, *Personal Interview*, (Watampone - Bone, 10 July 2024)

<sup>29</sup> Musabbihah, Judge at Pengadilan Agama Watampone, *Personal Interview*, (Watampone - Bone, 10 July 2024)

<sup>30</sup> Sitti Amirah, Judge at Pengadilan Agama Watampone, *Personal Interview*, (Watampone - Bone, 10 July 2024)

<sup>31</sup> Lego Karjoko et al., "Islamic Court's Approach to Land Dispute in Inheritance Cases," *AHKAM: Jurnal Ilmu Syariah* 21, no. 2 (December 30, 2021), <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/21864>.

<sup>32</sup> RR Dewi Anggraeni, "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints," *AHKAM: Jurnal Ilmu Syariah* 23, no. 1 (June 16, 2023), <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/32549>.





before deciding the case. Court resolution of inheritance cases is also the final resort when conflicts cannot be settled through family mediation or when the conflict escalates to more severe levels, such as violence over inheritance claims. Therefore, resolving inheritance disputes in court offers greater legal assurance and certainty for those seeking justice.

### **Causes of Inheritance Disputes in Bone Regency**

Inheritance disputes in society do not occur randomly; they are caused by various factors. Inheritance conflicts that end up in disputes and cases either in local government offices or in religious courts can be classified into several causes, as follows: first, Greed, One of the most common causes of inheritance conflicts is the greed of heirs who wish to control the inheritance for themselves, often without leaving a share for other siblings or relatives. As explained by A. Artati, "the cause of inheritance conflicts is usually due to the greed of one of the heirs."<sup>33</sup> Similarly, Andi Musa Ellyas states, "The cause of inheritance disputes is the greed of heirs, with one wanting to control a larger portion, causing jealousy among other heirs".<sup>34</sup> Muhiddin further explains, "There is an ambition to take a larger share, which leads to jealousy from the other heirs."<sup>35</sup> The greedy behavior of some heirs in taking inheritance, especially when it involves seizing the shares of other heirs, is seen as an act of consuming the rights of others, rendering what they take unlawful. Asni Zubair explains, "This happens because of a high need for wealth, leading some to justify taking inheritance by any means. However, it is prohibited to take the rights of others, as emphasized in the Qur'an. In the context of inheritance, consuming the rights of others is particularly associated with the property of orphans, which must not be taken."<sup>36</sup>

Second, Low Understanding, a common cause of inheritance disputes is the lack of understanding within the community regarding inheritance distribution. As Dasri Akil explains, "Inheritance conflicts occur due to low education levels and limited knowledge regarding inheritance laws."<sup>37</sup> Similarly, Lukman points out, "Inheritance disputes that end in conflict are caused by the community's limited understanding of inheritance laws, and the mindset that those who are stronger or closer to the deceased should receive a larger share. This usually becomes evident after the death of the parents, leading to disputes."<sup>38</sup> This lack of understanding is a key factor that makes inheritance conflicts more likely, as misunderstandings about the rightful distribution of inheritance often lead to disputes among heirs.

Third, Lack of Written Evidence After Distribution. The absence of written documentation is also a significant cause of inheritance disputes in society. As Andi

<sup>33</sup> A. Artati, Head of Tokaseng Village Tellu Siattinge Sub District, *Personal Interview* (Tellu Siattinge – Bone District, 20 August 2024)

<sup>34</sup> Andi Musa Ellyas, Head of Apala Village Barebbo Sub District, *Personal Interview* (Barebbo – Bone District, 12 August 2024)

<sup>35</sup> Muhiddin, Head of Tibojong Village Tanete Riattang Timur Sub District, *Personal Interview* (Tanete Riattang Timur – Bone District, 7 August 2024)

<sup>36</sup> Asni Zubair, Senior Lecture at Institut Agama Islam Negeri Bone, *Personal Interview* (Watampone – Bone District, 21 August 2024)

<sup>37</sup> Dasri Akil, Judge at Pengadilan Agama Watampone, *Personal Interview*, (Watampone - Bone, 10 July 2024)

<sup>38</sup> Lukman, Head of Iterung Village Tellu Siattinge Sub District, *Personal Interview* (Tellu Siattinge – Bone District, 14 August 2024)



