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Equality in The Inheritance Distribution for Adopted Children and Biological Children in the Sasak Indigenous Community of South Pringgasela

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Abstract

Adoption has implications for status and rights within the family, such as in matters of inheritance. Although, from the perspective of Islamic law, an adopted child has no right to inherit, except through a gift or a mandatory bequest, as stipulated in Article 209(2) of the Compilation of Islamic Law (KHI). However, the Sasak indigenous community, which is predominantly Muslim, has a tradition of treating adopted children as recognized members of the family with inheritance rights and a share of the estate equal to that of biological children. This article aims to examine the process of distributing inherited assets to adopted children within Sasak tradition. This is a field study employing a juridical-empirical approach. Data were collected through interviews with four informants selected through purposive sampling, as well as observations conducted over a one-month period. Based on an analysis of the concept of "ishlah" in Islamic legal theory, this article finds that the status and rights of adopted children within the Sasak indigenous community in Pringgasela Selatan Village are considered equivalent to those of biological children due to the social and emotional bonds formed between the adopted child and the adoptive parents. The amount of inheritance granted to adopted children is determined through family deliberation without any formally established limits. This article argues that the concepts of ishlah, takharuj, or hibah in Islamic law can serve as a justification for the distribution of inheritance in Sasak indigenous communities. Meanwhile, under Islamic law, adopted children do not receive a share of the inheritance because they have no blood relationship; however, they may be recognized through the mechanism of a mandatory bequest, with a maximum limit of one-third of the total estate. This article demonstrates that the dynamics between Islamic law and customary law can be harmonized through an ishlah approach.

[Pengangkatan anak memiliki dampak terhadap status dan hak dalam keluarga seperti dalam hal pewarisan. Meskipun dalam perspektif hukum Islam anak angkat tidak memiliki hak waris, kecuali melalui hibah atau wasiat wajibah

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sebagaimana diatur dalam Pasal 209 ayat (2) Kompilasi Hukum Islam (KHI). Namun masyarakat adat Sasak yang mayoritas muslim memiliki tradisi menjadikan anak angkat sebagai bagian dari keluarga yang diakui dengan hak waris dan porsi pembagian yang setara dengan anak kandung. Artikel ini bertujuan untuk melihat proses pembagian harta warisan kepada anak angkat dalam tradisi masyarakat Sasak. Artikel ini merupakan artikel lapangan dengan pendekatan yuridis-empiris. Data bersumber dari wawancara terhadap 4 narasumber yang dipilih secara purposive serta observasi selama 1 bulan. Berdasarkan analisis ishlah dalam teori hukum islam artikel menemukan bahwa kedudukan dan hak anak angkat dalam masyarakat adat Sasak di Desa Pringgasela Selatan dianggap setara dengan anak kandung karena hubungan sosial dan emosional yang terbentuk antara anak angkat dan orang tua angkat. Nominal warisan yang diberikan kepada anak angkat ditentukan berdasarkan musyawarah keluarga tanpa adanya batasan yang ditetapkan secara formal. Artikel ini berargumen bahwa konsep ishlah, takharuj, atau hiba h dalam hukum islam dapat dijadikan sebagai justifikasi pembenaran dalam pembagian waris masyarakat adat Sasak. Sementara itu, dalam Hukum Islam, anak angkat tidak mendapat bagian waris karena tidak memiliki hubungan darah, akan tetapi dapat diakui melalui mekanisme wasiat wajibah dengan batas maksimal sepertiga dari total harta warisan. Artikel ini menunjukkan dinamika antara hukum islam dan hukum adat dapat diharmonisasikan melalui pendekatan ishlah.]

Keywords: inheritance; adopted child; Islamic law; customary law; Sasak community

Introduction

Adoption, or adoption, is a legal and social process that changes a child's status from being outside the family to being part of a family.[1] The position of adopted children in the eyes of society is often equated with that of biological children.[2] This practice has been widely known in various cultures driven by various motives such as humanity, the biological inability of couples to have children, or part of customary practices that live and thrive in society.[3] Therefore, when an adoptive parent dies, some of the assets they own are

[1] Euis Nurlaelawati and Stijn Cornelis Van Huis, "The Status of Children Born out of Wedlock and Adopted Children in Indonesia: Interactions between Islamic, Adat, and Human Rights Norms," *Journal of Law and Religion* 34, no. 3 (2019): 356–82. https://doi.org/10.1017/jlr.2019.41

[2] Zamzami Zamzami, "Kedudukan Anak Angkat Dalam Perspektif Hukum Perdata, Hukum Adat, Dan Hukum Islam," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 17, no. 1 (2017): 27–40. https://doi.org/10.19109/nurani.v17i1.1428

[3] Munadi Usman, "Anak Angkat Dalam Peraturan Di Indonesia," *ADHKI: Journal of Islamic Family Law* 1 (2019). https://doi.org/10.37876/adhki.v1i1.7

often inherited by the adopted child.[4] However, when confronted with Islamic or positive law, this social practice often shows conflicting norms. In Islamic Law and the Compilation of Islamic Law (KHI), adopted children do not have a blood relationship with their adoptive parents, so they do not have the right to inheritance.[5] To accommodate the existence of adopted children, Islamic jurisprudence and the compilation of Islamic law, Article 209 paragraph (2) permits the giving of assets through mandatory gifts or wasiat, the amount of which may not exceed one third of the total inheritance.[6]

Although adopted children have a different status from biological children in terms of inheritance rights, the Sasak indigenous people of Lombok view adoption as an effort to equalize the status of adopted children with biological children. Consequently, when it comes to the distribution of inheritance, adopted children are considered heirs in their adoptive families and receive the same share as biological children.[7] This article discusses the inheritance rights of adopted children in the Sasak indigenous community, specifically in South Pringgasela Village. The Sasak community maintains a vibrant customary legal system that is actively implemented in daily life, including in inheritance matters.[8] The Sasak tribe is also known as a strong Muslim society,[9] Therefore, the coexistence of Islamic legal values and customary practices, particularly in the distribution of inheritance to adopted children, is interesting to study. This article also identifies the

[4] Arhamnee Sitti Aulia and Tjempaka Tjempaka, "Pembagian Waris Anak Angkat Dalam Hukum Adat Bali Dan Implementasinya Dalam Hukum Nasional (Putusan Pengadilan 204/K/Pdt/2021)," *UNES Law Review* 6, no. 4 (2024): 9990–96. https://doi.org/10.31933/unesrev.v6i4.1827

[5] Nur Aisyah, "Anak Angkat Dalam Hukum Kewarisan Islam Dan Hukum Perdata," *El-Iqthisady: Jurnal Hukum Ekonomi Syariah*2, no. 1, (2020): 101–13. https://doi.org/10.24252/el-iqthisadi.v2i1.14137

[6] Dwi Putra Jaya, *Hukum Kewarisan Di Indonesia* (Bengkulu: Zara Abadi, 2020); Eko Setiawan, "Penerapan Wasiat Wajibah Menurut Kompilasi Hukum Islam (KHI) Dalam Kajian Normatif Yuridis," *Muslim Heritage* 2, no. 1 (2017): 43–62. s://doi.org/10.21154/muslimheritage.v2i1.1045

[7] Interview with Mr. Solihin Halim, Religious Figure of South Pringgasela Village, January 21, 2025, 10:00 AM.

