

THE POSITION OF NUMERAL CHILDREN IN THE INHERITANCE SYSTEM OF ISLAMIC LAW AND BADUY CUSTOMARY LAW

Faisal Hardiansyah^{1*}, Yeni Nuraeni², Mahipal³

^{1,2,3}Program Studi Ilmu Hukum, Sekolah Pascasarjana, Universitas Pakuan, Bogor, Indonesia
faisalhardi26@gmail.com*

Abstract

This study aims to analyze the position of adopted children in the inheritance system of Islamic Law and Customary Law of the Baduy Tribe, as well as to examine the application of inheritance law to adopted children in the Baduy community who adhere to Sunda Wiwitan and who are Muslim. The background of this study is based on the fundamental differences between Islamic Law and Baduy Customary Law in determining the inheritance rights of adopted children. In Islamic Law, adopted children do not have a lineage relationship with adoptive parents so they do not have the right to inherit directly, whereas in Baduy Customary Law adopted children can be treated equally with biological children based on customary recognition and acceptance. The research method used is a normative-empirical juridical approach with a statutory, conceptual, and sociological approach. Data were obtained through library studies and field research conducted in the Baduy Customary community. Data were analyzed qualitatively to obtain an overview of the application of inheritance law to adopted children in community practice. The results of the study indicate that in the perspective of Islamic Law, adopted children are not included as legal heirs, but can obtain a share of assets through a grant or mandatory will of up to one-third of the inheritance of the adoptive parents. In contrast, in Baduy customary law, adopted children who have been accepted as family members have almost the same status as biological children and can obtain rights to family property based on deliberation and applicable customary provisions. The application of inheritance law in Baduy society demonstrates the interaction between Islamic and customary law values aimed at maintaining justice, family harmony, and social order. The main difference between the two legal systems lies in the basis for determining inheritance rights, namely lineage relations in Islamic law and social-family relations in Baduy customary law.

Keywords: Adopted Children, Islamic Inheritance Law, Baduy Customary Law, Compulsory Bequest

INTRODUCTION

Indonesia has a rich culture and traditions. Regarding inheritance, Indonesia has various forms, including those governed by customary law, civil law, and Islamic law. Each law has unique characteristics. Islamic inheritance law essentially applies to all Muslims, as stipulated in Article 171 (a) of the Compilation of Islamic Law (Thalib, S, 2004).:

“Inheritance Law is the law that regulates the transfer of ownership rights of inherited property (Tirkah). The testator determines who has the right to be an heir and how much each person’s share will be”.

However, the customs of a country and its society influence inheritance law within that country. In Islamic inheritance law, this influence cannot extend beyond its boundaries. However, parts derived from *ijtihad*, or the opinions of Islamic jurists, may be affected (Ali, Z, 2010).

The customary inheritance law referred to above is a series of regulations governing the transfer and transfer of inherited property or inheritance from one generation to the next, both related to property and related to property rights (material and non-material) (Ali, Z, 2010). Customary inheritance law is customary law that outlines provisions regarding the system and principles of inheritance law, regarding inherited property, the heir, and the heirs, as well as how ownership of inherited property is transferred from the testator to the heirs.

There are many types of legal inheritance in Indonesian society. In general, legal inheritance systems are influenced by the kinship and inheritance systems they employ, and this also suggests that legal inheritance systems may be more beneficial to the heirs themselves. Customary law is practiced in every region, such as in Java, which differs from Batak and Bali, as well as in other customary inheritance systems. In Batak and Balinese communities, with their paternalistic family traditions, there is a strong belief that, if a wife is honestly purchased by a husband’s family, the deceased husband’s wife is also considered an inheritance, which will pass to the husband’s heirs. This results in the deceased’s wife becoming the wife of the deceased husband’s brother (*Leviraats huwelijk*).

If the marriage to the husband’s brother is not consummated, the paternal qualities of the family are erased. As we know, the paternity system in the Batak and Balinese communities differs from the customs of Lampung. In those regions, the wife of the deceased inheritor remains part of the husband’s family, with the intention of ensuring that the deceased’s wife’s life is not neglected and that she will continue to enjoy the assets left by her deceased husband (Oemar Salim, 2006).

In terms of inheritance systems, three types of inheritance systems are found in Indonesia. First, the collective inheritance system, in which heirs can inherit property jointly, inheriting property that cannot be divided or owned (*heirlooms*) only allows for use or the right to use. This system is typically used by the Minangkabau people. Second, the individual inheritance system, in which inheritance can be distributed to heirs through individual inheritance, as in Javanese society. Third, there is the *Mayorat* or *Perorat* inheritance system (Jaya, D. P, 2020), which bequeaths all or most of the inheritance to just one child, as in Lampung. These differences in inheritance systems are influenced by the existing social structure (Lubis, I, 2013).

Thus, inheritance law contains provisions governing the transfer and inheritance of assets from the testator to their heirs. This transfer and inheritance process can take place while the testator is still alive or after his or her death. These transfers can be made through appointment, transfer of power, or transfer of ownership of assets by the testator to their heirs.