Amrullah Zubair explains, "Those who hold authentic certificates can defend their ownership, so even though the property is inherited, if another heir possesses an authentic certificate, they will claim that the property belongs to them."<sup>39</sup> Similarly, Setta points out, "The cause of inheritance conflicts is that parents do not distribute the inheritance before their death, and there is no formal written agreement regarding the ownership of the inheritance".<sup>40</sup> A. Arifuddin Alimuddin also notes, "Inheritance conflicts arise because the distribution of assets is done verbally without written evidence".<sup>41</sup> Apriadi shares this perspective, stating, "Inheritance conflicts occur because the distribution is not supported by official documentation".<sup>42</sup> This lack of formal, written agreements often leads to confusion and disputes over the rightful ownership of inherited assets. Without clear and verifiable proof of the distribution, heirs may assert claims based on their understanding or interpretation, leading to further conflict.

Forth, Inequitable Distribution of Assets. An unfair distribution of assets is a common cause of inheritance conflicts. Whether the distribution is in the form of a gift (*hibah*), will (*wasiat*), or inheritance, if done unjustly, it can trigger disputes. Conflicts arise when heirs feel disadvantaged or jealous of those who receive a larger share. As Andi Amrullah Zubair explains:

*"Inequity in the distribution of inheritance often occurs in cases where a male sibling takes the inheritance and does not act fairly. Or, an uncle might ignore the inheritance share of his niece or nephew as substitute heirs. Parents may also act unjustly toward their children in matters of gifts, making them verbally without an authentic deed. Heirs who have cared for their parents during their lifetime might claim that the property they received was a gift from the parents"*.<sup>43</sup>

The perception of injustice,<sup>44</sup> especially when it involves unequal treatment or a lack of clear documentation, often leads to resentment and conflict among heirs. This inequity is a significant factor in the escalation of inheritance disputes. This is similarly explained by Sitti Amirah, who, when adjudicating inheritance cases, mentioned::

*"There are instances where a gift (hibah) is given excessively, exceeding one-third of the inheritance. There is also the issue of unfair inheritance distribution, such as in cases where the first child is sued by their sibling with the claim that the distribution is unjust."*

<sup>39</sup> Andi Amrullah Zubair, Lecturer at Universitas Andi Sudirman, Personal Interview (Watampone – Bone District, 6 August 2024)

<sup>40</sup> Setta, Head of Waji Village Tellu Siattinge Sub District, *Personal Interview* (Tellu Siattinge – Bone District, 14 August 2024)

<sup>41</sup> A. Arifuddin Alimuddin, Head of Cinnong Village Ulaweng Sub District, *Personal Interview* (Ulaweng - Bone District, 13 August 2024)

<sup>42</sup> Apriadi, Head of Bajoe Village Tanete Riattang Timur Sub District, *Personal Interview* (Tanete Riattang Timur - Bone District, 9 August 2024)

<sup>43</sup> Andi Amrullah Zubair, Lecturer at Universitas Andi Sudirman, Personal Interview (Watampone – Bone District, 6 August 2024)

<sup>44</sup> Muh Afif Mahfud, Naufal Hasanuddin Djohan, and Muhammad Fahad Malik, "Land Bank in Indonesia: Disoriented Authority, Overlapping Regulations and Injustice," *Jambura Law Review* 6, no. 2 (July 22, 2024): 240–63, <https://doi.org/10.33756/jlr.v6i2.24166>.



*In some cases, a male heir may be influenced by external parties, such as his wife, and similarly, a female heir may be influenced by her husband.*"<sup>45</sup>

These situations highlight how external influences or perceived inequities in the distribution of inheritance can lead to disputes among heirs. The lack of transparency and fairness in dividing the estate, especially when it involves undue influence or excessive gifts, is a significant source of conflict.

