



CONTESTATION AND NEGOTIATION ON INTERFAITH INHERITANCE IN PANCASILA VILLAGE

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Abstract: This research aims to investigate the division of inheritance between different religions in Kampung Pancasila Balerejo Wlingi Blitar and analyze the relationship between legal systems in the division of inheritance. This research is a non-doctrinal research using a legal pluralism approach. Data were collected through document study, observation, focus group discussion, and in-depth interviews. The data was analyzed using Sally Falk Moore's theory of legal pluralism. The results showed that the division of inheritance was carried out equally between men and women even though family members adhered to different religions. The process of inheritance division is carried out by deliberation by presenting village officials. The reality of the division of inheritance between different religions in Pancasila Village shows that local law and state law run simultaneously and complement each other. Kampung Pancasila has a *self-regulating* inheritance system. The capacity possessed by the people of Pancasila Village to regulate independently shows the existence of autonomy. However, this autonomy is not absolute (*the semi-autonomous social field*) due to the influence of state organs. These, namely village officials, come from outside the semi-autonomous area and affect the distribution of inheritance. This research contributes to identifying the contestation and negotiation between legal systems in the inheritance distribution practices of multi-religious families. In addition, this research also contributes to providing alternative solutions to the division of inheritance in multi-religious families.

Keywords: interfaith inheritance; *Pancasila* Villages; legal pluralism; community autonomy

Abstrak: Penelitian ini bertujuan untuk menginvestigasi pembagian waris beda agama di Kampung Pancasila Balerejo Wlingi Blitar serta menganalisis relasi antar sistem hukum dalam pembagian waris tersebut. Penelitian ini merupakan penelitian non-doktrinal dengan menggunakan pendekatan pluralisme hukum. Pengumpulan data dilakukan melalui studi dokumen, observasi, diskusi kelompok terfokus, dan wawancara mendalam. Data dianalisis dengan teori pluralisme hukum dari Sally

Falk Moore. Hasil penelitian menunjukkan bahwa pembagian waris dilakukan secara sama rata antara laki-laki dan perempuan meskipun anggota keluarga menganut agama yang berbeda. Proses pembagian waris dilakukan secara musyawarah dengan menghadirkan perangkat desa. Realitas pembagian waris beda agama di Kampung Pancasila menunjukkan bahwa hukum lokal dan hukum negara berjalan secara simultan dan saling melengkapi. Kampung Pancasila memiliki sistem pengaturan waris yang mandiri (*self-regulating*). Kapasitas yang dimiliki oleh masyarakat Kampung Pancasila untuk melakukan pengaturan secara mandiri menunjukkan adanya otonomi. Namun demikian, otonomi tersebut tidak bersifat mutlak (*the semi-autonomous social field*), karena adanya pengaruh organ negara, yaitu perangkat desa yang berasal dari luar wilayah semi-otonom dan mempengaruhi pembagian waris. Penelitian ini berkontribusi untuk mengidentifikasi kontestasi dan negosiasi antar sistem hukum pada praktik pembagian waris keluarga multi agama. Selain itu, penelitian ini juga berkontribusi untuk memberikan alternatif penyelesaian pembagian waris pada keluarga multi agama.

Kata Kunci: waris beda agama; kampung Pancasila; Pluralisme Hukum; Otonomi Masyarakat.



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INTRODUCTION

Inheritance law in Indonesia is a subject of frequent dispute.¹ Inheritance law is also dynamic, meaning it adapts to changing times.² In actuality, inheritance distribution in Indonesia can be divided into three linked legal systems: traditional inheritance law, Islamic inheritance law, and Western inheritance law, as established in the Civil Code.³ The presence of these three legal systems in inheritance practice results in harmonious complementarity,⁴ mutual adoption, mutual influence, and even contestation among legal systems.⁵

¹ Tri Siska Marni, Silfia Hanani, and Nofiardi Nofiardi, "Modernisation of Islamic Family Law in Indonesia (Analysis of Counter Legal Draft- Compilation of Islamic Law in Inheritance Law)," *GIC Proceeding* 1 (2023), <https://doi.org/10.30983/gic.v1i1.131>.

² Sugiri Permana, "Implications of Hazairin and Munawir Sjadzali Thoughts In Establishment of Islamic Inheritance In Indonesia," *AHKAM: Jurnal Ilmu Syariah* 18, no. 2 (2018).

³ Yeni Salma Barlinti, "Inheritance Legal System In Indonesia: A Legal Justice For People," *Indonesia Law Review* 3, no. 1 (2013), <https://doi.org/10.15742/ilrev.v3n1.28>.

⁴ Zaka Firma Aditya, "Romantisme Sistem Hukum Di Indonesia: Kajian Atas Kontribusi Hukum Adat Dan Hukum Islam Terhadap Pembangunan Hukum Di Indonesia," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 8, no. 1 (2019): 37-54.

⁵ Iftitah Kurnia and Maisya Yusti Santosa, "Pluralisme Hukum Waris di Indonesia: Pengaruh Sistem Keekerabatan Masyarakat Adat Terhadap Corak Hukum Waris Adat di Indonesia," *Syariah: Jurnal Ilmu Hukum* 1, no. 2 (2024): 234-42.

Several studies suggest that society can define inheritance law, non-litigation resolution based on tradition or Islamic law, or even litigation settlement in court.⁶ For example, the Malay community in Tanjung Pura, North Sumatra, follows Islamic inheritance law. After a grandson is left by his father, he is not included as an heir after his grandfather dies since his father's brother prevents him from inheriting. The concept of a substitute heir is unknown in the Compilation of Islamic Law (KHI), let alone practiced by the Tanjung Pura community, the majority of whom are staunch supporters of the Syafi'i School of Law.⁷

A similar situation happens in Acehese society, which is said to follow the concept of a *patah titi*. Linguistically, *patah titi* refers to a broken bridge. This circumstance occurs when an heir dies before the testator, preventing the heir's descendants from receiving a share of the testator's inheritance. This custom differs from the concept of substitute heirs outlined in the KHI. Acehese ulama and traditional authorities hold opposing views. The group that opposes the provisions of the KHI and defends the practice of *patah titi* claims that grandchildren who do not inherit can receive a part through a will.