[8] Muhammad Harfin Zuhdi, "Kearifan Lokal Suku Sasak Sebagai Model Pengelolaan Konflik Di Masyarakat Lombok," *Mabasan* 12, no. 1 (2018): 64–85. https://doi.org/10.62107/mab.v12i1.34

[9] Dedy Wahyudin, "Identitas Orang Sasak: Studi Epistemologis Terhadap Mekanisme Produksi Pengetahuan Masyarakat Suku Sasak," *Jurnal Penelitian Keislaman* 14, no. 1 (2018): 52–63. https://doi.org/10.20414/tsaqafah.v16i2.443

process of inheritance distribution for adopted children and the nominal amounts given to them.

Several previous articles have touched on the position of adopted children in Sasak customary law. M. Jaelani Efendi[10] and Haerul Anwar[11] reveals that adopted children are often positioned as legitimate heirs in Sasak society, even if the heir has biological children. Yusron highlights Sasak inheritance practices from the perspective of Mawaris fiqh.[12] However, these studies are generally descriptive and limited to the status or social recognition of adopted children. Few articles examine inheritance distribution mechanisms, including the amount of assets given, and the moral and cultural considerations underlying such distribution. Furthermore, studies explicitly comparing the inheritance system under Sasak customary law with the principles of Islamic inheritance law are also very limited.

Therefore, this article aims to fill this gap by conducting an empirical study of the practice of inheritance distribution to adopted children in the Sasak indigenous community in South Pringgasela Village, and analyzing it comprehensively using the theory of wealth transfer from the perspective of Islamic law and customary law. This article aims to answer several questions, namely: first, what is the mechanism for the transfer of inheritance from adoptive parents to adopted children; second, what are the moral and cultural considerations for giving inheritance to adopted children; third, how is the justification of Islamic inheritance law for the practice of customary inheritance distribution to adopted children. The novelty of this article lies in the holistic discussion of inheritance distribution conceptually, its comparison, and its justification with Islamic law. Thus, this article is not only expected to provide a deeper understanding of local inheritance practices, but also becomes a scientific contribution in bridging legal approaches that are sourced from religious norms and local cultural values.

[10] M J Efendi, "Akibat Hukum Pemeliharaan Anak Akon Dalam Pembagian Waris Perspektif Hukum Adat Sasak (Studi Kabupaten Lombok Timur)" (Universitas Mataram, 2018).

[11] Haerul Anwar, "Hak Mewaris Anak Angkat Dalam Perspektif Hukum Waris Adat Sasak (Studi Di Kecamatan Sembalun Kabupaten Lombok Timur Provinsi Nusa Tenggara Barat)" (Universitas Brawijaya, 2016).

[12] M Agus Yusron, "Tradisi Pembagian Harta Warisan Di Desa Rembitan Kecamatan Pujut Dalam Perspektif Fiqih Mawaris," AL-RASYAD: *Jurnal Hukum Dan Etika Bisnis Syariah* 4, no. 1 (2025): 1–21. https://doi.org/10.37216/alrasyad.v4i1.2314

Literature Review

Islamic inheritance law regulates the transfer of property from a deceased person to surviving heirs.[13] This rule regarding the transfer of property is known by various terms in Islamic legal literature, such as fiqh mawaris and faraidh.[14] Etymologically, "mawaris" is the plural form of the singular word "miras," meaning inheritance. In Islamic law, there are provisions governing who is entitled to receive an inheritance (the heirs) and who is not. The term "mawaris fiqh" refers to a branch of Islamic jurisprudence (fiqh) that specifically studies these provisions, including the identification of heirs, the distribution of inheritance shares, and the mechanisms for calculating them.[15]

Terminologically, fiqh mawaris can be interpreted as a science that discusses the parties who are entitled to receive inheritance, the parties who are not entitled, the amount of each heir's share, and the calculation method. Al-Syarbiny in the book Mugni al-Muhtaj Juz 3 defines fiqh mawaris as a science related to the division of inheritance assets, the calculation method used to determine the share of each heir, as well as the provisions regarding the distribution of inheritance assets to the legitimate recipients. Meanwhile, Prof. Hasby al-Shiddieqy defines fiqh mawaris as a science that studies the parties who are entitled and not entitled to receive inheritance, the amount of the share received by each heir, and the distribution procedure.

Tabbani or adoption in Islam means making someone else's child your own.[16] This term is called "dai'yyun" in the Qur'an and "ittakhadznahu ibnan" in the Munjid dictionary.[17] Adoption aims to provide love, sustenance, education, and other necessities to children in need, especially orphans. However, legally, adopted children are not considered biological children. In Indonesia, adoption is regulated by Law Number 23 of 2002 concerning Child Protection and Article 171 of the Compilation of Islamic Law (KHI).[18]

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[13] Saprida Saprida, Zuul Fitriani Umari, and Aura Anggun, "Penerapan Pembagian Harta Waris Menurut Hukum Islam Dan Hukum Perdata," *Ariyah: Jurnal Hukum Ekonomi Bisnis* 2, no. 1 (2026): 31–42. https://doi.org/10.36908/ariyah.v2i1.1875

[14] Amir Syarifuddin, *Hukum Kewarisan Islam*, 5th ed. (Jakarta: Prenadamedia Group, 2015).

[15] Ahmad Rofiq, *Fiqh Mawaris: Buku Ajar MKDK* (Jakarta: Raja Grafindo Persada, 1993).

[16] Nur Faizah and M Shaiful Umam, "Konsep Tabanni (Pengangkatan Anak) Dalam Islam: Antara Tradisi Dan Ketentuan Syariah," *Al-Muqaranah: Jurnal Perbandingan Mazhab Dan Hukum* 3, no. 2 (2025): 67–74. https://doi.org/10.55210/jpmh.v3i2.549

[17] Jaya, *Hukum Kewarisan Di Indonesia*.

[18] J C Manangin, "Pengangkatan Anak (Adopsi) Ditinjau Dari Perspektif Hukum Islam," *Lex Privatum* 4, no. 5 (2016): 148464.

According to KHI Article 171 letter (h) states that an adopted child is a child whose responsibility for daily living, education costs and so on, is transferred from the original parents to the adoptive parents based on a court decision.[19] The legal basis for adoption in Islam is found in the Quran, Surah Al-Ahzab, verses 4-5. Adopting a child in the sense of nurturing, educating, and raising another person's child is highly recommended in Islam. However, the status of an adopted child does not create a relationship like that established in blood relations.[20] Therefore, under Islamic law, naming or recognizing an adopted child cannot be used as a basis for inheritance rights, because the primary principle of inheritance is blood or kinship. The relationship between an adopted child and their adoptive parents is not a biological one, unlike that of a biological child.[21] A biological child, or also called a sulbi child, is a child who comes directly from the sulbi or backbone of their biological parents.

Adoption has no legal consequences regarding blood relations, guardianship, or inheritance. Adopted children retain a legal relationship with their biological parents and are not entitled to inherit their adoptive parents' property.[22] To protect the child's rights, adoptive parents can make a will with a maximum limit of 1/3 of the total inheritance.[23] A will is a message or mandate given by one person to another party to manage or administer their assets according to the contents of that message after their death. A will is a form of tasaruf (property management) or property management that only takes effect after the will is announced. Therefore, its implementation is part of the management of the estate, which is carried out according to the will's wishes.

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[19] Article 171 letter h of the Compilation of Islamic Law.