### **Delay in the Distribution of Inheritance as a Customary Practice among the Bugis People**

The delay or postponement of inheritance distribution is also a common cause of inheritance disputes. Andi Amrullah Zubair explains that "inheritance conflicts often arise due to the delay in distributing the inheritance, which results in one heir controlling the estate or selling part of the inheritance before ownership is clear."<sup>46</sup> Asni Zubair adds that "there is suspicion regarding the Bugis customary law that encourages the delay in inheritance distribution, and that spouses do not inherit from each other. The inheritance is controlled by the closest heir, which can lead to conflict if the inheritance is only controlled by one heir." In Lonrae Village, it was noted that "the cause of the conflict is that after the deceased passes away, the inheritance has not been distributed, leading the heirs to fight over it".<sup>47</sup> This highlights the difference between customary inheritance systems and Islamic inheritance law. The delay in inheritance distribution conflicts with Islamic inheritance law, which advocates for immediate distribution. The delay, common in some traditional systems, can complicate the resolution of inheritance disputes. As such, the prompt distribution of inheritance, as recommended by Islamic inheritance law, is crucial to preventing conflicts. The primary cause of inheritance disputes arising among heirs is often due to the greed of one heir. Disputes caused by one heir's greed in taking another's share can lead to strained family relationships, with conflicts sometimes extending to future generations.<sup>48</sup> Additionally, a lack of understanding of inheritance law can foster greed, as heirs may not know the rightful share they are entitled to, leading to unfairness. Delays in the distribution of inheritance, which can also trigger conflicts, often occur due to a lack of knowledge about Islamic inheritance law.

### **Protection of Women's Rights in Bugis-Bone Customary Inheritance**

The protection of women's rights in customary inheritance in Bone Regency, according to Ikhsan, involves the importance of prioritizing consensus through family discussion in inheritance distribution, which serves as a form of protection for women's inheritance rights. Before a broader family discussion, initial talks are held within the family to determine each heir's share. Through these discussions, women's

<sup>45</sup> Sitti Amirah, Judge at Pengadilan Agama Watampone, *Personal Interview*, (Watampone - Bone, 10 July 2024)

<sup>46</sup> Andi Amrullah Zubair, Lecturer at Universitas Andi Sudirman, *Personal Interview* (Watampone – Bone District, 6 August 2024)

<sup>47</sup> Ikbal, Kasi Trantib Lonrae Tanete Village Riattang Timur Sub District, *Personal Interview* (Tanete Riattang Timur - Bone District, 19 Agustus 2024)

<sup>48</sup> Maimanah Maimanah et al., "Delay in the Division of Inheritance: A Theoretical Review within Legal System Framework in Indonesia," *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 1 (June 1, 2024): 241–57, <https://doi.org/10.18592/sjhp.v24i1.12916>.



rights can be voiced, enabling an equitable distribution between men and women<sup>49</sup> This tradition of family consensus in Bugis-Bone custom, often referred to as *tudang sipulung*, meaning “sitting together,” allows all opinions to be heard without distinguishing between male and female.

Women's rights have continued to gain attention, marked by movements advocating gender equality, which have had a significant influence.<sup>50</sup> In inheritance matters, women's rights should be accommodated, as women are not only passive family members but also symbols of family honor and continuity.<sup>51</sup> Through consensus, women's rights in inheritance can be expressed, and it is hoped that this will draw attention to achieving certainty and equality. Similarly, Islamic law, through its inheritance verses, emerged as a means of abolishing pre-Islamic traditions that neglected women's rights as heirs. However, Islamic law also does not turn away from community traditions that are not in conflict with its teachings, instead demonstrating its flexibility in adapting to changing times, places, and conditions.

The inheritance distribution system through consensus serves as a form of accommodation for women's rights in inheritance because, through discussion, women's rights can be negotiated. Inheritance distribution by consensus is a very common approach, practiced both in customary settings and by the general public who are not bound by specific traditions.<sup>52</sup> Communities tend to prefer consensus and mutual agreement in line with their customs and habits to preserve family unity, where women hold an honored position both in Islamic culture and in societies such as those in South Sulawesi.<sup>53</sup> Harnides et al. also explain that inheritance distribution practices follow the mechanisms of local customary law based on the agreement of all heirs.<sup>54</sup> This provides legal certainty for women in the application of a gender-equitable inheritance system, which is influenced by various social factors and

<sup>49</sup> Ikhsan, Head of Panyula Village Tanete Riattang Timur Sub District, Personal Interview (Tanete Riattang Timur - Bone District, 9 Agustus 2024)

<sup>50</sup> Canan Aslan Akman, “Women Officials of the Turkish Diyanet: Gendered Transformations and Predicaments of Empowerment?,” *Asian Journal of Women's Studies* 27, no. 2 (April 3, 2021): 232–57, <https://doi.org/10.1080/12259276.2021.1932115>.

