

De Jure: Jurnal Hukum dan Syar'iah

Volume 18 Issue 1, 2026, p. 170-190

ISSN (Print): 2085-1618, ISSN (Online): 2528-1658

DOI: <http://dx.doi.org/10.18860/j-fsh.v18i1.36264>

Available online at <http://ejournal.uin-malang.ac.id/index.php/syariah>

The Bequest Transferred Prior to Death: Between Conflict Prevention and Gender-Biased Family Asset Division

Meriyati Meriyati*

Syarif Hidayatullah State Islamic University, Indonesia

JM Muslimin

Syarif Hidayatullah State Islamic University, Indonesia

Nur Hidayah

Syarif Hidayatullah State Islamic University, Indonesia

Ahmad Rodoni

Syarif Hidayatullah State Islamic University, Indonesia

*Correspondence Author: meriyati_23@uinjkt.ac.id

Received: 26-08-2025	Revised: 22-05-2026	Published: 24-05-2026
----------------------	---------------------	-----------------------

Abstract:

Gender inequity in bequest practices within the Komering adat community reflects structural inequalities shaped by social, cultural, and ideological factors. Bequest is commonly practiced as a preventive mechanism to avoid inheritance disputes within families. However, this practice tends to privilege men by allocating productive assets, such as land and plantations, primarily to male heirs, while women often receive smaller shares or are positioned as secondary beneficiaries. From a social construction perspective, this pattern reflects patriarchal traditions embedded in customary practices. This study employs a qualitative approach with a socio-juridical research design to examine how social construction and patriarchal values influence bequest practices as an economic instrument within Komering families. Primary data were collected through field observations and in-depth interviews with customary leaders, family members, and women involved in bequest practices. Secondary data were obtained from legal documents, regulations, and academic literature. The analysis draws on patriarchal theory, social construction theory, and Sylvia Walby's framework to explore the relationship between power structures and cultural legitimacy. The findings reveal that men are consistently prioritised in receiving productive assets, while women generally receive smaller portions of family wealth. This pattern is socially legitimised through norms positioning men as primary family providers. Consequently, women experience reduced access to economic resources, increased financial dependency, and weaker bargaining positions within the social structure. From the perspective of

maqāṣid al-syarī'ah, particularly regarding asset protection and distributive justice, current bequest practices have not fully reflected principles of justice. The gap between legal ideals and social realities indicates the need for reconstructing religious understanding and encouraging social transformation. Strengthening gender-responsive policies and promoting substantive justice-based interpretations of Islamic law are therefore necessary to restore bequest practices as inclusive mechanisms that support welfare and social equity.

Keywords: bequest; gender inequality, Komerling community, patriarchy, *maqāṣid al-Syarī'ah*

Introduction

Gender inequity in asset distribution within Muslim families has become an important issue in contemporary studies.¹ This phenomenon emerges from social interactions, cultural norms, and legal institutions that construct power relations, in which males tend to receive a greater amount of productive assets. Such inequality is not restricted to economic value; it also reflects the social construction of gender roles. In academic discourse, this phenomenon has often been reduced to *farā'id* (inheritance in Islam) as a post-death asset distribution mechanism.² Gender inequity in such asset distribution often occurs at a pre-inheritance stage, as in bequest practice, which may serve as a socio-economic instrument in asset distribution in the family.³ In discriminatory terms, bequest would simply undermine such inequity, thereby contravening the principle of justice in Islamic law.⁴ *Maqāṣid al-syarī'ah*, therefore, serves as a normative framework essential to ensuring justice, welfare, and

¹ Nuraida Fitri Habi and Muhammad Atho Mudzhar, "Women, Islamic Law and Custom in Pucuk Induk Undang Nan Limo Manuscript of Jambi," *AHKAM: Jurnal Ilmu Syariah* 24, no. 2 (December 2024): 233–50, <https://doi.org/10.15408/ajis.v24i2.38557>.

² Zaenul Mahmudi et al., "The Charity Values within Islamic Law of Inheritance in Malang: *Maqāṣid al-Sharī'ah* and Social Construction Perspectives," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (August 2024): 1324–45, <https://doi.org/10.22373/sjhk.v8i3.19986>.

³ 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 2023): 1293–316, <https://doi.org/10.22373/sjhk.v7i2.16688>; Hani Hasnah Safitri and Agus Khumaedy, "Gender Equality in the Distribution of Inheritance Property from Al-Qur'an and Mawaris Fiqh's Perspective," *Mutawasith: Jurnal Hukum Islam* 7, no. 1 (June 2024): 54–63, <https://doi.org/10.47971/mjhi.v7i1.765>; Herianto Putra and Desi Anwar, "Muhammad Shahrur's Perspective on Gender Equality in Inheritance Distribution," *Indonesian Journal of Islamic Law* 6, no. 2 (2023): 56–72, <https://doi.org/10.35719/ijil.v6i2.2018>.

⁴ Rusdi Rizki Lubis et al., "Towards Legal Justice: Expanding Criteria for Obligatory Bequests in Unregistered Wives in Polygamous Marriages," *Al-Ahkam* 35, no. 1 (April 2025): 117–46, <https://doi.org/10.21580/ahkam.2025.35.1.25358>; Sadari -, Lazuardi Fadhlán Arrazy, and Ummah Karimah, "Reinterpreting Gender Justice in Islamic Inheritance Law: A Critical Analysis of The Compilation of Islamic Law," *YUDISIA: Jurnal Pemikiran Hukum Dan Hukum Islam* 16, no. 2 (December 2025): 397–324, <https://doi.org/10.21043/yudisia.v16i2.26359>; Hani Sholihah, Nani Nani Widiawati², and Mohd Khairul Nazif bin Hj Awang Damit, "Reinterpretation of Justice in Islamic Inheritance Rights Based on Gender," *Al-Adalah* 21, no. 1 (June 2024): 101–24, <https://doi.org/10.24042/adalah.v21i1.21256>; Hotnidah Nasution and Ahmad Rifqi Muchtar, "Negotiating Islamic Law: The Practice of Inheritance Distribution in Polygamous Marriages in Indonesian Islamic Courts," *Al-Manahij: Jurnal Kajian Hukum Islam*, June 12, 2024, 125–44, <https://doi.org/10.24090/mnh.v18i1.10921>.



the protection of rights in the context of asset distribution.⁵

Unfair family asset distribution during the pre-inheritance stage is also common within the Komerling community—a local ethnic group in the Eastern Ogan Komerling Ulu region of South Sumatra. The community is predominantly Muslim and follows a patrilineal kinship structure. The social culture of the Komerling community, to date, remains adherent to the kinship system that predominantly affects family asset distribution and family relations. Bequest in this community is not solely determined by religious norms; it is also affected by social structure, kinship system, and customary values living in the community. Bequest serves as a social mechanism that helps reduce the likelihood of inheritance conflict while maintaining relational stability in the family. However, its implementation is unjust, as men receive more productive assets, such as land and plantations, while women have limited access to strategic economic resources. This condition reflects patriarchal domination internalised into the social practice in Komerling. This bequest practice shows an unequal distribution of power, as control over assets seems dominated by male family members, leaving little room for women's independence. This issue represents a systemic imbalance because it is legitimised by the practice of tradition passed down through generations.

