



# Reconstruction of Samaturu customary inheritance law in coastal community, Maros Regency, Islamic law perspective

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## ABSTRACT

This research aims to describe the concept of reconstructing the division of Samaturu customary inheritance law, investigate the practice of Samaturu customary inheritance law, and analyze the value of justice towards Samaturu customary inheritance law in the coastal community of Maros Regency from the Islamic law perspective. This study was classified as descriptive qualitative, with normative, phenomenological, and sociological research approaches. This research resulted in the concept of inheritance reconstruction for the coastal community in Maros Regency, namely to make descendants capable and responsible as the main heirs in managing and distributing inheritance. In addition, the way to apply the stakeholders' endeavors was through the revitalization of the deliberation principle so that the written Samaturu customary legal guidelines for the inheritance can be manifested, which are agreed upon and acknowledged as a whole through the socialization process, tudang sipulung (negotiation) by optimizing the roles and functions of traditional leaders, community leaders, religious leaders, and government. The practice of sharing the Samaturu customary inheritance for the coastal community in Maros Regency is known as the distribution of inheritance to the heirs. However, the share of inheritance rights for the eldest descendant tends to be more than the other heirs. The value of justice in the Samaturu customary inheritance law for the coastal community of Maros Regency with the transparency of inheritance, practices, giving inheritance rights to heirs, and the main heirs as to conducting family deliberations in managing inheritance.

**Keywords:** Reconstruction; inheritance law; Samaturu custom; Islamic law

## 1. INTRODUCTION

Inheritance, in Islamic law, is a part of family law. It is essential to study so that there are no mistakes in the implementation of the division of inheritance, and they can be carried out fairly. By studying Islamic inheritance law, Muslims can fulfill their rights relating to inheritance after being abandoned by the heir and convey to the heir entitled to receive it. A person can avoid sin by not taking someone's property by following inheritance distribution based on Islamic law.<sup>1</sup>

The law on the inheritance division under custom differs from one to another. Still, two types of customary provisions are generally used to divide a person's inheritance based on gender. Firstly, based on custom with a patrilineal system, the heirs entitled to receive inheritance from someone are the sons in the family. The first son gets a larger portion, but another custom also divides a person's entire inheritance equally according to the number of sons in the family. Secondly, according to custom with the matrilineal system, someone who uses the customary system by dividing his/her inheritance directs the heirs of the female as the main heirs.

Inheritance becomes a problem or conflict in the family if the division is deemed not to achieve justice. The distribution of inheritance must be done correctly and following applicable law, thereby minimizing the possibility of disputes between family members in the future. Inheritance law is always interesting to study concerning the socio-cultural conditions of Indonesian society. This occurs because the inheritance law in force in Indonesia is still pluralistic, meaning that each group of people has its own law.<sup>2</sup> At least three types of inheritance laws still exist and live in society. Firstly, law based on Islamic law, as stated in the science of *fara'id* or *Fiqh Mawaris* (Islamic law on inheritance).<sup>3</sup> Secondly, customary inheritance laws are extremely pluralistic and are unwritten. Thirdly, Islamic inheritance law based on the Legal Code is pluralistic and unwritten.<sup>4</sup>

The history of Islamic law in Indonesia since the reign of the Dutch East Indies has had several meeting points. Then, these points are put forward as theories related to the reality faced by Islamic law. When Islamic law intends to instill its values as the foundation of legal awareness that regulates social order, at the same time, it also deals with the values of awareness of customary law. The influence of the strength and awareness of customary law values on the acceptance of Islamic law has an impact on various opinions. Those continue with multiple styles of theory that result in meeting points between customary and Islamic law, especially in the civil field, including inheritance law.<sup>5</sup>

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<sup>1</sup>M. Toha Abdurrahman, *Pembahasan Waris dan Wasiat Menurut Hukum Islam* (Yogyakarta: t.p, 1976), p. 102.

<sup>2</sup> M. Toha Abdurrahman, *Pembahasan Waris dan Wasiat Menurut Hukum Islam*, p. 102.

<sup>3</sup>Ahmad Azhar Basyir, *Hukum Waris Islam* (Yogyakarta: UII Pres, 2001), p. 4.

<sup>4</sup>M. Toha Abdurrahman, *Pembahasan Waris dan Wasiat Menurut Hukum Islam*, p. 102.

<sup>5</sup>Yahya Harahap, "Praktek Hukum Waris Tidak Pantas Membuat Generalisasi", cited in Iqbal Abdurrauf Saimima (ed), *Polemik Reaktulisasi Ajaran Islam* (First Printed Version Jakarta: Pustaka Panjimas, 1988), p. 125.