Meanwhile, the KHI group that supports the concept of substitute heirs recognizes that it does not appear in fiqh or traditional literature. However, this provision is still an example of legal pluralism, demonstrating the harmonization and integration of several legal systems.⁸ This differs from the South Aceh community, which distributes inheritance according to customary inheritance law. The heirs receive a share of the inheritance that does not follow Islamic law (*furudh al-muqaddarah*), with male and female heirs receiving equal shares.⁹

Several studies confirm the importance of ulama in the distribution of inheritance, with each ulama's meaning and interpretation having a significant influence.¹⁰ Differences in ulama interpretation lead to jurisdictional disputes over

⁶ Miftahul Huda et al., "Tradition, Wisdom and Negotiating Marriage and Inheritance Disputes on Javanese Muslim," *Al-Istinbath: Jurnal Hukum Islam* 9, no. 1 (May 30, 2024): 25-44, <https://doi.org/10.29240/jhi.v9i1.9887>.

⁷ Fatimah Zuhrah et al., "Indonesian Islamic Inheritance Law Reform: Case Study on Heirs Substitutes in Malay Societies" (Proceedings of the 7th International Conference on Multidisciplinary ..., 2020).

⁸ Khairuddin Hasballah et al., "Patah Titi and Substitute Heirs: A Study of Legal Pluralism on the Inheritance System in Aceh Community," *Ahkam: Jurnal Ilmu Syariah* 21, no. 2 (2021).

⁹ Harnides, Syahrizal Abbas, and Khairuddin, "Gender Justice in Inheritance Distribution Practices in South Aceh, Indonesia," *Samarah* 7, no. 2 (2023), <https://doi.org/10.22373/sjhc.v7i2.16688>.

¹⁰ Muhammad Muhammad, "Inheritance Dispute Settlement Through Mediation with the 'Bale Mediasi' of East Lombok," *Law Research Review Quarterly* 8, no. 4 (November 30, 2022): 427-46, <https://doi.org/10.15294/lrrq.v8i4.61691>.

who has the right to decide inheritance distribution at the local level.¹¹ The Madurese community prefers customary inheritance dispute resolution based on deliberation over litigation. Society considers harmony and fraternity when distributing inheritance through custom rather than state legislation.¹²

Similarly, the Muslim community in Makassar City follows Article 183 of the KHI when deciding how to distribute inheritance. According to this article, inheritance distribution begins with the computation of inheritance assets and determining heirs' portions. If each knows their share, the following process is peaceful deliberation to reach an agreement.¹³

Several Supreme Court (MA) decisions also reflect the dynamics of inheritance dispute resolution. The Supreme Court has been uneven in its rulings on spouses' and widows' inheritance rights. Several decisions disregard the presence of wives/widows eligible to receive inheritance shares, preventing them from accessing their husband's fortune. However, progressive MA decisions have recognized wives' and widows' inheritance rights. MA judgments also highlight the vulnerability of children's inheritance rights in polygamous marriages. The MA makes decisions by recognizing male and female children's rights to their parent's estate. However, the female child has a smaller share than the male child.¹⁴ The diversity of MA decisions demonstrates legal pluralism in the distribution of inheritance.¹⁵

Legal disputes frequently emerge in customary law inheritance practices in matrilineal, patrilineal, and parental kinship systems. Legal disputes arise when Islamic law, consistent with religious practices, clashes with state law, which applies to all citizens. According to several court decisions, the division of inheritance caused by variations in legal systems, particularly in the customary kinship system, is overruled in favor of state law and Islamic law. This study shows a shift in the

¹¹ Leli Salman Al-Farisi, "Politik Hukum Islam di Indonesia: Membedah Kerancuan Bukan Negara Agama Dan Bukan Negara Sekuler," *Jurnal Aspirasi* 11, no. 2 (2021).

¹² Uswatun Hasanah, Mohammad Amir Hamzah, and Muffarijul Ikhwan, "Pluralisme Hukum Dalam Penyelesaian Sengketa Warisan Pada Masyarakat Madura," *Arena Hukum* 11, no. 1 (2018): 163-83.

¹³ Andi Herawati, "The Existence of Islamic Law Compilation Article 183 in Solving Inheritance Issue of Muslim Communities in Makassar," *Al Daulah: Jurnal Hukum Pidana dan Ketatanegaraan* 8, no. 1 (2019): 88-105.

¹⁴ Salwa Ramadhani Siregar, Nurinda Ika Safitri, and Najmah Annisa Arfah, "Hak Pewarisan Pada Anak Angkat Dalam Perspektif Hukum Islam, Hukum Perdata, Serta Hukum Adat di Indonesia," *Civilia: Jurnal Kajian Hukum dan Pendidikan Kewarganegaraan* 1, no. 1 (2022).