Previous research shows that bequest practices in *adat* communities, such as those in Java, are intended to maintain family harmony and social stability. However, those studies are mostly descriptive-normative, overlooking power relations and substantive justice from a socio-legal perspective.⁶ Waro Satul Auliyak and Noer Azizah⁷ see that most prior studies have not investigated the potential of gender inequity. The study conducted by El Given Simorangkir et al.⁸ uses a limited methodology, as it does not comprehensively analyse the social construction of conflict. Furthermore, research by Sinaga⁹ indicates substantive gaps, as it offers no alternative justice framework. Studies conducted in Java,¹⁰ Madura,¹¹ and Bali are

⁵ Mellya Embun Baining et al., "Finding The Maqashid Al-Syariah Performance Model on Syariah Management Accounting Information System Values," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 24, no. 2 (December 2024): 2, <https://doi.org/10.30631/alrisalah.v24i2.1642>; Yusida Fitriyati et al., "Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 25, no. 1 (May 2025): 1, <https://doi.org/10.19109/nurani.v25i1.27133>; Doni Azhari, Asmuni Asmuni, and Khoiruddin Nasution, "Reassessing Tajdid An-Nikah: Maqashid Sharia and Legal Status of Illegitimate Children in Central Lombok," *Justicia Islamica* 22, no. 1 (May 2025): 1.

⁶ Sukiati Sukiati, "The Practice of Hibah as a Substitute Heir Among the Javanese Family," *MIQOT: Jurnal Ilmu-Ilmu Keislaman* 42, no. 1 (August 2018): 59–78, <https://doi.org/10.30821/miqot.v42i1.552>.

⁷ Waro Satul Auliyak and Noer Azizah, "Sistem Hibah Dalam Pembagian Warisan Perspektif Kesetaraan Gender," *EGALITA* 16, no. 1 (June 2021), <https://doi.org/10.18860/egalita.v16i1.10816>.

⁸ El Given Simorangkir, Sartika Puspita Sari, and Kesha Arbina Mutiara Idris, "Ketidaksetaraan Ketidaksetaraan Dalam Hak Waris Adat Batak: Tinjauan Terhadap Praktik Dan Implementasi," *Paradigma POLISTAAT: Jurnal Ilmu Sosial dan Ilmu Politik* 6, no. 1 (July 2023): 15–21, <https://doi.org/10.23969/paradigmapolistaat.v6i1.8301>.

⁹ Evan Daniel Sinaga, "Konstruksi Gender Dalam Sistem Pembagian Hak Waris Masyarakat Batak Serta Implikasinya Dalam Perspektif Teologi Kristen," *Jurnal Analisa Sosiologi* 12, no. 2 (April 2023), <https://doi.org/10.20961/jas.v12i2.65292>.

¹⁰ Sukiati, "The Practice of Hibah as a Substitute Heir Among the Javanese Family."

¹¹ Masduki Masduki, Dzulfikar Rodafi, and Syamsu Madyan, "The Concept of Madurese Customary Inheritance from the Perspective of Anthropology and Islamic Law," *Urwatul Wutsqo: Jurnal Studi*



limited in geographical and substantive aspects. Overall, there have been no studies specifically examining bequest practices in the Komering community within the framework of power relations, patriarchy, and *maqāṣid al-syarī'ah*-based justice. This paper argues that the people of Komering use bequest as a mechanism to prevent family conflict, without realising that this asset-distribution practice is gender-biased. Departing from this problem, this descriptive research aims to reinterpret bequest practice based on *maqāṣid al-syarī'ah*, strengthen Islamic family law literacy, and transform customary norms through the roles of religious and *adat* figures. This approach is intended to foster fairer asset distribution that complies with the principle of substantive justice based on sharia-economic law.

This research focuses on three main problems to investigate: (1) how is bequest practice implemented in the Komering community in the context of the distribution mechanism, bequeathed objects, and the relation between fiqh and customary norms in family asset distribution? (2) How is this bequest practice referred to as a mechanism to prevent conflict in the family and maintain the stability of kinship in the Komering community? (3) How does this bequest practice demonstrate the gender-biased tendency through productive asset distribution that is prioritised for males over females within the patriarchal social structure in the Komering community?

Methods

This research employs socio-juridical and phenomenological methods to capture subjective experiences and how the Komering community defines bequest, particularly related to gender and justice. The social meaning can only be understood through direct experiences in the community's everyday life.¹² This research not only describes the practice of bequest but also reveals the underlying meanings, motives, and social implications within interactions and local value frameworks.¹³ This approach is used to analyse how the norm of Islamic law and the social practice of bequest are connected, while understanding the subjective meanings shaped by the involved actors within the context of local culture. This research was conducted in Eastern Ogan Komering Ulu (OKU) Regency, particularly in the *adat* community of Komering, between 2023 and 2024, focusing on bequest practices used as an asset-distribution mechanism and the reproduction of social value in the villages of Cempaka, Campang tiga, and Suku Raja. This location was selected as a research site because the community maintains bequest practices to distribute customary assets and adheres to a patrilineal social structure that has led to gender inequity. This tradition is relevant to further analysis in the context of its relations with customary tradition, Islamic law, and social justice based on *maqāṣid al-syarī'ah*. This research uses primary and secondary data. The primary data were obtained through experiences, observations, and interactions with research subjects or informants who

Kependidikan Dan Keislaman 14, no. 2 (July 2025): 706–24, <https://doi.org/10.54437/urwatulwutsqo.v14i2.2384>.

¹² Alfred Schutz and Thomas Luckmann, *The Structures of the Life-World, Vol 1* (Evanston: Northwestern University Press, 1973).

¹³ Stefanus Nindito, "Fenomenologi Alfred Schutz: Studi Tentang Konstruksi Makna Dan Realitas Dalam Ilmu Sosial," *Jurnal ILMU KOMUNIKASI* 2, no. 1 (2005), <https://doi.org/10.24002/jik.v2i1.254>.



are directly involved in the bequest practice, including bequeathers, recipients, *adat* figures, and other parties affected by the conflict concerned. The secondary data were sourced from academic literature, scientific journals, Islamic legal documents, laws and regulations, and prior studies. Research data were collected using a qualitative method, comprising observations, documentation, and interviews with informants selected through purposive sampling. Data were supported by secondary materials obtained from the National Statistical Bureau. All the data were further analysed using the frameworks of legal sociology and Sharia economic law to investigate whether the bequest complies with the principles of justice and power relations.

Research analysis was conducted qualitatively, involving several stages: data reduction, data presentation, and conclusion drawing. The analytical approach was thematic and interpretative, integrating theories of social construction, patriarchy, and *maqāṣid al-syarī'ah*. Data validity was maintained using the triangulation of sources, methods, and theories.¹⁴ The validity was also reinforced by checking members and increasing the persistence of observation. This method is used not only to describe bequest practice, but also to reveal meanings, motives, and social implications behind gender inequity. Based on Alfred Schutz's phenomenology,¹⁵ this research integrates Edmund Husserl's and Max Weber's theories, emphasising the understanding of life experience.¹⁶ With this framework, this research captures how related actors define collective responsibilities, social sanctions, and religious values in bequest practice within a local context.¹⁷

Table 1. Informants of the Komering Tradition

No	Initial	Gender	Role	Village	Age
1	RJL	Male	Religious Figures	Gunung Batu	45
2	MSL	Female	Society	Campang Tiga	50
3	HRN	Female	Society	Cempaka	65
4	MBR	Male	Bequeather	Suka Raja	68
5	MR	Female	Actor	Kangkung	43
6	RTH	Female	Actor	Minanga	52

The names of the informants involved in the interview were written as initials for confidentiality. The variables analysed include age, sex, social role, and village to represent cultural context in the bequest practice of the *adat* community of Komering. Validity was maintained through rigorous methods, including systematic transcription, thematic coding, and triangulation across sources and techniques, as suggested in legal sociology. Interviews were conducted using the local language of Komering to capture emic meanings, supported with Bahasa Indonesia as the medium for conceptual clarification. The interviews took 45 to 90 minutes and were audio-recorded to ensure data accuracy and to deepen the analysis of the practice of bequest as a normative phenomenon laden with power relations from the perspective of shariah economic law.