The researchers view that the inheritance distribution system for the coastal community in Maros Regency has its own way regarding the distribution of inheritance to heirs left behind. If parents die or are elderly, the heirs of the eldest sibling control the inheritance as a whole without clarity on the timing of the distribution of inheritance to other heirs. So, there is the potential for conflicts and disharmonious relations between heirs to occur due to weak knowledge of the legal division of inheritance in customary and Islamic law.

The heir of the oldest child becomes the controller of the inheritance when the heir dies. The oldest sibling of the heir has the position of ruler and determiner in the inheritance distribution, so there is the potential for jealousy and conflict between heirs during the transition period of asset management. The *Samaturu* system means the heirs participate or follow the oldest heir to the *Samaturu* customary inheritance law.

The privilege of heirs of the eldest child among the coastal community of Maros Regency has a very important role. They can directly distribute inheritance to other heirs without carrying out comprehensive communication. Direct appointment by the oldest sibling of the heir with the distribution results to be received by the other heirs as the *Samaturu* system, even the heirs of the oldest sibling have the right to delay the inheritance distribution because there are still unmarried heirs and there are still immature heirs or incapable of managing inherited assets. Based on this phenomenon and reality, a deepening study is carried out regarding the customary law of *Samaturu* inheritance and reconstructing it from the Islamic law perspective to minimize the occurrence of conflicts and increase the deliberation principle witnessed by traditional leaders or traditional institutions and the local government.

## 2. METHODS

This study was classified as descriptive qualitative research using normative, phenomenological, and sociological approaches. The data sources for this research were traditional leaders, community leaders, religious leaders, government figures, heirs, and potential heirs. Moreover, the data collection methods used were observation, interviews, documentation, and reference tracing. At the same time, data processing and analysis techniques were carried out through three stages: data reduction, presentation, and conclusion.

## 3. RESULTS AND DISCUSSION

### **The Reconstruction Concept of Inheritance Distribution of *Samaturu* Customary in the Coastal Community of Maros Regency**

Based on the interview results conducted by the researchers, the coastal community of Maros Regency adheres to the concept of *Samaturu* customary inheritance. Suppose the heir has died or is elderly. In that case, the heirs agree to use peaceful negotiation with the concept of *Samaturu* customary law, which means agreeing together to give up or be sincere with each other's share of the inheritance, thereby minimizing the

occurrence of greed and fraud that the heirs intend to do. The eldest descendant becomes a reference as a substitute for the heir's position in controlling and managing the inheritance as fairly as possible.<sup>6</sup>

*The Samaturu* customary inheritance law is the process of transferring assets from the heir to the heirs jointly by following the parents' will to mutually agree and be sincere regardless of the portion of the inheritance given by the oldest heir as a substitute for parents in the family. In the coastal community of Maros Regency, the customary inheritance system used is the *Samaturu* descent system with the concept of individual distribution; the oldest child's descendant is a substitute for the parents. The inheritance portion is based on gifts from the oldest descendant as the main heir.<sup>7</sup>

The coastal community of Maros Regency adheres to a system of transferring inheritance to the heirs if the heir has died. In substance, the *Samaturu* custom has similarities with other inheritance laws, namely that they both provide inheritance rights to heirs. However, the distribution of inherited assets is different from other inheritance laws because the eldest descendant distributes assets independently to other heirs with a share based on the consideration of the eldest descendant without conducting thorough deliberation and communication with the heirs entitled to receive the inheritance. According to *Samaturu* customary law, the eldest descendant plays a greater role in determining the distribution and policy of inheritance left by their parents. Hence, descendants are more responsible for the other heirs until the assets have been distributed to the heirs entitled to receive them.

The *Samaturu* coastal customary law concept in Maros Regency gives a larger share of the inheritance to male children than female children. That portion is based on society's belief, *nasaba ana' riale urane mallempai na mankunraie majjujungi*, meaning that biological sons carry two burdens on their shoulders, while women only carry one in their heads. Thus, it is natural that the share of inheritance for sons is greater than for daughters, but the implementation of inheritance distribution in society often equalizes the share of male and female heirs.<sup>8</sup>

*Samaturu* means agreeing to jointly surrender fully to the eldest descendant as the controller of the inheritance. Other heirs willingly accept the portion of it given as customary provisions that apply in the customary system of the coastal community of Maros Regency. The *Samaturu* heredity system is a customary provision passed down for

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<sup>6</sup>Muh. Ilyas (55 Years Old), Village Head/Traditional Figure of Bonto Bahari, Bontoa District, Maros Regency, *Interview*, Maros, May 30, 2022.

<sup>7</sup>Abd. Majid (59 Years Old), Community/Customary Leader/Head of Kuri Lompo Hamlet, Nisombalia Village, Marusu District, Maros Regency, *Interview*, Maros, August 31 2022.