The inheritance law of a social group is strongly influenced by the kinship system within that society. Each family or kinship system has its own inheritance law system. Theoretically, the kinship system in Indonesia can be divided into three types: first, the patrilineal system (a kinship system traced through the father’s line) (Febriana, D. T, 2024). Where the position of

men is greater than the position of women in inheritance, Second, the matrilineal system (a kinship system drawn from the maternal line) (Sukmawati, S. E, 2019), this kinship system has placed the position of women in a very central position, as the rulers of inherited property that can be used as social security and protection from various household economic problems faced by their family members. Third, the parental or bilateral system (a kinship system drawn from the paternal and maternal lines) where the positions of men and women are not always prominent in inheritance (Santika, S, 2023). This descent system influences and simultaneously differentiates inheritance law issues, in addition to the difference between one kinship system and another in terms of marriage.

One of the cultural riches in Indonesia is the Baduy indigenous people, with the Sunda Wiwitan religion as their guideline. Sunda Wiwitan religion still lives sustainably and peacefully amidst the dense old forests, river headwaters, and peaks of Mount Kendeng in South Banten. Sunda Wiwitan is the religion of the Baduy people, which honors the spirits of Karuhun, their ancestors (Wahid, M, 2009).

The Baduy are a well-known tribe located in Kanekes Village, Leuwidamar District, Lebak Regency, Banten Province. They are also one of the tribes that still adheres to their values, norms, and traditions, including customs. The Baduy are one of the most isolated tribes in Indonesia. The Baduy people deliberately isolate themselves, living independently without relying on outside assistance. They isolate themselves and close themselves off to avoid outside cultural influences and to preserve their cultural authenticity.

The Baduy people still maintain their basic cultural values and beliefs, despite the advancement of civilization around them. They live at the foot of the Kendeng Mountains in Kanekes Village, Leuwidamar District, Lebak Regency, Banten Province. The Baduy people still uphold their customs, both in behavior, social relationships, marriage, and inheritance.

The Baduy people's inheritance law culture prioritizes the development of customary inheritance law. This is particularly evident in the development of marriage law, as these two areas of law ultimately led to the development of customary inheritance law. However, in reality, various forms of kinship structures exist, including patrilineal, matrilineal, and bilateral, each of which impacts Islamic inheritance law.

Within Baduy society, a distinct kinship pattern or system exists. This kinship system, based on the position of the name, is based on descent from the Batara (Batara). Kinship relationships can be viewed from three perspectives: Tangtu, Panamping, and Dangka. In this context, the Baduy community considers the entire Baduy village area to be "Tangtu Teulu Jaro Tujuh," meaning that all residents of the Baduy Kanekes village area are one family descended from one ancestor.

The Sunda Wiwitan community's outlook on life is guided by Pikukuh, an absolute customary rule. Pikukuh is the rules and procedures a person should (must) follow in their life journey, according to the mandate of their ancestors. The Baduy tribe consists of 67 villages spread across three regions: Baduy Tangtu, Baduy Penamping, and Baduy Dangka, all located in Kanekes Village.

The majority of the Tangtu and Penamping Baduy still adhere to the Sunda Wiwitan religion, or belief in ancestral spirits, and adhere to customary law in their daily lives. The Dangka Baduy, on the other hand, are predominantly Muslim. The Baduy still use the system taught by their ancestors for inheritance distribution, employing traditional Baduy customs. This is evident in the community's adherence to customary law in daily life, particularly among the Tangtu and Penamping Baduy, who retain a strong sense of customary law. This contrasts with the Dangka Baduy community in Cibengkung Hamlet, Bojong Menteng Village, and Ciseumet Raya Village. The majority of the population is Muslim. Their community practices Islamic teachings, both in their behavior and in their social life.

The arrival of Islam in this region gradually shifted the nuances of their customary law, although some aspects of community life still adhere to existing customary rules, such as maintaining customary territory, marriage, and distributing inheritance. The concept of inheritance distribution practiced by the Baduy people, taught by their ancestors, remains remarkably well-preserved to this day. The Baduy people do not recognize the distribution of inheritance upwards, or only the distribution of inheritance downwards. Therefore, their inheritance distribution includes only husband, wife, children, and adopted children. They do not recognize the distribution of inheritance to grandparents, grandmothers, or other relatives.

The history of the development of Islamic law in Indonesia cannot be separated from the history of Islam itself. Discussing Islamic law is tantamount to discussing Islam as a religion. According to Joseph Sacht, it is impossible to study Islam without studying Islamic law. This demonstrates its significant position as a religious institution (Nuruddin, A, 2004).

This is different from Muslims, where the guidelines and rules for living life refer to the Al-Quran and As-Sunnah, which means that sources of law other than the Al-Quran must not violate what has been determined by the Al-Quran. The provisions of Sharia which are indicated by the shari'ah texts, including the issue of inheritance distribution, as long as there is no other evidence (text) which shows that it is not obligatory, is an obligation which must be carried out by all Muslims.

The Baduy people have their own unique way of resolving legal relationships arising from the inheritance of a deceased person with the family and descendants they leave behind. The Baduy people resolve all issues strictly according to the existing *Pikukuh* rules. There is no interference from any state institution, including in the distribution of inheritance. For example, traditional Baduy marriages are not conducted before a Marriage Registrar; instead, they are conducted before a *Puun*, a traditional elder who serves as a role model and leader in the *Balai Adat* (Customary Hall) and presides over all dispute resolution.