Data were collected through participant observation, in-depth, semi-

¹⁴ Lexy. J. Moleong, *Metodologi Penelitian Kualitatif* (Bandung: Remaja Rosdakarya, 1991).

¹⁵ Alfred Schutz and Luckmann, *The Structures of the Life-World, Vol 1*.

¹⁶ Kazuhiko Okuda, "The Social Phenomenology of Alfred Schutz," *American Political Science Review* 70, no. 1 (March 1976): 174–78, <https://doi.org/10.1017/S0003055400282907>.

¹⁷ Nindito, "Fenomenologi Alfred Schutz."



structured interviews, and documentation to elicit informants' subjective meanings. All the interviews were recorded and transcribed verbatim as the basis of emic analysis. Furthermore, the data were organised and analysed using thematic coding via open coding, and related information was transcribed. The collected and organised data were then coded, interpreted, and validated using a triangulation method. This was intended to identify and formulate the pattern of gender inequality in bequest practice. The naturalistic approach enables social meanings to develop contextually. In this study, this approach is associated with the structural patriarchal framework, social construction, and Islamic feminism. The naturalistic paradigm enables meanings to develop naturally through direct interactions in the field, without external theoretical frameworks.¹⁸ The analytical context positioned the phenomenological approach to reveal actors' experiences and perceptions of justice in bequeathing. Data validity and reliability were maintained through the triangulation of sources and methods, as well as member checking of key informants. The integration of the perspective of customary law as a living law ensures that findings will be interpretative and reflect actual social reality. Methodological accuracy affirms that, in this context, bequest can be analysed as a dialectical space between patriarchal inheritance and the demand for social justice within the framework of legal sociology.

Results and Discussion

The Social Construction of Bequest in the *Adat* Community of Komerling

The adat community of Komerling is an ethnic group residing along the Komerling River in South Sumatera. This area embraces Ogan Komerling Ulu Regency, Ogan Komerling Ilir, and Eastern Ogan Komerling Ulu. The administrative data for Eastern Ogan Komerling Ulu Regency, the Sub-District of Cempaka with the code of the Ministry of Home Affairs (Kemendagri code) 16.08.04, show that this area was designated as a village without a village district. Overall, the sub-district of this area consists of 13 villages: Campang Tiga Ilir, Campang Tiga Jaya, Campang Tiga Ulu, Cempaka, Gunung Batu, Gunung Jati, Harisan Jaya, Kuripan, Meluai Indah, Negeri Sakti, and Sukabumi. This village-dominated sub-district represents real rural life, strictly adhering to the rural social structure, in which customary relations, kinship, and local practices, including customary bequest and other traditional activities, play a significant role in the community's social life.

The community's livelihood relies on an agricultural economy, with land and plantations as their primary means of supporting their households. The social structure demonstrates a patrilineal kinship pattern, in which lineage and family authority are predominantly linked to males. This condition affects resource management, access to and control over productive assets within a family. Men are positioned as the main actors who control land, while women take care of domestic chores and indirectly support the economy. Conceptually, bequest in *fiqh muamalah* is understood as a *tabarru'* contract, emphasising the voluntary transfer of asset ownership, which requires lawful ownership, the willingness of the bequeather, object clarity, and *qabd* (the possibility of handover). Within the framework of classical *fiqh*, bequest is not subject to a specific distribution pattern, allowing the

¹⁸Yvonna S. Lincoln and Egon G. Guba, *Naturalistic Inquiry* (Beverly Hills: Sage Publications, 1985), p. 39.



recipient and the proportion of the asset transferred to be entirely at the asset owner's discretion. Within the scope of Islamic positive law in Indonesia, the Compilation of Islamic Law has made some adjustments to this concept, including setting a maximum threshold of one-third of the total assets to be distributed. This proportion is governed by Article 210 (1).¹⁹ The provision asserts that a bequest made by parents to their child may be included in the inheritance, as outlined in Article 171, letter (g), and Article 211.²⁰ This provision demonstrates the integration of the bequest mechanism and the inheritance system within national regulations.

In such a context, the nexus among fiqh, the Compilation of Islamic Law, and customary practice is not aligned, as they differ in their rational bases. Fiqh places bequest in an individual domain; the Compilation of Islamic Law regulates this matter within certain normative provisions; and the practice in the Komerang community shows the influence of social structure that associates asset distribution with gender relations and family continuity. As a result, bequest practice in the Komerang community is not fully aligned with the fiqh concept; rather, it reflects a process of normative adaptation that interacts with the social structure to determine the pattern of asset distribution. As MBR, a family head, said,²¹ a bequest does not serve merely as a mechanism of individual law but operates within the social scope of a family affected by patrilineal structure. Decisions are made through family deliberation, dominated by the male head of household, while the participation of women is limited. Furthermore, RJL, a religious figure,²² positions a male as the primary actor in determining the distribution of assets, particularly land and plantations. This is due to the consideration that men have the capacity for agricultural management and ensuring the continuity of lineage. Similarly, MSL,²³ HRN,²⁴ MR,²⁵ and RTH²⁶ observed that determining who should receive a bequest often refers to patrilineal structures, given that men have the capacity to manage productive assets. In this case, women are allowed to contribute their consideration, but not to determine where the asset should be distributed. A bequest is generally distributed when a son has started a family or is deemed capable of managing assets. In practice, a bequest serves as a mechanism for the preliminary distribution of assets before inheritance, intended to maintain the stability of family relations and curb potential conflict, particularly after the death of a parent.

In the perspective of social construction by Berger and Luckmann, this practice can be viewed at the stage of externalisation, objectivation, and internalisation.²⁷ Bequest emerges from the practice of managing assets within the family (externalisation); this practice is then repeated up to the stage at which its stability is maintained (habituation); it becomes an unwritten rule (objectivation); and it is

¹⁹ Abdul Manan, *Aneka Masalah Hukum Perdata Islam Di Indonesia* (Jakarta: Prenada Media Group, 2006), p. 144.

²⁰ Tim Redaksi Nuansa Aulia, *Kompilasi Hukum Islam (Hukum Perkawinan, Kewarisan Dan Perwakafan)* (Bandung: Nuansa Aulia, 2013), p. 63.

²¹ MRB, *Personal Interview* (Desa Suka Raja, 2026).

²² RJL, *Personal Interview* (Gunung Batu, 2026).

²³ MSL, *Personal Interview* (Campang Tiga, 2026).

²⁴ HRN, *Personal Interview* (Desa Cempaka, 2026).

²⁵ MR, *Personal Interview* (Desa Kangkung, 2026).

²⁶ RTH, *Personal Interview* (Desa Minanga, 2026).

²⁷ Ferry Adhi Dharma, "Konstruksi Realitas Sosial: Pemikiran Peter L. Berger Tentang Kenyataan Sosial," *Kanal: Jurnal Ilmu Komunikasi* Vol. 7, no. 1 (2018): 5–6.



ultimately internalised as social knowledge in *adat* life (internalisation). This process bears the gender-based distribution pattern, triggering the emergence of gender bias, as evident in these three aspects: (1) access to assets (males predominantly own land and plantations); (2) decision-making (it is centred on a man as a family head), and (3) the distribution of economic authority (it gives no equal position to women in managing family assets). All three aspects show that asset distribution is not carried out symmetrically, as it follows a gender-based power-relation structure. Therefore, the bequest practice in the *adat* community of Komerling indicates that the mechanism of asset distribution serves not only as a legal instrument, but also as the space for gender-biased reproduction, shaped by the interaction between fiqh norms, the regulation of the Compilation of Islamic Law, and the patrilineal social structure within the family.