¹⁵ Ratno Lukito, *Legal Pluralism in Indonesia: Bridging the Unbridgeable* (Routledge, 2012).

inheritance distribution system that is no longer purely based on the customary kinship system.¹⁶

These papers help to illustrate the importance of the emphasis of this investigation. Meanwhile, heterogeneity in inheritance law can be recognized in the legal tradition of Istanbul, Turkey. In Turkey, official civil law and Islamic law are subject to discussion and contestation. The common practice of Islamic law limits the application of secular civil law to women's inheritance in Turkey.¹⁷

Meanwhile, further research shows that Muslim heirs with non-Muslim heirs can be subject to the Civil Code through an Authentic Deed executed by/before a Notary. Western inheritance law gives better guarantees in this scenario because it is written.¹⁸ Other research reveals that Islamic inheritance law in Indonesia has been contextualized, so the negative stigma associated with it has been removed. Contextualization is accomplished by understanding and advocating for Islamic inheritance law in the Indonesian context, reconstructing the fundamental concepts of Islamic inheritance law in the Indonesian context, and prioritizing the resolution of inheritance conflicts through deliberation and mediation.¹⁹

The reality of pluralism in inheritance law also occurs in Blitar. The Blitar community has unique inheritance settlement practices amidst the diversity of society. The heterogeneous population of Blitar is 1,235,159 people, consisting of 93.17% Muslims and 2.37% Hindus spread across the districts of Wlingi, Doko, Gandusari, Talun, Kesamben, and several other sub-districts.²⁰ The reality of religious diversity in Blitar also has implications for the diversity of multi-religious families, including the diversity of laws adopted.²¹

¹⁶ Rr Dewi Anggraeni, "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints," *Ahkam: Jurnal Ilmu Syariah* 23, no. 1 (2023), <https://doi.org/10.15408/ajis.v23i1.32549>.

¹⁷ Sule Toktas and Mary Lou O'Neil, "Competing Frameworks of Islamic Law and Secular Civil Law in Turkey: A Case Study on Women's Property and Inheritance Practices," *Women's Studies International Forum* 48 (2015): 29-38, <https://doi.org/10.1016/j.wsif.2014.10.011>.

¹⁸ Zainuddin Mappong and Lili, "Right to Self Submission to Western Inheritance Law for the Heirs of Islamic Religion Whom the Property Leaver Has Different Religion," *Journal of Law and Sustainable Development* 11, no. 2 (2023), <https://doi.org/10.55908/sdgs.v11i2.423>.

¹⁹ Syabbul Bachri et al., "Contextualizing Islamic Inheritance Law in Indonesia: Addressing Negative Stigma," *Ulul Albab: Jurnal Studi dan Penelitian Hukum Islam* 7, no. 2 (2024): 170-87; Lukman Santoso, *Taktis Pendampingan Hukum* (Yogyakarta: Q Media, 2021).

²⁰ Central Bureau of Statistics of Blitar Regency, "Kabupaten Blitar Dalam Angka 2021," Badan Pusat Statistik Kabupaten Blitar, 2021.

²¹ I Ketut Sukadana, "Hak Waris Anak Yang Lahir Dari Perkawinan Beda Agama Menurut Hukum Adat Bali," *Kertha Wicaksana* 14, no. 2 (2020), <https://doi.org/10.22225/kw.14.2.1920.124-131>; Junaidi et al., "Legal Counseling on Civil Rights Due To Marriage Different Religions In Ogan Ilir Regency - South Sumatra Province," *IJCS* 1, no. 3 (2021), <https://doi.org/10.51601/internationaljournalofcommunityservice.v1i3.39>.

The reality of religious plurality in Blitar culture is also reflected in the variety of inheritance laws enacted by the community, particularly in multi-faith households.²² The plurality of inheritance laws will be the point of differentiation and uniqueness in this research.²³ This study also focuses on the interaction between legal systems in the distribution of inheritance in Blitar. The researcher will use Sally Falk Moore's semi-autonomous social field (*SASF*) theory. The *SASF* theory will attempt to show a situation in a specific social area where the community has an automated system. Still, additional rules also seek to increase their presence in that social area. This study helps to identify contestation and negotiation between legal systems in the practice of inheritance distribution within multi-religious families.

This non-doctrinal study examines the realities of multi-religious families in Balerejo Village. This study employs a legal pluralism approach to uncover legal options (*forum shopping*) in the distribution of inheritance among multi-religious families. Data were gathered through document reviews, observations, focus group discussions, and in-depth interviews. Document studies were conducted to collect inheritance regulations, study findings on inheritance distribution, and legal diversity. Observations were utilized to gather preliminary data to determine the focus of the case under investigation and identify informants and sources who could supply information.

Meanwhile, the FGD featured 16 participants, including the head and 3 staff members of the Wlingi KUA, 4 Islamic religious instructors, 5 modins, 1 religious figure, and 2 village authorities. In-depth interviews with religious leaders were undertaken to learn about interfaith inheritance in Balerejo Village. Data analysis was carried out using the Miles and Huberman approach, which included data condensation, data presentation, and conclusion drawing. The data was analyzed using *SASF* from Sally Falk Moore.

THE CONCEPT OF PLURALISM IN INHERITANCE LAW

In the dynamics of the development of inheritance law in Indonesia, history records that three legal systems, customary, western, and Islamic, have long existed and

²² Ulfa Lailatur Riza, "Pandangan Majelis Ulama Indonesia (MUI) Tentang Waris Beda Agama (Studi Kasus di Desa Ngadirenggo Kecamatan Wlingi Kabupaten Blitar)," 2020; Ainur Ridho, "Juridical Review of the Distribution of Inheritance Rights for Children Who Change Religions According to Civil Law and Islamic Law," in *Proceeding International Conference on Law, Economy, Social and Sharia (ICLESS)*, vol. 1, 2022, 652-69.

²³ Alamsyah, Dian Septiandani, and Mukharom, "Hak Waris Anak Yang Lahir dari Perkawinan Campuran Beda Kewarganegaraan," *Hukum dan Masyarakat Madani* 7, no. 2 (2017): 92, <https://doi.org/10.26623/humani.v7i2.1025>.

have been jointly applied in society, even long before Indonesia's independence.²⁴ However, if we trace the history of whatever legal system was used initially, the customary inheritance law system was the first to emerge. This is because the customary inheritance law system is a community-created legal product based on local wisdom that has been institutionalized and passed down from generation to generation.