[20] Daniel Sitepu and Ida Bagus Yoga Raditya, "Kedudukan Anak Angkat Dalam Hukum Waris Perdata Indonesia," *Jurnal Media Akademik* (JMA) 4, no. 1 (2026). https://doi.org/10.62281/6exxne27

[21] Dana Katherine Kressierer and Clifton D Bryant, "Adoption as Deviance: Socially Constructed Parent-Child Kinship as a Stigmatized and Legally Burdened Relationship," *Deviant Behavior* 17, no. 4 (1996): 391–415. https://doi.org/10.1080/01639625.1996.9968037; Khusnul Amalia, "Child Adoption in Modern Islamic Family Law: A Comparative Study of Child Adoption in Turkey, Morocco, and Indonesia," *Al-Mazaahib: Jurnal Perbandingan Hukum* 13, no. 1 (2025): 53–77. https://doi.org/10.14421/al-mazaahib.v13i1.3982

[22] Usang M Assim and Julia Sloth-Nielsen, "Islamic Kafalah as an Alternative Care Option for Children Deprived of a Family Environment," *African Human Rights Law Journal* 14, no. 2 (2014): 322–45.

[23] Jaya, *Hukum Kewarisan Di Indonesia*.

Making a will is essentially an act of voluntary choice, a decision made voluntarily without coercion, including by a ruler or judge. A will becomes obligatory for someone who neglects to fulfill the rights of Allah SWT, such as failing to perform the Hajj, refusing to pay zakat, or violating other sharia obligations. However, under certain circumstances, a ruler or judge has the authority to issue a mandatory will to a particular person in accordance with applicable law, especially if necessary to uphold justice or resolve a dispute.[24]

A mandatory will is an action determined by a judge or authorized institution to take part of the inheritance of a person who died without voluntarily making a will, then hand it over to a certain party under certain conditions.[25] According to Fatchur Rahman, this action is justified because the testator ignored sharia recommendations. It is called a wajibah will because it does not involve the will of the testator, but rather an obligation established by law or official decree. It also resembles the distribution of inheritance, such as the rule that men receive twice the share of women. A wajibah will is usually given to relatives who are blood relatives but not the primary heirs, such as grandchildren through the female line.

The provisions regarding mandatory wasiat in the Compilation of Islamic Law also cover adoptive parents and adopted children. This is regulated in Article 209 of the Compilation of Islamic Law, which states:

1. The inheritance of an adopted child is divided based on Articles 176 to 193 above, while adoptive parents who do not receive a will are given a mandatory will of up to 1/3 of the inheritance of their adopted child.
2. For adopted children who do not receive a will, a mandatory will is given of a maximum of 1/3 of the property inherited by their adoptive parents.[26]

The Compilation of Islamic Law (KHI) limits the application of mandatory wasiat to adopted children and adoptive parents. This limitation is imposed because the KHI has adopted the concept of replacement of status (plaatvervulling),[27] which gives a share to grandchildren who are prevented

[24] Mardani, *Hukum Kewarisan Islam Di Indonesia* (Jakarta: Raja Grafindo Persada, 2014).

[25] Allya Shifa Akhsanty, "The Concept of Wasiat and Wasiat Wajibah in Indonesia From The Perspective of The Compilation of Islamic Law (KHI)," *Journal of Private and Commercial Law*, 2025, 72–94. https://doi.org/10.20885/JPCOL.vol2.iss1.art4

[26] Article 209 paragraphs (1) and (2) of the Compilation of Islamic Law.

[27] Tauratiya Tauratiya and Lailasari Eka Ningsih, "Plaatsvervulling Dalam Hukum Waris Indonesia: Mengungkap Kedudukan Ahli Waris Pengganti," *Islamitsch Familierecht Journal* 5, no. 2 (2024): 105–26. https://doi.org/10.32923/ifj.v5i2.5035

from receiving an inheritance because their parents died before the heir. However, the share given to the replacement heir must not exceed the share that the replaced heir should have received.

In the Islamic inheritance law system, the distribution of the testator's inheritance to the heirs is in principle regulated in detail in the Qur'an, especially in QS. An-Nisa verses 11, 12, and 176.[28] These verses provide clear quantitative guidance regarding the share of each heir, which is qath'iy al-dalalah in nature and therefore cannot be changed unilaterally.[29] However, in social practice, this division often gives rise to disputes due to differing perceptions of justice, economic conditions, or family relationships. In this context, Islam introduces the concept ishlah a peaceful and deliberative approach to resolve differences fairly and wisely.

Etymologically, the term ishlah is a masculine noun derived from the word aslaha-yuslihu, meaning to repair, which is the opposite of the word afsada, meaning to destroy. In the Qur'an, this term is used in various verses that emphasize the importance of resolving disputes peacefully, such as in Surah Al-Baqarah 182, Al-Anfal 1, and Al-Hujurat 9. These verses emphasize the importance of justice in efforts to reconcile disputing parties. ishlah not only means peace literally, but also includes active efforts to create social harmony and prevent potential conflict in society. Thus, ishlah understood as the principle of Islamic teachings originating from the Qur'an, which places peace as the solution to life's problems.[30]

In addition to provisions derived from the Quran and Hadith, the Compilation of Islamic Law (KHI), as positive Islamic law in Indonesia, also accommodates a mechanism for peaceful inheritance distribution. This is explicitly stated in Article 183 of the KHI, which states: "The heirs may agree to a peaceful distribution of inheritance assets after each party is aware of their share."[31] Based on the formulation of this article, it can be understood that the heirs have the space to agree on a form of peace in the distribution of inheritance, as long as they have awareness and understanding of their

[28] David S Powers, "The Islamic Inheritance System: A Socio-Historical Approach," *Arab Law Quarterly* 8 (1993): 13. https://doi.org/10.2307/3381490

[29] Dena Kurniasari, Nabila Rahma Roihani, and Shafriyana Mawarni Nurjannah, "Qath'i Dan Zhanni Dalam Kewarisan Islam," *Media Syari'ah: Wahana Kajian Hukum Islam Dan Pranata Sosial* 22, no. 2 (2020): 194–208. https://doi.org/10.22373/jms.v22i2.7851

[30] Abdul Wahid Haddade, "Konsep Al-Ishlah Dalam Al-Qur-An," *Jurnal Tafsere* 4, no. 1 (2016). https://doi.org/10.24252/jt.v4i1.7691

[31] Article 183 of the Compilation of Islamic Law

respective shares according to legal provisions.[32] Thus, the distribution of inheritance does not always have to follow the proportions specified in the Compilation of Islamic Law if there is a peace agreement based on the principles of willingness and deliberation. For example, in practice, some heirs who are financially well-off voluntarily choose to reduce or forgo their inheritance rights in order to provide greater opportunities for other heirs deemed more in need. This type of agreement reflects the implementation of the principle of ishlah (peace), which prioritizes the benefit and substantive justice within the family.[33]

Basically, the mechanism for resolving disputes through peace (ishlah) is a method that is justified in Islam,[34] especially in efforts to maintain harmony and strengthen brotherly ties among people. As long as this form of reconciliation does not aim to justify something forbidden or forbid something permitted by sharia, the practice is permissible.[35]

Although the practice of dividing inheritance through deliberation and consensus (ishlah) is permitted in Islam, its implementation must fulfill two main conditions to remain in line with legal principles,[36] Namely: first, the parties involved in the agreement must have legal capacity. This is important because in the practice of ishlah, it is possible for a party to voluntarily reduce or even waive their inheritance rights, either partially or completely. The act of waiving property rights is a legally valid form of relinquishment only if it is carried out by an individual who consciously, voluntarily, and has the legal capacity to act. Second, the distribution of inheritance through deliberation and consensus must not be motivated by dissatisfaction with the provisions of Islamic inheritance law. For example, a daughter's dissatisfaction with her smaller share compared to a son cannot be used as a reason to unilaterally change the distribution proportion through ishlah (reconciliation). Therefore, deliberation is only justified if it is based on awareness, sincerity,

[32] Rini Fahriyani Ilham and Ermi Suhasti, "Mediasi Dalam Penyelesaian Sengketa Waris: Studi Putusan No. 181/Pdt. G/2013/PA. Yk.," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 9, no. 1 (2017): 67–86. https://doi.org/10.14421/ahwal.2016.09105

[33] Hasanudin, *Fiqh Mawaris: Problematika Dan Solusi* (Jakarta: Kencana, 2020).