<sup>8</sup>Abd. Majid (59 Years Old), Community/Customary Leader/Head of Kuri Lompo Hamlet, Nisombalia Village, Marusu District, Maros Regency, *Interview*, Maros, August 31 2022

generations. This system is adhered to because it is considered a trust and will from parents.<sup>9</sup>

The eldest descendants have the position of acting as a substitute for the role of both parents. They must be able to care for their siblings, especially being responsible for distributing inherited assets and ensuring they are channelled to those entitled. They are also responsible if there are problems or family conflicts related to assets inheritance in the family. However, it becomes a problem if the eldest descendant is rarely with his parents during his lifetime, so it is necessary to adapt the concept of dividing inheritance to accommodate casuistic matters. Reconstruction of *Samaturu* customary inheritance concept is a solution to preventing problems between heirs because if there is a conflict between families, it will cause unharmonious and unstable families.

The behavior of the coastal community in Maros Regency has experienced significant changes, especially concerning finding work or wealth. People are more likely to leave the village to look for basic needs, which greatly influences the sociology of customary inheritance law. This is because the influence of economic development is not balanced with the family's basic needs. Occupations such as fishing, pond business, farming, and others are increasingly unproductive, and people often experience losses. Hence, the coastal community of Maros Regency competes with people in urban areas and develops trade outside the South Sulawesi area.

Moreover, the heredity aspect of the oldest child as the main heir in the *Samaturu* customary system has several weaknesses. First, if the oldest child is a daughter, it will be a disadvantage. Inheritance is dominated and known by sons because, since childhood, they have jointly managed family assets, and in general, physically, men are stronger than women. Second, the share of the oldest descendant tends to be more than the other heirs and gets the advantage of enjoying the inheritance when there are among the heirs who are young or immature, while the other heirs intend the same share among the heirs.<sup>10</sup> Third, the eldest descendant has the potential to distribute assets without going through deliberations with other heirs. The assets that heirs usually leave behind are fishponds, houses, fishing gear, boats, and rice fields. Usually, some heirs want the assets to be sold, then divide the money of the sold house to the heirs, and some want the assets to be divided in the form of assets without being sold so that they can continue the parents' businesses together.<sup>11</sup>

Two forms of adaptation concept to the *Samaturu* customary inheritance law can be carried out. First, the coastal community of Maros Regency must hold deliberations to

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<sup>9</sup>Sapri, S.Pd.I (34 Years Old), Community Leader/Head of Kuri Caddi Hamlet, Nisombalia Village, Marusu District, Maros Regency, *Interview*, Maros, July 17 2022.

<sup>10</sup>H. Muh. Ilyas (55 Years Old), Village Head/Traditional Figure of Bonto Bahari, Bontoa District, Maros Regency, *Interview*, Maros, May 30, 2022.

<sup>11</sup>H. Muh. Ilyas (55 Years Old), Village Head/Traditional Figure of Bonto Bahari, Bontoa District, Maros Regency, *Interview*, Maros, May 30, 2022.

reach a joint agreement on the management and control of inherited assets. Second, giving a greater share of inheritance to male heirs than females, even if women are the eldest descendant and the main heirs.

Furthermore, three forms of change in *Samaturu* customary inheritance concept can be carried out. Firstly, the time for dividing the inheritance must be immediately given to the heirs if the costs resulting from the heir's death have been carried out. Secondly, the heirs agree that the main heir is competent and responsible for the inheritance up to the distribution of the inheritance of the heirs, meaning that the main heir is not directly given to the eldest descendant. Third, manifesting a joint guideline on the written *Samaturu* customary inheritance law concept that is agreed upon by traditional leaders, community leaders, religious leaders, and the local government.

### **The Practice of *Samaturu* Customary Inheritance Division in the Coastal Community of Maros Regency**

The practice of *Samaturu* customary inheritance division of the coastal community in Maros Regency is by making the eldest descendant the main heir who distributes the inheritance to other heirs. Provisions on the amount of inheritance received by the heirs are based on the inheritance naming to the heirs, but if the heir has a family, then he has the right to own and manage part of his inheritance for his survival.<sup>12</sup>

The implementation system for the inheritance division of the coastal community in Maros Regency is carried out with several aspects of practice as follows:

1. Assets are distributed in the form of deeds. As givers of inheritance, parents provide a written letter to the eldest descendant and the local government as a will, which must be carried out after he/she dies. For example, a man, his wife, a son, and two daughters live together in a house. He also has four fishponds. His wife gets a share of a house as a place to live together and half of a fishpond. The oldest son gets one and a half fishponds, and the daughters each get one pond. This means that parents make a written will as an alternative to inheritance regarding the division of the heir's assets when he dies. Hence, it becomes the data and basis for the heirs to distribute the inheritance witnessed by the local government.<sup>13</sup>
2. The share is divided when the mother or father dies, meaning that the inheritance will be distributed to the heirs if one of the parents dies.