For couples unable to have biological children due to medical issues or because they desire to provide a better life for children in need, instinctively, every husband and wife desire to have children to continue their lineage, inherit their legacy, and add to the happiness of their household. For households without children, various methods are employed to achieve this, including adopting a child from their own family or a child of another person.

The custom of adopting a child/raising another person's child as a child in Arabic is called the term "*Tabanni*" while the concept of adopting a child in *Staatsblad* 1917-129 is known as adoption, which comes from the word *adoptie* in Dutch, or adoption in English, which in the Indonesian Dictionary is stated, that adoption is the adoption of another person's child as one's own child (Big Indonesian Dictionary, 2012), while according to the Baduy tribe's customs, child adoption is often called *mulung anak* so that adopted children are often called *anak pulung*.

The tradition of caring for or fostering the children of close or distant relatives, or other people's children, usually those of indigent parents, is common in Indonesia under various terms. However, adoption, as practiced in Western traditions, where the child's status is changed to that of a biological child and he or she receives the rights and obligations of a biological child, is not permitted under Islamic law, as practiced by the majority of Indonesians (Rifal Ka'bah, 2007). Adoption, according to Islamic law, is actually an expanded form of *hadhanah* (marriage of love) and does not alter the legal relationship, lineage, and *mahram* (family ties) between the adopted child and their parents and family of origin. The only change is the transfer of responsibility for care, supervision, and education from the natural parents to the adoptive parents.

According to general provisions in the Compilation of Islamic Law, Article 171 (h) states that an adopted child is a child whose responsibilities are transferred from their natural parents to their adoptive parents. Islamic law also stipulates that adopted children, under the

Islamic inheritance system, are not entitled to inheritance from their adoptive parents. However, adopted children are entitled to a mandatory will that does not exceed 1/3 of their adoptive parents' inheritance. As regulated in the Compilation of Islamic Law, Article 209, paragraph 2, which states, "An adopted child who does not receive a will is given a mandatory will of up to 1/3 of the adoptive parents' inheritance." This is inseparable from the provisions of Islamic law based on the verse of the Quran, Surah Al-Ahzab, verse 4, which reads:

أَدْعِيَائَكُمْ أَبْنَاءَكُمْ مَا جَعَلَ اللَّهُ لِرَجُلٍ مِّنْ قُلُوبَيْنِ فِي جَوْفِهِ وَمَا جَعَلَ أَرْوَاحَكُمْ أَلِيَّ تُظْهِرُونَ مِنْهُنَّ أُمَمَتَكُمْ وَمَا جَعَلَ
ذَلِكُمْ قَوْلَكُمْ بِأَفْوَاهِكُمْ وَاللَّهُ يَقُولُ الْحَقَّ وَهُوَ يَهْدِي السَّبِيلَ (الأحزاب: 4)

"Allah has not made for a man two hearts in his bosom, nor has He made your wives whom you keep as your mothers, nor has He made your adopted sons your sons. These are but words in your mouths. Allah speaks the truth and shows the right way" (Quran Kemenag, 2022).

The words of the Prophet Muhammad SAW:

عَنْ أَبِي ذَرٍّ أَنَّهُ سَمِعَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: لَيْسَ مِنْ رَجُلٍ ادَّعَى لِعَظِيمٍ أَبِيهِ وَهُوَ يَعْلَمُهُ، إِلَّا كَفَرَ
(رواه الشيخان)

"From Abu Dzar Ra. In fact, he heard the Messenger of Allah say: "No one admits (prides himself) to someone who is not his true father, while he knows that it is not his father, but he has already disbelieved" (HR Bukhari and Muslim).

This is also emphasized in the Fatwa of the Indonesian Ulema Council (MUI), "Adoption, with the understanding that the child severing the bloodline (nasab) of his or her biological father and mother, is contrary to Islamic law" (MUI Fatwa, 1984). Therefore, it can be concluded that, under Islamic law, the relationship between an adopted child and his or her adoptive parents, or vice versa, has no legal consequences in terms of blood relations, guardianship, and inheritance.

Meanwhile, the concept of adoption in customary law varies according to each region. Likewise, the terminology used and the legal consequences of adoption under customary law vary, meaning that in one region it may differ from the customary law in another. Historically, as exemplified in the Baduy tribe's customs, the Baduy people themselves have recognized the term "adopted child." In their view, adopted children are considered their own children. Adopted children are treated the same as biological children, both in terms of fulfilling their physical and spiritual needs. Adopted children, in this case, will receive equal rights in all matters, including inheritance.

The regulation of adoption in Indonesian law has been hampered. The reality of a pluralistic society (bhinneka) and the existence of several legal systems present both obstacles and challenges in the development of the Indonesian legal system, making it difficult to establish a single and unified legal system, including the formulation of regulations regarding adoption.