The three inheritance law systems have undergone various adjustments and institutionalization procedures throughout their voyage. The inheritance requirements in Western Civil Law are found in Civil Code Book Two, Articles 830 to 1130.²⁵ Western inheritance law's content and institutionalization have remained remarkably unchanged since the colonial era. Customary inheritance law is incorporated into customary law that governs numerous customary communities with varied kinship types, such as patrilineal, matrilineal, or bilateral. The customary law that applies is not uniform but differs depending on the nature of society and the family system in Indonesia.²⁶

Meanwhile, Islamic inheritance law is founded on *faraid* (Islamic science of inheritance distribution). It has undergone evolution and legal institutionalization with the establishment of the Compilation of Islamic Law (KHI) by Presidential Instruction Number 1 in 1991.²⁷ The KHI's second book, Articles 171 to 214, regulates inheritance provisions.

During such conditions, the diversity of law in Indonesia became a reality that the Dutch Colonial Government considered in deciding policies, especially related to Islamic law. Against this reality, three legal theories emerged that colored the reading of Islamic law since the Dutch era, the present, and even the future. First, the theory of *receptie in complexiu* was formulated by L.W.C. van den Berg (1845-1927).²⁸ Based on this theory, Indonesian Muslims have given a general reception to

²⁴ Ernik Ernik, Andi Sukmawati Assaad, and Helmi Kamal, "Hukum Waris Islam dan Pluralisme Hukum," *Maddika: Journal of Islamic Family Law* 4, no. 1 (July 31, 2023): 38-47, <https://doi.org/10.24256/maddika.v4i1.4861>.

²⁵ Elviana Sagala, "Hak Mewaris Menurut Ketentuan Hukum Waris Perdata," *Jurnal Ilmiah Advokasi* 6, no. 2 (September 15, 2018): 116-24, <https://doi.org/10.36987/jiad.v6i2.254>.

²⁶ M Burhanuddin Ubaidillah, "Fenomena Hukum Waris Adat di Indonesia Antara Keadilan Hukum dan Keadilan Sosial," *Usratuna: Jurnal Hukum Keluarga Islam* 3, no. 2 (June 30, 2020): 1-21, <https://doi.org/10.29062/usratuna.v3i2.188>; Adelina Nasution, "Pluralisme Hukum Waris di Indonesia," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 5, no. 1 (2018): 20-30.

²⁷ Mohammad Yasir Fauzi, "Legislasi Hukum Kewarisan Di Indonesia," *Ijtima'iyya: Jurnal Pengembangan Masyarakat Islam* 9, no. 2 (2017): 53-76.

²⁸ Roni Pebrianto, Asasriwarni Asasriwarni, and Ikhwan Matondang, "The Contribution of L.W.C. Van Den Berg's Thoughts in Dutch Colonial Legal Politics on The Development of Religious Courts in Indonesia,"

Islamic law. Islamic law is a living law that applies to Muslims.²⁹ This is supported by the *Compendium Freijer*, a book of Islamic marriage and inheritance rules that has been utilized as a guideline by the Dutch East Indies Company's United Court from May 25, 1760.³⁰

Second, Christian Snouck Hurgronje (1757-1837) proposed the *receptie* midwife idea.³¹ Cornelis van Voolenhoven (1874-1933) and B. Ter Haar supported this theory. This theory contradicts the previous theory, claiming that Islamic law is only valid if it is consistent with customary law.³² Islamic law, which was first applied to Indonesian Muslims, was gradually phased out and finally repealed in 1913.³³ The Dutch colonial authority only recognized customary law for indigenous people. Third, Hazairin (1906-1975) developed the *receptie exit* theory.³⁴ This theory, which emerged at the dawn of independence, pushed Indonesian Muslims to break free from the shackles of the *receptie* theory, a deceptive diabolical notion. According to Hazairin, the diabolical notion contradicts Pancasila and the 1945 Constitution, which provides religious freedom. Hence, Muslims should follow Islamic law.³⁵

The three theories mentioned above influenced the conception and practice of Islamic law throughout the Dutch colonial era and up to the present day. Indonesia has yet to build a national system. Indonesia's legal system is the outcome of the integration and compromise of customary, Islamic, and Western law.³⁶ Unifying inheritance law is not an easy task.³⁷ According to Mochtar Kusumaatmadja,

AJIS: Academic Journal of Islamic Studies 7, no. 1 (June 30, 2022): 45-56, <https://doi.org/10.29240/ajis.v7i1.3779>.

²⁹ Adelina Nasution, "Pluralisme Hukum Waris Di Indonesia," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 5, no. 1 (2018): 20-30; Abdul Ghofur Anshori, *Filsafat Hukum Kewarisan Islam* (Yogyakarta: UII Press, 2005).

³⁰ Fadri Sanafiah, "Perkembangan Hukum Keluarga Islam Termutakhir Di Beberapa Negara Asia Tenggara," *JISIP: Jurnal Ilmu Sosial Dan Pendidikan* 7, no. 2 (2023).

³¹ Chairul Fahmi, "The Snouck Hurgronje's Doctrine in Conquering the Holy Revolts of Acehnese Natives," *Heritage of Nusantara: International Journal of Religious Literature and Heritage* 10, no. 2 (December 20, 2021): 248-73, <https://doi.org/10.31291/hn.v10i2.628>.

³² Nasution, "Pluralisme Hukum Waris Di Indonesia"; Anshori, *Filsafat Hukum Kewarisan Islam*.

³³ Nasution, "Pluralisme Hukum Waris Di Indonesia"; Khoiruddin. Nasution and Khoiruddin Nasution, *Hukum Perdata (Keluarga) Islam Indonesia Dan Perbandingan Hukum Perkawinan Di Dunia Muslim: Studi Sejarah, Metode Pembaruan, Dan Materi & Status Perempuan Dalam Hukum Perkawinan/Keluarga Islam*, Tazzafa, 2009.

³⁴ Mark Cammack, "Islamic Inheritance Law in Indonesia: The Influence of Hazairin's Theory of Bilateral Inheritance," *Studia Islamika* 10, no. 1 (2003), <https://doi.org/10.15408/sdi.v10i1.639>.

³⁵ Anshori, *Filsafat Hukum Kewarisan Islam*.