Patriarchy and Social Legitimacy toward Bequest Practice in the *Adat* Community of Komerling

The social structure of the *adat* community of Komerling, based on the patrilineal system, determines the distribution and control of authority and economic resources within the family. Within this structure, a man holds a central position in the decision-making process in his family, including the management and distribution of productive assets such as land, plantations, and paddy fields. This position has implications for the bequest pattern, which tends to favour productive assets given to a son responsible for the economic management of his family and lineage. The observation shows that asset distribution in this context occurs within a family deliberation forum dominated by male family members, particularly family heads. In a case of family members working as farmers in Eastern Ogan Komerling Ulu, about two hectares of rubber plantation were transferred to the two sons before the inheritance process took place, while the daughters received only financial aid for their marriages and household appliances. The interview revealed that the daughters were present during the deliberation but not involved in the final decision-making regarding asset distribution.

Informant HRN explained that plantations were given to sons because they were deemed capable of managing and maintaining family assets. A similar perspective is also offered by a local figure, who linked control over land and plantations to the economic sustainability of the family as well as to lineage maintenance. In practice, this consideration has made the distribution of productive assets more centred on males, while females are often left with non-productive asset objects. A similar pattern is also evident in a family of farmers working in paddy fields in Komerling Ilir, where most paddy fields were transferred to the oldest sons, who were designated as the successors to the family's agricultural land, as told by informant MR. MR added that the daughters did not receive any part of the paddy fields simply because they would share life with their future husbands. A female informant admitted that this pattern has become a habit in the family, repeatedly occurring during asset distribution.

The data above show that bequest in the *adat* community of Komerling is related not only to asset ownership, but also to the distribution of economic authority in the family. Control over assets by a male individual in a family is legitimised by the social construction that links him to responsibility for maintaining family continuity and



managing economic resources. From Sylvia Walby's perspective,²⁸ patriarchy works in the family, culture, and the distribution of economic resources that shape gender-based power relations. In the context of the Komerling community, asset distribution reveals how male domination is reproduced through social mechanisms embedded in the structure of family and customary life. Males are considered responsible for asset management and lineage continuity, while females are often assigned household chores or serve as supporting elements in the family economy.

This process occurs through repeated habituation in everyday family practice. Asset distribution to males also undergoes objectivation, becoming a pattern deemed a reference in family asset management. This is then internalised as social knowledge within the community's customary life. According to Peter L. Berger and Thomas Luckmann, this condition reveals how continuously produced social practice shapes the collective legitimacy of gender-based asset distribution.²⁹ Consequently, the practice of asset distribution in the Komerling community is heavily affected by patrilineal structure, productive asset distribution, and the reproduction of power relations within the family. The ownership of land and plantations that is always centred on men is related to the capability to manage the family economy and the institutionalisation of social legitimacy toward male authority in the customary structure of the community.

Unfair Asset Distribution and its Impacts on Women

The asset distribution in the *adat* community of Komerling, as the field observation found, shows unequal gender-based distribution of productive assets. Bequests in the Komerling community indicate that assets are not fairly distributed between men and women, particularly with respect to land, plantations, and paddy fields. The interviews with some families in Eastern Ogan Komerling Ulu and Ogan Komerling Ilir reveal that most productive assets are often transferred to sons, while daughters receive financial support for their marriage, household appliances, or limited cash. In the Belitang District, a family of rubber farmers conveyed the two-hectare plantation to the son before inheritance took place. The daughters in the family were not entitled to any land or plantation, but only financial aid for their marriage and household appliances. This decision, as further revealed in the interview, had been discussed in the family forum, led by the father as the family head. The daughters attended the deliberation, but they were not involved in the final decision on asset distribution.

Similarly, in Komeraing Ilir, as revealed in the interview with MR, most of the paddy fields have been conveyed to the oldest son, given that he is deemed eligible to take control of them in the future. In this case, the daughters do not have access to farmland, as it is assumed they will depend on their future husbands. One of the female informants sees this pattern as a long-standing family tradition. Research data show a similar pattern, with women involved in farming activities, including rubber tapping, agricultural product drying, and post-harvest cultivation. However, this involvement does not grant them control over productive assets. In several cases, women gain access to land use without any right to participate in land sales, ownership transfers, or the management of the results of production. This condition

²⁸ Sylvia Walby, "Theorizing Patriarchy (Review)," *Canadian Woman Studies* Vol. 13, no. 4 (1993): 135.

²⁹ Anik Juwariyah, "Konstruksi Langen Tayub Nganjuk Dalam Perspektif Bergerian," *Jurnal Budaya Nusantara* Vol.1, no. 2 (2014): 126–35.



indicates a gap between women's contributions to work and their ownership of economic resources within the family.

Such unequal distribution of assets surely has direct impacts on women's economic position. A female informant in Campang Tiga Village explained that after her divorce, she faced economic problems because she was left without any productive assets to generate income. In her marriage, she was previously involved in cultivating the family plantation. However, all land was owned in the name of her husband and his family. She lost all access to the plantation following the divorce. This condition later forced her to rely on informal jobs and support from her own family.

In a similar case, a female informant in Martapura stated that she had no further role in determining how crops were used, as all economic decisions were under her brother's control, the heir to the assets left by her parents. Her involvement in the family farm did not authorise her to handle the sale of crops or to interfere with the management of the family income earned from agricultural products. All the cases above show that inequality in asset distribution is not only related to the distribution of assets itself but also to the exclusion of women from any decision-making process in the family economy. The ownership of farmland and plantations in the agricultural community of Komering is closely related to social legitimacy and bargaining power within the household. Men in the family who control productive assets are given full authority to manage the family's finances, while women are often relegated to subordinate roles without direct control over strategic economic resources.

From Sylvia Walby's perspective, this condition shows how patriarchy works through economic resource distribution in the family. Control over assets by male family members not only concentrates economic capital but also strengthens their social legitimacy within the *adat* community. An analysis of social construction by Peter L. Berger and Thomas Luckmann indicates that this asset distribution was shaped by repeated practice, which in turn led to objectivity and became a social reference point in family asset management. At the internalisation stage, this pattern is accepted as part of family social structure, passed to the next generation. Therefore, the imbalance in asset distribution in the *adat* community of Komering is closely related to the concentration of productive asset ownership among male family members, women's limited access to economic control within their families, and the reproduction of gender-based power relations within the patrilineal social structure.

Exclusion of Women from Access to Productive Assets

Research data show that the exclusion of women in the *adat* community of Komering is evident, particularly in their limited access to productive assets in their family. These assets include land, plantations, and paddy fields. In an agricultural social structure that adheres to the patrilineal system, productive assets are centred more on men, as the successors of the family lineage, who are in charge of the family's economic management. This condition has left women with limited access to ownership, control, or decision-making over family economic resources. This marginalisation is evident in asset distribution patterns that often position male family members as the primary recipients of productive assets and females as recipients of non-productive assets or financial assistance. In several cases in Eastern Ogan Komering Ulu, as described above, such unequal distribution between men



and women simply leads to unfair, gender-based access to the economy of *adat* communities. Another example of marginalisation is obvious in the limited access that women have to the decision-making process that determines family asset management. Interviews show that deliberation forums within families are often led by male family members, particularly fathers or other senior males. Women in the family, however, can also participate in the deliberation, but without any authority to make the final decision regarding the distribution of land, plantations, or farming products.

Women are also excluded in terms of work contributions and asset ownership. In day-to-day practice, they engage in farming activities such as rubber tapping, crop cultivation, and post-harvest activities. This position does not automatically authorise them to take control of productive assets managed by the family. In other words, women contribute to the family economy without an equal right to control resources. Marginalisation in social construction is often associated with men's capacity to manage assets and maintain the continuity of their lineage. Informants HRN and MR view that land and plantations must be given to men, as they are deemed capable of protecting family assets and managing the family's finances. They assume that women are prepared to marry and live with their future husbands' families. This position does not make women eligible to act as successors to their family's assets.

