



Comparative Study of Islamic Inheritance Law and Customary Inheritance Law in the Community in Natal District, Mandailing Natal Regency

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Info Articles	Abstract
Article History Received: 2026-04-25 Revised: 2026-05-26 Published: 2026-05-31 Keywords: <i>Justice; Inheritance; Islam; customs; Matrilineal</i>	The inheritance law system applicable in Indonesia consists of Islamic inheritance law, customary inheritance law, and civil inheritance law, each of which is influenced by the kinship structure of the community. The indigenous community of Sumando Ranah Nata in Natal District, Mandailing Natal Regency, adheres to a matrilineal kinship system in which daughters become the primary heirs and controllers of family inheritance. This study aims to analyze the justice of women's rights as the main heirs in the customary inheritance distribution system of the Sumando Ranah Nata community and to examine its conformity with Islamic inheritance law. This research employs a normative juridical method using secondary data derived from legislation, books, scholarly opinions, internet sources, and other relevant legal materials. Data were collected through document study and analyzed qualitatively. The findings show that Islamic inheritance law determines inheritance shares based on the degree of kinship, where closer relatives receive larger portions. In contrast, the customary inheritance system of Sumando Ranah Nata prioritizes daughters as the principal heirs, while sons only receive inheritance if granted voluntarily by the daughters. Despite these differences, the implementation of inheritance distribution within the community emphasizes harmony, deliberation, and togetherness in reaching consensus. In conclusion, the customary inheritance system of Sumando Ranah Nata reflects a matrilineal cultural tradition that differs from Islamic inheritance principles, yet its practice seeks to maintain social harmony and may coexist with Islamic values through consensus-based inheritance distribution.

I. INTRODUCTION

Inheritance law is a law that regulates the transfer of ownership rights of inherited property (*tirkah*) heirs, determine who is entitled to be the heir and how much of each of them (Muddin, 2022). That is, all types of property and possessions left by the heir, either in the form of money, land, and so on, in other words, inheritance is the property that the heir leaves after all his debts have been paid and to deal with his body or will.

There are 3 (three) inheritance law systems that apply in Indonesia, namely, the Islamic inheritance law system, the Customary inheritance law system and the Civil inheritance law system (Mamonto et al., 2024). The three legal systems have fundamental differences, for example between Islamic inheritance law and customary inheritance law, differing in terms of

family system, definition of inheritance, inheritance property, heirs' shares, heirs' replacement institutions and grant systems. Especially for Islamic inheritance law is regulated in the Quran, hadith and ijtihad, while customary inheritance law according to Betrand Ter Haar is the process of passing on and transferring material and immaterial wealth from descendant to descendant (Hermanto & Aly, 2024).

The law of inheritance in Islamic teachings is called the term "*Faraid*". Laughter *Faraid* is the plural form of *Faridah* which comes from the word *Burden* which means decree, giving (alms) (Nur et al., 2025). In Islamic teachings, all the inheritance of the deceased person, whether material or right, is referred to as "*Tarikah/Tirkah*". This *Tarikah* does not automatically become an inheritance that will be inherited to the heirs (Halimah, 2021).

The settlement of rights and obligations as a result of the death of a person is regulated by inheritance law. In the sense of "inheritance" law until now, both Indonesian legal experts and in the law of Indonesian legal literature, there has not been a uniformity of understanding, so the terms for inheritance law are varied. For example, Wirjono Prodjodokoro, uses the term "inheritance law". Hazairin, used the term "Law of Inheritance". Soepomo called it "Inheritance Law" (Maiyori et al., 2024).

Inheritance is also called property without a master, because the original owner of the property is no longer there. This can be caused because the owner has passed away or gone for a very long time without information and certainty when he will return. Due to the absence of property management by the owner, the law gives rights and obligations to the closest people to enjoy and take care of the property so that the property is not abandoned.

The distribution of inheritance still causes many conflicts in society, even conflicts regarding this inheritance occur before the heir dies. This conflict is not only caused by the low public awareness of inheritance law, but also due to juridical problems related to inheritance law in Indonesia, this is due to the lack of uniform application of inheritance law in Indonesia. Then in line with that, the inheritance law that applies in Indonesia is still pluralistic, meaning that each group still has its own inheritance law rules (Muzainah & Syaikhu, 2020).