³⁶ Ainun Najib, "Legislasi Hukum Islam Dalam Sistem Hukum Nasional," *Istidlal: Jurnal Ekonomi Dan Hukum Islam* 4, no. 2 (2020), <https://doi.org/10.35316/istidlal.v4i2.267>.

³⁷ Eman Suparman, "Hukum Waris Indonesia: Dalam Perspektif Islam Adab Dan BW," 2007.

inheritance law is beyond the neutral legal arena.³⁸ Inheritance law has far too many cultural, theological, and sociological complexities.³⁹ Indonesian Muslims do not always refer to Islamic law when distributing inheritances. The option of inheritance law, which includes Islamic law, customary law, customs, and state law, reflects Indonesia's legal heterogeneity.

Based on the facts presented above, while Indonesia does not yet have specific provisions for inheritance, inheritance law can be traced back to various sources, particularly Islamic law (given that the majority of Indonesia's population is Muslim), customary law, or new legal bases that emerge in practice.

INTERFAITH INHERITANCE PRACTICES IN PANCASILA VILLAGE

Balerejo Village is one of the villages in Wlingi District, Blitar Regency, which was consecrated as a *Kampung Pancasila* (Pancasila Village). Demographically, in addition to adhering to Islam, 2.40 percent of Blitar's population is Hindu, 1.80 are Catholic, and 2.22 percent are Buddhist and Protestant Christians.⁴⁰ Based on data from the Central Statistics Agency (BPS) of Blitar Regency in 2022, Hinduism, the second largest religion, is mainly in Wlingi District at 24.60 percent.⁴¹

Balerejo Village represents other villages in Wlingi District, Blitar Regency, namely Ngadirenggo Village and Tegalasri Village, where the residents live harmoniously despite adhering to different religions. Diversity and plurality are the characteristics of Balerejo Village. Religious differences are common in society. The community has five religions: Islam, Christianity, Catholicism, Hinduism, and Buddhism. In one family, five different religions are practiced by each family member. However, the people of Balerejo Village continue to live in harmony and peace. This is as conveyed by Suwikno, the Balerejo Village apparatus: "In Balerejo, which happens to be located in a mountainous area, it is common for family members to have different religions in a household, including Muslims, Hindus, Buddhists, Catholics, and Christians."⁴²

³⁸ Muhammad Agung Ardiputra, "Pola Efektif Pembinaan Hukum Untuk Meningkatkan Keberhasilan Pembangunan Hukum," *Jurnal Ilmiah Kebijakan Hukum* 15, no. 1 (2021), <https://doi.org/10.30641/kebijakan.2021.v15.37-48>.

³⁹ M. Zulfa Aulia, "Hukum Pembangunan Dari Mochtar Kusuma-Atmadja: Mengarahkan Pembangunan Atau Mengabdikan Pada Pembangunan?," *Undang: Jurnal Hukum* 1, no. 2 (2019), <https://doi.org/10.22437/ujh.1.2.363-392>.

⁴⁰ Central Bureau of Statistics of Blitar Regency, "Kabupaten Blitar Dalam Angka 2022," Badan Pusat Statistik Kabupaten Blitar, 2022.

⁴¹ Central Bureau of Statistics of Blitar Regency.

⁴² Suwikno, Balerejo Village Aparatus, *FGD*, July 6, 2023.

Balerejo Village has places of worship for several religions near together. The licensing process for opening places of worship has never been impeded. Residents work together to establish houses of worship, regardless of religious affiliation.⁴³ Every religious holiday celebration involves each inhabitant assisting one another and ensuring security so the celebration runs appropriately. During Eid, residents visit each other's houses. Similarly, residents visit each other at Christmas, Nyepi, and Waisak to maintain harmony. Suwikno emphasized this:

If there are activities at places of worship, be it in mosques, temples, or churches, they help each other to maintain security. Religious tolerance can be implemented well in terms of respecting them when worshiping or helping them during celebrations of holidays.⁴⁴

The distribution of inheritance in Kampung Pancasila is carried out by implementing an equal distribution among the heirs, even though they have different religions. The share of male and female heirs is also determined equally without any differences. Muntholib, Tegalasri Village Apparatus stated:

The division of inheritance between Muslims and non-Muslims is divided equally. Religious tolerance can be applied well not only in terms of respecting them when praying but also in terms of the distribution of inheritance. It is also divided equally without anyone not getting a share because of their different religions⁴⁵.

Suwikno also emphasized that:

In terms of the distribution of inheritance, it is done by dividing it equally. Whether the parents are Muslim or not, all family members who are heirs still get the same share. Differences in religion are not an obstacle for a child to get a share of their parents' inheritance. Both boys and girls still get the same share.⁴⁶

The reality of inheritance distribution in multi-religious households exemplifies legal pluralism: on the one hand, there is state law, and on the other, there is local law in the form of customary law, religion, and legally recognized

⁴³ Desa Balerejo, *Observation Results*, July 4, 2023.

⁴⁴ Suwikno, *FGD*.

⁴⁵ Muntholib, Tegalasri Village Officials, *FGD*, July 6, 2023.