[34] R Tanzil Fawaiq Sayyaf, "Mediasi Dan Sulh Sebagai Alternatif Terbaik Penyelesaian Sengketa Hukum Keluarga Islam," *Asy-Syari'ah: Jurnal Hukum Islam* 9, no. 2 (2023): 180–98. https://doi.org/10.55210/assyariah.v9i2.1022

[35] Abu Daud ibn Asy'ats Al-Sijistani, *Sunan Abu Daud* (Kairo: Dar Ibn al-Haitsam, 2007).

[36] Sayyaf, "Mediasi Dan Sulh Sebagai Alternatif Terbaik Penyelesaian Sengketa Hukum Keluarga Islam."

and mutual agreement, not because of a rejection of established sharia provisions.[37]

Based on the results of a study conducted by Dzin Nun Naachy and Hanik Latifah in a journal entitled Procedures for Implementing Ishlah in the Distribution of Inheritance from the Perspective of the Compilation of Islamic Law, it is explained that the implementation of ishlah in the context of inheritance distribution can be carried out in two main forms, namely takharuj and hibah. These two forms are mechanisms commonly used by heirs to reach a peaceful agreement in the distribution of inherited assets, and are a concrete manifestation of the application of the ishlah principle as regulated in Islamic law.[38]

In addition to ishlah, the division of Islamic inheritance within the family can be achieved through takharuj. Etymologically, the term takhāruj comes from the word kharaja which means "to go out", and when combined with the wazan tafa'ul, the wazan structure becomes تفاعل – يتفاعل – تفاعلِ تخارج – تخارجا يتخاج indicating the meaning of mutual withdrawal between two parties. In the context of inheritance, تخارج الورثة means that some heirs choose to withdraw from their inheritance rights through a peaceful agreement, such as through a sale, ishlāh, or other legitimate mechanisms. This withdrawal cannot be called takhāruj if it is done unilaterally without mutual consent. Thus, takhāruj emphasizes the element of willingness and agreement between parties, making it a form of ishlāh in the distribution of inheritance which is participatory and prioritizes deliberation.[39]

Based on various terminological definitions put forward by Islamic jurists, takhāruj can be understood as a form of adjustment in the distribution of inheritance based on a mutual agreement of the heirs to use a mechanism outside the provisions of the distribution that have been determined by sharia. This mechanism takes the form of internal peace among the heirs, where one or several heirs voluntarily resign or waive their inheritance rights

[37] Aulia Nur Faradila and Wahyu Sukma Dewi, "Implementasi Asas Musyawarah Dan Mufakat Dalam Penyelesaian Sengketa Hukum Waris Adat Di Indonesia," *Indonesian Journal of Social Sciences and Humanities* 3, no. 2 (2023). https://journal.publication-center.com/index.php/ijssh/article/view/1567

[38] Dzin Nun Naachy and Hanik Latifah, "Tata Cara Pelaksanaan Ishlah Dalam Pembagian Waris Perspektif Kompilasi Hukum Islam," *At-Tahdzib: Jurnal Studi Islam Dan Mu'amalah* 10, no. 1 (2022): 82.

[39] Ahmad Sukris Sarmadi et al., "Negotiating Islamic Law and Customary Practice: Fiqh Al-Aqalliyyat and Restorative Justice in Banjar Inheritance Disputes," *Jurnal Ilmiah Al-Syir'ah* 23, no. 2 (2025): 279–96. http://dx.doi.org/10.30984/jis.v23i2.3673

in exchange for certain compensation, either sourced from the inheritance or from the personal assets of other heirs. Consequently, the portion of the inheritance that should have been received by the resigning party is distributed to the other heirs in accordance with the applicable agreement. Thus, takhāruj is essentially an act of voluntary and mutually agreed upon elimination of inheritance rights in order to maintain harmony and justice in the distribution of inheritance.[40]

In Islamic jurisprudence literature, the concept of grants is not much discussed in relation to inheritance systems, but is more often studied in the context of mu'amalah or social transactions. The word "hibah" comes from Arabic and etymologically means to pass on, distribute, or give something. In Islamic law, a hibah is categorized as a tabarru' contract, a non-profit contract intended to provide benefits to another party free of charge.[41] In Islamic legal terminology, a gift is defined as a voluntary gift from one person to another without expecting anything in return (counter-performance). A gift is made while the giver is still alive and is given with the intention of legally possessing it by the recipient. This distinguishes a gift from a will, which can only be transferred after the testator's death. The concept of giving is not explicitly stated in the Quran. However, the Quran encourages Muslims to share some of their wealth with others as a form of social responsibility. This principle can be found in several verses that encourage voluntary giving to others, reflecting the Islamic values of generosity and solidarity.[42]

The Sasak people are the name for the indigenous ethnic group living on Lombok Island, West Nusa Tenggara. They constitute the majority of Lombok's population and have distinctive cultural traditions.[43] The Sasak people are known for their regional language, Sasak, which is used in everyday life by the majority of the population. Administratively, Lombok Island is divided into four regencies and one city: East Lombok Regency,

[40] Rozaliya Garipova, "'Divide According to Sharīʿa': The Islamic Inheritance System in the Russian Empire," *Die Welt Des Islams* 65, no. 2–3 (2024): 250–79. https://doi.org/10.1163/15700607-20240016

[41] Mardani, *Hukum Kewarisan Islam Di Indonesia*, 2014.

[42] Akhmad Haries, *Hukum Kewarisan Islam*, Edisi Revi (Yogyakarta: Ar-Ruzz Media, 2019).

[43] Galang Asmara, "The Principles of Religious Tolerance and Harmony among the People of Sasak Tribe in Lombok Island, Indonesia," *Journal of Legal, Ethical and Regulatory Issues* 21 (2018): 1.

Central Lombok Regency, West Lombok Regency, North Lombok Regency, and Mataram City.

One of the villages within East Lombok Regency is Pringgasela Selatan Village, located in Pringgasela District. Pringgasela Selatan Village was established as a result of the division of the parent village of Pringgasela, organized by the local community and community leaders in 2011, in accordance with the Law on Regional Autonomy and regional regulations related to regional division. This division was implemented to support more effective regional management and accelerate development at the village level.[44]

The source of customary inheritance law in the Sasal indigenous community functions as a guideline for the community in determining inheritance rights in accordance with applicable norms.[45] Like Muslims who adhere to the Quran and Hadith, the Sasak people are subject to state law as well as the customary laws that have developed within their community. Customary law can be written or unwritten, as is the case in South Pringgasela Village, where inheritance decisions, including for adopted children, are based on unwritten law. The sources of customary inheritance law in this village include traditional customs related to the people's traditions and a sense of justice rooted in the community's conscience.[46] Apart from being based on the provisions mentioned above, customary law in South Pringgasela Village is also based on the principles of customary inheritance law.