<sup>51</sup> Ridwan, “Gender Equality in Islamic Inheritance Law: Rereading Muhammad Shahrur's Thought,” *Al-Manahij: Jurnal Kajian Hukum Islam*, November 25, 2022, 181–92, <https://doi.org/10.24090/mnh.v16i2.6916>; Mohammad Hipni, “The Study of Maqashidi Sharia Toward Maduresse Traditional Inheritance by Using System Approach,” *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 14, no. 1 (June 30, 2019): 50–71, <https://doi.org/10.19105/al-lhkam.v14i1.2159>.

<sup>52</sup> Khosyi'ah and Rusyana, “Inheritance Settlement of Descendants of Children and Siblings in Islamic Law with Local Wisdom in Indonesia”; Tarmizi Tarmizi, “Inheritance System of Bugis Community in District Tellu Siattinge Bone, South Sulawesi (Perspective of Islamic law),” *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 4, no. 1 (June 30, 2020): 179–208, <https://doi.org/10.22373/sjhk.v4i1.6784>.

<sup>53</sup> Halimah Basri et al., “Inheritance Rights of Women in Makassar Society: A Study of Living Qur'an and Its Implications for Islamic Law,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (October 3, 2022): 537–55, <https://doi.org/10.22373/sjhk.v6i2.13882>; Ulfiani Rahman et al., “Men and Women in The Distribution of Inheritance in Mandar, West Sulawesi, Indonesia,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 1 (June 27, 2022): 156–75, <https://doi.org/10.22373/sjhk.v6i1.9094>.

<sup>54</sup> Harnides Harnides, Syahrizal Abbas, and Khairuddin Hasballah, “Gender Justice in Inheritance Distribution Practices in South Aceh, Indonesia,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (June 20, 2023): 1293–1316, <https://doi.org/10.22373/sjhk.v7i2.16688>.



conditions.<sup>55</sup> Consensus has become a widely accepted method for resolving family matters, including inheritance issues. However, there remains a need to strengthen negotiation forums to ensure the participatory accommodation of women's rights, and the tradition of *tudang sipulung* or "sitting together" serves as a reinforcement supporting the concept of gender equality.

Inheritance distribution through consensus is widely practiced with varying outcomes, depending on the agreement reached. For example, in South Sulawesi communities, the tradition of *massideppungeng*, meaning gathering together, connects heirs and family members with support from local authorities and traditional leaders, resulting in a proportional division aligned with each heir's needs.<sup>56</sup> This is seen in the custom of prioritizing a house for daughters or allocating farmland to sons.<sup>57</sup> Through consensus, each heir's portion can be negotiated, allowing women to receive equal or even greater shares than men. Therefore, gender-equitable traditions deeply rooted in the community should be strengthened through forums like consensus meetings. This study serves to reinforce traditions that operate on gender-equitable principles.

### **Implementation of Maqāṣid al-Sharī'ah Values in Preventing Inheritance Conflict Among Communities in Bone Regency**

The application of maqāṣid al-sharī'ah values in preventing inheritance distribution conflicts can be analyzed from community efforts to avert such disputes. Maqāṣid al-sharī'ah refers to the objectives aimed at achieving the intended benefits of Islamic law as desired by the Lawgiver, to ensure well-being in human life. With the passage of time and the evolution of scholarly thought, the objectives of Islamic law within the framework of *maqāṣid al-sharī'ah* have been further developed by jurists and Islamic legal thinkers.<sup>58</sup> This concept was first introduced by al-Shatibi in his book *al-Muwafaqat* and subsequently expanded upon by succeeding scholars.