From Pierre Bourdieu's perspective, this condition illustrates how symbolic violence works through the social acceptance of unequal resource distribution. Imbalance in women's access to productive assets is not always understood as exclusion, as it is internalised as a practice that fits the *adat* structure and familial relations. At this point, domination takes place due to the social mechanism internalised within the collective awareness of community members. The analysis of social construction by Peter L. Berger and Thomas Luckmann indicates that the marginalisation of women is shaped through habituation stemming from repeated actions in the context of family asset distribution. The pattern of transferring assets to a male family member becomes objectified and reinforced by unwritten social norms. This will then be internalised into family life and seen as a stable pattern in economic resource management. Therefore, the exclusion of women from access to productive assets in the *adat* community of Komerling is not only related to economic distribution matters, but also to the reproduction of gender-based power relations in a patrilineal social structure. The marginalisation involves restricting asset ownership, restricting participation in decision-making, and legitimising a culture that places males as the central controlling instrument over the family economy.

Socio-Economic Impacts of Unfair Asset Distribution

Unfair asset distribution in the *adat* community of Komerling directly affects women's access to the economy in the farming community. The concentration of ownership of land, plantations, and paddy fields in the hands of male family members leaves women without access to productive resources that serve as the primary sources of household production. In the context of the rural economy, owning productive assets is not solely associated with income; it also determines a person's capacity to gain capital with which they may start their businesses, maintain the continuity of the family economy, and build a bargaining position in social relations. Field data reveal that women with zero access to productive assets are



highly dependent on their husbands' families' economies. In several cases in Eastern Ogan Komering Ulu, women are only given financial assistance with no long-term economic resources after marriage or divorce. A female informant shared that after separating from her husband, she lost her access to family plantations, since all the assets were transferred to male family members. This condition may increase women's dependence on informal jobs or on family support to meet their everyday needs.

Furthermore, women have no chance to gain economic capital across generations. Control over land and plantations by male family members restricts the circulation of productive assets to the patrilineal lineage. In the long term, this condition will strengthen the legitimacy of men's control over family resources and the belief that women are always placed in a more vulnerable position, as they do not have any basis for ownership that can be inherited or invested in family business capital. Such imbalance in asset distribution also affects the social position of women in the household. In the farming community of Komering, ownership of land and plantations is closely tied to the legitimacy of family economic decision-making. Male family members who hold control over productive assets are authorised to determine the use of crops, land cultivation, and the distribution of family income. On the other hand, women with no control over productive assets could only offer recommendations without interfering in final decisions.

Data show that women are involved in farming, as mentioned earlier, without the right to control assets and the results of production. In several cases, women work on family farmland, but they are not entitled to any ownership or decision-making rights over family assets. This situation indicates a separation between the contribution of female workers and access to control over family economic resources. Imbalance in asset distribution also limits women's access to financing and to strengthening business capacity. In rural communities, land ownership always serves as the basis for access to business loans, economic security, and participation in large-scale production activities. When women are left with no assets in their name, their access to lending or business development is also restricted, unlike male family members, who have full control over their family land and plantations.

As explained earlier, Sylvia Walby sees this condition as affected by the patriarchal system in the distribution of family assets. The dominant male family members will take control over the economic capital. This norm reinforces the social legitimacy that men, not women, are entitled to such asset control. Such imbalance, therefore, shapes power relations in everyday social lives. Pierre Bourdieu argues that men's control over assets leads to the simultaneous accumulation of economic, social, and symbolic capitals. Such dominant power also leaves men with the right to decision-making in their family, while positioning women as subordinate individuals. Peter L. Berger and Thomas Luckmann argue that these socio-economic impacts result from continuous processes of social reproduction in the family. As explained earlier, asset distribution is shaped by habituation, which then stays as a social pattern accepted as a standard mechanism for managing family assets. This internalisation triggers an imbalance in asset distribution, not only contributing to economic problems but also serving as the mechanism of the reproduction of gender-based power relations in the *adat* community of Komering.



Maqāshid al-Syarī'ah Criticism against Discriminatory Bequest

The analysis of bequest in the *adat* community of Komerling demonstrates that the distribution of productive assets is not solely related to contract legality; it is also associated with social impacts arising from such distribution within the family. In this context, the *maqāshid al-syarī'ah* is a relevant approach, as it provides an analytical framework that does not stop at the formal aspect of legal validity but also takes into account the social and economic impacts and the utility relations that emerge from particular legal practice.³⁰ In the asset distribution as in the Komerling community, the problem not only lies in the validity of the bequest contract per se, given that, in *fiqh*, bequest remains valid as long as it meets the requirements of ownership, the willingness of the bequeather, the clarity of the object, and *qabd* (handover). The problem arises when the asset distribution is centred on male family members, leaving women with only limited access to productive resources in the family. This condition, therefore, leads to inequality in economic access, thereby affecting the social standing of female family members in a household of the *adat* community.

According to HRN, women are involved in farming activities, including rubber tapping and crop cultivation, but they are bare of any control over ownership or the distribution of farm products. In the context of *maqāshid*, this condition indicates an imbalance between economic contribution and access to economic benefits earned from family assets. In other words, bequest is related to both the transfer of ownership and the distribution of socio-economic benefits within the family structure. Gender-related conflict and the failure of the implementation of *maqāshid* are not consistent with the principle of *maqāshid al-syarī'ah*, particularly *ḥifẓ al-māl* (the protection of ownership right), *al-'adl* (equal distribution), *ḥifẓ al-'ird* (honour and social standing of women). From the perspective of *maqāshid al-syarī'ah*, asset distribution is related to protection for the sustainability of the social and economic life of the people, particularly in the context of *ḥifẓ al-māl* (asset protection) and *ḥifẓ al-nasl* (family continuity). In the bequest practice centred on men, the protection of family economic assets is not evenly distributed, as women do not have the same access as men. This, therefore, restricts women from independent economic sustainability, especially when they are faced with divorce, the death of their husbands, or economic pressure in their household.

Maqāshid al-syarī'ah is also relevant for analysing the nexus between law and social structure. Bequest practice in the Komerling community shows that the flexibility of bequest law in *fiqh* interacts with the patrilineal structure that positions men as the central control of the family economy. In this condition, law does not work in a neutral space but is rather affected by social constructs that determine resource distribution. Therefore, problem analysis using the *maqāshid* approach is necessary to help determine the extent to which asset distribution produces inclusive utility or reinforces the imbalance of gender-based access to the economy. Jasser Auda³¹ suggests that *maqāshid al-syarī'ah* should not be understood as the protection of legal texts; this principle is also associated with the attainment of social justice, the

³⁰ Nasruddin Yusuf et al., "Mapalus Tradition: North Sulawesi Muslim Society in the Maqashid Syariah Discourse," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 20, no. 1 (May 2025): 63–93, <https://doi.org/10.19105/al-lhkam.v20i1.14025>.

³¹ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: International Institute of Islamic Thought (IIIT), 2008).



distribution of utility, and the protection of vulnerable groups within the social structure. The systemic approach developed by Auda positions the social context as a vital part in analysing the practice of Islamic law; therefore, bequest practice does not stop at the aspect of a legal-formal contract. This practice should also consider the impacts of asset distribution on social relations and on access to the economy within the family. *Maqāṣid* protects humans from structural injustice, including gender inequity. In the local tradition between *'urf* and *maqāṣid al-Syarī'ah*, from an Islamic fiqh perspective, *'urf* (local habit) is recognised unless it contravenes sharia principles. When this tradition is found to violate key values, such as justice, *ḥifẓ al-māl* (asset protection), and *ḥifẓ al-'ird* (women's dignity), it must be corrected or abandoned.