Islam is a religion brought by the Prophet Muhammad PBUH, which is a perfect religion, which regulates all aspects of life in this realm both for life in this world and in the hereafter. One of the many sharia that is regulated, one of which is the issue of inheritance law, namely the transfer of inheritance to the heirs who are entitled to receive it (Muhibbin & Wahid, 2022).

The procedure for the distribution of inheritance in Islam has been arranged as well as possible. The Qur'an clearly explains and explains the laws of the distribution of inheritance without neglecting the rights of the heirs. The distribution of each heir, both male and female, has been determined in the Qur'an. As Allah SWT says in

Q.S An-Nisa verse 7 *"for men there is a right to share the inheritance of their mothers and relatives, and for waita there is also the right of the property of their mothers and relatives, either a little or a lot according to the share of the property that is determined"*.

Islamic inheritance law is the most common and most serious problem today. Many people do not understand this Islamic inheritance law well, so there are often misperceptions, as a result of which there are often disputes and conflicts between heirs who do not agree with the distribution of inheritance they receive (Muhibbin & Wahid, 2022).

Islamic law is a law that originates from and is part of the religion of Islam. If we talk about law in simple terms, it comes to our mind the rules or set of norms that govern human behavior in society, whether they are rules or norms in the form of realities that grow and develop in society or rules or norms that are made in a certain way and enforced by the rulers. The form can be in the form of unwritten law as in customary law, or it can also be in the form of written law such as in laws and regulations (Ahmad & Ramdhan, 2023).

Islamic sharia sets the rules of inheritance very full of rules and results in practice. In it, the right of ownership of a person after death is determined to his heirs, and all his relatives and faants, regardless of whether male and female, the amount to be shared. The Qur'an details and explains the laws relating to inheritance rights without prejudice to either party (Sulistiani & Nurrachmi, 2021).

Inheritance problems will be experienced by everyone if there is one among the family who dies, therefore inheritance law is very important in human life, especially heirs, because it affects the survival and needs of the heirs. Continuity of ownership and utilization of inheritance and family harmony between heirs (Fikri & Mujib, 2025).

For Muslims, implementing the provisions related to Islamic inheritance law is an obligation that must be carried out, because it is a manifestation of faith and devotion to Allah SWT and His Messenger. In Islam, it has been determined that the share of male and female

heirs is more than the share of men, i.e. men are twice as large as women's. As stated in the words of Allah SWT in Q.S An-Nisa verse 11,

"Allah has decreed for you about (the distribution of inheritance for) your children. That is, for one man it is equal to two women...."

The same is also found in the Compilation of Islamic Law in article 176 which states that "if a girl is only one she gets half of the share, if two or more of them together get two-thirds and if the girl is together with the boy, then the boy's share is two times the one with the girl".

The reform of Islamic inheritance law in Indonesia was marked by the birth of the Compilation of Islamic Law (KHI) through the Presidential Instruction of the Republic of Indonesia Number 1 of 1991 dated June 10, 1991 concerning the Compilation of Islamic Law (Asriati, 2012). Article 171 paragraph e of the KHI states that what is meant by inheritance is inherited property plus part of the common property after being used for the purposes of the heir (the deceased) during illness until death, the cost of managing the body (*Tajhiz*), debt payments, and gifts for relatives.

This kind of inheritance distribution is not fully applied by the entire Muslim community, there are some who say that the division where girls get it from the male is considered unfair, this can be seen in the inheritance distribution carried out or applied by the Muslim community in Natal District.

The distribution of inheritance of one group is greatly influenced by the form of kinship formed in the society itself. Each kinship or kinship has its own inheritance distribution system. The kinship system in Indonesian society itself is based on 3 (three) types of groups, namely (Felicia et al., 2023):

1. A paternal kinship group or also called patrilineal, this system is commonly adopted by people in the lands of Gayo, Alas, Batak, and Ambon, Irian, Timor and Bali.
2. A maternal kinship group or also called matrilineal, this system is commonly embraced by the Minangkabau people.
3. The kinship group of fathers and mothers or also called parental, this system is embraced by the people of Java, Maduram, Sulawesi,

Aceh, South Sumatra, Kalimantan, Ternate and Lombok.