The existence of several legal systems in Indonesia, which give rise to differing perspectives, makes this thesis interesting in examining how the Islamic legal system, and customary law, particularly the Baduy customary law, position adopted children within their adoptive families. This is because a small portion of the Baduy community has converted from their original Sunda Wiwitan faith to Islam. This raises the question of how the Muslim Baduy community uses the law in the distribution of inheritance, particularly inheritance related to adopted children. Therefore, the author is interested in conducting a legal study entitled "The Position of Adopted Children in the Inheritance System of Islamic Law and Baduy Customary Law".

RESEARCH METHODS

The type of research used in this study is Normative Juridical-Empirical. Normative juridical is a legal research method that focuses on the analysis of norms, rules, principles, doctrines, and written laws (law in books). This approach is also called library research because it examines secondary data in the form of primary and secondary legal materials to theoretically resolve legal issues, reinforced by Normative Empirical, a mixed research method that examines the implementation of legal norms, laws, or contracts in practice (real-world application) in society. This method combines analysis of written law (law in books) with field data (law in action) to determine the correspondence between rules and empirical facts.

In terms of its nature, this research is descriptive analytical. Descriptive research is a form of research aimed at describing existing phenomena, both natural and man-made. These phenomena can include forms, activities, characteristics, changes, relationships, similarities, and differences between one phenomenon and another. Descriptive research is essentially a study that attempts to describe and interpret something, for example, examining the position of adopted children within the Islamic inheritance system and the Baduy customary law.

This research approach utilizes primary legal materials by examining theories, concepts, legal principles, and relevant legislation. This approach, also known as a library approach, involves studying books, laws, and other documents related to the research. Through this approach, the author conducted a comparative analysis of the status of adopted children within the Islamic inheritance system and Baduy customary law.

The data collection technique used in this study is library research, utilizing written sources in the form of legislation, books, newspapers, mass media, and other writings deemed relevant to the problem under discussion. This research will generate secondary data. Field research involves collecting and selecting data through interviews with competent parties and respondents to support the implementation of this research. These include interviews with the community, jaro, and traditional leaders of the Bdauy tribe. This research will obtain primary data.

To process the data from the data collection and analysis, a qualitative analysis method will be used. Qualitative analysis is defined as descriptive research that utilizes more data analysis to generate new theories or ideas. The purpose of qualitative research is to gain insight into the events being studied by thoroughly exploring information and data obtained by the researcher. Each collected primary and secondary data will be written down in the form of a detailed description or report, then analyzed, and then systematically organized to draw conclusions. These conclusions provide answers to existing problems and can serve as new theories for recommendations or input for interested parties.

The research location is where the researcher obtains the necessary data. The research location is the place where the research will be conducted. The selection of a location must be based on considerations of interest, uniqueness, and suitability to the chosen topic. By selecting this location, researchers are expected to discover meaningful and novel findings. The research location refers to the concept of social location, characterized by three elements: actors, places, and observable activities.

This research location is located in Kanekes Village, Leuwidamar District, Lebak Regency, Banten Province, where the Baduy indigenous people live. Kanekes Village consists of 67 villages: three Inner Baduy villages and sixty-four Outer Baduy villages. The Baduy population in Kanekes Village numbers approximately 20,667.

This research location encompasses the entire Baduy community. However, the researchers focused their research on the Baduy Dangka, located in Cibengkung Village, Bojong Menteng Village, and Ciandam Village, Ciseumet Raya Village. In these locations, the majority of the population is Muslim. This research is focused here because it is closely related to the problems that will be discussed.

RESULT AND DISCUSSION

The lifestyles of the Inner Baduy and Outer Baduy communities are generally similar. All Baduy are prohibited from attending formal school, arguing that it would alter their mindset and bring about faster change. They are also prohibited from using electricity and vehicles. The vehicle limit is at Ciboleger, the main entrance to the Baduy region. Tourists are required to abandon their vehicles and continue their journey into the Baduy region on foot.

This aligns with customary rules prohibiting the use of modern technology in daily life. Another unique feature is the harmonious design of their houses. Baduy houses are constructed from natural materials sourced from their surroundings, and they are prohibited from building walls or using roof tiles. The materials used include bamboo for the walls and frame, wood for the pillars and supporting structures, kirai leaves for the roof, and woven bamboo or wood for the floors. This explanation is reinforced by the statement of the *olot sama* (traditional leader), who said, "If you make your house a wall, make roof tiles, then you will fight against custom."

In the Baduy indigenous community, the use of modern building materials such as walls and roof tiles is considered a violation of customary rules, which prioritize simplicity and the use of natural materials. Therefore, those who build houses with these materials are considered to be violating customary rules. However, there are significant differences between the lives of the Inner Baduy and Outer Baduy in certain aspects, such as the Inner Baduy not using soap, shampoo, toothpaste, or other chemical-based products in their daily lives. In terms of dress, the Inner Baduy only have two colors: black and white, while the Outer Baduy have three colors: black, white, and blue. As is well known, the Baduy are known for their abundant natural resources. The primary activity of the Baduy is farming in the *huma* (fields), which is inseparable from rice.

Farming is an obligation that must be carried out to maintain historical integrity and preserve ancestral beliefs. From an early age, Baduy children are involved in farming alongside their parents. This is part of the Baduy indigenous community's educational and cultural heritage. Through their involvement in farming, children are taught to cultivate the land and care for crops.