The inheritance distribution mechanism for adopted children in the Sasak Lombok traditional community generally equates the status of adopted children with biological children, so that adopted children have the right to inherit the inheritance of their adoptive parents, including heirlooms.[47] However, adopted children are not entitled to the doe tengaq property,

[44] South Pringgasela Village Information System 2024

[45] Yusmita Yusmita et al., "Legal Pluralism and the Transformation of Islamic Inheritance Law: A Study of Sasak Customary Practices in Indonesia," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 2 (2025): 831–52. https://doi.org/10.29240/jhi.v10i2.12500; Zainal Arifin Haji Munir, "Wealth Distribution among Sasak Communities Through Inheritance: A Quest for Justice," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (2023): 1627–42. https://doi.org/10.22373/sjhk.v7i3.10835

[46] Interview with Mr. Solihin Halim, Religious Figure of South Pringgasela Village, January 21, 2025, 10:00 AM.

[47] Anwar, "Hak Mewaris Anak Angkat Dalam Perspektif Hukum Waris Adat Sasak (Studi Di Kecamatan Sembalun Kabupaten Lombok Timur Provinsi Nusa Tenggara Barat)."

which is the inheritance of the testator's parents that has not been divided among their siblings. Because the adoption process, which is carried out through a traditional ceremony (begawe or roah), does not sever family ties with the biological parents, adopted children still have the right to inherit from their biological parents. In addition to the distribution of inheritance according to the portion of the sepimbah sepersonan (a ratio of two parts for men and one part for women), the transfer of property to adopted children is also often carried out while the testator is still alive through a gift or grant mechanism.[48]

The pluralism of inheritance law in the Sasak Lombok indigenous community is reflected in the existence and interaction of three legal systems that apply side by side, namely customary law, Islamic law, and national/state law.[49] In practice, there is a process of negotiation and organic integration of values, such as the operation of Islamic faraid principles into local traditions through the pattern of sharing and emphasizing family deliberation (soloh).[50] If a dispute or inheritance dispute occurs, the resolution can be achieved through a multi-level process, starting from internal family deliberation, mediation by traditional leaders and Tuan Guru, to filing a lawsuit with a state judicial institution such as the Religious Court or District Court.

Methodology

This article is a field research article involving direct data collection from the location of the article, namely South Pringgasela Village. This article is descriptive-analytical-comparative, which aims to provide a systematic overview and analysis of the implementation of inheritance distribution for adopted children in South Pringgasela Village, as well as comparing it with applicable legal norms, namely Islamic law and customary law in South Pringgasela Village. The approach used in this article is a juridical-empirical

[48] Ani Wafiroh, Aisyah Wardatul Jannah, and Arif Sugitanata, "Negotiating Islamic Inheritance Distribution Within Local Custom Among The Sasak Muslims Of Lombok," *Khazanah: Jurnal Studi Islam Dan Humaniora* 23, no. 2 (2025): 203–21.

[49] Abdul, Gani. "Kedudukan Anak Perempuan Dan Peran Kepala Adat Dalam Hukum Waris Adat Suku Sasak Lombok" (UNDIP, 2014).

[50] Rr Cahyowati Cahyowati, "Kedudukan Hak Mewaris Perempuan Dari Harta Bersama Dalam Hukum Adat Sasak," *PERSPEKTIF: Kajian Masalah Hukum Dan Pembangunan* 15, no. 2 (2010): 123–38. https://doi.org/10.30742/perspektif.v15i2.48

approach. The article on legal identification (unwritten law) is intended to understand unwritten law based on the law that applies in society.[51]

The data sources in this article consist of primary and secondary data. Primary data were obtained directly from the field and include three main techniques, namely interviews, observation, and documentation. Interviews were conducted in-depth with four informants consisting of traditional leaders or village heads, religious leaders and local community members who have direct knowledge and experience in the practice of inheritance distribution to adopted children. Observations were conducted for approximately one month in South Pringgasela Village, with a focus on observing the practice of inheritance for adopted children that occurs in the community. Documentation was carried out by collecting, recording, and analyzing relevant documents to obtain supporting data related to the focus of discussion in each chapter of the thesis.

Meanwhile, secondary data was obtained from various related literature sources with article object. This data includes literature discussing the distribution of inheritance for adopted children in general, as well as studies on the inheritance system in the Sasak indigenous community in particular. Secondary data sources include books, journal articles, reports, scientific works, and relevant legal documents, such as the Compilation of Islamic Law (KHI) and literature on customary law.

The collected primary and secondary data were then processed by categorizing them according to the themes and then analyzed using the chosen theory, namely the theory of wealth transfer. Meanwhile, the theory of ishlah is used to understand the practice of inheritance distribution through deliberation and consensus among the heirs. The concept of ishlah is widely applied in resolving general disputes. However, in the context of inheritance, ishlah is also used as a means to reach a peaceful agreement among the heirs regarding the distribution of the inheritance. In this case, the heirs can hold deliberations to determine the amount and form of inheritance distribution that is considered socially just, although not entirely identical to the provisions of faraid.[52]

In the context of indigenous communities, the practice of ishlah is often associated with the concept of 'urf, namely habits that occur repeatedly in society and bring benefits. Terminologically, the term 'urf has a similar

[51] Zainuddin Ali, *Metode Artikel Hukum* (Jakarta: Sinar Grafika, 2009).

[52] Haries, *Hukum Kewarisan Islam*.

meaning to custom or habit, which in social life is considered something good as long as it does not cause harm to any party. Sociologically, these habits gain legitimacy when they become repeated practices and are widely accepted by society. This is in line with the Islamic jurisprudence principle of al-'ādah muḥakkamah, meaning that customs can serve as a legal basis. Thus, customs that have become ingrained and bring benefits to society become part of the legal formulation that stems from the values or customary norms that have developed within the community's consciousness.[53]

Results

Based on the discussion and interview results regarding the inheritance distribution system for adopted children from the perspective of Islamic law and customary law in South Pringgasela Village, several findings were found, namely:

First, the status and rights of adopted children in the Sasak traditional community, particularly in South Pringgasela Village, are considered equal to those of biological children because the social and emotional relationship formed between adopted children and adoptive parents has functionally replaced blood relations. Factors that influence this status include: the existence of a strong emotional relationship from the early stages of care, which builds a spiritual bond similar to the biological relationship between parents and biological children; the gratitude of adoptive parents for the presence of adopted children, who are seen as a gift and complement to the family, thus encouraging parents to give appreciation in the form of inheritance rights; and the active role of adopted children in the family, especially in caring for adoptive parents in old age, which in many cases shows loyalty and devotion exceeding that of biological children.

Second, the inheritance distribution system for adopted children from the perspective of Islamic law and Sasak customary law in South Pringgasela Village shows fundamental differences. In the Sasak customary law system in South Pringgasela Village, the amount of inheritance given to adopted children is determined based on the decision of the heir and the results of family deliberations, without any specific provisions regarding the amount limit, so that the decision is entirely based on family agreement and family principles.

[53] Haries.

In determining the inheritance share for adopted children, customary law in the village applies two main principles: deliberation and consensus and bilateralism. Inheritance distribution in the Pringgasela Selatan Village community is based on deliberation and consensus. The distribution is carried out in a familial manner, prioritizing the values of fairness and openness among family members.[54] Based on interviews with community leaders and families who have experienced the inheritance process, deliberation is the primary mechanism for determining the distribution of assets, including for adopted children. Based on observations made by researchers, in addition to implementing the principles of deliberation and consensus in the inheritance distribution system, the people of South Pringgasela Village also apply the principle of bilateralism. In the context of inheritance, the principle of bilateralism refers to a system that grants inheritance rights to individuals from both paternal and maternal lines.