This kinship system is what makes the difference in the distribution of inheritance in every society in Indonesia, because this is indeed the most powerful influence in terms of the distribution of inheritance.

The people of Natal District, who are native to coastal descent, adhere to a maternal or matrilineal kinship system. The mother's lineage is more dominant, or in terms of inheritance, girls will get more shares than boys. This is different from what is explained in the Qur'an and the Compilation of Islamic law which says that the part of a boy is twice the part of a girl. So compared to applying Islamic law, they prefer customary law in the distribution of inheritance.

Customary law as a living law (*Living Law*) is conceived as a legal system that is formed and derived from the empirical experience of the community in the past, which is considered fair and appropriate and has gained legitimacy from the customary ruler so that it is binding or mandatory to be obeyed (normative) (Cape & Calvin, 2026). According to Soerjono Sukanto, customary law is a whole of good customs that are not written down and live in society in the form of morality, habits and customs that have legal consequences (Cape & Calvin, 2026).

Law Custom which is a work of a certain community that aims at the order, justice and welfare of the community, so that customary law should not be static and *Conservative*. Customary law must be dynamic and can adapt to a particular situation or situation (*Plastic*).

According to Bushar Muhammad, the existing customary law will be appropriate to be maintained or not depending on the awareness of the community (Sulistiani & Sy, 2021).

Social change can be influenced by several factors, such as population, physical habitat, technology or cultural structure of the community, while the process can be driven by the progress of the education system, tolerance towards behavioral deviations, an open social stratification system, the level of population heterogeneity, and racial dissatisfaction with certain living conditions.

The form and system of law, especially inheritance law, are very closely related to the form of society. If it is agreed that law is one of the aspects of culture, both spiritual or spiritual and physical, this is probably one of the reasons why there are various legal systems, especially inheritance law. Society forms laws from the habits contained in society itself.

An example of the case is what happened in a family in Natal District, in the family of the late Zainal Arifin, who had 8 (eight) heirs, namely a wife and 7 (seven) children, the children consisted of 3 (three) daughters and 4 (four) boys. The heritage property is in the form of 1 (one) house unit, a plot of vacant land and a plot of land planted with oil palm covering an area of 2 hectares. By the heirs, the heritage property is divided, where the house is sold and the proceeds from the sale are worth 100 million rupiah. The money from the sale of the house was divided, the wife got 30 million rupiah, and the remaining 70 million was divided among each child of 10 million per person. Then the wife gave the vacant land from the heritage to the eldest daughter, while the 2 hectares of garden was given to 2 (two) other daughters, 1 hectare each (Ayudhia, 2018a)

From the case above, it is clear that there is a difference between the distribution of inheritance according to Islam and according to the customs in the city of Natal, where according to the law of customary inheritance in the Natal sub-district, women get more shares than men. Unlike the Mandailing tribe who also live in Natal District, they use an Islamic inheritance system.

The need for humans to know clarity about the provisions of inheritance law, both Islamic inheritance law and customary inheritance law, should not have to wait because of inheritance disputes, but must be known early. Considering that this kind of legal event often occurs in the midst of society.

Islamic inheritance law has its own rules in regulating inheritance issues, as well as customary inheritance law. The inheritance distribution system carried out by the people of Natal District tends to be the agreement of the heirs themselves customarily (Ayudhia, 2018b).

II. RESEARCH METHODS

The research method used in this study is empirical juridical with an analytical descriptive approach (Rizkia & Fardiansyah, 2023). This study aims to comparatively examine the implementation of Islamic inheritance law and customary inheritance law in the community of Natal District, Mandailing Natal Regency. The research locations were conducted in Pasar I Natal, Pasar II Natal, and Pasar IV Natal which were selected by purposive sampling because the majority of the people are Muslim and still maintain traditional traditions in the distribution of inheritance.

The research population is a community that has distributed inheritance, with a sample of eight families that meet certain criteria, and supported by information from traditional leaders and village officials. Data collection was carried out through literature studies, interviews, and observations. The data used consisted of primary data obtained directly from the field and secondary data derived from literature, laws and regulations, the Qur'an, Hadith, journals, and other relevant sources. Furthermore, the data was analyzed qualitatively using inductive and deductive thinking methods to obtain comprehensive conclusions about the research problem.