The concept of *maqāṣid al-sharī'ah* utilized in this study is based on Jasser Auda's interpretation. Unlike traditional *maqāṣid al-sharī'ah* theories, contemporary *maqāṣid* theory can only be developed if one is capable of integrating two approaches simultaneously: the "historical" approach and the "philosophical" approach in discussing Islamic law. The historical approach carefully examines changes in the concepts, meanings, and interpretations of Islamic law across traditional, modern, and postmodern eras. The paradigm shift from traditional *maqāṣid* theory to the new *maqāṣid* theory lies in the focus of each approach. The traditional *maqāṣid* primarily emphasizes protection, preservation, and safeguarding, whereas the new *maqāṣid*

<sup>55</sup> Hossain and Jamil, "Negotiating Gender-Equal Inheritance Rights."

<sup>56</sup> Andi Sukmawati Assaad et al., "Gender Equity in Inheritance System: The Collaboration of Islamic and Bugis Luwu Customary Law," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 2 (December 31, 2022): 458–79, <https://doi.org/10.19105/al-lhkam.v17i2.6761>.

<sup>57</sup> Ihsan Musafir, Usman Jafar, and Supardin Supardin, "Rumah sebagai Bagian Anak Perempuan dalam Tradisi Warisan di Kecamatan Ponre Kabupaten Bone (Telaah Atas Hukum Waris Islam)," *Jurnal Al-Qadau: Peradilan dan Hukum Keluarga Islam* 7, no. 2 (December 22, 2020): 65–86, <https://doi.org/10.24252/al-qadau.v7i2.16176>.

<sup>58</sup> Arfan et al., "The Implementation of Maqashid Sharia,"



theory focuses on development and rights<sup>59</sup> This aligns with the principle of equitable inheritance distribution, which respects the rights of all heirs, including women.

The next section will outline the best practices in preventing inheritance-related conflicts within the Bone Regency community, aligning with the values of *maqāṣid al-sharī'ah*. This is particularly important because the values of *maqāṣid al-sharī'ah* emphasize the fundamental purposes of Islamic law for humanity: protecting religion, life, intellect, lineage, and property. The methods for preventing inheritance distribution conflicts in Bone Regency from a *maqāṣid al-sharī'ah* perspective, summarized through interviews with several informants, are described in the following points.

### Education on Inheritance Distribution to Preserve Religion and Intellect

Inheritance distribution, which often leads to conflicts among heirs, highlights weaknesses in the system practiced by the community. The primary cause is a lack of understanding of the inheritance distribution system. This issue calls for the attention of the government, academics, and legal practitioners to educate the public, in the hope of reducing potential inheritance disputes. Dasri Akil emphasized the importance of community outreach, stating:

*“There needs to be public education through legal discussions or legal counseling involving judicial institutions, police, the Ministry of Religious Affairs, and universities. Inheritance issues should be a shared focus among relevant parties, helping to alleviate the burden on village administrations when facing inheritance cases within their jurisdictions”*.<sup>60</sup>

Andi Amrullah Zubair, an academic and practitioner in the field of legal studies, emphasizes that:

*“It is essential to conduct regular and integrated legal counseling on Islamic inheritance law. Furthermore, collaboration among the government, universities, and religious courts is needed to address community issues and educate the public to increase legal awareness.”*<sup>61</sup>

In addition to education through counseling and religious lectures, it is equally important to provide moral guidance that reflects the values of *pangngadereng* in the traditional Bugis Bone culture. Andi Musa Ellyas explains that, “One of the most effective ways to prevent conflict is to deliver moral messages rooted in Bugis Bone customs, so that the community holds firmly to local wisdom”.<sup>62</sup> Inheritance conflicts within communities are often due to a lack of understanding of the Islamic law-based inheritance distribution system. To enhance public knowledge about inheritance law, socialization efforts such as educating on inheritance law or delivering sermons on inheritance topics are necessary. Through these efforts, it is

<sup>59</sup> Aslati et al., “Utilizing Science and Maqāṣid Al-Sharī'ah in Resolving Contemporary Issues of Islamic Family Law,” *Al-Manahij: Jurnal Kajian Hukum Islam*, March 16, 2024, 17–36, <https://doi.org/10.24090/mnh.v18i1.10571>.