An adopted child raised by a couple who has no biological children can become the primary heir in an inheritance. This occurs even if the adopted child is related to the testator, such as a nephew or other relative. However, in the adoptive family, the child is no longer considered a nephew, but rather a child.[55] For example, in the case of the inheritance of the family of the late Hj. Qudusiyah who died in 2016, she left behind an adopted daughter, a husband, and siblings. The heir also left behind assets in the form of a 15-acre rice field. The inheritance distribution process was carried out through family deliberation before the heir died, where all heirs reached an agreement that the 15-acre land or rice field located in the Kebon Montong area, South Pringgasela Village, was inherited by her husband as the first heir and her adopted son as the second heir, then the first heir handed over his rights to the second heir, namely his adopted son. In this context, the adopted son is considered the main heir because the heir has no biological descendants and the adopted son was raised from an early age. With no disputes among the heirs, the distribution of the inheritance is final and approved by the village head, so it cannot be contested.[56]

[54] Interview with Mr. Baihaqi Habil, Head of South Pringgasela Village, January 9, 2025, 09.00.

[55] Interview with Mr. Baihaqi Habil, Head of South Pringgasela Village, January 9, 2025, 09.00.

[56] Interview with Mr. Fahrudin, a resident of South Pringgasela Village, January 16, 2025, 22.00.

Table 1: Distribution of inheritance according to Sasak customs, where adopted daughters receive inheritance as biological children.

Heir	Part	Origin of problem 2	15 are rice fields
Husband	1/2	1/2	7,5 are
Brothers	Giving up his part	-	
Adopted Daughter	1/2	1/2	7,5 are

Therefore, from an Islamic legal perspective, adopted children do not have the status of heirs in the faraid system, considering that the lineage or sababiyah relationship is not formed through adoption. However, the Compilation of Islamic Law (KHI) as a written legal instrument that serves as a guideline for Muslims in Indonesia recognizes the rights of adopted children through the mandatory will mechanism as regulated in Article 209 paragraph (2), with the provision that the portion given may not exceed one-third (1/3) of the total inheritance of the testator.

Table 2: Rights of adopted daughters if the distribution of inheritance is following the concept of Islamic inheritance law or the Compilation of Islamic law.

Heir	Part	Origin of problem 2	15 are rice fields
Adopted Girl	1/3 of the obligatory will		Maximum 5 are
Husband	1/2	1/2	5 are
Brothers	asabah	1/2	5 are divided equally between the brothers

Third, inheritance carried out while the testator is still alive in the South Pringgasela Village community is known as a grant, which is decided through family deliberation. This deliberation process generally takes place in the village hall, attended by extended family members and witnessed by traditional leaders or the village head, along with other village officials.[57] Based on observations and interviews, the concept of a gift in the Pringgasela

[57] Interview with Mr. Baihaqi Habil, Head of South Pringgasela Village, January 9, 2025, 09.00.

Selatan Village community is also known as a willed gift in the customary inheritance law system. Although the distribution of inheritance is agreed upon through deliberation while the testator is still alive, in practice, the inheritance transfer process takes place after the testator's death. Based on observations, inheritance distribution after the testator's death is often delayed for an indefinite period. In many cases, the inheritance distribution process only begins when all heirs have reached an agreement and feel ready to distribute the inheritance.

Analysis and Discussion

The distribution of inheritance in the Pringgasela Selatan Village community, as described above, is carried out through a family deliberation process led by a traditional leader or village head. Based on observations and interviews, this practice is implemented to maintain family harmony and avoid conflict. Traditional leaders play a central role in legitimizing agreed-upon decisions.[58] The principle of deliberation and consensus provides flexibility in the inheritance process, allowing family members to discuss and agree on a distribution mechanism for the inheritance. This mechanism can refer to Islamic law, state law, or a mutual agreement deemed fair by all parties involved. In many cases, families prioritize the principles of mutuality and relative justice, where inheritance rights can be tailored to the social circumstances and needs of the individuals entitled to inherit.

Although the majority of people in South Pringgasela Village are Muslim, Islamic inheritance law is not formally implemented based on faraid calculations. Instead, Islamic law serves as a normative guideline combined with customary principles that have developed in the community, such as the distribution of inheritance that gives a larger share to sons than daughters, in accordance with Islamic law. However, in the context of adopted children, the community tends to determine the distribution of inheritance through deliberation and mutual agreement, while still adhering to Islamic values, such as the principles of justice and the willingness of all parties involved.

In some cases, disputes can be resolved through village institutions using mediation. If mediation fails to reach an agreement, the case can be taken to the Religious Court. However, formal legal channels are still rarely used by local communities. Regarding inheritance, the people of South Pringgasela Village employ two main systems for inheritance distribution:

[58] Interview with Mr. Baihaqi Habil, Head of South Pringgasela Village, January 9, 2025, 09.00.

distribution during the life of the testator and distribution after the testator's death. Each system has mechanisms and processes guided by the values of deliberation and kinship, involving traditional leaders and village authorities.

The phenomenon of child adoption in the South Pringgasela Village community has been going on for a long time. Most adoptive parents choose children from among their relatives, although some adopt from outside the family. According to local customs, the adoption process is conducted within the family without any special rituals. This adoption simply requires recognition from the immediate and extended family without requiring formal legal approval.[59]

In the South Pringgasela Village community, an adopted child is someone else's child who is taken in and treated like a biological child in everyday life. They receive the same love, education, and protection as a biological child.[60] However, adoption does not erase the adopted child's relationship with their biological parents. Even if an adopted child is listed on their adoptive parents' family card, they are still considered related by blood to their biological parents, particularly in matters of marriage and inheritance law.[61] Although the community refers to this distribution of assets as inheritance, this practice is more accurately categorized under Islamic law as a gift. This is because the distribution process takes place before the testator's death through mutual agreement and is given voluntarily and finally to the adopted child. In this case, the term "inheritance" is used in the socio-cultural sense of indigenous communities, not in the Islamic inheritance law context, which refers to the provisions of faraid.

The inheritance rights of adopted children in the South Pringgasela Village community are determined through family deliberation. If the family reaches an agreement, the decision is formalized through a written statement at the village hall. However, if there are differences of opinion, mediation will be conducted by the village government at the village hall. If mediation fails to produce an agreement, the case can be taken to a religious

[59] Interview with Mr. Solihin Halim, Religious Figure of South Pringgasela Village, January 21, 2025, 10:00 AM.

[60] Interview with Mr. Fahrudin, a resident of South Pringgasela Village, January 16, 2025, 22.00.

[61] Interview with Mr. Sirojuddin, a resident of South Pringgasela Village, January 17, 2025, 10:30 PM.

court, although to date, few communities have resolved inheritance disputes involving adopted children through legal channels.[62]

The amount of property acquired by an adopted child depends on the decision of the heir during his or her lifetime. If the heir determines that the adopted child's share is equal to that of a biological child and all heirs agree, then the decision is final and cannot be challenged. However, if there are heirs who disagree, then further settlement will be carried out in accordance with the law in force in Indonesia.[63] In practice, adopted children often receive an equal share of the inheritance to their biological children, especially if they have no siblings or are the only child in the adoptive family. In such circumstances, the adopted child is often designated as the primary heir through a will determined by the testator before his or her death.[64]

Factors or reasons why adopted children receive inheritance rights equal to biological children:

a. Emotional Relationship

   One factor driving the granting of equal inheritance rights to adopted children is the close emotional bond between the adopted child and the adoptive parents. This relationship is often formed through a long and intensive care process, creating a strong emotional bond similar to that between parents and their biological children.[65] In many cases, adopted children have been cared for by their adoptive parents from an early age, forming a strong emotional bond similar to the relationship between parents and their biological children. This can influence the adoptive parents' decision to grant equal inheritance rights to the adopted child, as they consider the adopted child part of their family.

b. Gratitude and Reciprocity

   Besides emotional aspects, another factor influencing the granting of equal inheritance rights is the adoptive parents' gratitude for the adopted child's presence in the family. In some cases, adopted children are adopted by couples who have not yet been blessed with children,

[62] Interview with Mr. Baihaqi Habil, Head of South Pringgasela Village, January 9, 2025, 09.00.