III. RESULTS AND DISCUSSION

A. Distribution of Inheritance According to Islamic Law and According to Community Customs in Natal District, Mandailing Natal Regency

The system of distributing inheritance in the community of Natal District, Mandailing Natal Regency, basically shows the interaction between Islamic law and customary law that is alive and practiced for generations in the community. Although the majority of people are Muslim, the practice of inheritance distribution in social life is still strongly influenced by the matrilineal customary system that places women as the center of control of family property. In practice, girls are positioned as the main heirs, especially to immovable assets such as houses and land. Meanwhile, boys do not automatically lose their

inheritance, but these rights can only be realized if the inheritance is sold or transferred. As long as the property is still in the form of a fixed object and is maintained as family property, then the control is on the woman's side (Ayudhia, 2019h).

The construction of customary law shows that the main orientation of the indigenous people of Natal is not only the division of individual rights, but also to maintain the sustainability of family property so that it remains in the female lineage. From the perspective of indigenous peoples, women are considered to have an important role in maintaining family stability and maintaining the existence of inheritance so that it does not easily transfer to outsiders (Ayudhia, 2019h).

In the Sumando custom in Ranah Nata, three forms of property are known, namely (AMALIA, 2024):

1. Inheritance

Innate property is the property or wealth belonging to a man that he brings into the household at the time of the marriage. This property basically comes from the husband's side before the marriage.

2. Treasure Trove

Dapetan property is property obtained by a man while in his wife's family environment, both in the form of gifts from the wife's parents and the wife's property that has been owned before the marriage took place.

3. Property

Property is property that is prepared as an inheritance for children, grandchildren, and family descendants in the future. This treasure has social and symbolic value because it is considered an identity and the sustainability of the family lineage.

These three forms of property can eventually develop into heirlooms which in the customs of the Christmas community are divided into two forms, namely:

a. Low Inheritance

Low inheritance is property obtained from the business of parents or family in a certain generation.

b. High Estate

High inheritance is hereditary inheritance that comes from ancestors or ancestors and is

inherited across generations in traditional families.

In addition to these terms, indigenous peoples are also familiar with the term (AMALIA, 2024):

- 1) Tumbilang ameh property, which is property obtained from the wealth of parents;
- 2) Silver tumbilang property, which is hereditary inheritance that comes from ancestors or family great-grandparents.

In the customary practice of the Christmas community, if there is a divorce or death of one or both married couples without leaving any children, the existing property generally remains in the environment of their respective families of origin and cannot be brought unilaterally by one of the parties. This condition shows that the ownership of property in customary is not solely individual, but is tied to genealogical relationships and the collective interests of the extended family (Ayudhia, 2019d).

The process of distributing inheritance in the community of Natal District in general always begins through family deliberation. The deliberation was carried out to reach a mutual agreement between the heirs in order to maintain the harmony of family relations. If there is a dispute that cannot be resolved internally, the family will involve other relatives, traditional leaders, religious scholars, and village officials as mediators in resolving inheritance disputes (Ayudhia, 2018a).

The settlement of inheritance disputes in the indigenous peoples of Natal is carried out based on the principle *Hello, I am a Squirrel* or the principle of propriety, which is a principle that emphasizes decisions that are considered the most appropriate, fair, and acceptable to all parties to the dispute. Thus, the measure of justice in indigenous peoples is not always based on mathematical division as in Islamic inheritance law, but rather on the creation of social balance and family harmony (Ayudhia, 2019e).

From the perspective of Islamic law, the system of inheritance distribution has been clearly determined through the concept of faraidh which determines the share of each heir based on the relationship of nasab and family responsibility.

Therefore, the division of inheritance according to Islamic law is in principle normative and has a definite share size. Meanwhile, in the traditional practice of the Christmas community, the distribution of inheritance is more flexible because it is based on deliberation and agreement of the parties.

However, the indigenous people of Natal in general do not view the customary system as a form of opposition to Islamic law. On the contrary, the practice of deliberation, consensus, mutual cooperation, and protection of family members who are considered weak are seen as values that are also in line with the principles of justice in Islam. Therefore, the distribution of heritage in Natal District shows the harmonization between customary norms and Islamic values that coexist in people's lives (Ayudhia, 2019a).