<sup>60</sup> Dasri Akil, Judge at Pengadilan Agama Watampone, *Personal Interview*, (Watampone - Bone, 10 July 2024)

<sup>61</sup> Andi Amrullah Zubair, Lecturer at Universitas Andi Sudirman, *Personal Interview* (Watampone – Bone District, 6 August 2024)

<sup>62</sup> Andi Musa Ellyas, head of Apala Village Barebbo Sub District, *Personal Interview* (Barebbo - Bone District, 12 August 2024)



hoped that inheritance disputes can be minimized, and the implementation of Islamic inheritance law can be more effective. The role of government officials is also crucial in providing consulting services for inheritance conflict resolution. Socializing the concept of Islamic inheritance law is vital as a resolution to ensure fair inheritance distribution within society, aligned with *shariah* principles to achieve blessings in wealth. Additionally, it is essential for academics in the field of Islamic law to continuously study inheritance law issues within society and offer solutions to these challenges.<sup>63</sup> This aligns with the purpose of preserving religion, as Islamic inheritance law is detailed in the Qur'an, and adhering to it demonstrates faith and piety. Moreover, educating the public through counseling or outreach on inheritance law supports the goal of intellectual preservation.

### Documenting Property Transfers to Safeguard Wealth

An equally important measure for preventing conflicts between heirs or their descendants in the future is documenting the results of inheritance distribution. As Asni Zubair, an Islamic inheritance law lecturer, explains:

*“There needs to be reinforcement through written documentation after inheritance distribution, whether in the form of an authentic deed (signed by a notary) or a private deed (signed by the village head). This documentation can serve as evidence in case of future disputes, providing a strong basis in court for decision-making. Likewise, notaries drafting deeds related to inheritance distribution should ensure compliance with applicable regulations”*.<sup>64</sup>

A. Arifuddin Alimuddin also emphasizes the importance of documenting inheritance distribution, stating:

*“In inheritance distribution, there is always an elder responsible for facilitating communication. In the past, there was a concept called *na gau*’ (words and actions) that held significant weight and could be relied upon. However, today, documentation is required as proof (reflecting this change). It is advised that the community prepare written evidence if they wish to transfer assets. If the land is already certified, then its ownership documentation is already strong.”*<sup>65</sup>

Documenting the transfer of assets aligns with the specific objectives of Islamic law (*maqasid khashshah*), which pertain to particular areas of law or multiple specific areas. Ibn Ashur describes these objectives as *maqāṣid* that specifically apply in fields such as family law, financial transactions, interactions involving work and employment, judiciary, testimony, donations, and criminal law. Similarly, particular legal objectives (*maqāṣid juz’iyyah*) reflect Allah’s intentions in His commands, which include mandatory, forbidden, recommended, discouraged, or permissible rulings, as well as Allah’s intent in causal or conditional laws. Ibn Ashur illustrates this type of *maqāṣid* through examples like documentation objectives for mortgage transactions,

<sup>63</sup> Tarmizi Tarmizi and Asni Zubair, “Status of Inheritance for Heirs Who Take Their Own Share: A Case Study in Mattoanging Village,” *Ekspose: Jurnal Penelitian Hukum Dan Pendidikan* 21, no. 1 (December 12, 2022): 1307–16, <https://doi.org/10.30863/ekspose.v21i1.2623>.

<sup>64</sup> Asni Zubair, Senior Lecture at Institut Agama Islam Negeri Bone, *Personal Interview* (Watampone – Bone District, 21 August 2024)

<sup>65</sup> A. Arifuddin Alimuddin, Head of Cinnong Village Ulaweng Sub District, *Personal Interview* (Ulaweng - Bone District, 13 August 2024)



establishing family institutions, and upholding marriage contracts.<sup>66</sup> The term “documentation *maqāṣid*” is fitting for any form of transaction or asset transfer, including inheritance distribution. This is part of the purpose of safeguarding wealth, as the origin of every asset must be clear, and each transaction must be recorded.