[63] Interview with Mr. Baihaqi Habil, Head of South Pringgasela Village, January 9, 2025, 09.00.

[64] Interview with Mr. Solihin Halim, Religious Figure of South Pringgasela Village, January 21, 2025, 10:00 AM.

[65] Muhammad Irfan Hakim and Tajul Arifin, "Kedudukan Dan Hak Waris Anak Angkat Di Indonesia Dalam Pasal 1 Angka 9 UU No 35 Tahun 2014 Menurut Hukum Islam," *Jejak Digital: Jurnal Ilmiah Multidisiplin* 1, no. 4 (2025): 1498–1508. https://doi.org/10.63822/20savm98

and after adopting, they subsequently have their own children. In this context, the presence of an adopted child is often viewed as a blessing that brings good fortune to the adoptive family.[66] This gratitude develops into a sense of responsibility to treat adopted children fairly. As a form of appreciation and gratitude, adoptive parents strive to ensure that adopted children do not experience discrimination compared to their biological children, including in inheritance rights.

c. The role of adopted children

In addition to emotional factors and gratitude, the adopted child's role within the family is also a key consideration in granting equal inheritance rights. In many cases, adopted children assume the same responsibilities as biological children, including helping with household chores, caring for their adoptive parents in their old age, and various other aspects of family life.[67] In fact, it is not uncommon for adopted children to have a greater contribution than biological children in caring for and accompanying their adoptive parents. The active role of adopted children in the family strengthens social and emotional relationships which ultimately influence the adoptive parents' decision to grant equal inheritance rights.[68]

From the description above, it can be concluded that in the South Pringgasela Village community, customary inheritance law and Islamic inheritance law are implemented simultaneously, prioritizing deliberation and consensus. Islamic law serves as a moral guideline, while customary law provides flexibility in inheritance practices, particularly in cases of adopted children.

Islamic inheritance law, known as faraid, is an integral part of the Islamic legal system that regulates the mechanism for transferring property from deceased heirs to their rightful heirs.[69] The transfer process is based on the principle of ijbari, namely the transfer of rights inheritance that occurs

[66] Mohammad Ghozali et al., "Kajian Perbandingan Hak Warisan Anak Angkat Di Indonesia Dan Malaysia: A Comparative Study of the Inheritance Rights of Adopted Children in Indonesia and Malaysia," *Malaysian Journal of Syariah and Law* 12, no. 3 (2024): 726–38. https://doi.org/10.33102/mjsl.vol12no3.1164

[67] Maria Yosepin Endah Listyowati, Indra Wahyudi, and Minim Subarno, "Kedudukan Anak Angkat Menurut Hukum Perdata," J-CEKI: *Jurnal Cendekia Ilmiah* 4, no. 1 (2024): 2580–91.

[68] Interview with Mr. Sirojuddin, a resident of South Pringgasela Village, January 17, 2025, 10:30 PM.

[69] Syarifuddin, *Hukum Kewarisan Islam*.

automatically after the death of the testator, without requiring legal action or approval from any party. This provision is absolute because it is a direct decree from Allah SWT., as stated in Surah an-Nisa' verse 7:

This verse emphasizes that both men and women have the legal right to obtain a share of property legacy from their parents or relatives. The term "fate" in this verse refers to the portion or specific share that each heir is entitled to in the inheritance. This provision indicates that each inheritance has inherent rights to the heirs, which have been clearly determined by Allah SWT.[70] The provisions regarding heirs in Islam can be divided into:

1. The nasabiyah heirs, namely individuals who are related by blood to the testator, consist of the male group, namely father, son, brother, uncle, and grandfather. Meanwhile, the female group, namely mother, daughter, sister, and grandmother.[71]
2. Sababiyah heirs, namely individuals who have an inheritance relationship due to a certain reason, namely husband/wife and the person who frees the slave.[72]

Regarding the distribution of inheritance for adopted children, which is the focus of this article, based on Islamic legal principles, adoption does not create a lineage relationship, as does the biological relationship between biological parents and their child. Therefore, adopted children under Islamic law do not have inheritance rights to their adoptive parents' property, considering that the primary principle of inheritance is blood relationship (nasab) or marriage relationship (muṣāharah) which is legal according to Sharia.[73]

As a form of adaptation to social developments, the Compilation of Islamic Law (KHI), which is considered to be the result of collective ijtihad of Indonesian scholars,[74] accommodate the rights of adopted children through the mandatory will mechanism, as stipulated in Article 209 paragraph (2) of the KHI. However, this provision does not make adopted children legal heirs according to Islamic law, but only as recipients of rights through the

[70] Mardani, *Hukum Kewarisan Islam Di Indonesia*, 2014.

[71] Syarifuddin, *Hukum Kewarisan Islam*.

[72] Mardani, *Hukum Kewarisan Islam Di Indonesia*, 1st ed. (Jakarta: Raja Grafindo Persada, 2014).

[73] Jaya, *Hukum Kewarisan Di Indonesia*.

[74] Haries, *Hukum Kewarisan Islam*.

mandatory will, without disrupting the provisions regarding the distribution of inheritance to legal heirs.

In contrast to the inheritance system that applies in Islamic law, in the Sasak customary inheritance tradition in South Pringgasela Village, the transfer of rights to property legacy, including for adopted children, can be done through two main mechanisms. First, distribution is done before the testator dies, which is known as a testamentary gift,[75] where the distribution is agreed upon while the testator is still alive, but the inheritance is executed after the testator's death. Second, the distribution of the inheritance is carried out after the testator's death through a family deliberation mechanism.[76] In this process, traditional leaders have a central role in providing legitimacy to the decisions that have been agreed upon.[77]

In addition, the inheritance distribution system in the South Pringgasela Village community is based on the principles of deliberation and consensus, prioritizing the principles of family, openness, and justice for all family members.[78] This principle of deliberation provides flexibility in determining who is entitled to receive a portion of the inheritance. Not only primary heirs who are blood relatives, but also those with a close emotional or intimate relationship with the testator, such as adopted children, can be recognized as beneficiaries. As one source explained, H. Solihin Halim, as the traditional elder and religious figure of South Pringgasela Village:

> "In terms of inheritance, an adopted child is considered an heir in their adoptive family as long as they are recognized by both their immediate family and the extended family of their adoptive parents. The adoptive parents usually determine the portion of the inheritance to be given to the adopted child."[79]

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[75] Yanuar Suryadini and Alifiana Tanasya Widiyanti, "Akibat Hukum Hibah Wasiat Yang Melebihi Legitime Portie," *Media Iuris* 3, no. 2 (2020): 241–56. **https://doi.org/10.20473/mi.v3i2.18774**; Nurul Aqidatul Izzah, Saharuddin Saharuddin, and Bakhtiar Tijjang, "Legitime Portie Dalam Pemberian Hibah Wasiat," *Jurnal Litigasi Amsir* 9, no. 2 (2022): 100–111.