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<sup>12</sup>Abdul Rahman (37 Years Old), A Heir, Ampekale Village, Bontoa District, Maros Regency, *Interview*, Maros, June 7 2022.

<sup>13</sup>Abd. Majid (59 Years Old), Community/Customary Leader/Head of Kuri Lompo Hamlet, Nisombalia Village, Marusu District, Maros Regency, *Interview*, Maros, August 1 2022.

3. If both parents die, the condition for sharing assets is considered clean. It is easier for heirs to distribute inheritance and to determine the heirs who are entitled to own a house as a place to live together.<sup>14</sup>

The coastal community of Maros Regency adheres to an inheritance distribution system with individual ownership of assets. Assets are distributed to each heir entitled. The eldest descendant records all inheritance and then distributes it to heirs if it is considered that the inheritance meets the conditions for distribution proportionally. As the main heir, the eldest descendant is responsible for the survival of the father or mother who is left behind, especially those who are elderly and are not productive in earning a living for their life needs.

This matter differs from the practice of dividing inheritance in the Qur'an according to *ashabul furudh*: people with a definite and detailed part of Islamic law. Still, the practice of inheritance law is dynamic and proportional to the heirs because Qur'an has provided provisions or standards for the entitlement of inheritance. Heirs are obliged to regulate the number of parts of inheritance cases to create peace, benefit, and social life with the agreement of the heirs in the deliberation forum.

Religious leaders in the coastal area are tremendously concerned about the many conflicts or inheritance problems in the coastal areas of Maros Regency. It is necessary to increase public understanding of the inheritance law practice. Support for strengthening and fostering activities from the government is extremely influential on the behavior of people's lives with the strength of the budget and programs that reach Villages. Islamic law, specifically in the Compilation of Islamic Law, has regulated in detail and flexibly the concept of dividing inheritance so that Islamic law becomes a reference for regulation and adjustment as a form of reconstruction of *Samaturu* customary inheritance law in the coastal community of Maros Regency.

The habit that occurs in the coastal community of Maros Regency is *paje* or *yakkatenni* (pawning off) assets in the form of fishponds, rice fields, or fishing gear at sea. *Paje* or *yakkatenni* are often not finished, but their parents have died, so it must be completed or paid off according to the *Samaturu* customary inheritance law, which is one of the legal requirements for inheritance to be distributed to heirs. The technical division of inheritance must be discussed among the heirs before it is given to each who is entitled. This means that assets are waiting for an agreement to be sold, and then the proceeds from the sale are distributed to the heirs.<sup>15</sup>

As the main heirs, the heirs of the oldest descendants tend to get a larger portion and some of the advantages. Firstly, the heirs of the oldest descendants distribute the inheritance to the other heirs. Secondly, the heirs of the oldest descendants are

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<sup>14</sup>Abd. Majid (59 Years Old), Community/Customary Leader/Head of Kuri Lompo Hamlet, Nisombalia Village, Marusu District, Maros Regency, *Interview*, Maros, August 31 2022.

<sup>15</sup>Abdul Asis (41 Years Old), Prospective Heir, Borongkalukua Hamlet, Borimasunggu Village, Maros Baru District, Maros Regency, *Interview*, Maros, August 1 2022.

responsible for the survival of the father or mother when they are old, so usually, the elderly parents will be given a share of the inheritance as a provision for continuing life. However, this is determined by the heirs of the oldest descendants. Thirdly, the heir of the oldest descendant becomes the manager of the inheritance of his/her younger siblings until they get married.<sup>16</sup>

If the heir is still a child, including the oldest descendant who is not yet mature, the management will be given to the heir's parents. If the giver's inheritance has died, the funeral is the responsibility of his/her siblings. In addition, if the husband and wife are dead and do not have siblings, the funeral is carried out by the family that is considered closest to them based on family, traditional leaders, and local government discussions.<sup>17</sup>The practice of dividing inheritance in the coastal community of Maros Regency gives a share of inheritance to all heirs. Still, the share of the oldest and male biological heirs is greater than that of female biological heirs. The male heirs manage the assets given.

The practice of *Samaturu* customary inheritance greatly benefits the eldest descendant in terms of authority and power to manage an inheritance. Although the oldest descendants have considerable responsibility towards other families (underage heirs and their living parents), jealousy often occurs with other heirs regarding inheritance distribution, so it becomes an ongoing problem.<sup>18</sup>

Heirs and the community need clear written inheritance guidelines. Updating and strengthening from the government and religious leaders related to the *Samaturu* customary inheritance system and practice are needed. Hence, the community understands any inheritance distribution and has references that heirs can obey, such as an effort to realize peace and justice in the family and society.