In the *adat* community of Komering, this approach allows for analysis of the operation of bequest practice within a patriarchal structure centred on men who are entitled to ownership of productive assets. Unequal asset distribution affects women's economic ownership, bargaining power, decision-making rights, and capacity to foster economic stability across generations. This analysis indicates that *maqāṣid al-syarī'ah* is relevant to interpreting the problem of bequest as one of legal validity and the distribution of social utility and economic access within the family. Within this framework, bequest can be analysed as the dynamic among Islamic law, patrilineal social structure, and the reproduction of gender inequity in the *adat* community of Komering. Mohammad Hashim Kamali³² sees that *maqāṣid al-syarī'ah* is not limited to formal legality; it also considers the social impact of legal practice on the welfare and drawbacks that may affect social life. Within this framework, *'urf* or custom is placed as a secondary legal source in Islam, particularly within the domain of *mu'āmalah*, as long as it does not contravene the basic principle of Sharia. The position of customary tradition within Islamic law is therefore conditional, as its validity is measured by its impact on social justice, the protection of rights, and the distribution of benefits to the people.

In the context of bequest as in the *adat* community of Komering, the distribution of productive assets represents the correlation between patrilineal structure and the pattern of power over family economic resources. Land, plantations, and paddy fields serve as the basis for economic farming, which is primarily controlled by male family members, leaving women with only access to financial assistance. This pattern is legitimised by the argument that men are the lineage successors in their family. Therefore, the distribution of assets is not only related to the transfer of ownership but also reflects power relations within the family's social structure. The acceptance of this practice, according to *maqāṣid al-syarī'ah*, is problematic when asset distribution results in unequal access in a gender-based economy. As outlined in Al-Muwafaqat, Islamic law is directed more toward the realisation of benefits for all people by protecting fundamental aspects of life. The *maqāṣid al-syarī'ah* framework positions benefits in three-tier necessities: *ḍarūriyyāt*, *ḥājjiyyāt*, and *taḥsīniyyāt*, all functioning as analytical instruments to assess the social impact of particular legal practice.³³ In the context of bequest implemented in the *adat*

³² Mohammad Hashim Kamali, *Shari'ah Law: An Introduction* (Oxford: Oneworld Publications, 2008).

³³ Al Ikhlas Al Ikhlas et al., "The Concept of Maqasid Al-Shariah As an Instruments of Ijtihad According to Imam al-Shatibi in al-Muwafaqat Fi Ushuli Al-Shariah," *Media Syari'ah: Wahana Kajian*



community of Komerling, these approaches represent the nexus built among asset distribution, patrilineal kinship, and the reproduction of gender-based power relations.

In Komerling, as revealed earlier, women do not have the right to own land or plantations. This also blocks them from accessing production capital and a long-term source of income. The impacts are not only on individuals but also on women's social position within their families and community. Women's economic dependence on men also means restricted capacity to make decisions at both domestic and social levels.³⁴ This condition indicates that the practice of bequest serves as the mechanism of reproduction in gender-based economic stratification at a local level. Conceptually, justice in Islamic law should not be understood solely as compliance with legal procedures; it is associated with the proportional distribution of rights and access.³⁵ The meaning of *al-'adl* in Islamic law denotes harmony and appropriate apportionment in accordance with the social context.³⁶ In terms of bequest in the Komerling community, justice is inseparable from the social structure that leads to different portions of access between men and women to family economic resources. Therefore, the gender-based justice issue in this bequest mechanism cannot be linked to unequal distribution, but rather to how the social structure affects the potential for access to productive assets. The research findings reveal that the most significant impact of gender-biased bequest practice lies in the reproduction of the long-term economic imbalance. When land and plantations are oriented toward male lineage, women have limited access to accumulating assets, capital, and independent economic sustainability. In farming communities, land serves as the source of income and determines the bargaining position within family and community structures. As a consequence, excluding women from access to productive assets narrows their capacity in determining economic preferences, child education, and life stability when they are faced with divorce or the death of their spouses.

From the perspective of sharia economic law, this issue concerns the dimension of the proportional distribution of welfare and the protection of access to the economy. When productive assets are systemically concentrated on men, resource distribution is no longer proportional, as it follows the rigid pattern of social domination which is always legitimised by customary rules. At this point, gender inequity is not only an issue affecting familial relations, but it also contributes to the construction of an exclusive social structure in asset distribution at the community level. Ibn Taymiyyah's perspective³⁷ highlights the essence of equal distribution in the family. He argues that granting a child³⁸ something without substantive reason is

Hukum Islam Dan Pranata Sosial 23, no. 2 (December 2021): 206–19, <https://doi.org/10.22373/jms.v23i2.10138>.

³⁴ Mansour Fakhri, *Analisis Gender Dan Transformasi Sosial* (Yogyakarta: Pustaka Pelajar, 2006), p. 22–24.

³⁵ Syaikh Syaikh, "Kewarisan Islam Dalam Perspektif Keadilan Gender," *El-Mashlahah* 8, no. 2 (2018), <https://doi.org/10.23971/maslahah.v8i2.1323>.

³⁶ Arief Budiman, Muhammad Saifullah, and Bahrul Ulum, "Wajibah Will for Non-Muslim Heirs in Indonesia: A Legal Political Perspective Based on Justice and Welfare," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 2 (December 2024): 223–50, <https://doi.org/10.18326/ijtihad.v24i2.223-250>.

³⁷ Fauzi Saleh, "Hibah Ayah Kepada Anak Perempuan Dalam Perspektif Fiqh Gender," *Muwazah* 6, no. 2 (December 2014): 147–65, <https://doi.org/10.28918/muwazah.v6i2.9926>.

³⁸ *Ibid.*,



not suggested, as it will only benefit a certain party.³⁹ Some religious leaders of *Hanafīyyah*, *Mālikīyyah*, and *Syāfi'īyyah* also relate a bequest from parents to their child to the principle of equal treatment in the distribution of assets within the family. This indicates that the bequest practice, which is dominant only among male family members in the Komerling community, in terms of the social construction of the *adat* community, differs from fiqh teaching, which emphasises proportional distribution.

The *maqāṣid al-syarī'ah*-based analysis shows that the patriarchal bequest pattern in the Komerling community comprises several interrelated dimensions. In the context of *hiḥz al māl*, male domination over asset control results in a disproportionate distribution of economic resources. In the context of *hiḥz al-naḥs*, women have no decision-making authority over asset distribution within the family. In the context of *hiḥz al-'ird*, the norm concerning family dignity serves to control women, ensuring they will not openly complain about this bequest mechanism. All three dimensions indicate that the bequest problems do not stand alone; rather, they are related to the social structure that governs power distribution and legitimacy in the *adat* community. From the perspective of Abu Ishaq al-Shatibi, *maqāṣid* is oriented toward protecting the safety of all human beings by upholding fundamental rights in social life. However, in the practice of bequest in Komerling, this objective interacts with the patrilineal structure that recognises that male family members are in charge of economic control. As a consequence, customary tradition not only functions as the channel through which cultural values are inherited, but also serves as a medium for reproducing gender-based power relations in the distribution of economic resources within the family.

The Reconstruction of Law Governing Gender-Based Bequest

The reconstruction of bequest law in the contemporary Muslim community is closely related to looking back at the social function of asset distribution within the family, particularly when bequests occur within a social structure that can lead to gender-based unequal access to the economy. In the *adat* community of Komerling, this asset distribution reflects inequality in the allocation of productive assets between men and women, particularly land and plantations, which are the primary basis of the agricultural economy. This condition confirms that the flexibility of bequest, according to fiqh, does not operate within a neutral social sphere; rather, it interacts with the patrilineal structure that affects the resource distribution pattern in the family. Conceptually, bequest in *fiqh muamalah* is understood as the *tabarru'* contract, emphasising the voluntary transfer of ownership, with the requirement of valid ownership, the willingness of the bequeather, the clarity of the object, and *qabd* (handover). Unlike the *farā'id* system, which accurately determines the distribution proportions, bequest in this context allows wide discretion to asset holders in deciding the recipients and the forms of assets transferred. This flexibility enables bequest to be more adaptive to the social needs of the people and the dynamic family structure.