[76] Raja Ritonga and Amhar Maulana Harahap, "Harmoni Dalam Kewarisan: Solusi Damai Untuk Mencegah Konflik Keluarga," *El-Faqih: Jurnal Pemikiran Dan Hukum Islam* 10, no. 1 (2024): 117–33. https://doi.org/10.58401/faqih.v10i1.1282

[77] Interview with Mr. Baihaqi Habil, Head of South Pringgasela Village, January 9, 2025, 09.00.

[78] Syarif Hidayatullah, "Tinjauan Hukum Islam Terhadap Praktik Adat Dalam Pemanfaatan Bersama Tanah Waris Di Desa Soribaru Kelurahan Lelamase," *SEIKAT: Jurnal Ilmu Sosial, Politik Dan Hukum* 5, no. 2 (2026): 169–77. https://doi.org/10.55681/seikat.v5i2.2033

[79] Interview with Mr. Solihin Halim, Religious Figure of South Pringgasela Village, January 21, 2025, 10:00 AM.

The deliberations held by the people of South Pringgasela Village to determine the distribution of inheritance, especially for adopted children, are basically reflect implementation of the concept ishlah (peace) in the context of Islamic inheritance law. This concept has been normatively accommodated in Article 183 of the Compilation of Islamic Law (KHI), which states that "the heirs may agree to make peace in the distribution of inheritance after each is aware of their share." This shows that Islamic law provides room for flexibility through a deliberation and mutual agreement approach as a form of fair resolution, as long as it does not conflict with the basic principles of sharia.[80] Thus, the practice of inheritance distribution carried out through deliberation in South Pringgasela Village can be categorized as a form of ishlah which is legally valid under positive Islamic law, because it aims to maintain harmony, avoid conflict, and realize social justice in the distribution of inherited assets.

Regarding the amount of inheritance for adopted children in Islamic inheritance law, it is expressly stated that adopted children do not have the status of heir to inheritance from his adoptive parents.[81] However, the Compilation of Islamic Law (KHI), which is a written law that is enforced as a guideline for Muslims in Indonesia in resolving legal issues including regarding the status of adopted children, regulates provisions regarding inheritance between adoptive parents and adopted children as regulated in Article 209 paragraphs (1) and (2) of the KHI. Based on these provisions, in principle, adopted children in Islamic law are only entitled to receive a share of assets through the mandatory will mechanism, with a maximum limit of one third (1/3) of the total assets inherited by their adoptive parents.[82]

Meanwhile, the amount of inheritance received by adopted children in the Sasak traditional community in South Pringgasela Village depends on the decision of the heir and the results of the family agreement,[83] without any formally defined limits. In practice, as seen in the case of inheritance deceased Hj. Qudusiyah, an adopted child, received an equal share of the

[80] Edelia Triasty, "Filosofi Keadilan Dalam Pembagian Warisan Ditinjau Dari Perspektif Hukum Islam Dan Implikasinya Terhadap Keharmonisan Keluarga," *Al-Istinbath: Jurnal Ilmu Hukum Dan Hukum Keluarga Islam* 3, no. 1 (2026): 82–94. https://doi.org/10.71242/8sfvjf82

[81] Muhammad Rais, "Kedudukan Anak Angkat Dalam Perspektif Hukum Islam, Hukum Adat Dan Hukum Perdata: Analisis Komparatif," *DIKTUM: Jurnal Syariah Dan Hukum* 14, no. 2 (2016): 183–200. https://doi.org/10.35905/diktum.v14i2.232

[82] Article 209 paragraph (2) of the Compilation of Islamic Law

[83] Interview with Mr. Baihaqi Habil, Head of South Pringgasela Village, January 9, 2025, 09.00.

inheritance to that of a biological child. The inheritance, a plot of land, was divided among the husband and adopted child through family deliberation. This division was based on several internal factors, such as the close emotional bond between the adoptive parents and the adopted child, whom she had cared for since infancy, and the fact that the deceased had no biological children. Furthermore, the principles of justice, willingness, and consideration of the family's well-being also influenced the decision to allocate a portion of the inheritance to the adopted child.[84]

This practice can be studied further through the concept of takharuj in Islamic law, namely agreement peace between heirs that allows one party to relinquish their inheritance rights, either in whole or in part, with or without certain compensation.[85] In the case of Hj. Qudusiyah, the deceased's husband, who was legally the legal heir under Islamic law, voluntarily surrendered his inheritance rights to his adopted son based on a family deliberation. This action reflects the implementation of takharuj, as it involves an element of relinquishment of inheritance rights carried out with consent and willingness. Thus, although the adopted son is not an heir under Islamic law, he receives a share of the inheritance through a socially legitimate mechanism and is justified according to the takharuj principle in Islamic law, as long as the act is voluntary and does not harm any party.

The inheritance distribution system between Islamic law and Sasak customary inheritance law in South Pringgasela Village has fundamental similarities in terms of the timing of the distribution of inherited assets, namely after the testator dies.[86] In both systems, the general principle adopted is that the right to inheritance is transferred to the heirs only after the death of the testator, so that full ownership status can only occur after death. However, in the practice of Sasak customary inheritance in South Pringgasela Village, the concept of a will-grant is known, namely a mechanism in which an agreement regarding the distribution of inheritance is made while the testator is still alive through family deliberation, while the

[84] Muhammad Pebri Andinata, "Praktik Wasiat Wajibah Bagi Anak Angkat Di Desa Sei Rampah Perspektif Maqashid Syariah," *Maqasid: Jurnal Studi Hukum Islam* 15, no. 1 (2026): 49–62. https://doi.org/10.30651/mqsd.v15i1.30105

[85] Muhammad Adib Hamzawi, "Takharuj; Solusi Syar'i Pembagian Waris Secara Damai," *Jurnal Ilmu Hukum* 2, no. 1 (2023): 106–22.

[86] Azni Azni et al., "The Timing Analysis of Inheritance Distributions in the Compilation of Islamic Law," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 23, no. 2 (2023): 258–73. https://doi.org/10.30631/alrisalah.v23i2.1431

actual implementation of ownership of the property continues after the testator's death.

Regarding the amount of inheritance received by adopted children, although there are differences between the Islamic inheritance law system and the Sasak customary inheritance system in South Pringgasela Village, both of which prioritize the principle of justice. In Islamic law, justice is accommodated through the regulation of wajibah wasiat that allow adopted children to receive a share without violating the provisions of faraid, while in Sasak customary law in South Pringgasela Village, justice is realized through a family deliberation mechanism with mutual agreement and the willingness of other heirs.

Conclusion

This article demonstrates how customary and Islamic legal systems influence each other in inheritance practices. The predominantly Muslim Sasak community has made every effort to accommodate and harmonize both legal systems in inheritance practices. Although, if assessed literally, these customary practices violate standard rules regarding the concept of nasabiyah inheritance, they can be justified by other, more flexible Islamic inheritance approaches, such as ishlah, takharuj, and hibah (grant). Therefore, these customary practices, while not in harmony with Islamic law, at least do not violate the basic principles of Islamic law. This article is limited by very limited data because this inheritance practice is quite difficult to find. The article's focus, which only explores the inheritance practices of adopted children in South Pringgasela Village, cannot comprehensively describe how similar practices occur in the Sasak community.

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Generative AI Usage Statement

The author states that the use of AI in the preparation of this article was limited to assisting with the process of refining words and sentences

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