Mr. Sarmedi explained that Baduy children are not shy about working. From an early age, they are taught farming skills so they can grow their own crops and earn money by selling their harvests. On average, by the age of 10, children no longer receive pocket money from their parents; they are already seeking independent work, working as laborers or accompanying their parents in the fields, planting crops, ginger, and bananas, which are then sold. Furthermore, as Mr. Sarmedi explained:

"The Baduy people farm for traditional ceremonies, not as a livelihood. In Baduy, not farming is considered a religious obligation. At every traditional ceremony, each head of the family must bring rice from their fields, which is pounded into rice, known as 'dtuktu' (rice purchased from stalls)".

As described in interviews, farming is an integral part of religious and traditional life. Therefore, farming has spiritual value and symbolizes adherence to customary rules and maintaining harmony with nature. Nandang Rusnandar's findings in his writings reveal that religion plays a role in social control or serves as the basis for customs (Rusnandar, N, 2013).

The Baduy are a Sundanese ethnic group living in Kanekes Village, Leuwidamar District, Lebak Regency, Banten. They are also known as the Kanekes people. When you hear the word "Baduy," the first thing that comes to mind is tradition. The Baduy are known as a community committed to upholding their ancestral customs and traditions, living a simple life and rejecting modernization. They strictly protect their forests and the environment and live without modern technology such as electricity, motorized vehicles, and electronics.

According to data from the Ministry of Home Affairs' Population Data Visualization as of December 31, 2024, Leuwidamar District has 12 villages with a population of 62,253 people,

comprising 20,655 families. The majority of the population of Leuwidamar District is Muslim, with some Christian and Catholic, and others believe in the One Almighty God (Kementerian Dalam Negeri Indonesia, 2026). Salah satu desa di Kecamatan Leuwidamar yang menjadi tempat penelitian di sini adalah Desa Kanekes. Desa Kanekes terletak di Kecamatan Leuwidamar, Kabupaten Lebak, Provinsi Banten. Desa ini dikenal sebagai tempat tinggal masyarakat Baduy, yaitu kelompok masyarakat yang dikenal unik dan kokoh dalam mempertahankan warisan adat leluhurnya dengan hidup sederhana dan tradisional di tengah modernisasi yang terus berkembang. Desa Kanekes berada di wilayah pegunungan bagian selatan Kabupaten Lebak dan dikelilingi oleh hutan lebat (Sucipto & Limbeng, 2007).

Mr. Sarmedi explained that Kanekes Village is a village inhabited by indigenous Bantenese and was established before the colonial era, however, the exact year is unknown due to unwritten customary rules, including the establishment of the village and so on. The origin of the name Kanekes Village is taken from the name of the Cikanekes River which is a water source and supports the agriculture of the Baduy community. The population of Kanekes Village, based on the population data of Kanekes Village in 2024, was 10,173 people, with a male population of 5,478 people and a female population of 4,694 people. Kanekes Village has 67 villages consisting of:

Kaduketug I, Cipondok, Kaduketeg II/Kaler, Kadukaso, Cihulu, Kaduketeg III/Kidul, Marenggo, Gajeboh, Balingbing, Cigula, Cikuya, Kadujangkung, Karahkal, Kadugeude, Cicampaka, Kaduketer I, Kaduketer II, Cicatang I, Cicatang II, Cikopeng, Cibongkok, Sorokokod, Ciwaringin, Cibitung, Batara, Panyerangan, Kadukohak, Lebak Menteng, Cisaban I, Cisaban II, Leuwihandam, Kanengai, Cipicung, Cipaler Lebak, Cipaler Pasir, Cicakal Leuwibuleud, Cicakal Muhara, Cepak Bungur, Cicackal Girang I, Cicakal Girang II, Cicakal Girang III, Cipiit Lebak, Cikadu Lebak, Cikadu Pasir, Cikadu Babakan, Cijangkar, Cijengkol, Cisagu Pasir, Cisagu Lebak, Babakan Eurih, Cijandar, Cibeo, Cikeusik, Cikartawana, Ciranji Lebak, Ciranji Pasir, Cikulingseng, Cibageulut, Cepak Huni, Ciemas, Cisadane, Batubeulah, Cibogo, Pamoean, Cihalang, and Lebak Jeruk.

Kanekes Village covers an area of 5,136.58 hectares, with residential areas covering 406.2 hectares, rice fields covering 1 hectare, plantations or agricultural land covering 1,723.38 hectares, cemeteries covering 3 hectares, yards covering 3 hectares/m², and public infrastructure covering 3,000 hectares of protected forest. Mr. Sarmedi explained that protected forests are forests where logging is prohibited, whether for tree felling, brush cutting, or firewood collection. Meanwhile, the productive forest, covering 2,217 hectares, is available for use and cultivation by the Baduy people. Land management regulations prohibit rice paddies, require leveling the land, and require cultivation methods to adhere to the original soil structure, even if steep.