In the context of positive law in Indonesia, the regulation governing bequest in the Compilation of Islamic Law demonstrates an adjustment to the social context of Indonesia's Muslim community. The provision concerning one third of the total

³⁹ Wahbah al-Zuhaylī, *Al-Fiqh al-Islāmī Wa Adillatuh*, Jilid 6 (Damaskus: Dār al-Fikr, 2002), p. 4012.



bequeathed asset as the maximum threshold, as outlined in Article 210 (1), and the provision regarding bequest from parents to their child calculated as inheritance as governed under Article 211, indicate the integration between the mechanism of bequest and protection of equal distribution in the family. These regulations show that bequest practice in Indonesia, already adjusted to the social needs of the people, is identical to that governed by classical fiqh.

Bequest is not only related to the contract's legality but also to the impact of resource distribution on family economic relations. In this context, the reinterpretation of the bequest concept is relevant, particularly regarding the orientation of asset distribution in Islamic law within a community that has experienced changes in both its social and economic structures. The reinterpretation of bequest is not intended to abolish a particular customary tradition or reject the flexibility of bequest law in Islam. Rather, this reinterpretation is more related to re-understanding the social function of bequest to ensure that the distribution of assets is not centred on a particular group. Bequest, therefore, should represent the social structure and the local wisdom of the Komerling community, while it opens to analysis through the distribution of more inclusive economic benefits.

From the perspective of *maqāṣid al-syarī'ah*, asset distribution is related to protecting family sustainability and ensuring access to economic resources that support social welfare. The analysis of the bequest should extend beyond a formal contract to encompass the impacts of asset distribution on the economic sustainability of all family members. When women's access to productive assets is limited, such unequal distribution may lead to ownership imbalances and long-term economic vulnerability, thereby affecting their bargaining power within the household. Jasser Auda positioned *maqāṣid al-syarī'ah* as an approach that takes into account social welfare, distributive justice, and the protection of vulnerable groups in communities. With this approach, Islamic law is understood as both a formal-legal system and an instrument for distributing social utility. This approach allows for analysis of bequest practice in the Komerling community to ensure that this practice is not interpreted as the individual right of the bequeather; rather, it should be taken as part of the dynamic distribution of economic access in the family.

The reinterpretation of bequest is associated with the shifting position of women in the economic structure and contemporary family. This shift shows that the assumption that men are the only eligible party to manage productive assets in their families is no longer relevant to the socio-economic reality of contemporary farming communities. The concept of bequest in Islamic law should be referred to as an instrument to understand the orientation of asset distribution in the family, so it will not be solely centred on the formal legitimacy of ownership transfer; it should consider the social impacts of resource distribution on economic access, gender relations, and the sustainability of family welfare within the Komerling community.

Conclusion

The research concludes that the bequest practice in the Komerling community serves as a mechanism to prevent inheritance conflicts and to construct the patrilineal system as a social structure in the context of family asset distribution. Land, plantations, and productive assets are primarily transferred to male family members, while women are entitled only to non-productive assets and financial assistance. This pattern is shaped by social constructions that legitimise men as individuals



responsible for managing the family economy and as the successors in their lineage. Imbalances in asset distribution limit women's access to economic resources, weaken their bargaining power in family decision-making, and strengthen their economic dependence within their community. From the perspective of *maqāṣid al-syarī'ah*, the main issue in this bequest practice lies in both the contract's formal legality and the distributional implications that affect social justice and access to the family economy. This finding indicates that bequest practice in the community of Komerang reflects the interaction among the flexibility of Islamic law, the patrilineal structure of *adat* community, and gender-based power relations. This all makes the reinterpretation of bequest relevant to fostering more proportional asset distribution that is contextualised by socio-economic dynamics in the contemporary Muslim community.

Acknowledgements

The completion of this research titled "*The Bequest Transferred Prior to Death: Between Conflict Prevention and Gender-Biased Family Asset Division*" would not have been possible without the invaluable support and contributions of various individuals and institutions. We extend our deepest gratitude to LPDP under the Ministry of Religion Indonesia Bangkit Scholarship (BIB), as the funder and sponsor of this research.

Conflict of Interest Statement

The authors declare that there is no conflict of interest regarding the publication of this article. The research was conducted independently without any commercial, financial, or personal relationships that could be construed as influencing the objectivity, integrity, or interpretation of the research findings.

Declaration of the use of AI

The authors declare that artificial intelligence (AI)-assisted tools were used solely to support language refinement, grammar checking, and improvement of manuscript readability during the preparation of this article. All conceptual development, data analysis, interpretation of findings, and final academic decisions remain entirely the responsibility of the authors. The authors have carefully reviewed and validated all contents to ensure the accuracy, originality, and academic integrity of the manuscript.

Funding Statement

This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors. The authors conducted this study independently and solely supported the research and publication process through institutional and personal academic resources.

Credit of Author Statement

Meriyati contributed to the conceptualization of the study, research design, project administration, supervision, data analysis, manuscript drafting, and overall coordination of the research project. **JM Muslimin** contributed to methodological development, theoretical framework construction, literature review, interpretation of findings, and manuscript revision. **Nur Hidayah** contributed to data collection,



analytical framework development, validation of findings, and critical review of the manuscript. **Ahmad Rodoni** contributed to theoretical analysis, manuscript editing, academic proofreading, and final review of the manuscript. All authors contributed substantially to the study, read and approved the final manuscript, and agreed to be accountable for all aspects of the work.

Bibliography:

- Abdul Manan. *Aneka Masalah Hukum Perdata Islam Di Indonesia*. Jakarta: Prenada Media Group, 2006.
- Alfred Schutz, and Thomas Luckmann. *The Structures of the Life-World, Vol 1*. Evanston: Northwestern University Press, 1973.
- Anik Juwariyah. "Konstruksi Langen Tayub Nganjuk Dalam Perspektif Bergerian." *Jurnal Budaya Nusantara* Vol.1, no. 2 (2014): 126–35.
- Auda, Jasser. *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*. London: International Institute of Islamic Thought (IIIT), 2008.
- Auliyak, Waro Satul, and Noer Azizah. "Sistem Hibah Dalam Pembagian Warisan Perspektif Kesetaraan Gender." *EGALITA* 16, no. 1 (June 2021). <https://doi.org/10.18860/egalita.v16i1.10816>.
- Azhari, Doni, Asmuni Asmuni, and Khoiruddin Nasution. "Reassessing Tajdid An-Nikah: Maqashid Sharia and Legal Status of Illegitimate Children in Central Lombok." *Justicia Islamica* 22, no. 1 (May 2025): 1.
- Baining, Mellya Embun, Amri Amir, Achmad Hizazi, and Enggar Diah Puspa Arum. "Finding The Maqashid Al-Syariah Performance Model on Syariah Management Accounting Information System Values." *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 24, no. 2 (December 2024): 2. <https://doi.org/10.30631/alrisalah.v24i2.1642>.
- Budiman, Arief, Muhammad Saifullah, and Bahrul Ulum. "Wājibah Will for Non-Muslim Heirs in Indonesia: A Legal Political Perspective Based on Justice and Welfare." *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 2 (December 2024): 223–50. <https://doi.org/10.18326/ijtihad.v24i2.223-250>.
- Ferry Adhi Dharma. "Konstruksi Realitas Sosial: Pemikiran Peter L. Berger Tentang Kenyataan Sosial." *Kanal: Jurnal Ilmu Komunikasi* Vol. 7, no. 1 (2018): 5–6.
- Fitriyati, Yusida, Duski Ibrahim, Firman Muntaqo, and KN Shofyan Hasan. "Reconsidering Inheritance Equality: Gender Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah." *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 25, no. 1 (May 2025): 1. <https://doi.org/10.19109/nurani.v25i1.27133>.
- Habi, Nuraida Fitri, and Muhammad Atho Mudzhar. "Women, Islamic Law and Custom in Pucuk Induk Undang Nan Limo Manuscript of Jambi." *AHKAM: Jurnal Ilmu Syariah* 24, no. 2 (December 2024): 233–50. <https://doi.org/10.15408/ajis.v24i2.38557>.
- 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 2023): 1293–316. <https://doi.org/10.22373/sjhc.v7i2.16688>.
- Ikhlas, Al Ikhlas Al, Desi Yurdian, Alfurqan Alfurqan, Murniyetti Murniyetti, and Nurjanah Nurjanah. "The Concept of Maqasid Al-Shariah As an Instruments of Ijtihad According to Imam al-Shatibi in al-Muwafaqat Fi Ushuli Al-Shariah."