The practice of *Samaturu* customary inheritance in the coastal community of Maros Regency provides privileges for the oldest descendant. It is necessary to evaluate its benefits because of the influence of community life, especially the millennial generation. Significant changes can affect the position and roles of the oldest descendants in the family because they are not structured regarding their obligations and responsibilities in helping family life, in this case, helping parents earn a living in community activities in the coastal environment. Then, it opens the potential for other heirs to replace their services and roles in helping both parents earn a living and build a life in a family.

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<sup>16</sup>H. Anwar (58 Years Old), Community Leader/Head of Mambue Hamlet, Nisombalia Village, Marusu District, Maros Regency, *Interview*, Maros, August 1 2022.

<sup>17</sup>H Usman HS (51 Years Old), Heir, Ampekale Village, Bontoa District, Maros Regency, *Interview*, Maros, May 27 2022.

<sup>18</sup>Dg. Rahim (47 Years Old), Community Leader of the Coastal Community of Binangasangkara Hamlet, Ampekale Village, Bontoa District, Maros Regency, *Interview*, Maros, June 7 2022.



## The Justice Value for the *Samaturu* Customary Inheritance Law in Coastal Community of Maros Regency

Justice in Islam is universal and proportional to the survival of all human beings against the provisions of God (Allah). Basically, the law of inheritance is oriented towards the level of kinship between the male or female inheritance giver and the heirs, the lifetime for the heir's descendants, and the burden of property required by Sharia (Islamic law) for heirs to provide for themselves and their families. Drs. H. Andi Syarifuddin B, as a traditional leader and a Member of the Regional People's Representative Council for the Electoral District II of the coast of Maros Regency, said that justice would be achieved when the heirs get inheritance rights in the coastal area. The concept and practice of inheritance distribution are managed transparently with the principle of understanding and agreement in meetings between heirs.<sup>19</sup>

References to the inheritance distribution must be based on the inheritance deed made by both parents through the government as a guide in distributing inheritance fairly to the heirs. Still, conflicts often occur between heirs due to the negligence of both parents by not doing an inheritance deed in the government when they were still alive because it is considered fair when both parents distribute the inheritance to their heirs.<sup>20</sup> The parties play an important role in mediation if inheritance problems occur in the community to strengthen the justice value. Hence, the alignment of transparent inheritance concepts and practices towards heirs is increasingly recognized and perceived by the benefits of the coastal community of Maros Regency.<sup>21</sup>

The Regent of Maros Regency, H. Andi Syafril Chaidir Syam, S.IP., M.H who is also the former Chairman of the People's Representative Council for the 2014 – 2019 Electoral District V in the coastal area, stated that the law of inheritance would achieve justice if the law the heirs conduct deliberations to reach an agreement between the heirs. Therefore, there is a need for joint reference to the inheritance law for the coastal community of Maros Regency, a religious law that the government strengthens.<sup>22</sup>

The customary inheritance law for the coastal community of Maros Regency uses the term *Samaturu*, where the oldest biological heir controls inheritance. Thus, the justice value must be based on guidelines or references to religious law to limit the authority of the oldest descendant because justice is achieved if the situation and conditions of the heirs are considered. It often happens that both parents have died, but the heirs are

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<sup>19</sup>Drs. H. Andi Syarifuddin B (58 Years Old), Traditional Figure of Panaikang Hamlet, Pajukukang Village, Bontoa District, Maros Regency, *Interview*, Maros, June 17 2022.

<sup>20</sup>Drs. H. Andi Syarifuddin B (58 Years Old), Traditional Figure of Panaikang Hamlet, Pajukukang Village, Bontoa District, Maros Regency, *Interview*, Maros, June 17 2022.

<sup>21</sup>Drs. H. Andi Syarifuddin B (58 Years Old), Traditional Figure of Panaikang Hamlet, Pajukukang Village, Bontoa District, Maros Regency, *Interview*, Maros, June 17 2022.

<sup>22</sup>H. Andi Syafril Chaidir Syam, S.IP., M.H (46 Years Old), Regent of Maros Regency, *Interview*, Maros, August 14 2022.

immature or still young, so they are not yet competent at managing fishing vessels at sea and ponds as an inheritance of both parents.<sup>23</sup>

The value of inheritance legal justice in the coastal community of Maros Regency sometimes becomes a problem. Disputes often occur between heirs, but ideal justice is if it can be resolved or mediated peacefully by the government at the sub-district, village head, and even at the hamlet level, which has a role in resolving the dispute. Many think settling disputes in the hamlet or village is not a solution, so it usually goes to court.<sup>24</sup>

The majority of the coastal community in Maros Regency is religious. The problem of inheritance is that the community assumes that the male share must be more than the female. Even heirs who are married and considered established give up their share of the inheritance to other heirs who are more in need. Therefore, justice must be resolved through deliberations to obtain recognition and agreement among the heirs.<sup>25</sup>