⁴⁶ Suwikno, *FGD*.

practices.⁴⁷ Depending on the preferences of an individual or a society, many legal systems can coexist. Using law or a mix of legal systems becomes an option for someone to achieve their goals, such as access to resources, property rights, and inheritance rights. According to K. Benda-Beckmann, this is known as *forum shopping*, “disputants have a choice between different institutions, and they base their choice on what they hope the outcomes of the dispute will be, however vague or ill-founded their expectations may be.”⁴⁸ Cecilio underlined that selecting a specific legal system is not binary and black and white; instead, combining several legal systems will complement one another.⁴⁹ Legal pluralism is a reality, whereas legal centralism is a fantasy, utopia, claim, or illusion.⁵⁰

Suwikno also spoke about his experiences growing up in a multi-religious home. His parents and siblings follow various religions. However, in terms of inheritance, all male and female children receive the same share. In a multi-religious household, a particular strategy for maintaining unity is distributing inheritance equally. Kiai Achmad Syukur, Masyayikh of the Fathul Ulum Gambar Wonodadi Islamic Boarding School, stated that: “In the distribution of inheritance here, the priority is to maintain family harmony, and however, if they have different beliefs, family is still family.”⁵¹

In Islamic inheritance law, differences in religion are one of the reasons why heirs are prevented from receiving their share of the inheritance (*hijab*).⁵² Three options can be taken so that the distribution of inheritance in a multi-religious family remains in line with the principles of Islamic inheritance law. First, by way of a gift when the parents are still alive. Second, the inheritance is divided among Muslim heirs, and then how much will be given to heirs of different religions is agreed upon. Third, heirs who convert to Islam. Asmu’i Ahmad, a Religious Figure from Tangkil Village, explained:

⁴⁷ Hairun Tri Wahyuni Sagala, “Kajian Teori Pluralisme Hukum Terhadap Sistem Hukum Di Aceh,” *Interdisciplinary Journal on Law, Social Sciences and Humanities* 3, no. 2 (2022), <https://doi.org/10.19184/ij.v3i2.35095>.

⁴⁸ Irianto, “Sejarah dan Perkembangan Pemikiran Pluralisme Hukum dan Konsekuensi Metodologisnya.”

⁴⁹ Irianto.

⁵⁰ Konradus, D. “Politik Hukum Penyelesaian Konflik Pengelolaan Konservasi yang Humanis: Suatu Kajian Berbasis Kearifan Lokal Masyarakat Adat.” *Undang: Jurnal Hukum*, 1, no. 2 (2018), 219-243.

⁵¹ Kiai Achmad Syukur, *Interview*, July 10, 2023.

⁵² Javaid Rehman, “The Sharia, Islamic Family Laws and International Human Rights Law: Examining the Theory and Practice of Polygamy and Talaq,” *International Journal of Law, Policy and the Family* 21, no. 1 (2007), <https://doi.org/10.1093/lawfam/eb1023>.

A straightforward solution to this dilemma is distributing the funds while the parents are still living and using a grant distribution mechanism that does not break Islamic law. The second solution can be worked around, such as first dividing it among Muslim siblings and then distributing it to non-Muslims. However, the prerequisite is that you must understand the actual rules governing inheritance distribution, according to Faraid. For example, equal distribution of male and female inheritance requires knowledge of the proper inheritance laws.⁵³

In line with the explanation above, M. Sukron Katsir, Assistant to the Marriage Registrar (P3N) of Tangkil Village, stated:

Under Islamic law, only those who follow the Islamic faith are eligible for inheritance. Non-Muslim children are unable to inherit from Muslim parents, and vice versa. This is still an issue that has not been addressed. Many examples like this occur between non-Muslim parents and Muslim children, or vice versa. One option is for the child to convert to Islam or to divide the inheritance among Muslim offspring, who then contribute a share to non-Muslim siblings.⁵⁴

The concept of *hijab* in Islamic inheritance distribution, which forbids non-Muslims from receiving inheritance, renders this legal system unsuitable for multi-religious households. Although religious figures have proposed various options from an Islamic legal standpoint, religious families favor fair distribution through deliberation and agreement among heirs.

Inheritance assets, typically in the form of land, are dispersed based on the position of the land relative to the road. The land nearest to the road or in front has a different value and price than the land in the back or far away from the road. As a result, the inheritance component in the form of land at the back exceeds the inheritance portion in the form of land at the front. There is also inheritance division, which involves first analyzing the inheritance assets and then dividing the notional value of the assets equally among the heirs.

Another consideration when distributing inheritance is children's contributions to caring for their parents. If all heirs agree, children who care for their parents will receive a more significant percentage of the inheritance as a reward for their efforts.

⁵³ Asmu'i Ahmad, Religious leaders of Tangkil Village, *FGD*, July 6, 2023.

⁵⁴ M. Sukron Katsir, P3N Tangkil Village, *FGD*, July 6, 2023.

According to Suwikno of the Balerejo Village Apparatus:

It is usual in the Balerejo area to divide inheritance equally among male and female descendants. However, there is one minor distinction: children who care for their parents until they are elderly or die will receive a particular *tirkah* portion as a reward for their efforts.⁵⁵

To guarantee that customary inheritance is administered correctly, the heirs involve village officials in the inheritance process. All heirs declare their agreement and desire to proceed in writing. The agreement and declaration letters employed by the village apparatus become documents protecting all heirs. The customary inheritance system works in tandem with the state apparatus, represented by the village apparatus.

Muntholib, Tegalasri Village Apparatus explained:

Families who want to handle the distribution of inheritance administratively must present village officials, usually the village head and the general head, and then write a letter of agreement and another letter of agreement. The customary method divides inheritance, meaning that men and women are treated equally.⁵⁶

M. Sukron Katsir, P3N Tangkil Village, also conveyed a similar thing:

The deceased's inheritance is split equally under customary inheritance law, provided that all heirs agree and, more significantly, are willing. Furthermore, it must be accompanied by a letter of agreement to ensure legitimacy.

One of the challenges in distributing inheritance in the form of land is establishing borders. As state representatives, village authorities are among the parties considered in reaching an agreement on land boundaries. Mun'im, P3N Kelurahan Klemunan, has stated the following:

In the often-occurring distribution of inheritance, the only problematic part is measuring the boundaries so that multiple village authorities are present, but it does not go to court. In most cases, the distribution of inheritance after the parents' deaths is addressed by the family, without the involvement of village officials.⁵⁷

⁵⁵ Suwikno, Balerejo Village Aparatus, *FGD*, July 6 2023.

⁵⁶ Muntholib, Tegalasri Village Officials, *FGD*, July 6 2023.

⁵⁷ Mun'im, P3N Klemunan Village, *FGD*, July 6 2023.