Table 1. Kanekes Village Boundaries

Limit	Village/Sub-district
North	Bojongmenteng Village, Cisimeut Raya Village, and Nayagati Village (Leuwidamar)
South	Cibarani Village (Cirinten) and Wangun Jaya Village (Cigemblong)
East	Sukajaya Village and Hariang Village (Sobang)
West	Karangnunggal Village (Cirinten) and Keboncau Village (Bojongmanik)

Table 1 shows the boundaries of Kanekes Village. Historically, the land in Kanekes Village has been independently managed by the Baduy community, which was then formalized as customary rights through a Lebak Regency Regional Regulation in 2001. An interview with Mr. Sarmedi explains that:

“Compared to other villages in Lebak Regency, Kanekes Village is considered pristine and embraces the motto “Gunung teu menang dilebur, lebak teu menang dirumpah,”

which means mountains cannot be destroyed and plains must not be damaged. Therefore, no machinery, including vehicles and wood-cutting machines, or other machinery, is permitted into the Baduy region. Alhamdulillah, the Baduy remain remarkably well-preserved”.

Based on the interview results above, Kanekes Village has successfully maintained its natural condition, unaffected by modernization and technological developments, thus being considered a pristine and natural village compared to other villages in Lebak Regency. The Baduy community's motto reflects a life philosophy that strongly maintains the balance of nature and the surrounding environment. One way they maintain environmental sustainability is by prohibiting the entry of machinery into Baduy territory, including motorized vehicles, wood-cutting machines, and other machine tools. This policy is implemented to prevent environmental damage and ensure that the natural environment in Kanekese Village is maintained.

The Baduy people of Banten adhere to unwritten customary law based on Pikukuh Karuhun (ancestral way of life) and the teachings of Sunda Wiwitan. This customary system is led by three supreme leaders, called Puun, from the Cibeo, Cikartawana, and Cikeusik regions, who are tasked with maintaining natural, social, and ecological balance. The core of Pikukuh is the absolute principle of not changing anything inherited from their ancestors, ensuring it remains as it is. From an early age, Baduy people are instilled with character values such as honesty, concise language, a simple lifestyle, and avoiding confrontation through oral literature. The philosophy of preserving nature is also highly valued, reflected in the proverb “Gunung teu meunang dilebur, lebak teu meunang diruksak,” which emphasizes that mountains and valleys should not be damaged.

The daily lives of the Baduy people are bound by various taboos and customary prohibitions. They are prohibited from altering waterways, so their agricultural system relies on dryland rice (huma) instead of paddy fields. They are also prohibited from altering the shape of the land, such as digging wells or leveling the ground, so house architecture is designed to follow the natural contours. Land use is strictly divided between cultivated areas and protected areas, such as protected forests, which are strictly prohibited from being damaged or entered carelessly. Furthermore, there are prohibitions on the use of chemicals (such as fertilizers, soap, and kerosene), the planting of plantation crops like oil palms, the keeping of four-legged livestock (such as goats and buffalo), and the indiscriminate cultivation of crops. There are also strict dress codes, with the Inner Baduy wearing white clothing and headbands, while the Outer Baduy wear black.

In addition to physical and ecological prohibitions, the Baduy community is also guided by the Dasasila, ten moral principles that govern interpersonal relationships. These guidelines prohibit murder, taking other people's property, lying, drinking intoxicants, having two partners (polygamy), eating at night, using perfume, sleeping lazily, enjoying entertainment such as dancing and music, and prohibit men from wearing gold or gemstone jewelry. All of these legal regulations are strictly adhered to due to the fear of doraka (kualat), cilaka (disaster), and shame. If a serious violation occurs that exceeds the limits of tolerance, the Puun can impose strict sanctions ranging from exile to expulsion of the offender from the Baduy region.

Fenomena sosial dan hukum pada tatanan masyarakat adat Baduy yang secara geografis inhabit the customary land of Kanekes Village, Leuwidamar District, Lebak Regency, Banten Province. The Baduy population is demographically divided into groups that firmly adhere to ancestral beliefs: Sunda Wiwitan, who generally reside in the Inner Baduy (Tangtu) and Outer Baduy (Panamping) regions, and the Dangka Baduy community, the majority of whom have embraced and practice Islam. The differences in religious beliefs between these communities ultimately have significant consequences for how they respond to and apply inheritance law, particularly in positioning property rights and the existence of adopted children within a

hierarchical family structure. This core analysis aims to explore how the boundaries of Islamic law and the flexibility of Baduy customary law position adopted children, as well as how the implementation, acculturation, and interaction of these two legal systems empirically manifest in the field.

From the perspective of Islamic legal inheritance regulations, the study asserts that adopted children have no legal status based on biological lineage or blood ties. Islamic law rigidly stipulates that the main factor or cause for the transfer of inheritance from an heir to his heirs is absolutely due to the existence of kinship (*nasab*) drawn from the paternal and maternal lines, the existence of a legal marriage bond (*mushahaharah*), and the relationship of *wala'* or ownership of slaves in the past. The practice of adoption, which in Arabic tradition and terminology is historically referred to as "*Tabanni*", does not have any legal consequences that can change the status of the original lineage, the relationship of inheritance rights and obligations, or the determination of *mahram* status between the adopted child and his parents and original family, or with the adoptive parents who care for him. This fundamental provision is directly based on the absolute principle of Islamic law, which strictly maintains the authenticity of human biological lineage, as explicitly affirmed in the Quranic revelation of Surah Al-Ahzab, verse 4.