The justice of *Samaturu* customary inheritance law for the coastal community in Maros Regency lies in the transparency of the concept and practice of *Samaturu* customary inheritance to all heirs.<sup>26</sup> Fundamental Islamic inheritance law is in three conditions. Firstly, the degree of kinship between male or female heirs and the giver of inheritance. The closer the degree of kinship, the greater the inheritance shares. Secondly, time of life for the heir descendant. The heirs expected to live a longer life and endure a larger life usually receive a larger share of the inheritance than the descendants who live fewer lives. Example: the daughter inherits more than the giver inheritance mother, despite both being women. This criterion is part of the provisions of the Islamic heritage, which are stored in wisdom and have absolutely nothing to do with men and women. Thirdly, justice regarding the concept and practice of distributing inheritance to heirs must be able to carry out cooperation between heirs so that the *Samaturu* customary inheritance law creates transparency and justice for heirs.<sup>27</sup>

Meanwhile, male sons receive more shares than girls for several reasons as follows:

1. Men have a financial burden that must be met, while women do not. For example, men are obliged to pay a dowry to women, which becomes their personal property.

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<sup>23</sup> Sapri, S.Pd.I (34 Years Old), Community Figure/Head of Kuri Caddi Hamlet, Nisombalia Village, Marusu District, Maros Regency, *Interview*, Maros, July 17 2022.

<sup>24</sup>H. Andi Syafril Chaidir Syam, S.IP, M.H (46 Years Old), Regent of Maros Regency, *Interview*, Maros, August 14 2022.

<sup>25</sup>H. Andi Syafril Chaidir Syam, S.IP., M.H (46 Years Old), Regent of Maros Regency, *Interview*, Maros, August 14 2022.

<sup>26</sup>H. Arsyad (61 Years Old), Religious Leader of Borimasunggu Village, Maros Baru District, Maros Regency, *Interview*, Maros, August 1 2022.

<sup>27</sup>H. Arsyad (61 Years Old), Religious Leader of Borimasunggu Village, Maros Baru District, Maros Regency, *Interview*, Maros, August 1 2022.

2. Men's financial expenses are greater than women's, so the assets needed are much more.<sup>28</sup>
3. Men are responsible for providing for their wives and children. Islam does not oblige a wife to provide for her husband or the household, even if she is rich and able to do so, unless she voluntarily does.
4. Men are also responsible for providing for the family and relatives dependent on their father's heir with consideration as if he were part of the heir himself.
5. Women always have all their needs met because their livelihood becomes the responsibility of their son, father, brother, and husband after marriage.
6. The husband's responsibility is to provide education and medical expenses for the children and wife. Suppose other considerations differ greatly, such as emotional control between men and women. In general, men are better able to control their emotions than women. This matter shows that controlling wealth based on reasoning must take precedence over holding it based on emotion, meaning that justice means maintaining a balance that husbands need wives as well as women need husbands. But the man is obliged to provide for his wife, while the woman has all her needs fulfilled by the husband.<sup>29</sup>

Islamic inheritance law does not equate the inheritance of sons and daughters with the principles of deliberation and transparency. Instead, it shows the justice and perfection of Islamic teachings. The division of inheritance in Islam is related to rights and obligations. Men are responsible for providing for their families; losing this responsibility will change the inheritance distribution system. For example, if a person dies and the heirs consist of biological father and mother, then each (father and mother) gets a one-sixth share.<sup>30</sup>

The concept of justice in the *Samaturu* customary inheritance law is granting rights and obligations to everyone entitled to receive them. The wisdom of giving men inheritance, which has a larger share than women, is because men are obliged to finance the lives of themselves and their families.

As for the *Samaturu* customary inheritance law for the coastal community of Maros Regency, the descendants of the eldest sons are the main heirs. They have a very important role in realizing justice in the concept and practice of dividing inheritance within the family. The measure of justice must have an absolute reference that heirs can understand to minimize misunderstandings against heirs because the *Samaturu*

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<sup>28</sup>Ag. Drs. H. Syamsul Khaliq (66 Years Old), General Chairperson of the Indonesian Council of Ulama in Maros as a coastal Religious Figure in Maros Regency, *Interview*, August 27 2022.

<sup>29</sup>Ag. Drs. H. Syamsul Khaliq (66 Years Old), General Chairperson of the Indonesian Council of Ulama in Maros as a coastal Religious Figure in Maros Regency, *Interview*, August 27 2022.