When the community runs out of options in the inheritance distribution procedure, village officials can help. The involvement of village officials in the inheritance distribution process assists the parties in resolving disagreements, resulting in heirs' agreement and willingness.

Suwikno, a village official in Balerejo, shared his experience with inheritance distribution:

If a dispute arises, it is usually sufficient to invite several village officials, such as the Village Head, *Carik*, and *Kamituwo*, to help resolve the case." Most of the time, if village officials intervene, it is deemed sufficient to assist in resolving the conflict.⁵⁸

A pluralistic legal system that obtains equal acceptance without hierarchy demonstrates the reality of substantial legal pluralism. State law is not superior; local law is not inferior. Legal growth focuses on society, not state legislation or judicial decisions. Society is the primary basis of law so that law cannot be separated from society. Living law guides the life of society even though it is not included in the state law category. Living law is formed by society and functions to serve the interests of society.

Eugen Ehrlich argues that state law is not accessible from the values held by society. State law should pay attention to the living law that has been born and developed in the life of society. Ehrlich emphasized that three elements must be removed from the concept of state law, as follows: 1) The opinion that law can only be formed by the state; 2) The opinion that law is the only basis for decision-making by judicial or arbitration institutions; and 3) The opinion that law is the only means for society to comply with the decisions of judicial or arbitration institutions.⁵⁹

In the distribution of inheritance in multi-religious families, state and local laws complement and enhance one another. The interaction between the state and other laws does not always result in paradox, contradiction, or confrontation. However, the interaction of different legal systems might result in integration, incorporation, or avoidance. The presence of a variety of legal systems indicates that integration and dissemination have occurred. Incorporation is the process of combining the rules of one legal system into another. However, specific legal systems may deny the validity of other legal systems. In this case, there is avoidance

⁵⁸ Suwikno, Balerejo Village Apparatus, *FGD*, July 6 2023.

⁵⁹ Griffiths, "What Is Legal Pluralism?"

in the relationship between legal systems⁶⁰ such as Islamic inheritance law which is not an option in Kampung Pancasila.

RELATIONS BETWEEN LEGAL SYSTEMS ON INTERFAITH INHERITANCE IN PANCASILA VILLAGE

The distribution of inheritance in Blitar Regency demonstrates the various legal systems that interact, impact, and supplement one another. Local inheritance laws, which include Islamic inheritance law, customary inheritance law, and customs, complement state law. In a social setting, numerous legal systems exist and interact with one another. Theoretically, legal pluralism critiques centralism and positivism in implementing law in society. Legal heterogeneity indicates legal pluralism, representing an endeavor to sustain the legal system in a particular social area.⁶¹

In practice, the inheritance of non-Islamic religions⁶² is done through consideration by presenting village officials. The local leaders have signed a document that strengthens the agreement. In this scenario, state law does not take precedence over local law. This reality contradicts Hooker's definition of weak legal pluralism, or legal centralism, which acknowledges the existence of legal systems other than state law. However, he regards state law as the superior municipal law and local law as the inferior servant law.⁶³

Pancasila's Village is an independent, automated system that ensures equal distribution for all offspring, regardless of religion. The Kampung Pancasila community's ability to make independent arrangements demonstrates its autonomy. However, autonomy is not absolute (the semi-autonomous social field)⁶⁴ due to the presence of governmental institutions, specifically village authorities from outside the semi-autonomous zone, which influence inheritance distribution. At the request of family members in the semi-autonomous zone, village officials will be present as representatives of state law. All heirs must follow the agreement. The

⁶⁰ Tim Huma, *Pluralisme Hukum: Sebuah Pendekatan Interdisiplin* (Jakarta: Huma, 2005).

⁶¹ Sulistyowati Irianto, "Sejarah dan Perkembangan Pemikiran Pluralisme Hukum dan Konsekuensi Metodologisnya," *Jurnal Hukum & Pembangunan* 33, no. 4 (2017), <https://doi.org/10.21143/jhp.vol33.no4.1425>; Dedy Sumardi, "Islam, Pluralisme Hukum dan Refleksi Masyarakat Homogen," *Asy-Syirah Jurnal Ilmu Syariah'ah dan Hukum* 50, no. 2 (2016).

⁶² Hasnan Hasbi, "Analisis Hak Mewaris Anak Yang Lahir Dari Perkawinan Beda Agama," *Al-Ishlah: Jurnal Ilmiah Hukum* 21, no. 1 (2018), <https://doi.org/10.33096/aijih.v21i1.15>.

⁶³ K von Benda-Beckmann and B Turner, *Anthropological Roots of Global Legal Pluralism* (academic.oup.com, 2020), <https://academic.oup.com/edited-volume/34238/chapter/>; T O Ihromi, "Antropologi Hukum Sebuah Bunga Rampai, Cet-2," *Yayasan Obor Indonesia, Jakarta*, 2001.

⁶⁴ Sally Falk Moore, "Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study," *Law & Society Review* 7, no. 4 (1973), <https://doi.org/10.2307/3052967>.

semi-autonomous area has the authority to impose regulations and force people to obey them.

SASE, founded by Sally Falk Moore, depicts a situation where a community has an automated system while attempting to build other regulations in that social sector. The ability of a society to manage itself demonstrates autonomy. However, this autonomy is not absolute, as other regulations exist outside the social area. The capacity of a society to manage itself demonstrates autonomy. However, this autonomy is not absolute, as other regulations exist outside the social area.⁶⁵ A semi-autonomous area has provisions, customs, and internal characteristics that the external environment influences. Semi-autonomous territories can impose regulations and force people to follow them. A simultaneous process in a larger social context realizes this situation. Other regulations may be added to a semi-autonomous territory at the request of someone in the area, or they may appear by chance.⁶⁶

Although religious differences are one of the reasons why heirs are barred from receiving a portion of the inheritance (*hijab*), religious figures provide alternatives to ensure that inheritance distribution in multi-religious families adheres to Islamic inheritance law principles. First, as a gift while the parents are still alive. Second, the estate is divided among Muslim heirs, and then it is decided how much will be distributed to heirs of other religions.⁶⁷ Third, convert the heirs. The legal possibilities presented by religious figures demonstrate that the law is not absolute. To fulfill their interests in inheritance rights, a person might employ various legal systems (*forum shopping*).⁶⁸ The selection of a specific legal system is neither binary nor black and white; combining several legal systems will complement one another.