Critically, this condition shows that the living *law* is often more complied with than written normative laws. In other words, the community is not only looking for legal certainty in the distribution of inheritance, but also for social justice and stability in family relationships. This is what causes customary law to persist and continue to be practiced even though the community is in a religious social environment and the majority of Muslims are Muslim.

B. Factors Behind the Fact that the Christmas community prefers the traditional distribution of inheritances

The implementation of traditional inheritance distribution in the Natal community, Mandailing Natal Regency, is influenced by several social and cultural factors that live and develop in the structure of the matrilineal society. The main factor that affects this practice is the agreement of the heirs through the family deliberation mechanism. In practice, the distribution of inheritance is not solely based on normative provisions regarding the amount of each heir's share, but rather focuses on the creation of family harmony and the sustainability of inheritance. Through deliberation, the heirs can agree that the inheritance, especially in the form of land and houses, is maintained and not sold. In such a situation, the male heir generally accepts the

decision even though he does not receive the share directly, unless the property is sold and part of the proceeds are given by the female heir under family agreement (Aid, 2019f).

In addition to the deliberation factor, family relations and economic conditions are also important considerations in the distribution of traditional heritage in the Christmas community. The division of inheritance is seen not only as a matter of individual rights, but also as an effort to maintain solidarity and avoid internal family conflicts. People think that the definite and individual division of inheritance has the potential to cause social jealousy and damage family relationships. Therefore, the family approach takes precedence over the rigid legal-formal approach. On the other hand, the economic conditions of the heirs also affect the pattern of inheritance distribution, where family members who are considered less fortunate often receive more attention and assistance than other heirs (Ayudhia, 2019c).

Critically, the traditional inheritance system of the Christmas community shows the existence of a social construction that places women as the center of family protection in the matrilineal system. The dominance of women as the main recipients of inheritance is seen as a form of protection for women's survival, especially for women who are unmarried or do not have economic support after the death of their parents (Ayudhia, 2019b). From the perspective of indigenous peoples, this system is considered to be more able to maintain family stability and maintain the existence of inheritance so that it does not change hands easily. However, when viewed from the perspective of Islamic inheritance law, this practice has the potential to cause an imbalance of rights between male and female heirs because it does not fully follow the principle of proportionality of inheritance as stipulated in *fariath*. Therefore, the practice of traditional inheritance in the Christmas community shows the existence of a dialectic between customary values, socio-economic considerations, and Islamic legal principles that continue to negotiate in people's lives (Aidhia, 2019g).

C. Comparison of Islamic Inheritance Law and Customary Inheritance Law of the Natal Community of Natal District, Mandailing Natal Regency

A comparison between Islamic inheritance law and customary inheritance law of the people of Natal District, Mandailing Natal Regency, shows that there are fundamental differences in the kinship system, the pattern of inheritance distribution, and the concept of justice used in determining the rights of heirs. These differences not only show the pluralism of law that lives in Indonesian society, but also show the existence of a dialectic between Islamic sharia norms and customary values that have been rooted for generations in people's lives.

In Islamic inheritance law, the inheritance system is based on a bilateral relationship of descent, that is, the lineage of the father and mother both have a legal relationship to inheritance (Fikri & Mujib, 2025). The division of inheritance in Islam is normative and has definite provisions (*Qath'i*) because it has been directly regulated in the Qur'an. This provision can be seen in the words of Allah SWT in the Qur'an Surah An-Nisa verse 11:

"Allah has decreed for you about (the division of inheritance for) your children, that is, the share of a son is equal to the share of two daughters..."

The verse affirms that Islamic inheritance law has determined the share of each heir proportionally based on kinship relationships and family responsibilities. From the perspective of Islamic law, men earn a greater share not solely because of gender superiority, but because of the maintenance responsibilities imposed on them in the Islamic family structure.

In addition, the principle of inheritance in Islam is also affirmed in Surah An-Nisa verse 7:

"For men there is a right to share the inheritance of both parents and relatives, and for women there is also a right to share the inheritance of both parents and relatives, whether it is a little or a lot according to the share that has been determined."