### Consultation to Preserve Life and Lineage

Another measure to prevent inheritance disputes is to hold consultations with each heir, involving government representatives to act as mediators and witnesses. The government also plays a role in documenting the results of inheritance distribution agreed upon by all heirs. Sitti Amirah explains:

*“Conflicts can be minimized through inheritance distribution by means of consultation. Mediation outside the court, involving community and religious leaders, is essential. So far, the mediation system at the village level has been implemented well, which reduces the number of cases resolved in court. After one of the inheritors passes away, the inheritance should be distributed before both parents pass, to prevent inheritance claims among heirs”*.<sup>67</sup>

A. Artati also echoes the importance of preventing inheritance conflicts, stating:

*“If inheritance distribution is planned, it is best to invite representatives from the village or subdistrict to witness the transfer of assets on behalf of the government. The government will document the agreed-upon inheritance distribution by issuing a statement signed by all heirs”*.<sup>68</sup>

One approach to preventing inheritance disputes is to distribute the inheritance through deliberation and consensus, reaching an agreement that each heir can accept without resentment. This method is commonly practiced because it prioritizes familial bonds and preserves family unity. In inheritance distribution meetings, the assets are divided equally or according to each heir’s needs.<sup>69</sup> The aim is to prevent familial disagreements after the deceased’s passing, as the inheritance has already been distributed. Furthermore, this approach is intended to provide economic benefits to the heirs, supporting their financial well-being.

Achieving peace in inheritance distribution is a way to attain proportional justice, as peace agreements are based on the principle of sincerity. However, it is recommended that a mediator, such as a religious leader or local government official, be involved as a witness to strengthen the outcomes of the deliberations. This aligns with the goal of preserving the soul, as conducting deliberations in inheritance distribution fosters peace, which promotes inner calm.<sup>70</sup> Additionally, avoiding

<sup>66</sup> Abd Rauf Muhammad Amin, *Ijtihad Maqasidi (Pendekatan Esensial Hukum Islam)*, ed. Muhammad Taufik Amin and Mayyadah Mayyadah (Yayasan Madinah Anwarul Qur'an, Palu: Pesantren Anwarul Qur'an, 2024), <http://repositori.uin-alauddin.ac.id/27222/>.

<sup>67</sup> Sitti Amirah, Judge at Pengadilan Agama Watampone, *Personal Interview*, (Watampone - Bone, 10 July 2024)

<sup>68</sup> A. Artati, Head of Tokaseng Village Tellu Siattinge Sub District, *Personal Interview* (Tellu Siattinge – Bone District, 20 August 2024)

<sup>69</sup> Miftahul Huda et al., “Tradition, Wisdom and Negotiating Marriage and Inheritance Disputes on Javanese Muslim,” *Al-Istinbath: Jurnal Hukum Islam* 9, no. 1 (2024): 25–44, <https://doi.org/10.29240/jhi.v9i1.9887>.

<sup>70</sup> Syaikh, “The Dispute Settlements of Inheritance in Palangka Raya”; Muhammad Akbar et al., “The Progressive Legal Perspective of Legal Justice in Customary Dispute Resolution Related to





conflicts in inheritance distribution is part of protecting lineage, as unresolved conflicts may negatively impact future generations. Deliberation can serve as a benchmark for justice, allowing for either distributive or commutative justice in practice. In principle, Islamic inheritance distribution is based on commutative justice as per the legal guidelines. However, through deliberation, heirs can agree to allocate portions according to their specific needs or distributively.

The implementation of *maqāshid al-sharī'ah* values in efforts to prevent inheritance conflicts in the community is outlined in the following table:

**Table 1.** Implementation of *maqāshid al-sharī'ah* values in efforts to prevent inheritance conflicts in Bone Regency

Cause of Conflict	Proposed Solution	<i>Maqāshid al-sharī'ah</i> Value
Heirs' greed	Inheritance distribution through deliberation with the presence of local government	Preservation of soul and intellect
Lack of understanding	Public education on inheritance law	Preservation of religion and intellect
Absence of written documentation after distribution	Documenting each asset transfer (gift, inheritance, will, sale)	Preservation of wealth and lineage
Inequitable inheritance distribution	Inheritance distribution through deliberation with the presence of local government	Preservation of soul and lineage
Delay in inheritance distribution, a common practice among the Bugis community	Public education on inheritance law	Preservation of religion and wealth