<sup>30</sup>Ag. Drs. H. Syamsul Khaliq (66 Years Old), General Chairperson of the Indonesian Council of Ulama in Maros as a coastal Religious Figure in Maros Regency, *Interview*, August 27 2022.

customary inheritance system for the coastal community of Maros Regency does not yet have structured customary institutions and written customary references. Thus, it has the potential to give rise to many perceptions of the implementation of a customary inheritance system for coastal communities in Maros Regency.<sup>31</sup>

When viewed from various societal paradigms, the coastal community of Maros Regency has undergone many changes. Messages from parents and wills from grandparents are increasingly being ignored by their descendants in the future for several reasons. Firstly, many heirs' relatives/families migrate outside the area, so parental information as customary messages is not thoroughly known. Secondly, People's thinking is influenced by the understanding of urban areas, so people's mindset is contaminated with various views, both from a religious perspective and social justice. Thirdly, women are the main heirs if the oldest descendant is a woman. That condition will affect the existence of male heirs because they do physical work to help their parents earn a living, such as taking a boat to sea, finding fish, and managing ponds. Fourthly, the general view of the coastal community of Maros Regency is that men are mostly stronger and more important than women, so men should dominate women in managing inheritance to achieve justice. Fifthly, Many millennials of the coastal community in Maros Regency have left their villages to look for jobs and continue their education in cities or outside the coastal areas so that indirectly, customs are increasingly limited in realizing comprehensive information to the community.

Inheritance justice for the coastal indigenous peoples of Maros Regency still adheres to cultural teachings or traditional habits, especially related to sharing *Samaturu* customary inheritance. The eldest descendant becomes the main heir, and all heirs have the right to share in the inheritance; technically and nominally, the amount of the inheritance often experiences problems resulting in conflicts between heirs, so that parents as heirs sometimes distribute the inheritance to their children before he died intending to prevent problems from occurring in the future.<sup>32</sup>

The distribution of inheritance before the parents die is not part of the *Samaturu* customary inheritance system; this is the initiative of the parents based on observations of their children as potential heirs. Thus, in the future, if the parents die, there is the potential to be disputed or not recognized by the heirs of its existence or validity.<sup>33</sup>

The justice of the *Samaturu* customary inheritance law, known by the Maros Regency's coastal community, is considered a rule that does not conflict with Islamic law. *Samaturu* customary inheritance law emerged when the community did not understand Islamic laws well, so good habits are the legal guideline for people's lives. The

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<sup>31</sup>Drs. H. Andi Syarifuddin B (58 Years Old), Traditional Figures of Panaikang Hamlet, Pajukukang Village, Bontoa District, Maros Regency, *Interview*, Maros, June 17 2022.

<sup>32</sup>Drs. H. Andi Syarifuddin B (58 Years Old), Traditional Figures of Panaikang Hamlet, Pajukukang Village, Bontoa District, Maros Regency, *Interview*, Maros, June 17 2022.

<sup>33</sup> Usman HS (51 Years Old), Heir, Ampekale Village, Bontoa District, Maros Regency, *Interview*, Maros, May 27 2022.

development of Islamic law as a guideline that must also be obeyed, but if it conflicts with the concept of customary law, it must be strengthened by the local government because the law is implemented more quickly by the community when there is a decision or policy from the local government, such as circulars, regent regulations or regional regulations.<sup>34</sup>

The coastal community of Maros Regency thinks that inheritance is a matter of *muamalah* (practice), not worship, so they do not get a special space in the form of learning from parents and elders in the village. The coastal community of Maros Regency only provides special learning in religious rituals, diligent worship, and devotion to both parents as a provision for life for their children.

Some coastal communities of Maros Regency consider problems due to the *Samaturu* customary inheritance law as a concept and practice of unfair distribution of inheritance. The coastal community of Maros Regency does not yet have written references in a sequential (systematic) manner, which has the potential to be misused by specific individuals and cause misunderstandings among the heirs in the coastal community of Maros Regency.<sup>35</sup>

The influence and authority of the eldest descendant become the main role in realizing justice for the heirs. The *Samaturu* have an erratic pattern, meaning that justice is based on the concept and practice of inheritance applied by the eldest descendant in the name of *adat* (custom). Other heirs have a limited understanding of inheritance law and do not want conflicts or problems between heirs in the family, so they are more likely to accept any decision from the offspring of the oldest child as the main heir (substitute parent).

*Samaturu* customary inheritance law has not achieved justice due to a weak understanding of religion. In inheritance law, substitutes for parents mostly only use muscles, not brains, so the eldest descendant always wants to get a large share of the inheritance based on the eldest descendant helping parents the most when they are still alive. There is no blessing in this; usually, other heirs are more established and successful in the future because of their patience in maintaining the dignity and good name of their customs and family.<sup>36</sup>

Legal justice towards inheritance is an effort to prevent conflicts in the Maros Regency's coastal community due to a lack of understanding of Islamic inheritance law and jurisprudence issues. Thus, it is necessary to increase the religious understanding of

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<sup>34</sup>Dg. Rahim (47 Years Old), Community Leader of the Coastal Community of Binangasangkara Hamlet, Ampekale Village, Bontoa District, Maros Regency, *Interview*, Maros, June 7 2022.