This verse shows that Islam expressly recognizes the rights of women and men as heirs, a concept that at the time of revelation was a form

of major reform of the ignorant Arab tradition that previously did not give women the right of inheritance. Thus, Islamic inheritance law is basically built on the principles of distributive justice and legal certainty.

Meanwhile, in the traditional inheritance law of the Christmas community, the inheritance system is more influenced by the matrilineal kinship pattern that places women as the center of control of family property. Girls become the main heirs to the estate, especially houses and land, while boys only get a share when the property is sold. This system is maintained because it is considered to be able to maintain the sustainability of family property and protect women in the traditional social structure (Ayudhia, 2019h).

In the perspective of customs, the concept of justice is not always interpreted as a mathematical division as in *fariath*, but rather directed at the creation of family harmony and social protection for family members who are considered more vulnerable. The practice of deliberation in the distribution of customary heritage also has relevance to Islamic values as stated by Allah SWT in Surah Ash-Shura verse 38:

"And their affairs are decided by deliberation among them."

This verse is the basis that the settlement of family problems, including the distribution of inheritance, can be done through deliberation as long as it does not eliminate the basic rights of the heirs. Therefore, the indigenous peoples of Natal view that the mechanism of consensus and kinship still has moral and social legitimacy in the practice of inheritance distribution.

However, when viewed normatively based on Islamic law, the practice of customary inheritance that gives full dominance to girls has the potential to contradict the principle of *faraidh* because it reduces or even delays the rights of male heirs that have been determined by sharia (Kface et al., 2023). In this context, the hadith of the Prophet Muhammad PBUH narrated by Muhammad is also relevant:

"Give the inheritance to those who are entitled to receive it according to the Book of Allah."
(HR. Sahih al-Bukhari and Sahih Muslim)

The hadith shows that the distribution of inheritance in Islam must in principle refer to the provisions of sharia that have been clearly determined. However, in the social practice of the Christmas community, there is an attempt to compromise between customs and Islam through the mechanism of family deliberation and consideration of social benefits.

Thus, a comparison of Islamic inheritance law and customary inheritance law of the Christmas community shows the existence of two different paradigms of justice. Islamic law emphasizes legal certainty and proportionality of rights based on revelation, while customary law emphasizes social protection, family harmony, and the sustainability of inheritance in women's lineages. This difference shows that living *law* often develops through a negotiation process between religious norms, local culture, and the social needs of the community itself.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

The people of Natal District, Mandailing Natal Regency, generally prefer to use customary inheritance law in the implementation of inheritance distribution. These choices are not only influenced by the matrilineal kinship system that has taken root in people's lives, but also by social and cultural factors that develop from generation to generation. One of the main factors is the agreement of the heirs through the family deliberation mechanism. The distribution of inheritance is carried out by prioritizing consensus to maintain family harmony and avoid disputes among the heirs. In addition, family relations and economic conditions also affect the pattern of inheritance distribution. In practice, society emphasizes a sense of togetherness and social concern, especially for economically disadvantaged family members, so that the distribution of inheritance is not solely understood as a formal division of rights, but also as a form of social protection in the family.

A comparison between Islamic inheritance law and the customary inheritance law of the Natal community shows a fundamental difference, especially in the kinship system and the pattern of

distribution of heirs. Islamic inheritance law uses a bilateral kinship system with patrilineal tendencies, where the distribution of inheritance has been clearly determined based on the class of heirs and certain proportions as regulated in the concept of *faraidh*. In contrast, the customary inheritance law of the Christmas community adheres to a matrilineal system that places girls as the main rulers of inheritance, especially over immovable property such as houses and land. Boys basically still have rights, but these rights can only be realized if the inheritance is sold, and the amount of the share received depends on the agreement and policy of the woman. This condition shows that customary inheritance law emphasizes more on the protection of the sustainability of family property and social harmony than on mathematical divisions as in Islamic law.

B. Suggestion

The implementation of inheritance distribution in the Sumando Ranah Nata indigenous people should maintain the values of deliberation, harmony, and togetherness in order to achieve a fair distribution and not cause conflicts between heirs. In addition, the practice of inheritance distribution also needs to be aligned with the principles of Islamic law so that the rights of each heir are fulfilled and do not cause too striking differences between customary law and Islamic law.

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