- Media Syari'ah: Wahana Kajian Hukum Islam Dan Pranata Sosial* 23, no. 2 (December 2021): 206–19. <https://doi.org/10.22373/jms.v23i2.10138>.
- Lexy. J. Moleong. *Metodologi Penelitian Kualitatif*. Bandung: Remaja Rosdakarya, 1991.
- Lubis, Rusdi Rizki, Asmuni Asmuni, Tamyiz Mukharrom, Candra Boy Seroza, and Aisyah Kahar. “Towards Legal Justice: Expanding Criteria for Obligatory Bequests in Unregistered Wives in Polygamous Marriages.” *Al-Ahkam* 35, no. 1 (April 2025): 117–46. <https://doi.org/10.21580/ahkam.2025.35.1.25358>.
- Mahmudi, Zaenul, M. Fauzan Zenrif, Abdul Haris, Ahsin Dinal Mustafa, and Noer Yasin. “The Charity Values within Islamic Law of Inheritance in Malang: Maqāsid al-Sharī’ah and Social Construction Perspectives.” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (August 2024): 1324–45. <https://doi.org/10.22373/sjhc.v8i3.19986>.
- Mansour Fakih. *Analisis Gender Dan Transformasi Sosial*. Yogyakarta: Pustaka Pelajar, 2006.
- Masduki, Masduki, Dzulfikar Rodafi, and Syamsu Madyan. “The Concept of Madurese Customary Inheritance from the Perspective of Anthropology and Islamic Law.” *Urwatul Wutsqo: Jurnal Studi Kependidikan Dan Keislaman* 14, no. 2 (July 2025): 706–24. <https://doi.org/10.54437/urwatulwutsqo.v14i2.2384>.
- Mohammad Hashim Kamali. *Shari’ah Law: An Introduction*. Oxford: Oneworld Publications, 2008.
- Nasution, Hotnidah, and Ahmad Rifqi Muchtar. “Negotiating Islamic Law: The Practice of Inheritance Distribution in Polygamous Marriages in Indonesian Islamic Courts.” *Al-Manahij: Jurnal Kajian Hukum Islam*, June 12, 2024, 125–44. <https://doi.org/10.24090/mnh.v18i1.10921>.
- Nindito, Stefanus. “Fenomenologi Alfred Schutz: Studi Tentang Konstruksi Makna Dan Realitas Dalam Ilmu Sosial.” *Jurnal ILMU KOMUNIKASI* 2, no. 1 (2005). <https://doi.org/10.24002/jik.v2i1.254>.
- Okuda, Kazuhiko. “The Social Phenomenology of Alfred Schutz.” *American Political Science Review* 70, no. 1 (March 1976): 174–78. <https://doi.org/10.1017/S0003055400282907>.
- Putra, Herianto, and Desi Anwar. “Muhammad Shahrur’s Perspective on Gender Equality in Inheritance Distribution.” *Indonesian Journal of Islamic Law* 6, no. 2 (2023): 56–72. <https://doi.org/10.35719/ijil.v6i2.2018>.
- Sadari -, Lazuardi Fadhlán Arrazy, and Ummah Karimah. “Reinterpreting Gender Justice in Islamic Inheritance Law: A Critical Analysis of The Compilation of Islamic Law.” *YUDISIA: Jurnal Pemikiran Hukum Dan Hukum Islam* 16, no. 2 (December 2025): 397–324. <https://doi.org/10.21043/yudisia.v16i2.26359>.
- Safitri, Hani Hasnah, and Agus Khumaedy. “Gender Equality in the Distribution of Inheritance Property from Al-Qur’an and Mawaris Fiqh’s Perspective.” *Mutawasith: Jurnal Hukum Islam* 7, no. 1 (June 2024): 54–63. <https://doi.org/10.47971/mjhi.v7i1.765>.
- Saleh, Fauzi. “Hibah Ayah Kepada Anak Perempuan Dalam Perspektif Fiqh Gender.” *Muwazah* 6, no. 2 (December 2014): 147–65. <https://doi.org/10.28918/muwazah.v6i2.9926>.
- Sholihah, Hani, Nani Nani Widiawati², and Mohd Khairul Nazif bin Hj Awang Damit. “Reinterpretation of Justice in Islamic Inheritance Rights Based on Gender.” *Al-*



- 'Adalah 21, no. 1 (June 2024): 101–24.
<https://doi.org/10.24042/adalah.v21i1.21256>.
- Simorangkir, El Given, Sartika Puspita Sari, and Kesha Arbina Mutiara Idris. “Ketidaksetaraan Ketidaksetaraan Dalam Hak Waris Adat Batak: Tinjauan Terhadap Praktik Dan Implementasi.” *Paradigma POLISTAAT: Jurnal Ilmu Sosial dan Ilmu Politik* 6, no. 1 (July 2023): 15–21.
<https://doi.org/10.23969/paradigmapolistaat.v6i1.8301>.
- Sinaga, Evan Daniel. “Konstruksi Gender Dalam Sistem Pembagian Hak Waris Masyarakat Batak Serta Implikasinya Dalam Perspektif Teologi Kristen.” *Jurnal Analisa Sosiologi* 12, no. 2 (April 2023).
<https://doi.org/10.20961/jas.v12i2.65292>.
- Sukiati, Sukiati. “The Practice of Hibah as a Substitute Heir Among the Javanese Family.” *MIQOT: Jurnal Ilmu-Ilmu Keislaman* 42, no. 1 (August 2018): 59–78.
<https://doi.org/10.30821/miqot.v42i1.552>.
- Syaikhu, Syaikhu. “Kewarisan Islam Dalam Perspektif Keadilan Gender.” *El-Mashlahah* 8, no. 2 (2018). <https://doi.org/10.23971/maslahah.v8i2.1323>.
- Syvia Walby. “Theorizing Patriarchy (Review).” *Canadian Woman Studies* Vol. 13, no. 4 (1993): 135.
- Tim Redaksi Nuansa Aulia. *Kompilasi Hukum Islam (Hukum Perkawinan, Kewarisan Dan Perwakafan)*. Bandung: Nuansa Aulia, 2013.
- Wahbah al-Zuhaylī. *Al-Fiqh al-Islāmī Wa Adillatuh, Jilid 6*. Damaskus: Dār al-Fikr, 2002.
- Yusuf, Nasruddin, Djamila Usup, Anisa Jihan Tumiwa, Naskur Bilalu, and Nurlaila Isima. “Mapalus Tradition: North Sulawesi Muslim Society in the Maqashid Syariah Discourse.” *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 20, no. 1 (May 2025): 63–93. <https://doi.org/10.19105/al-lhkam.v20i1.14025>.
- Yvonna S. Lincoln, and Egon G. Guba. *Naturalistic Inquiry*. Beverly Hills: Sage Publications, 1985.