Legal pluralism exists in all circumstances and is widespread in communal life. Every rule and institution in a community results from individual regulatory efforts from several social domains rather than a single system. In practice, the laws are used to support, improve, avoid, or even confuse one another. Griffiths concluded

⁶⁵ Winda Apriani Zarena Harahap, Asep Syarifuddin, and Bambang Hermawan, "Pengaruh Perubahan Sosial Dalam Perkembangan Hukum di Indonesia," *Lex Suprema: Jurnal Ilmu Hukum* 3, no. 1 (2021).

⁶⁶ Griffiths, "What Is Legal Pluralism?"

⁶⁷ Aulia Muthiah, "Hak Waris Beda Agama Pada Kajian Hukum Waris Islam (Studi Putusan Mahkamah Agung Nomor 331 K/Ag/2018)," <http://ejournal.uay.ac.id/index.php/jhb>, no. 331 (2018).

⁶⁸ Adriaan Bedner and Jacqueline Vel, *Sebuah Kerangka Analisis Untuk Penelitian Empiris Dalam Bidang Akses Terhadap Keadilan, Kajian Sosio-Legal*, 2012; Sartika Intaning Pradhani, "Pendekatan Pluralisme Hukum Dalam Studi Hukum Adat: Interaksi Hukum Adat Dengan Hukum Nasional dan Internasional," *Undang: Jurnal Hukum* 4, no. 1 (2021), <https://doi.org/10.22437/ujh.4.1.81-124>.

that successful legislation emerges from a complicated and unpredictable competition, engagement, negotiation, and isolation cycle.⁶⁹

When parents are still alive, assets are distributed through a grant institution, but not usually directly to children at the time of the grant. Sometimes, the handover occurs when the parents die; other times, when the gift is made, with a specific portion reserved for the parents. Parents as subjects are not seen as one in the social realm, therefore their identity does not merge with the collective identity. The community's opinion of the law applied in their social area differs from the subject's. The subject in this situation, the parent, has a personal will and understanding of the law. Parents who leave a distinct portion for themselves as a guarantee in old life follow regulations that differ from those that govern their social circle. The subject's obedience to and applying the law may differ from their social area.⁷⁰

Legal pluralism is viewed from the perspective of the individual subject to the law. Legal pluralism occurs when a subject follows multiple legal orders in the same social context. As the subject, the individual has an independent understanding of the law that differs from the community perception in their social region. The award process, with equal distribution and the participation of village officials, demonstrates the existence of integration and dissemination of legal systems. Benda-Beckmann defines inheritance law pluralism as a dynamic interaction between custom-Islam, custom-state, and Islam-State.⁷¹

Legal pluralism, in this situation, considers the subject's social standing. The subject is not considered socially united, so his identity does not merge with the communal identity. The community's perception of the law as it applies to its social environment is not only that of the subject. The subject has a personal will and understanding of the law. The subject's obedience to and applying the law may differ from his social environment.

The simultaneous operation of various legal systems in a particular social area results in competition, adaptation, and adoption between one legal system and another. Legal systems at the macro level are interrelated and dependent on legal systems at the micro level. Laws in force at a particular time impact and impact the laws in force today. The boundaries between one law and another become blurred,

⁶⁹ Griffiths.

⁷⁰ Zulfadli Barus, "Analisis Filosofis Tentang Peta Konseptual Penelitian Hukum Normatif Dan Penelitian Hukum Sosiologis," *Jurnal Dinamika Hukum* 13, no. 2 (2013).

⁷¹ Franz Benda-Beckmann and Keebet von Benda-Beckmann, "Changing One Is Changing All: Dynamics in the Adat-Islam-State Triangle," *Journal of Legal Pluralism and Unofficial Law* 38, no. 53-54 (2006), <https://doi.org/10.1080/07329113.2006.10756604>.

occurring dynamically. In legal pluralism, diverse legal systems demonstrate the processes of diffusion, competition, and adaptation.⁷²

CONCLUSION

Inheritance distribution in Pancasila Village (*Kampung Pancasila*) and Blitar Regency exemplifies a unique practice in which communities with family members of many religions agree to split inheritance equally after consultation. When an agreement is struck in Kampung Pancasila, the village officials are called to document it. However, if no agreement is achieved, village leaders serve as mediators. Communities avoid going to court to save money and keep families together. In Blitar Regency, legal systems, specifically Islamic inheritance law, customary law, and state law, interact and complement one another. Communities demonstrate autonomy in managing inheritance but are nevertheless affected by village officials outside the semi-autonomous zone. The choice of a specific legal system is flexible, allowing for a combination of several legal systems to satisfy the heirs' needs. The limitations of this study include a lack of empirical data that may not address case variations among areas, a lack of in-depth analysis of the long-term effects of this practice, and a lack of representation of the perspectives of the individuals involved. Furthermore, this study may have overlooked the social, economic, and cultural influences on inheritance distribution decisions. Future researchers should do more extensive studies with more diverse populations and delve deeper into the long-term implications and contextual factors that influence interfaith inheritance practice.

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⁷² P S Berman, *The Oxford Handbook of Global Legal Pluralism* (books.google.com, 2020), <https://books.google.com/books?hl=en&lr=&id=P5j5DwAAQBAJ&oi=fnd&pg=PP1&dq=legal+pluralism&ots=ZZshRecMN9&sig=dIBCsl1Tl5OUO3ltUzRmopovBDkg>.

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