<sup>35</sup>Syamsuddin (42 Years Old), Prospective Heir, Marannu Village, Lau District, Maros Regency, *Interview*, Maros, 1 June 2022.

<sup>36</sup>Ag. Drs. H. Syamsul Khaliq (66 Years Old), General Chairperson of the Indonesian Council of Ulama in Maros as a coastal Religious Figure in Maros Regency, *Interview*, August 27 2022.

the community through lectures on Islamic and customary inheritance law by involving the local government.<sup>37</sup>

Before they die, parents have a role in providing understanding and messages to their heirs so that the *Samaturu* customary inheritance law is more equitable due to the weak understanding of customary inheritance, which is the trigger for the excessive taking of inheritance from other heirs. Even the oldest descendants, heirs, and generally coastal communities will be more advanced in their paradigm when obtaining knowledge regarding the inheritance of Islamic Law in a sustainable manner, both from religious leaders, traditional leaders, community leaders, and local government.

Reconstruction of the *Samaturu* customary inheritance law can be strengthened through the government's influence and power because the Maros Regency coastal community is very obedient if there are regulations or calls from the government. Relating to the continuity of life, social needs, and ease of access for the community to improve quality and the development of existence in society and as a state.

*Samaturu* customary inheritance justice for the coast of Maros Regency is appropriate if adjustments and changes to the concept and practice of inheritance are carried out to follow the influence of educational developments in the era of globalization. The reforms intended to make the value of justice for the inheritance of the *Samaturu* customary are as follows: First, influential figures in the area evaluate the phenomena that occur as a shared responsibility in the continuity of the *Samaturu* customary inheritance law to improve the concept and practice of managing inheritance. Second, traditional institutions should ideally be in the form of a structure and have consistent and transparent regulations in implementing *Samaturu* customary inheritance law to assist the role of traditional leaders, community leaders, and religious leaders as a function of supervision and guidance to the community who are in the process of relating to inheritance law. Third, the heirs who control and manage the inheritance are carried out by way of deliberation between the heirs to solve the situation and condition of the heirs. Fourth, the principle of *Samaturu* is oriented towards increasing awareness as a traditional philosophy passed down from generation to generation.

The value of justice in the customary law of *Samaturu* on the coast of Maros Regency can be increased by taking sides with the inheritance rights of heirs. The eldest descendant or heirs are considered capable and wise by building transparency in the concept and practice of inheritance so that the management of inherited assets becomes an instrument for the livelihood of the heir.

## CONCLUSION

The concept of the reconstruction of the Maros Regency coastal community is making descendants capable and responsible as the main heirs in managing and

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<sup>37</sup>Ag. Drs. H. Syamsul Khaliq (66 Years Old), General Chairperson of the Indonesian Council of Ulama in Maros as a coastal Religious Figure in Maros Regency, *Interview*, August 27 2022.

distributing inheritance. In addition, the way to apply the efforts of community leaders, traditional leaders, religious leaders, and the government through the revitalization of the principle of deliberation so that the division of the *Samaturu* customary inheritance law guidelines in writing, which are agreed upon and recognized as a whole through the socialization process, *tudang sipulung* (negotiation) and optimizing roles and functions of leaders and government.

The practice of sharing the customary inheritance of *Samaturu* in the coastal community of Maros Regency is known as the distribution of inheritance to the heirs (siblings and wives/husbands left behind). However, the share of the inheritance of the eldest descendant is more than that of other heirs; even the wife/husband left behind does not get a share of the inheritance if they are old.

The justice of the *Samaturu* customary inheritance law for the coastal community of Maros Regency lies in the partiality of a concept that gives inheritance rights to other heirs; however, the nominal share of the assets given is uncertain for the heirs. Thus, to realize the value of inheritance justice, the eldest descendant, who becomes the main heir, must be transparent in the distribution of inheritance and conduct deliberations with the heirs before the inheritance is managed or distributed to the entitled heir.

Based on the problems in this study, some of the implications are: 1) The government, community leaders, and traditional leaders need to conduct guidance and socialization to the coastal community of Maros Regency regarding the concept and practice of *Samaturu* customary inheritance so that the community understands the development of customary inheritance that applies in their area; 2) The practice of dividing inheritance must have written references and be valid so that the eldest descendant as the main heir in the family is not monopolized and limited by rules in managing inheritance which is the cause of misunderstandings or conflicts between heirs; 3) The justice value of *Samaturu* customary inheritance law needs to be strengthened and developed with balance approach and community awareness so that it relates to *Samaturu* customary inheritance through family deliberation forums that begin with knowledge and understanding of Islamic inheritance.

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