This principle is also convincingly reinforced by the *hadith* of the Prophet Muhammad (peace be upon him) and the religious edict of the Indonesian Ulema Council (MUI), which expressly prohibits any action that severs the kinship relationship between a child and their biological father and mother. Because there is no blood or kinship relationship between an adopted child and their adoptive parents, under Islamic law, there can never be an automatic right to inherit inherited property between the two parties. Inheritance or inheritance (*tirkah*) in Islamic teachings has its own designated portions which are prioritized for absolute heirs who are entitled to it, such as the group of *ashabul furudh* heirs whose exact share is written in the Qur'an, the group of *ashabah* heirs who are entitled to the remaining assets of the distribution, as well as the *zawil arham* heirs who receive the assets when the main heir is no longer there.

Although Islamic law guidelines very firmly and clearly state that adopted children are never included in the category of heirs who are automatically entitled to receive a portion of the inheritance (*faraidh*), this analysis also presents the fact that Islamic law is a dynamic system and continues to provide strong protection instruments based on the principles of social justice and humanitarian values. The jurisprudential solution offered by Islamic law so that adopted children in a family can still receive a guarantee of livelihood and welfare from part of the inheritance of their adoptive parents is through the use of a mandatory will instrument decided by a judicial institution, or also through a mechanism for direct gift of assets (*hibah*) when the adoptive parents are still alive and healthy. Based on the positive regulations in effect in Indonesia, specifically Article 209 paragraph 2 of the Compilation of Islamic Law (KHI), it is clearly stated that an adopted child who does not receive a regular will from their deceased adoptive parents is legally entitled and obligated to be granted a mandatory will by the authorities, with a maximum portion limited to a maximum of one-third (1/3) of the total net inheritance value left by the adoptive parents. This limitation of a maximum ratio of one-third of the total assets is not intended to discriminate, but rather aims to provide a net of protection for the absolute material rights of the true lineal heirs so that their legitimate portion is not reduced or unfairly disadvantaged by the presence of the adopted child. This operational middle ground provision also clearly represents the existence of the principle of balanced (proportional) justice, where the noble effort to protect the material rights of an individual adopted child still strictly considers the principle of balanced portions within the scope of Islamic inheritance law for all blood relatives directly involved.

In stark contrast to the construction of the Islamic legal system which always relies strictly on the connection of biological lineage alone, the framework of the Baduy Customary

Law turns out to have a communal view philosophy and a set of oral rules that are completely different and contradictory regarding the guidelines for determining the position of adopted children within their kinship clan. In the daily traditions of the Baduy inland community, the concept of fostering, caring for, and adopting children from other parties is better known as closely associated with the term “mulung anak” (child of the child), so that children who are adopted and cared for by a family in the midst of the social interaction of the Baduy community are often called by a special identity, namely “anak pulung”.

A thorough analysis of the local customary inheritance law system shows undeniable evidence that based on the existence of elements of recognition and legal acceptance according to communal customs by customary institutions and social structures within the Baduy community’s environmental order, the essential position of an adopted child is viewed, appreciated, and treated almost exactly the same degree of value as the hierarchical position of a biological child. The concept of family philosophy built within the recesses of the Baduy tribe’s customary norms places far more emphasis on the close bonds of social-family interaction formed through a forum of deliberation, lovingly cared for since childhood, and its validity is recognized communally, and not merely relying purely on the validation of proof of ownership of biological or genetic blood ties alone. Spiritual figures and all adherents of the tribal customs view with absolute conviction that the entire process of raising and caring for the pulung child is an implementation of an inseparable part of the implementation of the essence of the highest moral obligations of humanity, and for that crucial reason, the entity of the adopted child automatically merges into a member of the nuclear family clan who has the manifestation of the same absolute full rights to always continuously receive an outpouring of pure affection and the certainty of guaranteeing the fulfillment of basic physical and spiritual needs that are all equal and indistinguishable from other biological children who live in the house.

Continuing the existence of the traditional view, when linked more specifically to the ritual of distributing inheritance, the implementation of the Baduy Tribe’s original customary inheritance system inherently places the position of an adopted child in a very safe, honorable, and advantaged strata, because the power of customary rules absolutely guarantees them to have a series of essential rights to be entitled to a fair portion of the accumulated wealth that their adoptive family has managed to collect. Conceptually, the architectural structure of the Baduy Tribe’s customary inheritance system basically operates with a very simple flow and does not recognize at all the application of a distribution system for the distribution of the flow of assets in an upward vertical line like inheritance intended for grandparents, or the expansion of the reach of the flow of inheritance rights in a lateral line specifically for uncles or other distant relatives; The traditional customs in this region exclusively limit and focus the distribution of all inheritance to a direct descending line, with the legal recipients, according to custom, encompassing only the husband, wife, biological children, and, of course, adoptive children, legitimately and equally.