Efforts to prevent inheritance conflicts align with the values of *maqāshid al-sharī'ah*, which include the preservation of religion, life, intellect, wealth, and lineage.<sup>71</sup> The concept of *maqāshid al-sharī'ah* is focused on a conflict prevention system for inheritance distribution, emphasizing a persuasive approach. This perspective is expected to serve as an effective solution for resolving inheritance disputes and as a preventive measure against potential conflicts. Given that inheritance distribution is a sensitive issue, it requires a humanistic *shariah*-based approach through the implementation of Islamic legal objectives within the

Natural Resources," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 2 (July 28, 2023): 225–36, <https://doi.org/10.29303/ius.v11i2.1252>.

<sup>71</sup> Arfan et al., "The Implementation of Maqashid Sharia."



framework of *maqāṣid al-sharī'ah*.<sup>72</sup> Welfare is a fundamental goal of Islamic law, clarified within the *maqāṣid al-sharī'ah* concept, while still upholding Islamic legal principles, such as respecting human rights and maintaining good relations among people. Thus, the study of *maqāṣid al-sharī'ah* in addressing inheritance conflicts offers a distinct approach to instilling religious values as a solution to family issues.<sup>73</sup> Based on this perspective, community leaders or local government officials should play a role in preventing familial conflicts in inheritance distribution. Through this approach, *maqāṣid al-sharī'ah* serves as a tool within society to prevent interest-based conflicts and as a foundation for resolving issues according to community norms and policies. Meanwhile, religion, which serves as the primary ideology for the community, is considered an effective solution for conflict resolution.

## Conclusion

Inheritance distribution conflicts can be resolved through non-litigation or litigation methods. Non-litigation resolution occurs outside of court, involving community leaders, religious leaders, and local government officials to mediate between disputing parties. On the other hand, litigation entails resolving disputes through formal court procedures. Inheritance disputes in Bone Regency are often caused by heirs' greed, a lack of understanding of inheritance law, absence of written documentation after asset transfer, inequitable inheritance distribution, and delays in inheritance distribution. Women's rights in inheritance under Bone's customary law are upheld through deliberation in inheritance distribution. To prevent inheritance conflicts, measures that align with the concept of *maqāṣid al-sharī'ah* include educating the public about inheritance law, which aligns with the goals of preserving religion and intellect; documenting each asset transfer, which aligns with the goal of preserving wealth; and achieving consensus in inheritance distribution through deliberation involving local government officials, which aligns with the goals of preserving life and lineage. These preventive efforts are in line with the values of *maqāṣid al-sharī'ah*, which encompass the preservation of religion, life, intellect, wealth, and lineage, while also emphasizing equality and heirs' rights.

In the community, inheritance distribution should ideally involve the presence of government representatives, religious leaders, and community leaders to mediate and supervise, ensuring that no conflicts arise among heirs. Their presence also serves as a witness that inheritance distribution has been conducted, so if a dispute arises in the future, there will be reliable testimony. To strengthen the legal aspect of inheritance distribution, the agreed-upon distribution should be documented in writing and signed by all heirs and government witnesses. Socialization regarding the Islamic inheritance distribution system should be conducted as a form of ongoing public education, with adequate supervision. However, this study is limited to a local scope, so conflict resolution methods may vary by region. A broader, nationwide study is recommended to identify effective inheritance conflict resolution strategies grounded in *maqāṣid al-sharī'ah*. Such research could offer valuable insights for

<sup>72</sup> Tarmizi Tarmizi et al., "The Dynamics of Determining Men and Women Parts in Matters of Inheritance: A Study of Islamic Law," *Jurnal Diskursus Islam* 10, no. 2 (August 31, 2022): 271–89, <https://doi.org/10.24252/jdi.v10i2.30172>.

<sup>73</sup> Sri Astuti A. Samad, "Kajian Hukum Keluarga Islam Dalam Perspektif Sosiologis Di Indonesia," *El-Usrah: Jurnal Hukum Keluarga* 4, no. 1 (June 23, 2021): 138–52, <https://doi.org/10.22373/ujhk.v4i1.9899>.



harmonizing local practices with national frameworks while upholding justice and equity in inheritance matters.

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