An adopted child who has lived and fully integrated within the homogeneous Baduy settlement zone automatically enjoys the protection of inherent customary human rights regarding the distribution of inheritance from their guardians. This noble process of acquiring these rights is fully realized through a resolution mechanism consisting of confidential internal family deliberation and consensus, always strictly guided by adherence to the norms and guidelines of the unwritten customary inheritance law (Pikukuh), which has been passed down and preserved from generation to generation. In the framework of their customary law construction which fundamentally adheres to the format of the bilateral type of kinship system or the form of a parental system as befits the demographic reality of the customary structure of the ancient Sundanese people in general, the philosophical basis of the position of the proportional comparison of rights and obligations between male and female children is always

seen as equivalent and equally strong in the eyes of traditional elders, so that the implementation of the stages of the transmission process of the division of control over the ownership of inherited commodity assets to the representation of the entities of the adopted children, both the inheritance portion allocated for the category of male adopted children and the inheritance portion for the figure of female adopted children will continue to be executed and strictly guarded and covered by the principle of a peaceful family atmosphere in order to prevent clan disintegration.

Due to a series of empirical facts, in the configuration of the population elements of the Baduy Tribe community group which now has an increasingly diverse theological color, especially for the orthodox adherents of the Sunda Wiwitan animist tradition in the upstream of the dense mountainous interior as well as for the majority of the community of adherents of the Islamic monotheistic teachings who live in satellite areas in the Baduy Dangka administrative zone, the main fundamental difference in the foundation of the procedures for determining the legitimacy of this crucial inheritance right (namely the strict comparison between the dogma of the certainty of exclusive vertical lineage relations according to Islamic sharia law versus the doctrine of the freedom of egalitarian social-family inclusion relations in the Baduy communal style) in the field will inevitably continue to be harmonized with great flexibility and extra wisdom.

The final point of the solution shows the striking fact that the citizens of the Baduy Dangka civilization in practice have succeeded in engineering a very intelligent blend of the principles of cultural justice by adopting and utilizing the corridor of tolerance for limiting the mandatory inheritance quota of a maximum limit of one-third of the assets precisely sourced from the absolute doctrine of Islamic inheritance law guidelines so that the instrument for implementing the obligation of moral debt inherited from local customs that requires them to preserve the tradition of protecting, loving, and supporting *pulung* children (*mulung* children) can always be realized, obeyed, and implemented in an extraordinary integrated and harmonious manner without the community feeling that they have to commit the sin of violating the limits of the principles of obedience to the religious monotheism of the new faith they have embraced, in order to achieve the essence of maintaining the noble ideals of religious peace and the sustainability of maintaining the balance of justice and communal life order of the Baduy Tribe as a whole.

CONCLUSIONS

The Position of Adopted Children in Islamic Inheritance and Baduy Customary Law
From the perspective of Islamic inheritance law, adopted children do not have a blood relationship with their adoptive parents. Adoption in Islam is principally intended to provide care, protection, education, and affection to the child without changing the child's hereditary status. Therefore, adopted children are not included among the heirs who are entitled to inherit property automatically from the adoptive parents. The rights of adopted children in Islamic law can be granted through a lifetime gift or a will in an amount not exceeding one-third of the testator's inheritance, as long as it does not harm the rights of the legitimate heirs. In contrast to Islamic inheritance law, Baduy customary law places more emphasis on social aspects, family, and the continuity of relationships within the customary community. In Baduy customary society, the position of adopted children is determined by the recognition and acceptance of the adoption process by the customary community. Adopted children who have been accepted as part of the family can obtain certain rights related to family life, including in the management or control of family assets. However, the granting of these rights is still influenced by customary values, family deliberations, and customary provisions prevailing in the local community. The fundamental difference between Islamic law and Baduy customary law lies in the basis for determining inheritance rights. Islamic law is based on blood relations

(nasab), marriage, and wala' (law of succession), while Baduy customary law places greater emphasis on social relationships and customary recognition. Therefore, the status of adopted children under Islamic law and Baduy customary law demonstrates differences in the concepts, objectives, and mechanisms for granting rights to adopted children.

The application of inheritance law in the Baduy indigenous community, which adheres to Sunda Wiwitan and is Muslim, is influenced by the belief systems of these communities. In the Baduy community, which still adheres to Sunda Wiwitan teachings, inheritance issues are generally resolved based on customary law passed down through generations. In practice, adopted children can receive a share of the family's assets if there is family agreement and customary recognition of the child's status. The distribution of assets is not solely based on biological relationships, but also takes into account emotional closeness, devotion to family, and considerations of justice according to prevailing customs. Meanwhile, in the Muslim Baduy community, the application of inheritance law tends to refer to the principles of Islamic inheritance law. Adopted children do not receive status as heirs, as they lack a blood relationship with their adoptive parents. However, in practice, there are efforts to continue to provide protection and respect for adopted children through gifts, wills, or other forms of assistance that do not conflict with Islamic law. In this way, the needs and interests of adopted children are still considered without neglecting the rights of legitimate heirs. In reality, the Muslim Baduy community often reconciles customary values with Islamic law. These adjustments are made through family deliberations that prioritize the principles of kinship, justice, and social harmony. Therefore, despite differences between customary and Islamic law regarding the status of adopted children in inheritance, the community generally strives to find a middle ground to avoid conflict among family members.

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